

# MISCELLANEOUS PUBLIC LANDS BILLS

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

**S. 934**

**S. 2834**

**S. 2833**

**H.R. 1374**

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## MISCELLANEOUS PUBLIC LANDS BILLS

TUESDAY, APRIL 22, 2008

U.S. SENATE,  
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:33 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Ron Wyden presiding.

### **OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON**

Senator WYDEN. The subcommittee will come to order. Today it is Earth Day. All over the country in communities small and large, many Americans are gathering to talk about how to protect our treasured land, air and water. So I think it is very fitting that today the subcommittee is looking at wilderness legislation.

I'm especially pleased to have two colleagues, Senator Bennett and Senator Crapo, who are as hard working and as thoughtful as any people I know. They are very much aware of what a challenge it is to pull together all of the various diverse groups that have strong feelings about wilderness legislation. Having talked with both of them recently about their legislation, I'm very much aware that both of our colleagues have put in scores and scores of hours with all of the people that have an interest in this issue. So I very much thank them both for coming and just have a couple of remarks to make before we go to Senator Craig and our colleagues.

S. 934 and H.R. 1374 are going to amend the Florida National Forest Land Management Act of 2003 to authorize the conveyance an additional tract of National Forest System Land. S. 2833, the Owyhee Public Land Management Act of 2008, Senator Crapo's legislation, will be considered. S. 2834, the Washington County Growth and Conservation Act of 2008, Senator Bennett's legislation will be considered as well.

The Wilderness Act, of course, was passed by the predecessor to this committee, the Interior and Insular Affairs Committee. One of that committee's long time members, former Senator Gaylord Nelson, not only was a co-sponsor of the Wilderness Act, but was also the founder of the day that is celebrated across the land, Earth Day. So it is, as I stated, fitting that on Earth Day we hold this hearing to consider important additions to the National Wilderness Preservation System.

In my view both of the Wilderness bills that are before us today have come a long, long way since they were first introduced in the

last Congress. The bills reflect the hard work of their sponsors and the dedication of their constituents. We're going to hear from the Department of the Interior and the Forest Service in a few minutes on specific concerns of the Administration has indicated they have with the legislation. It is our intent after this hearing to continue to work with both of our Senators and the Administration to address the various issues that have come up.

One last thought as it relates to Earth Day and the beautiful state of Oregon. Many who are here today know that Senator Smith and I have worked together to put together important wilderness legislation for our home state, the Lewis and Clark Mount Hood Wilderness Act and the Copper Salmon Wilderness Act. Both bills have had broad support and passed this committee on a unanimous basis.

If I had my way we would be celebrating Earth Day by passing those bills on the floor of the Senate. But I am hopeful that they will pass in the near future. That the people of Oregon and our various supporters and friends from around the country can celebrate Earth Day next year with new wilderness legislation in our wonderful state.

So at this point I want to recognize our colleague Senator Craig from Idaho who has a great interest in these issues. Senator Barrasso I think will be joining us at some point. We'll recognize him for his opening statement, but when Senator Craig has completed his statement we'll go right to our witnesses.

[The prepared statement of Senator Martinez follows:]

PREPARED STATEMENT OF HON. MEL MARTINEZ, U.S. SENATOR FROM FLORIDA,  
ON S. 934

Mr. Chairman: Thank you for holding this important hearing today on S.934, which will authorize a land conveyance in the Apalachicola National Forest outside of Tallahassee, Florida to purchase more in-holdings with the Forest. I have joined my colleague Senator Bill Nelson in cosponsoring this legislation, and I commend Congressman Allen Boyd and Congressman Ander Crenshaw for introducing the bipartisan House companion bill HR 1374.

The legislation modifies the Florida National Forest Land Management Act to allow the Forest Service to sell 114 acres of land that has become completely surrounded by development and the expansion and widening of Capitol Circle/US 319, which is a major transportation and hurricane evacuation route. According to the Forest Service, this tract of land has become increasingly expensive and difficult to manage because of real estate and commercial development. As a result, the land has lost its National Forest character and has become a burdensome expense on management efforts for the Apalachicola National Forest. The proceeds of selling this tract, called W-1979, will allow the Forest Service to purchase 2,000 acres of sensitive land that will consolidate holdings within the National Forest.

In addition to providing a large environmental benefit to the Apalachicola Forest, the legislation will provide the Forest Service with the authority and flexibility to improve and maintain administrative facilities essential to the management of Florida's forest land. By granting the Forest Service the ability to use the proceeds of land sales from "non-green" parcels to be directed towards basic operations and maintenance work makes common sense. Considering the continuing funding difficulties we face in addressing the basic up-keep of our vast public land, we should encourage some creative thinking to meet these challenges.

It is my hope that we can quickly move this legislation through the Committee. It is supported by the Forest Service, the City of Tallahassee, Leon County government officials, as well as environmental advocacy groups. This bill is a win-win for the Apalachicola National Forest and the future economic development of Leon County, and I look forward to working with the Committee to bring this legislation into fruition.

Senator Craig.

**STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR  
FROM IDAHO**

Senator CRAIG. Ron, thank you for holding this hearing, especially on the Owyhee initiative in a very timely way because Senator Crapo has just introduced a re-draft of the language that he put before the Senate last year. I think we all appreciate that.

What you're going to hear today, and as you view the picture, Ron, as you're going to see some of the most marvelous high desert canyon lands in the Great Basin West. It is a treasure of our State. We find it not only a phenomenal resource for how we think of it in a traditional way, as it may result to wilderness, but it has also been a resource in which human kind has lived now for well over a century.

Some of the largest public land ranches in Idaho reside in and around this territory. The air space has produced one of the most effective training ranges for the U.S. Air Force in the world which gives us the kind of efficiencies today we see over Iraq and Afghanistan. So it is without question, a very unique property, something that Idahoans and now, nationally, the citizens of our country are obviously very excited and pleased about.

As you know when it comes to wilderness designation and because it may in one way or another prevent the kinds of access that citizens and Idahoans have traditionally approached their public lands with, I approach these designations with a good deal of caution as I know my colleague, Senator Crapo has. As for the last good number of years now he has worked in a phenomenally diligent way with all of the stakeholders involved to produce the legislation, S. 2833, that we have before us. I can only give my colleague high praise because of his phenomenal dedication to the issue of trying to get the differences between all of the stakeholders resolved in a compatible way to assure and sustain the long term, long time use of our public lands as we have historically known them in Idaho. That is public land grazing, large open western range kind of States, not unlike your Eastern Oregon in the Steens Mountain country and all of that country that you know so well. This land is comparable and yet different in many ways.

So let's record the hours, but let's also recognize the collaborative effort that has been underway here because that's something that you and I are very proud of. The Craig-Wyden bill over the years have produced literally thousands of agreements between what once were warring or I should say disagreeing parties on how we approach our resources and manage them. You and I were able to resolve that by putting the right incentives in place. Certainly the right incentive here is to find common ground, as much common ground as you can for all of the stakeholders.

Yet we know, I know, personally. Mike Crapo knows because he's been involved in it from day one, sitting long hours at a table in discussions where there has been a lot of compromises. That all parties have given a little and given back a little more than they might have otherwise wanted on the issue. So, clearly those are concerns that I think he deserves, I mean that Senator Crapo deserves an A for in his effort.

As I have approached this issue and stepped back, having my staff engaged at all times with the Crapo staff and with all the

stakeholders, I've expressed very limited concerns. Ron, you will not remember, but Idaho long remembers and a good many out there remember that a few years ago I, along with Mike and others, and Governor Andress at the time, created what is now known as a world class training range for our airmen and women. I, in no way, want to see that impaired, nor do I want its activities to impair the natural resource base. It is unique.

When you fly this country, you fly Afghanistan. When you fly this country, you fly Northern Iraq. If you don't believe me, come to Mountain Home Air Force Base and visit with our airmen who fly this country in their training and preparation. As a result have achieved some of the highest delivery rates of arsenal on the ground, on target, of any air force in the history of our country. For that, we have another national asset that adjoins this by property and boundary that I have made sure and worked very closely to be quite confident we did not impair now and into the future.

Second, there was an issue of land exchanges and buyouts. That's key. That's very important in this legislation. I wanted to make sure that all parties crossed the finish line at the same time as you know, certainly, chairing this committee.

Oftentimes, when we pass re-designation of public lands, those who are for the designation immediately win when the bill is signed. Those who are by action of agreement termed to be those compensated in the future, sometimes that compensation never results. Why? Because they stand in line and compete with other money needs that are critical to our Nation. While they at the time may have thought of immediate compensation in many instances, true in your State, and true in my State, in a few instances that money never came.

A good number of years ago I approached the Appropriations Committee to resolve an issue that is not unlike the Owyhee initiative. The great Treasure Valley of Idaho, the Owyhee on the southern, western border and just to the north up against the foothills of Boise, other public lands now by the urban growth in Idaho and in that area are getting, are running the risk of being overused. We wanted to protect the foothills of Boise for their scenic value and we did.

The parties came together. I got the money. I want to make sure that project is completed before we launch a new project. I've worked with Mike on that. I'm reasonably comfortable that the language in this bill resolves that issue.

Clarification of land exchanges is a concern. I think that we can resolve that as we work through the fine points of this. Once this greets the public eye and once Mike has brought, as he has, legislation before the committee. I will see if there are fine tunings that need to be done. I would trust they can be done in a way that keeps all stakeholders at the table.

I think that is phenomenally important because Mike, Senator Crapo, and his and his staff's effort have struck a very important agreement here that in the end, one Senator, this Senator especially, but I know Senator Crapo more than that would like to see become public policy. We think it would be good for that corner of our State, which is bigger than about half of the Eastern part of

the United States. It would be good for national policy, public land use policy also.

So, I'm pleased it's before the committee. I look forward to the testimony. Thank you.

Senator WYDEN. Thank you, Senator Craig. What we'll do at this point we'll hear from Senator Bennett. We'll hear from Senator Crapo.

My understanding is our two colleagues would like to sit with the committee after their testimony and the bipartisan leadership of this committee is pleased to have both of you participate. We know that you've put in a lot of time working with folks at home on this. Please proceed as you wish. Why don't we start with you Senator Bennett?

**STATEMENT OF HON. ROBERT F. BENNETT, U.S. SENATOR  
FROM UTAH**

Senator BENNETT. Thank you very much, Mr. Chairman. We appreciate your taking time out of your busy schedule to hold this hearing. A lot of work has gone into S. 2834, the Washington County Growth and Conservation Act.

I'm pleased to share with you the significant progress that's been made since the last time I appeared before this subcommittee when Senator Craig was chairing it. I think in the intervening time period we have successfully struck a balance between conservation and growth in Washington County. I'm grateful for the opportunity to discuss this with you here today. I will point out once again this has been a bipartisan effort to a companion bill that has been introduced in the House by the Congressman from Washington County, Congressman Jim Matheson, a member of the democratic majority.

Wilderness in Utah is the subject that has been discussed with a great deal of energy, shall we say, for over 30 years. There's probably not much more to be said about it because in that 30-year period everyone has made his or her views pretty firmly known. It's time now to act rather than have a rehearsal of these positions that have been taken.

I've been concerned with this for the 15 plus years I've been here in the Senate. This particular process, begun by Governor Arlene Walker that produces today's bill has been going on for 5 years. So it's time to get it done.

This bill is the product of good faith collaboration. I say that, I underscore that, good faith collaboration, with a diverse group of interests. It has local support as well as support from a number of national environmental groups.

I could not in all honesty refer to good faith negotiation through the entire 30-year period I've discussed. There have been times where people have come to the table and said why we're here to negotiate in good faith then simply stated their demands, stated the table, raised the decibel count of the stating of their demands. Then stalked away saying well, we were not dealt with in good faith.

In the experience that I have had working on this bill that phenomenon has disappeared. I'm very grateful to the various groups that have been willing to recognize that there has to be some give

and take. That has been true in this process. It has been done in good faith.

Now no one is completely happy with this legislation. Around here that may be a sign of a good bill. It provides us with a comprehensive planning tool for public land in Washington County. It's the Federal counterpart to a local driven effort called Vision Dixie.

I have to explain that Washington County is in the south of the State of Utah. Somewhere along its line in its history it was known as Utah's Dixie. So Vision Dixie is the locally driven planning effort that we will be hearing more about from Commissioner Eardley from Washington County. But because of the amount of public land in Washington County, local and Federal efforts have to go hand in hand if it's going to work. That's been the case here.

So as the bill's title indicates we address both growth and conservation aspects of the land in Washington County. Let me start with the conservation side. This bill will provide permanent protection for hundreds of thousands of acres of some of the Nation's most sensitive landscapes. As part of this process I have flown over it in helicopter with the representatives of both sides and it is absolutely spectacular.

We designate more than 264,000 acres of wilderness in Washington County including more than 94 percent of all of the existing BLM wilderness study areas. When this bill is enacted more than 1 out of every 5 acres, or 20.5 percent of the land in Washington County will be federally designated wilderness. That compares to 3.5 percent now. So we have increased the amount of wilderness by something between 6 and 7 times.

We established two national conservation areas in addition that will permanently protect the desert tortoise and other at risk and endangered species in the county. I want to stress that no cross country travel is allowed in these areas. OHVs cannot drive off road and will be allowed only on the roads that the BLM identifies in the management plans that they will prepare for the national conservation areas.

Utah has never had a wild and scenic river designated. In this bill we designate more than 165 miles of wild and scenic rivers. I think those things represent significant conservation gains.

From the growth side, switching now from conservation to growth, we've taken a small amount of the land in the county representing only three-tenths of 1 percent of the total area that existing land managers, that is people who are currently involved in managing the land right now, have identified as suitable for disposal. We have created a framework under which this low priority and non-environmentally sensitive land will be sold. Then use the vast majority of the proceeds to acquire high priority biologically significant lands in the county. Thus reconfiguring land ownership in a way that makes sense for conservation values and I believe that enhances the Federal estate.

Now, we do adopt the Nevada precedent in these land sales of creating a system whereby the local government can benefit from the land sales. I understand that there are some who are not as enthusiastic about this portion of the bill as they might be about others. We authorize the BLM to identify, in addition to the acres

they have already picked, up to an additional 5,000 acres for disposal under the same framework.

I want to make it very clear. This does not mean the BLM can't use other means to dispose of other lands in following proper administrative procedures. It simply says that no more than 5,000 acres can be disposed of under the framework that we set up for the existing lands. The BLM will have to follow both their planning process and conform with Vision Dixie principles. So this is the way we have the Federal and the local planning go hand in hand.

I want to make it clear once again. The 5,000 acre figure is a cap and not a target. I do that because in the previous bill we had 20,000 acres as a cap and some of the newspaper stories said that this bill was disposing of 20,000 acres. That bill was not, and to make it clear, that we do not intend to go to that level. We put in the limit of 5,000.

There are a number of other provisions in the bill that are important. But I see I am over my time. I would ask the chairman to include my written remarks in the hearing record.

[The prepared statement of Senator Bennett follows:]

PREPARED STATEMENT OF HON. ROBERT F. BENNETT, U.S. SENATOR FROM UTAH,  
ON S. 2834

CHAIRMAN WYDEN, and members of the subcommittee: I appreciate you taking the time out of your busy schedules to hold this hearing on S. 2834, the Washington County Growth & Conservation Act of 2008. A lot of work has gone into this bill, and I am pleased to share with you the significant progress that we have made since the last time we met before this subcommittee. I believe that we have successfully struck a balance between conservation and growth in Washington County, and I am thankful for the opportunity to discuss this today.

Mr. Chairman, this is the most important natural resources bill I have introduced in my Senate career, and I am very proud of it. I have worked for more than 15 years to try to bring all sides to the table to finally resolve the wilderness question in my home state, and I believe that this bill will provide the foundation to do that. This bill is the product of good faith collaboration with a diverse group of interests, and has local support as well as support within the national environmental community. We have worked hard to get to this point. These kinds of comprehensive bills do not work unless the people who are affected the most—the people who live there—buy into the concept.

This has certainly not been an easy process. We have dealt with people who threw out their list of demands and then walked away from the table, only to complain later that they were left out of the process. We have poured through thousands of public comments and sat in countless meetings with stakeholders to get additional information. We have spent hundreds of hours on the ground with local land managers, city and county leaders, conservation groups, and many others who believe that the lands in Washington County are special and want to work toward a resolution. There has been a lot of give-and-take, and no one is completely happy with everything in this legislation. Around here, that is often the sign of a good bill. I want to commend the people who have worked with me throughout this process in good faith, actually seeking a resolution on this issue rather than a perpetuation of the problem, and I am confident we can continue these efforts throughout the state of Utah.

This legislation is necessary to help preserve the unique nature of Washington County for generations to come. It is the federal counterpart to Vision Dixie—the locally-driven planning effort that I am sure Commissioner Eardley will discuss further in his testimony. Because of the overwhelming amount of public land in Washington County, local and federal planning must go hand-in-hand. These issues are so important to Washington County residents that several thousand participated in developing the Vision Dixie principles. These principles helped us to set priorities in this legislation that will guide future growth in Washington County. Vision Dixie never would have happened without this land bill to begin the discussion.

Congressman Matheson and I have made significant changes to the previous proposal. We have permanently protected large amounts of biologically significant pub-

lic land in Washington County, including additional wilderness and a new national conservation area. We have removed the corridor designations for the Lake Powell Pipeline Corridor and the Northern Corridor that bisected the Red Cliffs Desert Reserve. We have removed right-of-way authorizations in areas that are environmentally sensitive, and have significantly limited the amount of public land that is authorized for disposal. We have also required a comprehensive, county-wide transportation plan to help reduce conflicts among competing interests, and include provisions to manage priority biological areas. I have included a summary at the end of this testimony to further elaborate on each section of this legislation.

Before I conclude my remarks, I want to clear up any confusion about certain parts of the bill, especially as it relates to land disposal. I want the legislative record to show my intent in drafting these sections.

Unlike the previous proposal, every parcel of land that will be sold under this legislation must be included in the Bureau of Land Management's St. George Field Office Resource Management Plan (St. George RMP) prior to sale. This means that the BLM must give the public an opportunity to participate and comment on each additional acre that is identified for disposal. The legislation requires the BLM to only identify land for sale that meets the stringent qualifications of the Vision Dixie Principles, which significantly limits the acres eligible for disposal under this legislation.

We have also lowered the cap on land sale acreage from 20,000 acres to 5,000 acres. I want this to be very clear: we are not ordering the BLM to identify an additional 5,000 acres for sale. The 5,000 acres is not a target. We are simply capping the amount of acreage BLM is authorized to sell under this legislation's framework. I want to point out that with or without the bill, BLM still has statutory authority to dispose of public land in Washington County, and could identify and dispose of significantly more acreage than what we authorize in the legislation. For example, the 1999 St. George RMP identified around 18,000 acres in Washington County for disposal.

Another substantive change is the revenue sharing from the land disposal proceeds. We have directed all but \$15 million dollars of the federal share of the revenue to acquire lands in Washington County. This will allow the BLM to dispose of low-priority, non-environmentally sensitive public lands and acquire high-priority, biologically significant lands, thereby enhancing the federal estate. Additionally, we have given the local share to the county commission—an elected body responsible to the people—rather than the Washington County Water Conservancy District. We have also included a detailed reporting requirement on any expenditure the BLM makes from the land sale proceeds.

I also want to clarify our treatment of off-highway vehicles (OHVs) in Washington County, particularly in the biologically-sensitive southwest corner. We designate the Beaver Dam Wash National Conservation Area (NCA), comprising nearly 80,000 acres, to permanently protect this region. This legislation prohibits cross-country and off-road travel in the NCA by restricting the use of motorized vehicles to roads designated in the travel management plan that we direct the BLM to develop. This legislation also authorizes the BLM to use a portion of the land sale proceeds for enforcement purposes.

We also deal with OHV travel on public lands throughout the rest of the county by requiring the BLM to prepare a comprehensive travel management plan which will identify areas where OHVs are allowed and not allowed. This plan will help protect sensitive areas that are now at risk, while providing additional opportunities for the OHV community by designating a system of trails where riding is permitted. Although BLM has attempted in the past to develop such a plan, the agency has never had sufficient funds to complete it. To cure this problem, this legislation will direct a portion of the land sale proceeds to complete the comprehensive travel management plan.

In conclusion, I again thank the chairman for his courtesy, and hope that this hearing will be instructive. We have made significant changes to this legislation and I hope the committee will act favorably and quickly to ensure its passage. I appreciate this opportunity to testify and welcome any questions.

Senator BENNETT. I want to close by acknowledging that while this has been a difficult process. It's been a very rewarding one for me. I think we can create significant conservation while balancing growth in the county. I have made some good friends and had some good experiences as we have gone through this journey.

Thank you for the opportunity to testify.

Senator WYDEN. Thank you, Senator Bennett. Without objection we will put your full remarks into the record. I would just say at this point that you are well known here in the Senate as somebody who consistently tries to bring people together to try to find common ground, that try to address concerns that come up in debates where people have passionate feelings. It is evident that you're trying hard to do that here again. I commend you for it and will welcome your participation.

Senator BENNETT. Thank you, Mr. Chairman.

Senator WYDEN. Let me welcome my western partner, Senator Crapo, my neighbor from the Dirksen Building as well. Senator Crapo, please go ahead with your remarks. Let me also commend you for, I know, the extraordinary amount of time you've put in trying to bring all of the stakeholders and the parties together. Please go ahead as you wish.

**STATEMENT OF HON. MIKE CRAPO, U.S. SENATOR  
FROM IDAHO**

Senator CRAPO. Thank you very much, Mr. Chairman. I want to thank you. It's been several years now since I first sat down and walked you through the process we've been going through for years longer than that out in Idaho. You committed then to work with me to try to help make this a reality. You have stayed true to your word. I appreciate that.

Senator WYDEN. Thank you.

Senator CRAPO. I also want to thank Senator Craig. Not only for his kind comments here today at the hearing, but for himself working with me consistently to make sure that we can put together the kind of land management legislation that will work for Idaho and for our country. I truly appreciate Senator Craig's efforts as my colleague from Idaho.

Obviously I want to give my thanks as well to Chairman Bingaman and Senator Domenici who also have worked very closely with me as I've tried to navigate the paths of the legislative process that we need to go through here.

I want to also stop for a moment and thank, in particular, the staff who have worked so hard on this as well. David Brooks, who has, I think, given up a significant part of his life to work with us here to help make this a reality. Frank Gladdox and Darren Parker and others, many others, who have put in so much time and effort to help us in Idaho as we've tried to work to a successful conclusion to this important project.

Additionally the BLM has been very helpful to us in working through legislative language and creating maps and literally helping to iron out issues as they come up. For that I want to thank Julie Jacobson and Laurie Sedlemeyer. I truly appreciate their efforts. You know, now that I've started naming names, I'm going to be remiss because there are so many, particularly those in our work group in Idaho, some of whom are here today and others who have put in so much time to make this a reality.

Frankly there are a number of Idahoans here in the audience today. I won't try to get them to all stand up or get recognized, but this is a truly significant step for us in Idaho. We appreciate the

support of the committee members and the staff in helping to make this happen.

There are a couple of Idahoans who will testify today who I want to recognize. That is Craig Gehrke of The Wilderness Society and Dr. Chad Gibson of the Owyhee Range Service. You'll hear from them later. But these two gentlemen have also given a significant part of their life to this effort over the last years. They are to be thanked for that.

The Owyhee Public Land Management Act of 2008 is the result, as Senator Craig has indicated, of almost a decade of collaborative effort between all levels of government, the tribes, ranchers, users of the public lands and conservationists to resolve decades of heated land use conflict in the Owyhee Canyon lands in the southwestern part of my home State, Idaho. Owyhee County contains some of the most unique and beautiful canyon lands in the world, a place that offers the grandeur of untouched western trails, rivers and open sky. It's imperative that its natural beauty and its traditional uses are preserved for future generations.

The County is a traditional ranching country with 73 percent of the land base owned by the Federal Government and located within an hour's drive of one of the fastest growing areas in the Nation, Boise, Idaho. Community expansion, development and ever increasing demands on public land are having a profound effect on Owyhee County. Given this confluence of circumstances, the County has been at the center of political and regulatory battles for years.

Diverse land uses coexist in an area of intense beauty and unique character. The conflict over land management is both inevitable and understandable. How do we manage for this diversity and do so in a way that protects and restores the quality of that fragile environment?

In this context the Owyhee County commissioners and several others said enough is enough. They decided to focus efforts on solving these problems rather than wasting resources on an endless fight. In 2001, the Owyhee County commissioners met with me and asked for my help.

They asked whether I would support them if they could put together at one table, the interested parties involved in the future of the county to try to reach some solutions. I told them that if they could get together a broad base of interest who would agree to collaborate in a process committed to problem solving, that I would dedicate myself to working with them. If they were successful, I would introduce the resulting legislation.

They agreed. Together we set out on a journey, really on a road, that is as challenging as any of the Owyhee Canyon land roads and some of them are very challenging. David is shaking his head. He knows. He's been there.

Make no mistake. This has been very difficult work. But the fruit of that labor, the Owyhee Public Land Management Act of 2008 has made it time well spent.

The commissioners formed the work group which includes, well, at its first formation, included The Wilderness Society, the Idaho Conservation League, the Nature Conservancy, Idaho Outfitters and Guides, the United States Air Force, the Sierra Club, the

County Soil Conservation Districts, Owyhee Cattleman's Association, the Owyhee Borderland's Trust, the People for the Owyhee's and the Shoshone Paiute Tribes to join in their efforts. All accepted and all began work on this bill. As the collaborative process gained momentum, the County Commissioners expanded the work group to include the South Idaho Desert Racing Association, the Idaho Rivers United and the Owyhee County Farm Bureau, as well as the foundation for North American Wild Sheep and the Idaho Backcountry Horsemen, with the help from the Idaho State Department of Lands and the Bureau of Land Management.

You can see from that group that we've had the diverse interest at the table working to make sure that we get the right solutions. For me one of the most gratifying outcomes has been to see this group transform itself from polarized camps into an extraordinary force known for its intense effort, calmity, trust and willingness to work toward a solution. They operated on a true consensus basis, spent thousands of hours, drove thousands of miles inspecting roads and trails, listening to and soliciting ideas from people from all walks of life who have in common deep roots and a deep interest in the Owyhee Canyon lands.

While this whole process and its outcomes are indeed remarkable. One of the more notable developments is the memorandum of agreement between the Shoshone Paiute Tribes and the County that establishes government to government cooperation in several areas of mutual interest. I congratulate Nancy Eagan, the newly elected chair of the Shoshone Paiute Tribes on her election and today her swearing in.

The Owyhee Initiative transforms conflict and uncertainty into conflict resolution and assurance of future activity. Ranchers can plan for subsequent generations. Off road vehicle users have access assured. Wilderness is established.

The Shoshone Paiute Tribes know their cultural resources will be protected. The Air Force will continue to train its pilots. Local, State and Federal Government agencies will have a structure to assist their joint management of the region. All of this will happen within the context of the preservation of environmental and ecological health.

This is indeed a revolutionary land management structure that looks ahead to the future. The status quo is unacceptable. The Owyhee Canyon lands, their inhabitants and cultures are truly a treasure of Idaho and of the United States. They deserve to have a process of conflict management and a path toward sustainability. I hope you'll join with me in ensuring their future.

Now I want to speak just briefly to the folks back home, very directly, the folks in Idaho who are rightly concerns about a few provisions in this bill that are of great importance. I will continue to work with Senators Bingaman and Domenici and Wyden and Craig and their staff and others to make the policies and the funding that were so carefully negotiated in the Owyhee Initiative Agreement to become a reality. As promised 8 years ago, I regard the support of the Owyhee Initiative Workgroup and diverse interest that you represent as mandatory for my continued advocacy for this bill.

Our hard work will continue after today's hearing. I'm committed to achieving the objectives that brought us together many years ago and that keep us together today. Thank you very much, Mr. Chairman.

Senator WYDEN. Thank you, Senator Crapo. Listening to you my sense is that it is hard to imagine there's an Idahoan out there who hasn't been given the opportunity to participate. I commend you for reaching out in that way. You've obviously made a great deal of progress.

You don't make all this progress by osmosis. You do it by working with people. Having worked with you in the past, I know that's your trademark. I commend you for all your efforts.

I'm not going to have any questions of either Senator Bennett or Senator Crapo. We do look forward to you all sitting in, as you've indicated you'd like to do. But let me recognize Senator Barrasso for his opening statement and then Senator Craig may have comments or further questions he'd like to make.

Senator Barrasso.

**STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR  
FROM WYOMING**

Senator BARRASSO. Thank you very much, Mr. Chairman. I don't have any questions for our witnesses either, but I do want to welcome both Senator Crapo and Senator Bennett. I know that each of you has a bill that is very important to you. These two bills have been in Congress a long time and I'm sure that each of you would be pleased to have them move forward in a timely manner.

I understand and appreciate the painstaking work that goes into meeting with stakeholder groups in your home State to prepare these bills. It's important for me as a Senator to, when I look at this kind of legislation, that it be tailored to the specific, local needs. Mr. Chairman, I just show great deference to the home State Senators who work through those local issues.

So I welcome both of you here. Also folks who are going to be visiting with us from the Department of Interior and the U.S. Forest Service and others from Idaho and Utah who are going to testify today. So with that, Mr. Chairman, thank you very much.

Senator WYDEN. Thank you, Senator Barrasso.

Senator Craig.

Senator CRAIG. A clarification for Senator Bennett. You are talking about Washington County, Utah and not Washington County, Idaho.

Senator BENNETT. That is correct.

Senator CRAIG. Thank you because Dr. Gibson and I grew up in Washington County, Idaho and we want to make sure that's clear.

Senator WYDEN. There's Washington County, Oregon. It's almost obligatory for a western State to have Washington County.

[Laughter.]

Senator CRAIG. Absolutely.

Senator BENNETT. Washington County, Utah is the fastest growing county in the State, has been for a half dozen years or more. For a good portion of that of that half dozen years, the fastest growing county in the country. That's why it's essential that we get this thing done before it completely gets out of control.

Senator CRAIG. Thank you. I want to thank my colleague, Mike Crapo for recognizing the Shoshone Paiute Valley Reservation. I did not in my opening comments. They played a very valuable role as you've mentioned.

Mr. Chairman, they still—this is an unbelievable big chunk of property if you look at the big map and that it borders the State of Nevada and Oregon. So it's one of those that has multiple interests across State lines as a region and an ecosystem that I think is important. Thank you.

Senator WYDEN. Thank you both. We'll excuse you. Please come on up and sit with us.

Our next panel, the Administration panel, Julie Jacobson, Deputy Assistant Secretary with the Department of the Interior. Joel Holtrop, Deputy Chief, National Forest System.

I'm going to repeat the request I made last week. It has varying degrees of success. We will put your prepared remarks into the hearing record. Every word of your prepared remarks will go into the hearing record and if you could perhaps just summarize some of your key concerns that would be very helpful.

Ms. Jacobson, welcome.

**STATEMENT OF JULIE JACOBSON, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR**

Ms. JACOBSON. Thank you for inviting me to testify on S. 2833, the Owyhee Public Lands Management Act and S. 2834, the Washington County Growth and Conservation Act. These bills seek to resolve a wide range of public land management issues and opportunities on lands managed by the Bureau of Land Management in Owyhee County, Idaho and Washington County, Utah. Both bills are the results of years of intense effort by Utah's and Colorado's—and Idaho's Congressional delegation, local governments and public lands to reach consensus on difficult issues.

The Administration respects these efforts and supports both bills with modifications to the formula for distributing the proceeds from any land sale to ensure an appropriate share is returned to Federal taxpayers. We recommend some other specific modifications to both bills in our full testimony and look forward to working with the sponsors and the committee. I'll briefly summarize the major provisions of both bills.

S. 2833, the Owyhee Public Land Management Act is the product of nearly a decade of work to find solutions to resolve Owyhee County public land issues. Senator Crapo deserves recognition for his commitment to this effort. S. 2833 designates over a half million acres of wilderness and releases nearly 200,000 acres of wilderness study. It also designates more than 315 miles of wild and scenic river segments.

S. 2833 provides for the voluntary relinquishment of grazing permits to the Secretary for authorized grazing on lands with any areas designated as wilderness. Under the bill the Secretary is required to accept the donation of those permits and is required to permanently retire the allotments. Grazing is a compatible use within wilderness and there is a long history of legislation accommodating grazing within wilderness designation. To address these

issues the BLM is committed to working with the committee and the sponsors within our existing authority.

Section Six provides for the sale of lands identified for the disposal within the Boise District and the use of those proceeds for the acquisition of private lands from willing sellers within or adjacent to the wilderness designated by this bill. We note that all such sales and acquisitions will be undertaken consistent with applicable laws including FLTFA and will be subject to standard appraisals. We support S. 2833 and would like the opportunity to work with the sponsors and the committee to address some specific issues raised in our full testimony.

S. 2834, the Washington County Growth and Conservation Act is a result of years of work by the Utah Congressional delegation, in particular, Senator Bennett. Working with local governments and the public they have reached consensus on public land management in Washington County, Utah. The bill would designate a number of wilderness areas including nearly 124,000 acres of wilderness within Zion National Park and approximately 138,000 acres to be managed by the BLM.

In addition the bill would release 5,000 acres of BLM managed lands from wilderness study status and return them to the full range multiple uses. Titles III and IV establish the Red Cliff National Conservation Area and the Beaver Dam Wash National Conservation Area. The first NCA's for the State of Utah.

Title V designates nearly 170 miles of the Virgin River and its tributaries within and adjacent to Zion National Park to the wild and scenic river system. Title VII provides for the disposal of up to 9,000 acres of public lands through sale at auction. The Department supports making public lands available for community growth where it is necessary and appropriate. The land disposal process in 2834 is consistent with this objective and we support its inclusion. The majority of these proceeds from these sales are to be used to acquire lands within Washington County from willing sellers within the special areas designated by the bill.

We support S. 2834 and the efforts of Senator Bennett and so many others in Utah. As with S. 2833 we would like the opportunity to work with the committee and the sponsors to address specific concerns. Thank you for the opportunity to testify.

[The prepared statements of Ms. Jacobson follow:]

PREPARED STATEMENT OF JULIE JACOBSON, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

S. 2833

Thank you for inviting me to testify on S. 2833, the Owyhee Public Lands Management Act of 2008. This bill seeks to resolve a wide range of public land management issues and opportunities on lands managed by the Bureau of Land Management (BLM) in Owyhee County, Idaho. It is the result of years of intensive efforts by the Idaho delegation, and particularly Senator Crapo, working with local governments and the public to reach consensus on difficult issues in the spirit of cooperative conservation. We respect the resolution of local land use conflicts in this matter, and support the bill with modification of the formula for distributing the proceeds from any land sales to ensure that an appropriate share of the proceeds is returned to the Federal taxpayers. We would like to work to address this, and other areas of concern, with the sponsor and the Committee.

### *Background*

Owyhee County encompasses over 7,600 square miles of the southwestern corner of Idaho. It is the homeland of the Shoshone-Paiute people and encompasses the Duck Valley Reservation. With a population of just over 11,000, it is a sparsely-peopled land where magnificent canyons, rushing rivers, and wide-open skies dominate the landscape. Ranching is the traditional and predominant economic activity throughout Owyhee County.

In 2000, the Owyhee County Commissioners invited a number of interested parties to begin discussions with an eye toward resolving a wide range of natural resource issues in the County. Innumerable meetings, conversations, and dialogues ensued. Over time, this effort included representatives from many interests within the County, including local government officials, tribal representatives, ranchers, conservationists, recreationists, and others.

The legislation before this Committee, S. 2833, is an effort to realize those efforts. Senator Crapo deserves recognition for his commitment to working toward collaborative solutions in the spirit of cooperative conservation and proposing this legislation to help resolve Owyhee County's public land issues.

### *Owyhee Science Review and Conservation Center*

Section 3 of this bill requires the Secretary of the Interior to establish the Owyhee Science Review and Conservation Center in Owyhee County, Idaho. The stated intention of the Center is to conduct research projects to address natural resources management issues as they affect public and private rangelands in Owyhee County with a goal of providing information for improved rangeland management.

We do not oppose the establishment of this Center; however we are concerned about the ongoing costs of establishing and operating such a Center. We urge the Committee and the sponsor to consider making section 3 subject to adequate appropriations.

### *Wilderness and Wild & Scenic Rivers Designations*

The Department of the Interior supports the Wilderness and Wild and Scenic River designations in the bill, subject to adjustments in boundaries and management language as is routine in such proposed designations. In general, the Department supports the efforts of Congressional delegations to resolve wilderness issues in their states. Congress has the sole authority to designate lands to be managed as wilderness and we have repeatedly urged that these issues be addressed legislatively.

Section 4 of S. 2833 designates as wilderness 517,128 acres in six separate areas and releases approximately 198,073 acres from WSA status and will return these lands to the full range of multiple public uses authorized by the Federal Land Policy and Management Act (FLPMA). The Department generally supports the designations and releases proposed by the legislation and would like the opportunity to work with the sponsor and the Committee on possible minor boundary adjustments to ensure efficient manageability.

The areas identified to be designated as wilderness include: Big Jacks Creek Wilderness, Bruneau-Jarbridge Rivers Wilderness, Little Jacks Creek Wilderness, North Fork Owyhee Wilderness, Owyhee River Wilderness and Pole Creek Wilderness. These proposed wilderness areas contain beautiful and remote desert landscapes. The terrain within the proposed wilderness is diverse, ranging from deep river canyons to vast sagebrush and grassland plateaus that provide habitat for sage-grouse, pronghorn antelope, bighorn sheep, songbirds, raptors, and numerous rare plant species. The river canyons are spectacular. Many are more than 1,000 feet deep, nearly twice as deep as the Washington Monument is tall. Rivers meander for hundreds of miles through southwestern Idaho and form what may be the largest, most unaltered, desert region remaining in the continental United States.

Section 5 would designate more than 315 miles of waterways as segments of the Wild and Scenic Rivers System. These river segments, ranging from 3/10 of a mile to over 67 miles, would be established on 16 different rivers and creeks including the Owyhee, Bruneau, and Jarbridge Rivers. As with wilderness, it is the prerogative of the Congress to make determinations for additions to the Wild and Scenic River System and we generally defer to the consensus of individual congressional delegations while providing input on manageability and potential conflicts.

The proposed additions to the Wild and Scenic River System are rugged, isolated, and unique. This region, the Owyhee Uplands, is unlike any other desert region in the United States because it is dissected by hundreds of miles of free-flowing rivers. The rivers begin in the mountains of northern Nevada and, flowing north, radiate like spokes across southwestern Idaho. Each river has cut a deep, magnificent canyon through alternating layers of black and red volcanic rock. Each river is also an

oasis for wildlife, including bighorn sheep and large flocks of waterfowl. There are no paved roads along any of these rivers and only a few dirt roads provide limited access to these remote streams. The larger rivers, like the Owyhee and Bruneau, contain some of the most challenging whitewater in the United States. River enthusiasts come from around the country to float these rivers and experience some of the ultimate river adventures in the United States.

*Relinquishment and Retirement of Grazing Permits*

Section 4(b)(3)(D) of S. 2833 provides for the voluntary relinquishment of grazing permits or leases by permittees to the Secretary of the Interior for authorized grazing on BLM-managed lands within areas designated as wilderness by S. 2833. Under the bill, the Secretary is required to accept the donation of those permits or leases and is required to permanently retire the allotments covered by the permits or leases from grazing. Partial relinquishment and congruent retirement of allotments is also provided for under this subsection.

The BLM believes that grazing is a compatible use within wilderness and there is a long history of legislation accommodating grazing within wilderness designations. The BLM is also concerned about retiring grazing permits. Were it not for the Congressional acknowledgement of the choice of individual permittees, and the rigor of the collaborative process underlying these designations, BLM could only retire grazing permits through land use planning processes. However, the BLM also recognizes the value of working cooperatively and collaboratively with local stakeholders to fulfill its multiple-use mission on BLM lands. The BLM is committed to working with the Committee, the sponsor, and stakeholders in the spirit of cooperative conservation within our existing authority.

*Disposal and Acquisition of Land*

Section 6 of S. 2833 provides for the sale of lands identified for disposal within the Boise District of the BLM and the subsequent use of those proceeds for the acquisition of private lands from willing sellers, within or adjacent to the wilderness areas designated by this bill. Specifically, section 6(a) authorizes the sale of lands identified for disposal prior to the date of enactment of the legislation. The proceeds from any such sales taking place after January 1, 2008, would be deposited in a special account and would be available for the acquisition of private lands identified on the maps referenced by the legislation or any other private lands within or adjacent to the wilderness designated by S. 2833. This authority expires at the end of 10 years or on the date when \$8 million has been expended from the account, whichever happens first. Amounts remaining in the account upon termination would be transferred to the Federal Land Deposit Account authorized by the Federal Land Transaction Facilitation Act (FLTFA) and expended in accordance with FLTFA.

The Department notes that all such sales and acquisitions would be undertaken consistent with applicable laws, including FLPMA, and would be subject to appraisals completed in accordance with the Uniform Appraisal Standards for Federal Land Acquisition and the Uniform Standards of Professional Appraisal Practice.

In addition, the manner in which the proceeds from land sales are distributed requires significant modifications. As noted above, we will work with the sponsors to ensure that this bill returns an appropriate share of these proceeds to the Federal taxpayer, consistent with the Administration's proposed changes to the FLTFA. Our proposal would provide for a consistent approach to the distribution of land sales proceeds at the National level.

*Additional Provisions*

Section 7 requires the Secretary to coordinate with the Shoshone Paiute Tribes in implementation of the Shoshone Paiute Cultural Resource Protection Plan and seek agreements with the Tribes to implement the plan in order to protect cultural sites and resources important to the Tribes. One provision of that plan includes a federally reimbursable law enforcement agreement with Owyhee County for services from the Tribes. The BLM and the Shoshone-Paiute Tribes have an excellent cooperative relationship and work together effectively on a wide range of public land management issues in southwest Idaho. The Administration supports and endorses BLM's continuing and expanding this cooperative relationship.

Finally, section 8 requires the BLM to prepare travel management plans for public lands within Owyhee County. Providing for the wise management and balance of all modes of travel and user needs continues to be a priority for the BLM. The BLM is currently in the process of developing travel management plans throughout the West. We are committed to completing those plans with full public participation in Owyhee County and on all BLM-managed public lands. We would like the opportunity to work with the sponsor and the Committee to ensure this section provides for comprehensive travel and transportation management planning.

We are concerned about the long-term costs of the bill not only to the Department of the Interior and the BLM but also to the Federal Treasury. Public expectations for large infusions of Federal funds to accomplish this bill's authorizations without a clear source of dollars could result in disappointment and frustrate local working relationships.

Thank you for the opportunity to testify on this legislation. S. 2833 is the result of years of intensive efforts by Senator Crapo and many interested parties. We applaud these efforts and look forward to working with the Committee and Sponsor to address the issues addressed above, as well as technical and conforming amendments. I will be happy to answer any questions that you may have.

S. 2834

Thank you for inviting me to testify on S. 2834, the Washington County Growth and Conservation Act of 2008. This legislation is the result of years of exhaustive efforts by the Utah Congressional delegation, in particular Senator Bennett. Working with local governments and the public in the spirit of cooperative conservation they have reached consensus on difficult issues on a wide range of public land management issues in Washington County, Utah. The Administration commends the resolution of land use conflicts in this manner, and supports the bill with modifications to the formula for distributing the proceeds from any land sales to ensure that an appropriate share of the proceeds is returned to the Federal taxpayers. While we note several areas of concern below, we are pleased with a number of significant improvements in this bill relative to the measure considered last Congress.

#### *Background*

Washington County, Utah, located in the southwest corner of the State bordering Nevada and Arizona, covers nearly 2,500 square miles, and has been one of the fastest-growing counties in the United States. With a population of only about 10,000 in the mid-1960s, today Washington County has over 130,000 residents. At the same time, more than 75 percent of the County is Federal land, managed by the Bureau of Land Management (BLM), the U.S. Forest Service (USFS), and the National Park Service (NPS). In addition, the County includes lands held in trust by the Federal government for the Shivwits Indian Tribe and lands owned by the State of Utah. How those lands are managed is a critical issue for the people of Washington County.

The Administration recognizes that the Sponsor has included a number of improvements from the earlier bill in the 109th Congress. In particular, we appreciate that the bill no longer directs BLM to dispose of lands, regardless of whether or not they had been identified for disposal.

#### *Wilderness Designations*

The bill would designate a number of wilderness areas within Washington County, including approximately 123,743 acres of wilderness to be managed by the NPS within Zion National Park, approximately 138,008 acres of wilderness to be managed by the BLM in 16 individual areas, and 2,643 acres of USFS wilderness. In addition, the bill would release 5,074 acres of BLM-managed lands from wilderness study area (WSA) status and would return them to the full range of multiple public uses authorized by the Federal Land Policy and Management Act (FLPMA).

The BLM-managed lands that would be designated wilderness by S. 2834 include areas of rugged beauty, solitude, and important wildlife habitat. In the northeastern part of the County, the proposed Deep Creek and Deep Creek North wilderness areas consist of sheer canyon walls dropping to dramatic year-round rivers. Hanging gardens with wildflowers compete with a variety of raptors, including bald eagles and giant California condors, for the hiker's attention. The steep and rugged Hurricane Cliffs, which soar 2,000 vertical feet in under a mile, form the most outstanding feature of the proposed Blackridge Wilderness. The area is a magnet for hikers, hunters and photographers.

In the southeast, Canaan Mountain's rugged topography includes peaks and colorful vermilion cliffs that form the southern gateway to Zion National Park. The scenic vistas available from these peaks increasingly attract recreationists.

Within the Red Cliffs National Conservation Area (NCA) proposed by Title III of the bill lie the proposed Cottonwood Wilderness on the east and Red Mountain Wilderness on the west. The Cottonwood Wilderness and the adjoining Forest Service-managed Cottonwood Forest Wilderness form the spectacular "front range" between the City of St. George to the south and the Pine Valley Mountains to the north. Within minutes of downtown St. George, this area is prized for its primitive recreational opportunities. It lies within the Red Cliffs Desert Reserve, which has been Federally-designated as habitat to protect the threatened desert tortoise. It is also

home to peregrine falcons and State-listed species such as the Gila Monster. The aptly named Red Mountain Wilderness provides a scenic backdrop to the communities of Ivins and Santa Clara and is a popular destination for local citizens.

The bill also designates the Cougar Canyon and Slaughter Creek wildernesses located in the northwest corner of Washington County. Abutting the Nevada State line, these wilderness areas connect with the Tunnel Spring Wilderness in Lincoln County, Nevada, designated by Public Law 108-424. The area is dominated by rough terrain of wooded canyons and low mountain peaks. Just to the south of Cougar Canyon and Slaughter Creek the bill also designates Docs Pass Wilderness, which includes five miles of a perennial, free flowing stream within Beaver Dam Wash providing habitat to a wide range of native fish and large mammals. The Bull Valley Mountains within the proposed Docs Pass Wilderness are rugged pinyon-juniper woodlands.

Wilderness resolution has been particularly challenging in the State of Utah, and we applaud the hard work of the sponsor and other members of the Utah delegation in reaching consensus on BLM wilderness designation and WSA release. Congress has the sole authority to designate lands to be managed permanently as wilderness, and we believe these areas are manageable as such. We would like the opportunity to work with the sponsor and the Committee on possible minor boundary adjustments to ensure efficient manageability.

S. 2834 would also designate 123,743 acres of Zion National Park as wilderness. The lands proposed for wilderness designation are similar to those that were included in a proposal to recommend wilderness for the park that was originally transmitted to the President on June 5, 1974, by then Secretary of the Interior Morton, and in the 2001 General Management Plan (GMP) for the park. The 1974 proposal recommended designation of 120,620 acres of the park as wilderness.

Differences in the acreage figures between the 1974 transmittal and S. 2834 are the result of land acquisition in the park that has taken place since 1974, acquisition of water and grazing rights, and termination of non-conforming uses. Additional lands within the park consisting of approximately 9,000 acres, but located in Kane County, have also been recommended for wilderness designation and were included in the 1974 transmittal and the 2001 GMP. Although the Department supports the wilderness designation for the park included in S. 2834, we suggest that the bill be amended to include this additional, previously recommended wilderness so that all the lands proposed for wilderness designation within the park are designated.

The bill designates as wilderness five small units of BLM-managed lands surrounding Zion National Park that vary in size from 32 to 663 acres. These are logical extensions of the proposed wilderness areas within Zion National Park and are appropriate for wilderness designation. We recommend transferring all five of these small parcels—Beartrap Canyon Wilderness (40 acres), Goose Creek Wilderness (98 acres), Laverkin Creek (445 acres), Taylor Creek Wilderness (32 acres) and Watchman Wilderness (663 acres)—to the National Park Service. Transfer of these lands to the park will improve management, reduce confusion for the public, and enhance the opportunities for visitor enjoyment.

#### *National Conservation Areas*

Titles III and IV of S. 2834 establish the 44,695 acre Red Cliffs National Conservation Area (NCA) and the 68,083 acre Beaver Dam Wash NCA respectively. These would be the first NCAs in the State of Utah. Each of the NCAs designated by Congress and managed by the BLM is unique. For the most part, however, they have certain critical elements, which include withdrawal from the public land, mining and mineral leasing laws; OHV-use limitations; and language that charges the Secretary to allow only those uses that further the purposes for which the NCA is established. Furthermore, NCA proposals do not diminish the protections that currently apply to the lands. The Red Cliffs NCA and Beaver Dam Wash NCA proposals honor this spirit and the Department supports their designation.

The proposed Red Cliffs NCA would overlay the existing Red Cliffs Desert Reserve which was designed as a part of the Washington County Desert Tortoise Habitat Conservation Plan (HCP) adopted in 1996. The HCP protects important desert tortoise habitat while also allowing continued development in St. George and nearby communities. As directed, the BLM has acquired nearly 8,000 acres of State and private inholdings within the Reserve from willing sellers.

In addition to providing important habitat for the recovery of the desert tortoise and other listed species such as the Shivwits milkvetch and the Woundfin Minnow and Virgin River Chub, the proposed NCA is a popular area for recreationists. Over 130 miles of trails provide excellent opportunities for hikers, mountain bikers and equestrians while ensuring compatibility with the species' recovery. The boundaries of the proposed NCA include over 44,000 acres of BLM-managed land.

The proposed Beaver Dam Wash NCA is nestled in the southwestern corner of Washington County which is a transition zone between three major ecosystems: the Colorado Plateau, the Great Basin, and the Mojave Desert. Such zones are characterized by diverse vegetative communities supporting a rich array of wildlife. Riparian species are found along the deeply incised channel of Beaver Dam Wash, which traverses the length of the proposed NCA to its confluence with the Virgin River. At higher elevations in the Beaver Dam Mountains, pinyon-juniper woodlands cover the slopes of steep-sided canyons. A forest of Joshua trees, the signature species of the Mojave Desert, dots the bajadas and valley floors. The lower elevations provide designated critical habitat for the threatened Mojave Desert Tortoise and other native species, such as Desert Bighorn Sheep, Gila Monsters, and Mojave Rattlesnakes. Current recreational uses within the area include technical rock climbing, hiking, horseback riding, wildlife viewing, and nature study, all of which are compatible with the designation.

*Wild and Scenic River Designation*

The legislation amends the Wild and Scenic Rivers Act by adding approximately 165 miles of segments of the Virgin River and its tributaries within and adjacent to Zion National Park to the Wild and Scenic Rivers system. Seven of the segments are partially or wholly on BLM-managed lands while the remaining 32 segments are wholly within Zion National Park. All of the segments of the rivers that are recommended for designation as wild, scenic, or recreational rivers were found eligible and suitable for inclusion within the Wild and Scenic River System through the Zion National Park 2001 GMP and through the BLM St. George Field Office Resource Management Plan (SGRMP) completed in March 1999. The Department supports the designation of these segments.

*Washington County Travel Management Plan*

Title VI directs the Secretary to develop a comprehensive travel management plan within three years of enactment of this legislation to include the designation of an OHV trail (the High Desert Off-Highway Vehicle Trail) in Washington County. The trail is to be established on existing roads and trails. This trail has the potential to be a significant draw for tourism and will allow visitors and residents to experience and enjoy their public lands while minimizing OHV use outside of designated trail networks. We support the development of both the trail and a comprehensive travel and transportation management plan for the County.

*Land Disposal*

Title VII of S. 2834 provides for the disposal through sale at auction of up to 9,052 acres of public lands out of BLM management and into private ownership. The Department supports the general proposition of making some public lands available for community growth where it is necessary and appropriate. The land disposal process in S. 2834 is consistent with this objective and we support its inclusion.

Under section 702 of S. 2834 the disposal of land would take place in three tiers. In the first tier, lands are to be disposed of within the first eighteen months after enactment of the bill, and include 906 acres of BLM-managed land specifically identified on the map in 14 separate, primarily small, parcels. These lands have been preliminarily identified by the BLM for disposal through the SGRMP. The local BLM had previously reviewed these lands for cultural and historic issues, threatened or endangered (T&E) species conflicts and other potential values that could preclude a conveyance out of Federal ownership, and believes that sale of these lands can be accomplished.

In the second tier, the lands are to be sold at auction within a year of the completion of the sale of the tier one lands and completed by January 1, 2013. The tier two lands include approximately 3,146 acres specifically identified in one small and two larger parcels. These lands have been preliminarily identified for disposal through the SGRMP. However, that identification was only preliminary. The local BLM has been made aware of conflicts on these lands, which include cultural resources as well as the presence of T&E species. Section 702(h) of the legislation anticipates these problems by allowing the Secretary of the Interior to place restrictive covenants on lands sold in order to protect the interests of the United States, including cultural or T&E species. It is unclear how this provision would be implemented, and it has the potential to be an administrative burden requiring the United States to enforce land restrictions in perpetuity.

Finally, the bill provides for not more than an additional 5,000 acres of BLM-managed land in the county to be sold. These lands must be identified for disposal by the BLM through its land use planning process and be in accordance with the Vision Dixie Land and Transportation plan. The Secretary and the County are to

jointly select lands to be offered for sale and there is no specific timetable for their sale.

Section 703 directs that 15 percent of the proceeds from the sales directed in section 702 be distributed to State and County entities, while 85 percent would be retained by the Federal government and deposited in a special account. Up to 9 percent of that account (or \$15 million whichever is less) is to be used for implementing the many provisions of the bill including planning and implementation of special designations as well as costs associated with the directed sales of lands. The remainder of the account is to be used to acquire from willing sellers non-Federal lands within Washington County that are within one of the special areas designated by the bill, or other environmentally sensitive land within the county.

The manner in which the proceeds from land sales are distributed requires significant modifications. As noted above, we will work with the sponsors to ensure that this bill returns an appropriate share of these proceeds to the Federal taxpayer, consistent with the Administration's proposed changes to the Federal Land Transaction Facilitation Act (FLTFA). Our proposal would provide for a consistent approach to the distribution of land sales proceeds, at the National level.

The Administration also does not support section 703(b), which allows the land sales account to earn interest. The Department of the Treasury strongly opposes such provisions, which effectively require the Treasury to borrow more funds to pay this interest.

#### *Additional Provisions*

Title VIII establishes two parcels totaling 932 acres as aerial rights-of-way for reservoirs. Both of these parcels have been identified as potential reservoir sites through the BLM's land use planning process. Under Title V of FLPMA the BLM has the authority to grant rights-of-way for a wide variety of uses, including roads, powerlines, pipelines, communications sites and reservoirs. The applicants for these rights-of-way pay both administrative cost recovery fees as well as rentals. In the case of linear rights-of-way, rent is determined by a published schedule. Rent for aerial rights-of-way is based on appraised value. Municipal utilities are charged rent if their principal source of revenue is customer charges.

In general, the legislation appears to allow the BLM to charge administrative cost recovery for these grants; however it does not allow the BLM to charge rent. We believe it is appropriate that the legislation either allow for the payment of rent or provide for the outright purchase at appraised fair market value of these lands by the water district. In addition, the grants for use are made in perpetuity. If the rights-of-way are not provided for outright purchase, we believe it would be more appropriate to make these easements dependent on their actual use and approval by any State or Federal agencies and for the life of the facility so as to not permanently encumber the public lands for projects in the event they are never developed.

Finally, Title IX of the bill requires the Secretary to carry out the management of plant and animal species so as to restore native rangelands within the County in each "priority biological area." The bill further provides the Secretary with authority to make grants or enter into cooperative agreements to carry out and develop research relating to the restoration of these areas. The full intent of this Title is unclear, as is the definition of "priority biological areas." We would like the opportunity to work with the sponsor and the Committee to further define this Title. We also have concerns that this new grant authority for one county could duplicate or conflict with existing DOI nationwide programs or activities.

Thank you for the opportunity to testify on the Washington County Growth and Conservation Act. While there are a few provisions that cause us concern and that we believe should be modified (as well as some technical amendments), we support the cooperative conservation efforts of Senator Bennett and so many others in Utah to arrive at this point. I will be happy to answer any questions that you may have.

Senator WYDEN. Thank you very much.

Mr. Holtrop.

#### **STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE**

Mr. HOLTROP. Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide the Department's views on two bills today. My short comments this afternoon are a summary of my testimony. Just a few of the key points that I want to highlight.

The Department supports S. 934 which would amend the Florida National Forest Land Management Act of 2003 to authorize the conveyance of 114 acres of land in Leon County, Florida, known as the Flea Market Tract. The bill also provides that proceeds from the sale of certain lands in the 2003 act may be used for Administrative improvements for units of the National Forest System within the State. The Flea Market Tract has been on the National Forest and Florida's potential exchange list for more than 10 years. It is a developed parcel of land in an urban area that lacks national forest character.

Conveyance of this tract will reduce boundary management costs and allow for the purchase of high priority endangered species habitat, critical wetlands and potential recreation areas for the public. Both Leon County and the local environmental groups have offered support for the bill. Additionally the bill has bipartisan Congressional support and we view it as a win-win for all.

S. 2834, Washington County Growth and Conservation Act of 2008 pertains to various National Forest System, Bureau of Land Management and National Park Service lands in Washington County, Utah. My remarks focus on the provisions of the bill related to the National Forest System lands. The Department appreciates the Utah Congressional delegations efforts to resolve a wide range of long standing public land issues in Washington County. Enactment of this legislation would be a significant achievement that the people of Utah, their delegation and Congress could be proud of. We would like to continue to work with the committee on some of our concerns with the bill.

S. 2834 would designate new wilderness areas including 2,643 acres of National Forest System land on the Dixie National Forest as the Cottonwood Forest Wilderness prescribes certain management objectives in wilderness areas designated in the bill and would establish the High Desert Off-Highway Vehicle Trail. It would also direct the conveyance of 112 acres of land on the Dixie National Forest. The proposed wilderness area is scenic, rugged and has a rich diversity of narrow canyons providing excellent opportunity for solitude and primitive recreational experiences.

It also possesses a special feature by virtue of its location adjacent to a desert tortoise reserve. The Dixie National Forest has determined that the area is suitable for wilderness. The bill includes some provisions regarding management of the areas designated as wilderness that are either unnecessary or would change the direction that would otherwise apply under the Wilderness Act of 1964.

The Department prefers to follow the provisions of the Wilderness Act which allows for review of proposed uses of wilderness on a case by case basis. The Department's specific concerns about the wilderness sections of the bill are described in detail in my written testimony which I have submitted for the record. The Department likes the idea of working cooperatively to carry out wildlife management activities in wilderness areas.

In fact we already have an agreement with the Association of Fish and Wildlife Agencies and the BLM that guides us in working cooperatively at the national, regional and local level to manage wilderness areas on national forest system and public lands. The Department does not oppose designation of the High Desert Off-

Highway Vehicle Trail. We are concerned however, about the cost of repair and the reconstruction of existing trails that the designation could require.

Title Ten of the bill would direct the Secretary of Agriculture to convey for fair market value 112 acres of land to a private land owner. While we support selling approximately 21 acres, we do not support conveyance of any additional acres. We would like to continue to work with the sponsor and the committee, however, to resolve this concern.

Mr. Chairman, thank you again for the opportunity to discuss both bills. I'm happy to answer any questions that you may have. [The prepared statement of Mr. Holtrop follows:]

PREPARED STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM,  
FOREST SERVICE

Mr. Chairman and members of the Subcommittee: Thank you for the opportunity to provide the Department's views on two bills on the agenda today. My testimony will be regarding S. 934 and S. 2834.

S. 934/H.R. 1374

S. 934/H.R. 1374 would amend the Florida National Forest Land Management Act of 2003 to authorize the conveyance, for fair market value, of 114 acres (Tract W-1979; Flea Market Tract) in Leon County, Florida. Proceeds from the sale of Tract W-1979 are to be used exclusively for the purchase of inholdings located within the Apalachicola National Forest. The bill also provides that proceeds from the sale of any of the other parcels listed in the 2003 Act may be used for the acquisition, construction, or maintenance of administrative improvements for units of the National Forest System (NFS) within the State, except that the bill further directs that only proceeds from the sale of lands with improved infrastructure may be used for administrative improvements.

The Department supports this bill but would like to work with the Committee and the bill's sponsors on amendments that focus the use of funds derived from sales in a manner that comports with the original Act. Tract W-1979 (Flea Market Tract) has been on the National Forests in Florida's potential exchange list for more than 10 years. It is a developed parcel of land in an urban area which lacks National Forest character. The conveyance of this tract will reduce boundary management costs and allow for the purchase of high priority endangered species habitat, critical wetlands, and potential recreation areas for the public.

S. 2834

S. 2834 pertains to various NFS, Bureau of Land Management (BLM), and National Park Service (NPS) lands in Washington County, Utah. I will limit my remarks to the provisions of the bill related to the NFS lands and will defer to the Department of the Interior on provisions relating to the lands managed by the BLM and the NPS.

S. 2834 would designate new wilderness areas, including 2,643 acres of NFS land on the Dixie National Forest as the "Cottonwood Forest Wilderness," provide for trail maintenance, travel management planning, conservation projects, establish the High Desert Off-Highway Vehicle Trail, and prescribe certain management objectives in wilderness areas designated in this bill. It would also direct the conveyance of 112 acres of land on the Dixie National Forest to Mr. Kirk R. Harrison. The Department does not oppose S. 2834, although we have concerns regarding some of the bill's provisions.

The proposed wilderness area is scenic, rugged, and has a rich diversity of narrow canyons providing excellent opportunity for solitude and primitive recreational experiences. It also possesses a special feature by virtue of its location adjacent to a desert tortoise reserve. In addition, the area is contiguous to BLM land that would be designated by the bill as the "Cottonwood Canyon Wilderness." The Dixie National Forest has determined that the area is suitable for wilderness. However, in the revision of its forest plan, the Forest expects to propose that the area be managed as a "Backcountry Area." This classification is similar to wilderness, but differs because it would allow a mix of motorized and non-motorized recreation to take advantage of the unique recreation opportunities that exist in the area.

The Department requests a technical amendment to the bill in Title I—Wilderness Areas which is needed for clarification. The bill defines the term “Secretary” as the Secretary of the Interior. Accordingly, Section 102(a)(2) could be interpreted to mean the Secretary of the Interior would manage the area of NFS lands designated as the “Cottonwood Forest Wilderness” by Section 101(a)(5). We suggest adding “Agriculture” to the language “shall be considered to be a reference to the Secretary” to clarify that NFS lands under the jurisdiction of Agriculture would continue to be managed by the Secretary of Agriculture.

Section 102 of the bill includes some provisions regarding the management of the areas designated as wilderness that are either unnecessary or would change the direction that would otherwise apply under the Wilderness Act of 1964. The Department prefers to follow the provisions of the Act. The Department objects to the provisions in Section 102(l), which would permanently authorize the State’s use of aircraft in wilderness for wildlife management purposes, and Section 102(m), which would authorize wildlife water development projects. The Forest Service currently subjects proposed uses of wilderness to review on a case-by-case basis, allowing for cooperatively working with partners to balance use in compliance with the Wilderness Act.

Section 102(n) would direct the Secretaries to enter into a cooperative agreement under which the State or designee of the State would carry out wildlife management activities in wilderness areas designated by this title. The Department does not oppose this provision. The Forest Service has signed a cooperative agreement with the Association of Fish and Wildlife Agencies and the BLM that outlines policies and guidelines for fish and wildlife management in wilderness areas, including protocols for managing nonconforming uses (titled “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness” and dated June 2006). It demonstrates a common understanding between the States and Federal agencies. The agreement also allows for similar State-specific agreements if needed. The Department believes that this national agreement provides a mutually agreed upon method to address management issues, and it would be our preference to develop any State agreement in accordance with it to maintain a consistent approach.

Section 603 of the bill would direct the Secretary of the Interior, in coordination with the Secretary of Agriculture, to designate the High Desert Off-Highway Vehicle Trail based on existing roads and trails. The Department does not oppose the trail designation. However, the Department is concerned about the cost of repair and the reconstruction of existing trails that the designation could require. This work has not been a priority trail reconstruction project for the Forest.

Section 1002 of the bill would direct the Secretary of Agriculture to convey, for fair market value, 112 acres of land to Mr. Kirk R. Harrison, a private landowner. The Department is concerned with this section of the bill. The lands in question are currently the subject of Small Tracts Act applications by Mr. Harrison. While we support selling Mr. Harrison approximately 21 acres, which would include his entire original applications for the Spring Field, Platt Field, and Reservoir Field land areas, we do not support conveyance of any additional acres. However, we would like to continue to work with the sponsor and the Committee to resolve this concern. In addition, we would like to suggest a technical correction for this section.

Mr. Chairman, again thank you for the opportunity to discuss both S. 934 and S. 2834. I am happy to answer any questions you may have.

Senator WYDEN. Thank you. Thank you both. I just have a couple of areas I wanted to explore because I know colleagues wanted to get into these in greater depth.

Ms. Jacobson, as I understand it on the Owyhee legislation revenues from the sale of lands the BLM has previously identified for disposal would be used to buy other lands in and around the wilderness areas. Now according to your testimony the Administration has an objection to this because you want and I quote, “ensure that the bill returns an appropriate share of the proceeds to the Federal taxpayer.” My question is if all of the proceeds from the sale of the BLM lands are being used to acquire other public lands wouldn’t that be an appropriate return to the American people?

Ms. JACOBSON. Senator, I think that’s a very good question. As you pointed out land sales and land acquisitions are a valid land management tool just as exchanges are. In this case the bill is a

land sale and land purchase, not an exchange and we just would like to work with the committee, with your staff and with Senator Crapo's office to explore the issues surrounding the land sales and the finances from them.

Senator WYDEN. So if the same lands were conveyed as part of a land exchange would the Department be recommending that a portion of the value of the land involved be deposited in the treasury in effect be consistent with the position you lay out today?

Ms. JACOBSON. Senator, I don't know what the Administration would say on that specific point although your question is a very valid question.

Senator WYDEN. Ok. I'm going to have some questions that we'll need to have addressed from the Administration on the Washington County legislation when we have a chance to look at that further. But my only other one at this time, Mr. Holtrop, is I understand that the Forest Service proposed to exchange the tract of Forest Service land that would be sold under S. 934, but that exchange recently was put on hold. Can you tell me what the challenge is there and why that exchange wouldn't adequately address the needs of the Forest Service in the county?

Mr. HOLTROP. Yes, that's the Florida National Forest piece of legislation.

Senator WYDEN. Right.

Mr. HOLTROP. There never has been an agreement to initiate a land exchange in that case. This tract of land has been identified as not having national forest character. It's surrounded on three sides by the city of Tallahassee and on the other side by a power line corridor and has difficulty in management for our purposes. Because of its location and the cost of managing it and property boundary management and those types of things, we did enter into some discussions as to whether an exchange was feasible given the likely high value of that parcel for urban purposes and the difficulty of identifying the number of parcels of land in a short period of time to arrive at an exchange this was the option that was preferred.

Senator WYDEN. Senator Barrasso?

Senator BARRASSO. Thank you very much, Mr. Chairman. To Ms. Jacobson, if I could, the Owyhee Wilderness bill has reference to fencing off areas of the wilderness. Could you talk a little bit about that in terms of the cost, how that's going to born, if there's going to be appropriations for it in addition to appropriations currently out there?

Ms. JACOBSON. At this time, Senator, we're unable to anticipate how much fencing would be required. So it's difficult for us to put a price tag on that.

Senator BARRASSO. Can you talk a little bit more about that just in terms of as you envision this whole project, what's involved in the process, the amount of time it would take, how many miles of fencing are you talking about?

Ms. JACOBSON. Again, it would depend on the actual acreage and livestock on or not on. So again it would be very difficult for us to determine at this time.

Senator BARRASSO. Would you expect regardless of the amount that there would be some cost incurred. How would you view that being dealt with?

Ms. JACOBSON. Yes, sir. Yes, Senator. The bill says the Secretary may require and what I would anticipate our local land managers doing is determining what—where a fence would be appropriate, what the cost were and then we have to make, as everybody does, decisions on where we allocate funds on the grounds and where we don't. So priorities would be set. But the bill says the Secretary may.

Senator BARRASSO. Thank you very much.

Thank you, Mr. Chairman.

Senator WYDEN. I thank my friend.

Senator CRAIG.

Senator CRAIG. Mr. Chairman, thank you very much. Julie, you mentioned some concern about land sales and dollars and sense. One of my concerns about the language we are reviewing today lies in Section Six, land identified for disposal. It states proceeds from the sale of public lands under Section A, shall be deposited in a separate account in the treasury of the United States to be known as the Owyhee Lands Acquisition Account.

Should I be concerned and should other Idahoans be concerned that such language could redirect Federal dollars away from the Boise Foothills Project?

Ms. JACOBSON. My understanding, sir, is that that wouldn't occur, that the land sales that are authorized in this bill that are consistent with our land use plans are in the Boise District and so they would not interfere with the bill—the Act that you referenced, Senator.

Senator CRAIG. Trying to look at the location of the Foothills, but Boise, I guess they're not in that BLM District?

Ms. JACOBSON. That's my understanding, Senator.

Senator CRAIG. I think that's right, ok. We'll look at that again with you, but thank you. I appreciate that offer.

Mr. Chairman.

Senator WYDEN. Yes.

Senator CRAIG. I concluded. Thank you.

Senator WYDEN. I thank my friend. My apologies to colleagues with the schedule now it's a juggle now and I appreciate my colleagues' indulgence.

Senator CRAPO.

Senator CRAPO. Thank you very much, Mr. Chairman. I have no questions at this point. I just want to again thank Julie Jacobson for the time she's put into helping us work through the issues on this legislation. Thank you.

Senator WYDEN. Thank you.

Senator BENNETT.

Senator BENNETT. Thank you. I alike have no questions for the Administration.

Senator WYDEN. You're home free, folks. Thank you. Thank you for working with us.

Our next panel. The Honorable James J Eardley, Chairman of the Washington County Commission, St. George, Utah. Bill Meadows, President of The Wilderness Society, Washington, DC, Dr.

Chad Gibson, Owyhee Range Service, Wilder, Idaho, and Craig Gehrke, Regional Director of the Wilderness Society, Boise, Idaho.

Gentlemen, welcome and thank you for coming, in some instances, long, long distances to be with the subcommittee. We'll make your prepared remarks a part of the hearing record in their entirety. Why don't we begin with you, Mr. Eardley? Welcome.

**STATEMENT OF JAMES J. EARDLEY, CHAIRMAN, WASHINGTON COUNTY BOARD OF COMMISSIONERS, ST. GEORGE, UT**

Mr. EARDLEY. Ok. Thank you for that. Anyway, I'm grateful for the opportunity to be able to address this committee. Mr. Chairman, my name is Jim Eardley. I'm Chairman of the Washington County Commission. I'm here to express full support that our commission has for Senate bill 2834, the Washington County Growth and Conservation Act of 2008.

We are able to be here today because we have engaged in an extensive planning effort that has involved productive discussions for a broad base of stakeholders. Compromise has been necessary because of either ailments of this legislation that gives us discomfort. But the overall importance of Senate bill 2834 overrides the firstly important items that many of us had to give up to create this final bill.

I'd like to thank those stakeholders that have been involved for their willingness to collaborate. I certainly want to take a few minutes and thank Senator Bennett and Congressman Matheson for their help and support through this whole process over these past few years. It is important that you understand that Senate bill 2834 is about getting something done.

For the first time in Utah we have managed to get the right people to the table who possess a significant amount of courage to address and a grasp of the big picture to finally be successful. I believe we have finally reached a point we are making progress. It's far more important for us to move forward on this than it is to maintain unyielding positions.

As has been stated by Senator Bennett, we are experiencing tremendous growth in Washington County. It is currently the fifth fastest growing county in the United States, up from the year 2006, it was the No. 1 fastest growing county in the United States. We currently are the fastest growing metropolitan area in the United States.

Our county is about 1.5 million acres. Eighty-four percent of that acreage is under either State or Federal ownership with 15 to 16 percent being owned privately. There's really no practical way for us to separate public land use issues from private land use issues. One certainly impacts the other and the effect can be rather dramatic.

This legislation is part of a larger effort to address these issues. Washington County began several years ago with a comprehensive land use planning project that involved many stakeholders in a working group setting, State, Federal, land managers sat at the table in advisory roles offering valuable insight and technical advice regarding management challenges and potential solutions. The county then engaged in a county wide growth planning process called Vision Dixie.

This project involved over 3,000 of our citizens at a variety of meetings held throughout the community. Those findings have been validated through polling activity as well as online input. We have formed what we refer to as guiding principles.

Vision Dixie Guiding Principles include maintaining the quality of air and water, conserving our precious water, protecting our unique signature landscape, preserving our agriculture ranching heritage, preserving open space, creating connectivity through systems of roads and trails, creating improving our transportation infrastructure, focusing on growth of our first and contiguous next. The objectives of Vision Dixie, overall objectives of this legislation are very similar to our land bill. To protect special place, enhance open space, develop trails, parks and accommodate accelerated growth.

In fact except for legislative effort, Vision Dixie would never have taken place. The land sales element of S. 2834 not only provides tools to finally deal with the private in holdings within the Red Hills Tortoise Preserve. But 10 percent earmarked for the county allows us to accomplish the very thing described of to implement Vision Dixie in a very real way.

It is not difficult to conclude that Vision Dixie process and legislation are separately connected. One cannot work the full benefit without the other. S. 2834 is an excellent balance between conservation, growth planning and administrative views to create an extraordinary blend of stakeholders, citizens, State and Federal managers, local leaders and Congressional delegation representatives. As I said we have other concerns which are outlined in written testimony that we'll continue to work on with Congress and in our delegation to resolve.

Of utmost importance county wide access for public land users in the county a large number of RS 2477 assertions which make up the core of our county, public land transportation system. We have worked very hard to get to this point. There is much good that can be accomplished from the passage of S. 2834, not only for the citizens of Washington County, but for all the people to enjoy the beauty and diversity of our county. Thank you.

[The prepared statement of Mr. Eardley follows:]

PREPARED STATEMENT OF JAMES J. EARDLEY, CHAIRMAN, WASHINGTON COUNTY  
BOARD OF COMMISSIONERS, ST. GEORGE, UT, ON S. 2834

Mr. Chairman and members of the Committee, my name is Jim Eardley, Chairman of the Washington County Board of Commissioners. I am here in full support of S. 2834, The Washington County Growth and Conservation Act of 2008. We are able to be here today because we have been engaged in an extensive planning effort which has involved productive discussions with a broad base of stakeholders. Compromise has been necessary. Because of that, there are elements of this legislation which give us discomfort. But the overall importance of S. 2834 overrides those personally important items that many of us have given up in order to create a final bill, and I would like to thank all the stakeholders involved for their willingness to collaborate.

I also wish to thank the entire Utah Congressional delegation for their support. I particularly want to thank Senator Bennett and Congressman Matheson for sharing our vision and then working to advance it here in the Congress. With their support, it has turned into the bipartisan effort you see today.

It is very important for you to understand that S. 2834 is all about getting something done. For the first time in Utah, we have managed to get the right people at the table who possess a sufficient amount of courage and a grasp of the bigger picture to finally be successful. I'm sure you know something of the volatile nature

of public land issues in our state, much of which has played out here in the halls of Congress like scenes from a Greek tragedy, with few positive results. But I believe we have finally reached a point where making progress is more important than holding to some rigid, unyielding position.

I'm grateful for that. Utah land management issues have too long been twisting on the winds of rhetoric, contention, senseless positioning, and fruitless debate. This legislation represents a new day in Utah public land deliberations. The success of S. 2834 will usher in a new era of problem solving and resolution—something which is especially important to those of us who are closest to the public lands and most impacted by management decisions.

Washington County is experiencing tremendous growth. The U.S. Census listed us as the fifth fastest growing county, and the fastest growing metropolitan planning organization, in the country. Each month, around a thousand new residents arrive in Washington County, along with tens of thousands of visitors from all over the world, drawn by the wonderful natural beauty of the land, the warm climate, and the diverse recreational opportunities.

Washington County is just over 1.5 million acres, more than 29% of which is currently under some form of special, restrictive management, including protective habitat for twelve different threatened or endangered species. Our legislation would add to that number of specially-designated lands. Over 84% of our land is in Federal or State ownership, leaving just over 15% of the total land area to accommodate the heavy demands of growth and expansion.

It is important to note that there is no way to separate public land issues from private land issues in a county like ours. Decisions we make in our city and county meetings can seriously increase the burden carried by federal land managers. And, conversely, decisions made by you here, and by state and federal land managers can greatly impact our lives as local citizens and leaders.

If we plan poorly or fail to address growth responsibly, the impacts on adjacent public lands can be dramatic. On the other hand, we cannot plan properly without taking into account the continual impacts created by having large tracts of public lands next to us.

For example, in 2005 and again in 2006, wildfires burned out of control, eventually covering nearly one-fourth of the County, with resulting impacts on grazing, watershed damage, erosion, and so forth. We also experienced devastating floods which left many stranded, some homeless, and property damage in the tens of millions of dollars. The origin of all these events was on our public lands.

The citizens of Washington County continue to be affected by these and other events, and, combined with ever-changing management strategies and ever-growing proposals for special forms of management, the impacts on local officials, planners, and land-users can be terrific.

This legislation is part of a large effort to address these issues in Washington County. I would like to make you aware of the extensive planning, collaboration, and citizen involvement that has brought us to this point. We began several years ago with a Comprehensive Land Use Planning Project which involved many stakeholders in a working group setting, examining and discussing the many public land challenges in Washington County. State and federal land managers sat at the table in advisory roles, offering invaluable insight and technical advice regarding management challenges and potential solutions.

As an extension of that first effort, the County then engaged in a county-wide growth planning process, which we called "Vision Dixie". Vision Dixie is a comprehensive growth planning effort modeled after the Envision Utah process used in some of the major communities on the Wasatch Front and in other areas of the of the country with great success.

This project involved over 3000 of our citizens, as well as representatives from many stakeholder groups, in creating a county-wide footprint for growth. Some of the results of this process were quite predictable, some were a little surprising, but all were guided and developed by the many citizens and stakeholders who participated. In the end, a set of visionary "Guiding Principles" were created, which will guide the County and all the municipalities in directing and controlling the manner in which we grow in the future. I have included a copy of our "Dixie Principles" with my written testimony.

Some of the elements of Vision Dixie include:

- Maintaining the quality of our air and water
- Conserving our precious water
- Protecting our unique "signature" landscapes
- Preserving our agricultural and ranching heritage
- Preserving our open spaces

- Creating “connectability” through a system of trails
- Greatly improving our transportation infrastructure
- Focusing growth inward first, contiguous next

The objectives of Vision Dixie and the overall objectives of this legislation are very similar—to protect our special places, enhance open space, develop trails and parks, and accommodate accelerated growth. In fact, except for this legislative effort, Vision Dixie would never have taken place. The land sales element of S.2834 not only provides the tools to finally deal with the private in-holdings within the Red Hills Desert Tortoise preserve, but the 10% earmarked for the County allows us to accomplish the very things described above, and to implement the Vision Dixie vision in a very real way.

It is not difficult to conclude, then, that the Vision Dixie process and this legislation are inseparably connected. The legislation empowers, the growth planning process directs, and one cannot work to its fullest benefit without the other. S.2834 is an excellent balance between conservation and growth planning, and the methods we have used to create it have been an extraordinary blend of stakeholders, citizens, state and federal managers, local leaders, and congressional delegation representatives.

I’m not sure I can adequately define the importance of these two efforts to the future of Washington County in the five minutes I have been given. I also believe that I cannot emphasize enough the possibilities this legislation creates in finally resolving public land management issues across the state. Clearly, it is very important that we pass S. 2834.

As I mentioned before, there has been a great deal of compromise on many levels to reach this point, and Washington County has some concerns about several elements of the legislation to which I would like make reference.

First, county-wide access for all public land users is of critical importance, and the County has a large number of RS 2477 assertions which make up the core of our county public land transportation system. Some of these roads may be impacted by this legislation, and the County would like the opportunity to work with Senator Bennett and Congressman Matheson to continue to clarify and protect these important transportation issues and to assure that the County’s interests are protected.

Also, we have concerns regarding the land sales portion of the bill. There are a large number of private in-holdings, particularly in the Tortoise reserve, which have not been appropriately dealt with by the federal government. The proceeds from the land sales are intended to address this important issue. It is also the County’s desire to do some of the critical conservation projects which have not had adequate funding. However, the limited number of acres remaining in this legislation after our negotiations is hardly enough to successfully resolve all the in-holding problems and accomplish the many conservation projects which demand attention. The County would like the opportunity to continue to work with the Delegation members on this matter as well.

The County is also concerned about some of the language regarding the establishment of the National Conservation Areas, and would like to continue to work with the Delegation members to resolve these concerns. We would like to be sure the NCAs accomplish the purposes for which they are being created, while protecting historic uses.

Summarily, we have worked very hard to get to this point, and there is much good to be accomplished with the passage of S. 2834, not only for the citizens of Washington County, but for all people who enjoy the beauty and diversity of our public lands. But, just as important, it establishes a format for resolving these contentious issues on a much broader scale, and could lead to similar collaborative efforts across the West. We strongly urge you to support this legislation. Thank you.

Senator WYDEN. Mr. Eardley, thank you and thank you for your presentation.

Mr. Meadows.

**STATEMENT OF WILLIAM H. MEADOWS, PRESIDENT, THE  
WILDERNESS SOCIETY**

Mr. MEADOWS. Mr. Chairman and members of the subcommittee, my name is Bill Meadows and I’m President of The Wilderness Society. I thank you for the opportunity to testify on behalf of the Washington County Growth and Conservation Act of 2008. I first want to thank you, Mr. Chairman, for your leadership on wilder-

ness in the Mount Hood Wilderness and Copper Salmon Wilderness, really great efforts. You know The Wilderness Society fully supports that work and applaud you for that leadership.

Senator WYDEN. We thank you for your support of Mount Hood and Copper Salmon and by God, by next wilderness day we're going to have those law.

Mr. MEADOWS. We'll celebrate with you. Senator Crapo, it's a pleasure to be here at a time when we're talking about Owyhee Canyon legislation, too. So thank you for that.

It's particularly auspicious, as Senator Wyden noted, that we're together on the anniversary of Earth Day. I was privileged during most of my working life at The Wilderness Society to work a few doors down from Senator Gaylord Nelson, the founder of Earth Day, who spent his last 25 years working as an esteemed counselor for The Wilderness Society. Senator Nelson used to say that our public lands in this country are the greatest gift that every American receives at birth. That gift to all of us is no where greater seen and envisioned than the beautiful Red Rock Country in Utah that we discuss today.

I've submitted a written statement for the record that addresses this legislation in more detail. But I would like to summarize the views of my organization and then will be happy to take questions from the committee. As many on this committee know wilderness protection in Utah has a long and contiguous history.

Although not the bill The Wilderness Society would write, this bill is a product of good faith efforts by many diverse interests. We have some concerns as outlined in our testimony. But we believe that the legislation represents an opportunity to finally achieve lasting protection for some spectacular lands in Utah.

First, I thank Senator Bennett for his diligent efforts on this bill. He has demonstrated real leadership keeping these diverse interests focused on what is possible. Many thanks also to Senators Bingaman and Wyden who have already devoted personal time and attention to the cause of protecting these wonderful landscapes. Also my thanks to Representative Matheson and staff, David Brooks, and Tyler Owens with whom we've worked closely for their leadership in developing this legislation as well.

This legislation would designate as wilderness or national conservation areas about 380,000 acres of public land. This is a substantial amount of protection for a county that has been locked in stalemate over wilderness protection for decades. As part of the protection, 94 percent of the Bureau of Land Management Wilderness Study Areas in Washington County would become permanent wilderness.

Included in these designations would be 190,000 acres of the 300,000 acres contained in inventory of BLM Wilderness quality lands prepared by the Utah Wilderness Coalition. About 140,000 acres of these lands would be designated wilderness and 50,000 acres of National Conservation Area. Much of this area has no effective protection to date. So this would be a significant gain in protecting the county's Federal lands.

Among the outstanding areas that would gain wilderness protection are Cougar Canyon, Doc's Pass, Canaan Mountain and the Kolob Unit of Zion National Park. Protection for these areas would

truly be cause for celebration. The National Conservation Areas would also provide protection for sensitive tortoise habitat. We know that it is the intent of Senator Bennett to protect these areas against inappropriate motorized vehicle use. We believe additional language needs to be inserted to accomplish that intent.

Our most serious concern is with Title IX—Title VII of the bill regarding land disposal. We are much appreciative of the bill's recognition that identification of Federal land for disposal should only take place in the context of agency management planning and in accordance with current law. We also are appreciative that a large percentage of the proceeds from such sales would be dedicated to acquiring ecologically important lands within the county. This is a notable improvement over previous legislation because it would add high value conservation lands to the Federal estate.

Our concern is with a portion of the proceeds from such sales that divert 10 percent of the revenues to the county's local government. Use of these funds is not limited to conservation purposes. It could be used for a variety of local projects including transportation infrastructure and water development. We believe strongly that our Federal public lands for the property of all taxpayers and are the birthright that ensures preservation and conservation of our most special places for generations to come.

In the interest of time I will not detail the other suggestions we have included in our written testimony, but we believe that there are some changes in drafting that would better effectuate the intent of the drafters. I would like to close by reiterating what may be the most important point of all that the work that has already occurred on this bill represents a breakthrough in long polarized debate in Utah over land protection. While not perfect, I think this bill offers real and lasting protection for an important part of Southern Utah's public lands.

Thank you again for the opportunity to testify. I'm happy to answer any questions.

[The prepared statement of Mr. Meadows follows:]

PREPARED STATEMENT OF WILLIAM H. MEADOWS, PRESIDENT, THE WILDERNESS SOCIETY, ON S. 2834

#### INTRODUCTION

Thank you for the opportunity to testify. I am Bill Meadows, President of The Wilderness Society, a non-profit conservation organization dedicated to preserving our nation's public land legacy, and with this bill I believe we have a real opportunity to do exactly that for the unique wild lands of southwestern Utah.

Let me start by thanking Senator Bennett and his staff for the hard work that has gone into this legislation. They have spent countless hours listening to the concerns and recommendations from all interested parties, including significant time spent on the ground in Washington County examining a great many of the proposed wilderness areas.

Let me also thank the members of the Subcommittee and Committee, and particularly Senators Bingaman and Wyden and their talented staff. Although the bill has only recently been introduced, the Committee has already shown a willingness to devote resources, including the time of the Senators themselves, to work on this important legislation in a productive way, recognizing the importance of America's public lands legacy to all Americans.

As you know, S. 2834 is a complex public lands bill built upon years of effort that addresses a variety of issues in Washington County, Utah. Although not the bill The Wilderness Society would write, this legislation addresses a number of competing uses on public lands and is product of an effort carried out in good faith. Although

we have some concerns as outlined in our testimony, we believe this legislation represents significant gains for America's public lands.

While I will briefly address several titles of the bill, our most extensive expertise is on the Wilderness titles of the legislation; therefore, I will focus the majority of my testimony on that title.

#### WILDERNESS AND OTHER PROTECTIVE DESIGNATIONS

The legislation would designate as Wilderness or as National Conservation Areas about 380,000 acres of Bureau of Land Management (BLM), national forest, or national park lands. This is a substantial amount of protection for a county that has been locked in a stalemate over wilderness protection for decades. As part of this protection, 94% of the BLM Wilderness Study Areas (WSA) in Washington County would become permanent Wilderness; the areas that are released from WSA status are boundary adjustments in the Canaan Mountain and Red Mountain areas and one small study area in the Beaver Dam Wash. We believe this level of protection for WSA's should set a minimum standard for future wilderness bills in Utah.

As part of this designation, 190,000 of the 300,000 acres contained in the inventory of BLM wilderness quality lands prepared by the Utah Wilderness Coalition and the citizens of Utah would receive an enhanced level of protection. Although this does not protect as much of this these lands as we would like, it includes about 140,000 acres that would be designated wilderness and about 52,000 acres that would be National Conservation Areas as discussed below. Much of this land currently has little effective protection, so this is a significant gain in protecting the federal land of Washington County. With this, a stalemate could finally be broken, bringing lasting protection to some of America's most wild and spectacular federal public lands.

Some highlights of the areas and resources that would receive Wilderness protection:

- Cougar Canyon and Doc's Pass: Situated in the very northwest corner of Washington County, this remote and rugged area offers outstanding opportunities for hiking, rock climbing, deer hunting, and trout fishing. As its name suggests, the area is prime habitat for mountain lions. The Wilderness designation would ensure that a proposed reservoir and dam for the heart of the area would not be developed.
- Kolob Units: The six units that comprise the Kolob area are logical extensions of the Kolob Terrace section of Zion National Park. They are part of the integrated watershed, wildlife habitat, and scenic terrain of the park, and are among some of the most pristine, spectacular, and ecologically significant lands in Utah.
- Canaan Mountain: Peregrines, desert bighorn sheep, mountain lion, coyote, bobcat are among the animals found in this spectacular mountain unit. Though often overlooked by visitors to Zion National Park, Canaan Mountain offers superb opportunities for day hikes and backpack trips through its sandstone plateau.

As noted, in addition to the Wilderness designations the bill also would protect a total of about 113,000 acres of sensitive tortoise habitat as National Conservation Areas (NCAs), 52,000 acres of which are in the citizens' inventory of BLM wilderness quality lands. Of these two NCAs, the 68,000-acre Beaver Dam Wash National Conservation Area would protect the dazzling Joshua Tree forests of the southwest corner of the county.

In order to realize true protection from inappropriate motorized use in this area, we understand that Senator Bennett and the County have agreed and intend that the citizens' inventoried wilderness areas in the NCA should be closed to motorized public use except for three roads totaling about three miles. However, there is no statutory language affording protection against motorized use in the current version of the bill. We understand that committee staff is exploring ways in which such protection could be written into the legislation ensuring that appropriate protection is made permanent. We believe this protection is important and should be made a part of the legislation.

Finally, the bill would also protect 165 miles of rivers in the County as Wild and Scenic Rivers. We are most appreciative of the protections provided for these areas.

#### FEDERAL LAND DISPOSAL

Title VII of the bill requires the sale of about 4,000 acres of public land that has been identified by the Bureau of Land Management as appropriate for disposal in the course of its management planning. It also provides for the sale of up to 5,000

additional acres of public land should such land be identified for disposal in accordance with current law at a later date. We are appreciative of the bill's recognition that identification of public lands for disposal should not be made outside of the management planning by the relevant agency and must be done in accordance with current law.

Of most serious concern are the provisions of S. 2834 that earmark the disposition of the proceeds from these land sales in a manner inconsistent with current law. Proceeds from Federal land sales covered by the Federal Land Transaction Facilitation Act (FLTFA) currently remain as federal funds and generally go toward buying other land from willing sellers and making it part of the portfolio of federal land. Proceeds from the sale of the 4,000 acres that have been identified by BLM for disposal would be covered by FLTFA.

The Washington County Growth and Conservation Act would depart from this equation by diverting 10% of sale revenues to the local government of Washington County. It further provides that 5% would be available to the state for the support of schools, in accordance with current law. The remaining 85% of the proceeds would go toward acquiring high priority ecological and wilderness lands within Washington County, less an amount earmarked for the administrative costs to BLM to implement the legislation (9% or up to \$15 million).

It is the 10% earmarked for the county that is of concern. Use of these funds is not limited to conservation purposes and could be used for a variety of local projects, including transportation infrastructure and water development. We understand and are sympathetic to the fact that Washington County, like virtually every county and state government, has spending needs that may not be fully funded. However, we believe strongly that our federal public lands are the property of all taxpayers and are a birthright that ensures the preservation and conservation of our most special places for generations to come. When disposal of those lands are appropriate, the resulting funds should remain the property of all Americans.

At the same time, we are supportive of the provision that would commit 85% of the proceeds (less the 9% of primarily administrative costs) to acquiring ecologically important lands within the county. This is a significant improvement over previous legislation that did not dedicate this percentage to land acquisition. Adding high value conservation lands to the Federal estate is a significant benefit.

#### OTHER PROVISIONS ON FEDERAL LAND MANAGEMENT

We appreciate that this bill no longer mandates that a right-of-way be granted for a water pipeline from Lake Powell. We do have some concern about its provision of other rights-of-way because, although we understand they are unrelated to the pipeline, they are given away in perpetuity without any compensation to the taxpayers.

S. 2834 requires the BLM to identify one or more options for the placement of a "northern transportation" corridor in the County. We understand that Senator Bennett has agreed not to require any study of a transportation route through sensitive desert tortoise habitat. The current language needs work in order to more clearly effectuate this intent.

S. 2834 generally would require the BLM to designate areas, roads, and trails where off-road vehicle use is permitted. We support the need for the development of a timely county-wide travel management plan conducted in accordance with all existing laws, including those that are intended to protect natural and cultural resources and the interests of all users of the area. We believe the intent of the drafters is consistent with our view, but that some refinement in the drafting may be required to effectuate this purpose. We also have questions about the intent of the provisions in Titles VII and IX that provide for funds to private entities for stated purposes. We would like to work with the interested parties to better understand this intent and ensure that if appropriate, it is carefully drafted.

Additionally, we have suggestions that we believe would improve the drafting in a few other areas. We will be providing those suggestions to the sponsors and the Committee, and would appreciate the opportunity to continue to work together with the Committee as the bill is further refined.

#### CONCLUSION

The Wilderness Society believes S. 2834 represents a breakthrough in what has been a long-polarized debate in Utah over land protection. While not perfect as currently drafted, it presents a real opportunity to afford real and lasting protection for an important part of southwestern Utah's public land legacy. We appreciate the opportunity to testify and look forward to working with the Committee and the sponsors to fully achieve the promise inherent in this bill.

Senator WYDEN. Thank you, Mr. Meadows. Thank you for the advocacy you bring to this cause and on this day especially. We thank you.

Dr. Gibson of the Owyhee Range Service, welcome.

**STATEMENT OF CHAD C. GIBSON, OWYHEE RANGE SERVICE,  
WILDER, ID**

Mr. GIBSON. Mr. Chairman, I appreciate the opportunity to be here, committee members. We appreciate the opportunity to have this legislation heard and for me to provide some information in regard to that.

I've been a member of the Owyhee Initiative Work Group since its beginning in 2001 as a representative of the Owyhee Cattlemen's Association. So I bring this information from that perspective. This initiative process provides an opportunity to deal with land use conflicts that have been around forever in regard to wilderness and wild and scenic rivers. But at the same time it addresses the issue of trying to maintain economically viable ranching, initiate preservation of tribal and cultural resources and maintain a significant opportunity for recreational use of this very sought after recreational area.

The Association is supportive of the legislation as is indicated and have some issues with it, but the Association does support the legislation. The Association was initiated in 1878 and this is probably one of the largest tasks that they faced in all of those years. The legislation and this effort is clearly not going to get rid of all of the issues, but it certainly provides a path forward that maybe gets them down to a manageable level.

One of the issues is the establishment of the Owyhee Science Review that the Association believes is extremely important. It's intended as a means of assuring that scientific information is appropriately obtained, properly considered and applied. That's often an issue with scientific information getting into disputes. We recently spent 18 days in court over one of these.

The process imposes no burden on the Department that's not already required. That is to provide information that's needed to conduct the review. It ensures that the review is conducted by independent scientists with specific knowledge of the issues in question. The intent is to provide sound science for everyone that's involved in and has an interest in resource management.

While the scientific questions may be generated by issues that arise from Owyhee County, they certainly will have broad application in other areas. The Association believes that the wilderness areas that have been identified are the very best of the best and that they represent a very viable compromise in acres that are going to be preserved as wilderness and acres that are going to be released to other management, particularly areas that have special management needs.

The same is true in regard to the wild and scenic rivers. They're issues there that have been on the books since the mid 1970s and haven't been resolved. This is an opportunity to be able to do that.

I think also of importance is the provision in the legislation to implement the Shoshone Paiute Cultural Resection Resource Protection Plan. It's been on the books for a number of years and has

just not been implemented because the attention has not been given to it. The ever increasing visitor participation in the area either from folks that just don't know or from sometimes in the case of vandals the desecration of some of those sites has been well documented. I think recognition of that proposal or that plan and putting it into effect will be a great help to these special values and particularly to the tribe.

I think in the interest of time perhaps I could be, better serve the committee by answering questions later on. So I'll conclude my statement now.

[The prepared statement of Mr. Gibson follows:]

PREPARED STATEMENT OF CHAD C. GIBSON, OWYHEE RANGE SERVICE, WILDER, ID,  
ON S. 2833

First I would like to thank the Committee for allowing this legislation to be considered and for allowing me to provide information at this hearing. I have been a member of the Owyhee Initiative work group since its beginning in 2001 as a representative of the Owyhee Cattleman's Association and I offer the following comment from that perspective.

The unique process known as the Owyhee Initiative was sponsored by the Owyhee County Commissioners, the Shoshone-Paiute Tribes and Senator Mike Crapo. The County and Tribes set forth the goal and issues they wished to have addressed, sought interested and willing participants and appointed diverse group of representatives from an equally diverse group of conservation, ranching / landowner and recreational interest groups (Owyhee Initiative work group). On paper it may have looked like an impossible task; however, a condition for appointment was a strong commitment to the assigned task. The resulting Owyhee Initiative Agreement resulted from a willingness of the participants to recognize and respect the views and beliefs of others and to seek common ground from where the assigned goal and issue could be addressed. The Owyhee Initiative Agreement resulted from a high level of commitment and trust among all participants and the patient unwavering support of the sponsors. Efforts such as the Owyhee Initiative provide a unique path for the replacement of conflict and gridlock with cooperative effort to achieve common interests.

Owyhee County is sprawled over nearly 5 million acres and possesses a diverse landscape from small communities surrounded by intensive irrigated agriculture to extremely rugged and remote back country. The ranching community is dispersed throughout the County. Like many areas in the west the private land that support ranching operations occupy the most productive areas with water and other high resource values. Historically, ranching on these lands has maintained an open space landscape prized by residents and visitors alike for its benefit to wildlife as well as human use. The best hope for avoiding fragmentation through special use ownership is to maintain the opportunity for viable ranching use. While viable ranch operations cannot be guaranteed, land management that, at least, preserves the opportunity for success is essential for maintenance of a viable open space landscape.

The Owyhee Initiative provides an opportunity to resolve land use conflict through the identification and designation of Wilderness and Wild and Scenic Rivers while preserving the opportunity for continued economically viable ranching, initiating active preservation of Tribal cultural resources and maintaining significant opportunity for diverse recreational use.

Senate 2833 is the culmination of nearly 7 years of cooperative collaborative effort to resolve conflict and move past management gridlock in order to foster and allow progressive management of natural resources in Owyhee County.

While the Owyhee Initiative Agreement imposes various commitments on the participants, some elements cannot become reality without Congressional Action. The Owyhee Public Land Management Act of 2008, S-2833 contains the Congressional directives necessary to realize many of the most important elements of the agreement.

I believe it is important to recognize the commitment and extensive effort of the Committee staff in the effort to develop this legislation. David Brooks has been especially helpful by committing the time needed to understand the issues and provide positive legislative solution. Frank Gladics has also been especially helpful with the process.

I am here to express the Owyhee Cattlemen's Association support for the components and concepts addressed in this legislation. The OCA was first established in 1878 and perhaps has never engaged in an effort more important to the future of Ranching in Owyhee County. This legislation clearly will not resolve all conflict but does offer a positive path forward.

The provision for establishment of the Owyhee Science Review and Conservation and Research Center represents a unique approach to combining the discovery of new information and application of new and known science.

The Science Review is intended as a means of assuring that scientific information is appropriately obtained considered and applied. Independent peer review offers a unique opportunity to avoid disputes over the proper application of science that lead to management delay, gridlock and lengthy legal disputes. This process imposes no burden on the Department that is not already required. It assures that any review will be conducted by independent scientists with specific knowledge of the issues in question. The intent is to provide sound science based management guidance for all entities that have an interest in resource management. While the scientific questions proposed for review would originate in Owyhee County, the information gained from peer review would in many cases have much broader application.

Where scientific information is lacking the Conservation and Research Center will provide an opportunity to coordinate and direct research activity to meet the most pressing scientific information needs. In addition the Center will provide a means to leverage and coordinate conservation programs to achieve much broader scale objectives than is now the case. The Center would also be in a position to seek private grants and matching funds to provide increased research and conservation program opportunity.

I believe that the designation of wilderness includes the lands with the highest wilderness resource values within the county. The areas identified for wilderness and the areas identified for release from interim management were thoroughly investigated and evaluated and represent a very positive resolution of this issue.

The application of wilderness management as well as the use of wilderness by users requires that boundaries be readily identifiable on the ground. A great deal of time was devoted to the identification of wilderness boundaries in a manner that allows them to be clearly and easily distinguished on the ground.

The identification of additions to the Wild and Scenic Rivers System was a thorough process intended to assure that the additions fully represented the unique rivers and canyonlands in the area. At the same time the selection of proposed additions considered the avoidance of future use conflicts.

The provision in the legislation to implement the Shoshone-Paiute Cultural Resources Protection Plan will allow the Tribes and the Department to go forward with a plan that has been on the shelf for a number of years. Increasing visitor use over ever wider areas of the County poses a growing threat to cultural sites and resources from vandals or simply uninformed users. Significant depletion of the more accessible cultural sites has already been documented. Official recognition and implementation of the Shoshone-Paiute Cultural Resources Protection Plan will assure much needed management of these special value resources.

The legislation directs the Department to complete Recreational Travel Management plans for the Owyhee Front and for the remainder of the County within one year and three years respectively. The absence of such plans is detrimental to both the affected resources (soils and vegetation) and users who are unaware of the roads and trails that would most satisfy their expectations. Without appropriate plans the Department must fall back on generic "existing road and trail" designations. In such cases enforcement is not practical because neither the user nor enforcer knows which trails were in existence at the time of designation. Currently, new routes that are created almost daily become "existing" routes to the next user. Thus, many users who would not intentionally damage resource values if they were properly informed are a significant problem in the absence of proper travel management planning.

In addition to proper travel management planning and public information, there is a need for adequate enforcement. While most users would, out of respect for the land, observe posted rules for travel use, some users need a more direct incentive. Unless adequate enforcement can be applied, travel management planning and public information will not solve the problem.

Having stated the above, there remains some concern relative to the wording of the Act. Those concerns and recommendations for resolution are discussed below.

*RE: page 8, lines 10-14*

SEC 4, (b) (3) (C) leaves an impression that it is necessary to fence livestock out of wilderness areas to "protect" wilderness values. However, the

areas in question have been grazed for well over 100 years and wilderness values remain in tact. Thus, exclusion of livestock does not equate to protection of wilderness values. The intent was that exclusion of livestock from areas of certain wilderness designation could “enhance” a wilderness experience simply by avoidance of visitor encounters with livestock. It is my opinion and that of the Owyhee Cattlemen’s Association that the terminology should be changed as indicated below.

(C) FENCING.—The Secretary may construct and maintain fencing around wilderness areas designated by this Act as the Secretary determines to be appropriate to (strike) *protect* (insert) *enhance* wilderness values.

*RE: Page 8, lines 23-24 and Page 9, lines 1 & 2.*

The provision for the Donation of grazing permits or leases contains an inadvertent contradiction as to the treatment of the lands covered by a permit or lease. The termination language indicates that the donation of a permit or lease in its entirety would result in permanent closure of the land covered by the permit or lease. This language does not recognize that the land covered by the donated permit or lease may also be covered by another permit or lease that will remain in use (Common use Allotment). The language needed to rectify this issue is presented below.

(ii) TERMINATION.—The Secretary shall terminate any grazing permit or lease acquired under clause (i) to ensure a permanent end to (strike) *grazing on* (insert) *grazing use authorized by the permit or lease* on the land covered by the permit or lease. \*\*

*RE: Page 9, lines 15-22.*

The following recommendation is to assure consistent terminology and avoid potential issues in regard to interpretation of inconsistent terminology.

(II) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the (insert) *authorized* level of grazing on the land covered by a permit or lease donated under subclause (I), the Secretary shall not allow grazing use to exceed the authorized level established under that subclause.

*RE: Page 9, lines 23-24 and Page 10, lines 1-5.*

This section of the legislation provides for the acquisition of private land within the boundary of the wilderness areas designated by the Act. However, some of the private land offered for acquisition or exchange is not within the wilderness boundaries. In addition the language needs to provide a higher level of certainty that the Secretary will, at the least, offer to acquire land or interests in land (offered lands are depicted on appropriate maps) by purchase, exchange or donation. The certainty is needed in order for ranchers to adequately plan for reorganization of their ranch operations relative to expected changes in resource inputs. Ranch management decisions often have implication for future demands on capitol, labor and resources over the next 18 months or more. Uncertainty as to the availability of future capitol, labor and resources significantly disrupts if not precludes effective ranch planning and management.

The Owyhee Cattlemen’s Association believes that there are three elements needed in language in order to adequately address the issue of land acquisition. First, the legislation needs to recognize all of the land that has been offered for potential acquisition both within and outside of proposed wilderness. Second, the legislation needs to provide a greater level of certainty that Secretary will, at the least, offer to proceed with acquisition of the identified private lands. Third, there needs to be an increased level of certainty that the offer and completion of land acquisition will occur in a timely manner. To this end, the following language is offered as a guide to arriving at a workable and effective solution.

Strike the language at page 10, lines 1-5 and insert the following:

(A) IN GENERAL.—Consistent with applicable law, the Secretary is authorized and directed to offer to acquire land or interests in land as depicted on the map (insert appropriate reference) by purchase, donation, or exchange.

Insert the following at page 10 after subparagraph (B).

(C) TIMING OF ACQUISITIONS—It is the intent of Congress that the land purchase or exchange directed by this section be completed not later than one year after the date of enactment of this Act.

*RE: page 22, line 2.*

This line refers to maps in section 4(a)(2) that show land identified as “proposed for acquisition”. However, it appears that the cited section only refers to maps showing the boundaries of wilderness areas established under this act. This line needs to be amended with the appropriate map reference. Based on the recommendation above the reference should be (Section 4 (b) (4) (A)).

The Owyhee Cattlemen’s Association again thanks the Committee for this opportunity and would like to express their great appreciation and sincere thanks for the enormous support of this effort by Senator Mike Crapo and his staff. The OCA is also greatly appreciative of the willingness of the Committee staff to work toward a positive outcome of this effort.

Senator WYDEN. We thank you and thank you for your good work.

Mr. Gehrke, welcome.

**STATEMENT OF CRAIG GEHRKE, REGIONAL DIRECTOR, THE  
WILDERNESS SOCIETY, BOISE, ID**

Mr. GEHRKE. Mr. Chairman and members of the subcommittee, thank you. My name is Craig Gehrke. I’m the Regional Director of the Idaho Office of The Wilderness Society.

The Wilderness Society appreciates this opportunity to testify in support of passage of S. 2833, the Owyhee Public Lands Management Act of 2008. We are committed to working with Congress to ensure that the legislation is true to the intent of the Owyhee Initiative Agreement, an agreement to which The Wilderness Society was a participant and was developed in Idaho between conservationists, ranchers, Owyhee County elected officials, the Shoshone Paiute tribe and others. The Wilderness Society deeply appreciates the work done over the last several months by the majority and the minority staff of the subcommittee, Senator Crapo’s staff and Senator Craig’s staff on S. 2833. That work has produced legislation that reflects very important goals and objectives of the Owyhee Initiative Work Group.

S. 2833 reflects the attempt by the Owyhee Initiative Work Group to provide protection for outstanding wild areas in Owyhee County while considering the lives with those who live and work there. Through wilderness and wild and scenic river designation, S. 2833 provides permanent protection for some of the wildest, most diverse landscapes in Southwest Idaho ranging from river canyons that are over 1,000 feet deep to vast expanses of sage brush and grassland plateaus that provide habitat for the sage grouse, pronghorn antelope, big horn sheep, song birds, raptors and numerous rare plant species. The river canyons in Owyhee County have been called the largest concentration of sheer-walled volcanic rhyolite and basalt canyons in the Western United States.

White water river enthusiasts come from around the country to challenge these rapids on these rivers. This high desert sage brush and canyon country not included in existing wilderness areas in Idaho and is generally under represented in the National Wilderness Preservation System. All the areas proposed for wilderness in S. 2833 represent valuable additions to the National Wilderness Preservation System. It’s great to see this picture up here. We look forward to see that it will be a great benefit in the State of Idaho when the Owyhee Canyon lands joins the ranks of Saw tooth and Hell’s Canyon and other special areas in Idaho that receive permanent protection.

The wilderness designation closes over 200 miles of vehicle carved routes through these wild areas and that represents one of the biggest threats to the wild places in Owyhee County. It allows for the permanent retirement of voluntary livestock grazing upon voluntary donation of the permits and acquisition of private lands within and adjacent to the wilderness areas.

S. 2833 directs the BLM to develop and implement transportation plans for the public lands outside the proposed wilderness areas. Completion of these plans will lead to better resource protection from damage resulting from cross country motorized recreation in Owyhee County.

S. 2833 establishes the Owyhee Science Review and Conservation Center in Owyhee County to conduct research projects to address natural resource management issues that effect public and private range lands in the county. The Wilderness Society supports the establishment of the Owyhee Science Review and the Conservation Center. We support the collection and analysis of the most up to date information and research regarding resource management and the sharing and distribution of that information among all the interested parties.

S. 2833 gives greater protection of the Shoshone Paiute Cultural sites and resources in what's been called one of Idaho's richest archeological areas. The legislation directs the BLM to coordinate with the Shoshone Paiute tribe implementation of the Shoshone Paiute Cultural Resource Protection Plan. Implementation of this plan is needed to help protect the cultural resources of Owyhee County from chronic theft and vandalism.

In summary, The Wilderness Society has been proud to participate in the Owyhee Initiative and is pleased to be here today to urge the passage of S. 2833. We want to reaffirm The Wilderness Society's commitment to the Owyhee Initiative and is seeing through implementation of the entire agreement including the provisions that are outside the scope of this legislation. Thank you.

[The prepared statement of Mr. Gehrke follows:]

PREPARED STATEMENT OF CRAIG GEHRKE, REGIONAL DIRECTOR, THE WILDERNESS SOCIETY, BOISE, ID, ON S. 2833

Thank you for the opportunity to testify and state The Wilderness Society's (TWS) support for passage of S. 2833, the Owyhee Public Lands Management Act of 2008. We are committed to working with Congress to ensure that the legislation is true to the intent of the Owyhee Initiative Agreement, a unique agreement developed in Idaho between conservationists, ranchers, Owyhee County elected officials, members of the Shoshone-Paiute Tribe, and others. TWS is also committed to working with Congress to ensure that the legislation is in the best interest of our public lands. S. 2833 provides lasting protection for critical ecological, scenic, recreation and wild areas that are threatened from development and degradation.

TWS deeply appreciates the work done over the past several months by majority and minority subcommittee staff, Senator Crapo's staff, and Senator Craig's staff on S. 2833. That work has produced legislation that reflects important goals and objectives of the Owyhee Initiative Work Group. The Owyhee Initiative Work Group was initially comprised of the Owyhee Cattle Association, Owyhee County, Bruneau Soil Conservation District, Idaho Outfitters and Guides Association, the Owyhee Borderlands Trust, The Nature Conservancy, The Wilderness Society, People for the Owyhees, and the Idaho Conservation League. The Sierra Club was later added to the Work Group. The BLM, Idaho Department of Lands, and the U.S. Air Force participated as ex officio members of the Owyhee Initiative. After public hearings in Owyhee County urged expansion of the Work Group, it was expanded to include Idaho Rivers United, the Owyhee County Farm Bureau, Foundation for North American Wild Sheep, and the South Idaho Desert Racing Association.

There are genuine and significant conservation gains achieved through S. 2833. Wilderness and Wild and Scenic River designation, preparation of travel management plans that will lead to better resource protection from damage resulting from cross-country motorized recreation in Owyhee County, closure of 200 miles of motorized routes through proposed wilderness, establishment of a conservation research center, increased protections of Shoshone-Paiute cultural sites and resources, and acquisition of private land inholdings in candidate wilderness areas and public rights of way across private land all create a total package that TWS supports.

#### WILDERNESS

The bill designates 517,000 acres of BLM wilderness. The landscape within the wilderness proposal is diverse, ranging from river canyons over a thousand feet deep to vast expanses of sagebrush and grassland plateaus that provide habitat for sage grouse, pronghorn antelope, bighorn sheep, songbirds, raptors, and numerous rare plant species. More than 230,000 acres of lands proposed for wilderness are upland plateaus and 224,000 acres are classified as low or moderate hills. This high desert, sagebrush steppe habitat is not included in existing designated wilderness in Idaho and is generally underrepresented in the National Wilderness Preservation System. All of the areas proposed for wilderness in S. 2833 represent valuable additions to the National Wilderness Preservation System.

The river canyons in Owyhee County have been called the largest concentration of sheer-walled volcanic rhyolite and basalt canyons in the western United States. Many of the canyons are more than 1,000 feet deep, nearly twice as deep as the Washington Monument is tall. River enthusiasts come from around the country to challenge the famous white water rapids of these rivers.

The greatest threat to wildlands in Owyhee County is escalating motorized recreation. While WSAs are intended to be managed to protect their wilderness character, WSA status has done little to limit motorized use as the BLM has not regulated or closed WSAs to motorized recreation. Consequently, WSAs in the Owyhee-Bruneau Canyonland region have hundreds of miles of illegal motorized routes carved within their boundaries. Wilderness designation will close these areas to motorized abuse.

Lands not designated as wilderness will be released and no longer managed to protect their wilderness characteristics, but may be eligible for future wilderness consideration at a later date.

There are specific WSAs that TWS regrets will not be designated as wilderness, specifically West Fork Red Canyon and Sheep Creek West. West Fork Red Canyon is a rugged river canyon that supports redband trout populations and would be a logical expansion of the Owyhee River proposed wilderness. Sheep Creek West WSA was recommended for wilderness by the BLM. Conservationists and ranchers could not reach agreement on these two areas. While these two areas would have made fine additions to the National Wilderness Preservation System, we acknowledge that very nature of collaboration is compromise.

#### ADMINISTRATION OF WILDERNESS

The legislation directs the BLM to conduct an inventory of existing grazing management facilities and activities in wilderness. Grazing will be allowed to continue subject to the congressional grazing guidelines and wilderness wildlife management will be subject to congressional wildlife management guidelines.

The bill contains standard language for wildlife management and helicopter use and military overflights. In Owyhee County, Idaho Fish and Game have used helicopters to transplant and re-establish populations of California bighorn sheep, and subsequently used helicopters to monitor population trends of bighorn sheep. We expect this kind of helicopter use will be allowed to continue so long as BLM determines, via required analysis, that such use meets the "minimum management tool" concept of wilderness management.

The Act provides for the continuation of outfitting and guiding in wilderness consistent with section 4(d)(5) of the Wilderness Act to the extent necessary for realizing the recreational or other wilderness purposes of the areas.

#### OWYHEE SCIENCE REVIEW AND CONSERVATION CENTER

S. 2833 directs that the BLM coordinate with the State of Idaho, Owyhee County, and the Shoshone-Paiute Tribe and consult with the University of Idaho, federal grazing permittees, the public and federal and state agencies to establish the Owyhee Science Review and Conservation Center in Owyhee County to conduct research projects to address natural resources management issues affecting public and private rangelands in Owyhee County. The legislation states that the purpose of the

Center is to facilitate the collection and analysis of information to provide federal and state agencies, private landowners and the public with information to allow for improved rangeland management.

TWS supports the establishment of the Owyhee Science Review and Conservation Center. TWS supports the collection and analysis of the most up to date information and research regarding resource management, and the sharing and distribution of that information among all interested parties.

#### WILD AND SCENIC RIVERS

S. 2833 designates 316 miles of Wild and Scenic Rivers in Owyhee County. These rivers are some of the most spectacular whitewater rivers in the lower 48 states. The boundaries for these rivers shall be  $\frac{1}{4}$  mile from the high water mark on both sides of the river or the nearest confined canyon rim, whichever is shorter.

#### WATER RIGHTS

In 2000 the Idaho Supreme Court ruled that wilderness areas do not carry a federal reserved water right, thus S. 2833 expressly denies a federal reserved water right for wilderness areas designated by this act. However, each candidate wilderness area contains a proposed Wild and Scenic River through which, under terms of the Wild and Scenic Rivers Act and Idaho law, will carry with it a federal reserved water right. Those Wild and Scenic River water rights will be quantified and adjudicated after designation in compliance with state and federal laws and with input from federal agencies, the state and other interested parties through Idaho's Snake River Basin Adjudication Court.

#### LAND EXCHANGES AND ACQUISITIONS AND GRAZING PREFERENCES

The legislation authorizes the Secretary of the Interior to permanently retire voluntarily relinquished grazing permits. Grazing permittees have indicated their interest in permanently retiring 18,000 animal unit months (AUMS) from public grazing in wilderness, resulting in 55,000 acres of cattle free wilderness and 260,000 acres of reduced grazing.

The bill authorizes the sale of public lands within the Boise District of the BLM that have been identified for disposal through resource management plans, with proceeds from the sale of such lands deposited in a special "Owyhee Land Exchange Acquisition Account." Funds from this account can be used to purchase lands or interests therein within or adjacent to the wilderness areas designated by this Act and identified in a map dated March 25, 2008 prepared by BLM for Senator Crapo. The account will terminate after 10 years or upon the expenditure of \$8 million, whichever comes first. TWS supports the creation of this account as a unique way to acquire the private lands scattered within or near the wilderness areas in Owyhee County.

Landowners with wilderness-quality inholdings within the proposed wilderness areas would have the opportunity to sell or exchange their land for equal value federal lands. All land exchanges will be conducted in accordance with standard federal procedures. TWS believes the exchanges will likely result in a positive gain for the public. The lands that we understand would move into the federal estate have extremely high ecological and wilderness values whereas the lands that would move out of the federal estate and into private hands have significantly lower ecological value and no wilderness value.

The public will benefit from anticipated exchanges because inholdings in proposed wilderness would be removed. Acquisition of the proposed private inholdings will prevent future conflicts regarding landowner access and development issues, as well as acquire for public ownership lands that are of key ecological importance, like riparian areas and bighorn sheep habitat. Additionally, some of the private inholdings that we understand would be acquired are in excellent vegetative condition, and the acquisition of such lands into public ownership is a positive step forward. We are also strongly supportive of the acquisition of public rights-of-way across private lands, facilitating public access to thousands of acres of public land where access has been blocked by "no trespassing" signs and locked gates. The proposed permanent retirement of livestock grazing within some specific wilderness areas broadens the diversity of ecologically significant areas in Owyhee County that are livestock free. These are all positive actions that will benefit the public and our public lands.

#### TRANSPORTATION AND RECREATION MANAGEMENT

The primary threat to Owyhee wildlands is the dramatic increase in illegal and inappropriate off-road vehicle use. To date, BLM has not completed a comprehensive

travel plan for the Owyhee area and conservationists, ranchers and responsible ORV-users support the need for a timely plan. The Act directs BLM to develop and implement transportation plans for public lands outside the proposed wilderness areas. The plans are to establish a system of designated roads and trails and limit motorized and mechanized vehicles to designated routes. Until the date that the BLM completes the transportation plans, all recreational motorized and mechanized vehicle use shall be limited to roads and trails lawfully in existence before the date of enactment of the Act, i.e. cross-country travel is prohibited. The BLM is to complete a travel plan for the Owyhee Front not later than one year after passage of the act and not later than 3 years for the rest of Owyhee County.

It is important that the BLM make real progress towards completing these travel plans, as the past several years have demonstrated that cross-country off-road vehicle use continues to grow every year in Owyhee County. Delay of this legislation means that the unauthorized network of user-created off-road vehicle trails will continue to grow resulting in escalating user conflicts and extensive resource damage.

#### CULTURAL RESOURCES

The canyonlands and sagebrush plateaus of Owyhee County contain the richest concentration of archaeological sites in Idaho. The ancestors of the Shoshone and Northern Paiute have lived, hunted, and worshipped throughout Owyhee County and the Snake River Plain for thousands of years. The Camas and Pole Creek Archaeological District alone incorporates over 500 sites of archaeological significance. The legislation directs the BLM to coordinate with the Shoshone-Paiute Tribe in the implementation of the Shoshone Paiute Cultural Resource Protection Plan and to enter into agreements with the Tribe to implement the Plan. Implementation of this plan is needed to help protect the cultural resources of Owyhee County from theft and vandalism.

#### CONCLUSION

The Owyhee Public Lands Management Act will achieve the following:

- Designation of 517,000 acres of wilderness;
- Designation of 315 miles of Wild and Scenic Rivers;
- Closure of 200 miles of motorized routes in candidate wilderness areas and completion of a travel planning process to establish a designated system of motorized routes for all public lands in Owyhee County;
- Increased protections for Shoshone-Paiute cultural sites and resources.

These are all tremendous and much needed conservation gains. We look forward to continuing to work with you in furtherance of a successful outcome.

Senator WYDEN. Thank you very much, Mr. Gehrke. I'm going to let most of the time go to my colleagues here because of the interest in their home States. Just one question for you, Dr. Gibson because the Oregon cattlemen work so closely with the cattlemen in Idaho, Bob Skinner probably wouldn't let me get away without asking this.

But what is your sense from a cattlemen's perspective? What's the key issue in the Owyhee legislation?

Mr. GIBSON. The key issue on a broad scale is the implementation of the Science Review Program that deals with basically the four aspects is the information that's being used correct, was it collected correctly, was it interpreted correctly and is its application reasonable and that really affects virtually every cattleman in the county and that would be a major issue with the entire county.

Senator WYDEN. I know you have been reaching out across the spectrum to various organizations and I think that's why Mr. Gehrke gives a lot of bouquets to all concerned for their work and I commend you for it. Let's go to my colleagues now for their questions.

Senator Craig.

Senator CRAIG. Thank you very much, Mr. Chairman. First of all my fond regard and respect for Dr. Gibson, but he is operated in

a state of not full disclosure. He forgot for the record to tell you, Mr. Chairman, that he and I were once in 4-H together and that his mother was our 4-H leader. For Bob Bennett we showed calves at the Washington County Fair. Now that's full disclosure.

Anyway, it's been my privilege to work with Chad and the Owyhee County Cattlemen over the years and his representation of them has been a great asset to them. Dr. Gibson with no guarantee that the private sector can provide the money to carry out this bill, does the Working Group still support the Owyhee Initiative without total funding?

Mr. GIBSON. I can't speak for the total Working Group because we've done everything by consensus from day one. We'd have to address that the same way. In the absence of a guarantee it would deal with, probably the, some of the members of the Working Group more so than the Working Group as a whole.

I don't know what, you know, without a guarantee but a promise of some sort it would be a matter of each of those members of the Work Group making up their own mind as to how they want to go forward.

Senator CRAIG. I don't question the good faith that any one stakeholder group or individual has brought to the table, but I have continually expressed this concern that everybody crosses the line at nearly the same time, or there's a clear ability that all parties remain as whole after the fact as they have come to agree before the fact. I still struggle with that some and that's probably a question that in many respects legislatively cannot be asked or answered. But I don't question the commitment that has been verbally expressed by all parties. So thank you for that.

Craig, let me ask you a couple of questions that I think are extremely important to me and I think to the State of Idaho and certainly to Owyhee County. You're sitting where Secretary Bruce Babbitt sat a good many years ago in the later days of the Clinton Administration. He was alluding to a series of executive orders that was going to permeate the Administration in its latter days that many of us were very frustrated by because while we were working the process of trying to gain some recognition and designation of certain public resources, the Congress was working its will.

As a result of that, an executive order was produced that included Escalante Grand Staircase National Monument. I'm sure you remember that. Craters of the Moon in Idaho. There was parcels of land in Arizona and in Southwest Oregon and in California. All of them, in that instance, designated as monuments.

Other Presidents, both democrat and republican in the moment of full disclosure, have used the executive order as a tool, some in much larger ways. A former Secretary Andress under the Carter Administration designated millions of acres of park land in Alaska and was hung in effigy in the streets of Anchorage, but to no avail. The land was secured. The land was designated and many of the citizens of Alaska were very frustrated.

We're in the midst of a Presidential campaign, so I want to fast forward a bit. I'm assuming, and it certainly will, be my effort to make this bill, and Mike Crapo's effort, as successful as possible. But I'm not at all confident based on the effort of this Congress that we'll get much done this year.

If we were not able to pass and bring into law an amended or at least a final version of the Owyhee Initiative and if Hillary Clinton or a Barack Obama became President of the United States, policy attitudes would change. Players would change. Approaches toward public land resource allocation and management would change with that.

If that were to happen, and this is a hypothetical question and they are always the most difficult to answer, but you've been at the table. You've been a very good, oftentimes challenging, necessarily so, demanding stakeholder. If that were to change and you had access to a democrat administration, would you go to them, look them squarely in the eye and say, it's a done deal? All of the stakeholders are at the table. We've struck an agreement and if you're going to do this by executive order, I recommend you encourage passage of the legislation or you, by order, create the Owyhee Initiative as it has been written.

Could you respond to that?

Mr. GEHRKE. I think responding to that, Senator Craig, I'd be glad to because from my standpoint I think wilderness and wild and scenic designation by Congress is the best protection for this country that we're talking about. I think that the group behind this, the Owyhee Initiative Work Group, the local buy in, is something like I've never seen before in all the years I've been doing this. I don't want to jeopardize that. I don't want to walk away from that.

We've been kidding ourselves for a long time that the Owyhee Initiative just doesn't die regardless of how many times it's been hit between the eyes by something. We're sticking with it as long as Senator Crapo will stick with it, as long as the Work Group sticks together, we're committed to wilderness designation, to this package that we've put together all these years. So I have no intention of going to a different Administration and saying ok, the rules have changed now. We're sticking to this as long as it has traction in the Congress, as long as there's traction with Senator Crapo and the Work Group stays together and works with The Wilderness Society to get this through.

Senator CRAIG. Thank you. Dutifully recorded in the committee record. Thank you.

Bill, you ask an interesting question, or you drew some frustration over receipts from public lands and how they were used in the case of the Washington County effort. Let me just philosophize for a moment with you because I know you don't totally disagree, but you've been flexible over time in the Owyhee Initiative shows that with Craig's effort and other's effort. The low hanging fruit of wilderness from its inception in '63 forward is in large part been accomplished.

We have marvelous tracts of land designated as wilderness. Those that are most difficult to designate today are in large part associated near and or around metro areas. They are sometimes tied into unique and important economic entities, like the ranching in Owyhee County. It is not breaking with historic tradition to take public resource that can ultimately benefit local economy.

I believe that concept started with Gifford Pinchot in the early 1900s when he counseled Teddy Roosevelt and they created the

Forest Preserves. His term went something like this, we cannot separate the communities of interest from its land. Now the communities of interest at that time were not The Wilderness Society, they were communities of people that lived adjoining the public lands. They weren't eastern groups reflecting on western land. They were western enclaves of citizens who were deriving their economic interest from the public land.

Today where that happens, and in some instance where the public interest and the economic interest come together, but one is clearly reshaped by the other. I don't believe, and I would hope, I or others could convince the Congress that the sale of public resource in a changed environment can benefit the local economy, not just by the change of use in the public lands. But oftentimes, by the very economic entities that it is changing by its designation in this case in Owyhee County, cattlemen in traditional ranching.

What it will do in Washington County in Southern Utah is change and allow the County Commissioners and citizens there to recognize maybe slightly different economic viabilities or assets that they can employ in the affected utilization of this new designation. So it is not precedent, precedent. It has been historically true. It should remain that in these unique interests.

I think just the raw sell off of land for the good of the treasury is a different story. So that's my two bits today. I think it's historically accurate. I would hope that in these instances, where all parties have come to the table and values can be adjusted and both parties can benefit, there is a clear recognition of transferring public values to private and economic values when both sides agree.

Do you wish to respond to that?

Mr. MEADOWS. I have probably three responses. First of all I would challenge that the work we're doing in Washington County is designed to get the low hanging wilderness fruit. We've been recognizing Utah for a long time.

Senator CRAIG. I don't think it exists anymore.

Mr. MEADOWS. It's, you know, BLM wilderness quality lands have been hard to designate in the State of Utah. I think this is a real breakthrough on that point. The larger question. There is existing law that allows for the sale of public land. In many cases the Bureau of Land Management lands are the lands that are sort of left over.

I mean there are lots of high quality economic and land conservation lands included there but it's almost by accident of history rather than by design. We think for a variety of reasons, conservation interests, economic interests, management interests, there is a need to be flexible in the disposal of land and in the sale and purchase of land. We fully support that.

But there is law that allows that to occur to the benefit of local communities, we think, and to the benefit of the Federal estate. When one changes the law to allow for 10 percent of the sale value to actually go back into the county for operational purposes, we think that it is outside the norm. We believe strongly in asset value should be transferred to asset value and so rather than asset value to operational value.

The County will benefit greatly from the disposal of up to 9,000 acres of BLM lands that are adjacent to the communities. This is

going to add dollars to the tax rolls. It allows for a planned growth strategy. We think that is a benefit, a great benefit to the community and one that we fully support, but when you add to that the actual distribution of cash to a local county government or to a water district or some other non-Federal asset base, we think that's a wrong approach to take.

Senator CRAIG. Mr. Chairman, I've taken too much time. Thank you. I appreciate that observation. I think there is a strong argument and you helped shape it a bit. Capital to capital asset verses capital to O and M. I think that becomes a reasonable question that has to be asked and should be asked. But if it makes the deal then maybe it's worth looking at. Thank you.

Senator WYDEN. Ok. Thank you, Senator Craig.

Senator Crapo.

Senator CRAPO. Thank you very much, Mr. Chairman. I know that we're pushed for time here and I've been so involved with this that all my questions have been answered. I know enough.

But I would like to just make one other quick statement. As we see two strong representatives of the Work Group for the Owyhee Initiative here in front of us, as I look out over the audience I see many other members of the Work Group who've been working with us this last 6 or 7 years. It's just rewarding to me to see that kind of commitment for them to come here even though they were not witnesses to be a part of this.

Also to have the President of The Wilderness Society here, we've got to take this opportunity and thank him for letting us have Craig Gehrke and all the time that's Craig's put into this and the commitment of The Wilderness Society to work with us on this. I just want to, as I look out over the audience I just did not want to let my opportunity slide by before to commend all those who were not able to get to the witness table but who came all the way out here from Idaho to support this. Thank you.

Senator WYDEN. Well said.

Senator Bennett.

Senator BENNETT. Thank you very much, Mr. Chairman. I too, think most of my questions have been answered. I want to publicly thank Bill Meadows for his leadership and his cooperation as we work through this. I understand that it's perhaps been difficult for him as it has been difficult for Commissioner Eardley to come to this. They've both been stretched about as tautly as they possibly can be to come to something they can both endorse and I appreciate that.

Just to be sure I don't misunderstand, Bill, recognize that you have concerns about the allocation of the funds. You do support the Wilderness and National Conservation Area designations that are in the bill today?

Mr. MEADOWS. Senator, as we have discussed, I believe The Wilderness Society believes that we're going to have significant, lasting protection in the designation of these wilderness areas and national conservation areas. I have to add that I have many colleagues with whom I work on a daily basis and you have colleagues in the Senate who I know are going to continue a conversation about boundaries and cherry stems and perhaps other units that want to be added. I think The Wilderness Society looks at this in

much the same way we were talking about with Senator Craig just a minute ago.

There are conservation values that we believe are important to protect. We recognize and honor the economic, cultural and social values that are also needed to be protected. Working in communities is really important to us and our ability to be a strong voice. We think The Wilderness Society's role here is to be a strong voice for conservation, acknowledging that there are lots of other voices, we're going to proclaim our support for wilderness and national conservation here.

I think what you have done in bringing those social, cultural, economic and conservation values together to be applauded and The Wilderness Society is pleased to support the wilderness and national conservation areas that you've recommended. We think that's good work.

Senator BENNETT. Thank you. Commissioner Eardley, you've been stretched as well. You've stated your support for this bill with that stretching occurring. Can you explain perhaps some of the compromises you feel that you've had to make here?

Mr. EARDLEY. Thank you, Senator. We feel that, you know, we feel that we've done most of the compromising. We look out to the west of us in Nevada. We look at Clark County and we look at Lincoln County and we see that, you know, 70,000 acres in Clark County was privatized or designated to be privatized. 90,000 acres in Lincoln County. We wonder why frankly, we wonder why that didn't work in Washington County where we're going to end up after three tiers of sales about 9,000 acres.

However, that's, you know, that's definitely progress and we're very supportive of that process and it will benefit, I think, Washington County. So therein has been a lot of compromise. We've gone from our expectation and maybe somewhere between 90 and 70,000 acres down to 20,000 acres that we were approximately a year ago and now at 9,000 acres, 5,000 acres to become in the third tier.

Just a comment, if I might, make one about Mr. Meadows assuming that there's going to be a lot of prosperity as the result of the sales of land that will be on our tax rolls, property tax. Obviously he's never tried to manage anything on revenues from property tax. No one's ever got wealthy doing that. That's a very difficult thing to do.

Again, we want to apply these revenues to where it is to the land that's been affected by the change. We think they're noble and worthy causes that we would direct those funds to.

Senator BENNETT. Would one of those causes be a law enforcement dealing with off-highway vehicles?

Mr. EARDLEY. Yes, that's part of our conservation perspective as well, Senator. You know, agriculture, ranching, reserving open spaces, those kinds of things that we simply would not have the funds to accomplish without a source of revenue. It certainly would not come from property tax.

Senator BENNETT. I see. Thank you. Just picking up on what Commissioner Eardley commented, Mr. Chairman, I would point out that the process of land sales and the allocation of money has been taken absolutely from the Nevada bills. That is, we have seen what the Congress has done in Nevada, in four different counties

in every instance providing for money to be allocated in this same formula. We did not want to go beyond the Nevada precedent.

We did not want to create something new, recognizing as Bill Meadows has made clear that even the Nevada precedent remains controversial. Some people oppose it, but as Commissioner Eardley said we look over the boundary at our neighboring State and see that it has been done there and it has been done successfully there. So that is the genesis of the procedure that we have written into this bill.

Now I have no further questions. Again, I thank both the County Commission as represented by Mr. Eardley and The Wilderness Society as represented by Mr. Meadows for the constructive cooperation, occasionally with a few raised voices and a tight lips as we've talked through some of these things. But it has been a gratifying experience to see everybody work together to say let's do the best thing for the land and let's do the best thing for the community. That's reflected in the title of the legislation as it is for both conservation and growth. I thank you for holding the hearing, Mr. Chairman.

Senator WYDEN. Thank you, Senator Bennett and commend you for all of your good work.

I think I'll wrap up very briefly by saying that if you really think about the best of Earth Day and what it was supposed to always be about and what Gaylord Nelson envisioned. It's about what we're trying to do today.

It's about trying to bring people together, environmental folks, ranchers, cattlemen, business people, local government and trying to find common ground. I want to commend all of you for the way that you're approaching this. I think Senator Bennett said something early on that all of us would identify with that when you go into these discussions about public lands it's ultimately about good faith. It's about actually being at the table and trying to get it done and trying to come up with a result that satisfies all concerned. I can tell you in this room I see an awful lot of good faith and a desire to come together and get these matters resolved.

Toward that end, what we're going to do and I spoke with Chairman Bingaman about this and I know Senator Domenici, our ranking minority member, feels this way as well. We're going to direct our bipartisan staff to work very closely with all of you, to work with the Administration to see if we can get these matters resolved. We will have to tackle a number of additional issues and we're going to do it with the kind of good faith that Senator Bennett has talked about.

So thank you for coming and approaching, particularly Earth Day, with exactly the kind of spirit that I think the founders had in mind. With that the subcommittee is adjourned.

[Whereupon, at 4:09 p.m. the hearing was adjourned.]

## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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RESPONSES OF JOEL HOLTROP TO QUESTIONS FROM SENATOR BARRASSO

S. 934/H.R. 1374

*Question 1.* Mr. Holtrop, could you elaborate on this parcel of land and what exactly warrants this exchange?

Answer. Tract W-1979 in Leon County, Florida is a tract that has evolved into an unmanageable, problem area for the Apalachicola National Forest. It is fragmented from the Forest with a major highway (Capital Circle) to the north and private large-scale developments to the east and west, which include a grocery store, strip mall, and a 300+ unit apartment complex. The southern boundary is a 100-foot wide power line easement. Due to the property's configuration, along with the surrounding developments and highway, there are public health and safety risks associated with management of this area through prescribed fire and other activities. Unmanaged recreation and illegal activity have become prevalent on this tract as well. These issues will compound over the next 3 years as Capital Circle is widened to a 6-lane highway and the adjoining developments continue to expand. For these reasons, the Forest Service supports disposition of this property to acquire private tracts within the Apalachicola National Forest better suited for public use and management. The disposition of Tract W-1979 through S. 934 would reduce boundary management costs and would allow for the purchase of priority endangered species habitat, critical wetlands, and potential recreation areas for the public.

*Question 2.* If this land has been on the Forest's surplus list for 10 years why hasn't the forest carried out an administrative exchange?

Answer. Leon County has expressed strong interest in Tract W-1979. An administrative exchange was discussed several years ago with the County. The County, however, does not presently own any land suitable for exchange. As a result, the County would be required to purchase and hold title to private land of equal value in advance of consummating an exchange with the Forest Service. Referred to as an Assembled Land Exchange, these often take many years to complete and there is a risk the proponent may end up owning unwanted property if the exchange is never finalized. For this reason, an administrative exchange with the County has not been pursued.

*Question 3.* If the agency is unwilling to complete these exchanges administratively, why should Congress give the agency the proceeds when these lands are sold or exchanged?

Answer. As mentioned in response to Question 2, Leon County does not presently own any land that would be suitable for administrative exchange. Under the Florida National Forest Land Management Act of 2003, the Forest Service is authorized to sell seventeen isolated tracts of land in Florida and can use the proceeds from land sales to purchase inholdings around the National Forest or cover administrative expenses. The proposed legislation would expand that authority by adding Tract W-1979 and would also allow the Forest Service to use the proceeds from the sale of improved, non-greenland tracts in the 2003 Act for the acquisition, construction, and maintenance of a new District Office to serve the public on the Osceola National Forest and the Apalachicola National Forest. The Forest would subsequently realize a substantial deferred maintenance savings associated with the existing 50-year old Osceola Ranger District Office and would be relieved from an estimated \$1,000,000 future expense associated with modifications to resolve accessibility, health and safety, and general maintenance issues.

## RESPONSES OF JULIE JACOBSON TO QUESTIONS FROM SENATOR BARRASSO

S. 2833

Ms. Jacobson, this bill authorizes the Secretary of the Interior to fence off these wilderness areas as “appropriate to protect wilderness values.”

*Question 1.* How many miles of wilderness boundary will result on BLM lands if the Owyhee Wilderness Bill is passed?

Answer. We estimate roughly 630 miles of the exterior wilderness boundary crosses BLM-managed public lands.

*Question 2.* What is the current cost of building a mile of remote fencing in each of these following BLM Districts: Owyhee, Bruneau, and Jarbidge?

Answer. The cost of new fence construction is dependent upon several factors, including the remoteness of the project and the type of terrain. In general, new fencing in Owyhee County would likely be in the range of \$5,500 to \$7,000 per mile.

*Question 3.* If the BLM is not appropriated any additional funds to build these fences, what other areas of the BLM’s budget would have to be borrowed from to pay for the fencing?

*Question 1.* Section 4(h)(3)(C) of S. 2833 states:

The Secretary may construct and maintain fencing around wilderness areas designated by this Act as the Secretary determines to be appropriate to protect wilderness values.

The legislation makes clear that the fencing is not mandatory. It is not possible at this time to determine how many miles of fence might be constructed or what source of funds might be used.

## RESPONSES OF JULIE JACOBSON TO QUESTIONS FROM SENATOR CRAIG

*Question 4.* Ms. Jacobson: One of my concerns about the language we are reviewing today lies in Section 6—Lands Identified for Disposal. It states, “proceeds from the sale of public land under subsection (a) SHALL be deposited in a separate account in the Treasury of the United States to be known as the “Owyhee Land Acquisition Account”.” Should I be concerned that such language could redirect federal dollars away from the Boise Foothills project? Could you provide more clarity on this situation? What parcels are involved and where? What phase is this project in?

Answer. It is my understanding that under Public Law 109-372, the Idaho Land Enhancement Act (commonly referred to as the Boise Foothills Act) the BLM lands identified for exchange are in the northern part of the state and that none of them are within BLM’s Boise District. Under section 6(a) of S. 2833 only lands within the BLM’s Boise District would be affected. Therefore there should be no conflict with Public Law 109-372. Furthermore, I am informed by the BLM in Idaho that the Boise Foothills project is slated to be completed within the next month.

## APPENDIX II

### Additional Material Submitted for the Record

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STATEMENT OF JANINE BLAELOCH, DIRECTOR, WESTERN LANDS PROJECT, ON S. 2834

Founded in 1997, the Western Lands Project is a non-profit, membership organization conducting research, outreach, and advocacy for reform in federal land exchange policy. We also scrutinize a broad range of projects that propose to sell, give away, or relinquish public control of public lands.

We request that this testimony be made part of the record for S. 2834.

#### FEDERAL LAND DISPOSAL AND COUNTY SUBSIDIES

We opposed the original version of this bill as part of a coalition of more than forty organizations, and we urge you not to pass the current bill. We object to the “disposal” of public land by fiat, particularly where such privatization will facilitate the development of more subdivisions, golf courses, and water pipelines in an arid region.

In Section 702, the legislation directs the sale of public lands in two “tiers.” While it is not clear in the bill, according to the bill summary on Senator Bennett’s web page, these lands were identified for disposal by the Bureau of Land Management (BLM) in its current Resource Management Plan (RMP).

It is important to note that under the normal administrative process, lands identified as suitable for disposal in an RMP will not necessarily or inevitably be sold or exchanged—and even after being identified as such are subject to environmental analysis under the National Environmental Policy Act (NEPA) prior to sale. This legislation mandates the sale of certain lands, and it is not clear whether NEPA compliance would be required before the sales. But the RMP process alone cannot ensure that environmentally sensitive lands or lands that should be retained in public ownership are protected from “disposal”—the more specific and detailed analysis for each individual sale must be conducted.

Senator Bennett repeatedly stresses that his legislation is modeled on public land bills sponsored by Majority Leader Harry Reid, and some outcomes of Mr. Reid’s legislation are instructive. A case in point is an area north of Las Vegas that was identified for disposal by the BLM and mandated to be sold in Senator Reid’s Clark County land bill of 2002. After their sale was directed by Senator Reid, several thousand acres were found to host a rare plant species and important paleontological features, and their sale is now in dispute.

Like Clark County, Nevada, Washington County, Utah is rich in cultural resources and is home to many sensitive, threatened, and endangered species—not appropriate territory for bypassing or fast-tracking environmental analysis. Land disposal should not be mandated in legislation in a wholesale manner, but left discretionary to the agency and based on the deliberative process provided in existing law.

We also oppose the use of proceeds from the sale of public land to subsidize local government administration, infrastructure, and a grab-bag of uses the County may choose. Public lands are not a liquidity fund for local politicians and developers to dip into for basic services and pet projects.

Washington County would receive 10 percent of proceeds from the sale of federal lands and would be authorized to use the funds for a list of purposes so broad and open to interpretation as to be meaningless. Again, implementation of Senator Reid’s Clark County bill provides a good example of how the leeway provided in categories such as “conservation purposes” and “public safety” plays out. Clark County projects funded by American taxpayers through federal land sales have included such things as a \$42 million shooting range and an “urban trail” system that consists of city sidewalks.

It should be noted that non-federal parties that own land in either of the proposed National Conservation Areas or in any other part of the county that lies within

desert tortoise critical habitat stand to receive a premium from American taxpayers if the government acquires their land. Former Utah Representative Jim Hansen slipped a special provision into a 1996 omnibus parks and public lands bill, PL 104-333, that effectively inflates the value of any non-federal land in the entire county acquired by the federal government through purchase or exchange. In language enacting the Sand Hollow Land Exchange between the BLM and the Washington County Water Conservancy District, Hansen inserted the following provision:

In acquiring any lands and any interests in lands in Washington County, Utah, by purchase, exchange, donation or other transfers of interest, the Secretary of the Interior shall appraise, value, and offer to acquire such lands and interests without regard to the presence of a species listed as threatened or endangered or any proposed or actual designation of such property as critical habitat for a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973.

Restrictions on development that result from the presence of an endangered species generally reduce the fair market value of a piece of land, so this provision gives an inflated value to non-federal tortoise habitat anywhere in the county.

Some of the more extreme provisions of the original Washington County bill have been removed or reduced in scope, but that does not make this a reasonable bill. The former version contained a massive giveaway of public land to the local water conservancy district, while this one includes a merely large, free right-of-way on public land. Presuming the county and the city of St. George continue to sprawl across the desert, federally-subsidized pipeline projects and the like will be back in future legislation.

#### DIXIE NATIONAL FOREST CONVEYANCE

The land sale directed in Title X does not belong in this legislation, nor any bill, for that matter. The landowner who would benefit by this special sale of public land has a trespassing use on 25 acres of national forest land next to his private holding. He does not qualify to purchase the land under existing laws such as the Small Tracts Act and thus has sought special legislation to enable him to purchase the land. The sale of the 25 acres—let alone the 112 acres he would be allowed to purchase through this bill—is not in the public interest.

Our organization submitted testimony against a version of this conveyance introduced in the 107th Congress (HR 5180). At that time, the landowner wanted 560 acres, and the site contained wet meadows and riparian habitat along a major creek. It's not known whether those features are still encompassed in the proposed land sale, but by setting a short deadline for the sale, the legislation precludes environmental analysis and disclosure under NEPA. The proposal is an egregious example of doling out a public asset for the benefit of one person and should be abandoned once and for all.

#### CONCLUSION

We urge the committee to reject S. 2834, along with any future proposals (from either party) that privatize federal land, subsidize irresponsible development, and bilk taxpayers for the benefit of a select few.

Thank you for your consideration of this testimony.

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#### STATEMENT OF MARCIA ARGUST, LEGISLATIVE REPRESENTATIVE, CAMPAIGN FOR AMERICA'S WILDERNESS, ON S. 2833

The Campaign for America's Wilderness applauds the work of the Owyhee Initiative Work Group, Senator Mike Crapo (R-ID), and Chairman Jeff Bingaman (D-NM), which led to the April 22, 2008 hearing before the Senate Energy and Natural Resources Subcommittee on Public Lands and Forests on the Owyhee Public Land Management Act of 2008 (S. 2833), sponsored by Senator Crapo. In a time of polarized congressional politics and frequent disputes over public lands in the West, this hearing is a positive sign of what can be done when bipartisanship, dialogue, and hard work are chosen over distrust, lawsuits, and stalemate.

Senator Crapo and Senator Bingaman, Chairman of the Energy and Natural Resources Committee, worked together to shape a new bill that avoids some of the divisive policy issues and legislative pitfalls that might have thwarted Senator Crapo's original bill (S.802) from moving forward. The new bill remains true to the needs and intentions of Sen. Crapo's constituency: sustaining existing ranching op-

erations, assisting the livelihood of the local community, and preserving quality wilderness.

The Campaign for America's Wilderness strongly supports this legislation, which will protect as wilderness more than a half million acres of stunningly beautiful canyonlands and ecologically rich high desert in southwestern Idaho. This area boasts the last vestiges of intact sagebrush ecosystems, lush riparian pockets, juniper stands, and oases that provide for diverse populations of wildlife and plant species. The bill would also designate over 300 miles of rivers as Wild and Scenic, binding together wilderness units and creating unspoiled wildlife and rafting corridors.

Because the Owyhee-Bruneau Canyonlands are only an hour and a half drive to Boise and the Treasure Valley area—one of the fastest growing regions in the nation—the Owyhee landscape is faced with encroaching development and is frequently overrun by skyrocketing numbers of motorized recreationists. The latter has taken a toll on both the landscape—illegal trails are created every week, adding to the already 10,000 miles of trails and roads that criss-cross the land and fragment ecosystems—and the Owyhee County budget. The County is forced to spend funds to monitor and conduct search and rescues on millions of acres of federal land. For these reasons, it's imperative that S. 2833 be enacted this Congress.

While S. 2833 may not be a perfect bill from our perspective, the dynamics of this area make a "perfect" bill nearly impossible. Owyhee County is not an area where the wilderness would be designated on a mountainside, thousands of feet above where people live and work. Rather, the Owyhee Public Land Management Act protects lands closer to communities and residents.

By the very nature and diversity of the groups engaged in shaping S. 2833, it was clear from the start that the Owyhee legislation would not reflect every provision that every stakeholder wanted, but it would seek to include the critical provisions each group needed to stay at the negotiating table. Against all odds, the legislation has succeeded in this goal. To drive home this point, a list of the broad groups endorsing S.2833 follows this statement for inclusion in the hearing record.

Senator Crapo deserves high praise for his commitment to bringing together myriad and diverse interests to find common ground on a comprehensive plan for the future of public lands in Owyhee County. His years of work will pay off for ranching families who will be able to continue operating, sportsmen who will continue to hunt in some of the best game territory in the West, as well as have access to new areas that will be open to the public under this legislation, communities that will have more law enforcement resources, Tribes which will receive more protection for cultural resources, and outdoor enthusiasts who will be able to enjoy this unspoiled, vast landscape for years into the future.

We're pleased that Senator Bingaman worked with Senator Crapo on this measure and is committed to moving it through the Senate. We look forward to quick passage of the Owyhees legislation and to working with Senator Crapo and the Owyhee Initiative stakeholders to ensure full implementation of the bill and the Owyhee Initiative Agreement.

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STATEMENT OF KATIE FITE, BIODIVERSITY DIRECTOR, WESTERN WATERSHEDS PROJECT, BOISE, ID

From the beginning, this was not a "collaborative" process. Western Watersheds Project was purposefully excluded from the process, since we had been involved in trying to change abusive livestock grazing practices. Livestock grazing is currently destroying—through cattle causing irreversible weed spread and other adverse ecological effects—much of the area this Bill affects. Thus, the process purposefully cut out parties that would advocate for more integrated and ecosystem-based management in the grazing-imperiled and nationally significant Owyhee Uplands.

This Bill will only result in the landscape becoming more fragmented by extensive new livestock facility development, and intensified grazing use as a result of facilities, and/or cattle forage "treatments through burning, spraying and herbiciding, and other development in across the 200,000 acres of hard-released WSAs. This Bill will be a tremendous loss for biodiversity, public lands, wildlife, and waters in the Owyhee region. The primary beneficiary of released WSA lands in the Bruneau-Sheep Creek region west of the Bruneau River is the ag-conglomerate of billionaire public lands rancher Simplot, whose grazing use occurs across nearly all that area.

The portions of the sagebrush WSAs to be released are nearly always biologically critical plateau areas, which provide critical sagebrush habitats for rare and declining wildlife. The stringer Wilderness of the OI in many area focuses on the canyons—which in many cases are not being grazed due to their rugged nature, and which are not used by imperiled species like sage-grouse. However, the WSA por-

tions to be released are the plateau lands where ranchers seek to increase grazing use—to the detriment of public wild lands and wildlife.

CARVING OR SHAVING OFF PORTIONS OF WSAs WILL PROMOTE CATTLE AND FACILITY  
DEGRADATION OF CRITICAL SAGEBRUSH HABITATS

From the maps we have reviewed, it appears that the deleterious “shaving” or carving off parts—or entire regions—of WSAs remains a central part of this Bill. This is particularly alarming in the Bruneau-Sheep Creek area, in the heart of Little Jacks Creek where Simplot and Davis grazers covet a destructive new livestock water pipeline in released WSA lands, and in portions of the Jarbidge region where industrialization of the landscape for livestock, and the accompanying livestock-promoted weeds and cheatgrass-fueled fires, are wreaking havoc on the landscape. The ONLY thing that has kept politically powerful ranchers from intensifying grazing use near the canyons has been WSA status of lands. Thus, lands in WSAs to be shaved for release here are remnant better condition lands including critical big game and sage-grouse nesting and winter range.

The Owyhee Bill Releases and shavings of WSA areas in the Jarbidge-Bruneau and Sheep Creek regions will be a large net loss for wild lands and wildlife. The Release of these lower elevation sagebrush habitats that are currently in better ecological condition primarily because of the limited grazing use they currently receive is an ecological travesty. It is being done for the sole benefit of billionaire public lands rancher Simplot (who grazes close to a million acres in the Owyhee region), a Brackett permittee, and one or two others.

PERMIT RETIREMENT QUESTIONS

While WWP strongly supports grazing permit retirement, the acreage to be retired here consists largely of lands ranchers have difficulty grazing due to spring mud conditions (lower Battle Creek near Owyhee River), or lands where their cattle grazing has so beat out the understory over the years that little forage remains (some portions of Jacks Creek), as well as areas where they have been able to graze few very AUMs due to limited water (plateau portions of Jacks Creek). Recent BLM documents (the Bruneau BLM Battle Creek allotment EA) show ranchers have been grazing far below levels shown on grazing permits in the Little Jacks Creek area. Much more detail on the grazing permit purchase must be provided to enable full understanding of how few AUMs are actually being grazed, compared to AUM numbers to be purchased.

PUBLIC LAND SHOULD NOT BE SOLD TO ACQUIRE PERMITS

While we have been assured that the intent of the Bill is not to sell public lands to purchase grazing permits, we request that language be changed to make it crystal clear that is not the intent.

“INTERESTS” MUST BE DEFINED

The Owyhee Bill refers to the purchase of “interests”. The scope of any interests here must be clearly defined, as ranchers may consider all manner of things from fences to grazing permits as “interests”.

ANY PRIVATE LAND, CONSERVATION EASEMENT, OR OTHER ACQUISITIONS SHOULD NOT  
BE THE FUNDED BY SALES OF PUBLIC LANDS

We are opposed to the sale of public lands associated with the Owyhee Bill. Purchase of lands and/or “easements” should be done with Land and Water Conservation Funds, or through other mechanisms. While FLPMA allows sales of public lands, retaining intact blocks public lands in the Owyhee region is critical to protection of sage-grouse, a landscape species, other wildlife, and public recreational use.

Plus, Land Use Plans like the Bruneau MFP are a quarter century old, and lands targeted for disposal a quarter century ago may have much higher values to the public now. The Owyhee RMP is now nearly 10 years old, and allows disposal of lands now realized to be especially critical to sage-grouse and other native wildlife.

VALUE OF APPRAISALS

We are very concerned that Appraisals may over-value private lands, and under-value BLM lands. As the four maps prepared for Congress show, very little land is to be acquired, but many millions of dollars would be spent—and an unrevealed acreage of public land would be sold to do this.

A review of the maps shows that some of the areas for acquisition may not even be located next to Wilderness. Portions of this Bill seem primarily designed to be a way to transfer funds to some select ranchers.

#### VITAL INFORMATION TO UNDERSTAND WHAT BILL ACTUALLY WILL DO IS LACKING

Information essential to provide adequate Testimony on this current Owyhee Bill has not been provided to us by Bill proponents. WWP has requested copies of any Agreements that may have been signed with ranchers, and other information and we have not received it. It is impossible to understand from the Bill what AUMs would be retired where. For example, in the 2006 version, a Buyout would have occurred in the Little Jacks area that only removed one permittee, while still leaving the other (Simplot) to graze in the same area. Is that still the case?

Are there still detailed Rancher Agreements, and if so what do they say?

It is likely BLM and ranchers will rely on those Agreements—and haggling over Agreement intent management, and whittling away at wilderness values, will occur. This is happening in the Steens.

It is exceedingly difficult to comment adequately without much more information. This Bill appears to be on a fast-track so as to prevent public understanding of many important details.

No public hearings have been held in Idaho on this latest version, either.

#### WSA RELEASE

This Bill releases several WSAs in their entirety.

Released WSAs include magnificent old growth western juniper and labyrinthine rhyolite canyons on the Oregon border adjacent to lands proposed for Wilderness status by the Oregon Natural Desert Association in Oregon. In the three WSAs to be released here, ranchers have long sought to burn, spray and destroy mature and old growth forested vegetation to eke out more AUMs on grazing-depleted lands in the vicinity of Juniper Mountain.

Released WSAs also include the sagebrush country of Sheep Creek East and West WSAs. At a time when sage-grouse, pygmy rabbits and other rare and declining sagebrush-dependent species are hurtling toward ESA listing, this is the last thing in the world Congress should be doing. Keeping these lands free of new roading and intensified livestock facilities and disturbance, which will result from release under this Bill, is in the public interest. Their release to placate a billionaire rancher, is not. The sagebrush WSAs and portions of WSAs targeted for hard release include critical sage-grouse lek, nesting, brood rearing, wintering and other habitats.

#### MAPPING POORLY PORTRAYS MAGNITUDE OF WSA RELEASE

A series of 4 Maps (Little Jacks Creek, Pole Creek, North Fork, Owyhee River,) labeled as having been prepared for this Senate Committee very poorly depicts the 200,000 acres (over 300 square miles) of WSAs to be released. The lands targeted for release are colored almost indistinguishably from the lands that would become Wilderness in this mapping, which gives the illusion of larger blocks of Wilderness.

Of particular interest is the fact that the coloring of the map of Pole Creek may mask the release of WSA lands near a private parcel to be acquired.

#### PARTIAL DONATION MUST BE CLARIFIED

The section on partial donation of permits is troubling. This may result in cuts in only “paper cows”—unless reduction tied to capability of the land is specified. Could the wording of the Bill mean that in areas where “paper cows” or permitted AUMs may greatly exceed the number being grazed under actual use and/or under active use (which is the case in many Owyhee allotments) grazing use may be intensified in non-Wilderness lands? Greater clarity of language must tie reductions to the capability of the land area, and not “paper” cows.

#### REFERENCE TO FENCING WILDERNESS SHOULD BE DROPPED

Fences in sagebrush landscapes are particular hazards to sage-grouse, as well as antelope and wintering big game, including mule deer, antelope, bighorn sheep, and elk. Winter snow conditions and windblown weeds may make fences even with supposed “friendly” wire spacing be barriers and deadly to wildlife.

Now increasingly research shows that sage-grouse frequently die from collisions with fences too.

By including reference to fencing, the Bill sets the stage for ranchers proposing as much as several hundred miles of new fencing right along the Wilderness boundary, with devastating effects to wildlife. Since much of the Bill’s Wilderness is

stringers along canyons, the total acreage of potential Wilderness lands to be fenced is immense.

This reference to fencing would also promote the building of new fences into ACECs in areas where ACEC boundaries differ from Wilderness—as in the Jarbidge—allowing potentially intensified grazing use in sections of WSAs outside Wilderness.

#### WILD AND SCENIC RIVER

The Bill fails to designate large segments of the West Fork Bruneau and other worthy areas as WSRs. The Bill's very bad water language threatens the integrity of any WSR that may be designated.

#### WATER LANGUAGE

The Bill's language related to water rights is unacceptable.

#### NUMEROUS PROVISIONS WEAKEN WILDERNESS

The Bill should simply state that the areas are managed according to the Wilderness Act.

#### TRAIL PLAN

This is not needed, and could be harmful. It can be interpreted as mandating more trails than currently exist. The purpose of Wilderness is not to have trails or a trail plan. There are no established equestrian trails, and only a few informal trails into canyons in the WSAs. This does seem to allow establishment of a greatly expanded trail footprint in Wilderness here.

#### OUTFITTING

This language authorizes (and perhaps mandates) outfitting and guiding. The Wilderness Act says outfitting “may” occur, but does not mandate it. It omits key words found in the Wilderness Act. The Owyhee wording does not have a standard whether outfitting and guiding is proper. This may guarantee outfitting that is currently occurring to continue even if it may conflict with non-outfitted members of the public.

#### WILDLIFE

This Owyhee bill is not exactly consistent with the Wilderness Act and should be changed. I can certainly envision ranchers promoting extensive mechanized vegetation killing of trees or shrubs as “treatments” for wildlife in wilderness. This is particularly troubling since a recent “mule deer initiative” promotes extensive vegetation manipulation in Idaho. Under the broad wildlife management section, none of the provisions are consistent with the Wilderness Act. Motorized use and habitat manipulation should not be allowed for routine wildlife management, even if “occasional”. The existing uses section is a perversion of the Wilderness Act.

Under this provision, motorized tree chopping equipment could conceivably be proposed to travel crosscountry to “treat” lands to try to produce more deer to bolster Game Department tag sales—at the expense of migratory birds and other native wildlife that may rely on forested vegetation. Or this could be used to drill seed pseudo-native cultivars in burned sagebrush lands—if agencies claimed this promoted certain wildlife values.

#### INSECTS, FIRE AND DISEASE

This section is not exactly consistent with the Wilderness Act. Especially when viewed together with the Wildlife Section. I can readily envision proposals for mowing sagebrush vegetation to create “fuelbreaks” inside wilderness, or chain saw felling of trees as a “hazardous fuels project”.

It also includes local agencies, and is a subtle devolution of federal authority over public land and should not be allowed.

#### MILITARY OVERFLIGHTS

This section allows the military to greatly mar Wilderness values. It should be deleted. Military activity and plane noise may increase even more—as now Singapore Air Force planes are bedded down at Mountain Home and sonic booming and flying low level over the Owyhee Canyonlands. Israeli, German and other planes may soon follow. Noise pollution over America's airspace is being promoted to keep

funding flowing to the Mountain Home Airbase. So this language, in the context of the Owyhee Bill particularly, should be removed.

These comments are prepared without full information on many components of the Bill, due to the sudden scheduling of a Hearing, and incomplete information that is available.

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STATEMENT OF JACK TRUEBLOOD, BOISE, ID, ON S. 2833

Thank you for accepting this letter of comment on pending legislation. Please enter it into the record of comment on S. 2833, the Owyhee Public Land Management Act of 2008.

I am opposed to this legislation for a variety of reasons but most specifically because of the inclusion of the area north of the east fork of the Owyhee River known as Dickshooter Ridge. This area from the Dickshooter Ranch to the river, roughly bounded by Deep Creek on the west and Battle Creek on the east, was studied by the Bureau of Land Management (BLM) as a candidate for the wilderness system. It was not recommended for inclusion because it contains a network of primitive roads used by ranchers and big game and bird hunters. Some proponents of this legislation will tell you that these are new roads, "pioneered" by guys like me. This is not true. I have hunted there for upland birds and big game since the late 1960s and my father did before me. The roads were already there and date to around the early 20th century when the country was homesteaded.

If this area is suddenly designated "wilderness" (in spite of the roads) it represents lost opportunity for any hunter who either does not own livestock or hire an outfitter. It is not practical to suppose that a bird hunter and his dog would walk the eight or nine miles from the wilderness boundary to the river canyon (where the chukar hunting is best), hunt birds in the heat of September, and then walk back. Nor is it practical to assume he could carry a camp on his back. He is going to have a gun, ammunition and water to carry on the way in and, with a little luck, a heavy bird vest on the way out with birds that need to get in a cooler as quickly as possible.

The possibility of hunting a bighorn sheep, deer or antelope is greatly restricted with the lack of access. Those of us who want to continue to hunt this area would need to hire the services of an outfitter or purchase saddle and pack horses plus all the gear that goes with pack animals. Both these options are very expensive and not practical for the average hunter.

As I mentioned above, Dickshooter Ridge was not recommended for wilderness designation by BLM. If it is now included in the new Owyhee River Wilderness, then I hope Congress will designate the roads that traverse Dickshooter Ridge as "cherry-stem roads" which can be used to access recreation deep within the wilderness. There is plenty of precedent for designating "cherry stem roads" or access corridors, based on previous wilderness legislation and even within this bill.

Thank you for the opportunity to comment.

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AMERICAN RIVERS,  
Washington, DC, April 22, 2008.

Hon. JEFF BINGAMAN,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC.*

Hon. PETE V. DOMENICI,  
*Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN BINGAMAN AND RANKING MEMBER DOMENICI: On behalf of our 65,000 members and supporters, I write in strong support of the Wild and Scenic River provisions of S. 2833, the Owyhee Public Lands Management Act. S. 2833 would preserve and protect over 300 miles of some of the most spectacular unprotected river canyons in the United States under the Wild and Scenic Rivers Act. We applaud Senator Crapo and the group of stakeholders, including ranchers, river conservationists, outfitters, anglers, hunters and local county commissioners, that helped develop this legislation that protects some of our nation's most outstanding rivers while providing greater certainty in public lands management in Idaho.

As you know, the Wild and Scenic Rivers Act protects the nation's best free-flowing rivers from activities that would destroy their wild character. Originally passed in 1968, a Wild and Scenic designation is currently the strongest tool available to protect rivers from future pollution, inappropriate development, and impoundment.

A Wild and Scenic designation does not prevent development and use of a river; instead, the goal is to preserve the existing character of a river. Uses and development compatible with the management goals of a particular river are allowed.

American Rivers thanks the Committee for holding a hearing on S. 2833 and urges the enactment of this legislation this Congress. We look forward to working with you and your staff on technical amendments to the bill to ensure the integrity of the Wild and Scenic Rivers Act is maintained.

Sincerely,

REBECCA R. WODDER,  
*President.*

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