Committee on Resources
Subcommittee on National Parks and Public Lands

Witness Statement

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Hearing on H.R. 1500
October 28, 1999
Room 1334 Longworth House Office Building
Washington, D.C.
testimony of
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Mr. Chairman, my name is Clark Collins and I am the Coordinator of the Wilderness Act Reform Coalition.

The Coalition is a new group, formed less than two months ago on the 35th Anniversary of the signing of the Wilderness Act. Our mission is to reform that Act in a number of limited areas to begin to deal with some of the most serious problems with it. Unfortunately, the test of time has revealed the Wilderness Act to be antiquated, anti-resource management, anti-good resource stewardship. It must be reformed for the public interest to be served as we enter the 21st Century. Mr. Chairman, I ask to have a brief outline of why we organized the Coalition and a summary of the our ten point reform agenda which is attached to our statement be included in the hearing record.

Sunsetting Wilderness Study Areas is not one of the specific reform objectives of the Coalition, although we do address problems related to WSA's in several of our reform recommendations. However, in many important ways, the problems which require the solution which is incorporated in H.R. 1500 are the same ones we address in our reform agenda. Some of the same problems which we have identified in the Wilderness Act are also problems caused by Wilderness Study Area status. In a few cases, WSA status appears to cause even more problems than designated Wilderness. From all of these perspectives it is clear that enacting H.R. 1500 is in the public interest and we support this bill.

Overall, the most important benefit of enacting H.R. 1500 would be that it will finally resolve the Wilderness problem which wastes so much time, money, agency resources and causes so much divisive debate across the West. In fact it was disagreement over a proposed Forest Service Wilderness area near my home town of Pocatello, Idaho fifteen years ago which first got me involved in the political arena. However, as we look at the problems on public lands, in our opinion, H.R. 1500 is largely a solution to problems on BLM managed land.

As a land management agency, the BLM came twelve years late to the Wilderness issue, when the Act was

applied to the agency with the passage of FLPMA. But that was still 23 years ago. Many WSA's are approaching 20 years old. The authority under which they were created, Section 603 of FLPMA, expired 8 years ago when the final report of the agency on disposition of these WSA's was sent to Congress. Yet, we still have millions of acres of public land trapped in the limbo status of these WSA's. It is clear from looking at the provisions of FLPMA that Congress did not intend the Wilderness review and designation process to drag on indefinitely.

Until these WSA's are dealt with by Congress, that limbo status will continue to create tension and friction among westerners. Those who want the maximum amount of Wilderness know that they already have a very restrictive land classification in the WSA status so they resist any effort to release those which are not suitable for Wilderness designation for whatever reason. Those who favor multiple use management see lands which clearly do not qualify, and which the BLM has recommended be released for multiple use, continue in this limbo status year after year. The result is that Wilderness designation is an immediate flash point for all who have an interest in the public lands, a flash point which ignites more intense passion on both sides as the years go by and the frustration intensifies.

H.R. 1500 would solve that problem by bringing some closure to the Wilderness debate. It would change the dynamics to one where all sides have an incentive to make their best case to the Congress and the public on the future management of these lands rather than the current situation where a small minority largely achieves its goals through obstructing the process. Enacting a sunset provision and a reversion to multiple use management, as dictated by FLPMA, would energize the policy debate in a positive way and Congress would finally have public support from all sides to finally resolve the Wilderness problems in the West.

This is not simply a matter of lowering the temperature of the debate and the tempers of those in the public lands states who must live with this unresolved land management issue. There are real stewardship implications to sunsetting WSA's as well, and that is where the bill before you intersects directly with aspects of the Wilderness Act reform agenda of the Coalition, both specifically and philosophically.

There is a common misconception that Wilderness designation is a land protection scheme. In fact, it is primarily a policy which promotes a particular type of recreation--primitive and unconfined with solitude an important consideration, as the Wilderness Act puts it. Wilderness designation caters to this "select" recreation public at the expense of all others. Any land protection aspect of Wilderness is mostly coincidental and largely secondary to this highly specialized recreation directive. We now know, based on scientific advances in the 35 years since the Wilderness Act was passed, that it is not based on good science. As a result, it actually hinders responsible resource and recreation management.

There is ample evidence for this almost exclusive, specialized, recreational emphasis of the Wilderness Act and I will not go into great detail on it here. Suffice it to say, however, that it is why things which would protect the public lands and resources are often prohibited by the Wilderness Act. Dealing with the problem of human waste is perhaps a classic example. In some of the more popular Wildernesses and Wilderness study areas, this has long since passed the point of becoming an aesthetic problem and become one of protecting human health. Yet, unless there is a specific provision written into the law establishing a particular Wilderness which allows for the construction of outhouses, they are prohibited. Why? Certainly not to protect the resource, because the prohibition in the law results in resource damage. The reason they are prohibited is because this evidence "of the hand of man" apparently harms the recreational experience of those to whom it is important to think that they are experiencing what the world was like on the eve of white settlement. That segment of the recreating public is very tiny and their desires certainly should not dictate the management and impact on other resources on over on hundred million acres of land owned by all the

American people.

In fact, a recreation specific problem with WSA's is the inability of the BLM to utilize state or federal trail funding programs to correct environmental problems resulting from poorly designed trails. Many trails that are now used for recreation were originally built for firefighting, transportation or other utilitarian purposes. They were not properly designed for long term recreational use. State off-highway-vehicle programs, and the Recreational Trails Program that was recently reauthorized in TEA-21, provide funds that can be used to correct these design problems. Because mechanized recreation, including mountain bikes by the way, are disallowed in Wilderness areas, the federal agencies are discouraged from using these funds to make trail improvements in WSA's. This results in continued trail degradation and unnecessary negative impacts to the surrounding resources. Perpetual WSA status puts back country recreational users in perpetual conflict. Resolution of the Wilderness problem could potentially lead to increased cooperation among motorized and non-motorized back country recreationists, replacing conflict with compromise.

The negative impact of Wilderness designation and WSA status on wildlife provides another educational example. As the BLM has pointed out in NEPA documents, Wilderness designation may benefit some wildlife species but hurt others. The recovery and expansion of some species, such as Desert Big Horn Sheep, an activity which has overwhelming public support, can be hindered or even prevented altogether by the restrictions Wilderness designation or WSA management imposes. As I mentioned, these restrictions are imposed for recreational and aesthetic reasons. Wilderness designation has imposed restrictions on the ability of state fish and game management agencies to manage the wildlife on federal lands, something which Congress has consistently recognized as a state's rights.

Even small activities which can benefit wildlife are often opposed by Wilderness advocates. Recently in Utah, one of these groups opposed the BLM and Utah Department of Fish and Game efforts to put several dozen "guzzlers" or artificial watering holes, in WSA's because they said their presence could make the areas ineligible for Wilderness designation. Currently, the BLM is modifying the policy under which it manages WSA's to make it easier to put in guzzlers and other wildlife habitat enhancements. Wilderness advocates oppose them, of course. As anyone who has spent any time on the desert knows, the absence of water is by far the major limiting factor in wildlife populations. Much of the BLM land is desert, so any prohibition on their efforts to improve wildlife habitat has a direct negative impact on wildlife.

Why is there this opposition? Again, it is not to protect the wildlife resource certainly. It is to protect the recreational value for a tiny fraction of the people for whom the appearance of "pristine" conditions are important to their recreational experience.

Other examples of Wilderness designation or WSA status resulting in damage to other resource values includes watershed improvements and even the practical control of wildfire, noxious weeds and insect infestations. In the case of these latter problems, the Wilderness Act allows the agencies to take steps which would normally not be permitted in Wilderness. As a practical matter, however, they usually do not, or think that they must use what is called the "minimal tool" to accomplish them. This inflexibility and the anti-resource management, anti-good stewardship constraints of the Wilderness Act which can result in damage to other resources is one of those areas which the Coalition is determined to reform. Our Internet Web site, *www.Wildernessreform.com*, has further examples and a more in depth explanation of these kinds of problems with Wilderness areas.

Wilderness designation inevitably results in resource trade offs. While some resource values may be protected or enhanced, others can be harmed. It is essential that the cost of any negative trade offs be

weighed against what is essentially an aesthetic goal. The public lands are adequately protected by the various laws and regulations which have been adopted over the years. In fact, because these laws and regulations provide for more flexible management on multiple use lands, a strong case can be made that a broader range of resource values is better protected on these lands than on those which are designated as Wilderness.

As I mentioned, similar problems occur with respect to WSA's because some of the same constraints apply. As the committee knows, WSA's are managed under what is called the "Interim Management Policy" (IMP) in the BLM. The essence of this policy is that these areas are to be managed in such a way that their potential for being designated as Wilderness is unimpaired until Congress Acts to either designate them or release them for multiple use. That means in practice that some of the same kind of anti-management, anti-good stewardship policies which cause problems with Wilderness areas also cause similar problems with WSA's.

While it is often difficult if not impossible to justify this damage and these trade offs with respect to designated Wilderness, it is completely unacceptable that they should be allowed to occur in the case of those WSA's which, when Congress gets around to considering them for designation or release, will almost undoubtedly release them. This does not even take into consideration the losses to local, state and national economies from not being able to utilize the natural resources which might be locked up within these WSA's which will be released someday. One of the areas where the IMP is stricter than actual Wilderness designation is in the area of mining claims. While valid existing rights are recognized in Wilderness, there is a policy, both written and unwritten, to discourage the development of claims inside WSA's by whatever means possible.

There are other practical administrative considerations as well. The BLM presently has a much more extensive monitoring and announcement policy with respect to activities which might occur in WSA's compared to regular multiple use lands, again resulting in a drain on funds and personnel, resources which are largely wasted in cases where current WSA's will ultimately not be designated by Congress as Wilderness.

In fact, we understand there are more intensive monitoring and reporting requirements associated with WSA's than with many designated Wilderness areas. Monthly surveys, including aerial reconnaissance, are supposed to be done on all WSA's and an annual report compiled. This apparently is not being done in most cases, largely for budgetary and staffing reasons. Similar monitoring and reconnaissance activities in designated Wilderness areas is dictated by the Wilderness management plan for that area, and may be much less intensive that the one-size-fits-all requirements of the IMP.

Another problem which is unique to at least some WSA's, but not to Wilderness areas, is the setback of the boundaries from various categories of roads. In some cases, the boundary of WSA's is set right at the berm of a road, making it difficult or impossible for the counties which own the rights of way to do even routine maintenance without risking an incursion into the WSA. This situation is further complicated because the RS 2477 right-of-way has been determined in court in many states to extend well beyond the disturbed area and therefore overlaps into the WSA.

In the case of designated Wilderness, the boundaries are generally set back a specified distance from the centerline of the road based on the type of road involved. These distances are 300 feet for "high standard" roads such as paved highways, 100 feet for roads equivalent to "high standard logging roads" and 30 feet for all others. There has been senseless and costly litigation because of this "boundary at the berm"

characteristic of many WSA's and unnecessary administrative friction between the agency and a number of western counties because of this situation. While the BLM probably has the authority to make minor boundary adjustments to correct some of the problems with WSA's, such as where parts of towns, ranches, and etc. were included within WSA boundaries because of mapping or surveying errors, it apparently does not have the authority to correct this road-related problem. It will take, literally, an act of Congress to do so, and this sunset provision, while it will not specifically solve this problem, will after ten years remove its source.

In conclusion, we would like to make a couple of suggestions and observations about the specific language and provisions in H.R. 1500.

We would recommend that the time period at which existing WSA's sunset be reduced from 10 years to 5. That would still mean that some of them will have been in limbo status for around 25 years. Under the current management approach within the BLM, it is not likely that anymore will be known about these WSA's ten years or five years from now. Congress should act expeditiously and resolve this issue and five years is more than adequate time, we believe.

We also think the time period for new WSA's should be shortened to no more than five years and probably less. This is in part because of the fundamental difference in authority under which new WSA's would be created by the BLM compared to the original ones. The existing WSA's were almost all created under the Section 603 authority of FLPMA as I noted earlier. These 603 WSA's can only be released by Congress and therefore blocking Congressional action leaves them in this limbo status indefinitely, which is the major problem H.R. 1500 addresses.

Any new WSA's can only be created under the Section 202 planning authority of the FLPMA and could, therefore be released by the agency using the same planning authority. A fundamental question is why the agency should be establishing administrative WSA's in the first place. There is no requirement in law or regulation that requires that all land which might have Wilderness characteristics must be managed to protect those characteristics, so establishing 202 WSA's is entirely discretionary with the agency. It can only be done by a 202 plan amendment process which, if it is done responsibly and legally, can only be done with public input and careful analysis of all factors such as manageability and suitability and almost always with full NEPA review.

In these circumstances, the case for possibly designating the area as Wilderness will have been largely made in that plan amendment process. Congress should have all that it needs to know to decide whether or not to designate the parcel as Wilderness. Why wait for ten years to do so? Again, there will not be any more information at the end of ten years than there was when the WSA was created by a plan amendment. Congress should deal with these more expeditiously than letting up to ten years pass. We suggest that three years would be adequate, which would guarantee that at least two Congresses would have the chance to consider designation.

We also think that there needs to be stronger language returning these areas to multiple use management at the end of the sunset period than is presently in the bill. The problem is not the establishment of WSA's as such but the management constraints which come with that status, no matter what the authority under which they are created. In order to solve the problem, it is these management constraints which must be lifted, not simply the WSA status overlaid on the land. It is not inconceivable, given the recent history of the BLM's creative and liberal interpretations of some of the mandates given to it by Congress, that the agency could continue the same restrictive management under another name. The IMP could be applied to another

designation and the problems would continue.

We recommend that something along the lines of "hard release" language which has been drafted for some Wilderness bills be included in Section 3 to make it clear that after the sunset of the WSA, the land is to be managed for multiple use and no longer managed to maintain Wilderness characteristics.

We think that this hard release language, combined with the shorter sunset period for Section 202 based WSA's could also be of great value in reinforcing the Constitutional role of Congress in managing the public lands without having to get into a situation where Congress is trying to micro-manage every BLM field office. If the agency feels that Congress should review an area for possible Wilderness designation, it should certainly initiate a plan amendment process to apply the IMP to the area. However, if it knows that its administrative action could result in the hard release of the area by Congress back to multiple use, it will undoubtedly be much more careful in designating 202 WSA's and make a better case to Congress to act before the sunset deadline.

Given the irresponsible way the agency is attempting to impose WSA status on land in several western states now, the dynamic which would be created by this shorter sunset period and the resulting hard release clearly would be in the public interest.

Thank you for this opportunity to present our views. I will be happy to answer any questions you might have about anything I have presented here.

The Wilderness Act Reform Coalition

WARC

www.wildernessreform.com

After 35 Years, We Are Finally Going

To Do Something About The Wilderness Act!

Why the Coalition was organized...

September 3, 1999 marked the 35th anniversary of the passage of the Wilderness Act. In all that time, it has never been substantively amended. Yet, the history of the application of the Wilderness Act to the public's lands and resources demonstrates conclusively that it must be significantly reformed if the public interest is to be served.

September 3, 1999 also marked the launch of the Wilderness Act Reform Coalition (WARC), the first serious effort to reform this antiquated and poorly-conceived law. Much has changed since the Wilderness Act became law in 1964. Dozens of other laws have been passed since then to protect and responsibly-manage all of the public's lands and resources. Underpinning these laws--and guaranteeing their enforcement-- is a public sensitivity and commitment to wise resource management which was not present two generations ago when the Wilderness Act was enacted.

Over this same time period our knowledge and understanding of how to responsibly manage the public's lands and resources has increased exponentially. The "demand side" of the public's interest in their lands

and resources has increased exponentially as well. Recreational use of these lands, for example, has increased far beyond what anyone could have anticipated 35 years ago and it has done so in directions which could not have been foreseen in 1964. Demand for water, energy and minerals, timber and other resources continues to go up as well to support an expanding economy .

This all means that at the dawn of the 21st Century we find ourselves facing more complex natural resources realities and challenges than ever before in our history. Meeting these challenges while at the same time serving the broad public interest will require careful and thoughtful balancing of all resource values with other social goals. It will also require integrating them all into a comprehensive management approach which will provide the greatest good for the greatest number of Americans over the longest period of time. The Wilderness Act fails to meet this test.

It must always be kept uppermost in mind that these lands and resources belong to all of the American people. They deserve to enjoy the maximum benefits from them. Yet, the Wilderness Act, with its outdated, inflexible, anti-management and anti-good-stewardship provisions, currently prevents the application of responsible and integrated resource management to over 100 million acres of the public's lands and resources. That amounts to one acre out of every six owned by the American people. Yet, wilderness activists are pushing to designate an additional 200 million acres as wilderness. If they are successful, half the public's lands and resources would be locked into a management approach which has already been found to be woefully inadequate.

The inevitable result would be a dramatic increase in the numerous negative impacts and damage to other resource values which are already becoming increasingly apparent on the public's lands. The fundamental problem with the Wilderness Act is that it remains frozen in another era. In a real world sense, the exponential changes which have occurred during that time put that era much further in the distant past than the 35 years which have passed since the Act was passed might suggest. Clearly, it is past time to deal with the Wilderness Act.

Our goals and objectives...

The Wilderness Act Reform Coalition is being organized by members of citizen's groups and local government officials who have experienced firsthand the limitations and problems the Wilderness Act has caused. It has a simple mission: to reform the Wilderness Act. In carrying out that mission, the Coalition has identified two primary goals towards which it will initially work.

The first goal is to make those changes in the wilderness law which are essential to mitigate the most serious resource and related problems it is causing. These problems range from prohibiting the application of sound resource management practices where needed to hampering important scientific research and even jeopardizing our national defense.

The second goal of the Coalition is to use the failings of the Wilderness Act to help educate the public, the media and policy makers on the fundamentals of natural resource management. The "conventional wisdom" about natural resource management to which most of them presently subscribe is largely wrong. That means that the public must be better educated on the facts, the realities, the challenges and the options before there can be any meaningful policy debate on the most fundamental problems with the Wilderness Act or, for that matter, any of the other federal management laws and policies which also need to be reformed. It is largely for this reason that the Coalition has chosen a comparatively limited reform agenda for this opening round in what we recognize ultimately must be a broader and more comprehensive national policy debate.

Our reform agenda...

The Coalition currently advocates the following reforms of the Wilderness Act:

1. Developing a mechanism to permit active resource management in wilderness areas to achieve a wide range of public benefits and to respond to local needs. The inability or unwillingness of managers to intervene actively within wilderness areas to deal with local resource management problems or goals has resulted in economic harm to local communities and damage to other important natural resource and related values and objectives. The Coalition advocates the creation of committees composed of locally-based federal and state resource managers, local governments, local economic interests and local citizens which will be able to initiate a review process which will lead to a quick decision at the highest level whether to override the basic non-management directive of the Wilderness Act on a case-by-case basis.

2. Establishing a similar mechanism for appeal and possible override of local managers who turn down proposals for scientific research. Wilderness advocates often tout the importance of wilderness designation to science. However, the reality is that agency regulations make it difficult or impossible to conduct many scientific experiments in wilderness, particularly with modern and cost-effective scientific tools. Important scientific experiments have been opposed simply because they would take place within wilderness areas. A simple, quick and cheap appeal process must be created for scientists turned down by wilderness land managers, one which utilizes competent peer review to evaluate the proposed scientific research.

3. Making it clear that such things as use of mechanized equipment and aircraft landings can occur in wilderness areas for search and rescue or law enforcement purposes. There have been incidents where these have been prevented by federal wilderness managers.

4. Requiring that federal managers use the most cost-effective management tools and technologies. These managers have largely imposed upon themselves a requirement that they use the "least tool" or the "minimum tool" to accomplish tasks such as noxious weed control, wildfire control or stabilization of historic sites inside wilderness areas. In practice, this means that hand tools are often used instead of power tools, horses are employed instead of helicopters and similar practices which waste tax dollars.

5. Clarifying that the prohibition on the use of mechanized transportation in wilderness areas refers only to intentional infractions. This would be, in effect, the "Bobby Unser Amendment" designed to prevent in the future the current situation in which he is being prosecuted by the federal government for **possibly** driving a snowmobile into a wilderness area in Colorado while lost in a life-threatening blizzard.

6. Pulling the boundaries of wilderness areas and wilderness study areas (WSA's) back from roads and prohibiting "cherrystemming." In many cases, the boundaries of wilderness areas and WSA's come right to the very edge of a road. Lawsuits and other actions have been filed or threatened against counties for going literally only a few feet into a WSA when doing necessary road maintenance work. It is clearly impossible to have a wilderness recreational experience in close proximity of a road. When formal wilderness areas are designated, the current practice is to pull the boundaries back a short distance from roads, depending on how the roads are categorized. That distance should be standardized and extended, probably to a distance of at least a quarter of a mile. The practice of "cherrystemming," or drawing wilderness boundaries along both sides of a road all the way to its end, sometimes for many miles, must be eliminated. It is a clear violation of the intent of the Wilderness Act that wilderness areas must first and foremost be roadless.

7. Permitting certain human-powered but non-motorized mechanized transport devices in wilderness areas. This would include mountain bikes, wheeled "game carriers" and similar devices. The explosion of mountain biking was one of the recreational demands of the American people which was not envisioned by Congress when the Wilderness Act was passed. Opening up those wilderness areas which are suitable to mountain biking would provide a high quality recreation experience to more of the Americans who own these areas. Use of these human-powered conveyances would also reduce pressure on these areas in a number of ways, such as by dispersing recreation use over a wider area. At the same time, opening these areas can also reduce the current or potential conflicts between various recreational uses on land outside of designated wilderness. The impact on the land from these types of mechanized recreation uses inside wilderness would be minimal to non-existent. Their presence in wilderness areas would not cause problems on aesthetic grounds for any but the most extreme wilderness purists and they represent only a tiny fraction of the Americans who own these lands.

8. Requiring that an inventory of the natural resources in all WSA's and on any other land proposed for wilderness be updated at least every ten years. For example, mineral surveys and estimates of oil and gas potential completed on many of the WSA's on BLM-managed land which have been recommended for wilderness designation are now 10 to 15 years old and in some cases even older. These reviews were often not very thoroughly done even by the standards and technology of the time, much less by what is available now. Before any additional land is locked up in wilderness, the American people should at least have the best and most up-to-date information on which to weigh the resource trade offs and make decisions.

9. Stating clearly that wilderness designation or the presence of WSA's cannot interfere with military preparedness. In a number of instances, conflicts related to military overflights of designated or potential wilderness areas, or to the positioning of essential military equipment on the ground in these areas, poses a threat or a potential threat to our defense preparedness. The Coalition will push for clarification in the Wilderness Act that when considering the impacts of any mission certified by the military as essential to the national defense, wilderness areas or WSA's will be treated exactly the same as any other land administered by that agency but not so designated.

10. Clarifying that wilderness designation or WSA status will not, in and of itself, result in any management or regulatory changes outside the wilderness or WSA boundaries. This change is essential to prohibit federal agencies or the courts from taking actions to impose any type of "buffer zones" or other zones of management influence around or outside of these areas, including such things as special management of "viewsheds" or asserting wilderness-based water rights.

For additional information about the Wilderness Act Reform Coalition, visit the WARC Website at ***www.wildernessreform.com*** or contact the Coalition directly at:

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