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Utah State Representative District #73
Utah House of Representatives
Kane County Water Conservancy District
Testimony on "HR 1581, Wilderness and Roadless Release Act of 2011"
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I am grateful for the opportunity to testify on HR 1581 which due to the economic conditions that exist in my state and district, is legislation that needs to be passed and implemented as soon as possible. I have lived in rural Kane County for over 36 years and have served in the Utah House of Representatives for the past 9 years. I represent House District #73 which is the most rural district in the state and includes all or part of 9 counties. I am a cattle rancher and a hay farmer. I am also the executive director of the Kane County Water Conservancy District which supplies culinary and secondary water to customers in Kane County. I have an extensive background in public land management, specifically with the Bureau of Land Management where I worked for over 22 years. I have testified in federal court as an expert witness on the National Environmental Policy Act and I have an extensive background on federal land planning and Environmental Impact Statements. During the period of my employment with the BLM which started shortly before the passage of the Federal Land Management and Policy Act (FLPMA) in 1976, I had a front row seat as the agency strayed from its congressionally mandated multiple-use management mission, to an agency that now seems to be taking their directions directly from grant driven environmental organizations.

I was the project manager for the Andalex Coal EIS which resulted in the creation of the 1.9 million acre Grand Staircase Escalante National Monument in Kane and Garfield Counties locking up over 5 billion tons of low sulfur, high Btu coal that could be used by Utah and the nation to meet our critical energy needs. The creation of the monument resulted in me leaving the BLM and starting on a new path in life. I found out first hand that despite taking oaths to uphold the constitution and to obey the laws, the truth doesn't matter to many elected politicians and their appointed cabinet members. In reasons given for the creation of the GSENM, the truth of the matter is that there was never any threat to any antiquities or resources in Utah. The Draft EIS prepared by the BLM and OSM which was never allowed to be released, stated as much. The reasons given by the Clinton/Gore/Babbitt administration for creating the GSENM were in fact bald faced lies as are many of these WSA policies that have come about since the passage of FLPMA.

Impacts of WSA's and Special Designations on Utah and Other Western States: Since this hearing is focused on the release to multiple use management of non-suitable Wilderness Study Areas, I will focus my attention on the impacts of these special designations to the people of Utah and the citizens of this country. Of the nearly 85,000 square miles of surface area in Utah, 17,884 square miles are in private ownership-which is about 21%. In Kane County only 423 square miles (or about 11%) of 3,992 square miles in the county is privately owned. Other counties in District 73 have even less private land, Wayne County (4%), Garfield County (5%) while Beaver (13%), Piute (13%) Washington (18%) and Sevier (19%) and Iron (36%) are still greatly dominated by federal lands. There is a huge disparity between private vs. federal lands in relation to the Eastern States where no states east of an imaginary vertical line from Montana to New Mexico has more than 14% of its land federally owned. In contrast no state west of that

line has less than 27% of its land federally owned (with the exception of Hawaii). Four Western states have more than 62% of their land federally owned (Alaska, Idaho, Nevada and Utah).

Not being able to collect property taxes on 79% of the land in my state creates problems in trying to meet the vital state and local governmental services including public and higher education. The Payment in Lieu of Taxes (PILT) legislation was supposed to make up for this disparity but it has never been adequate. It is no wonder that the 10 year Resource Management Plans, developed by the land management agencies such as BLM and the Forest Service are so critical to the economic viability of these western states. When the federal land management agencies create special designations such as Wilderness Study Areas (WSA's), Areas of Critical Environmental Concern (ACEC's), Class I Air Regions, Class I Visual Resource Management Areas, National Landscape Conservation System, among other designations, the impacts to the multiple uses of public lands and to adjacent private and state trust lands can be devastating.

The FLPMA and National Forest Management Act (NFMA) mandated only a limited one time review of BLM and Forest Service lands to determine which of these lands should be recommended for Wilderness designation. The only broad scale wilderness creation effort ever authorized by congress was the 15 year Wilderness Study Area effort authorized under section 603 of FLPMA. This 15 year review was completed and submitted to congress in 1993 by the Clinton Administration identifying which lands had wilderness characteristics and created the WSA's. In Utah, the Clinton Administration found 3.2 million acres of BLM land that had wilderness characteristics sufficient for WSA classification and 1.9 million of those acres suitable for wilderness designation. This is why HR 1581 should become law because it merely carries out the results of the FLPMA 15 year review and implements the Clinton administration's 1993 suitability recommendation which in Utah was: release 1.4 million of 3.2 million acres of WSA's for multiple use management.

In Utah, any discussion on Wilderness and Wilderness Study Areas (WSA's) involves the Southern Utah Wilderness Alliance (SUWA) an organization that has led the fight to lock up over 9.1 million acres of lands in wilderness in Utah. Although very small in numbers (less than 14,000 members, most of which do not live in Utah) yet heavily funded, this environmental organization has built its reputation by taking an uncompromising approach for single use land management and wilderness designation which includes the 9.1 million acres Red Rock Wilderness Bill. Using the federal courts, SUWA has engaged in a multitude of lawsuits against the state and counties, and in essence, the taxpayers of Utah who have expended untold millions of dollars in litigation. SUWA's strategy has been to sue, delay and stop the implementation of land management plans and actions, row's, RS2477 road designations, mining and drilling, timber harvesting resulting in economic losses of billions of dollars in revenue to the state of Utah and the federal government. SUWA is particularly focused on the OHV community and their desire to access public lands via existing county roads. The 20 year battle to maintain access to private lands, school trust lands and public lands by the Utah Association of Counties and the State of Utah has been fought with SUWA and the Utah Wilderness Alliance. The WSAs in Utah are the main reason the RS2477 road issue has taken so long to resolve even though FLPMA specifically recognized these county roads in the law.

Background Information on SUWA: Although this radical environmental organization has fewer members than found in a Utah legislative district they have been able to influence federal land management agencies throughout Utah. In the late 1990s, SUWA began building a large

endowment from grants. The [Pew Charitable Trusts](#) and the Wyss Foundation were particularly generous. As of 2004, SUWA had amassed almost \$5 million. Swiss-born billionaire [Hansjorg Wyss](#) joined the board of SUWA in 1996 and later financed a new \$1.4 million Salt Lake City headquarters. Though SUWA has been able raise large sums of money over the last decade its membership numbers have declined 30% from a high of 20,000 to 14,000. Still, SUWA maintains that 70 percent of their funding comes from membership dues and donations, and states that roughly 80 percent of the organization's income is spent on program work. SUWA presents itself as a grass roots organization with mainly Utah membership which is far from the truth. It is in fact an elitist grant driven litigation machine. In May 2007, New York millionaire Bert Fingerhut, who served on the SUWA board of directors for 18 years, pled guilty to one count of conspiracy in connection with a plot to reap more than \$12 million in illegal profits by circumventing rules controlling how private banks are converted to public ownership. As part of his plea deal, he forfeited \$11 million. On August 3, 2007 he was sentenced to two years in federal prison. In October 2007 Mark Ristow, SUWA's treasurer and a SUWA trustee for about 20 years, pled guilty to one count of conspiracy to commit securities fraud in a scheme similar to Fingerhut's. In February 2008, he was sentenced to 20 months in federal prison and forfeiture of \$2.8 million in profits.

On March 1, 2008, a letter signed by 45 members of the Utah House of Representatives requested detailed financial records from SUWA. The letter which was addressed to then SUWA board Chairman and Swiss billionaire Hansjorg Wyss, referred to the guilty pleas of Fingerhut and Ristow and said, "given SUWA's large amount of financial contributions and outside sources of funding, and especially SUWA's long-time association with these two individuals, the citizens of Utah demand your accountability with regard to these matters." SUWA never responded to the request. Billionaire Wyss who is chairman of a medical devices company called Synthes in West Chester, Pennsylvania has his own legal problems including 52 felony counts against his company stemming from allegations that Synthes illegally experimented on patients, three of whom died. Federal prosecutors in Philadelphia did not name or charge Wyss, but their June 2009 indictment describes a "Person No. 7," who was a major shareholder and chief executive officer of the company when the alleged illegal conduct occurred, from 2001 through 2004. A Synthes representative confirmed that Wyss was CEO then.

I bring this information to the committee's attention simply for the reason that while as an elected official in the State of Utah, I have some minimal influence over the use of public lands in my district. However, it pales in comparison to the influence of these wealthy foundations, and the Grant Driven Green Groups such as SUWA that they support. SUWA and other environmental organizations are having undue influence in my district, my state, and on the public lands throughout the west in general. I don't believe that the United States Congress ever intended for this to happen. The Sagebrush Rebellion of the 1970's and 1980's has re-emerged in Utah. For the third year in a row, thousands of Utahans who want equal access and multiple use of the public lands in Utah will be again marching to the Utah Capitol August 20th, to demand that Utah be allowed to have more input into how public lands in Utah are managed.

I am excited about HR 1581 and would like to see it signed into law as it would help settle a this contentious debate over how public lands designated as Wilderness Study Areas are managed in Utah. At present, these WSA are not managed for multiple uses. They are simply put off limits to any type of management. Kane County is known as Little Hollywood where over 160 mostly western movies have been filmed. Gunsmoke, How the West Was Won, and Maverick are just a

few of the old westerns that we all remember and love were filmed in the county. Wilderness and WSA's are so restrictive such that a commercial film or even still photo cannot be done in a WSA. It is time to release those acres that were found unsuitable. Management of these non-suitable lands is more restrictive than designated wilderness. In addition, passing HR1581 would help settle the majority of the RS2477 road litigation and quiet title actions that are literally filling the federal courts in Utah thereby wasting precious state and federal monies.

In conclusion, I quote a statement on the website of one grant driven environmental organization (the Pew Environment Group) regarding their strong opposition to the proposed legislation. "This legislation would take away protections that have been in place for decades, including those for our most pristine backcountry. America's tradition of managing our lands on the multiple use principle would be upended. Mining, logging and drilling are already allowed on more than half of our national forests and other public lands. This legislation proposes to open up most of the rest putting drinking water for 60 million Americans at risk, compromising outdoor recreation and the billions of dollars in revenue it generates annually, damaging fish and wildlife habitat, and undoing years of work by lawmakers and diverse stakeholders to craft balanced land use proposals." This statement is pure fiction and like SUWA they distort the truth by calling Wilderness multiple use management, when it is common knowledge that WSA designations preclude almost any other use of the protected lands. In regard the statement that drinking water would be put at risk by removing WSA designations, the truth is that the creation of WSA's and Wilderness Areas does more to put drinking water at risk by allowing uncontrolled wildfires, beetle infestations of forests, erosion of soils in critical watersheds and by generally eliminating the ability to maintain watersheds in good ecological conditions via vegetative manipulation.

I support this legislation and would like the congress to go one step further which is to allow the 11 individual western public land states to manage the BLM lands and Forest Service lands within their boundaries. I think the savings to the federal treasury would be huge and the revenues to the states and the federal government would be greatly increased. In 1976 the BLM was returning billions of dollars each year to the federal treasury. In fact only the IRS contributed more to the federal budget than the BLM. The radical shift from multiple use management to what is essentially a lock it up and keep the public and resource users off the land has resulted in another federal agency that spends more money than it takes in. FLPMA states that "the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a), (13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation. Utah doesn't want the federal government paying us for the loss of taxation that if properly managed could in fact come from these federal lands. I believe Utahans and most westerners just want the federal government to allow the states to management these public lands for multiple use and sustained yield.

Representative Michael E. Noel