

# CITIZENS' PERSPECTIVES ON FEDERAL LAND USE POLICIES

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## OVERSIGHT HEARING BEFORE THE COMMITTEE ON RESOURCES HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTH CONGRESS SECOND SESSION ON

### **CITIZENS' EXPERIENCES IN DEALING WITH THE LAND USE POLICIES OF FEDERAL AGENCIES AND SUGGES- TIONS FOR IMPROVEMENT**

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JUNE 18, 1996—WASHINGTON, DC

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# CITIZENS' PERSPECTIVES ON FEDERAL LAND USE POLICIES

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TUESDAY, JUNE 18, 1996

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
*Washington, DC.*

The Committee met, pursuant to call, at 2:04 p.m., in room 1324, Longworth House Office Building, Hon. Don Young (Chairman of the Committee) presiding.

## **STATEMENT OF HON. DON YOUNG, A U.S. REPRESENTATIVE FROM ALASKA; AND CHAIRMAN, COMMITTEE ON RESOURCES**

The CHAIRMAN. The Committee will come to order. Today the Committee will listen to people from outside the Washington Beltway who daily deal with Federal land management agencies. These people will tell us their personal experiences dealing with Federal agencies, most of which can do a better job working with private landowners, resource dependent communities, and local governments. All too often Federal officials in Washington, DC, mandate a one-size-fits-all solution for all parts of this diverse nation.

I particularly want to thank Jack Phelps of the Alaska Forest Association, who along with many other Alaskans are in Washington this week to educate Congress about the Tongass National Forest. Certain people in Congress, the Administration, and the national environmental community, all who live thousands of miles away from Alaska, and in some cases have never set foot there, have worked night and day to stop timber harvesting in this 17-million-acre forest.

I note that Speaker Mel Brown of the Utah House of Representatives will testify today, as well as State Senator Fred King from rural northern New Hampshire. Now there is a good combination. This shows that we have a cross-section of this nation. Their presence before this Committee proves that the principles of private property and multiple-use management of natural resources are important to all parts of America.

I also look forward to hearing from all our diverse witnesses today and welcome you to Washington this sultry June day.

Because I may be forced to leave the hearing room because of an important negotiation involving an Interior appropriations bill, I will ask Ms. Chenoweth of Idaho or Mr. Hansen to chair the hearing at some point.

Mr. Hansen, you would like to have the honor of introducing, I believe, our first witness, is that correct?

**STATEMENT OF HON. JAMES V. HANSEN, A U.S.  
REPRESENTATIVE FROM UTAH**

Mr. HANSEN. Well, thank you, Mr. Chairman. I consider it an honor. We have with us today Mel Brown. Melvin Brown is Speaker of the Utah House of Representatives. I guess I have a soft spot in my heart for that because I was the Speaker of the House 120 years ago, it seems like, and enjoyed that position very much. Mel has had kind of an enviable record as the Speaker, and his brother Glen also was the Speaker of the House, and Glen was a freshman when I was the Speaker.

Mel comes from the State that is known by Money Magazine to be the best managed State in America and one of the fastest growing states. And what I have great respect for Mel Brown is those fellows live within their income. They have a surplus and they use it well. And I think we could all—we ought to turn this thing around and have some of the State legislative bodies who do such a great job explain to us how they do it. We should emulate them rather than the other way around.

But it is a great pleasure to have you with us, Mel, and we appreciate you being here. Thank you, Mr. Chairman, for allowing me to say a word about my good friend from Utah.

The CHAIRMAN. Thank the good gentleman from Utah. May I suggest also that if we have our way, eventually the states will get their rights back and we will quit trying to socialize the form of government which has been perpetuated upon the states in the past years.

At this time I would like to call Panel One, of course the Honorable Melvin R. Brown; Mr. Perry Pendley, the President of the Mountain States Legal Foundation, Denver Colorado; Clark Collins, Executive Director, Blue Ribbon Coalition, Incorporated; Senator Frederick W. King, Sr., State of New Hampshire; and David Guernsey, Maine Conservation Rights Institute. Would you please take your seats at the table.

I see we have been joined also by the gentleman from California, Mr. Pombo. Mr. Pombo and I have the distinguished honor of being classified as villainous by the Atlantic Journal. I don't know what Atlanta had to do with California or Alaska, but we have now on the scorecard been rated some of the sinister souls of America. Mr. Pombo, would you like to respond?

Mr. POMBO. If the Chairman would yield for just a minute, I believe we also made New Jersey and Connecticut and the New York Times in the process, so—

The CHAIRMAN. We are laying the groundwork for a nationwide campaign. I can see it happening right now.

And we also have been joined by Mrs. Chenoweth from the great State of Idaho. Glad to have you aboard.

Now we will start out with the Honorable Melvin R. Brown, the Speaker of the Utah House of Representatives. Mr. Brown, you are up, Mr. Speaker.

**STATEMENT OF HON. MELVIN R. BROWN, SPEAKER, UTAH  
HOUSE OF REPRESENTATIVES**

Mr. BROWN. Mr. Chairman and members of the Committee, it is a pleasure and indeed an honor as the Speaker of the Utah House

of Representatives and as a citizen of Utah to appear at this hearing and share with you our real world experience of living and laboring under Federal land use policies as articulated by the current administration. Thank you, Mr. Chairman, for this opportunity.

During the 1970's a term was coined describing what we in the West felt was a heavy-handed approach used by the Federal Government in its relationship to western states, especially in land-use policy. It was the "War on the West". It was a catchy phrase which caught the media's attention for a time; and then like other stories, it faded away as a media event. Yet for many years the war has silently continued.

I would like to introduce to you a different metaphor describing our experience with Federal policies and agencies. Like the bull rider in the western rodeo, citizens and local government entities have been strapped to the back of a strident and arrogant Brahma bull with both hands tethered to the inconsistent and at times incoherent government policies and regulations. Twisting and turning violently, the bull exhibits seemingly limitless energy in trying to dislodge its rider. The whistle never blows and the rider can never dismount successfully. The contest has no end. Should the bull ever show signs of weakness or exhaustion, pseudo preservationists stand on the sidelines ready with their prods of tunnel vision and self-interest to electrify the bull into another level of convulsive erratic frenzy.

Time will only permit two brief examples to illustrate challenges we face daily. A Garfield County official relates the following: An egregious example of Federal agency mishandling of a management issue traditionally handled by local governments can be seen in the case of the Boulder to Bullfrog Road. Utah's pioneers began building this road, commonly referred to as the Burr Trail, across Federal public lands before the turn of the century. Garfield County has maintained the road for decades, and today it is the county highway and one of the only five major collective roads in Garfield County. It provides the only east-west access across Garfield County. The road provides the only direct access to the southern portion of Capital Reef National Park. It has been and continues to be used for transportation by county residents to go about their day-to-day business, transportation by county officials and others, providing necessary law enforcement, search and rescue, and resource management services to the area of the county made accessible by this route, driving livestock, oil, water and mineral development and access for tourists to this area, including the Bullfrog Marina on Lake Powell.

Garfield County has conducted the business of maintaining and improving this road to meet the needs of the traveling public in accordance with the accepted practices of public road management. However, beginning in the 1980's, environmental groups targeted the road, testing their ability to use Federal statutes to begin to control and limit access to the rural West, which is dominated by lands held in Federal ownership. The Sierra Club and other groups sued to stop the county from improving the road to maintain safety standards. They lost on all issues, except the technical application of the National Environmental Policy Act.

The courts found that the county has a legal right to maintain and improve the road across Federal lands to meet current safety standards in accordance with State law. However, because the application of NEPA provides an opportunity for open-ended bureaucratic wrangling and nitpicking, Federal agencies can use the NEPA process to stop or slow down activities which they oppose.

Once the Clinton Administration took office and Bruce Babbitt was appointed Secretary of Interior, the very position which the Sierra Club had promoted, but which the Federal courts had rejected, became a policy of the Department of Interior. Thus began a pattern of Federal harassment which continues to this day.

On numerous occasions when Garfield County has undertaken road activity well within the normal course of its prior practice, Federal agents have accosted the county, demanding that the county cease work and threatening administrative or legal action against the county. Now, Garfield County has a private land use base of about two percent of the lands within its boundaries. Can you imagine living in a county where two percent of the land is taxable to provide services for local government. Over 90 percent of the county is owned by the Federal Government. Needless to say, the county does not have a large budget to pursue or defend administrative or legal action. Furthermore, the county has historically sought to work cooperatively with Federal agencies rather than in an adversarial position, therefore the Federal agents demand compliance. The county often gives in.

It has been our experience that the Department of Interior acting through the National Park Service is unwilling to recognize any meaningful local authority. To that end, it has asserted that Garfield County cannot perform any work, even routine maintenance, without first obtaining permission from the Federal Government. However, the Federal agencies claim that they cannot authorize any action on the county's right of way without undergoing expensive and wasteful administrative procedures under NEPA.

In the past, the Park Service has taken three years to complete NEPA review while promising a six-month process. Now the Park Service asserts that it will take one year to review just a portion of the same work. Given the prior expansion from promised completion date to actual completion date, the NEPA review could take six years to complete.

Meanwhile, Garfield County has a road to maintain, a road that is used by average Americans who rely on the responsible authorities to carry out their duties in a responsible manner. When dealing with public roads, the responsible thing to do is keep them safe. But when Garfield County steepened an existing cut-slope to reduce a blind turn at the boundary of Capitol Reef National Park, the United States filed suit demanding that the county be prevented from managing its right of way except by permission.

Keep in mind that if the work on the road performed is deemed not acceptable to the Department of Interior, then safety must be deemed unacceptable to the Department. Keep in mind that the impact on park resources from this road cut is similar in nature to the innumerable road cuts within national parks in southern Utah.

The courts will decide whether local government like Garfield County will be allowed to exercise their rights in a responsible manner or whether they will be hampered by extensive bureaucratic interference. If the Department of Interior has its way, safety will be cast aside and Federal tax dollars will be spent paying the Federal bureaucrats to micro manage public road systems to meet the goals of special interest groups who have not been elected or charged to carry out the public interest.

I see that light.

The CHAIRMAN. Mr. Speaker, I am going to let you go ahead. You traveled a long way, as well as the rest of you. I would like to have you try to keep within five minutes, but would you finish your testimony, please.

Mr. BROWN. Thank you very much. The other incident is much shorter.

The Dixie National Forest officials announced in August 1995 a reduction of as much as 46 percent on grazing permits on 125,000 acres of Boulder Mountain, citing a 1990 study which concluded that a grazing capacity error had been made for the area in Wayne and Garfield counties and that such a reduction was necessary to correct what was thought to be an overgrazing problem. Ranchers and local government officials immediately cried foul. They pulled from their files copies of the 1990 analysis, which clearly indicated that Boulder Mountain allotments were not grazed to capacity.

When confronted with the obvious inconsistency in the report, government officials lapsed into a defensive posture and responded in their boiler plate bureaucratese by saying they, the ranchers and local government officials, may have misunderstood the technical methodology of the rangeland data. Ranchers and local officials pressed for an independent investigation of the controversial report. To the credit of the local Forest Service personnel, and I emphasize the word local, an independent investigation was launched with their support and promise that the grazing policy would be nullified if the allegation were proven true.

The three-member investigating panel concluded in February of this year that the credibility of the data had been undermined. A few days following the publication of these findings, the Associated Press reported that the U.S. Forest Service was investigating how Dixie National Forest rangeland data was tainted. Insofar as I am aware, the investigation has not been completed.

Other examples could be cited that would illustrate the dysfunctional, unproductive relationship between our citizens and local officials in the Federal Government. One local official asked, however, that some perceived problems not be brought to light in this environment because of the delicate relationship with local Federal officials that are being forged in an effort to find resolution. Imagine how open, frank debate being stifled because of the fear of bureaucratic reprisal in a country called America.

As you undoubtedly know, Mr. Chairman, Utah is celebrating 100 years of statehood this year. For more than 100 years we have nurtured the land. We have been sensitive to the delicate environmental balance, knowing that abuse would mean economic catastrophe. We love our State and recognize its unique beauty. We are committed to its preservation. We feel, however, embattled, locked

out and held hostage: embattled because our heritage and lifestyle are under assault; locked out because we are factored out of the public policy decisionmaking equation; and held hostage by dehumanizing public policy developed in a political environment driven by special interests and where conclusions are reached before questions are formulated.

Mr. Chairman, I remind the Committee that government close to the people governs best. I would urge this Committee to support that core policy stance and do all within its legislative power to rein in abusive and unwarranted Federal bureaucratic intrusion into what should logically be local policy-making responsibilities.

Thank you very much for this opportunity.

The CHAIRMAN. Thank you, Mr. Speaker. When all the witnesses have given their testimony, there will be some questions, but I want to thank you, Mr. Speaker.

Mr. Pendley, welcome to the Committee and the Committee room again. Mr. Pendley, for you who do not know, used to work many hours in this room.

#### **STATEMENT OF PERRY PENDLEY, PRESIDENT, MOUNTAIN STATES LEGAL FOUNDATION**

Mr. PENDLEY. Thank you, Mr. Chairman. Good to be here. I am President of Mountain States Legal Foundation. I am also the author of the book *War on the West: Government Tyranny on America's Great Frontier*. And with all deference to the speaker, I liked his title better.

*War on the West*, with hundreds of footnotes, lays out in graphic detail the stories that you will hear today. You will hear a small part of them today—but they are all laid out in the book, and I think conclusively demonstrate what all of us in the west know, that there is a war on the west in an effort to achieve what Vice President Al Gore calls a “wrenching transformation of society.” But it is not just a war on the American West. It is a war on western civilization throughout the country, especially in the rural areas. And you will hear from many of these men and women from rural America today, and particularly from areas where there are Federal lands.

Let me give you a couple of examples of what is going on. John Shuler of Dubois, Montana, killed a grizzly bear in his yard late one night when he went outside. He feared for his life and reasonably concluded he was about to die. He killed the bear. The Fish and Wildlife Service fined him \$4000 for illegally killing an endangered species. We claimed self defense on his behalf. An Administrative Law Judge ruled he could not claim self-defense because he had “introduced himself into the zone of imminent danger,” his own yard. The case is on appeal.

Larry Squires of Hobbs, New Mexico, used his land to dispose of waters produced in oil and gas operations. The EPA concluded that his dry desert lands were “waters of the United States” because every 200 years water would collect there, rainfall, and until it evaporated it formed ponds in which birds might land. He was given a cease and desist order, which as you know carries with it a \$25,000-a-day fine for a violation. He observed the order and

then sued the government, contending that the designation of his land was improper.

A district court held he could not sue the government to challenge the order until he had violated the cease and desist order. The 10th Circuit Court of Appeals ruled as follows: "While [Mountain States Legal Foundation] brings up a good point, that it doesn't seem to make much sense to be required to violate in order to sue on it; nevertheless we do not wish to undercut the enforcement authority of the EPA."

You are familiar with, I am sure, the recent efforts by the United States Government to close Federal lands throughout the West in deference to Indian religious rights. One is at Devil's Tower. Another is in the Santa Fe ski area near Santa Fe, New Mexico. There is also the decision to bring the wolf into Montana, Idaho and Wyoming; the decision to bring the condor into the four-State region in the Southwest; and the decision by this administration to bring the United Nations to Wyoming, Montana and Idaho to determine our future, not just with regard to mining, but timber, tourism and wildlife policies.

All of these, I think, demonstrate conclusively that there is a war on the West, but it is not about protecting the environment. We all at this table, and all the people I have ever represented, are committed to environmental protection. We want clean air, clean water and safe lands. It is a battle over aesthetics, the point of view, for example, that takes the position that it is better to have wildfires burn in the western forest than to have loggers cut them when they are ready for harvest. It is a battle not about safety, survivability and sustainability, but about power and control, the ability of a handful of Americans to run the lives of the rest of us.

What is most distressing to Americans is the fact that this is a battle, a war being waged by their own government. In fact, one of the greatest battles that I face is getting people to understand that they can and should sue their own government. This is a generation of "your country right or wrong," and they have found their country very wrong with its attitude to them.

Also very distressing is the position taken by Federal lawyers, government lawyers, in Federal courts. I want to explore that a little bit, because I think an excellent oversight hearing by this Committee might be to bring up some attorneys from the Justice Department and inquire as to the position the government is taking regarding laws this body passes.

I come here today from Cincinnati, Ohio, where I appeared before the U.S. Court of Appeals for the 6th Circuit regarding a case in the upper peninsula of Michigan regarding a piece of property called Crooked Lake. Crooked Lake is owned by private citizens. One of the owners happens to be the U.S. Forest Service, and the U.S. Forest Service land that is owned in that situation is designated as wilderness. Michigan law says all landowners around the lake have equal access to the entire lake. Yet the Forest Service has taken the position that it can restrict the access to the entire lake by the landowners around the lake. The Forest Service has taken this position notwithstanding, that Congress said only Federal land will be designated as wilderness, only lands we designate will be wilderness, no private property will become wilder-

ness unless the property owner agrees, no buffer zones will be created and finally valid existing rights will be protected.

The Forest Service has ignored every single one of those provisions. And in fact, before the U.S. Court of Appeals last week, the Department of Justice attorney actually said the term "valid existing rights" had no meaning when it was adopted by Congress. Congress didn't know what it meant, and so our interpretation is as good as any." Now what is the government's interpretation of "valid existing rights"? The right to drink the water from the lake, that is it.

We have challenged the Brady Act in Wyoming. That will soon be before the U.S. Supreme Court. Remarkably enough, the government took the position in Federal court that the Brady Act would not permit action to be taken against local sheriffs. You will remember when that law was before this Congress, Congressman Schiff actually introduced legislation to exempt sheriffs from legal action. That was not adopted. The government now, in an attempt—a vain attempt, I think, to save the law's constitutionality—took the reverse position.

In Lincoln County, Montana—you will hear from Bruce Vincent today, who comes from Lincoln County—we are representing Lincoln County, Montana, in a lawsuit against the U.S. Forest Service for decreasing timber harvesting by 43 percent to achieve a one percent increase in grizzly bear habitat.

The Forest Service takes the position that counties have no legal standing to come to court to challenge decisions of the Forest Service. This is a remarkable position because 25 percent of the revenues from timber harvesting come back to the counties. To take the position that everybody else in the world has standing to come to court except local counties is absurd.

Finally, let me give one example of what I call the Goldilocks approach to constitutional standing. You remember Goldilocks saying too hot, too cold and just right. We are representing a man by the name of Andy Petefish, who has filed an action because he has been prevented from climbing Devils Tower in the month of June out of deference to Indian religious rights. Remarkably enough, the United States Government took the position that Andy Petefish did not have constitutional standing because he had chosen a lifestyle that required him to earn most of his living in the month of June by climbing on Devils Tower.

In another case where we challenged the constitutionality of Federal action, a case involving affirmative action, the government takes the position that our client is making plenty of money even though he has been discriminated against on the basis of race. Therefore he doesn't have legal standing. So we have a "too much" and "too little" approach.

The CHAIRMAN. Perry, I don't want to do this to you, but go ahead if you have one more, and that is it.

Mr. PENDLEY. Let me close by just simply saying that what I see and what the people at this table see in case after case, instance after instance, is an approach by Federal lawyers that ignores the meaning of statute and ignores the express provision of statute. I know how difficult it is when wilderness statutes are passed or Federal land statutes are passed, the compromises that are made,

the agreements that are made, and yet Federal lawyers go into court and pretend that those agreements never happened.

If there is one thing I would urge upon the Committee in addition to the hearings, it would be that the losers in these battles be as tough on Justice Department lawyers who are attempting to give them victory as the winners are. And if there is that sort of comity here on the Hill, to demand that the Executive Branch implement the law as it was adopted, a lot of us out in the hinterlands would feel a lot better about the things that are happening.

Thank you.

The CHAIRMAN. Thank you very much. I am confident we will be able to have some questions for you, too.

Clark Collins, you are up next.

**STATEMENT OF CLARK COLLINS, EXECUTIVE DIRECTOR,  
BLUE RIBBON COALITION**

Mr. COLLINS. Chairman Young, members of the Committee on Resources, thank you for the opportunity to testify on the issue of Federal land use policies. The Blue Ribbon Coalition represents off highway recreationists.

And I brought a poster today that I would like to ask unanimous consent that I be allowed to distribute to members of the Committee, even those members of the Committee that aren't here if they would like one. And I can assure you that there will be no question of ethics, because these cost about 65 cents a piece, so I don't think they will get you in any trouble. But this illustrates who we are. We represent not only motorized recreationists, but non-motorized trail users as well, because even some non-motorized recreation groups are starting to suffer under the heavy hand of overregulation by Federal bureaucrats. So if that could be distributed to the Committee.

The CHAIRMAN. Without objection the staff will take one of these and distribute each one to a member. I have little concern. There is a Jeep there instead of a Suburban, but that is all right.

Mr. COLLINS. OK. Now I would like to show you another picture, and this is a picture of the Park Service. This is the picture of the Park Service ranger that appeared in our local papers in the spring of 1994. And this is a park ranger welcoming recreationists to our public lands. And as you might not be able to see from there, he is heavily armed. There is a barricade behind him and this ranger was out there preventing recreationists from accessing a recreation area that had been used for over 30 years near our home base of Pocatello, Idaho.

Interior Secretary Bruce Babbitt had ordered 14 armed National Park Service rangers from all over the country to American Falls, Idaho, to kick us out of that area. That is right, 14 armed rangers. Can you imagine what that cost American taxpayers? This is just one more example of Secretary Babbitt's attitude that the American public has unlimited resources to pay for his gestapo-like methods of dealing with land users he and his Green Advocacy Group (GAG) friends don't approve of.

Now we support enforcement of reasonable regulations. We have never objected to enforcement of OHV regulations, but we have been opposing this closure, because it is in an area that we had

used for years. We had helped maintain the area. In fact, we told the BOR, the Bureau of Reclamation, who has management responsibility, in 1993 that if they insisted on closing the area, they should actively enforce that closure right away. We feared they were deliberately setting up a situation where they could cite evidence of violators to justify their plans for a permanent total closure. The irony is that they didn't have any violators, but went ahead with their strategy anyway, because the rangers that came to the area discovered that there weren't any violators.

This harassment by Interior Secretary Babbitt may have been in retaliation for our involvement, with other wise use groups, in attempts to have him replaced. We felt it was important to show our concern for the environment by asking President Clinton to replace Bruce Babbitt with someone who will work with public land users instead of wasting taxpayers' money on a personal vendetta.

We have always shown respect for this area's natural resources and scenic beauty. We have conducted litter cleanups and informed our members of the need to respect local wildlife and other users. In fact, we have even built and installed cattle guards to eliminate any possibility of conflict with grazers who also use the area. Unfortunately, they have been kicked out of the area, too.

It is interesting that when this incident occurred, we had planned to put this cover on the May 1994 issue of Blue Ribbon Magazine. And this is a picture of one of our members in California, might even be in Congressman Pombo's district for all I know, that was involved in a tree planting project, an off-highway motorcyclist and his son, their faces all black. They had spent all day planting trees, real environmental work.

Several important facts are relevant to this issue.

Fact number one: Most users assumed it was Bureau of Land Management, BLM, open land. It was only through meetings with the BLM initiated by me several years ago that we were told that the land was in fact BOR land.

Fact number two: We offered to work with the BOR on a plan to manage recreation access. We indicated our willingness to assist in the enforcement of reasonable regulations to manage the recreational use of the area. The BOR said at that time, which was much prior to this incident, that they would defer management of the area to the BLM, who managed the BOR grazing allotments and much of the surrounding area. Now this should have been a local issue and easily resolved, but it seemed that the BOR's attitude changed dramatically following the 1992 election. Babbitt's extreme environmental fingerprints are all over this incident.

Contrast this with a letter that my local off-highway motorcycle group received from President Reagan in 1987. The letter says, "My good friend, Senator Jim McClure, tells me that you're a can-do outfit. He says that you not only travel the trails but clear them, too, keeping them fit for yourselves and others to enjoy. And you look for no other recompense than the joy of a job well done. Volunteer efforts like yours are the American way, and I'm sure your good example will move others to make the great outdoors a great place for everyone. God bless you all, Ronald Reagan."

In conclusion, the hate mongering and contrived user conflicts of the GAGs shouldn't be rewarded. Secretary Babbitt, the Sierra

Club and Earth First do not represent the environmental conscience of this country. We shouldn't call the GAGs environmentalists and passively allow them to refer to us wise users as anti-environmentalists. Neither should the League of Conservation Voters Index be the litmus test for Congressional environmental responsibility. In fact, in my view the Private Property Congressional Vote Index should be the litmus test for environmental responsibility, because these are the folks, the heroes that are recognized. And those are the ones that are the real environmentalists in my view.

Just who are the real environmentalists? Pushing to eliminate everyone's impact on the environment but your own doesn't make you an environmentalist. The GAGs and their friends in Congress and land management agencies are no longer for the environment. They are just against every else's use of it.

Chairman Young and members of the Committee, recreationists shouldn't be discriminated against by our land management agencies and treated like criminals. The cooperation and volunteerism of our members should be recognized and rewarded. On issues of environmental protection we should be innocent unless proven guilty instead of the other way around. We can use our natural resources wisely and preserve our natural resources for the public instead of from the public.

Thank you.

[Statement of Clark L. Collins may be found at end of hearing.]

The CHAIRMAN. Thank you, Clark. I believe Senator King, you are next. I don't know how that got switched around, but Senator King, you are next. Involved on the board you have got three westerners there and two easterners and you all have mutual problems, and I certainly like to hear from this side of the aisle, too. Senator, you are up.

**STATEMENT OF HON. FREDERICK W. KING, SR., A STATE  
SENATOR IN NEW HAMPSHIRE**

Mr. KING. Thank you, Mr. Chairman, members of the Committee, for allowing me to testify before your Committee. I am the State Senator from New Hampshire's Senate District One, which consists of 19 towns, the city of Berlin and 23 unincorporated places in Coos County, the State's northernmost county. I also represent the citizens of five towns in Grafton County. My district consists of small rural communities and is bordered by Canada on the north, Maine on the east and Vermont on the west. Our economy is closely tied to the timber and paper making industries along with tourist related businesses.

Before I was elected Senator, I was employed as Coos County administrator. Coos County has a land mass of 1800 square miles and a population of 36,000. I continue to work for the county part time as administrator for the 23 unincorporated places. I have also served 12 years as a selectman in my town and I know I have a good sense of what is important to my constituents.

I appear before your Committee to express the concerns that my county has relative to Federal land use policies and the potential impact of proposed legislation on the citizens of Coos County. I refer in particular to Senate Bill 1163 and H.R. 2421, The Northern Forest Stewardship Act. If these bills become law, the economy

of my county is in jeopardy and the historical multiple use of our timber resources will be seriously threatened. These bills have the support of 28 of the most powerful, taxpayer-supported environmental organizations in the country. They have joined together in a formal organization known as the Northern Forest Alliance. Their plan targets ten specific areas in northern Vermont and New Hampshire and areas in adjacent Maine. They propose that these lands would remain in the "natural state" and the funding process for these purchases will be available through S. 1163 and H.R. 2421.

Today three out of every ten acres of land in Coos County is publicly owned. A substantial part of the 750,000 acre White Mountain National Forest lies within my Senate District. Currently the White Mountain National Forest is severely cutting back on timber harvesting activities within its boundaries. In fact, beginning in 1994 a reduction in available harvest took place. The White Mountain National Forest grows 30 million board feet per year on a sustainable basis on the 60 percent of the land where harvesting can legally take place. In 1994 the government proposed to reduce the cut to 9.6 million board feet. At that time one local sawmill operator was quoted as saying we saw into lumber 5 million board feet a year. If they cut back 20 million board feet, four mills like ours won't have any wood.

Recently, it was reported that one of the most respected national environmental organizations in the country, the Sierra Club, adopted a policy that will fight to ban all timber harvesting on national forests coast to coast. In 1996 Congress authorized the purchase of an additional 480 acres, which will be added to the White Mountain National Forest, for a staggering price of 1.9 million, or \$3950 per acre for woodland.

Attached to my statement is a map which contains the details of the Northern Forest Alliance master plan for the northern forests, including the lands in Coos County, New Hampshire. These lands, that are labeled 5, 6 and 7 on the map, surround the town that I live in. They contain property on the headwaters of the Androscoggin River, the county fish and wildlife refuge which was adopted in 1991, and an area in Vermont.

Any change from the historical pattern of use will devastate the lives of my neighbors. With known patterns of timber harvesting on Federal lands in the White Mountain National Forest, the proposed ban on all future harvesting on Federal lands and the proposed land grab of the organizations that form the Northern Forest Alliance, I truly believe that those of us who inhabit northern New Hampshire, the northeast end of Vermont, and western Maine have justification to fear for the future of our children and grandchildren. Our heritage, earned over generations, is at stake.

A few years ago when the James River Corporation paper mills were threatened with closing, it was projected that overnight the unemployment in Coos County would reach 35 to 40 percent. That crisis was averted and today the mills are viable operations. They need timber fiber to operate and we must protect the source of that timber supply.

It makes no sense to spend dollars which the Federal Government does not have to purchase more land which it cannot manage

and on which no trees will be cut. Your Committee knows better than I do about the great need for more funding to rebuild the infrastructure in the Federal parks and forests. A 1991 GAO document called *Federal Land Improvements Needed in Managing Concessionaires* stated that the Park Service had a deferred maintenance funding shortfall in 1988 of \$1.9 billion and the recreational resources for the Forest Service was short \$650 million.

I can't speak for the rest of the property owners throughout the State and the landowners, but I will tell you that in Coos County, New Hampshire private landowners have left their lands open to the public for generations. We don't need the Federal Government to come in and buy more land.

Senate Bill 1163 and H.R. 2421 are similar bills. A clause in both of the bills provided for 80 future land purchases by the Federal Government would require local approval. In our case, that would mean a local town meeting would have to approve the purchase of that land. That language has been changed in the Senate version. It remains in the House version that I have. The issue of whether land should be bought and paid for with Federal dollars only from willing buyers to willing sellers is not appropriate in this case because we all know that Federal lands—the prices that the government pays for Federal lands takes any inclination for people not to sell. It makes no sense for the government to buy land at nearly \$4000 an acre in my State when the going price is about \$300 to \$350 an acre.

So I ask that this language cannot be retained in these bills to allow any future acquisition to require the local citizens—and I am not talking about the State. I am talking about the local governments. If they can't have a veto power on that like they have in the White Mountain National Forest outside the proclamation boundary, then I would ask these bills be killed.

Thank you.

[Statement of Hon. Frederick King, Sr. may be found at end of hearing.]

The CHAIRMAN. Thank you, Senator. Last but not least, David Guernsey.

Mr. GUERNSEY. Yes, sir.

The CHAIRMAN. From Maine.

Mr. GUERNSEY. Yes, sir.

The CHAIRMAN. All right.

#### **STATEMENT OF DAVID GUERNSEY, MAINE CONSERVATION RIGHTS INSTITUTE**

Mr. GUERNSEY. I am here today representing the Maine Conservation Rights Institute, which is an organization dedicated to conservation through private landownership. Last year I testified before your property rights subcommittee as to how the Appalachian Mountain Club and its relationship with the U.S. Forest Service allowed the AMC to lobby, and this is a direct quote, "for funding for forest needs as identified by the Forest Service staff, for whom lobbying is prohibited."

In return the Forest Service has allowed the AMC to expand a small string of nonprofit huts into a \$3-1/2 million operation in direct violation of its permit, which charged no fee for use of public

lands. This funding allowed the Appalachian Mountain Club to form some very powerful relationships with other groups and with other Federal agencies, which seriously threatened many of the rural communities across northern New England.

One particular example, in the city of Millinocket a great northern dam relicensing project led the city of Millinocket to complain, again a quote, "we are appalled that an agency of our government repeatedly ignores our year-round environmental and economic interests to push an agenda that will radically change our lives for the worst. We watch Interior representatives actively conspire with relicensing opponents to defeat relicensing. This is not how government is supposed to work." Now these are not my words. These are the words of the city of Millinocket. It is a paper making town. It is a labor town. It is a largely Democratic town. This is not a partisan issue.

The Maine Governor's Office said much the same thing. And again, we have an independent governor in the State of Maine. He used to be general counsel for the Natural Resources Council of Maine. This is again not a partisan issue.

A similar situation happened in Saddleback Mountain Ski Area across which the Appalachian Trail runs. They have been fighting with the Department of Interior for 11 years. At issue is the Department of Interior's desire to take 3000 acres for a viewshed, although law only requires a 1000 foot corridor along the trail. Saddleback has offered to give the corridor to the government at no cost. The government will not take it. Finally this last session the Maine legislature passed a resolution which I have attached urging the Forest Service to accept free land. They still have not resolved that issue.

The AMC uses its hut system on free National Forest land for much of its advocacy and it justifies these by calling them public education. In one particular instance this public education involved inviting school children to produce skits on "what the world would be like if people keep abusing the planet." Now I can just imagine what would happen if we used Forest Service land and had kids producing skits on what our communities would be like if our environmental regulations kept abusing our economies. There is no oversight of these so-called educational programs, and they really are nothing short of propaganda for their extreme environmental agenda. And we don't believe it is appropriate that this be done on public lands.

The AMC's position is, again a quote, "every goal and objective toward which we work is for the public benefit and every dollar of our revenues is circulated back for the public good." This is like what is good for the AMC is good for the country. Their permit to operate their hut system on National Forest land expired last October, and we had hoped that things would change with the repermitting. Unfortunately, they have not—the Appalachian Mountain Club submitted a master plan which was little more than a promotional document. It contained no financial data. It made no reference to the restrictive terms of the previous lease. They basically were asking that our proposal recommends that the Forest Service include all of our current operations and programs

in the new permit. What they were doing they wanted made legal with no questions.

Rather than rejecting it, the Forest Service joined the Appalachian Mountain Club in sponsoring a joint series of promotional open houses and listening sessions. And after these are over, they simply are going to determine whether they accept the master development as submitted or they ask the AMC to revise it. There is no attempt to see what this hut system is really worth and whether the public's getting its money's worth.

All we are asking in this is a fair process. We are asking that the AMC be treated the same as other permittees on public land. This land is our land. We don't believe it should be given to special interest and then used against our own communities.

The final issue in this, though, is symptomatically a much larger problem. These are very wealthy, elitist, environmental organizations. They have an enormous amount of power over Federal Government, it appears. The AMC boasted 74 percent of its 68,000 members earn \$40,000 or more per year. This is hardly a representative slice of our country. They have huge tax exempt privileges. We believe these privileges are unwarranted and we believe that groups like the Appalachian Mountain Club and their supporters should be made to pay their fair share of maintaining this country.

Thank you.

[Statement of David Guernsey may be found at end of hearing.]

The CHAIRMAN. I want to thank the panel. I think every musician ought to be able to listen to his own music once in awhile, and my one question, I guess, I have for all of you here. This Committee, as it is made up now, especially this side of the aisle—I want to stress this, because I am going to be partisan—other than two members, agree with everyone on this panel. And we have been villainized by the media as being anti-environmental, as against the environment, as rapers of the planet, as that which is trying to destroy good sound law. It gets very, very discouraging for many of the members, not myself because my head is too hard, to have that constant bombardment of mistruths, untruths, outright lies about where we are headed.

Now my question to the panel, if we do nothing and the government continues its activities, what is going to happen to the communities and what relationship do you think your communities will have on the Federal Government? Anybody can answer that. What is the feeling about the Federal Government, is what I am trying to say, in your districts now by the average person in the community? Anybody want to tackle that? Perry will, because he wrote a book, but, I mean, the Senator is there. I have got a Senator. I have got a Speaker of the House. Do you have anybody happy with the Federal Government right now?

Mr. PENDLEY. No, I think the answer is no. The answer is no because there is an adversarial process. I was wondering as I was standing out in the hall, Mr. Chairman, when it switched over, when all of a sudden the government began to take sides and vilify real Americans as bad people. And that is what we see in case after case after case, that the government is taking this position.

In the canon of ethics that we lawyers observe there is a canon called—

The CHAIRMAN. Be careful when you say ethics within the legal field.

Mr. PENDLEY. I know. I didn't want to open a can of worms. You are going to jump me here. But there is Canon 7, which says an attorney will represent his client zealously within the bounds of the law, which means basically for lawyers an all-systems-go attempt to protect your client, except for government lawyers. And there is a specific ethical consideration with regard to government lawyers that tells government lawyers you are supposed to "seek justice." You are not supposed to win. You are supposed to seek justice. And I want to tell you in the situations in which I go into court on behalf of clients, I don't see that. I see my clients, even though they are citizens, even though they are county commissioners, even though they, in many cases, represent the State or the will of the State, they are evil people and they are vilified by government lawyers.

The CHAIRMAN. They are not seeking justice. They are seeking to win.

Mr. PENDLEY. They are seeking—

The CHAIRMAN. And they are taxpayer paid lawyers.

Mr. PENDLEY. Exactly, they are seeking to win and they are—let me give you a good example.

The CHAIRMAN. Don't take too long, Perry, because I have got a couple more questions.

Mr. PENDLEY. Give me one minute here. In the Devils Tower case, as to our client Andy Petefish who climbs for a living, who guides people on Devils Tower, the government took the position that he did not suffer irreparable harm because he could always get money back from the government if was kept off the mountain improperly. He was kept off the mountain for seven days in the month of June. I will tell you what will happen. We will file a claim for those seven days and I will bet you dollars to donuts the government will take the position that he isn't entitled to the money. I mean, this is what we see consistently, the government taking both sides of an issue regardless of the law and regardless of what you adopt.

The CHAIRMAN. Senator King, your worry about the two pieces of legislation, have you communicated this with the Senator and with the Congressman, that this would hurt your districts?

Mr. KING. They know very well how I feel about that, yes.

The CHAIRMAN. Good, because I am not terribly impressed with either piece of legislation, I can tell you that right now. And I can assure you that the local people are going to be terribly involved if those bills were to move. You know, I have introduced a bill to turn land back to the states. See, I am the radical in many cases, but I don't believe the Federal Government should own land. I think it should be owned by the states and the private individuals primarily. That gives us our strength. This idea of socialized land-ownership is just absolutely against anything we ever set up our country for, so we will be looking at that legislation.

Mr. KING. I believe at a very minimum that the Federal Government should adopt a policy that as they buy an acre of land they

should sell an acre of land. There may be some land that was bought years ago that they don't need and there may be some attractive parcels that they might need now. But there is no reason for them to continue to buy land and not sell some of the land.

The CHAIRMAN. You are absolutely right. And my biggest concern in my 23 years on this Committee, and Mr. Hansen has been here just about as long as I have, is that we have acquired land, massive acreages of land, about 15 million acres we have acquired—taken off the tax roll. We own 637 million acres of land, more land than any free country today that owns under the leadership. Now a few years ago it was a partnership relationship between the State, the private sector, and the agencies. That has changed, and Perry is absolutely correct and the Senator is absolutely correct. It has changed now to where the agency with the park uniform with the pistol on his hip now is enforcing his interpretation of the law.

And, Clark, before I run out of time I would suggest one thing. You represent a huge, huge voting block, and they have not become really active. Their rights are taken away and they have got to be able to respond to the Sierra Club, but I don't think they are a nationally recognized great environmental group. I know exactly what they are.

Mr. COLLINS. Yes.

The CHAIRMAN. But you have a very large group of people that they have to understand that these groups are trying to put Federal lands off limits. There is where the power comes in. The same thing with the Senator and the Speaker.

We are doing the best we can in this Committee. We have just been in charge less than two years. You give us two more years so we can start investigating and reviewing what has occurred in the past by these agencies without even jurisdiction being given to them. This is a justice system being given to them by this Congress. They have done it on their own. We start bringing them in and reviewing them, which this Committee is starting to do now, but we won't be able to finish it. We are going to get to the root of this. They are not elected officials. They are in fact supposed to be servants of the people. They are not right now. They believe with their little M16 rifles and their little airplanes in my State landing and harassing my legitimate landowners. They believe they are right. They are the government. Don't you ever question them.

And there is where the breakdown comes. That is why I asked that first question. I can't find anybody today—and I will challenge anybody in this room to walk down the street. I will pay you a dollar for everybody that says they are happy with the Federal Government if you give me ten cents for everyone who says they are unhappy with it, and I will be a rich man and you would be dead broke. And I am not Italian, Mr. Hansen.

And by the way, I have to—I hate to do this, but Madam Chenoweth, would you take the chair for a while while I go attend one more meeting? You heard my lecture, so go ahead.

Mr. HANSEN. Thank you, Mr. Chairman. Let me comment on some of the things that this Committee said—that this panel said, if I may. I think what people don't realize is when Mr. Babbitt took the position as Secretary of Interior, he came in as Chairman of the League of Conservation Voters, and much of the agenda that was

in that particular organization has been put into the Department of Interior. Anybody that doesn't believe that just has to see what all these people are saying and doing. For example, we passed many pieces of legislation which did not really change much, it just built upon what has been done. We have tried not to go out and change things around. We have just tried to make it better.

I agree with the statement that Perry brought out that there was nobody on the panel, nobody in this room that wants to hurt the environment. We want to do it right. We want to do it with science. We want to do it with understanding. We don't want to do it just because someone has a burning in the bosom and they happen to feel that is the way it is but they don't understand it.

Somebody brought out—I think Mr. Guernsey brought up the idea of the tax exempt privileges that some of these organizations have. It is interesting for me to see the propaganda that they put out and actually put out brochures bragging about being able to come up here and lobby Congress. Somebody doesn't understand. They don't get the right to lobby Congress if they are tax exempt. Yet they seem to do this on a regular basis, and it is of great concern to many of us.

On our moderate position on things I think that private property rights are something. You see it destroyed in the Endangered Species Act in the wetlands. You see it destroyed in many of the bills that have been drawn up for this particular area, which is of basic concern as the constitution, I think, gives it to our people in those areas.

I appreciate my friend Mel Brown bringing up the idea of Burr Trail. When I was a kid I used to drive a Jeep down there. My dad had mines in that particular area. It is a road. I took Bill Mott down there years ago, ten, eleven years ago, and he wanted to see it. We flew in in the governor's airplane to Escalante, Utah. We put down in that area. We went down to the area and he said I want to walk. We got out and started walking down the road. For those of you who don't realize who Bill Mott was, he was Director of Parks. Bill made the statement, he said, "Hell, Jim, this is just a road." I said what did you expect, Bill. He said I thought it was like the Bright Angel Trail and the Kaibab Trail across the Grand Canyon. I said no, it is just a road, that is all it has ever been. And for the people in Garfield County, that is 90-some percent owned by the Federal Government, these people are constantly harassed over something that should have been paved a long time ago, and I think the environmental community has picked the wrong fight to get involved in in the Burr Trail.

Also in that particular area we have lost most of our timber companies. The little town of Escalante, Utah, had 268 people working at Escalante Sawmill. One challenge after another after the extreme group eventually drove them out of business. Now we are losing Kaibab Industries that was in Fredonia and Panguitch. Those are going under at the same time. At the same time we are seeing our forests destroyed by the pine beetle. And the best people on management of the forest come in and say we should do this cutting to stop this. But the extremists come in who have no background, no science, no understanding of it, but they have—they hold their little meetings and they get all jazzed up and they say

oh, however, we want to keep these forests just the way they are. I can't understand if these people really want to help America why they don't get into the science part of it. Why don't they really understand it rather than just stand up and have hell and hallelujah meetings, which we see all over the place in that area?

I appreciate the Congressman brought up—I personally have never seen in my 36 years as an elected official, I have never seen an organization like the current administration—I don't care if you are an R or a D—who is doing so much to try to stop America and the practice of America. I think we can have things environmentally sound and at the same time not ruin the economy of the west, which I see some people dedicated to do.

In my State today Steve Peterson had a debate at the University of Utah with a fellow by the name of Ken Rake of the Southern Utah Wilderness Association, who made the statement that the West had better draw on the idea that we can no longer have the economy we have had, the grazing, the agriculture, the timber, the mining are a thing of the past. Pray tell where are we going to get the things when we fly in airplanes and we fight wars, when we put on our shoes, when we eat at the table? Where is all this going to come from? It just amazes me that attitude that I constantly see from this group. Why don't they just wake up and join the rest of us and let us work toward improving the environment but doing it in a way we don't completely obliterate the people from our areas, which they are trying to do.

Incidentally, most of you from the Southern Utah Wilderness Association come from New York.

Thank you, Madam Chairman. Thank you for letting me get that off my chest.

Mrs. CHENOWETH. [presiding] Thank you, Chairman Hansen. I would like to call on Mr. Pickett next for the minority side.

Mr. PICKETT. Thank you, Madam Chairman. I came in a little bit late. I didn't hear all the witnesses' testimony, so I am going to pass at this time. If I have any questions after the other members speak, then I will ask them then. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Pickett. I would like to call next Mr. Calvert.

Mr. CALVERT. Thank you, Madam Chairman. All I would like to say is that I think at least on this side that we are very encouraged by your attendance today and that we are certainly in favor of the responsible use of resources in this country and the utilization of public lands for more than the elite purposes of some organizations and that we should utilize and conserve those resources to help our economy, there is nothing wrong with that, and provide jobs and opportunities for all Americans. And I think we are working toward that goal and with your help we can continue. Thank you very much, Madam Chairman.

Mrs. CHENOWETH. Thank you, Mr. Calvert. Mr. Pombo.

Mr. POMBO. Thank you. Mr. Collins, in your statement you talked about the fact that you felt that our recreational opportunities were being impeded upon in some way. And I find that interesting because in my brief time that I have been in Congress we have locked up millions of acres of land, and one of the arguments for locking up the land has always been that increased recreation

in these areas will replace the loss of timber jobs, farming jobs, mining jobs. Are you not seeing all the benefits from all this increased recreation?

Mr. COLLINS. Exactly the opposite as a matter of fact. And in fact, that is a false argument totally. These so-called environmental groups certainly don't represent the recreation interests that we are involved with. And in fact increasingly their ideology is at odds with any kind of recreational activity. That is why I wanted you folks to have that poster to see that we represent a broad recreation constituency that is willing to share and work together. The environmental extremist groups may have started out as recreational representatives. In fact, that is where they recruit a lot of their new members; they say that they have these recreational outings and come with us. Then they convince them that in order to enjoy this recreation activity they have got to kick out the cattle ranchers that have been involved in keeping the cow trails open all these years. It is a false argument that annoys the very daylight out of me, because we represent recreationists that they are trying to kick out, too.

So I would urge members of this Committee whenever that argument is used, challenge it, because those folks do not represent recreation. We represent recreation interests that work cooperatively with the natural resource industries and with one another. And so we would like to have you at every turn point to the Blue Ribbon Coalition as a recreation organization that doesn't share their viewpoint.

Mr. PENDLEY. Mr. Pombo, could I be heard—

Mr. POMBO. Yes, go ahead.

Mr. PENDLEY. [continuing]—on that? In your own State of California, as an example, it doesn't work. The creation of the Redwood National Park and the expansion of the Redwood National Park were held out as a wonderful opportunity to dramatically increase tourism and replace the timber jobs. It just hasn't happened. The unemployment is very high there. The dependent children number there is very high.

Another excellent example just across the border from Congressman Helen Chenoweth's district is in Lincoln County, Montana. Timber cutbacks have lost the timber jobs. Environmentalist efforts to prevent a mine from going into business has prevented the mining jobs. And they are told, the community is told yeah, but tourism will be your future up here. Bruce Vincent on the next panel talks about tourism being our future. They have a lake up there called Kooconusa. Lake Kooconusa was supposed to be where everybody would come to recreate. It is now being drained to "save the salmon" and the locals now call it Lake Who Can Use It. This is the evidence of the absence of tourism as the future.

Mr. POMBO. The two specific examples, one was the Redwood National Park, and we have had testimony on two previous occasions in this Committee, one from a social worker from the area and one time from a local elected official about the devastating impact that has had on their community and that they were promised that tourism would be the—would replace all the jobs that were lost. Another one is the California Desert Protection Act. It was well known at the time that that went through Congress that it would

cost thousands of jobs, but the argument was that tourism would make up for the loss of those jobs, that the increased numbers of people coming into the area, because we changed the name of the desert, would make up for the difference. But in the same bill they also closed down all of the access points and all of the roads in the desert. And so I don't understand how one thing leads to the other. When they lock it up, they lock it up.

Mr. COLLINS. They are selling snake oil, Congressman, plain and simple, because their agenda does not promote recreation access. And there is example after example of that. Voyagers National Park they are trying to kick the snowmobilers out. Yellowstone National Park the same thing. Boundary Waters Canoe Area, they have restricted access in that area. They don't want youth groups, Boy Scout groups, because they are too large. They don't want to allow them in the Boundary Waters Canoe area. It is a false argument and should be challenged at every turn.

Mr. POMBO. Mr. King, just before my time runs out, I have introduced since I got here a bill that would require if the Federal Government wants to buy something they have to sell something. And I believe very strongly that the Federal Government owns too much property, and if we can at least stop this expansion of property where the Federal Government continues to go out and buy up more and more land. In fact, this year there has been at least two occasions where we have been able to get written into bill language and passed by the House and Senate and signed by the President language which required a land swap where if they wanted to buy something they had to sell something and use the money to buy environmentally sensitive lands in those two cases. In your part of the country do you find that there would be widespread support for that type of initiative?

Mr. KING. I think that the—there is no need for the Federal Government to own more land where I live. The reason they want to save our land is because the landowners have done such a good job of maintaining it for the last umpteen years. There is no benefit to be gained other than to satisfy somebody's desire for the government to own more and more land. So it just simply makes no sense. We all know that when the government owns land the taxes for the local communities disappear, the property taxes are reduced. The payment due tax law did not limit what they agreed to do when they raised it. My county, instead of getting an increase in their check, when the payment went from 75 cents an acre to 93 cents an acre was because the government only funded it 77 percent. Now when I sent out a tax bill in my town, it gets paid 100 percent. We don't allow people to pay 77 percent of the tax bill. So we lose our tax dollars, we lose our jobs. And the fact is the government can't maintain their land. They simply cannot maintain what they already own, and so it seems to me it is a very simple thing for Congress to do, don't give them any money. That is what we do in my State. If we don't give them money, then they can't buy it. So I would suggest that is all you have to do.

Mr. POMBO. Well, we thought that was real simple.

Mr. KING. When you have extra money, let them fix those buildings in the parks and let—those facilities that are run down and

falling apart, spend it on that. That is what we have to do back home.

Mr. POMBO. I am sure all of us thought it was simple just not to give them money, and we found out that it wasn't that simple. But I do understand what you are saying. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Pombo. Mr. Duncan.

Mr. DUNCAN. Madam Chairman, I am sorry that I was not here to hear the testimony of the witnesses, but I will just simply say that I would like to add a strong second to everything that Chairman Young said and also that Mr. Pombo mentioned about the fact that we feel very strongly that the Federal Government owns far too much land in this country today. I understand the Federal Government owns approximately 30 percent of the land and the State and local government own another ten percent and then quasi governmental units own or control almost another ten percent. And when you think of all the restrictions we are putting on private property in this country, we are really slowly doing away with private property. And when we do that, in every country where that has been done, prosperity has been done away with, too, and people have ended up living starvation type existences. You can look at the Soviet Union and many other places, Cuba and many other places.

Senator King has raised, I think, some good points just in the short time I have been here. And number one, I think that, as he said, private property owners almost always take better care of property than do public owners. But Mr. Pombo talked about locking up the land. I can tell you that almost always these organizations that want to lock up the land are almost—almost their entire membership seems to be real wealthy people who live in big cities and have high enough incomes to be insulated from the harm that they do. And if they don't live in big cities, they are people who have come from urban areas and move to—newly moved into these areas and they really don't understand the feelings and the concerns and the needs particularly of the lower income people in these areas for jobs and security and even money simply to put food on their tables.

And so I am pleased that these witnesses have been here today and I—Senator King mentioned that we should have the Federal Government give up an acre of land for every acre that they purchase. That is a good idea, but I can tell you getting the Federal Government to give up even one acre of land is almost a small miracle. It just doesn't happen. I will yield back to counsel.

Mrs. CHENOWETH. Thank you, Mr. Duncan. Mr. Longley from Maine.

Mr. LONGLEY. Thank you, Madam Chairwoman. Mr. Guernsey, I am sorry I missed your testimony. My flight was a little bit delayed getting back from Maine, of all places. I would like to ask a question. Could you elaborate on the two examples that you gave, first the Saddleback situation and secondly the problem with the dam relicensing in Millinocket. Could you tell me specifically what the—in the case of Saddleback, what is the National Park Service looking for versus what Saddleback is prepared to give up?

Mr. GUERNSEY. Well, it is—I guess I would have to say it is not only what the Park Service is looking for, it is what their environ-

mentalist constituencies are looking for. The Appalachian Trail Conference has sat in on every meeting, and as I understand it—I have not gone to these—but have virtually talked in one ear of the Interior Department and told them what they want. And this has been the Park Service's position. As I understand it, the law requires a thousand-foot buffer area along the Appalachian Trail. Saddleback is prepared to donate this to the Federal Government at no cost. The Interior Department—

Mr. LONGLEY. Now you are saying fee simple or as conservation easement?

Mr. GUERNSEY. I believe in an easement in that, but I think they would probably donate it in fee, but I couldn't speak for them.

Mr. LONGLEY. OK.

Mr. GUERNSEY. But I know they have offered to donate everything that the law requires. At issue is that the Forest Service wants to condemn about 3000 acres for viewsheds and what not and has threatened the ski area with condemnation. Under this threat, the ski area is unable to go forward with any development plans. They have been held hostage for 11 years by this, so the local community, who is looking forward to this development, again a recreation development which environmentalists say they want, has been stopped for 11 years. So they can't do anything.

Mr. LONGLEY. Now you said they were looking for a fuel shed?

Mr. GUERNSEY. Viewshed. Viewshed.

Mr. POMBO. Would the gentleman yield for just a minute—

Mr. LONGLEY. Yes.

Mr. POMBO. [continuing]—on that point right there? And I think you need to explain to everybody what a viewshed is, because I have got these out in my area, too, and I think people need to understand what that is.

Mr. GUERNSEY. Well, I think it is—if you consider a watershed, that is everywhere water flows down. Viewshed basically is everything you can see. From the top of Saddleback they want this view preserved. They do not want to see any sign of human habitation.

Mr. POMBO. So if the gentleman would continue to yield, what you are saying is that from their property they want to be able to control everything they see from their property, even if they don't own it, if they have no interest in it. If they can see it from their property, they want to be able to control it.

Mr. GUERNSEY. If they can see it from the Appalachian Trail, they are saying forget what the law requires just a thousand foot buffer area, we want—that is of no significance, we want to control everything we can see.

Mr. LONGLEY. OK, a little difference.

Mr. GUERNSEY. I think they would prefer a fuel shed.

Mr. LONGLEY. Well, I think the gentleman's questions—I appreciate him intervening, because this is a big part of the problem. You were using a term that frankly a lot of people in this room may not even have understood. And I am trying to understand exactly what it is that they are looking for and what the implications of that are. But go on, if you could elaborate some more.

Mr. GUERNSEY. Well, I think that probably pretty much covers the Saddleback situation.

The issue on the dam relicensing, as I understand it, is that the applicants—and this is an existing project. They are not talking about building anything new. They have already spent over a million dollars on just relicensing an existing dam that has been operated for—dam system that has been operated for, I believe, 50 or 60 years.

And the main issue here is that I understand the FERC process requires only State environmental approval. All the State environmental agencies, which are, you know, very competent in Maine as I am sure they are in most states, have given a green light on this. It is—the project is entirely within the confines of one State and yet now the—at the urging of environmental groups, the Department of Interior has intervened in the process and is putting forth all kinds of additional requirements.

So the process continually gets delayed. And this is what sparked the town of Millinocket's complaint and the complaint from the governor's office, a direct complaint that the Federal agencies were doing the bidding of environmental groups rather than the bidding of the public interest. And I find those, you know, extremely strong words from a governmental agency. Again, this isn't a private group making these charges. This is one government, the State and the local governments charging the Federal Government with this type of—I consider it nothing short of malfeasance.

Mr. LONGLEY. Thank you, Mr. Guernsey. I yield the balance of my time.

Mrs. CHENOWETH. Thank you, Mr. Longley. I would like to ask some questions. Speaker Brown—

Mr. BROWN. Yes.

Mrs. CHENOWETH. I found your testimony fascinating, especially about the trail, the road, the Burr Trail, right?

Mr. BROWN. That is correct.

Mrs. CHENOWETH. Is that a road that could be classified as a 2477 roadway?

Mr. BROWN. Yes, it is.

Mrs. CHENOWETH. You know, I would love it if somebody could just sue those lawyers for bringing some frivolous lawsuits. They keep coming back at you. It just wears local units of governments and State government, especially county governments, down, this kind of harassment. And they have so much money to do that type of thing.

Mr. BROWN. The safety issue that was addressed in the testimony, I had the privilege of visiting here about two months ago. It is quite a ways south of the capitol city, but it is a very much improved road. The county has maintained it for nearly 100 years now, and there is an area where there is a blind curve. And around that blind curve, with as much traffic that is now developing, it is very dangerous, especially if the roads are slick after a rainstorm or in the winter. They just sought to remove one of the cut slope banks to widen the curve, to take away the blind spot, just a mere few feet. And immediately it was challenged by the Park Service. In fact, the last I heard on it, the Park Service had served notice on the county of their intent to sue over this issue. And so the bottom line is in the view of public safety they are trying to stop the process. It is too bad.

Mrs. CHENOWETH. Mr. Pendley, do you have a comment on that?

Mr. PENDLEY. Yes, Madam Chairman, thank you very much. You commented on the ability of these organizations to file lawsuits. And of course it is all statutory. All of these environmental laws provide citizens the right to sue. I think a long-term objective ought to be to remove the power to sue, the right to sue by private citizens. I mean, for a long time we have left that up to prosecutorial discretion. You confirm with the advice and consent of the Senate the appointees to Federal agencies. This body is perfectly capable of conducting oversight and bringing before it Federal officials who fail to enforce the law. I think that that is where the power to sue ought to lie, and not with private bodies. The problem becomes worse when you look at what may come on down the road in the interpretation of who a "citizen" is, under these environmental statutes that says a "person" may sue.

The Ninth Circuit Court of Appeals has ruled under the Endangered Species Act that a "person" only means someone who agrees with the purposes of the statute and that someone who disagrees with the purposes of the Endangered Species Act is not really a "person" under the statute. In the words of the Ninth Circuit Court of Appeals, the case involved a suckerfish, "the plaintiff in this case has demonstrated no commonality of interest with the sucker." When you see the future of this provision, that it can only be used by those who support these environmental laws in their most extreme application, I really think Congress ought to think seriously about removing these provisions and going aggressively with Federal agencies doing their job.

Mrs. CHENOWETH. Thank you, Mr. Pendley. Having worked in this body, is that the number one statutory change that you would recommend to this Congress in order to improve management and statutory authority or management on the Federal lands?

Mr. PENDLEY. That is certainly at the top of the list, Madam Chairman, simply because there is no finality. When I give talks throughout the country, I have people who are unfamiliar with these issues come up to me and say can't we work this out, isn't there some middle ground. And I will tell you that on behalf of all the communities that I work for and work with, Bruce Vincent, who will speak later, and others, I mean, that is what they want. They want to work it out. They want to compromise. But every time throughout the country that people have tried to compromise, whether it is in Colorado with the Colorado Round Table over grazing or California with the Quincy Library Group or Montana up in Libby, every time they have tried to reach a local compromise, they have been advised by the national environmental organizations, "you had better not try to go forward with this, we will file a lawsuit."

And in fact there is a memo I was recently provided by the head of the Sierra Club indicating that this idea of local control should be opposed at all costs because that is not a reasonable objective. So the power the citizen lawsuit provision gives the people outside the local communities to prevent compromise, to prevent reasonable solutions is an awesome power.

I would also add the ability of the Federal Government to buy land. Congressman Pombo was talking about the Redwood Forest,

the hundreds and hundreds of million dollars that have been spent purchasing private property to bring it into Federal land. I mean, we are talking about how Yellowstone National Park needs money today to stay open. There is a great source for money: the money spent unwisely to buy private property. And it is not just with the authority given by this Congress.

I will give you another good example out of Lincoln County, right across the border from your district. They want to open a mine up there, employ 250 people making \$35,000 a year. The Fish and Wildlife Service has told the mining company, "if you try to put that mine in, you must engage in \$8 million worth of mitigation to protect the grizzly bear." What does that mean? "You need to buy \$8 million worth of private property and turn it over to the Federal Government." This, Madam Chairman, in a county where 78 percent of the land is already federally owned.

Mrs. CHENOWETH. In most other cases you would call that extortion, wouldn't you?

Mr. PENDLEY. Or worse.

Mrs. CHENOWETH. I am going to take advantage of being in the chair and extend my time just a little bit because I want to ask Mr. Collins a question. I have just learned that the Park Service, in spite of the fact that this Congress increased their funding by one percent, is closing down certain parks. One of those parks is in my district. It is no surprise to me that one of those parks is in my district, because we have been pretty specific about some of the questions that we have asked the Park Service. But it is my understanding that your organization and other trail machines organizations have the capability to voluntarily maintain trails, which the Park Service won't do in the Clearwater Park this year. They are shutting it down. What kind of capability and desire do organizations like yours have in maintaining trails?

Mr. COLLINS. Well, our member organizations have a longstanding record of volunteer work on our public lands. And as an example, June—well, the first Saturday in June, whatever day that was, June 3, I believe, our members nationwide were involved in National Trails Day activities where, as an example, I happened to be home this time, which I have to travel a lot and sometimes I am not. But this weekend I was home and I have got a carrier on the front of my motorcycle that I can strap a chain saw on the front of my bike. We went out and cleared downfall off of the trails. We have got a group in my hometown called CORE, the Coalition of Outdoor Recreation Enthusiasts, that involves not only the motorized constituency like I said we primarily represent, but it involves hikers and cross country skiers and everybody working together. And on National Trails Day, we all went out together and worked on the trails together. And these are trails that we share. And an organization like that, I think, is so important because it builds camaraderie between the different trail interest groups.

But, you know, talking about trail funding, and I was itching to respond to Chairman Young's comment about the relationship between the local residents and the Federal agencies. You know, this particular incident that I reported in my testimony, the Bureau of Reclamation went to the county commissioners when they determined that they were going to close this area and asked the county

commissioners if they would authorize the local sheriff to patrol that area to make sure that nobody violated that closure. And the county commissioner said yeah, we would be willing to do that if you will give us the money to do it. Now the county was not very supportive of that closure, because in this area the off highway vehicle recreationists buy gas in the service stations and food in the stores and eat in the restaurants and it is a little tourism industry for this small community. So they weren't anxious to enforce this closure, but they said sure, you know, if you will pay for our deputy to go out there and enforce that closure, we will do it. We don't like it, but, you know, we are darn sure not going to do it for nothing. But the Bureau of Reclamation would not pay to have a deputy, a single deputy, go out to do that from the community, which is all that would have been required, and instead called 14 armed Park Service rangers from all over the blinking country and spent hundreds of thousands of dollars, wasted hundreds of thousands of dollars of money that they say is sorely needed for repair in our parks. It is absurd and created a real tense atmosphere in all of south-eastern Idaho over this issue.

Mrs. CHENOWETH. Mr. Collins, I seriously doubt that there is jurisdictional or statutory authority for the Park Service to engage in this kind of heavy handed law enforcement activity in the first place.

Mr. COLLINS. I think it should be investigated by this Committee, Congressman, and I would sure like to see it done.

Mrs. CHENOWETH. Thank you. And, Mr. Collins, I would like to ask if you and your compatriots in other states would like to work with us in making sure that our parks stay open. It makes absolutely no sense when an agency has an increase in funding that they shut parks down in the West in order to try to justify a false argument against Mr. Hansen. You know, Bruce Babbitt has been trying to say that parks have been closed because of Mr. Hansen's bill. Mr. Hansen's bill does not require that parks be closed. Not one park was recommended for closure in his bill, and yet somehow this administration doesn't understand the difference between truth and fantasy. And yet they are going ahead on their own without this Committee's oversight and closing parks. So if they don't want to keep them open, I think we do. And I would like to ask for your cooperation.

Mr. COLLINS. We would be glad to help. And in fact, it is interesting that we are more anxious to—our members are more anxious to help maintain trails that they have access to, but there have been a lot of instances where our members have volunteered to help maintain trails that they don't have access to. In Rhode Island one of our member organizations, the Roady Rovers, got involved in a Symms grant application to do work on a hiking trail in Rhode Island. And the Symms Fund is, you know, the National Recreational Trail Fund that we were involved in helping to pass. And here is an example of a motorized recreation group that frankly don't have many opportunities in Rhode Island, but they were more than happy to help another trail recreation group on a project that would benefit them. And that is what we need more of.

And to answer your question, yes, Congresswoman, we would be—Congressman, I understand that you prefer that term but I forgot for a minute. We would be happy to help.

Mrs. CHENOWETH. Thank you, Mr. Collins. And, Mr. Pendley, I would like for us to be able to work with you on specific language according to your recommendation. Before we excuse this panel, I would again like to ask Mr. Pickett if he has any questions.

Mr. PICKETT. I just have a general question for Mr. Pendley after listening to some of the comments here. Do you feel like the citizens and private property owners have an adequate opportunity for redress in the courts the way that the rules are applied today?

Mr. PENDLEY. Congressman, they don't. They are dealing with the biggest law firm in the world. They are dealing with the Federal Government. And the United States government will bring up every possible claim, even claims that they improperly bring up, to challenge the property owner. And it is a long, long fight. I tell people who come to me and say I want to file a lawsuit, I tell them to forget it. It is a tough darn battle and it is very, very, very difficult.

A good example is the Hobbs, New Mexico, case that I brought to your attention in my testimony where a property owner was told he couldn't use the property because it was "waters of the United States." He gave up the use of his property, then we sued to have a Federal judge rule about whether or not that was a proper decision. The government opposed the landowner's very ability to ask that question of a judge: "Judge, is this a right decision, can a bureaucrat say these lands are waters of the United States?" The government fought successfully the landowner's ability to do that and now we are before the U.S. Federal Court of Claims saying that his property has been taken in violation of the 5th Amendment's statement that "private property" will not be taken for "public use" without "just compensation." And I know the government will fight on down the line saying that he has not been denied all use of his property; he still can use it to graze or to look at or whatever. I mean, this is a ten-year battle and most people don't have the ability to engage in that kind of battle.

And look at what happens to the provision Congress adopts for landowners protections. Those protections are ignored, I gave the example of Crooked Lake, where five specific provisions this Congress put into Federal law to keep private property from being taken into the wilderness were ignored. The Forest Service ignored all five provisions and simply said Congress didn't know what it was doing; we can do what we want. That is very scary for the American people, sir.

Mr. PICKETT. I would agree with you that it is. Do you have a suggested remedy for this?

Mr. PENDLEY. Well, one remedy, number one, is Congressional oversight. I suggest a very interesting set of hearings. Bring up the Attorney General and her aides and explore in some detail the really contrary, ridiculous positions the government takes in litigation. For example, just the Crooked Lake example. In the Wilderness Act of 1964 and the Michigan Wilderness Act, very specific provisions were adopted to protect private property, very specific provisions to protect "valid existing rights." As sure as I am sitting

here, the attorney for the United States government stood before the Sixth Circuit Court of Appeal, all 14 judges, and said when Congress passed the language "valid existing rights" it really didn't know what it meant and therefore the interpretation the Forest Service is applying is a reasonable interpretation. I think this Congress knew what "valid existing rights" meant. I think Congress knew very well what it meant when it said protect "valid existing rights." I think it wanted "valid existing rights" protected. The Forest Service says, "it meant nothing, so when we interpret it as only protecting drinking water, the right to drink out of the lake, that is OK."

So I think oversight to start with and I mean from both sides of the aisle. One of the frustrating things is when the Executive Branch comes up and gives someone who lost on a legislative item victory with the regulation. And I think the loser in that situation ought to say to the Federal regulator, "I am not going to let you give me that victory. That is an improper interpretation of what this body did." And demonstrate that sort of comity with your colleagues.

Mr. PICKETT. It seems implicit, at least partially, to what you are saying in your remarks here today that perhaps the Federal judicial system is not even handed in the way it applies the law and the Federal Government is one of the parties to the action.

Mr. PENDLEY. Well, we are talking about attorneys after all, who are zealous advocates who want more than anything else to win. And they go in and they operate with that objective. But I suggest that that is not the proper approach for a government attorney. The proper approach for the government attorney is to say this is a citizen, this is a United States citizen who is entitled to some respect and some deference here. This is not the enemy. And what I hear frequently from Federal lawyers when they speak candidly with me is well, look, I know this is the wrong way to go, but frankly the clients demand it. Who are the clients? The Forest Service, the BLM. I think that is a ridiculous position. The client demands it? What about what the law provides? What about what Congress has provided? I think that should be the proper approach and I am not seeing it.

Mr. PICKETT. Thank you very much.

Mr. PENDLEY. Thank you, sir.

Mrs. CHENOWETH. Thank you, Mr. Pickett. Mr. Pendley, I just want to say that we are going to be dropping a bill entitled the Citizens' Fair Hearing Act of 1996, because as you alluded to and I want to be more specific, the Endangered Species Act grants broad regulatory authority to various agencies to take action to protect, preserve and recover species of plants and animals which are determined to be threatened or endangered, yet the, you know, private property owners and groups of individuals or associations which have been adversely impacted by Federal agency actions under the Endangered Species Act have brought citizen suits under this statutory provision. The U.S. Court of Appeals for the Ninth Circuit has consistently rejected cases brought by the citizens to the provision, which involves property rights, economic impacts and other issues stemming from regulations issued under the Endan-

gered Species Act. The Federal courts declared these concerns did not fall under, as you said, the zone of interest within the law.

So we are working, Mr. Pendley, to bring standing to human beings.

Mr. PENDLEY. Thank you.

Mrs. CHENOWETH. So I just wanted to encourage you there. I want to call again on Mr. Calvert from California.

Mr. CALVERT. Thank you, Madam Chairman. I apologize. I need to go back to my office for an appointment, but before I left I wanted to bring up a point. It was brought up who is a better manager of the land. And in the California instance, as Mr. Pombo brought up earlier, we had the Desert Protection Act in the last Congress, and the advocates of that act claimed that the National Park Service would be better managers of the land than the Bureau of Land Management working with various landowners and inholdings that have been there for many years. One of the incidents that occurred just last summer, hopefully not repeated this summer, is the water guzzlers in the desert area were not maintained by the Park Service. The people, volunteers, people who had off road vehicles who went into the desert to fix those water guzzlers were unable to do so and we had a tragic loss of large numbers of bighorn sheep in this last year. And interestingly enough, this species is being brought forward by some as a potential candidate to be put on the endangered species list. And I see that as an interesting situation where the National Park Service is probably guilty of killing more of the bighorn sheep in this last year than any other group I can think of. So it is a tragedy and I think that makes a case that the government is not necessarily the best managers of the land.

Thank you.

Mrs. CHENOWETH. Thank you, Mr. Calvert. And with that I would like to excuse this panel with my thanks and the thanks of the Committee for your testimony, which was 100 percent instructive to us.

I would like to call for the second panel the following individuals: Bruce Vincent from the Communities for a Great Northwest from Libby, Montana; Don Fife of the American Land Rights Association from Lucerne Valley, California; Robert Sanregret, Executive Director, National Association of Mining Districts in Tustin, California; and Jack Phelps, Alaska Forest Association from Ketchikan, Alaska.

Mr. Vincent, welcome to the panel. We would like to start with your testimony.

#### **STATEMENT OF BRUCE VINCENT, COMMUNITIES FOR A GREAT NORTHWEST**

Mr. VINCENT. Thank you, Representative Chenoweth and the rest of the members. My name is Bruce Vincent. I am a fourth generation logger from Libby, Montana, and the Director of Communities for a Great Northwest, a non-profit grass roots group. As you heard from the previous panel, my community is a study of failed Federal land use policy. It is a microcosm of what is happening everywhere, but I am going to stick with one issue. It is the issue that first got me started in discussing the future of our community as it sits in the middle of Federal land.

In early 1988 the U.S. Fish and Wildlife Service announced to our small town that the grizzly bear was going to be recovered through augmentation in the Cabinet/Yaak ecosystem. At a series of public meetings, the local people expressed their concern over the proposed augmentation. The concern centered on several portions of the plan, including the proposed cross fostering of cubs. Grizzly cubs had been purchased from a zoo in Michigan. The cubs were going to be transported to our area, placed in a den with a black bear mother and they would wait till spring and see who came out. The proposed embryo implanting process where grizzly embryos would be implanted in black bear mothers, they would wait till spring and see what came out.

We were concerned about the lack of data on past and current grizzly populations. We were told that the existing population would have to be increased to at least 90 bears, but the agency admitted it had no idea how many bears had historically used the area nor did they know how many were actually currently inhabiting the area or how many bears would be required to reach a viable population.

We were concerned about the potential socio-economic impact of the single species, human exclusive language in the grizzly bear recovery guidelines when they indicated that all future forest management decisions and grizzly habitat would be made with the primary goal of recovering grizzly bears at all other resource values expense.

Our community and several others in the area mounted a campaign to have the human voice in the area represented in the debate. And after a great deal of heated debate, a local involvement team of habitat managers, biologists and local elected and opinion leaders from a broad cross section of our public was formed. We wanted to maintain the grizzly population because we aren't opposed to having grizzly bears but we didn't like their augmentation plan. The community involvement team has now been meeting regularly for the last eight years. We have had some spirited discussion over our future with the grizzly bear. We believe that we can protect our economic values and our cultural values and raise grizzly bears. The detractors of the plan, for awhile, turned down their heat while we waited to see if the Federal agencies were going to play in good faith. In fact, our local county commissioner, Chamber of Commerce, grass roots groups and others wrote to Congress for several years begging for money to continue our studies of the population of the bears in our area. We didn't want the job to be half done. We wanted solutions.

I would love to tell you that right now that is a success story in Libby, Montana, but it is not. We had a few early successes. Cross fostering was dropped. The scientists were laughing at them. Embryo implants was dropped. The scientists were laughing at that. Instead we are catching and transporting bears from British Columbia, putting monitors on them, dropping them in our back yard and watching. We have done that with four bears now. One is dead. The monitors have dropped off the other ones, but we believe that that might be a process that would work.

The list of gross failures that this recovery attempt has yielded is daunting. One of the first undertakings of our involvement

group, and I am on that group, was an education campaign. That education campaign included answering the tough questions society was asking about the future they had with the grizzly bear. We put out a pamphlet to every boxholder in two counties telling them that the grizzly bear was not going to significantly impact their future in our area. Page 18 of the manual, in fact, answered the most often asked question, are we going to be able to log and do our other recreation activities in grizzly area like we had been doing. And the answer was flatly yes, we are going to be, there is going to be no impact on grizzly habitat because our existing forest plan already managed as if we had a recovered population. We simply didn't have the bears yet. So when we did get the bears, there would be no impact.

A few months after the pamphlet was mailed, however, the Kootenai Forest released its monitoring report for the year 1990. On the third page of the report—and there is an attachment to my testimony. On the third page of the report, the Forest Service stated that increases in the habitat area and changes in standards for the recovery of the grizzly bear since the forest plan was written in 1988, two years prior, have restricted timber sales in many areas. That year there was a 30 percent drop in timber sales, not due solely to the grizzly bear, but the grizzly bear was listed as one of the two major factors.

In February of '92 the forest gave another monitoring report and indicated that in grizzly habitat they were achieving 42 percent of their target for timber sales and in other areas they were reaching 80 percent. They also said that they had increased the grizzly habitat by nearly a quarter million acres without any public involvement.

Fifteen percent of the roads have been gated in our forest. 1800 gates have been placed on forest access roads, locking people out of their berry picking areas or firewood gathering areas or hunting areas or pleasure driving areas. Some of the roads gated were in grizzly habitat outlined in the forest plan. Some were in the new areas that the Fish and Wildlife said had merely been clarified as grizzly habitat during their consultation process.

The Forest Service announced the settlement of a court suit on the Upper Yaak drainage based on the grizzly bear that significantly decreased the harvest of dead and dying loggable pine in that area. And you can imagine that the community response to this information when they had already been given a pamphlet was outrage.

A community meeting was scheduled with the Forest Service and the Fish and Wildlife Service. We wanted to ask the two agencies what was going on. At that meeting, the Fish and Wildlife Service said there had been no impact on grizzly bears. The Forest Service continued to claim that there was significant impact. At the conclusion of the meeting, we had gotten no answers, but we had gotten an education in bureaucratic doublespeak. At the public meeting our mayor, by the way, Fred Brown, asked Dr. Servheen what proof they had that we needed the gate roads to protect grizzly bears. Dr. Servheen admitted they never studied the situation. They had studied the elk in the Blue Mountains of eastern Oregon

in the mid 70's and were using that information to gate the roads on grizzly bears in Montana.

After many citizens meetings and letter writing campaigns to elected officials, we are now many years into the process and our answers are still yet to come. We have gotten nothing back from the bureaucracies except more doublespeak. It is now 1996. The grizzly population studies that we begged for have slowed and then stopped. And in fact the only admission we have gotten from the Fish and Wildlife Service is a public statement to the media after years of study by their biologists in our area that they had learned one thing about grizzly bears, they couldn't count them.

Our roads are continuing to be gated. Our timber sale program continues to drop. Mining proposals have been met without outlandish grizzly bear habitat mitigations requirements. Our sawmills have seen a 70 percent reduction in employment. Our town is trying to keep our hospital open, our schools funded and our unemployed fed.

By the way, the question on tourism earlier, we need \$100 million of additional tourism this summer in Libby, Montana, to make up for the basic industries job losses of the last year. That is a million people coming to Libby, each one spending 100 bucks. We don't think it is going to happen. We aren't laying there, though. We are fighting back. As Perry indicated, we filed suit, suit for failure to manage for a healthy ecosystem because we are managing for a single species instead of a variety of values from the forest.

I am almost done. The people of the Cabinet/Yaak are now asking why the agency is pursuing with vigor the recovery of grizzly bear in two other areas, ecosystems if they don't have enough money to complete the job in the Cabinet/Yaak. People of the Cabinet/Yaak wonder why the agency can't study the impact of their recovery plan before moving to new areas and proclaiming to the citizens of these new areas that there will be no impact from recovery. The people of the Cabinet/Yaak read with frustration the Fish and Wildlife reports that the Cabinet/Yaak ecosystem recovery has gone well. People of the Cabinet/Yaak read in disgust the agency claims that the citizen involvement group format has worked in the Kootenai Forest, not to be repeated elsewhere. The people of the Cabinet/Yaak act in good faith in the recovery plan, but instead we got information that was either withheld or flat lies.

The Grizzly Bear Compendium and the old and new Grizzly Bear Guidelines indicate that the single most important factor in bringing grizzly bears back is the human element. We have to accept the plan for it to work. This agency has done a dismal job of dealing with the single most important element in grizzly bear recovery. There is room on the Kootenai for grizzly bears and people. As a matter of fact, since grizzly bears are adaptive and don't eat trees, there is a lot of room for people, logging, mining, recreating.

The Forest Service, the State of Montana and large private industrial landowners of the local area have proven to be good neighbors. They are straight shooting in their efforts to work with the local population to achieve the goal of grizzly recovery. What a tragedy for the bear and the people that such a solution seems to be beyond the abilities of the command and control, switch and bait

tacticians currently in charge of this species for the U.S. Fish and Wildlife Service.

I urge you to allow our success story to be revisited or visited upon any other areas of grizzly recovery of our friends. Thank you.

[Statement of Bruce Vincent may be found at end of hearing.]

Mrs. CHENOWETH. Mr. Vincent, thank you for that very fine testimony. I would like now to call on Don Fife from the American Land Rights Association.

#### **STATEMENT OF DON FIFE, AMERICAN LAND RIGHTS ASSOCIATION**

Mr. FIFE. Thank you, Madam Chairman, members. Today I am representing American Land Rights, and I have been asked to talk about my own situation in the Bighorn Mountain wilderness where I and my neighbors have suffered the slings and arrows of outrageous Federal land use planning. The title of my presentation is basically the Bighorn Mountain Wilderness, California, a Case Study in Federal Land Use Planning, Abuse of Authority, Fraud, Waste, Violation of the Public Trust to "Manufacture" Wilderness and Deceive Congress as to the Wilderness Suitability of the Area.

As I sat in this room, I wondered, if the Committee members and people in the audience and the press were in my situation what they would do, because the things that have happened to make the Bighorn Mountain Wilderness are literally unbelievable. When I talked to the press in the past, people feel like well, this fellow just saw a spaceship, you know, we are not going to talk to him. But I have been keeping name, rank and serial number.

It started back in the 70's when the Bighorn Mountain Wilderness was authorized under FLPMA in 1976. Wilderness planners intentionally used 15-minute quadrangles that were 30 years out of date, didn't have newer roads, cabins, mines on them, when in fact in the same building there were brand new 7-1/2-minute quadrangles, one inch to 2000 feet. So various cultural features were left off of the wilderness map, including several mines, including one large mine. And as a result, that mine is not operating today.

One of the other things was they declared back in the 70's that "a road was not a road." This Committee in 1976—I have a letter that was circulated by James Santini and sent to the Interior Department. Every member of this Committee on both sides of the aisle signed this letter. It was not the intent of the Congress to make a road not a road. Basically the U.S. Geological Survey has five classifications of road. They eliminated the fourth and fifth classification of unmaintained roads, therefore declaring millions of acres of the western United States as roadless so it could be declared wilderness, and the Bighorn Mountain Wilderness was one of those.

This area that I know happens to be in the national forest, but in the California Wilderness Act or Desert Closure Act, S. 21/H.R. 580; that is that we call it, Desert Protection Congress calls it, included 100,000 acres or more of national forest, all of which had been declared unsuitable for wilderness in the 1983/84 California Wilderness Act. The area that I am in was called the Granite Peak RARE II Area. It was declared unsuitable. I worked with Senator Cranston and Senator Wilson and their staffs because the area was

full of mines or cabins, high mineral potential, roads. It is and was unsuitable, yet it is now wilderness.

The Forest Service, working with environmental groups, were bound and determined to make this wilderness. They came in and they used the Marines—in fact I contend they lied to the Marines that they were interdicting drug traffickers. What they were really up to was they blew up the oldest historic cabin in the area, which is now in wilderness. They packed it with ammonium nitrate and C4 explosives and detonated it. They went to the root cellar at the old mine, which goes back 100 years or more, at a spring, packed it full of explosives and blew up the root cellar. Then they came up onto my family's property where we had permits to operate and do exploration and they blew up the road in four places, ten to 40 tons were blown out of the road. In my testimony that is the smallest blast I show there in a photograph of the road. That is the smaller one. The last blast sprayed shrapnel out into the National Forest and the Marines and the forest rangers went home and went to bed, the marines back to Camp Pendleton.

All night that molten hot shrapnel started little fires in the forest over an area of five or six acres. Now mind you, there had been a drought for six years. It was at the height of the fire season in September. In southern California we have the Santa Ana winds, which blow off the desert. Down wind was the community of Bear Valley with 15,000 residents, with huge Ponderosa trees tinder dry around their houses. They in fact were in jeopardy.

But there are so many things that have happened in addition to that. The Forest Service forged a backdated document to revoke my family's operating plan and our operation. They planted endangered species on the roads that they blocked and they brought in volunteers from the Sierra Club to do this. I found this unbelievable until a Federal employee called me and told me he would be a witness, that he was one of them and he is willing to testify. The Forest Service took money from our operator to do a mine plan. They had to do it. We couldn't submit this computerized generated plan. They took the money and then six months later they said the plan wasn't any good. When I asked for freedom of information documents, they sent a few pages from my file and a bill for \$1400. The State of California had a duplicate file on that project. There were something like 1600 pages in there.

So what we have here is a bureaucracy out of control. And we have a number of felonies that have been committed. When the document was backdated, I filed a criminal complaint with the U.S. attorney. The forest ranger eventually was promoted and sent to the Custer National Forest. That is the only thing that apparently happened.

The takings assessment by the U.S. Attorney's Office through the Secretary's office said that we had an approved plan of operations but the local forest said we did not. And we have been held up for seven years. This has cost my family and the operating contractor and I have over a million dollars, and still we don't have a permit. We have endless meetings, one after another.

I think what we have here is a group of employees that are working for the Federal Government—I am not going to say it is the Forest Service per se. They are not being supervised. These folks

appear to have their own philosophical beliefs. They invent policy and then they enforce it under the color of authority. And my case is not unique. This is going on all over the west. I have talked to many people who have similar problems. I think the Bighorn Mountain Wilderness, however, has probably more than any given area that I have seen.

What we are looking for is a technical amendment to get our properties out of these wilderness that were put in there basically under violation of NEPA, the Administrative Procedures Act and Congress was deceived into believing these areas were wilderness. The Forest Service lost our files when Congressional staff were negotiating with us to move the boundaries. The Forest Service and the U.S. Geological Survey produced a map that was to be used by staff. It left ten square miles of the geology and mineral deposits and mines off of the Bighorn Mountain Wilderness. As far as you were concerned in Congress, we didn't exist. And I have documented this and others have documented this, and we really believe there should be Congressional oversight.

We believe there should be an investigation, because as Congress allows this to happen, it will continue to happen. People who commit felonies in the bureaucracy need to be prosecuted just like anyone else. And that is the way we are going to bring this sort of abuse to an end.

I was a government employee's union president in State government. We used to get these people out of government because we considered them bad apples that gave all employees and civil service a bad name, but today these people are protected by their supervisors and it is just an unbelievable situation. We have talked about why people are hostile to government. I think anybody who went through this, and there are thousands of people in the west, hundreds of thousands who are suffering from the abuse of the bureaucracy—there is no control of these people.

So my request is that Congress do an investigation. I think the Bighorn Mountain Wilderness is an excellent example of case history that will show abuse that is prevalent everywhere across the West and where there is Federal lands.

The endangered species we have is locoweed, one of them. Locoweed, it is now endangered. It is against State law to grow locoweed knowingly because it is a poisonous weed that kills browsing animals. When you clear an area, these are weeds, they come in. The forest has been so protected from fire there are few openings. These plants are fire dependent. And where the Forest Service blew up the road, started the wild land fire, lo and behold, there is an increase of 30 to one in the allegedly endangered species there, which means the listing is really superfluous, because these are dependent on fire and open spaces and disturbance. In fact, mining, which was used as the excuse to list these plants—they supposedly only grow in high grade limestone deposits. Mining actually, if you properly reclaim the area, would increase the habitat of these plants. So U.S. Fish and Wildlife and the Forest Service, they have it backwards. Mining is not a threat to these plants. It can be well demonstrated. All the information we gave to U.S. Fish and Wildlife when they were having hearings on this was simply

ignored. They had their mind up to list these five so-called limestone endemic plants.

So we have an industry in this area that is a \$200 million a year industry that is threatened by endangered weeds. And they are really not endangered. Many of them grow all over the western cordillera, particularly the buckwheat that they have listed, the so-called Cushenbury buckwheat. It grows in Idaho. It grows in Montana. It grows in Oregon, the Cascade Range, the Sierra Nevadas, Arizona, New Mexico, if you look in the literature.

Mrs. CHENOWETH. Mr. Fife, your testimony is so good, but we are going to have to confine the testimony to around five minutes.

Mr. FIFE. Thank you.

[Statement of Don Fife may be found at end of hearing.]

Mrs. CHENOWETH. Thank you very much. I would like to call on Robert Sanregret.

**STATEMENT OF ROBERT SANREGRET, EXECUTIVE DIRECTOR,  
NATIONAL ASSOCIATION OF MINING DISTRICTS**

Mr. SANREGRET. Thank you, Madam Chairman. I am Robert Sanregret—which is French for “without regret.” I am the Executive Director of the non-profit National Association of Mining Districts, and I am also an attorney practicing mining law. The examples I am going to run through are mining examples, and I think they are more than the sarcastic comment we hear that it is good to have citizens complain, because then the citizen feels good, it doesn't do any good, but it makes the citizens feel good to have a citizen expression. And I don't believe that is true. I think the people particularly in this room are on our side and hopefully will be able to help us.

We desperately need help, because as Perry Pendley, the well-known lawyer who testified a moment ago, pointed out, it is frustrating as a lawyer. I have folks coming into my office with a recent Supreme Court case and saying gee, look, that is just like my case—but I don't have a couple of hundred thousand dollars. We have terrific examples of abuses that have happened, but the people can't get out here to Washington to complain because it costs too much, and these people are losing their mining properties.

I am going to direct my discussion here to mining properties and I am going to run through several examples of situations where these people just have no help. They are frustrated, and they have walked away from good mining projects.

In preparation for my testimony today over the last several weeks I was startled to learn that in the last three years the United States has dropped from number one in 1993 to number five today in mineral exploration and development—and this is outrageous. The result will be our increased dependence upon foreign mineral sources. It will result in rising mineral prices, and will increase our trade deficit. How can one argue with this? The answer—I have come to learn—is that the aggressive radical environmental community does argue with what I just said. They want to decrease the productivity of the United States to less than half what it is today. The Sierra Magazine, Sierra Club magazine, has a full page presentation on the Negative Population Growth, where they want to decrease the population and the productivity of this

country by more than half. Incredible. Plus the "War on the West" is in not only the western United States, but also in the entire western civilization.

Since the Civil War the Federal Government has chosen to keep the land when a State was admitted to the union. I am not going into that in much detail, but that is not authorized under Article 1, Section 8. We don't hear enough about Article 1, Section 8. We hear a lot about it in the west, but you don't hear enough about it here in Washington. I am not going to go into detail, but it should be gotten into, because there is severely restricted authority for the Federal Government to own real property. And here we are today—discussing today how the Federal Government should own and manage land. I would suggest to not you folks, because I am sure you have, but we should all read Article 1, Section 8.

And also, Madam Chairman, R.S. 2477 is an extremely valuable part of 1866 mining law, which opened up the West and was effective for 110 years. R.S. 2477 simply said that any trail, road or right-of-way at any time from 1866 to 1976, when R.S. 2477 was repealed by FLPMA, is today an open public road. R.S. 2477 scares the heck out of Secretary Bruce Babbitt and the other aggressive close-it-down radical environmentalists.

Let me run through a few examples rather quickly, some of which are discussed in my written testimony of what is happening out West. In August 1993, which incidentally is the year the exploration budget started down, there was foisted upon the mineral exploration community a \$200 rental fee per mining claim. Now at the time it was proposed, it was proposed as a last minute deal in the 1992 Congress. This \$200 rental fee destroyed the mineral exploration base out west. 75 to 80 percent of the mining claims were abandoned in the following year, and about another 10–20 percent had been abandoned the prior year because the rental fee passed in October 1992, and during that ten months about another ten to 20 percent were abandoned. It was a \$200 hit in August and then \$100 per mining claim for every subsequent year. That greatly reduced the incentive for anyone to go out and explore for minerals.

I have some personal examples. Besides being the Executive Director of the NAMM and a mining attorney, I myself do substantial mineral exploration and development. My partner and I had a property that we had leased to a very large international South African company, very responsible, very respectful multi-billion dollar company. We had a \$60,000 exploration budget for initial exploration. I told them to be careful when they applied for the permit, because they are going to run into the enviros. They said no, we are big, we have got lots of money. They ran into the enviros. Out of their \$60,000 budget they had to pay \$50 an hour for 10 hours a day to an environmentalist to literally sit in a beach chair in the 100 degree heat with an umbrella over him and watch the drillers, \$9 and \$10 an hour laborers, doing the drilling on what started out to be a 15-hole drill program, reduced to a ten-hole drill program because of the extra expense. And then after that, program two was set up. I said hey, guys, now you know.

We were the claim owners and we were leasing to this group, which we hoped would open a large mine, et cetera. The second program had more restrictions, fences, little fences for the desert

tortoise. The punchline is that the company sat through the second drill program, then they said, ". . . to heck with it, the rules in California are crazy." They now have invested millions of dollars in Australia where they chose to go, and those claims subsequently were abandoned. I personally abandoned 98 percent of that group of mining claims. There are useful minerals of all sorts on these claims that will never be mined. And, they will never even be explored in the future unless somebody changes the procedures.

The next example is a mining company that was successfully operating. They had 75 employees.

Mrs. CHENOWETH. Excuse me, Mr. Sanregret. I would like to just ask the clerk if we could give you another minute. I am trying to keep the testimony fairly close to five minutes. You have come from such a long way and it is so interesting that I have been very lenient on that, but I will hear from the chairman if I don't keep some sort of order. So we will grant you another minute and then Mr. Pombo and I both will be asking questions.

Mr. SANREGRET. Thank you, Madam Chairman. I call this example the contingent fee prosecution. A renegade employee of the BLM recruited 15 different agencies, State and Federal, to pounce on a mining company that was successfully operating. They ended up with an array of environmental criminal complaints. No agency would take it as an official agency complaint, but one of the individual employees walked into the prosecutor, and as a private citizen made the complaint. The prosecutor was happy to get it because he was on a contingent fee, believe this or not. The crimes-against-the-land division of the county prosecutor got a percentage of the fees they collected. And that was the motivation. Now, as Perry Pendley would say: "This is super outrageous." As a result, this company was prosecuted. They, too, said to heck with it. They are closing and phasing out that mine, and are now in a very successful operation in Mexico.

One final very quick simple example. The Grantham Talc Mine owned by Pfizer Chemical was a very successful talc mine. The enviros made a deal with them. Pfizer received a \$50 million tax deduction for donating the successful talc mine to the Nature Conservancy. That is \$15 million that the taxpayers did not get, since the company was in the 30 percent bracket. Pfizer packed the equipment into containers, shipped it to communist China; and you are now buying communist Chinese talc at higher prices. The trade deficit has increased, and the talc is mined with arguably or allegedly slave labor in communist China with no environmental controls. The environment is worse off. So who benefited from that? Answer, the "War on the West" benefitted.

Al Gore is quoted as saying that he wants to convert the West from extraction to attraction. Well, Al Gore has another "wilderness area" to attract tourists, if that is what will attract tourists.

Thank you very much for your additional time.

[Statement of Robert Sanregret may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, sir. I would like to now call on Jack Phelps from the Alaska Forest Association. Mr. Phelps.

**STATEMENT OF JACK PHELPS, ALASKA FOREST ASSOCIATION**

Mr. PHELPS. Thank you, Madam Chairman. I am the Executive Director of the Alaska Forest Association. The association was established in 1957. It represents the industry statewide. Thank you for the opportunity to address you today.

Federal land management is a highly visible and important issue to Alaskans. Fully two-thirds of our vast State is under Federal ownership and Federal control. Since this includes two huge national forests, one of which, the Tongass National Forest, covers a territory the size of the State of Maine, which I know would be of particular interest to one of your Committee members, an industry in Alaska is more affected by Federal management decisions than the forest products industry. Unfortunately, the Forest Service seems determined to manage Federal timberlands according to the dictates of the national preservation movement rather than acting on the basis of sound silvacultural science and proven forest management strategies.

We have two large national forests, and I would like to speak briefly about both of them. On the Chugach National Forest we have a severe forest health crisis. On the Kenai Peninsula, some of which is Forest Service land and the rest mostly is State land, we are looking at about 80 percent mortality rate on our white spruce forest. And it very well may reach 100 percent by the time the crisis is over. This is due to the spruce bark beetle infestation. Now the beetle damage has moved heavily into the Lutz spruce in the transition zones and is beginning to take a toll on the Sitka spruce along the peninsula's eastern coast.

The emergency salvage law which Congress enacted last year has helped. Timber sales are planned at Moose Pass, Sixmile Creek and other places. But due to intense pressure by the anti-development crowd, the Forest Service has now pared those sales back to a size much, much smaller than is needed to aggressively attack the problem faced by the forest.

One key reason given for this smaller than necessary harvest was the alleged impact on tourism and the effect of logging on viewsheds. I know you had a little discussion earlier about viewsheds. Apparently, these folks believe the tourists would rather see dead standing trees for the next dozen years, wind-thrown dead trees on the ground for a decade or two beyond that, if we don't have a massive destructive fire like the one suffered in the Umatilla Forest where I used to work and log and provide for my family before I saw the handwriting on the wall there and took my family to Alaska in the mid-80's. And then beyond that they apparently think the tourists want to look at grasslands for much of the rest of the next century on the Kenai Peninsula.

We in the forest products industry and those of us who have an interest in the health of the forest believe that active management could restore those to forest lands instead of allowing them to go into grasslands, which is what is likely under the current non-management ideas and concepts.

What the Forest Service should do both in the Chugach and in the Tongass National Forest is manage the forest as a forest, not as if it were a park. That means having timber sales where they are appropriate. We should acknowledge, I agree, that particularly

on the Kenai we may need the public, the general public and the touring public specifically, may need help in understanding the beetle kill situation and the forest management response to that beetle kill situation. And so I suggest since the Forest Service wants to act like the Park Service, maybe they could do one of the things that the Park Service does well. Maybe they need to get some educational signage up along those roads so that as the touring public comes through they can understand why the forests are dying and they can understand what the Forest Service is going to do to help solve the problem.

Instead of doing that, educating the public that might be complaining or worried about the effect of logging, instead of doing that they back away and they cower in fear from the national environmental movement and they do what they know they should not do, and that is leave the forest to its own devices.

All of this points to a need for commitment to active forest management by the Forest Service and the Federal Government in general, including a vigorous timber sale program. And I urge this Committee to work for passage of a good strong forest health initiative during the 104th Congress.

Finally, I would like to point out to the Committee that the problems on the Tongass continue. As you know, the majority of the vibrant forest products industry in Alaska is dependent upon timber sales from the Tongass National Forest. It was only action by Congress after the second world war in establishing a forest products industry in southeast Alaska that gave southeast Alaska a stable, year-round economy. That stable, year-round economy is still dependent upon timber harvest. And it is very, very important that we not allow the Forest Service to undercut that industry by putting out on the table a forest plan that will undo the compromises that this body established in 1990 that allowed a balanced use of the Tongass in the Tongass Timber Reform Act.

The proposed Tongass Land Management Plan at this stage is seriously flawed. It applies a new habitat conservation strategy on the Tongass without any scientific investigation to see whether that would be an appropriate strategy on the Tongass National Forest. No science has been done to investigate that. It imposes unauthorized PACFISH standards from the northwest into Alaska lands, reducing the land base in violation of the spirit of the Tongass Timber Reform Act. And the plan fails to provide sufficient social and economic impact analysis of the various proposed alternatives on a community by community and industry by industry basis, which I believe may well be in violation of the law, because they did not consult—under NEPA they are required to consult with the local community elected officials before they put these plans into motion. And I do not believe there is sufficient evidence that they did that.

To implement the plan as proposed by the Forest Service now would do irreparable and unjustifiable harm to the forest products industry of Alaska. I urge this body to do all in its power to get the implementation of this plan delayed until they can build a plan that is based on sound science similar to the one that was proposed in 1992.

Thank you very much for this opportunity.

[Attachment to statement of Jack Phelps may be found at end of hearing.]

Mrs. CHENOWETH. Thank you, Mr. Phelps. I would like to open it up for questioning with Mr. Pombo.

Mr. POMBO. Thank you. Mr. Fife, in reading your prepared testimony, I take from this that you are a scientist that has had work published in scientific journals in the past and know a little bit about the scientific community and how things work?

Mr. FIFE. That is correct. I am an earth scientist. I have been doing research for government academia most of my life. I normally publish several scientific papers a year, although recently I have been wrestling with paperwork for the bureaucracy, so I haven't been able to crank out so much. But, yes, I have a background in paleontology, a degree in paleontology. I have worked in fire science and studying the return to fire intervals and also in engineering geology designing dams for debris flows and other things related to fire. So I have a very wide background in that sense. Also I worked for the State EIR/EIS clearinghouse as reviewer. That is the group that reviews all environmental impact statements that are submitted to the State of California for southern California for hydrology, geology, seismicity. I have done nuclear generating plants, mines, polyuria things. I have worked for the State department of real estate as a reviewer for all new subdivisions and their impact on the local environment. So I have a widespread background in environmental science and environmental review work and regulations.

Mr. POMBO. So needless to say, you have a little bit of experience in this field. In your testimony you make the allegation that the U.S. Forest Service listed in their listing package on endangered species, which would have been under the Endangered Species Act, that they used junk science, that their peer review consisted of reviewing each other's work, that their references were to their own work in listing this. I am sure you are aware that Fish and Wildlife Service—Secretary Babbitt claimed that they peer review their work. And in a number of other cases I have been involved with I have noticed that it involved reviewing each other's work and that that was their definition of peer review. In your experience in the scientific community, have you ever run across that type of peer review in the past? Or would you even call it peer review?

Mr. FIFE. I wouldn't really call it peer review, because the reports that I have seen tend to have so-called secret data. If you ask for various reports, through the Freedom of Information Act, on these allegedly endangered weeds, you will get reports back that look like they went through the censor in World War II. There are big black felt pen marks where the locations are listed.

Mr. POMBO. Secret reports. Do you mean that they are that confident in their botanical data and their biological data that they have to edit it before they allow it to be viewed by the public?

Mr. FIFE. Well, I don't know if that is editing. I call it censoring so that the public doesn't know the data. And as somebody who has been a reviewer for scientific papers and journals, every time in my experience that a person claiming to be a scientist has secret data, the data doesn't support the conclusion. I mean every time. It just doesn't make sense. If a scientist is a scientist, they are proud of

the facts and the research they have done. They want everybody else to see it so they can agree with their conclusions.

Mr. POMBO. So are you telling me that the data that was used to list these plants as endangered could not have been printed in, say, Nature magazine or Scientific American or any noted scientific journal?

Mr. FIFE. Not in my opinion. The Forest Service listing package, the key there is to look at the first page of references. There are 14 references. Ten of them are in-house letter type reports on the letterhead of the Forest Service or an environmental group that they hired. And basically we couldn't even get all the data in there. The other four references were just general textbook references that didn't support their conclusions. I mean—

Mr. POMBO. So what you are saying is that the information that was used to list endangered species to list plants as endangered species could not have been printed in a science magazine?

Mr. FIFE. It would never have gone through peer review in a professional science magazine or journal.

Mr. POMBO. And yet it was OK to use it to put it on the endangered species list?

Mr. FIFE. Definitely. And not only that, our permits were obviously held up, the mining company party I mentioned and myself and perhaps a couple of others, so they could get these officially listed. They treated—they just didn't want to approve our permits because the plants weren't listed. They couldn't wait to get us in consultation with U.S. Fish and Wildlife for us to buy them property or give them money to buy property was the feeling we all had.

Mr. POMBO. Another part of your prepared testimony you talk about planting endangered species on the property. And you say in here that they used a local recreation group to restore off road vehicle damage, which was a road, I take it, that led into your property. And you have someone who has come forward to you who is willing to testify that they planted an endangered species on your property?

Mr. FIFE. That is correct. I found this kind of unbelievable. First they got a restoration grant from the California green sticker fund, what I would consider under false pretenses. When they proposed it, I happened to be at the State commission and opposed it verbally and in writing. And I believe that is in testimony I gave in Helen Chenoweth's task force last spring on abuse. They used this \$45,000 grant to block our roads with boulders, barbed wire, then take heavy equipment, bulldozers, scarify the roads, scarify our quarries and then bring volunteers in to plant the—well, other—not all endangered species. They planted some large plants.

Well, I heard from one of the recreational clubs locally that they had had this group which was advertised in the local paper. I have the ad where they were asking for volunteers for what they called the cactus restoration. That was my property. These are mining claims, but we have a discovery. We have a State report that took a year to validate our find there. It was declared so important that the State of California issued a zoning classification to protect it from incompatible land use such as urbanization or wilderness even. And I think that report actually wound up being used against

us to expand the wilderness boundary so they would make damn sure that we were included in the Bighorn Mountain Wilderness. Because boundaries earlier that had been used for the RARE II area didn't include so much of the property, but when this report came out it now included all of our high-grade reserves, all our active mining operations. Everything was in there.

Mr. POMBO. Just in conclusion, then, if the road leading into your mine is now populated with a plant that is listed as endangered, would you be allowed to access over that road?

Mr. FIFE. Not likely.

Mr. POMBO. Under the current implementation of the act, I believe it would be impossible.

Mr. FIFE. Not only that, the plant supposedly only occurs in the San Bernardino National Forest, but now the Bureau of Land Management is claiming—they are blocking or using it as an excuse to close roads throughout the California desert conservation area. One of the plants, the buckwheat, Professor Brooks at the University of British Columbia published a book called Biological Methods in Geochemical Prospecting several years ago, and this very species was listed as a geochemical prospecting tool when the flower turns purple or violet or wine colored if there are so many parts per million of base metals, silver, copper, things like that. And this is a plant that is used all over northern Canada for finding deposits using geochemistry. And, you know, this is the very description of this thing as being a unique endangered subspecies this buckwheat, *Eriogonium ovalifolium* var. *vineum*, as being so unique that it only grows in the San Bernardino National Forest, only grows on limestone or carbonate rock that we are mining and we are one of the largest districts for calcium carbonate in the United States.

Now, mind you, calcium carbonate—this is the other end of the spotted owl spectrum in timber, because timber, of course, is important in building and construction, but limestone is used in cement. It is 80 percent of cement. It is about 50 to 60 percent of most plastic. It is 50 percent of your tires, 20 percent of glass. It is used in toothpaste as an abrasive, as an antacid, toothpaste and chewing gum. It is Tums essentially. It is the cement of modern civilization. So if you can find a plant or an animal that only lives on this commercial limestone, you can shut America down if you can't mine it.

Mr. POMBO. Well, I thank you very much for your testimony and that of all the panel. I think that these are the kind of issues that we need to educate America on. You know a lot about them because they have happened to you, but the problem is that the average guy who is driving to work to a nine to five job has never even heard of this before. So we have a long way to go before people understand what this battle is all about. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Pombo. Mr. Vincent, when you were negotiating with the Fish and Wildlife Service in the community committee, was there any mention about how dangerous these bears were to human beings?

Mr. VINCENT. There was a lot of discussion about the unnecessary fear that they felt the public had for the grizzly bear, that the bear would not pose a problem, they indicated, and that we needed to begin to educate the public that if we stayed away from the bear

that the bear would stay away from us. Well, we were looking into that, however. We did find in the internal documents of the Interior Department that they identified our ecosystem as having the highest potential for human grizzly conflict of any ecosystem being considered in the United States. And the reason for it was that there are a lot of people who live where they are transplanting these bears and they know that human grizzly conflicts do happen and the grizzly bears normally win. So they told us to not be fearful and then start blocking us away from the bears so that we wouldn't have the interactions where the bears could win.

We have watched during the last eight years as the population of bears has grown in the northern Rockies ecosystem, the crown of the continent just 60 miles from us. We have watched as the bear maulings have increased over the years. We have talked with biologists who have said that we have created an unnatural population and we will have some unnatural occurrences with bears, more violence. Bears are at the top of the food chain. So we wonder what our future is going to look like and we wonder with some fear, particularly after what has happened to Mr. Schuller in his effort to protect himself from a grizzly bear. He was 30 miles outside of a grizzly zone and shot in self defense and has been found criminally negligent in taking a species, an endangered species. What will happen to me—I live—and my kids if we try to protect ourselves in the zone?

We believe what the Fish and Wildlife Service told us about our safety about as much as we have been—as we have learned to believe about everything else they have told us. We believe approached properly the grizzly bear and us probably can coexist, but we might need a gun.

Mrs. CHENOWETH. What about the children, did they give any idea about how you protect the children?

Mr. VINCENT. Well, I shared—yeah, they did. I share a true story that is so absurd that lots of people don't believe that it is true, but at the first public meeting my wife and I attended we asked about our children's safety because we live at the mouth of the biggest stream in the Cabinet Wilderness Area. And a quarter mile each way from our home is a public campground, and bears like campgrounds. So we were fearful of our four young children. We asked if we could send them out to play without worrying about their safety. The indication from Dr. Servheen was yes, but we might have to modify some of our behaviors. And he actually told my wife to do as hikers are told to do in the park system where the bears exist. If you go hiking in Glacier Park, they will give you a trifold that heavily suggests you tie bells on your shoes and your walking stick so that you will go tinkle, tinkle, tinkle through the forest and the bears are supposed to hear the bells and run the other way.

So Dr. Servheen told my wife and I that we would probably be well advised to tie bells on our children when we send them out to play. And then he also indicated that if there was a problem bear, if there was a bad bear, that he would have someone deal with it.

Mrs. CHENOWETH. How do they know who the bad bears are? There are black bears up there.

Mr. VINCENT. Well, bad bears have bells in their poop. There are other ways to tell. It really does concern us, and particularly as our population grows. We know it is going to be a growing concern and especially in our ecosystem, because there are many places where the ecosystem—if you look at our Cabinet/Yaak ecosystem on a map, it is shaped kind of like an octopus. Grizzly bear habitat regions kind of fan out from a center core area, the wilderness area, and some places those bands of habitat are two miles wide. And grizzly bears have a 50-square mile eating radius. And there are people in between these arms, so the potential for human grizzly conflict is incredibly real. Our question, as well, we would like to ask who is going to be responsible if a planted, collared bear attacks a civilian outside the grizzly habitat zone as they are practicing tourism in our area. Who is going to be responsible? This is a carnivore.

Mrs. CHENOWETH. You know, although you did inject some humor in this almost tragic testimony, the fact is the United States Government is introducing serious danger that cannot just render bodily harm but death. And it is beyond reason. Why haven't you sued the U.S. Fish and Wildlife Service over their grizzly bear guidelines?

Mr. VINCENT. The grizzly bear guidelines are in a recovery plan that is not, according to the Fish and Wildlife, a decision document. It is merely guidelines for the managing agencies. So if we disagree with what we are being told we have to do with the grizzly bear habitat, there is nothing to sue. They merely use it as a guideline. It is not a decision document. There is no record of decision. There is no public—official public input period. They have received no input from the public. They had to have no peer reviewed science. They had to have nothing except a guideline. It is not used as a management tool against the U.S. Forest Service, so there is nothing to sue against.

Mrs. CHENOWETH. Well, Bruce, this is—Mr. Vincent, this is incredible and I can sense your frustration. And you all have come a very long way, and even though there is Mr. Pombo and I, you have created an invaluable record. And we won't let this drop.

With regard to the effect of guidelines on implementing management decisions, I think that is something this Committee must deal with, and I would like to work with you on that.

I would like to comment on Mr. Sanregret's comments. You are so right on, and we are very careless in referring to land management agencies as people who actually own the land. And I am one who agrees with you. This has been a very interesting study that I have involved myself in for a number of years, and it is interesting that in the equal footing doctrines the courts have addressed the fact that yes, we own water on an equal footing with the original 13 states and even in the case involving California V BOR they mention that, that we own the water by virtue of the equal footing doctrine. But the fact is we also owned the land by virtue of the equal footing doctrine also, and we have not asked the question properly before the right court in order to get that question solidified, who owns the land. If we own the water, then we also must own the land. So I thank you for your comments.

And every time I hear lawmakers refer to federally owned land, I quietly cringe, because if we speak it too often thoughtlessly, then it becomes a reality. And we need people like you reminding us of that. And I thank you very much.

Mr. SANREGRET. Madam Chairman, if I might. We westerners are in a tough spot because the only place this Federal land is in is in the west. And the stronghold of the easterners politically, strictly politically, Democrats and liberal Republicans, we are far outnumbered. And if Al Gore really meant what he said—then it will be a disaster for America.

Mrs. CHENOWETH. Isn't that something?

Mr. SANREGRET. It is. Right before the Civil War in 1850 the feds chose to keep California's land on admission, because California's status, prior to the Civil War, was a tricky situation. For some reason they gave Minnesota their land on admission in 1858. But in every State admitted after 1858, the feds kept the land. That is kind of an interesting perspective on states' rights. There is a movement, as you know, afoot to give "Federal" land back to the states. A lot of states don't want it. They say hey, let the feds keep it, it is too expensive to manage, and we don't want it. Some states do want the land. It varies a lot, and is an interesting question. Perhaps a little beyond why we are here; but I think it is related because of the politics. We are outnumbered, and particularly if Al Gore succeeds in reducing our western population and productivity, we haven't got a chance. We need your help, Madam Chairman.

Mr. POMBO. If the Chairman would yield for just a minute. It has exactly to do with what we are talking about. The Federal ownership of lands, you know, we can make arguments for national parks. We can make arguments for a lot of different things, but the simple fact that the Federal Government owns half of the State I come from, they dictate to a large degree what happens in my State. And they want to maintain that control and they don't want to give that up. And that is what this debate really boils down to, is who controls it and where those decisions are made.

Mr. SANREGRET. Absolutely right, Congressman. I agree. It is over 600 million acres we are talking about.

Mrs. CHENOWETH. Thank you, Mr. Pombo. Mr. Phelps, it is good to see you again. Thank you so much for your very excellent testimony. The fires that occurred in Alaska just last week and the week before were tragic evidence of the results of mismanagement.

Mr. PHELPS. That is correct, and as you are probably well aware, in the west fire we lost 344 structures and the larger percentage of those were homes. And we must take a more active role in management of the forest, especially in areas near where people are living and working. But aside even from the human element, if people are an important part of the land, then those decisions as we just talked about have to be made with strong consideration to the view of those people that live nearby. And that is the big frustration we have with Federal management. And in the current round of discussions over the Tongass Land Management Plan we have been told very clearly by the Forest Service that the opinion of someone living in Florida who has never seen, never set foot, never had to live and work in southeast Alaska has equal standing with those

of us who do live and work there in providing input to the decision. And we find that appalling.

Mrs. CHENOWETH. Well, it is so apparent that we must right that wrong. And I do know that we can't do it quickly, but we are well on our way to first educating the people and then instituting corrective measures in this body. And with that, I would like to mention to you that those of you who testified, if you would like to revise or extend your remarks, the record will remain open for ten days. And aside from that I want to thank you for being here. And this hearing is closed.

[Whereupon, at 4:45 p.m., the Committee was adjourned; and the following was submitted for the record:]



**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES**

hearing on  
**"CITIZEN'S PERSPECTIVES ON FEDERAL LAND USE POLICIES"**

1324 Longworth HOB  
Washington, D.C. 20515  
June 18, 1996

Testimony of Clark L. Collins, Executive Director  
**BLUERIBBON COALITION INC.**  
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**Babbitt Bullies BlueRibbon - P. 12 -13**

THE WHITE HOUSE  
WASHINGTON

March 30, 1987

I am pleased to send greetings to everyone gathered for the annual meeting of the Idaho Trail Machine Association.

My good friend, Senator Jim McClure, tells me that you're a "can do" outfit. He says you not only travel the trails but clear them, too, keeping them fit for yourselves and others to enjoy. And you look for no other recompense than the joy of a job well done. Volunteer efforts like yours are the American way, and I'm sure your good example will move others to make the great outdoors a great place for everyone.

God bless you all.

Ronald Reagan

**Chairman Young, members of the Committee on Resources, thank you for the opportunity to testify on the issue of "Federal Land Use Policies."**

The BlueRibbon Coalition is a national organization representing over 500 member organizations and businesses. Through these organizations and our individual membership we represent the interests of over 750,000 "Off Highway Recreationists" (OHR). We've just gotten you used to the term "Off Highway Vehicles" (OHV) to describe the motorized trail user community and here we go introducing another acronym "OHR."

While our primary constituency is still motorized, we have many non-motorized recreation members who realize the value of working together on "shared-use" trail management. As an example the Back Country Horsemen of America are one of our member organizations.

In the name of resource protection, many recreation user groups are being systematically excluded from traditional use areas. Green Advocacy Groups (GAGs) and preservationist oriented land managers are discriminating against first one user group, and then the next. One by one, each interest group is considered guilty unless proven innocent and then locked out of one area after another. Through administrative regulations and biased interpretation of environmental protection laws responsible recreational users are being denied access to historically used areas.

The GAGs and some Federal land managers are touting "Recreation and Tourism" as replacements for our natural resource industries. In reality, they don't want recreation allowed either!!!

Today I would like to highlight a particularly ridiculous incident where hundreds of thousands of dollars of taxpayers money was wasted.

In the spring of 1993 the Bureau of Reclamation (BOR) began enforcing a vehicular closure of a popular recreation area near American Falls Idaho (a small town near Pocatello, our home base). The BOR has a blanket "closed unless designated open" policy on land under their jurisdiction, but had not previously informed the public that this popular recreation area was their land.

We advised the recreation public, when the order was given, to respect the closure. We hoped for approval of a management plan for the area that would restore our recreation access. Our members were honoring that request.

I visited the area with BOR personnel and had been in contact with them since the closure. We hadn't been informed that there was a problem with violations, when suddenly in the spring of 1994 all hell broke loose. The local media was ablaze with stories of armed Park Service rangers patrolling the area to stop violators. BOR news releases were deliberately composed to make us look like criminals.

Interior Secretary Bruce Babbitt had ordered fourteen armed National Park Service (NPS) rangers, from all over the country, to American Falls to patrol the area. That's right 14 ARMED RANGERS!!! Can you imagine what that cost American tax payers? This is just one more example of Secretary Babbitt's attitude that the American public has unlimited resources to pay for his gestapo like methods of dealing with land users he and his GAG friends don't approve of.

I asked the head ranger if he could show me what evidence of violations he found that justified 14 ARMED RANGERS. The only evidence he could show, was where a couple of ATV riders had inadvertently entered the closed area on an unmarked trail. Their tracks indicated that when they encountered one of the barricades that had been constructed to block access to the area, they turned around and went back the way they had come. The ranger even said, "If we had caught those ATVs in the act we would have only been able to advise them of the closure because it was obvious they hadn't deliberately entered the closed area."

We've never objected to enforcement of reasonable OHV regulations, but had been opposing the closure. In fact, we told the BOR in 1993 that if they insisted on closing the area they should actively enforce it right away. We feared they were deliberately setting up a situation where they could cite evidence of violators to justify their plans for a permanent total closure. The irony is that they didn't have any violators, but went ahead with their strategy anyway.

This harassment by Interior Secretary Babbitt may have been in retaliation for our involvement, with other Wise Use groups, in attempts to have him replaced. We felt it was important to show our concern for the environment by asking President Clinton to replace Bruce Babbitt with someone who will work with public land users instead of wasting tax payers money on a personal vendetta.

My family and friends had been using this area for decades. It had been one of the most popular OHV areas in South East Idaho for over thirty years and is still considered "pristine." We have taken a handicapped outdoor group from the local university on outings there. We have invited non-motorized recreationists to share the area with us and it has become popular with equestrians and rock climbers. Now we are kicked out, and they are invited to stay.

We have always shown respect for this area's natural resources and scenic beauty. We've conducted litter clean ups and informed our members of the need to respect local wildlife and other users. We have even built and installed cattle guards to eliminate any possibility of conflict with grazers, who have also been kicked out now.

#### **SEVERAL IMPORTANT FACTS ARE RELEVANT TO THIS ISSUE.**

**Fact number one:** Recreational users of this area were only recently notified by the BOR that they have management responsibility for this area. Most users assumed it was Bureau of Land Management (BLM) "open" land. It was only through meetings with the BLM, initiated by me several years ago, that we were told the area was BOR land.

**Fact number two:** When it was determined that the area in question was BOR land, we offered to work with the BOR on a plan to manage recreation access. We indicated then and now, our willingness to assist in the enforcement of reasonable regulations to manage the recreational use of the area. The BOR said they would defer management of the area to the BLM, who managed the BOR grazing allotments and much of the surrounding area.

**Fact number three:** A BOR archeologist indicated at a "Citizens Advisory Group" meeting in 1992 that arrow head hunters were removing historical artifacts and OHV use wasn't the main problem. It has since been indicated that the majority of the artifacts are located away from the roads and trails. In our view, continued use of the existing roads and trails would have minimal impact on the historical artifacts.

**Fact number four:** Archeological resources have been removed from the south side of the Snake River in this same area to construct the Massacre Rocks State Park, boat dock & parking area and pave over a hiking trail. Interstate Highway #84 and a rest area are also on the other side of the river. It's likely there were artifacts there as well, but there was never a fuss about them.

Discrimination is wrong whether it's because of race, religion or recreational preference. Babbitt may have the strength of "his" federal agency, and some folks would say it's foolish for a small group like ours to be so bold, but he's nothing but a bully. The only way to deal with a bully is to stand up to him!

This should have been a local issue, and easily resolved, but it seemed that the BOR's attitude changed dramatically following the 1992 election. Babbitt's extreme environmental fingerprints are all over it.

This is just one example of many. The National Park Service is trying to kick snowmobiles out of Yellowstone and Voyageurs National Parks and youth groups aren't welcome in the Boundary Waters Canoe Area Wilderness. Forest Service and BLM management plans all over the country seem to have a built in ratchet, restricting recreation access further with each revision. Compare this with the "letter of commendation" to the Idaho Trail Machine Association from President Reagan (read copy of letter enclosed).

We must not allow our federal land management agencies to discriminate against responsible recreationists in this way. The Interior Department's handling of this incident should be investigated by Congress.

## **CONCLUSION**

The hate mongering and contrived user conflicts of the GAGs shouldn't be rewarded. Secretary Babbitt, the Sierra Club and Earth First? do not represent the environmental conscience of this country. We shouldn't call the GAGs "environmentalists" and passively allow them to refer to Wise Users as "anti-environmentalists." Neither should the "League of Conservation Voters Index" be the litmus test for Congressional environmental responsibility.

Just who are the real environmentalists? Pushing to eliminate everyone's impact on the environment but your own doesn't make you an environmentalist. The GAGs, and their friends in the Congress and land management agencies are no longer "for" the environment. They are just "against" everyone else's use of it.

Chairman Young and members of the Committee, recreationists shouldn't be discriminated against by our land management agencies and treated like criminals. Cooperation and volunteerism of our members should be recognized and rewarded. On issues of environmental protection we should be innocent unless proven guilty, instead of the other way around. We can use our natural resources wisely and "Preserve our natural resources FOR the public instead of FROM the public."

Clark L. Collins



TESTIMONY BEFORE HOUSE COMMITTEE  
ON RESOURCES

June 18, 1996

*by*

NH State Senator Frederick W. King, Sr.

*representing*

Board of County Commissioners of Coös

County, New Hampshire



## The Senate of the State of New Hampshire

107 N. Main Street, Room 302, Concord, N.H. 03301-4951

FREDERICK W. KING  
District 1

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June 18, 1996

Honorable Don Young, Chairman  
Committee on Resource  
U.S. House of Representatives  
Room 1324, Longworth Office Building  
Washington, D.C. 20515

Dear Representative Young:

Thank you for inviting me to testify before your Committee on the subject of "*Citizen's Perspectives on Federal Land Use Policies*".

I am the State Senator from NH Senate District One which consists of nineteen towns, the City of Berlin and twenty-three unincorporated places in Coös County, the State's northernmost county. I also represent the citizens of five towns in Grafton County. My District consist of small rural communities and is bordered by Canada on the North, Maine on the East and Vermont on the West. Our economy is closely tied to the timber and paper-making industries along with tourist related businesses. Before I was elected Senator, I was employed as Coös County Administrator. Coös County has a land mass of eighteen hundred (1800) square miles and a population of 36,000. I continue to work for the County part-time as administrator of the 23 unincorporated places. I have also served twelve years as a Selectman in my town and I know I have a good sense of what is important to my constituents.

I appear before your Committee to express the concerns that my county has relative to federal land use policies and the potential impact of proposed legislation on the citizens of Coös County. I refer in particular to **S. 1163** and **H.R. 2421**, The Northern Forest Stewardship Act. If these bills become law, the economy of my County is in jeopardy and the historical multiple use of our timber resource will be seriously threatened. These bills have the support of twenty-eight of the most powerful, taxpayer supported environmental organizations in the country. They have joined together in a formal organization known as The Northern Forest Alliance and they have targeted twenty-six million acres (26,000,000) for public ownership, land which would be designated as wildland areas. The plan targets ten specific areas in northern Vermont and New Hampshire and areas in adjacent Maine. They propose that these lands would

Honorable Don Young

Page -2-

remain in their "natural state" and funding for these purchases will be available through **S. 1163** and **H.R. 2421**.

Today, three out of every ten acres of land in Coös County are publicly owned. A substantial part of the 750,000 acre White Mountain National Forest (WMNF) lies within my Senate District. Currently, the WMNF is severely cutting back on timber harvesting activities within its boundaries. In fact, beginning in 1994, a reduction in available harvest took place. The WMNF grows 30 million board feet per year on a sustainable basis on the 60% of the land where harvesting can legally take place. In 1994, the federal government proposed to reduce the cut to 9.6 million board feet. At that time, one local sawmill operator was quoted as saying, "We saw into lumber five million board feet a year. If they cut back 20 million board feet, four mills like ours won't have the wood".

Recently, it was reported that one of the most respected national environmental organizations in the country, The Sierra Club, adopted a policy that it will fight to ban all timber harvesting on national forests, coast to coast. In 1996, Congress authorized the purchase of an additional 480 acres which will be added to the WMNF for a staggering price of \$1.9 million or \$3,950 per acre for woodland. On its 1997 "Wish List" the Northern Forest Alliance is proposing the addition of another 5,000 acres to the WMNF at a public acquisition cost of \$3.75 million taxpayer dollars. The Alliance's 1997 federal funding request for the targeted 50,000 acres of Northern Forest lands (New York, Vermont, New Hampshire and Maine) including the 5,000 acres to be added to the WMNF is \$8.5 million from the Land and Water Conservation Fund and \$6 million from the Forest Legacy Program.

**EXHIBIT A** attached contains the details of the Northern Forest Alliance's master plan for the northern forests including the lands in Coös County, New Hampshire. The map on the sheet labeled page 5 indicates the total acreage targeted for public ownership along with the 1997 priorities. Numbers 5, 6 and 7 indicate lands that surround my hometown of Colebrook, New Hampshire. Number 5 is the headwaters of the Androscoggin River. This region straddles the New Hampshire and Maine borders and stretches to the Canadian border. On August 23, 1991, the federal government established the Lake Umbagog National Fish and Wildlife Refuge at the headwaters of the Androscoggin River. With this action, the federal government established an additional presence in my Senate District. This river, one of the most industrially developed rivers in New England, is the eastern boundary of Coös County and the eastern boundary of my District. Number 6 on the map is the Connecticut River headwaters. The Connecticut River forms the western boundary of Coös County and my Senate District. On December 11, 1991, the federal government created the Silvio Conte National Fish and Wildlife Refuge which encompasses an area of over 11,000 square miles, or 7.2 million acres along both sides of the

Connecticut River in the States of New Hampshire, Vermont, Massachusetts and Connecticut. The refuge begins at the origin of the Connecticut River in Pittsburg, New Hampshire and ends in Long Island Sound. Number 7 is the Nulhegan River watershed in Vermont with its eastern boundary on the Connecticut River. These lands in items 5, 6 and 7 are mainly the property of large timber companies and contain the major source of timber fiber which is the backbone of the local economy.

Any changes from the historical pattern of use will devastate the lives of my neighbors. With known patterns of timber harvesting on federal lands in the WMNF, with the proposed ban on all future harvesting on federal lands and with the proposed land grab of the organizations that form the Northern Forest Alliance, I truly believe that those of us who inhabit northern New Hampshire, the northeast kingdom of Vermont and western Maine have justification to fear for the future of our children and grandchildren. ***Our heritage earned over generations is at stake.*** A few years ago when the James River Corporation paper mills were threatened with closing, it was projected that overnight the unemployment in Coös County could reach 35% to 40%. That crisis was averted and today the mills are viable operations. They need timber fiber to operate and we must protect the source of that timber supply.

It makes no sense to spend dollars which the federal government does not have to purchase more land which it cannot manage and on which no trees will be cut. Your Committee knows better than I do about the great need for more funding to rebuild the infrastructure in the federal parks and forests. A 1991 GAO document, ***Federal Lands Improvements Needed in Managing Concessionaires***, stated that the Park Service had a deferred maintenance funding shortfall in 1988 of \$1.9 billion and the Forest Service's maintenance and reconstruction backlog for its recreational resources totaled \$650 million in 1991. We should adopt a public policy that focuses on today's needs and put on hold all future acquisition plans unless as a nation we are prepared to sell an acre of land every time we buy an acre. I cannot speak for the rest of the nation but I can tell you that in Coös County, New Hampshire the private landowners have made their lands available for the use of the public at no cost. New Hampshire property tax policies have made it advantageous for the landowners to hold onto their property for private use and we do not need federal government ownership in order to protect these lands from environmental abuse. We have adequate state and local land use controls and federal intrusion is not needed. We would prefer to see scarce federal dollars spent on Medicare, Medicaid and programs for the elderly and disadvantaged, not on the purchase of our privately held property. When the government purchases our woodlands good paying jobs are lost, local tax revenues are reduced and the cost of local services goes up without compensation.

Honorable Don Young

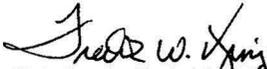
Page -4-

**S. 1163** and **H.R. 2421** are similar bills. Both are designed to implement someone's perception of the recommendations of the Northern Forest Lands Council. The original version of **S. 1163** contained a key phrase (Page 8, Line 3) which stated, "*Willing seller with community approval*". This phrase clearly states that if there is to be a federally funded land acquisition, the local town(s) must approve, presumably by a vote at town meeting. In a revised version of the bill, this language was deleted and replaced with "*acquisition of lands and interests in land only from willing sellers*". This change is not acceptable because one only needs to look at the price the federal government pays for land to see only a fool would refuse to sell woodland to the government in New Hampshire. Prices such as \$3,950 per acre are beyond belief.

On June 13, 1996, I received from Congressman Bass a copy of **H.R. 2421** and it still contains language that community approval is necessary (P. 8, Line 3). It would appear that the House has not agreed to the changes made in the Senate or the copy supplied to me was not the latest version of the House bill. I would respectfully request that in the absence of language that requires community approval for federal land acquisition, that these bills be killed and the appropriations be used to improve the existing facilities on federal lands.

Thank you for the opportunity to express the beliefs of myself and the County Commissioners of Coös County on behalf of our citizens.

Sincerely yours,



State Senator Frederick W. King  
New Hampshire Senate District One

# **The Northern Forest: FY 1997 Acquisition Priorities**



*March 1996*



## Northern Forest Alliance

The Northern Forest Alliance is a coalition of regional, state and national organizations united in their commitment to protect the Northern Forest of Maine, New Hampshire, Vermont and New York.

### Vision:

To establish a sustainable 28 million acre Northern Forest ecosystem, including preserved wild core areas connected by corridors, managed forest lands, and healthy, viable human communities.

### Mission:

To work together to protect and enhance the ecological and economic sustainability of natural and human communities the Northern Forest.

### Goals:

The Alliance's priorities are threefold:

- To gain permanent protection of wildlands, for their ecological values and inherent beauty;
- To ensure well managed forests that supply wood products, support wildlife, and provide jobs and recreation; and
- To build strong, diverse, locally based economies that support vibrant communities within the Northern Forest.

For more information about the Northern Forest Alliance, please contact:

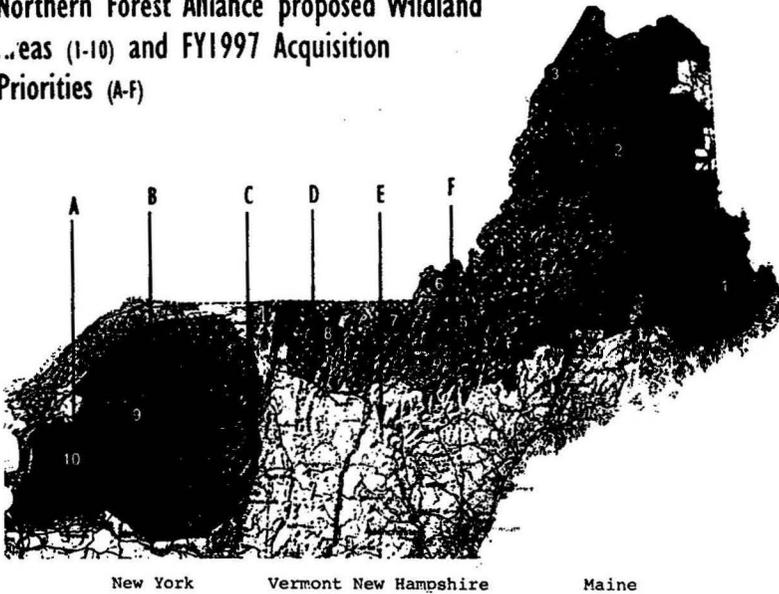
The Northern Forest Alliance  
158 State Street  
Montpelier, Vermont 05602  
Telephone: 802-225-5256.

## The Northern Forest: FY 1997 Acquisition Priorities

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**Northern Forest Alliance proposed Wildland  
Areas (1-10) and FY1997 Acquisition  
Priorities (A-F)**



**10 Wildland Areas**

The Northern Forest Alliance has proposed the 10 Wildland Areas above as priorities for an integrated land conservation effort in the Northern Forest. The recommendations are based on the best available land inventories, satellite data, and local conservation knowledge.

1. Down East Lakes
2. Greater Baxter State Park Area
3. Upper St. John River Valley
4. Boundary Mountains
- 5. Upper Androscoggin Valley, Lake Umbagog & Rangeley Lakes
- 6. Connecticut River Headwaters
- 7. Nulhegan River Watershed
4. Northern Green Mountains
9. Great Oswegatchie Forest & Boreal Heritage Reserve
10. Tug Hill Plateau

**FY 1997 Acquisition Priorities**

The map above is intended only to give the general location of the Alliance's 1997 acquisition priorities, and to show their proximity to the Alliance's more comprehensive, integrated Wildlands conservation proposal.

- A. Fish Creek, Tug Hill Plateau, New York
- B. Raquette River/Carry Falls Reservoir, Adirondack Park, New York
- C. Lake George, Adirondack Park, New York
- D. The Long Trail, Northern Green Mountains, Vermont
- E. Lake Tarleton, New Hampshire
- F. Lake Umbagog National Wildlife Refuge, New Hampshire & Maine



Northern  
Forest  
Alliance

**Adirondack Council**  
**Appalachian Mountain Club**  
**Appalachian Trail Conference**  
**Association for the Protection of the Adirondacks**  
**Conservation Law Foundation**  
**Defenders of Wildlife**  
**Garden Club of America**  
**Green Mountain Club**  
**Green Mountain Forest Watch**  
**John McKeith Location Photography**  
**Maine Audubon Society**  
**National Audubon Society**  
**National Wildlife Federation**  
**Natural Resources Council of Maine**  
**Natural Resources Defense Council**  
**New England Forestry Foundation**  
**New Hampshire Rivers Council**  
**New Hampshire Wildlife Federation**  
**New York Rivers United**  
**Residents' Committee to Protect the Adirondacks**  
**Sierra Club**  
**Sierra Student Coalition**  
**Student Environmental Action Coalition**  
**Trust for Public Land**  
**Vermont Audubon Council**  
**Vermont Land Trust**  
**Vermont Natural Resources Council**  
**The Wilderness Society**

Alliance members as of February 1996

*For more information about the Northern Forest Alliance, please contact:*  
**The Northern Forest Alliance**  
**158 State Street, Montpelier**  
**Vermont, 05602**  
**Telephone: 802-293-5256.**

P. O. Box 552  
Kingfield, ME 04947  
207-265-2049

**Testimony before House Committee on Resources  
June 18, 1996**

I am David Guernsey, testifying today for the Maine Conservation Rights Institute, an organization dedicated to conservation through private land ownership. Last year I testified before your Property Rights Subcommittee regarding the threat to property owners represented by the many consortia of environmental groups and federal agencies. Central to these was the Appalachian Mountain Club and its relationship to the Forest Service and other federal environmental agencies. This relationship is so incestuous that the AMC admits in writing to lobbying

"for funding for Forest needs as identified by USFS staff, for whom lobbying is prohibited."

The Forest Service in return has looked the other way while the AMC expanded a nonprofit string of small back country hikers huts in the White Mountain National Forest into a \$3.5 million operation which attracts many more millions in membership fees. All this has been in direct violation of the AMC's permit, which waived any fee for use of the public's land, but allowed only minimal operation of the huts plus a minor commissary.

The strength given the AMC by their White Mountain operation allowed it to form very powerful liaisons with other groups to promote an extreme environmentalist agenda, threatening the welfare of rural communities across the Northern Forest Region of New England and New York. Their influence over the Department of Interior in a Maine dam relicensing case led the City of Millinocket to complain

"We are appalled that an agency of our government repeatedly ignores our year round environmental and economic interests to push an agenda that will radically change our lives for the worse. We watch Interior representatives actively conspire with relicensing opponents to defeat relicensing. This is not how government is supposed to work."

The Maine Governor's Office, though more subdued, was no less condemning when it warned the Federal Energy Regulatory Commission against serving

"the interest of national advocacy groups whose agendas may be less sensitive to State and local interests than to winning support from their membership whose concerns may be more philosophical than realistic."

The FERC process grinds on with no resolution in sight.

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Saddleback Mountain Ski Area in Rangeley, Maine, is another example of the undue influence of the Appalachian Mountain Club on the public policy deliberations of Federal agencies. For the past 11 years the National Park Service has held Saddleback hostage, demanding all manner of land use concessions which would prohibit further development of Saddleback's property.

Saddleback, on the other hand, has offered to GIVE the Park Service the entire corridor which the law requires be protected. The Park Service has refused to accept this gift. The impasse has gone on so long that Maine's Legislature passed the attached RESOLUTION urging the Park Service to accept the gift and to "reach a speedy, reasonable and fair settlement with the ski area". Environmental groups reportedly lobbied hard against this resolution, particularly the part urging the Department of Interior to accept the gift. The impasse has still not been resolved.

The AMC uses its hut system on free National Forest lands as a headquarters for much of its advocacy, characterizing such efforts as "public education". One particularly egregious instance had the AMC giving visiting school children the task of producing skits on

"what the world would be like if people keep abusing the planet."

There is NO public oversight of such activities, yet I can just imagine what would happen if WE tried to use public land to have kids produce skits on

"what our communities would be like if environmental regulations keep abusing our economies."

A memo of a joint meeting of the AMC and the Forest Service sums up the AMC position regarding its use of the public's land:

"Every goal and objective toward which we work is for the public's benefit and every dollar of our revenues is circulated back for the public good."

This contention is in the league with the legendary statement of the late Charles Wilson, President of General Motors, claiming that

"What is good for General Motors is good for the country"

At least General Motors contributed to local economies, and Mr. Wilson prefaced his statement by agreeing that "What is good for the country is good for General Motors". It is a safe bet that the AMC does not think in these terms.

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The AMC's permit to operate its hut system on National Forest land expired last October. We had every hope that the adverse publicity would result in a fair process for renewal and that our and the general public's interests would receive appropriate consideration. We must now concede that these hopes have been in vain.

In spite of the public concern with the millions of dollars in direct and promotional benefit received by the AMC through its violation of the previous lease, the AMC submitted a Master Development Plan which was little more than a promotional document. It contained NO financial data. It made NO reference to the restrictive terms of the previous lease or its violations thereof. Rather a subsequent "Clarification" blatantly admitted that

"Our proposal recommends that the USFS include all of our current operations and programs in the new permit."

A reasonable public land management agency would have rejected this "Master Plan" out of hand as inadequate. The White Mountain National Forest office did not. Instead it joined with the Appalachian Mountain Club to sponsor jointly a series of promotional "open houses" and "listening sessions". Speakers were cautioned to stick to the topic of the "AMC Master Development Plan for the huts or closely related topics." The Forest Service waited until May 28, 1996, to send copies of the Master Plan (dated September 21, 1995) to those unable to attend, asking that written comments be received by June 1. After receiving public comment, the Forest Service plans simply to determine

"whether we will accept the MDP as submitted or ask AMC to revise it."

No mention has been made of adopting a process to determine whether the past record of the AMC warranted such most favored user status. No mention has been made of determining the value of the lease or how the public might best receive fair compensation for its lands. The White Mountain National Forest is the public's asset, not a Forest Service resource.

All we ask is a fair process: one which treats the AMC the same as other permittees on public land. The AMC has every right to speak its own mind on public issues. It is not, however, entitled to free public land from which to promote its parochial interests. The Forest Service should begin the process anew, starting with an independent appraisal of the direct financial potential plus indirect promotional value of the hut system, the crown jewels of the White Mountain National Forest.

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The AMC permit renewal is symptomatic of a much larger problem: the improper and unfair influence of wealthy, elitist nonprofit environmental organizations over agencies of the Federal Government. The AMC boasts that fully 74% of its 68,000 members earn \$40,000 or more per year - hardly a representative slice of our citizenry. They unabashedly promote the interests of their societal upper crust with tax exempt money as well as with the cash flow from free public land and who knows how many government and tax-exempt foundation grants. To rural communities trying to stay alive, they are the current embodiment of Theodore Roosevelt's "malefactors of great wealth", champions of modern day rich man's socialism. These privileges are unwarranted. Groups like the AMC and their supporters should be made to pay their fair share.

Thank you for your consideration.

Attachment: Resolution of State of Maine Legislature dated March, 1996, memorializing Department of Interior to settle dispute with Saddleback Mountain Ski Area.

# State of Maine

In the Year of Our Lord Nineteen Hundred and Ninety-Six

## JOINT RESOLUTION MEMORIALIZING THE DEPARTMENT OF THE INTERIOR TO SETTLE AN 11-YEAR DISPUTE BETWEEN THE NATIONAL PARK SERVICE AND THE SKI AREA LOCATED ON SADDLEBACK MOUNTAIN

**We**, your Memorialists, the Members of the One Hundred and Seventeenth Legislature of the State of Maine now assembled in the Second Regular Session, most respectfully present and petition the Department of the Interior as follows:

**Whereas**, there has been an 11-year dispute between the ski area located on Saddleback Mountain and the National Park Service of the Department of the Interior regarding the acquisition of a corridor to protect the portion of the Appalachian Trail that crosses Saddleback Mountain in western Maine; and

**Whereas**, the uncertainty of this dispute has prevented the ski area located on Saddleback Mountain from implementing an expansion plan that has been approved by state regulators; and

**Whereas**, this dispute and the resulting impasse threaten the existence of the more than 100 jobs provided by the ski area and prevent the creation of new jobs at the ski area; and

**Whereas**, these jobs are critical to the economy of western Maine; now, therefore, be it

**Resolved**: That We, your Memorialists, recommend and urge the Department of the Interior to reach a speedy, reasonable and fair settlement with the ski area located on Saddleback Mountain; and be it further

**Resolved**: That We further urge the Department of the Interior to accept the offer of the ski area located on Saddleback Mountain of a gift of land to serve as a corridor to forever protect the Appalachian Trail; and be it further

**Resolved**: That suitable copies of this memorial, duly authenticated by the Secretary of State, be transmitted to the Secretary of the Interior, Bruce Babbitt, and to each member of the Maine Congressional Delegation.

In Senate Chamber  
Read and Adopted  
March 7, 1996  
Sent down for Concurrence  
*Mary M. Ross*  
MAY M. ROSS  
Secretary

House of Representatives  
Read and Adopted  
March 13, 1996  
In Concurrence  
*Joseph W. Mayo*  
JOSEPH W. MAYO  
Clerk

S.P. 718

ATTEST: *Jeffrey H. Butland*  
President of the Senate

ATTEST: *John A. ...*  
Speaker of the House of Representatives

Sponsored By:  
*John W. Benoit*  
Sen. John W. Benoit  
of Franklin County

Cosponsored By:

Sen. I. Joel Abramson  
of Cumberland County

Sen. Jane A. Amero  
of Cumberland County

Sen. George B. Berube  
of Androscoggin County

President Jeffrey H. Butland  
of Cumberland County

Sen. David L. Carpenter  
of York County

Sen. Norman K. Ferguson, Jr.  
of Oxford County

Sen. Dana C. Hanley  
of Oxford County

Sen. Philip Harriman  
of Cumberland County

Sen. W. John Hathaway  
of York County

Sen. R. Leo Kieffer  
of Aroostook County

Sen. Willis A. Lord  
of York County

Sen. S. Peter Mills  
of Somerset County

Sen. Joan M. Pendexter  
of Cumberland County

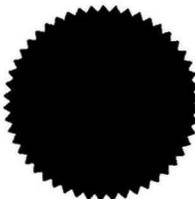
Sen. Mary E. Small  
of Sagadahoc County

Sen. Albert G. Stevens, Jr.  
of Androscoggin County

Rep. Alvin L. Barth, Jr.  
of Bethel

Rep. Edward L. Dexter  
of Kingfield

Rep. Walter R. Goolley  
of Farmington



In Testimony Whereof, I have caused the seal of the State to be hereunto affixed. GIVEN under my hand at Augusta, this fifteenth day of March, in the year one thousand nine hundred and ninety six.

*Gull Diamond*  
Secretary of State

Testimony  
offered to the  
House Resources Committee  
on  
June 18, 1996

by

Bruce A. Vincent

Executive Director, Communities for a Great Northwest  
and  
President, Alliance for America

5957 Champion Road  
Libby, Montana 59923

My name is Bruce Vincent. I am a fourth generation logger from Libby, Montana. I am also the executive director of Communities for a Great Northwest - a non-profit grassroots group and President of The Alliance for America, a national grassroots umbrella with over 680 member groups from all fifty states.

In early 1988 the United States Fish and Wildlife Service (USF&W) announced to our small town that the grizzly bear population was going to be augmented in the Cabinet /Yaak Ecosystem. At a series of public meetings in the Cabinet/Yaak area the local people expressed their concern over the proposed augmentation. The concern centered several portions of the plan including:

1. The proposed 'cross fostering' of cubs. Grizzly cubs had already been purchased from a zoo in Michigan and the cubs were to be transported to our area where they would be placed in a den with a black bear mother.
2. The proposed 'embryo implanting' process where grizzly embryo's would be implanted in a black bear mother.
3. The lack of data on past and current grizzly populations. We were told that the existing population would have to be increased to at least 90 bears - but the agency admitted that it had no idea how many bears had historically used the area nor did they know how many were currently inhabiting the area or how many bears would be required to reach a 'viable population'.
4. The potential socio-economic impact of the single species, human exclusive language in the grizzly bear recovery guidelines indicated that all future forest management decisions in grizzly habitat would be made with the primary goal of recovering grizzly bears at all other resource values expense.

Our community and several others in the area mounted a campaign to have a human voice in local grizzly bear management decisions. After a great deal of heated debate a local involvement team of habitat managers, wildlife managers, and local elected and opinion leaders from a broad cross section of the public was formed.

This 'community involvement team' has been meeting regularly for the past eight years. We have had some spirited discussion as our diverse interest groups have grappled in good faith with the question of how to recover the grizzly bear while protecting the economic and cultural values of the local population of humans. The detractors of the plan turned down their heat as they waited to see if in fact the federal agency was dealing with our people in a fair and forthright manner. In fact, our local area county commissions, chambers of commerce, grassroots groups and others wrote to congress for several years begging for the monies necessary to continue the population studies that were being conducted under the plan. We did not want the job to be done half way - we wanted some answers and some solutions.

I truly wish that I could tell you that we have been successful in adding a local voice to the management decisions of the grizzly - but I can not save for a few early examples. For instance, cross fostering was dropped as was the silly embryo implant idea and instead the

agency began a 'catch, transport and release' project with British Columbia bears. Using this method of augmentation four bears were trapped and, with monitors, released into the Cabinet/Yaak during the last eight years. Of the four released one is dead of natural causes and the others have lost their monitors.

The list of gross failures that this recovery attempt has yielded is daunting.

One of the first undertakings of the involvement group was an education campaign. Tough questions about grizzly bears and their recovery needs were asked by the public and the group printed a pamphlet that, we thought, gave truthful answers to those tough questions. The educational pamphlet was then mailed to every box holder in the counties impacted by the grizzly recovery. We soon learned that we had been misled and the education we received ended up being in bureaucratic doublespeak.

Page eighteen of the manual (copy attached) answered the often asked question about logging and other activities in grizzly habitat by stating flatly that there would be no change in forest management with a recovering population of grizzly bears because the existing forest plan included all management requirements for a recovered population of bears - we just didn't have the bears yet. The pamphlet also stated that there would be no increases in grizzly habitat areas without full public involvement.

A few months after the pamphlet was mailed, however, the Kootenai Forest released it's 'FISCAL YEAR 1990 MONITORING REPORT AND 1991 PREVIEW' and revealed shocking news. One the third page of the report (attached) the sharp drop in timber sales offered was explained:

"increases in the habitat area and changes in standards (for recovery of the grizzly bear) since the forest plan was written in 1988 have restricted timber sales in many areas."

The 30% drop in timber sales was not due solely to grizzly bear management but grizzly bear management was listed as on of the two leading reasons for the drop in sales - and we had been told there would be NONE.

In February of 1992 the Kootenai Forest Monitoring Report further explained that on timber land within the grizzly habitat only 42% of the forest plan timber target had been reached while the rest of the forest had seen an 80% compliance rate. That same report (attached) stated that grizzly habitat had increased by some 248,000 acres on the forest since the forest plan had been adopted. These changes were made because of 'clarifications' by the USF&W on what constituted habitat and were made with absolutely no public involvement.

56% of the roads in the forest were gated or in the process of being gated to disallow human motorized access. Some of these roads had been in use for decades and the gating curtailed the berry picking, firewood gathering, hunting and pleasure driving of thousands

of forest visitors. Some of the roads gated were in the grizzly habitat outlined in the forest plan, others were in the areas that had been 'clarified' into grizzly habitat.

The Forest Service announced the settlement of a court suit on management of timber in the Upper Yaak drainage that included a drastic reduction in the planned timber harvest in order to satisfy the demands set forth by the litigants and the court concerning grizzly habitat.

The community response to this information was predictable outrage. Clearly the 'pamphlet' that all of the participants had been signatory to had not be forthright in discussing the impact of our grizzly plan.

A community meeting was scheduled with the USFS and the USF&W and the public asked the two agencies what was going on. The USF&W maintained, even in the face of the evidence presented, that there had been and would be no economic or social impact from grizzly bear management. (Dr. Chris Servheen, Grizzly Recovery Coordinator, sent a biting letter to Kootenai Supervisor Shrenk indicating that he was wrong to name the grizzly bear as a problem and questioning his ability to manage forest land. Copy upon request.) The Forest Service maintained that there had indeed been drastic changes in management requirements that had adversely impacted their ability to manage timber and other values. The USFS also maintained that the entire forest's grizzly habitat had grown and that it was, as of 1991, being managed under the most restrictive guideline language possible even though the forest plan called for a three tiered approach.

At that public meeting Mayor Fred Brown asked for scientific data to support the need to close forest roads. Dr. Servheen admitted that the studies used to dictate road management for the grizzlies in the Kootenai were studies completed in the mid 1970's on elk populations in the Blue Mountains of Eastern Oregon.

The meeting concluded with no information being given to the public to clear up the nagging question of 'who was telling the truth?' One thing was certain, however - the sales on the Kootenai continued to drop, lawsuits by extreme environmental organizations continued to be filed or threatened regarding the grizzly bear, roads continued to be closed to protect the grizzly bear and the people of the area began to understand that they were being lied to...by someone.

After many more citizens meetings, letters and phone calls from our group and our local leaders to agency personnel and elected officials in Helena, Denver, and Washington, the answers to our questions remained unsolved. Further damaging the public support of the grizzly program was an admission made to the media by a local grizzly biologist that after four years of studying the grizzly bear (with money our community helped to secure) the only definitive information they could share was that they 'couldn't count bears' because they were so elusive.

In late 1992 and several times in the years since the community involvement team has asked that the USF&W or the USFS complete a socio-economic impact study on the grizzly recovery plan to ascertain the truth to the claims by the USF&W that there are no impacts from the recovery or the truth to the USFS (and public) claims of substantial impact. The request has been denied because, they claim, they are not required by law to do it and there is no money to complete such a study.

It is now 1996. The grizzly population studies we begged for have been slowed and then stopped at the 'we can't count bears' level. The augmentation program of transporting bears has stopped. Our roads continue to be gated. Our timber sales program continues to drop. Mining proposals have met with outlandish grizzly bear habitat mitigation requirements. Our saw mills have seen a 70% reduction in employment.

The counties of Boundary, Idaho, Lincoln, Montana and the communities of Libby, Troy and Eureka, Montana, and Bonners Ferry and Moyie, Idaho, have joined our grassroots group in filing suit against the Forest Service for failure to manage for a healthy ecosystem. The basis for our Mountain States Legal Foundation represented suit is that the USFS has been required to manage our forest for the grizzly bear and in doing so has ignored the forest health problems that need to be addressed in the Kootenai in order to avoid the cataclysmic, stand destroying fires that are certain to visit in the coming years.

The people of the Cabinet/Yaak are now asking why the agency is pursuing with vigor the recovery of the grizzly in two other new ecosystems (North Cascades and Bitterroot Selway) if they don't have enough money to complete the job in the Cabinet/Yaak.

The people of the Cabinet/Yaak wonder why the agency can't study the impact of their recovery program before moving to new areas and proclaiming to the citizens of these new areas that 'there will be no impact from recovery'.

The people of the Cabinet/Yaak read with frustration the USF&W reports that the 'Cabinet/Yaak Ecosystem Recovery Plan is proceeding exceedingly well'.

The people of the Cabinet/Yaak read in disgust the agency claims that the 'citizen involvement group' format has worked in the Kootenai National Forest and should be repeated elsewhere.

The people of the Cabinet/Yaak acted in good faith to make the grizzly recovery plan work in their area and have found instead that the information they have requested has been withheld and the information they have been given has been wrong.

The Grizzly Bear Compendium and both the old and the revised Grizzly Bear Recovery Guidelines have indicated that in recovering the grizzly bear the single most important factor is human acceptance of the recovery process. Most who are asked to coexist with this species would concur. The agency and the recovery plans it is implementing are tragically mistreating and misrepresenting their treatment of this single most important

element. I believe that if something is not changed soon, the existing recovery plan for the grizzly bear will have done more damage to the hope of growing grizzly bears in the Cabinet /Yaak in ten short years than lack of a recovery plan could have done in decades.

There is room in the Kootenai National Forest for grizzly bears and people. As a matter of fact, since grizzly bears are adaptive animals that do not eat trees and what they do eat can be produced using fire or logging there is room for grizzly bears, people, mining, recreation and logging. The USFS, the State of Montana and the large private industrial land owners of the area have proven to be good, straight shooting neighbors in their efforts to work with the local population in achieving this noble goal. What a tragedy for the bear and the people that such a solution seems to be beyond the abilities of the command and control, switch and bait tacticians currently in charge of this species for the US Fish and Wildlife Service.

Sincerely Yours,

Bruce A. Vincent  
5957 Champion Road  
Libby, Montana 59923

## EXHIBIT 2 #3, #4

**Wolf Recovery** - The Forest has an obligation to provide for the recovery of all threatened and endangered species. Currently there is a plan for the recovery of the wolf in the northeast corner of the Forest. Forest monitoring indicates that wolf recolonization is occurring both within and outside the designated recovery area. What effect this could have on other resource uses is unknown at this time.

**Continuing Forest Issues that May Still Affect the Forest Plan:**

The Forest Plan initially identified and addressed 13 public issues. They were: Timber Volume, Transportation Facilities (primarily new roads and their management), Roadless Recreation, T & E Species, Special Wildlife Habitat (especially old growth, riparian areas and snags), Local Economic Impacts, Wilderness, Minerals and Oil/Gas, Wildlife and Fish Habitat (including water quality protection), Esthetics, Landownership Adjustment, Diseases and Pests, and Fire Management. The following are those that still appear to resist resolution:

#3 T & E Species (Grizzly Bear Management) - Standards for grizzly bear habitat management continue to evolve, and some aspects were not well clarified during Forest planning activities. Clarification items have included habitat delineation and road access management. These have had significant effects on timber sale scheduling and have also affected other resource use such as recreation access and mining proposals.

Wildlife and Fish Habitat (State Water Quality Management) - Clarification of State Water Quality Standards and Best Management Practices (BMP's) has resulted in stricter compliance than anticipated when dealing with catastrophic events such as the harvest of insect-infested timber. As a result, timber outputs have been more difficult to achieve than anticipated. Concerns have also been expressed about the adequacy of the Forest water yield model, especially where private land is intermingled with National Forest. This model is used to calculate compliance with the Forest Plan water quality standards. These standards require adherence to the State Water Quality Standards.

Local Economic Impacts (Timber Supply) - The shortage of available timber is becoming a concern for the economic well-being of the local communities because of their strong dependence on National Forest timber. Timber volume under contract has fallen from 690 MMBF to 233 MMBF in the last 5 years (FY 87-91).

Timber Volume (Timber Inventory) - A recent inquiry from the public has raised reasonable questions about how forest inventory data was used in the FORPLAN model during the development of the Forest Plan timber harvest calculations. These questions raise the possibility that the inventory was overstated which would mean that the harvest calculations might also be in error on the high side.

#4 Transportation Facilities (Road Management and Public Access) - Strong concerns are being expressed about the lack of public road access to various areas for firewood gathering, huckleberry picking, hunting, handicapped and senior citizens ability to move about, etc. Some of these concerns infer that road access restrictions are more than intended in the Forest Plan.

Special Wildlife Habitat (Old Growth and Snag Habitat Management) - The management of old growth habitat is still evolving and the potential impact on other resource uses is still unknown. Concern is also growing that serious shortages of snag habitat are developing in many locations on the Forest. This is the result of previous timber harvest practices and firewood gathering. What effect this could have on future timber sale policies is unknown.

Minerals and Oil/Gas (Potential Mineral Development) - The proposed development of major mines on the Forest and the possibility of additional mine developments will have implications for the management of non-mineral resources on the Forest and for the community as well. Examples are: recreation access and grizzly bear recovery.

Wildlife and Fish Habitat (Elk Security/Cover/Forage) - Experience is suggesting that the relative location and size of elk cover areas may be more important than the actual amount or percentage of cover provided. This is also related to a concern that inadequate elk security is being provided in several areas on the Forest.

KNF MONITORING  
REPORT  
EXH. #2

watershed effects. The estimated total land involved is over 356,000 acres. About 180,000 acres of National Forest land are affected, which includes about 100,000 acres of suitable timber. During development of the Forest Plan no allowance was made for such reductions in timber harvest on National Forest land in intermingled ownership.

**Timber Harvest Deferrals:** When timber sales are being planned, a site-specific analysis is done to determine how to best meet Forest Plan objectives. On occasion, not all objectives can be met, and as a result adjustments can result in a deferral of formerly planned harvest acres to some future time beyond the Forest Plan 10-year period. In addition to harvest acres deferred beyond the current Plan period to provide for watershed recovery, a number of deferrals have been made for unexpected conditions such as appeals and litigation. Others have been made because of poor cost-benefit situations. To date, over 17,000 acres have been deferred from timber harvest for these and other reasons.

**Suitable Timber Management Area Changes:** During site-specific timber sale project analysis, mapping errors are occasionally found concerning the exact location and on-the-ground situation of management areas. Most of these errors concern minor boundary changes, and are made and reported promptly to correct the conditions inaccurately portrayed on the Forest Plan map. Examples of these needed changes are: non-productive forest land found within productive forest areas; locations discovered with regeneration problems; and newly found stands of old-growth habitat. The result of all these boundary and resource situation changes made over the last four years is a net decrease of 12,617 acres in management areas suitable for timber harvest.

#### Other Informal Monitoring Results

The Forest conducts informal functional monitoring in addition to the formal process the Forest Plan prescribed. This has also revealed conditions indicating reduced outputs from management areas suitable for timber harvest. The primary resource areas noted are: **Grizzly Bear Habitat**, **Elk Security**, **Wildlife Snag Management**, and **Wildlife Hiding Cover**. In addition to these functional monitoring items, recent experience in a large portion of the Forest (the Upper Yaak) has helped to illustrate some of these cumulative resource effects.

#2

**Grizzly Bear Habitat:** The Forest Plan provides for 1,035,000 acres of grizzly bear habitat. During the analysis for the Upper Yaak EIS, clarifications for grizzly bear habitat management brought 248,000 acres within the standards and guides for grizzly bear management. Of this, 143,000 acres were in suitable management areas which had been programmed for timber harvest at levels higher than acceptable for grizzly bear management.

**Elk Security:** The Forest Plan provides for elk management on about 1,300,000 acres of summer range. About half of this acreage (645,000 acres) is located within the suitable timber management areas. The Forest Plan assumed that adequate opportunity for elk security could be provided in all summer range areas. This assumption is proving true in most cases, but some areas are being discovered where elk security appears to be below a level which would meet Forest Plan goals for elk. Estimates indicate that about 84,000 acres of suitable timber in elk summer range might be involved.

**Wildlife Snag Management.** Because of previous timber harvest practices in many areas (primarily clearcutting in lodgepole pine timber or seedtree cutting and prompt overstory removal in mixed conifer timber), increased numbers of live, green leaf trees are now required to meet standards for replacement snags for cavity nesters and small mammals. The increased number of leaf trees was not anticipated in the yield calculations used to project the Forest harvest schedule. Although it has some effect on maximizing timber harvest on suitable management areas, the exact implications have not yet been defined.

**WILL LOGGING, MINING OR OTHER HUMAN ACTIVITIES BE INCREASINGLY RESTRICTED IF BEAR NUMBERS INCREASE?**

No. Current management under the Kootenai Forest Plan will not change as a result of the placement. There should be no change in current management if bear numbers gradually increase or decrease. Timber sales and access to public lands should not be affected by bear presence. Activities on public lands in the Cabinet/Yaak ecosystem are currently designed to minimize negative impacts to bears through the environmental assessment process.

**WILL DESIGNATED HABITAT FOR GRIZZLY BEARS BE EXPANDED ON THE BASIS OF MOVEMENTS OF PLACED BEARS?**

No. Recovery areas are delineated in the Grizzly Bear Recovery Plan. The recovery area will not be increased or changed due to movements of replaced bears. There may eventually be limited changes to the recovery zone boundaries as more information becomes available on the grizzly, but this would be done with public involvement.

**What Have the Problems Been?**

The results of Forest Plan monitoring over the last three years show that for several reasons timber outputs have declined. In some areas, a particular timber sale would not cause problems by itself. But, the cumulative effects of that sale plus past activities (including activities on non-Forest Service land) put the area over the limits set in the Forest Plan.

Monitoring has shown that two factors are significantly affecting timber sales on the Kootenai. One factor is the standards for recovery of the grizzly bear. Increases in the habitat area and changes in standards since the Forest Plan was written in 1988 have restricted timber sales in many areas. The specific changes are included in the revised Recovery Plan for the Cabinet-Yaak Ecosystem, from the U.S. Fish and Wildlife Service. Another factor is the number of watersheds that are at hydrologic limits. This has resulted mainly from accelerated harvest of dead lodgepole, both on National Forest and private land. The heaviest impact is in areas of intermingled ownership.

**What Is the Effect on Timber Available for Sale?**

The combination of all the limiting factors identified in monitoring shows that timber sale levels will be reduced about 30% from those projected in the Forest Plan. This effect on timber outputs is significant, and the trends will continue to be monitored so that adequate information is available to assess the situation at the 5-year review of the Forest Plan, due to begin in October of 1992. A more detailed discussion of the monitoring results may be found in the FY 90 Forest Plan Monitoring report.

This is what we were told, and, what we told the public in a two county mailing.

This is what the USFS told us in their 1990/91 status report

WE HAVE A PROBLEM.

EXHIBIT 2 #1

Table E-1-3 Timber Sell Volumes (MMBF) by T & E Species Habitat by Fiscal Year (FY)\*

T & E Species Habitat	Annual Forest Plan Projection	FY 1988	FY 1989	FY 1990	FY 1991	Total 4-Year Timber Sell 1988-91	Average Timber Sell per FY	Percent of Annual Forest Plan Projection	4-Year Forest Plan Projected Sell	Difference From Forest Plan Projection
Grizzly Bear Habitat	77	24	47	22	36	129	32	42	308	-179
Non-grizzly Habitat	150	148	134	124	78	485	121	81	600	-115
Total Sell, Suitable Lands	227	173	181	146	114	614	154	68	908	-294

\* Some totals may not be exact because of rounding.

# Forest Plan Monitoring Report for Fiscal Year 1991

February 1992

## Kootenai National Forest Plan

United States  
Department  
of Agriculture



Forest Service

Kootenai  
National Forest

WHO PAYS FOR THE MISTAKES?



SIGN 1 MILE UP  
LIBBY CREEK ROAD.

**AMERICAN LAND RIGHTS ASSOCIATION**  
30218 N E 82nd Avenue  
Post Office Box 400  
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**The Bighorn Mtn. Wilderness, California: A Case Study  
in Federal Land Use Planning: Abuse of  
Authority, Fraud, Waste, and Violation of the Public  
Trust To "Manufacture" Wilderness  
and Deceive Congress As To Wilderness Suitability  
Recommended Congressional Inquiry & Corrective Action**

**Testimony before**

**The Committee on Resources**

**Honorable Don Young, Chairman**

**THE UNITED STATES HOUSE OF  
REPRESENTATIVES**

**1324 Longworth House Office Building  
Washington, D.C. 20515**

**June 18, 1996  
2:00 P.M.**

**by**

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Committee on Resources, U. S. House of Representatives

June 18, 1996

Chairman Young and Members of the Committee:

I am a professional geologist with more than 25 years experience in government and private practice. In 1962 I received a B.Sc. in Paleontology from San Diego State University, and in 1968 a M. Sc. in Geology and additional studies were completed at the University of California at Los Angeles and Riverside, University of Dayton, Ohio and University of the Philippines, Manila, Republic of the Philippines. My professional work has involved paleoecology, environmental geology, geologic-soils-fire mapping, petroleum and mineral exploration, development, permitting, patenting, mine planning, and preparation of plans of operation, reclamation plans and environmental impact statements, federal and state land use planning. From 1981 to 1989 I served as the Secretary of Interior's appointee for Geology, Energy and Minerals to the California Desert Multiple Use Advisory Council for the 25 million acre California Desert Conservation Area. During the 1980's I was Senior Editor (and contributor) of two landmark volumes: *Geology and Mineral Wealth of the California Desert* (555 p) and *Geology and Mineral Wealth of the California Transverse Ranges* (699p) covering 40 million acres of southern California. Presently I serve on the San Bernardino County, California Industrial Advisory Board and also as Chairman of the American Land Rights Association Non-Renewable Resource Committee.

**THE BIGHORN MOUNTAIN "WILDERNESS"  
( aka GRANITE PEAK RARE II AREA)**

The Bighorn Mtn. "Wilderness" comprises portions three historic *roaded* mining districts, Lone Valley (est. 1864), the Blackhawk (est. 1880), and Ruby (est. 1890) covering about 39,000 acres in the northeastern San Bernardino Mountains of southern California designated by the "California Desert "Protection" Act in 1994. This act included more than 100,000 acres of National Forest lands surrounding the California Desert Conservation Area that were all found unsuitable in the 1984 California National Forest Wilderness Act. In 1983-4 I worked with Senators Cranston and Wilson staffs regarding the 12,500 acre Granite Peak RARE II Area. It was declared unsuitable for wilderness because it contained numerous impacts of man, roads, cabins, mines, and high mineral potential.

With the passage of FLPMA in 1976 boundaries of the Bighorn Mtn. Wilderness were drawn by government staffers using 30 year-old 1 inch = 1 mile scale and out-date 15 minute USGS quadrangles when new 1970's 7.5 minute USGS quadrangles were available. This was in direct violation of NEPA requirements to use the best available and current data. Myself and others brought this to the attention of federal wilderness specialists and when they ignored our complaints, we met personally with Frank Greg, the current BLM Director who instructed them to use the newer maps, but only in a few cases did that happen. Another dirty trick was the redefinition of the five(5) classes of USGS roads to exclude class 4 and 5 dirt roads and create vast areas "roadless" federal lands for inclusion in wilderness. Millions acres of the western United States suddenly became "roadless" through the simple dirty trick of changing a definition. The U.S. Geological Survey's authority as the official map making government agency extends back to the last century. And the official USGS definitions of what is a road are contained in their instructions to topographic mapping. All the members of this committee in 1978 signed a bipartisan letter by Rep. James Santini to the Interior Department protesting it was not the intent of Congress *to make a road not a road!*

The use of the old 1947 USGS Lucerne Valley 15 minute quadrangle resulted in putting a portion of the active Partin Mine in the Bighorn Wilderness as the mine was put into production in the early 1960's and did not exist in 1947! Other active mines and mineral deposits such as my family's Smart Ranch Mine were included in the "wilderness study area." This was the beginning of the nightmare of federal abuse. I testified several times in the last few years before Congressional Interior subcommittees alerting them that the Partin mine was doomed. A field visit by Forest Service Washington D.C. staff was made to no avail. Now we have allegedly endangered weeds that "only grow on commercial grade limestone", the commodity we were mining. Between the endangered weeds and the Bighorn Mtn. Wilderness the bureaucracy stalled Partin Mine permits for 5 years -- apparently to have the weeds officially listed and the area Congressionally declared wilderness. Partin finally threw in the towel and abandoned the mine last year. Millions of dollars in mineral reserves were lost, now the area has become a defecto "weed preserve."

**ALLEGEDLY "ENDANGERED LIMESTONE ENDEMIC WEEDS"  
INCLUDING NOXIOUS TOXIC LOCOWEED, THREATEN MINING AND JOBS**

Calcite(calcium carbonate) is the mineral that makes up limestone, and is the cement of modern civilization. There are only about a half dozen highgrade limestone districts in the entire United States. Our society and standard of living could not be sustained without it. Highgrade limestone or calcite is a substantial part of almost everything in our daily lives, cement of construction, flux for refining steel and sugar, a major component of glass, paper, plastics, rubber, paints, lighting, crayons, explosives and anti-acid for chewing gum, tums, toothpaste, motor oil, and air and water purification. What if one could find or invent an "endangered" plant or animal that only grows on commercial grade calcite limestone? This could shut down our construction and manufacturing industries to an even greater degree than the spotted owl has the timber industry.

The ESA is being used as another "tool" to shut down and curtail mining in the northeast San Bernardino Mountains. With virtually no real scientific peer review via scientific journal articles and with "secret data" the USFS and the USFWS botanists have listed five WEEDS that supposedly only grow on limestone or carbonate rock. They have listed them because the weeds are allegedly being threatened by mining. A careful review of the USFS listing package reveals that self serving "junk science" was used to list these weeds (i.e. ten of the fourteen reference on the first page of the listing package are unpublished, in-house, self serving reports and the remaining four are general background). They are printed on the letter head of the San Bernardino National Forest or some environmental groups working for or with the San Bernardino National Forest. Their conclusions are based on information and localities that the USFS staff maintains must be kept secret. As a scientist who has published in scientific journals and at meetings and as a reviewer of hundreds of environmental documents for government agencies, I can assure you that that real scientists are proud of their data, and it must be available for peer review before it can be accepted to prove any conclusions.

The USFS and USFWS have ignored credible evidence submitted to them that the plants (all "invader species" that thrive in cleared open spaces...weeds to the average person) in question have been found growing on non carbonate substrates. Also Rancho Santa Ana Botanical Garden's research botanists have been growing most them in non carbonate granular soil for several years. The Forest Service botanists maintain most of these weeds are being threatened by limestone mining and that the weeds won't revegetate in mined out areas. A careful review of old mined out areas reveals other wise. In fact, one of the best examples of natural revegetation is in the USFS's own road material quarry in Lone Valley where one of the species oval leaf buckwheat

*(Eriogonum ovalifolium* var. *vineum*) makes up about 20% of the invading weeds. Even through there is an ESA listing on this buckwheat, work by Professor Brooks at the University of British Columbia indicates this weed is not restricted to the San Bernardino National Forest, it is used all over western north America as a geochemical prospecting tool...when there are a few parts per million base metals or silver in the substrate the flower turns "vineum" or wine colored in latin. The criteria the USFS & USFWS maintain makes this weed unique and endangered in the San Bernardino National Forest. Lead-silver and base metals are found at numerous locations in the northeast San Bernardino Mountains. Most if not all these weeds, like snail darters, will be found in other areas. Consulting botanists confide that they don't dare suggest that the weeds may not be endangered, because they will be black-listed by the government agencies and will become unemployed.

**"MANUFACTURING WILDERNESS" HAS SIDE EFFECT  
OF PROVING WEEDS ARE FIRE AND DISTURBANCE  
DEPENDANT TO EXPAND HABITAT**

The USFS and USFWS botanists have maintained that the weeds are not dependant on wildland fire for habitat nor will they grow in areas highly disturbed by mining. Again, the Forest Service's own activities prove them wrong on both counts. On September 14, 1991 the Big Bear Ranger District brought the U.S. Marines to blow up the historic Horse Thief Flats Cabin, Root Cellar, and the RS 2477 USGS Class 4 road to Horse Thief Flats (SN03A) in an apparent attempt to manufacture wilderness by removing human structures and roads from the proposed Bighorn Mtn. Wilderness.

As mentioned earlier Senators Cranston and Wilson had deemed the area unsuitable for wilderness in 1983-4 because of human impacts such as these. Four (4) of blasts to destroy the historic Horse Thief Flats road were on the Fife's Smart Ranch Calcite deposit. The last blast blew about 40 tons of material into the air and sent hundred of hot molten pieces of shrapnel into the tinder dry forest which had been in a drought condition for 6 years and had never burnt in historic time. The last blast was late in the evening and was heard 15 miles away by thousands of people living in Big Bear Lake. The Forest Rangers went home and Marines went back to Camp Joseph Pendleton in San Diego County. The molten metal started dozens of small fires during the night. They burnt for 18 hours unattended until a citizen reported a column of smoke the following afternoon.. Fortunately the Santa Ana winds that had been blowing earlier had stopped or the coalescing fires would have swept down wind into the communities of Bear Valley where 15,000 people reside.

I and many others protested the blasting and closing of the road to the Forest Supervisor Gene Zimmerman and to several members of Congress. Ranger Rebecca Aus sent several citizens and myself an apology and rebuilt the road and buried the evidence (remains) of the historic rock cabin in a slit trench. Fire suppression and road reconstruction reportedly cost at least \$200,000. The San Bernardino National Forest archeologist, Marilyn Mlazovski, whose job it is to evaluate the historical significance of historic sites before they are destroyed, was totally unaware of the blasting of the historic cabin until I told her. Among local archeologists and many historical researchers the Forest Service has a reputation for destroying historical sites.

Today the site where the 40 tons was blown out of the road hosts a healthy population of two of the allegedly endangered weeds parish's daisy (*Erigeron parishii*) and the locoweed (*Astragalus albens*)! This should not be of any great surprise, as humans invented agriculture about 10,000 years ago by disturbing the soil so seeds could grow easier and without competing vegetation. However, the most significant fact is these two weeds have invaded the area where the Forest Service started the wildland

fire...now there is about a 30 to 1 increase in the allegedly endangered parish's daisy and locoweed! Similarly, the oval leaf buckwheat (*Erigeron ovalifolium* var. *vineum*) invaded fire breaks in the 1976 Coyote Flat fire several miles to the west. It is event these weeds will proliferate after fires or when areas of the forest are cleared of brush or even the dominant pinyon-juniper woodland cover, or by mining, fire breaks, or other activities. If mined out areas are seeded with the allegedly endangered weeds, they may produce more than 100% habitat conservation! The USFS and USFWS may have it just backwards...mining could be used to increase habitat. However, evidence is mounting that these weeds should not have been listed in the first place.

The destruction of the historic Horses Thief Flats cabin, which was in near-perfect condition was a sad event for those of us who revere our local history. The mining camp dates from 1859 when Sidney Waite initiated mining there along Arrastra Creek. The Flat is called Horse Thief Flat because marauding Indians hid horses, mules, and cattle stolen from the coastal ranchos of the early 1800's in this hidden valley. A 1945 story in a local newspaper describes "Historic Horse Thief Flat" and illustrates the historic rock cabin from an earlier sketch. If the site was historic in 1945, it surely was historic in 1991 when the USFS and USMC packed it full of ammonium nitrate, C-4 explosives, and blew it to kingdom come. The asbestos lined chimney and asbestos reinforced hydraulic hose left in the cabin was blown all over Horse Thief Flats. Apparently several serious violations of NEPA, and perhaps the 1906 Antiquities Act and the 1979 Archeological Resource Act were violated. A newspaper report in the local Big Bear Grizzly quotes the Big Bear Ranger District saying they destroyed the historic cabin and root cellar (calling it a WWII Ammo bunker!) and the road to intercept drug trafficking. My observation is that most drug trafficking is happening on North Shore Drive close to the Big Bear District Ranger Station! This may be a serious misuse to the military for "rewilding" an area. The fire was never reported by the local newspapers only the drug cover story. Review of the fire dispatcher logs from the USFS and the California Division of Forestry suggest that the documents covered up just who start the fires— perhaps another violation of law.

**PERMITTING THE FIFE/RIGHT STAR QUARRY  
SMART RANCH CALCITE LIMESTONE DEPOSIT  
NOW ON GOING SEVEN (7)YEARS**

After more than twenty years of exploration, development work the Fife family had found and proven an economic calcite deposit. Under the 1978 California State Mine Reclamation Act (SMARA) deposits of exceptional importance to society are to be classified and zoned for minerals extraction to protect them from incompatible land use such as urbanization or wilderness that might preclude society access the the deposit. In 1988 the Fife deposit was nominated to the State Board of Mines and Geology for classification. After a field examination of the deposit and a year of public hearings the Fife family's Smart Ranch Limestone deposit was Classified and an Open File Report (OFR 89-12) was transmitted to all government agencies including the San Bernardino National Forest. The deposit included a network of access roads, drill sites and test quarries all constructed legally over the years the deposit was being explored; and small scale production had been occurring as earlier as 1949. The deposit is in the Lone Valley Mining District with a 140 year history of mining. The USFS was the largest miner in recent years with a large aggregate and asphalt hot mix plant and decomposed granite quarry and cold mix asphalt mixing bowl operation which supplied Bear Valley and the county and state highways with paving materials.

The Forest Service permitting nightmare started on or about April 10, 1990 when Larie Richardson, manager of Right Star, Inc. ( aka North Star Minerals) our mining operator and myself met with Rangers Rebecca Aus and George Kenline at the Fife /Right Star

Quarry in Lone Valley in order to explain how we planned to amend the existing 1987 Smart Ranch Limestone Deposit --Notice of Intent to Operate (essentially a permit to use of our USGS Class 3, 4, and 5 Roads built in the 1960's and 1980's to do shallow cobra drilling, and bulk sampling. As two major government projects adjoining the site, the Doble Dump and the Lone Valley OHV staging area and trail system had been approved with an Environmental Assessment (EA), we were told it would take about 3-4 months to get an amended permit. This was essentially reopening the existing Fife/Right Star Quarry which had operated periodically since 1949. All necessary basic infrastructure already was in place. We planned to be in production by August 1990.

**FALSIFICATION OF OFFICIAL DOCUMENT(S) BY BIG BEAR RANGERS  
TO REVOKE RECLAMATION AND OPERATING PLAN**

A very complete "Operating and Reclamation Plan" for an estimated maximum of 40,000 tons per year was submitted on or about July 20, 1990. This was prepared by Larie Richardson and Donald Fife, working with U.S. Forest Service specialists in geology, biology, archeology, planning, hydrology, and landscape architecture, etc. We asked each specialist what they needed in the plan and we then passed the draft language of the plan on to them for comments before we included in the final submittal. We didn't expect any problems as the Forest Service had asked us to expand our original 11 acres to cover 37 acres so we would not have to come back in the future for an expanded reclamation plan. As we were told by USFS staff this was one of the most complete and professional plans that had ever been submitted to the Big Bear Ranger District. This meant a lot to us, as this is the largest highgrade limestone mining province in the western U.S.A. Under NEPA regulations the plan is automatically approved in thirty(30) days. The Forest Service had a few minor questions and was therefore granted an additional sixty(60) days, under NEPA regulations, if the USFS does not respond in writing by certified mail with objections, the plan is automatically approved. During the first thirty (30)day period the Operation and Reclamation Plan was revised to respond to Forest Service staff questions. This revision was sent by Certified Mail to the Big Bear Ranger District, and was received on or about August 22, 1990, triggering a NEPA sixty (60) review period, which would expire on October 21, 1990.

October 21, 1990 came and went without any notice or objection from the USFS, and according to NEPA regulations, our revised plan was thus automatically approved. Upon checking with Larie Richardson to make sure there was no legal notice received by him or Right Star, Inc by the deadline, I called Mr. Buster Lamoure, our permitting consultant in Montana. Prior to his retirement Buster was Chief of Land and Minerals for the USFS in Washington D.C. and he is an expert on federal permitting regulations. Mr. Lamoure requested I arrange a field meeting at the Fife/ Right Star Quarry with Forest Supervisor Charles Irby and District Ranger Rebecca Aus, the persons responsible for reclamation plan approval.

After several days attempting to reach Ranger Aus or her assistant Ranger George Kenline in the Big Bear Ranger District and Supervisor Irby in the San Bernardino National Forest Headquarters none of my calls were returned. Finally, Ernie Dierking, Land and Minerals Officer for the SBNF returned my calls. Mr. Dierking set up the field meeting Mr. Lamoure had requested for November 1, 1990 at the quarry.

On the morning of November 1, 1990, Messrs. Ernie Dierking and George Kenline, staff of the SBNF, met with Messrs. Larie Richardson and John Kling of Right Star Inc, and Donald Fife and Richard Brown representing the Fife family owners. To our great surprise Ranger Kenline hand-delivered to Mr. Larie Richardson and us a letter (Certified Mail R.R.R. #P 104 794 594) dated October 10, 1990 regarding our operating and reclamation plan received by the Big Bear Ranger District August 22, 1990. This letter dated October 10, 1990 which was never received by Right Star or Fife, until the

field meeting of November 1, 1990 more than a week after our plan was automatically approved under NEPA regulations on October 21, 1990. Thus the SBNF denied our operating plan for 40,000 tons per year. Their contention was that we now needed an Environmental Impact Statement(EIS) because despite the fact that the Fife/Right Star quarry already existed and 11 acres had already been disturbed by past mining and exploration activities since 1949, 37 acres would require publishing a notice in the Federal Register. Under duress Right Star was forced to accept a 10,000 ton bulk sampling permit at the existing quarry while the SBNF processed the EIS which we were told would take less than a year. As months turned into years the SBNF even extorted cash from Right Star to work on "an overtime basis" on the EIS and for their computer expert to do a computer simulation of the final reclaimed quarry. Months passed into years with continued promises that it would just be a few more months until the EIS would be processed. After six month of inquiries on the whereabouts of the computer generated graphics of the reclaimed mine, we were told their computer experts work wasn't acceptable...however, the SBNF kept the cash!

The SBNF appears to have done everything possible to misinform the public about our mine and to make it controversial. such as: (1) Suppressing the fact that this is an existing quarry periodically operated since 1949; (2) misinforming the press that the proposed operation was for 200,000 tons/year rather than 40,000 tons/ year; (3) illegally blasting historic structures and a public access RS 2477 Road (SNO3A) on our deposit out of existence in the proposed Bighorn Mtn. Wilderness in order to qualify large portions of our Smart Ranch Limestone Deposit as a roadless wilderness; (4) dumping junk cars in our quarry staging area to give us bad public image during the time the SBNF and San Bernardino County were having a public campaign to clean up junk and abandon cars in the forest; and (5) delaying permits and targeting Right Star and other limestone producers with flawed "studies" alleging that several weeds only grow on limestone(carbonate endemic) when they were essentially only looking at areas in and around limestone quarries. About 5% of the SBNF is underlain by carbonate/limestone rock. In one field season an independant botanist working in the field found most of the five allegedly endangered limestone endemic weeds growing on other soil/rock types such as scarn, schist, quartzite, and granite that make up about 80% of the SBNF bedrock. The Partin and Fife/Right Star permits were apparently being held up until the weeds were officially listed by the USFWS or the 1872 Mining Law was repealed. At every chance Forest Service employees had, they blamed their mining problems on the horrible 1872 Mining Law!

The October 10, 1990 letter denying our permit appears to be falsified(backdated) with the specific intent of denying us our Constitutional , Civil, and Property Rights to use our property and our principal source of income. The content of the October 10, 1990 letter itself is incriminating...the last paragraph states; "The next meeting with you is scheduled for November 1, 1990 at the mine site." *This November 1, 1990 meeting was not even conceived until after the October 21, 1990 deadline; and it was at the specific request of Buster Lamoure to Donald Fife that he arrange the meeting on November 1, 1990 at the mine location which was accomplished by myself via Ranger Ernie Dierking on or about October 26, 1990! The delays resulting from the action or inaction of these government employees has cost Right Star and the Fife family not less than a million dollars!*

**TAKINGS ASSESSMENT UNDER EXECUTIVE ORDER 12630 FILED  
AND CRIMINAL COMPLAINT TO U. S. DEPARTMENT OF JUSTICE**

After the backdating of the October 1990 letter by the Big Bear Ranger District, I as a former government employee union president felt that a serious crime had been

committed and I drafted a criminal complaint for the U.S. Attorney's Office in Los Angeles District. Mr. Larie Richardson of Right Star Inc, in whose name the permit was to be issued, was reluctant to file charges as he believed the SBNF staff would have everything permitted in a few months. Frustrated, I filed a takings assessment for a 5th Amendment taking for the July 1990 plan for 40,000 tons per year under Executive Order 12630 with the U.S. Attorney and the Secretary of Agriculture in Washington D.C. on January 22, 1991(Certified Letter P 658 533 275). On or about March 25, 1990 I received a response dated March 20, 1990 from Department of Agriculture stating that .."It is our understanding that your plan of operations was approved February 6, 1991. We encourage you to continue working with the district Ranger and her staff."... Sincerely, James R. Moseley, Assistant Secretary, Natural Resources and Environment.

When when confronted with this document confirming my request about the July 1990 plan for 40,000 tons per year the Forest Service told Mr. Richardson, Right Star manager, the approval only applied to the bulk sampling permit. Did Forest Service staff lie to the U.S. Attorney and the Secretary of Agriculture? Or to Right Star? We continued to get promises that the EIS and Operating Plan would soon be approved in just a few more months and months grew to three years and I finally convinced Mr. Richardson to sign and file a criminal complaint with Mr. David C. Scheper, Chief, Criminal Complaints Division, U. S. Department of Justice, Los Angeles, California on January 9, 1993. The Justice Department turned our complaint over to Inspector General Leon Snead's Office of the Department of Agriculture. On February 3, 1993 Right Star received a response from Brian L Haaser, Director, Program Investigations Division. The letter dated January 29, 1993 states..."We have forwarded your complaint to the Forest Service national office and have requested that they make an inquiry into your allegations and furnish their findings to this office for review. Upon receipt of the Forest Service findings, we will determine if an investigation by this office is appropriate....". Several months later Forest Service Special Agent Gordon Greg working out of the Tahoe National Forest Office in Auburn, California interviewed Messrs. Walter Farrell and Larie Richardson and myself in Right Star's El Toro, California Office. Special Agent Greg was given copies of the milestones in the SBNF Permitting Process.

Shortly there after our criminal complaint was forwarded in January 1993 to the Inspector Generals Office, the SBNF issued a press release that District Ranger Rebecca Aus was being promoted and sent to the Custer National Forest in South Dakota.

**MISAPPROPRIATION OF STATE OHV "GREENSTICKER" FUNDS TO REWILD  
FIFE/RIGHT STAR QUARRY, SMART RANCH LIMESTONE DEPOSIT AND PRIVATE  
RANCH BUILDING AT HISTORIC SMART RANCH**

Despite the fact that the SBNF had received the State Open Report OFR 89-12 identifying classifying and zoning the Smart Ranch Limestone Deposit for mineral extraction, or maybe because of this report, the SBNF supported by Joyce Burk reportedly Chair of the local Sierra Club, applied for the so called Cactus Restoration Grant to rewild or destroy the existing roads, drill sites and test quarries on the Smart Ranch Limestone Deposit and the private ranch buildings on the private property at the historic Smart Ranch! The project boundaries approved by the SBNF staff almost exactly correspond to the outline of the Smart Ranch Limestone ore body, except for where the boundary swings out to include the buildings at Smart Ranch! Robert Phipps, the resident owner does not intend to let the Forest Service "rewild" his property and he told me the story how he had to run the SBNF staff and their bulldozer off of his spring a while back before they destroyed the ponds he and the SBNF fire suppression staff created to have local water available for helicopter water drops in case of wildland fire.

In the spring of 1990 I attended the California State OHV Commission meetings where about \$8 million dollars was being granted BLM and USFS projects for Off Highway Vehicle (OHV) recreation. To my great surprise I found a so called Baldy/Cactus "Restoration" proposal OR-2-SB-27, (Grant Application F7 91/92) for \$90,000 to "Restore" or "rewild" Baldy Mesa on the west end of the SBNF and the Fife family's Smart Ranch Quarries and deposit in Lone Valley. I testified against the grant before the OHV Commission and followed up with my protest in writing to the commission in a May 11, 1990 letter (Certified Mail # P 367 907 274) with copies to SBNF Supervisor Chuck Irby and Pacific SW Regional Forester Paul Barker. The State OHV Commission told me they would not approve a grant that was going to have negative impact on my family's mining business. The following year the SBNF resubmitted the grant application for Baldy/Cactus "Restoration" and it was approved without notifying the owners of the Smart Ranch Limestone Quarries and Deposit or the private owners at historic Smart Ranch!

During the summer and fall of 1993 the SBNF proceeded to destroy our test quarries, drill sites, and access roads by scarifying the roads with bulldozers and heavy equipment. Boulders brought from Mitsubishi Cements Cuashenbury quarry several miles away to block some roads and other roads were fenced off with steel posts and barbed wire. Interestingly Big Bear District Ranger Dan Craig used the U.S. Mail to send out a scoping letter required under NEPA to seek public comments on the proposed closures after the work had apparently been already completed! This is documented in a California Off Road Vehicle Association (CORVA) letter dated November 15, 1993 to SBNF Supervisor Gene Zimmerman from Ken Carpenter, Lands Access Committee Representative to the SBNF.

An article in the weekly Lucerne Valley Leader tells of a Sierra Club project on June 19, 1993 where volunteers are needed to assist the SBNF in their Cactus Restoration project to "restore" OHV damage. The damage happens to include our mining business and the historic Smart Ranch apparently. I didn't hear of the restoration active until after June 19, 1993. And what I saw on the ground where our blocked roads and numerous small plants or seedling in the former roads. Member of a local recreation club told me that some of their members had attended the "restoration" work party and that SBNF staff botanists were using volunteers to collect and plant the seeds of the ESA listed "limestone endemic weeds" on the access roads and the highgrade portions of the Smart Ranch Limestone Deposit to preclude mining. I found this hard to believe until several months later a witness contacted me and described exactly the same story. This witness actually claims to have done some of the planting and apologized for any harm that may have been done. This witness will testify to this planting, but wants to keep a low profile until needed as the witness feels threatened by others who were present. The names of witness(es) are available to the chairman of this committee on request.

Recently I requested a FOIA from the SBNF on the Baldy/Cactus OHV "Restoration" Grant to review just what was in the file and who may have been planting "endangered limestone endemic" weeds on the Smart Ranch Limestone deposit. The SBNF took several weeks to respond with 190 pages from the file and a bill for \$1,400.00! I rejected the bill and sent a check for \$39.60 for the photocopies! As I have spent many years dealing with grants as recipient or dispenser of grant funds as well coordination of federal, state and local grants, I know all involved agencies have duplicate files. Thus, I made the same FOIA request to the California State OHV Greensticker Fund. They sent me a letter explaining it was a large file and it would require \$139.00 to photocopy. To my surprise it contained more than 1,000 pages! Yes, this file probably contains some of the government employees who planted the allegedly endangered weeds on the Smart Ranch Limestone Deposit!

**TEN SQUARE MILES OF MINERALS AND GEOLOGY MISSING FROM BIGHORN MTN WILDERNESS AREA AS DESERT PROTECTION ACT MOVES THROUGH CONGRESS IN THE SPRING SUMMER AND FALL OF 1994  
SMART RANCH LIMESTONE FILES DISAPPEAR WHEN CONGRESSIONAL STAFF ARE CONSIDERING BOUNDARIES OF BIGHORN MTN WILDERNESS**

All of the above are documented in our files. In the spring, summer, and fall of 1994 the SENF lost all of our files: plans of operations, notices of intent, reclamation bonds, and even ten square miles of geology and economic minerals of in the proposed Bighorn Mtn. Wilderness they had recently commissioned from the U.S. Geological Survey and U.S. Bureau of Mines, disappeared .....lost just as congressional staff were considering the final boundaries of the wilderness. By the time the bill was on the floor of the U.S. House and Senate Congress had been deceived and fooled into thinking the Partin Mine and the Smart Ranch Limestone quarries and roads didn't exist. The rest is history we became instant pristine "manufactured" wilderness by someone's design, when the California Desert "Protection" Act was passed in 1994.

Mr. Chairman and members of the Committee, we would like a Congressional inquiry to clarify the deception of Congress and we could use a technical amendment to exclude the wilderness boundary running through the middle of our active mine and mineral deposit. We also request more Congressional oversight of the USFS administrative and field staff, seven(7) years is too long to wait for a simple mining and reclamation permit to reactive and existing mine. As a former governmental employee processing permits and EIR/EIS documents, I don't believe this agency or their employees should have any right to review or approve anything. They are either incapable of following federal regulations or law, or the staff follow their own personal agendas.

The Bighorn Mtn. Wilderness would make an excellent case history representing many problems and abuses typical of the breakdown in federal land use management in the public land states and federally managed lands throughout the United States.

Your consideration of this testimony is greatly appreciated.

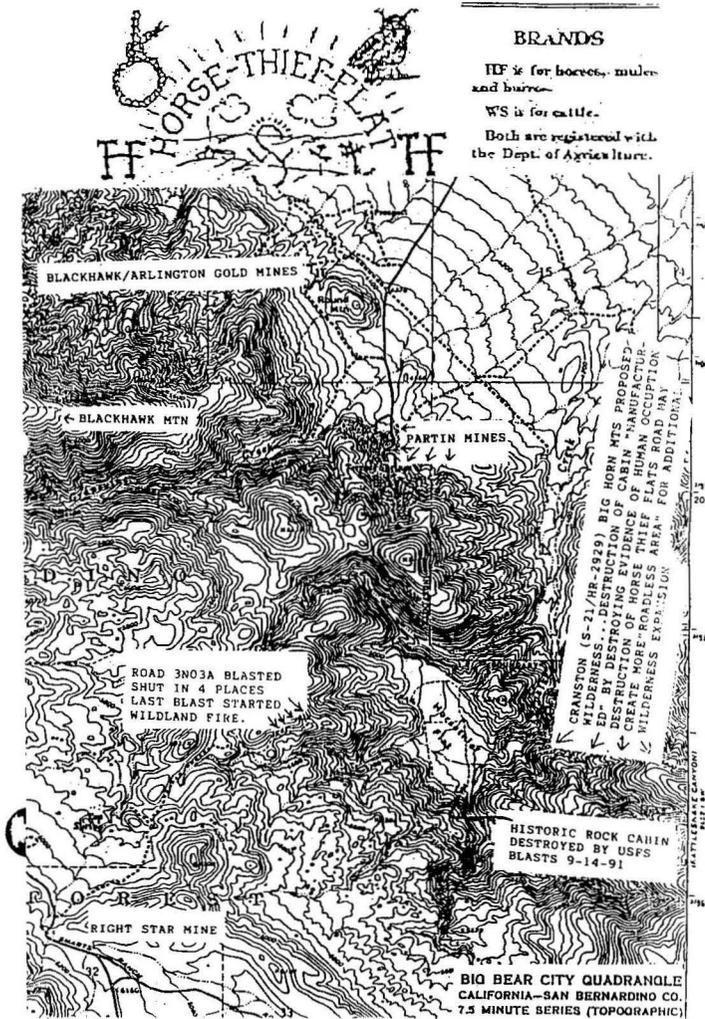
Donald L. Fife  
American Land Rights Association

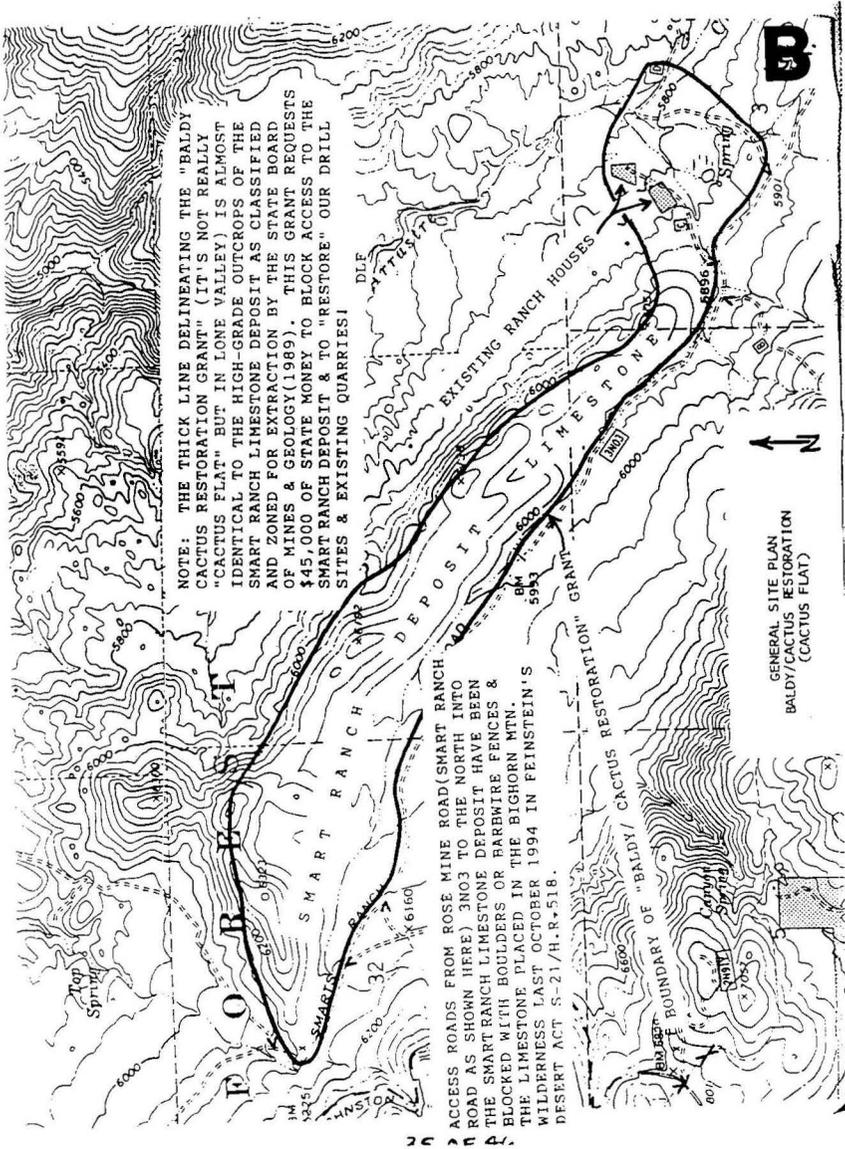
**Note:** Photographs of the Historic Horse Thief Flats Cabin before and after it was blown away are available from the ALRA on request, Also Photographs of the historic RS 2477 Road (SNO3A)blown away and photos of the wildland fire damage.

On July 28, 1994 CBN News broadcast the story of the Bighorn Mtn. Wilderness and the historic Horse Thief Flats Cabin and roads as part of their first segment of the "War on the West".

# Historic Horse Thief Flat

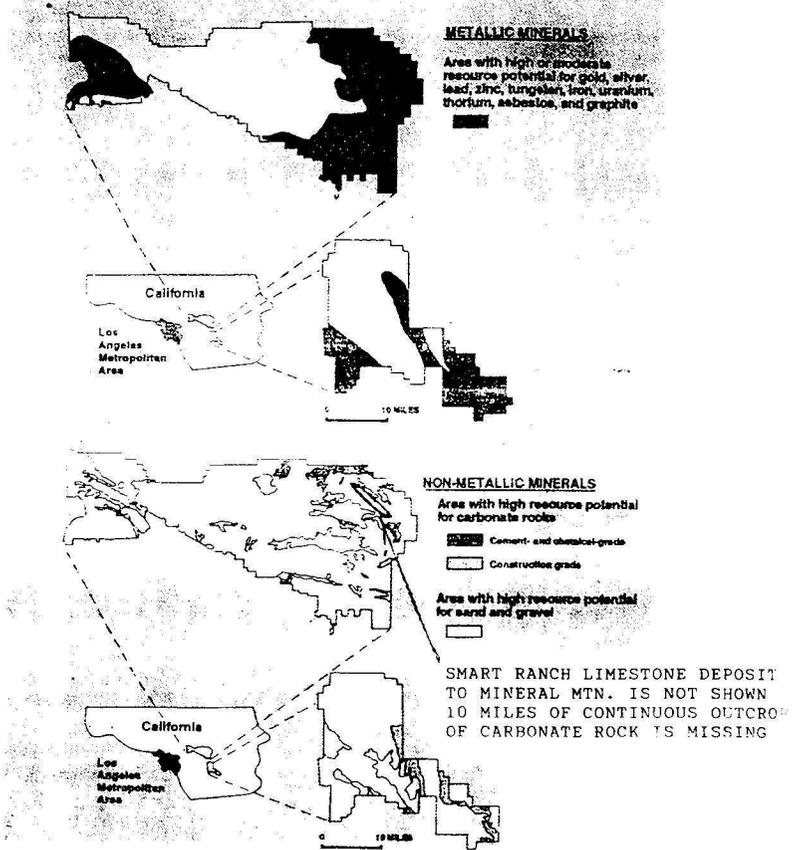
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C

**Figure 2. Mineral Resources Potential of the San Bernardino National Forest, California**



USGS/USFS 1993 MAP OMITTS 10 SQ MILES FROM PROPOSED BIGHORN MTN. WILDERNESS INCLUDING FIFE/RIGHT STAR QUARRY + SMART RANCH CALCITE DEPOSIT

**DONALD L. FIFE & ASSOCIATES**  
Geologic and Mineral Resource Consultants  
Post Office Box 1054  
Tustin, California 92681

January 22, 1991

**CERTIFIED MAIL  
RETURN RECEIPT**

U.S. Attorney General  
Department of Justice  
Constitution Avenue Between 9th & 10th Street, N.W.  
Washington, DC 20000

Clayton K. Yeutter  
Secretary of Agriculture  
U.S. Department of Agriculture, Room 200A  
1400 Independence S.W.  
Washington, DC 20250

Rebecca Aue, District Ranger  
U.S.F.S., San Bernardino National Forest  
10000 North Orange Avenue  
San Bernardino National Forest  
P. O. Box 290, Fawnskin, CA 92333



RE: Demand for Assessment of Takings Implications,  
Pife Valley Limestone Deposit, Lone Valley Mining District,  
Smart Ranch Limestone Deposit, Lone Valley Mining District,  
San Bernardino County, California (Plan of Operations  
Submitted July, 1990) for:

- (A) Damaged Parties: Right Star, Inc. (lessor)  
and Pife Family (lessee)
- (B) Property Taken: Use and Benefit of Mining  
Property Known as Smart Ranch #11 (CMC 47685  
Smart Ranch #11 (CMC 48460) in Section  
32, T.3 N., R.2 E., SB4M
- (C) Time Period of Taking July, 1990 to present
- (D) Federal Agency United States of America  
Department of Agriculture; Forest Service

**Gentlemen:**

Relative to the above, I hereby request and respectfully demand an  
assessment of takings implications for the above property interests  
(granted 1990 by President George Bush), the 5th Amendment of the  
U.S. Constitution and related laws which are or will result from  
the following government actions, inactions or proposed actions:

U.S. Attorney General  
Department of Justice  
Clayton K. Yeutter  
January 21, 1991  
Page 2

- (1) Failure of agency to timely respond to a request for a  
Plan of Operation (P.O.) and/or
- (2) The Agency's requirement of an Environmental Assessment  
(E.A.); and/or
- (3) The requirement of an Environmental Impact Statement  
(E.I.S.) and/or
- (4) Failure to timely process application and/or permits in  
accordance with federal law and/or regulations.

Your attention to this matter is greatly appreciated as the costs  
of current inaction by the District Ranger Aue are escalating  
daily.

Respectfully submitted,

*Donald L. Fife*  
Donald L. Fife  
for Right Star, Inc. (lessee)  
and Pife Family (lessors)

DLF/jg

- cc: Senator John Seymour
- Senator Jerry Craig
- Senator Larry Craig
- Representative Jerry Lewis
- Representative Ron Marleneo
- Keith Knoblock, A.P.C. Care
- William Perry Pendley, Mountain States Legal Foundation
- James Burling, Pacific Legal Foundation
- Louis Richardson, President, Right Star, Inc.
- Western Mining Council, 10000 North Orange Avenue, San Bernardino County, California
- U.S. Department of Mining District
- Martha Cushman, MIN-MLTR

E

DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20250



COPY

20 MAR 1991

Mr. Donald L. Fife  
Donald L. Fife and Associates  
P.O. Box 1059  
Tustin, California 92680

Dear Mr. Fife:

Thank you for your January 22, 1991, letter in which you requested a Takings Implication Assessment (TIA) be prepared pursuant to Executive Order 12630 regarding certain Forest Service action or inactions related to the Smart Ranch #11 and #16 mining claims on the Smart Ranch. Your letter and the TIA you requested are enclosed in your letter to this office for response.

Executive Order 12630, entitled "Governmental Actions and Interference with Constitutionally Protected Property Rights," requires that the potential takings implications of proposed actions. That process may include the preparation of a TIA. A TIA provides agency decisionmakers with information that alerts them to the potential takings liability of a proposed action and allows them an opportunity to consider the potential takings liability and to minimize the risk of a taking. Section 6 of the Executive Order states that "This order is intended only to improve the internal management of the Executive Branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party other than the officers or employees of the Executive Branch, or any person." Therefore, we do not believe there is an obligation to prepare a TIA based upon your request.

It is our understanding that your plan of operations was approved on February 6, 1991. We encourage you to continue working with the District Ranger and her staff, and regret any difficulty that a Forest Service delay in processing your plan of operations may have caused. We appreciate the information that you have provided and the questions you raised about takings and the Executive Order, and we have requested our Office of the General Counsel to review this matter in light of the Executive Order and to advise us of their findings.

Mr. Donald L. Fife

Finally, you asked us to consider the takings implications under the Executive Order of the Forest Service requirement for the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) for projects that require a permit under the National Environmental Policy Act (NEPA) and other environmental laws which continue to apply to the Forest Service's review and approval of mining operations on National Forest System lands. To the extent that EA's or EIS's may be required by NEPA, such studies are exempt from TIA requirements under section 2(a)(4) of the Executive Order.

Sincerely,  
  
JAMES R. WOZLEY  
Assistant Secretary  
Natural Resources and Environment

**DONALD L. FIFE & ASSOCIATES**  
 Geologic and Mineral Resources Consultants  
 Post Office Box 1054  
 Tuslin, California 92681  
 (714) 544-8406

**Transmittal**

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date: June 6, 1994  
 RE: RIGHT STAR PLAN OF OPERATIONS  
 & SMART RANCH LIMESTONE DEPOSIT, SMP  
 RAJ DANIELS  
 GEOLOGIST  
 BIG BEAR RANGER DISTRICT  
 POST OFFICE BOX 290  
 FANNING, CA 92333

We are sending you the following  
 CONFIRMATION OF OUR TELEPHONE CONVERSATION OF 5-25-94  
 REGARDING THE LOSS OF OUR SMART RANCH FILES.

RAJ  
 THIS IS TO CONFIRM YOUR STATEMENT ON THE ABOVE DATE THAT  
 ALL OUR FILES RELATING TO THE SMART RANCH OPERATIONS, INCLUDING  
 THE EXISTING OPERATIONS, ARE LOST.  
 AS YOU MAY BE A PROFESSIONAL STAFF ARE INTERESTED IN OBTAIN-  
 ING THESE FILES SO AS TO EXCLUDE THE SMART RANCH DEPOSIT FROM  
 PENDING LEGISLATION AND THE BIGHORN WILDERNESS. YOUR "LOSING  
 THESE FILES" COULD BE EXTREMELY DAMAGING TO OUR STRIFE FOR ADVI-  
 SING AND WE EXPECT TO HOLD YOU RESPONSIBLE FOR ANY  
 ACTIONS THAT IMPARE OUR RIGHT TO MINE THE SMART RANCH DEPOSIT.  
 OUR FILE SHOULD CONTAIN DOCUMENTS RELATING TO OUR NOTICES &  
 PLANS OF OPERATION FROM ATLEAST THE MID 1960'S TO THE PRESENT.  
 DOCUMENTS RELATING TO APPENDIX E.I.S. STARTING MORE THAN  
 FOUR(4) YEARS AGO MUST EXIST.

SHOULD YOU FIND OUR FILE, WE HEREBY MAKE AN OFFICIAL F.O.I  
 REQUEST FOR THE ENTIRE FILE.

NOT SINCERELY  
*Donald L. Fife*  
 Donald L. Fife  
 Principal Geologist



cc: Staff, Energy & Natural Resources Committee, Both Houses  
 U.S. Congress  
 Right Star, Inc.

**G**

(714) 544-8406



**Transmittal/Memo**

SUBJECT: "CactusRestoration" OHV Grant

Date: August 18, 1995  
 RE: FOIA REQUEST SMART RANCH L.S.  
 To: USDA FOREST SERVICE  
 1824 S. Commencement Circle  
 San Bernardino, CA 92400  
 Attention: Doreen Lawson

We are sending you the following  
 REJECTION OF BILL FOR \$ ONE THOUSAND FOUR HUNDRED TWO DOLLARS AND 43 cents  
 (\$1,402.43)

AS A GOVERNMENT EMPLOYEE RECEIVING REQUESTS UNDER FOIA AND AS A REQUESTING  
 CITIZEN, I HAVE NEVER SEEN SUCH AN OUTRAGEOUS BILLING WITHOUT CONTACT-  
 ING THE BUREAU OF LAND MANAGEMENT AND HAVE INCLUDED A CHECK FOR PHOTO  
 A REASONABLE COST FOR REPRODUCTION AND HAVE INCLUDED A CHECK FOR PHOTO  
 COPYING 198 PAGES AT \$0.20 PER COPY, WHICH COMES TO \$39.60.

THIS SHOULD NOT COST ANY THING AS THE "CACTUS RESTORATION" GRANT FROM THE  
 BUREAU OF LAND MANAGEMENT TO MY FAMILIAR TO THE BUREAU OF LAND  
 WILDERNESS BY DESTROYING MY FAMILY'S SMALL MINING BUSINESS, OUR DRILL  
 SITES, TEST QUERRIES, AND ACCESS ROADS WE HAVE CONSTRUCTED OVER THE LAST  
 40 YEARS WERE DESTROYED AND PLACED INTO THE BIGHORN MTR WILDERNESS BY  
 USFS IMPLEMENTATION OF THIS GRANT WHICH WERE FROM CONTRACTORS BY  
 HAD AN OFFICIAL NOTICE ON FILE WITH THE SAN BERNARDINO NATIONAL FOREST?

MOST SINCERELY  
*Donald L. Fife*  
 Donald L. Fife

CO OWNER SMART RANCH LIMESTONE DEPOSIT  
 CC: CONGRESSIONAL COMMITTEES  
 MEDIA

**F**

Ken Carpenter  
Land Access Committee Representative  
to The San Bernardino National Forest  
P.O. Box 2832  
Big Bear City, CA 92314  
909-864-3089

November 15, 1993

Mr. Gene Zimmelman, Forest Supervisor  
San Bernardino National Forest  
1824 S. Commencement Circle  
San Bernardino, CA 92408-3430

Re: 19201950

Dear Mr. Zimmelman,

Thank you for this opportunity to comment on these proposed changes to the LRMP. We will reference each area of our concern using your page number and your sub-heading.

**Page two, Granite Peak unroaded area:**

It seems that the only thing "proposed" regarding this area is the actual changing of the wording in the LRMP, as it appears the physical work, on the ground, has already been done, or nearly done. Public vehicular access in the area in question has already been closed off, with fencing, large rock barriers and by fences, between the intersection of FS road 2N02/3N03 and the intersection of FS road 2N02/3N03. This includes all vehicular access to Champion Joshua Tree and a locked gate at the entrance to FS road 3N03Z.

How will this affect the road spur's currently in use by recreational shooters, between the entrance to Smart's Ranch and Highway 18, originating on, or north-east of FS road 3N03?

**Page three, Deep Creek unroaded area:**

Regarding the revision on page 4-11 of the LRMP, dealing with pre-disposition of Wilderness designation, of this area, I am concerned. As evidenced by recently passed and currently considered legislation, Congress can and will make Wilderness out

№ 02460

**HIGH QUALITY LIMESTONE RESOURCE EVALUATION OF THE SAN BERNARDINO MOUNTAINS AND PROPOSED RESOLUTION OF LAND USE CONFLICTS UTILIZING DETAILED OVERLAY MAPS**

BROWN, Howard, Pless-Stauter (California) Inc., P.O. Box 825 Lucerne Valley CA, 92356.

Previous limestone resource evaluations of the San Bernardino Mountains of southern California have had very little value for land use planners, resource agencies or the private sector. This has been due to inadequate knowledge of detailed geology, lack of understanding of industry requirements, existing mining law, and political agendas.

A consortium of several large limestone mining companies with operations in the San Bernardino Mountains have compiled limestone mineral resource data onto U.S.G.S. Quadrangle maps, to provide a realistic and reliable data base for land use planning, based on detailed geologic mapping and intimate knowledge of industry requirements. This high quality mineral data base, along with overlays showing locations of "limestone endemic plant species", can be used to resolve numerous potential land use conflicts in the area.

The overlays demonstrate convincingly that limestone mining during the next 75 years will disturb less than 4% of the total 33,000 acres of carbonate rock, and less than 0.1% of the land surface of the San Bernardino Mountains. In addition the overlays show that as many as 40% of the known "limestone endemic" plants do not grow on limestone, and that less than 6% of the total "limestone endemic" plants will ever be impacted by limestone mining.

The data overlays demonstrate that the plant species are not threatened or endangered and will allow planning utilizing this data will allow existing and future limestone mining activities, and will allow land management agencies biological resource protection goals to be met, while not requiring federal listing of plants, nor restricting future limestone mining of legitimate proven limestone mineral resources upon which our economy, society, and lifestyle depend so heavily.

41

**The Geological Society of America**

with  
Society of Vertebrate Paleontology  
Paleontological Society  
National Association of Geology Teachers  
and  
California Earth Science Academy

90th Annual  
**Cordilleran Section**

**March 21-23, 1994**  
San Bernardino Hilton  
San Bernardino, California

*"Dedicated to protecting our lands for the people, not from the people."*

**H**

Volume 24, Number 2 • February 1994



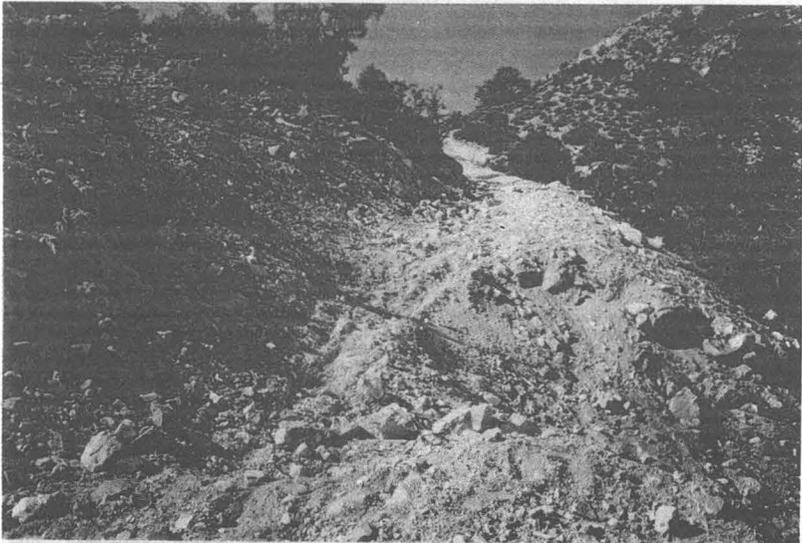
HISTORIC HORSE THIEF FLATS CABIN 8/91



USFS/USMC BLASTED HISTORIC CABIN 9-14-91



USFS BLOCKED ACCESS ROAD (1993) ESA LISTED WEEDS PLANTED

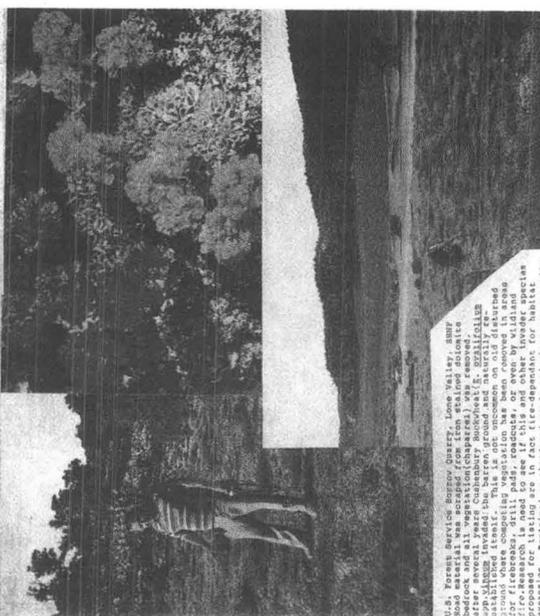


USFS/USMC BLASTED ROAD 3N03A 9-14-91

From Wenz, Phillip 1989.  
 Another member of the Buckwheat Family and one of the more rare kinds of Wild Buckwheat is *Eriogonum ovalifolium* ssp. *cinereum*, plate 10, a dense, almost matted, white-woolly perennial with leaves scarcely one-half inch long and with flowering stems a few inches high. The mostly pinkish or rose flowers are about one-fourth inch long. It is found in dry, usually rocky places at 5,000 to 11,600 feet, in the San Bernardino Mountains and from the Sierra Nevada to Siskiyou County, then to Oregon and Nevada.



PLATE 10. Wild Buckwheat - photos by Linda Bergman, Big Bear 06/24/93 - 9/27/93



U.S. Forest Service's borrow Quarry, Lone Valley, 8800'. Some material was scraped from stone-stained dolomite after several years' abandonment. *ESALICOLLIS* established there. This is not uncommon on old disturbed sites. *ESALICOLLIS* establishment was common on old, stone fire-burned sites. Research is needed to see if this and other invasive species are the cause of the decline in *ESALICOLLIS* recruitment. Recruitment of abandoned roads and mines may actually



FIFE/RIGHT STAR QUARRY-POISONOUS ESA LISTED LOCOWEED

National Association of Mining Districts

Testimony of:

Robert A. Sanregret, A.B., M.B.A., J.D.  
Executive Director of  
The NATIONAL ASSOCIATION OF MINING DISTRICTS (NAMD)

on

The Decline of Mineral Exploration and Development  
in the United States

Heard Before:

THE UNITED STATES HOUSE OF REPRESENTATIVES  
Committee on Resources  
The Honorable Don Young, Chairman

at

1324 Longworth House Office Building  
Washington, D.C. 20515  
June 18, 1996  
2:00 P.M.

Mr. Chairman and Members of the Committee:

Thank you for allowing me as an active mining developer, and as the Executive Director of the National Association of Mining Districts ("NAMD"), to present testimony on the decline of mineral exploration and development in the United States, with some specific examples.

## I. INTRODUCTION.

The National Association of Mining Districts ("NAMM") is an association of Mining Districts as authorized under the enabling clause of the U.S. Mining Law (30 U.S.C., Sections 21 et seq.), as follows:

"Mining District Regulation by Miners: . . . The miners of each district may make regulations not in conflict with the laws of the U.S., or with the laws of the state or territory in which the district is situated, governing the location, the manner of recording, amount of work necessary to hold possession of a mining claim. . . [markings on the ground, records, information needed on location notices], etc." 30 U.S.C., section 28.

Overregulation and regulatory abuse is killing the mineral exploration and development industry in the United States -- as witness the recent reported facts of the precipitous decline of U.S. mineral exploration and development. It is significant that most major mines and most major mineral deposits in the United States have been discovered by independent individual mineral prospectors under the U.S. Mining Law.

II. OVERVIEW -- THE DECLINE OF THE UNITED STATES FROM FIRST IN THE WORLD TO FIFTH, IN MINERAL EXPLORATION AND DEVELOPMENT.

In just the last five years the United States has dropped from first in the world to fifth, in mineral exploration and development (in both actual dollars spent and percentages). This startling fact has been recently discussed in some detail in the following: (a) the U.S. Geological Survey 1995 Annual Review; (b) the Gold Institute "Exploration Survey"; and (c) the S.M.E. Mining Engineering, May 1996 "Mining and Exploration Overview." The effects of and reasons for this precipitous decline of U.S. exploration and development must be reviewed and examined.

For over 100 years, the U.S. Mining Law had operated to efficiently locate, identify and develop minerals on public lands, and was aptly referred to as "the world's premiere remaining example of an incentive-based free enterprise system at work." The United States needs mineral exploration and development under the Mining Law today more than ever before. The former Soviet Union lost the "Cold War" largely because we were more productive, particularly including our efficient mineral

exploration and development under our Mining Law.

The U.S. remains strong today, despite the fact that Russia, Mexico and China have many times the mineral reserves and mineral potential of the United States. However, these foreign powers are slowly but surely figuring out the free enterprise system and our incentive-based Mining Law; and when they do, they will be in a position to "bury us" economically, as they have been unable to do militarily. This will happen, unless we keep our own mineral exploration and development industry alive and well under the present Mining Law. The efficient development of minerals under the U.S. Mining Law is the primary reason that the United States has remained economically and militarily strong from the days before the Civil War, through both World Wars, to the present. The United States would be a third-rate power today if it were not for the effective mineral exploration and development under our incentive-based U.S. Mining Law.

Today the United States, and most of the world, are subservient to Russia, China, South Africa and other unstable countries for virtually all of our chromium, manganese, graphite, rhodium, platinum and other essential minerals. It is a distinct possibility, if not a probability, that the United States will be subject to political and financial extortion by unfriendly foreign mineral cartels, which would be much more damaging to our productivity and to our national security than were the envisioned oil crises of the 1970's and of 1991.

### III. SPECIFIC EXAMPLES OF OVERREGULATION AND REGULATORY ABUSE.

Since 1990 the number of mining claims in the Western United States has dropped from more than 1.2-million to less than 300,000 today. The primary reasons for this loss of over 75% of our U.S. mining claims are the increased federal restrictions and overregulation (particularly including the aggressive use of the Endangered Species Act and "Potential Habitat"), increased taxes and fees, and the hostility and anti-mining policies of most of the federal government agencies. Following are some specific examples of these "anti-mining" federal policies:

(a) August 1991 "Rental/Maintenance Fees." On August 31, 1993, the "sudden" imposition of a "rental fee" of \$200 per mining claim, plus an

annual "maintenance fee" of \$100 per mining claim, was effected by Congress through the Interior Appropriation Bills. These burdensome fees were a major reason for the abandonment of 75 to 80% of U.S. mining claims (approximately 900,000 claims) in 1993.

(b) The 1992 "Beach Chair Tortoise Observer." In 1991-92 a mineral exploration company, on behalf of a major mining company, commenced an exploration program on a particular 1,000-acre potential mining project in the Mesquite Mining District in Imperial County, California (east of the Mesquite Mine), with the first step being a planned drilling program of 15 test holes.

The environmentalists, alerted by the B.L.M., objected to the drilling program; and the BLM then attached a condition to the approval of the proposed drilling program where the exploration company was required to pay an environmentalist "observer" \$50-per-hour, 10 hours-per-day to "observe" and "watch out for desert tortoises." This "Beach Chair Tortoise Observer" during the 2-week test drilling period literally sat in a beach chair for 10 hours daily, at \$50/hour, and watched the \$10/hour drillers working in the 100-degree desert sun. I personally have been working in mineral exploration and development in this area for over 20 years, and on only one occasion during this 20 years did I see a desert tortoise. This unanticipated budget expense reduced the test drilling program to only 10 drill holes. On the company's next round of test drillings, additional "tortoise safeguards" were added -- and the exploration company "gave up," abandoned the project, and is now at work in Australia.

(c) Prosecution on a "Contingent Fee." During 1990-1991 the Morning Star Mine in the East Mojave Desert in California was operating successfully, with over 75 workers employed at the mine and by subcontractors, and paying substantial taxes to San Bernardino County and to the State of California. In 1991 some temporary business problems at the mine were compounded by a protracted thunderstorm, winds and flash-flooding -- all of which temporarily shut down the mine. Immediately following the large storm, a contingent of about 25 agents from 15 state and federal agencies descended on the mine and proceeded to write up an array of "violations" of various laws, regulations and policies. The usual policy was to allow the mine operator a chance to cure the alleged violations, particularly since the mine was located in a remote harsh desert location which had just suffered a big thunderstorm.

The California State "Fish and Game Department" chose not to make a criminal complaint on the alleged violations, which would be the normal route for a criminal prosecution. However, a group of several individual agents chose to visit the County Prosecutor "as individuals," and to lay out the array of alleged violations of laws and regulations -- and to request prosecution by the County District Attorney.

The Prosecutor handling these individuals' complaints was the head of the District Attorney's "Crimes-Against-the-Land" Division of the County Prosecutor's Office, which was partially funded by a percentage of the fines received from convictions for "crimes against the land" -- effectively placing this Division of the County Prosecutor on a contingent fee basis, since they received a percentage of the fines collected from their own prosecutions. The trial resulted in convictions and fines; and the mining company has since moved its primary operations and employees out of California to Mexico.

(d) Destruction of the Eagle Mountain Iron Mine and the Fontana Steel Mill. One of the first ousters from the U.S. of a major mining and processing operation took place in 1983 in California. When the Eagle Mountain Iron Mine and the Fontana Steel Mill (in Riverside County, California) closed in 1983 due to environmental pressures and Kaiser's economic problems, the Japanese stopped dumping steel in the U.S. and raised their steel prices substantially. Most West Coast steel today was purchased from Japan, and Japan purchased much of its iron ore from Brazil. The tragedy of the Eagle Mountain Iron Mine closure is that hundreds of millions of tons of usable iron ore are today lying fallow and readily available in the U.S., while we buy Japanese steel at higher prices. Brazil has cheap labor and minimal environmental controls; millions of tons are shipped from Brazil to Japan, and from Japan to the U.S., in diesel-powered freighters; and the world environment is more polluted. Kaiser created an estimated \$1-billion annually in total iron, steel and related economic activity before Eagle Mountain and Fontana were forced to close down. The 1983 Kaiser closure destroyed and "exported" an estimated 20,000 jobs and \$1-billion of genuinely productive economic activity. Efforts to reopen the Eagle Mountain Iron Mine have been unsuccessful because of the unrelenting pressure from the radical environmentalists who continue to aggressively fight any development or mining anywhere in the United States.

(E) Rhodium. The price of rhodium is extremely volatile, ranging from \$500 to about \$5,000/ounce, dropping back today due to the current protracted recession, with industry predictions of much higher rhodium prices in the future. Rhodium is a platinum-group metal used in catalytic converters, and is imported primarily from South Africa. Rhodium is known to exist in small quantities on U.S. public lands; but exploration for rhodium in the United States has effectively stopped.

(F) Talc. We are now overpaying for Chinese talc. In 1987 a large U.S. talc mine was closed because of environmental pressures, the equipment was loaded into containers and shipped to Mainland China; and today we are no longer exporting talc, but are now importing talc which was mined and processed in China with cheap or reportedly virtual slave labor, and with no environmental controls--all to the detriment of our trade balance, local jobs and our standard of living.

(G) Fiberglass. Currently we are overpaying for Turkish colemanite, a major component of fiberglass. Colemanite was mined in the U.S. until several years ago when the mine closed; and our major supplier is now Turkey. Hopes of reopening and developing the U.S. colemanite mines, or of discovering new sources in the U.S. has virtually disappeared.

(H) Mercury. We are overpaying for mercury. By means of a false environmental scare, the major U.S. mercury mine at New Idria, California, was closed, dismantled, and the homes and jobs of several hundred workers were literally destroyed. After the demolition of the houses and closing of the operation, it was learned that there was no "environmental hazard" at all, because the gravel and tailings upon which the town had been built were completely safe and free from mercury and other hazards, and the readings on mercury were less than even the stringent "safe" and "normal" background standards.

(I) Wollastonite. Wollastonite is a non-metallic mineral which plays a critical role in energy conservation by utilization in high-temperature ceramics, paints and plastics. Wollastonite is increasingly important in the development of energy-saving automobiles and other products. The major producer of wollastonite is Finland. Today, the world's largest known wollastonite deposit lies undeveloped on our public land, which has recently been added to the Death Valley National Park. The development of this prospective world-class U.S. wollastonite mine would be curtailed or stopped under current U.S. mining restrictions.

If more U.S. mines are restricted or closed, the present U.S. mineral production would have to come from elsewhere -- colemanite and boron from Turkey, talc and rare earths from China, and steel from Japan made from iron ore shipped from Brazil. Our strict U.S. environmental controls do not exist in Brazil, Turkey or China. by "exporting" U.S. mining overseas, the result would be a decreased U.S. gross national product, a decreased U.S. standard of living, an increased U.S. trade deficit, and increased world pollution. The "revenue" raised by S.257 would be minimal, compared to its tremendous costs. The U.S. public is "losing," the U.S. mineral exploration and development industry is being devastated; the world environment is suffering; and the U.S. will pay more, possibly much more, for the very same minerals which would lie untouched on public lands in the United States.

The danger flag is up; and now is the time for Congress and this Committee to fully investigate and determine the short and long term detrimental effects of the destruction of the incentive-based Mining Law and the de facto nationalization of the U.S. mineral exploration and development industry.

VII. COST TO THE U.S. ECONOMY AND THE U.S  
PUBLIC OF MANY BILLIONS OF DOLLARS.

Please consider the following tremendous costs to the U.S., and to the U.S. citizens, which is resulting from the current federal anti-mining policies:

(1) Increased Prices of Minerals. The cost of many essential minerals and rare earths would rise because of the disappearance of the supplies and identified future sources of these minerals from United States public lands. The U.S. would be subject to the uncertainties of unreliable foreign sources and cartels for many essential, critical and strategic minerals, just as we were in the oil "shortage" of the 1970's, and in other envisioned oil "crises." We are already paying excessive prices for foreign steel, chromite, mercury and talcum powder.

(2) Fifth Amendment "Takings." Billions of dollars of eminent domain awards would be due to the present owners of mining claims and businesses destroyed or impaired because of hostile policies and regulations. The U.S. government would be liable for these inverse condemnation takings

under the Fifth Amendment, as reaffirmed in recent U.S. Supreme Court decisions. Such takings, and specifically including "regulatory takings," are compensable, as set out in Executive Order 12630 of March 15, 1988. For example, in 1980 a federal lease which had been restricted by wilderness regulations was held to be a mere "shell" lease, and a compensable taking. Existing mining claims and businesses which are subjected to new impairing restrictions and "policies" would also be "takings" of property requiring compensation under the Fifth Amendment.

(3) Non-Compensable Losses and Homelessness. Thousands of U.S. jobs have already been lost and persons made homeless by unwise and unthinking legislation and regulations, and many more would result from hostile regulations, "policies" and laws which would follow. Particularly hard hit would be independent family mining businesses, private exploration and mining development companies, related service and support businesses, equipment sales and service -- and, of course, the thousands of future prospective mineral exploration and development businesses and individuals. Most of these private future losses of businesses, income and property would be non-compensable under the Fifth Amendment.

(4) Dependence Upon Unreliable Foreign Sources for Minerals. The most serious "cost" of the current federal anti-mining policies, and the most serious effect of the devastation of the U.S. mineral exploration and development industry, would be the increased dependence of the United States upon foreign sources for essential minerals and rare earths which are indispensable to maintaining our dominant position in the critical areas of military hardware, space technology, nuclear fusion and superconductivity. We will be unable to keep our "edge" if a foreign nation or cartel chose to not set us their particular essential minerals. No dollar value can be placed upon the U.S. retaining its position as the world leader in high technology research, security and national defense. The list of affected minerals is long and varied, including: Iron ore, rare earths, rhodium, palladium, other platinum group metals, precious metals, talc, titanium, chromium etc.

#### VIII. CONCLUSION

The present U.S. incentive-based mineral exploration and development system works efficiently under the present U.S. Mining Law (including the "1872 General Mining Act," and the hundreds of amendments, regulations and

court decisions). This efficiently-operating mineral exploration system locates, identifies and "inventories" U.S. mineral deposits and reserves for future use, at no cost to the public. Thousands of individuals and mineral exploration companies have been devastated by the excessive and abusive regulations, restrictions and fees under the current federal government anti-mining policies and will have a detrimental effect on the U.S. trade balance and the gross domestic product by the continuing "exporting" of thousands of jobs and businesses, and by necessitating increased importing of essential minerals.

Today, when the citizens of many nations are liberating themselves from years of excessive and inefficient nationalization and government regulations, the U.S. Congress should encourage and expand the efficiently operating incentive system of mineral exploration, identification and development which has worked well. The U.S. mining industry is already one of the most environmentally-regulated in the world. Federal overregulation and anti-mining policies have already seriously hurt the U.S. mineral exploration and development industry, with no substantial "revenue" or commensurate benefit to the United States.

This Committee, and Congress, should fully examine whether or not the incentive-based U.S. Mining Law should be expanded, not destroyed.

We will be happy to provide this Committee, or individual members, with substantial additional information and data on the facts and statements set out in this testimony, most of which are readily available in industry and public records.

Thank you for allowing me, and the National Association of Mining Districts (NAMD), to present this testimony.

ROBERT A. SANREGRET, Executive Director  
 NATIONAL ASSOCIATION OF MINING DISTRICTS ("NAMD")  
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## GEOLOGY AND MINERAL WEALTH OF THE CALIFORNIA TRANSVERSE RANGES

*Edited by*

Donald L. Fife and John A. Minch

### Observations on the status and state-of-the-art of economic geology in the California Transverse Ranges.

The purpose of this volume is to document and disseminate some of the new information on geology and mineral resources of the Transverse Ranges. These Ranges are one of the principal geomorphic provinces of California. They extend from Point Arguello and San Miguel Island along the Pacific Coast eastward some 300 miles to the Eagle and Chuckawalla Mountains just west of the Colorado River. They range up to 50 or more miles wide and cover an area roughly equivalent in size to Massachusetts and New Jersey combined. The Transverse Ranges Province consist of a series of long, narrow east-trending mountain ranges and valleys that are transverse to the northwest-trending Coast Ranges on the north and Peninsular Ranges on the south. Tectonic features are generally related to east-trending fault zones, however, the northwest-trending San Andreas fault makes "a great bend" as it passes through the province. The region is tectonically active and has probably been distinguishable as a separate province since the late Mesozoic or early Cenozoic, although not in its present configuration. Rock units from nearly all major eras and periods are represented, beginning with Precambrian rocks over two billion years old.

The last comprehensive work on geology of the region was in the *Geology of Southern California* Bulletin 170 of the California Division of Mines and Geology edited by Richard Jahns in 1954. The last documentation of individual mineral resources or commodities in the region are usually found in *The California Journal of Mines and Geology* dating from the 1940's or 1950's. The last comprehensive state-wide summary of mined resources was in *Mineral Commodities of California* Bulletin 176 of the California Division of Mines and Geology edited by Lauren Wright in 1957. Since 1960, very little in-depth regional research has been undertaken by government or academia with economic geology as a major objective. One possible exception has been the recent regional studies and classification of aggregate resources by the California Division of Mines and Geology brought on by a resource crisis created when planners and government leaders did not have factual up-to-date information available on which to base sound land use decisions.

During the past 30 years, there has been a revolution in exploration geology and mineral economics; while every text book on the subject has been thoroughly revised several times. However, geology and mineral resources of the Transverse Ranges have been largely neglected in the literature.

During this same period, the population of California has doubled and now represents the single largest industrial and agricultural market in North America. If the gross regional product of California were ranked with the gross national products of nations, it would rank with the top ten nations in the world.

Mineral exploration is the R & D of mineral industry. Regional economic geology and mineral commodity studies are the foundation of mineral exploration. The lead time to open a new mine now in California commonly exceeds 20 years or more. Basic state-of-the-art regional geologic and specific mineral commodity studies are necessary to keep California and the United States competitive with the rest of the world and to maintain our standard of living. Composing only 5% of the world's population, Americans consume about 20% of the world's production of non-fuel minerals. Each Californian requires on the order of 40,000 pounds of new mineral commodities each year just to maintain his or her standard of living.

California is now one of the most important mineral and hydrocarbon producing states. However, we also import mineral commodities to supplement our growing economy from all over North America and the rest of the world. Many of these imported commodities are known to exist here and many if not most could be found and developed under proper political and economic incentives. Of particular importance are the bulky nonmetallic low unit price commodities for which the freight cost to California may exceed the purchase price elsewhere. Examples are mineral filler extenders and phosphate rock. As the largest agricultural state in the United States, we are the largest consumer of phosphate and import 100% of our supply, yet we have done almost nothing to promote exploration and development of known local phosphate occurrences and deposits that could potentially save millions of barrels of petroleum (a strategic commodity) which is used to process and import phosphate from other regions. Mineral filler extenders, such as limestone, mica, silica and talc, used as filler to replace petroleum in expensive petroleum-based plastics, paints, and rubber are commonly purchased east of the Mississippi River for less than the cost of the rail transportation to California.

The Transverse Ranges are host to several giant petroleum fields and major deposits of diatomite, iron, kaolin, high-calcium limestone, titanium, and tungsten. Significant known deposits or occurrences of alumina, barite, borate, cerium, chromium cobalt, columbium, feldspar, gold, mica, molybdenum, phosphate, silica, silver, tin, uranium, vanadium, yttrium, ytterbium and many other elements or minerals strongly suggest society needs to consider the Transverse Ranges as an important repository and future source of these and other mineral commodities.

The Transverse Ranges are found in Santa Barbara, Ventura, Kern, Los Angeles, San Bernardino, and Riverside Counties. Approximately 90% of the nonurban areas of remote continental shelf and/or mountain terrane is federal or state lands, and under the management of the Forest Service, Bureau of Land Manage-

ment, Park Service, Department of Defense, and State Lands Commission. Nearly 50% of California is federally owned, and contrary to popular belief, federal ownership of the state has been increased by more than 2 million acres during the past few years.

Because of their federal ownership these lands are not generally threatened by urban or other development. Like most of the remaining western public lands, there is a misconception promoted by an influential but obscure vocal minority that all public lands must be "preserved" or "saved" from multiple use by designating them for the consumptive land use (non-use) known as "wilderness"; a status which exceeds the strictest status of a National Park or National Monument, and, of course, total removal from the industrial-energy-mineral base of the United States. Since 1964, the nation has reduced its industrial-energy-mineral base through actual or de facto wilderness withdrawals (resource freezes) of an area nearly twice the size of the State of California. And, this at a time when the Soviet Union is expanding their industrial energy-mineral base into the vast expanse of the Asian Continent. The Soviet Union has almost a 3 to 1 advantage in energy-mineral land base over the United States. Each new wilderness or resource freeze has the effect of increasing the Soviet advantage in exploration area and exporting present and future jobs overseas. Many of these jobs are created in Soviet block countries.

This volume contains a sampling of reconnaissance mineral resource studies for proposed wilderness areas (Wilderness Study Areas-WSA's) taken from open-file or unpublished files of the U.S. Geological Survey, U.S. Bureau of Mines, and U.S. Bureau of Land Management. Most of these add to our knowledge of these areas, but the professionals were given the impossible task to "inventory" the WSA's with only cursory geochemical, geophysical, and geological reconnaissance studies. Commonly, few if any excavations, drill holes, cores, or detailed geophysical or geochemical surveys were available. The regional economic mineral data base for large areas are generally inadequate for rigorous statistical treatment; "low mineral potential" really means "unknown mineral potential" in a substantial percentage of the WSA's.

The authors generally are experts in their specialties and their professionalism is widely respected. However, the task of "inventorying" the mineral potential of such large geologically complex areas for possibly unique mineral occurrences is impossible. Normally only previously identified resources are documented in such reports. This is especially so when "only deposits that are economic at the time of the examination" will be considered in the mineral potential of the area. The size of the potentially economic targets could be as small as a few tens of feet in length or diameter. For example in the Oriental Mine in Alleghany, California, one ore-shoot which measured 22' x 14' x 6' produced an astounding 35,600 ounces of gold worth more than \$14,000,000 at today's prices! It is extremely doubtful that a reconnaissance mineral study into a virgin territory could identify such an ore-shoot. Yet, more than 1,000,000 ounces (\$400 million 1982 dollars worth) of gold has been mined from narrow, irregular and highly erratic ore-shoots in the immediate vicinity along part of a Jurassic plate-boundary now known as the Melones fault zone.

Ruff and Unruh in the South Coast Geological Society's 1980 Geology and Mineral Wealth of the California Desert volume describe \$600,000 worth of specimens mined and shipped to Europe from the Copper World Mine, in San Bernardino County.

This mine lay abandon for sixty years and it is doubtful that this resource would have been identified in a typical mineral inventory.

Another virtually impossible-to-"inventory" mineral resource was found by a non-metallic mineral producer who discovered a dolomitic marl from a common-looking lacustrine deposit increased fuel efficiency in the kiln feed by 5%. With a fuel bill of \$2,000,000 per month that adds up to a \$1,200,000 savings the first year.

A common conclusion of many of these reconnaissance wilderness mineral reports is that 1) because the area has been "prospected for more than 100 years" and no mines exist, and/or 2) the old mines are abandoned and "worked out" that no mineral potential presently exists. Obviously, these are not scientifically valid reasons for assuming low or no mineral potential exists. All of the above have been said of the San Gabriel anorthosite complex and Mt. San Antonio areas of the central Transverse Ranges, yet this volume documents some of the most significant mineral occurrences or deposits in the state are found there. For example, the Curtis Tungsten Mine in Cattle Canyon was walked over and worked for placer gold by hundreds of prospectors and miners for more than a hundred years. Several years ago a small miner named Andrew Curtis discovered in an old auriferous channel what is now reported to be a world class scheelite deposit with potential to supply a significant portion of the United States demand for tungsten. It should be pointed out that this deposit is currently being recommended to Congress for inclusion in the Sheep Mountain Wilderness Area!

Another case is the Rare Earth deposit at Mountain Pass, California, where 60% of the Western World's rare-earth reserves were discovered by three uranium prospectors, Herb Woodward, Jim Watkins, and "Pop" Simon, in 1949 in a belt several thousand feet wide and several miles long, and perhaps 3,000 feet deep. The Sulfide Queen Gold Mine operated for years almost on top of the rare earth ore-body. Hundreds of prospectors and dozens of geologists had walked over it, while millions of motorists drove over it on their way to California. There was suddenly so much rare earth materials, as well as no known way to process it, that the deposit would not be considered economic, and, therefore, not a valid discovery under today's mining laws and excessively strict rules of marketability. As in practically every mineral discovery, it took considerable capital to make the deposit economic. In 1980, Warren Warhol in the South Coast Geological Society's Geology and mineral Wealth of the California Desert notes "...that many of the uses of the rare earths were developed only after their commercial availability was demonstrated ... on a scale which was only made possible by the Mountain Pass orebody. The research and development efforts that followed created ... the economic value of the orebody. It is easy to overlook the significance of this order of events; that is, the discovery value and its contributions to the technologies of chemistry, metallurgy, glass, electronics, and petroleum refining. The lesson to be learned is plain: if this area had been closed to mineral entry in the past, not only would the benefits from this resource have been postponed, but its value would still not be established."

The vast majority of deposits cannot normally be identified by simply walking over them and sampling the surface. Detailed geologic mapping on scales at least two orders lower than 1:24,000 are generally needed to identify and delineate potential economic targets. Expensive core-drilling, subsurface excavations

and economic studies are frequently needed to prove a discovery. Producing mines or economic mineral deposits are rarely just "found" or "discovered".

Regional geophysical studies can be important, but their limitations are frequently not recognized in identifying mineral potential in wilderness study area. For example, Robert L. Wilson, Chief Geologist for Kaiser Steel, was surprised to find that the spacing on government aeromagnetic maps of the Eagle Mountains were so widely spaced that the contour of magnetic data failed to show a magnetic anomaly over their Eagle Mountain Iron Mine with reserves exceeding 300 million tons of predominantly magnetite! This mine is 6 miles long and a mile wide, and is reported to be the fourth largest open pit mine in the United States, and the largest iron mine west of the Mississippi River!

New mining operations usually come into being from a necessity to meet or fill a need of society to maintain or advance the standard of living. In other words, an existing or potential market must normally be identified. A prominent exception, above, was the discovery of the Mountain Pass rare-earth bearing carbonate which contains most of the western world's rare-earth reserves. The discovery suddenly produced a quantum leap in available rare-earth elements which justified the risk of millions of dollars for research. This single discovery has made the United States the predominate world producer of rare-earths, such as europium, which activates crystals of yttrium to produce red color in television picture tubes; and samarium, which when alloyed with cobalt, produces a magnet so powerful that used in the conventional electric motor it increases efficiency by more than 25%. With the coming light-weight plastic battery, samarium may be a significant factor in development of the pollution-free electric automobile!

It can be inferred from the Andrew Curtis Tungsten and Mountain Pass deposits, as well as from hundreds of other deposits, the small-miner/pro prospector/geologist/explorationist is not obsolete in the exploration process. In view of the lack of federal, state, and academic mineral resource studies and support during the last few decades, many of the recent discoveries would not have been made without the small miner or independent explorationist. However, this should not be too surprising since the history of the west is in large part a history of discoveries by the small miner/pro prospector. Large resource companies identify the majority of their exploration targets either directly from the small explorationist or from evidence of their previous efforts. Most successful major and many small mining operations were reviewed by literally dozens of companies over a period of years before someone made the commitment in dollars and cents to risk making the "mineral discovery" an operating mine.

The exploration capital needed to evaluate even the small mineral deposits as economic commonly exceeds a million dollars, and for larger, single deposits, may exceed tens of millions of dollars. Most small explorationists must bring their prospect to a large mining company and convince them their "discovery" merits capital outlay for more exploration and development.

The mining engineers and geologists who have been assigned the task of making mineral "inventories" or "assessment" of vast areas proposed for wilderness in the Transverse Ranges and other regions of public lands, have actually been the victims of a myth we geologists have perpetuated. Mason Hill in his response upon receiving the 1981 American Association of Petroleum Geologists' Sidney Powers Award, correctly identified a major intellectual flaw in the concept of the mineral "inventory":

*Actually, geologists are partly to blame because we have been persuaded to tell the decision-makers how much oil is left to be found. They have flattered us by saying, 'Only you geologists can know.' Consequently, many of us have tried, rather than to admit that quantifying estimates of undiscovered oil is impossible.*

*Perhaps the outstanding example of this effort to please our bosses comes from figures provided by the U.S. Geological Survey in 1975. I claim that all such estimates are meaningless, and only accidentally could they lead to good economic and political decisions. I do not fault their methodology, including expressing the amounts of oil at 5 and 95% confidence levels. What I do fault is the underlying assumption that undiscovered oil can be quantified. We know, and the public needs to know, that each occurrence of oil is unique. Only by drilling reasonable prospects, usually based on optimistic geologic interpretations, can oil be found and barrels counted. Estimating amounts of undiscovered oil in any potentially favorable area before drilling is patently impossible. Adding up estimates of undiscovered oil in all such areas only compounds the fallacy of the basic assumption—that geologists can know about how much oil remains to be discovered.*

*Although estimates of undiscovered oil 'manufactured' by other agencies, institutions, and even by the oil industry itself now generally agree with the Survey's figures (or vice versa), any quantitative estimates of the unknowable can only serve to mislead the decision-makers. What the industry (and society) really needs is more geologic and geophysical work, more exploratory wells, more financial capacity, and more governmental and public support - not obstructive tactics—to find new oil. If the current pessimism (or optimism for solar energy) persists, we are likely to leave great quantities of a relatively cheap, clean, and efficient source of energy in the ground. This we cannot afford."*

If this is true for petroleum, then the complexity of identifying —"inventorying"—unique one-of-a-kind metallic or nonmetallic deposits is infinitely more difficult. Mineral assessment does not only deal with evaluating geologic and mineralogic factors in the field, but to be valid must assess all future raw material demands for manufacturing, military, and agricultural needs. Thus, the task of identifying or inventorying mineral reserves or even potential resources over a large area is so complex, diverse, and dynamic, reason dictates that as much land as possible should be perpetually left open in the United States to mineral exploration. Exploration is not incompatible with other multiple uses, including wilderness, because vast regions are needed to search for geologic anomalies that are the potential economic mineral deposits. Once a deposit is identified, only a tiny fraction of the exploration area is needed to extract the resource. At Mountain Pass, most of the western world's rare earths come from an area of less than 50 acres, yet this is the only known deposit of its kind in all of continental North America. Rational exploration would suggest that as much land as possible be left open as many mineral deposits have been found by accident, not by any systematic search; or while looking for some other resource.

For example, the world's largest borate (borax) deposit near Boron, California, documented by Sieffe in the South Coast Geological Society's 1980 Geology and Mineral Wealth of the California Desert, was found accidentally by a physician, John Suckow, while drilling for water. This deposit has for the past fifty years made the United States the predominate producer of borates in the world.

Conservation is defined as the wise use of a resource. Preservation is only one aspect of conservation. We should not attempt to make all of the public lands a wilderness park, this concept is

gradually endangering the concept of preservation of truly unique areas like Yosemite, the Grand Canyon, Yellowstone, and other true national treasures. These should obviously be preserved, however, the cost of locking up 75% of the western public lands we can ill afford. Because so much of our national wealth is now being locked up in wilderness parks, when society discovers the true impact and cost, all wilderness will tend to lose credence.

Many uninformed conservationists have suggested we "bank" the nations mineral resources in wilderness areas without any idea of the cost to American society. In 1978, Anders, Gramm and Maurice at the International Institute of Economic Research at the University of California, Los Angeles published the results of their study entitled "Does Resource Conservation Pay?" It contains some very sobering answers to the cost of "banking mineral resources" in the public domain, such as wilderness parks.

Conservation was considered a comparative compound interest problem. "If use of a resource is delayed, the price of the resource may rise during the period of withholding. Alternatively, the resource could be extracted and sold and the net proceeds could be invested. If the rate of appreciation is greater than the rate of return, conservation is rational. . . ." However, "at any time during the twentieth century, enforced long term conservation (withholding) of mineral resources would have been a poor economic decision" for both the generation which made the decision and those which later used the resource. "Imminent exhaustion of a resource has historically not been a valid justification for enforced conservation, either by stockpiling or by leaving the resource in the ground."

The above authors concluded, after studying the historical prices of 14 depletable resources including aluminum, petroleum, and precious metals, that none would be more valuable if produced today than their value produced each year and the profit reinvested at the prevailing rates. To stockpile one barrel of crude petroleum in 1900 would have required a 1975 price of \$12,900 per barrel to break-even. The average break-even price for the 14 depletable resources stockpiled in 1900 exceeded the 1975 market price by 929,000 percent!

The unmistakable conclusion, given the tens of millions of acres now withdrawn or being proposed for exclusion from energy and mineral exploration in the consumptive land use known as wilderness, will cost American society not millions or billions, but trillions of dollars in lost economic opportunity over the next few generations. This economic loss will effect not only our future standard of living and quality of life, but will fall hardest on those at the lower end of the economic spectrum. Perhaps the greatest effect will be on the security of United States itself.

In a 1940 speech at Berkeley, California, Olaf P. Jenkins, then Chief Geologist of the California Division of Mines, recognized a critical concept which was soon to be tested by the impending second World War:

*No nation on earth possesses all the various minerals needed. In time of peace, to overcome this deficiency, the necessary deficient minerals are imported. In time of war, however, restriction of importation may be so serious to certain industries of a nation as to cripple that nation both from a military standpoint and from a standpoint of internal development.*

*Present day national defense should not and does not consider military defense alone, but it is studying with great care that possibility (which may turn out to be much the more serious) of economic warfare, should the balance of power become so unbalanced as to leave one power to dominate the earth. This could*

*come about should one power possess all the various minerals needed in all its industries.*

*It behooves us all, therefore, who are in this work of studying minerals, their origin, development, and their significance to the growth and existence of a nation, to look towards the strategic problems of national defense as in large part the problems of the mineral industry.*

These concepts are just as true today as they were in 1940, and they will certainly be true for the foreseeable future. However, the Soviet Union, with one-sixth of the world's surface area and the largest energy and mineral resource base of any nation, is precariously close to possessing all of the various minerals needed to become independent of other nations.

As the Soviet Union with its nearly three-fold advantage in land to find energy and mineral resources expands into the vast expanse of Asia, it will likely reach total self-sufficiency in strategic energy and mineral resources. Once this has been achieved, it will not need to conquer territory, but will only need to politically destabilize sources of raw materials vital to the West to inflict grave economic damage. Fred Warshofsky updates Jenkins 1940 statement in his 1981 Reader's Digest article *Strategic Minerals: The Invisible War*:

*"While most Americans are worrying about the energy crisis, an even more serious resource crunch could bring the U.S. economy to its knees. Of the 36 non-fuel minerals essential to the United States as an industrial society, we are crucially dependent upon foreign sources for 22 of them. In 1980, we were obliged to import 91% of our chromium, 88% of our platinum-group metals, 93% of our cobalt, and 97% of our tantalum and manganese. By contrast, we were only 42% dependent on imported oil.*

*Chromium, for example, is widely used in oil refining, petrochemicals, conventional and nuclear power plants, tanker trucks, gas turbines, industrial machinery and in all stainless steel. In some applications, demanding high strength and high-temperature corrosion resistance, there is no substitute for chromium. Yet our major sources of supply are South Africa and the Soviet Union.*

*Cobalt, essential to jet engines, nuclear-propulsion systems, high-speed cutting tools, synthetic-fuel production and high-grade steels, comes from Zaire and Zambia; manganese, essential to steel-making, is imported primarily from South Africa, Brazil and India; tantalum, used mainly in machinery and electronic components, comes from Thailand, Canada, Malaysia and Brazil; and platinum, used for its properties as a chemical catalyst, comes largely from South Africa and the Soviet Union."*

Even gold has become a strategic commodity. Each commercial or military jet requires a significant fraction. The chrome steel jet engines are welded together with 85% gold-15% nickel alloy which is highly resistant to vibration and metal fatigue. A thin layer of gold is sandwiched in the aircraft windshield so that low voltage current can be trickled through to de-ice the windshield. An ordinary 747 requires about 150 ounces of gold for its construction. Gold is also in great demand for electronic components of space probes and satellites. A recent U.S. Bureau of Mines monthly commodity summary listed about 445,000 ounces of gold bullion imported into the United States. The Soviet Union supplied 40% and the South Africa 38% of our imports for the month reported!

As documented by Clark, Ely, and Ruff and others in this volume, the Transverse Ranges have significant occurrences of gold and a geologic environment favorable for various kinds of deposits, including large low-grade disseminated occurrences like Home-stakes Napa County in northern California or Gold Fields Mesquite deposit at the southeastern end of the Transverse Ranges in Imperial County.

California as a leading energy and mineral producing state has an exceedingly out-dated resource information base on which to make multibillion dollar resource decisions. How can we remedy the vacuum left by the neglect of mineral resources of the last generation?

First we must realize that true conservation means wise use not necessarily preservation. And also that mineral exploration is not necessarily incompatible with wilderness. We must make rational decisions with up to date and factual information. This must be weighed with economic and national security resource needs. We must understand the dynamics of geologic exploration and mineral economics. *A mineral inventory or assessment is only valid when it addresses present and future resource needs of agriculture, manufacturing and national defense. It should be understood that there is a substantial price tag for designating vast wilderness parks.*

A closer working relationship between federal and state government, academic institutions, the mineral industries, and other affected segments of society must be re-established. A first step in this direction would be for government and industry to promote centers of academic excellence in both northern and southern California for mineral technology, mineral economics, and mineral and energy exploration. A generation ago we had several such schools, or departments and these should be revitalized.

In the 1950's, California had a technical and research presence of the U. S. Bureau of Mines within the state. This should be re-established in both northern and southern California, in conjunction with appropriate state resource agencies and the local academic communities. The U.S. Geological Survey should have a stronger field presence in southern California to compliment the Menlo Park office in northern California.

Urban as well as non-urban "loss of energy and mineral resources" should be addressed statewide as the Urban Master Plan, Bulletin 198 of the California Division of Mines and Geology recently (1973) did for aggregate and other resources threatened by urbanization.

The excellent topographic and orthophotographic mapping program of the U.S. Geological Survey should be continued and expanded to give 1:24,000 scale coverage statewide, especially remote potentially mineralized areas. The degree of basic geologic knowledge is usually related to the adequacy of the topographic map available for geologic mapping.

Studies of mining districts should be updated with new economic and geologic models of ore accumulation. These districts should be designated Known Mineral Resource Areas (KMRA's) much like KGRA's were designated for geothermal resources during the 1970's.

Publications such as Mineral Commodities of California and the Legal Guide for Prospectors and other important publications should be updated and published. It is strongly recommended that the State Division of Mines and Geology or other institutions reactivate the California Journal of Mines and Geology or similar vehicle for timely dissemination of economic geologic information.

This volume has been prepared by volunteer efforts somewhat along the editorial guidelines of the discontinued California Journal of Mines and Geology. It is our intent, to stimulate economic and geologic interest by academic institutions, federal and state resource agencies, miners, exploration managers, mineral commodity specialists, planners and legislators in the Transverse Ranges.

Donald L. Fife and John A. Minch—Editors

## PROLOGUE

Mineral inventory or assessment of large areas must consider not only the geology and mineral economics of the region, but to be meaningful to society, must consider all present and future mineral commodity demands for agriculture, manufacturing and national defense. Until such insight is possible, no final mineral inventory or assessment can be made. Long term economic stability and military survival favors the society with the most diverse, accessible, productive, and secure energy and mineral resource base. Therefore, as much area as possible should remain open perpetually to energy and mineral exploration.

Donald L. Fife and John A. Minch,  
Editors 1982

## EPILOGUE

"Appraising mineral resources is an emerging science. A final, once and for all "inventory" of any mineral resource is *nonsense*. Mineral reserves and resources are dynamic quantities and must constantly be appraised. As known deposits are exhausted, unknown deposits are discovered, new extractive technologies and new uses are developed and new geologic knowledge indicates new areas and new environments are favorable for mineral exploration."

From *Mineral Prospectives 1975*,  
U. S. Geological Survey Professional  
Paper 940, by Vincent McKelvey, 1976  
Director, U.S. Geological Survey (1972-1978)



Appalachian Mountain Club

July 1, 1996

The Honorable Don Young  
 Chairman  
 Committee on Resources  
 U.S. House of Representatives  
 Washington, D.C. 20515  
 Attn: Kurt Christensen

Dear Chairman Young:

Thank you for inviting the Appalachian Mountain Club to testify before the Committee on Resources on June 18 in response to the testimony of David W. Guernsey of Kingfield, ME. Our testimony, from our Board President, Samuel F. Pryor III of New York, is enclosed for inclusion in the hearing record.

While we appreciate the invitation to testify, we regret that it was tendered less than 24 hours before the hearing, leaving us with little ability to attend in person. We are especially disturbed that this is the second consecutive year that the committee has invited Mr. Guernsey to testify, and in both appearances he has chosen to attack our organization with inaccurate and grossly misleading statements, without our organization being provided a comparable opportunity to provide our perspective.

We trust the committee is interested in hearing all sides of the issues involved, and hope you will find our testimony helpful in achieving that goal. Should a critic of our organization again be invited to testify before the committee in the future, we respectfully ask that the AMC be afforded the same courtesy.

Thank you. Please do not hesitate to call me at 617-523-0655; ext. 365, if I may be of assistance.

Sincerely,

Kevin T. Knobloch  
 Director of Conservation Programs

Enclosure

cc: Samuel F. Pryor III  
 Andrew S. Falender

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Appalachian Mountain Club

**Testimony Before the House Committee on Resources  
Task Force on Private Property Rights  
July 1, 1996**

**Samuel F. Pryor III  
President  
Appalachian Mountain Club**

On behalf of the Appalachian Mountain Club, I would like to thank the Chairman for the opportunity to respond to the June 18 testimony of David W. Guernsey of Kingfield, Maine.

I must confess that we are astonished that the committee would invite Mr. Guernsey back for a second consecutive year to single out and attack our organization, frequently with inaccurate and grossly misleading statements, without according our organization with a comparable opportunity to speak to the committee. We learned of Mr. Guernsey's invitation to criticize our organization only the day before the hearing, June 17, and only after our staff contacted the majority staff to express our sense of unfair play did we receive an invitation late that day to testify before the committee -- far too late, of course, to prepare testimony and fly to Washington, D.C. for the next day's hearing.

However my purpose here isn't to belabor points of protocol but rather to counter Mr. Guernsey's reckless testimony and hopefully to set the record straight. *We hope the Committee will be curious about the fact that in his extensive testimony Mr. Guernsey failed to find a single redeeming quality about our organization.*

The Appalachian Mountain Club is a 120-year-old, non-profit recreation and conservation organization with 70,000 members throughout the Northeast United States. In the context of this oversight hearing it is critical to state that AMC is a *non-partisan* organization; we have Republicans, Democrats and Independents alike in our 12-state membership. In fact, I am a longtime leader in the Republican Party; my immediate predecessor as AMC President was also an active Republican.

We were founded in 1876, and our earliest activities were in the White Mountains of New Hampshire, where our members built trails and shelters, placed registers on mountaintops, drew panoramas and maps of the region's ranges, and recorded scientific

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observations. Today the AMC provides a wide range of public services to hundreds of thousands of forest visitors annually *at no cost to the taxpayers* and is responsible for bringing millions of dollars into the local economy.

#### **AMC's Partnership With the White Mountain National Forest**

The Appalachian Mountain Club has worked in partnership with the USFS since 1911 (with formal permits since 1939) to provide backcountry management, environmental education, public information and conservation in the White Mountain National Forest (WMNF). The result is that this public-private partnership brings services and programs to the public that taxpayer-funded government programs alone would be unable to provide.

Under permits with the USFS, AMC operates seven full-service backcountry huts (an eighth hut, Lonesome Lake, is in Franconia Notch State Park), Pinkham Notch Visitor Center, Joe Dodge Lodge, the Camp Dodge Volunteer Center and a series of backcountry shelters in the White Mountains. The AMC's huts are open to the public and are staffed with professionals trained to conduct search and rescue operations and provide information on everything from hiking routes, weather and safety to the local ecology and geology. Together with the U.S. Forest Service, we have introduced generations of Americans to the joys of backcountry recreation and discovery of the natural world.

In 1995, for example, AMC's public service contributions in the White Mountains included:

- More than 1,500 middle-school children attended AMC's Mountain Classroom and spent two to four days at Pinkham Notch and the huts studying field sciences and natural history.
- More than 2,000 children became Junior Naturalists through our fun and educational program for children 6 to 12.
- Approximately 500,000 National Forest visitors received trail, safety and other information and services (including hiker shuttle vans, rest rooms, showers and parking) from the AMC's facilities -- at no cost to the taxpayers.
- Some 6,000 visitors attended evening lectures through the year while more than 2,200 participated in workshops ranging in length from half a day to two weeks.
- Volunteers and staff, trained in search and rescue technique, coordinated or assisted in 68 search and rescue missions in the White Mountains.
- Volunteers and staff spent about 27,000 hours building and maintaining 350 miles of trails in the WMNF, including 110 miles of the Appalachian Trail.
- Research on the forest has enhanced scientific understanding of acid rain and visibility-impairing smog, the impact of mountain air pollution on lung function in hikers, helped bring back from the brink rare species of alpine plants, and working with private landowners on sustainable timber harvesting.

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Mr. Guernsey alluded to AMC's lobbying for funding for forest needs. Because we work to encourage responsible stewardship of the WMNF, we do advocate, fully within the limits placed upon us as a 501(c)3 tax-exempt organization, for funding and other resources to adequately manage and maintain the forest. We believe the information we bring to Congress helps our representatives understand the interests of our the public and the forest users with whom we come in contact. Had the AMC and other organizations and individuals not been strong advocates for the creation of the White Mountain National Forest nearly a century ago, neither the forest nor the multiple benefits the public derives from it might exist today.

#### **AMC Invests in the Forest**

Mr. Guernsey, as he did a year ago, makes inaccurate statements about the financial performance of these operations. Unlike for-profit permittees on national forests, such as ski areas and timber harvesters which often take profits earned on the forest out of the region and the state, the AMC, as a non-profit, re-invests *all* revenues earned within the WMNF back into our operations and programs *on the forest*. In fact, AMC invests far more into the WMNF than it earns.

Over the past 30 years, the term of the current permit, AMC has invested more than \$10 million in its WMNF facilities. The remote location of the huts and the AMC's commitment to minimizing the environmental impact of their use, makes their operation both complex and expensive. Though the AMC generated \$3,680,000 in revenue from its WMNF operations in the form of lodging, food, and merchandise sales last year, our operations on the forest cost \$4,620,000. The shortfall of \$942,000 was made up through AMC membership dues, donations, grants and other sources of income from throughout the Northeast region. In other words, AMC consistently subsidizes its public programs and services on the WMNF with revenues generated elsewhere.

If we were to include in this accounting a conservative estimate of the value of efforts by AMC volunteers in the WMNF (60,000 hours in 1994 at the minimum wage of \$5.18/hour), who, among other contributions, help build and maintain trails for the public to use, then at least another \$310,000 would be added to this overall AMC investment. This brings the total to well over \$1 million of "subsidy" to the WMNF and its visitors in 1994.

We believe that this financial information demonstrates AMC's long-term commitment to public service and stewardship, a commitment which reflects our role as a non-profit permittee on public land. AMC is audited annually by the independent public accounting firm of Coopers & Lybrand and we have made our certified financial statement as well as detailed internal records available to the public.

#### **AMC Contributes to the Local Economy**

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Mr. Guernsey says, "At least General Motors contributed to local economies," implying that our organization does not. In fact, AMC contributes significantly to the northern New Hampshire economy. We employ 50 people full time and 200 seasonal staff in and around the White Mountain National Forest with an annual payroll of \$2 million, and we purchase approximately \$1.2 million worth of goods and services in the region every year. A recent analysis by Northern Economic Planners of Concord, N.H., a leading economic consulting firm with extensive experience analyzing the state's tourism and recreation industries, determined that AMC's operations help create an additional 900 North Country jobs and is responsible for \$63 million in annual economic activity in New Hampshire.

#### **Permit Renewal: An Opportunity to Improve a Strong Partnership**

The 30-year permit under which AMC operates our facilities on the WMNF expired last October, and, with a one-year extension in place, a public permit renewal process is underway.

Mr. Guernsey suggests we have been operating in violation of our permit because we have developed volunteer trail maintenance programs, educational programs and other services not explicitly spelled out when the permit was written 30 years ago. A more responsible telling of the story would have cited a formal Memorandum of Understanding between the White Mountain National Forest and the Appalachian Mountain Club, signed by both parties on January 10, 1992, which stipulates that the AMC will provide services in the areas of backcountry management, environmental education, public information, land use\conservation, research and trails.

He also questions the fairness of the process of a series of "listening sessions" on the permit renewal application which the U.S. Forest Service convened in Gorham, N.H., Concord, N.H. and Watertown, MA, on three separate evenings this past May. Again, only a fraction of the story is told. The listening sessions were widely publicized; the Forest Service hired independent facilitators to conduct the meetings. About 1,000 people attended the sessions altogether. A total of 196 people spoke, *and no one who wished to speak was denied the opportunity*. Of those individuals, 170 spoke in strong, unequivocal favor of renewing AMC's permit, 21 gave conditional support and five spoke against renewal. The deep good will which the vast majority of these speakers feel toward AMC's role in the White Mountains went unmentioned by Mr. Guernsey.

These public sessions are only the beginning of what promises to be a rigorous renewal process, and which will include the National Environmental Policy Act (NEPA) requirements which any permittee on public land must undergo.

We see the public comments during the permit renewal process as a chance to learn about what we can do better. As an organization which has the privilege of

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operating facilities within the borders of the White Mountain National Forest, we take very seriously the responsibilities which come with being a permittee on public land.

We are working very hard to better reach out to and communicate with our neighbors in the White Mountains and our employees contribute their energies to these communities in which they live. Given past misunderstandings, however, we realize that to build trust and effect positive change it will take time and consistent evidence of our responsiveness to local concerns.

Even as we make these essential efforts, AMC's organizational mission is to promote the protection, enjoyment and wise use of the mountains, rivers and trails of the Northeast. The White Mountain National Forest is a much loved and used public resource under considerable stress from development, pollution, and overuse, stresses which do not respect the forest's boundaries. For example, the air quality monitoring site near the summit of Mount Washington, operating by the AMC in partnership with the WMNF, tracks air quality data for ground-level ozone, nitrogen oxides and acidity which is showing that air pollution from urban centers outside of New Hampshire are harmful to the forest.

#### **Treating All Permittees Fairly**

The US Forest Service has the challenging responsibility of judging the relevant issues and responses in this permit renewal process. Without question, AMC should be held to the highest standards of accountability and performance. In the interest of fairness, credibility and best management of the Forest, however, it is critical that any special conditions deemed appropriate to an AMC permit also be applied evenly to all other permittees on this and other national forests, including ski areas, timber concerns and concessionaires. This may well not be what Mr. Guernsey has in mind when he says, "All we ask is a fair process: one which treats the AMC the same as other permittees on public land."

We are excited by the future of the long-standing partnership among the AMC, the public and the Forest, and look forward to incorporating many of the positive and thoughtful ideas which we've heard at these listening sessions, and the suggestions which yet lay ahead in this process, into the way in which we do our work.

Again, I want to thank the Committee for providing AMC with an opportunity to respond. I hope any member of the Committee who has any questions, concerns or comments will contact me directly, and that next year, should a critic of our organization be invited to testify before this Committee that the AMC be accorded the same courtesy. We'd be delighted to testify even in the absence of a critic. Thank you.

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