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Testimony  
Before the Subcommittee on Minerals and Energy  
United States House of Representatives

Hearing on the Wildlands Project

Thank you for this opportunity to testify before this subcommittee on the Wildlands Project. My name is Tom McDonnell, owner of McDonnell Angus Ranch and President of McDonnell and Associates, a private consulting firm specializing in natural resource issues. Today I am speaking on behalf of the New Mexico Stockgrowers Association, however, some of the experiences I pass on to you are from the sixteen years I served as Director and Associate Director of Natural Resources and Policy for the American Sheep Industry Association.

When Dave Foreman moved from environmental terrorism, or monkey wrenching as he referred to it, to paper wrenching: the tying up of economic activity with litigation and appeals, I naturally followed his progression. Dave Foreman's Earth First! organization had taken credit for the arson destruction on one of the sheep industry's larger auction barns in 1989, the destruction of the California Woolgrower Office, and numerous acts of sabotage on ranches across the West. I learned to take his statements seriously.

In 1994, I was one of the first in industry to review a document drafted by Dave Foreman with the assistance of Reed Noss and Michael Soule. In a technical review of the Wildlands Project, I concluded that the avalanche of petitions to list new species, the appeals and litigation to stop mineral development, mining, grazing, and recreational activities were not isolated instances but rather well coordinated activities aimed according to the Projects text at establishing a "regional reserve system which will ultimately tie the North American continent into a single Biodiversity Reserve."

Dave Foreman referred to National Parks and current wilderness areas as nothing more than "outdoor zoos." He envisioned vast areas of interconnected wilderness free from industrial human intervention, off-limits to human exploitation, and free of the artifacts of civilizations including roads, dams, powerlines and overflights. In the Wildlands Project, Dave Foreman called on no less than half of the North American continent being returned to Wilderness.

Over the next 100 years, Foreman called on the establishment of systems of core wilderness areas where human activity is prohibited. These core protected areas were to be linked with biological corridors and surrounding these core protected areas and corridors, buffer zones were to be established and managed to restore ecological health. Civilization was to be limited to islands of human activity outside these buffer zones.

In 1994, thirty-five activist groups were known to be mapping, litigating and legislating their way towards Dave Foreman's vision of a single Biodiversity Reserve. Areas with state and national parks, BLM and U.S. Forest Services lands, and National Wildlife Refuge over 100,000 acres in the West or 50,000 acres in the East were identified and work begun to move these areas into wilderness or similar designations. In the West alone, 38 areas were identified where road closures would create roadless areas of one- million or more acres. Any private property providing gaps between roadless areas was to be targeted for acquisition by government or land trust organization, and any attempt to utilize resources within areas identified for roadless designation were to be litigated.

Since 1994, the number of activist groups supporting the Wildlands Project have grown. The California Wilderness Coalition website, for example, lists 180 different groups as supporting their effort to "rewild" the Sierra Nevada Mountains. These groups have used a variety of methods to remove the "artifacts" of civilization. Hundreds if not thousands of lawsuits have been filed to remove and prohibit use of these "identified roadless areas," and to enlarge their expanses. By 1995, 11 of the 34 known Wildland Project groups had litigation filed against the Departments of Ag and Interior and the EPA. The Hells Canyon Preservation Council successfully litigated sheep grazing as being an incompatible use within the Hells Canyon National Recreation Area and is now seeking to remove motorized boating. The Oregon Natural Resource Council is currently litigating cattle grazing as being incompatible with scenic rivers and monument designations. These activists have attempted repeatedly to have grazing removed under federal agencies failure to conduct NEPA. But the one piece of environmental legislation most abused by these groups is the Endangered Species Act.

A study of the Wildlands Projects is one of abuse of the Endangered Species Act itself. Wildlands Project groups have abused the act in four major ways. First is the citizen suit provision of the Act itself, not only filing suits with the intent of halting

all economic activity, but also filing suits to halt protection and recovery of the species itself. Second, Wildlands Project groups have abused the Section 4 listing process by repeated petitioning for the listing of any species that may halt economic development. Third is the designation of critical habitat. With nearly every petition to list, comes a request for the designation of the maximum amount of critical habitat possible. If the Secretary deems the benefits of not designating critical habitat outweigh the benefits of designation unnecessary, this is litigated. If critical habitat is designated, then the litigation of all economic uses with that habitat is initiated. Finally, once a species is recovered, removing the species from the list is made almost impossible by litigation. The fact is, the citizen suit provision of the Act has effectively removed control over the Endangered Species Act from Congress and the administering agencies, and handed that control to the courts. Citizen suits by U.S. Fish & Wildlife Service's own admission have bankrupted not only the administration of the program, but they have bankrupted Congress' intent of the Act and have served to bankrupt entire segments of the U.S. economy.

By 1995, Wildlands Project groups had petitioned for the listing of literally hundreds of species. To give Congress some examples of abuse, the Biodiversity Legal Foundation has petitioned to list the common timber rattlesnake with critical habitat in 31 states, millions of acres of white pine, and the Alaskan wolf. In each of these cases, U.S. Fish & Wildlife Service found the petitions either unwarranted or unsubstantiated with scientific fact. But not until limited personal and financial resources were expended addressing the petitions, often times in court. Two species which wildlands project groups were successful in listing, were the Prebles jumping mouse and the Sierra Nevada bighorn. DNA analysis has recently determined that the Prebles mouse is not a unique species, or subspecies, but not before critical habitat designations and recovery plans cost the Colorado economy alone an estimated \$4 billion.

It took industry two years to obtain a DNA sample from the US Fish & Wildlife Service for the Sierra Bighorn after the Wildland Project group Friends of the Inyo successfully petitioned the listing of this bighorn. Nuclear DNA analysis now suggests that the Sierra Bighorn is neither distinct nor a subspecies. Yet the bighorn are being transplanted into regions of historic livestock grazing, and used to remove grazing use. At this time, 60,000 domestic sheep have been removed from domestic grazing allotments and another 60,000 head are targeted for removal. Economic impacts on the sheep industry could run as high as \$100 million for a subspecies or distinct population of a species that isn't.

Delisting has also been problematic. The grizzly bear in the Northern Continental population met all recovery criteria in 1982. Once delisting looked probable in 1991, the Biodiversity Legal Foundation petitioned to list other populations from threatened to endangered and U.S. Fish & Wildlife Service was lobbied to rewrite its recovery plan. In the 1993 Grizzly Bear Recovery Plan, USF&WS implemented the principles of the Wildlands Project outlining the establishment of at least six populations in protected recovery zones in Montana, Wyoming, Idaho, Washington and possibly Colorado, and the connection of these island populations of grizzly with migratory corridors, one of which is 240 miles long. Despite the fact that hunting, recreation and poaching are responsible for over half of all grizzly bear mortalities, and sheep grazing, which accounts for less than 9 percent of mortality, is cited as the biggest source of grizzly conflict and is targeted for removal from core grizzly habitat. Wildlands Project groups have also successfully litigated the halt of most mineral and energy development on the front-range of Montana and Northern Wyoming within grizzly habitat.

Not only has it been impossible to delist the grizzly bear, but a recent Oregon court decision has made it impossible to delist the wolf and possibly any other species. Efforts to delist the gray wolf were met with legal challenge by Wildland Project groups in the liberal Oregon courts. After a January ruling that the wolf could not be delisted until it was recovered throughout its habitat in historic numbers, it may be impossible to delist the wolf until populations in New England, the Appalachians and the Southwest are recovered. Furthermore this case makes it questionable whether any species can now be recovered or delisted.

The Endangered Species Act states that the Secretary shall consider the designation of critical habitat using best scientific data and evaluates the economic impact of such designation, and other relevant impacts. The Secretary may then exclude any area from critical habitat if the benefits of such exclusion outweigh the benefits of the habitat. The Oregon wolf case demonstrates effectively how Wildlands Project groups have pulled this authority well away from the Secretary. With each petition, Wildlands Project groups are requesting and litigating the designation of the maximum amount of habitat possible, not for conservation of the species, but to enable their control of resource use. Congress must take measures to strengthen the Endangered Species Act so it can achieve its intended purpose. The listing and delisting mechanisms of the Act must be addressed so only species in need of protection are listed, and once recovery is achieved, these species delisted. The citizen suit provisions of the Act must be reviewed to address the avalanche of frivolous litigation that only serves to halt economic use, and does nothing to conserve the species. Critical habitat and recovery plans must be addressed. All conservation efforts are better served through incentives and landowner cooperation, rather than threat of litigation and the iron hand of the courts, rules and regulations.

Thank you once again for this opportunity to testify on behalf of the New Mexico Stockgrowers Association.