

## SUBCOMMITTEE ON NATIONAL PARKS, RECREATION, AND PUBLIC LANDS

HEARING HELD ON JUNE 6, 2002

TESTIMONY OF CHRIS SALOVE

COMMISSIONER OF OWYHEE COUNTY, IDAHO

## Administrative Wilderness in Owyhee County

My name is Chris Salove. I am an elected County Commissioner in Owyhee County, Idaho. I also serve as an appointed member of the Lower Snake River BLM Resource Advisory Council.

Owyhee County, located in the southwest part of Idaho at its juncture with Oregon and Nevada, has a huge land mass and over 70% of it is owned by the United States. Economic health of our county and its citizens is dependent upon livestock grazing as mandated by Congress in the Taylor Grazing Act, the Federal Land Policy and Management Act, and the Public Rangelands Improvement Act.

The viability of ranching in our county is threatened by land use conflicts which arise out of arbitrary management of Wilderness Study Areas by local BLM employees. I appear to testify in favor of America's Wilderness Protection Act, H.R. 4620, because I believe it will help resolve such conflicts. Passage of the Act will benefit the land and its resources which are critical to a sound environment in our County, and to the economic stability of our ranchers and our county.

The two go hand in hand: a sound environment and economic stability. We recognize that in Owyhee County, and the Board of Commissioners recognizes its responsibility to pursue both.

Owyhee County contains no designated wilderness. But, BLM studies of wilderness potential began in our County 17 years ago. Four separate studies have resulted in the placement of about 750,000 acres in administrative wilderness study areas. These acres are managed in a far more restrictive manner than actual wilderness designations by Congress in other parts of the country. When Congress designates a wilderness area, it mandates protection of existing rights and it sets the guidelines for continued uses such as grazing. But, land which lies only in a wilderness study area is managed by the BLM under its own administrative policy and procedures which are so restrictive that they endanger continued multiple use.

The irony in our county is that the rigid restrictions do not result from recommendations for wilderness designation, but simply from the fact that the BLM studied the area for wilderness potential. All 750,000 acres are rigidly restricted, even though the BLM itself has recommended only slightly more than half those acres for wilderness designation. The general studies for wilderness potential began in Owyhee County in 1982. The last study of the four separate areas studied was completed in 1989. The BLM recommended wilderness designation for 400,000 acres, and recommended that multiple uses be continued without wilderness designation on the other 350,000 acres. Much of the 350,000 acre portion of the studied areas was not recommended for wilderness designation because of the BLM identified a need for intensive

management to restore or protect the landscape ecology.

The areas not recommended for wilderness designation have been subjected to a “do not touch” policy. Such policy of “non-use” is arbitrarily applied even to those areas which the BLM said were in imminent need of intensive management efforts. It is harmful to the total environment of Owyhee County for the the BLM to refuse to allow management improvement actions even in those areas in which the BLM has identified the need for intense management.

That is the dilemma, however, that we face because of the administrative tie-up of these “study areas”. Since the first wilderness study Environmental Impact Statement was completed in 1986, the studied lands have been off limits to any kind of management. Even maintenance of existing range improvements is allowed only with BLM approval, and that approval is often denied. Even when the approval is granted, the BLM often limits the maintenance activity in a way that dramatically increases costs and/or reduces the effectiveness of the maintenance work and resulting management of the area.

Four Wilderness Study Areas were recommended for release to multiple use because of significant needs for management of encroaching western juniper into sagebrush-grass ecosystems. But, in the absence of Congressional action, the management needs identified by BLM personnel have been delayed by the same personnel for the past 17 years. The continuing and escalating juniper encroachment has resulted in deterioration of wildlife habitat, sensitive species habitat, watershed function and productivity which continues in those Study Areas to this day.

Even in those areas recommended by the BLM as suitable for wilderness designation, the BLM has identified many needs for improved management of multiple uses which must be implemented in order to maintain and improve landscape scale ecosystem values. However, the BLM interim management policy prohibits any such management. The expansion and development of western juniper and resulting deterioration of watershed function and landscape ecosystem values continues unabated. Range improvements that would apply livestock grazing treatments in a manner that increases the rate of watershed improvement on a landscape scale are routinely prohibited in spite of the fact that such improvements are allowable under the Wilderness Act and the extension of that Act to BLM managed lands by FLPMA.

In the most recent Resource Management Plan completed by the BLM for our County, issued in 1999, the BLM acknowledges that intensive management is necessary on public lands lying within five study areas covered by the 1986 Environmental Impact Study related to the Owyhee Amended Wilderness Report. Sixty percent of these particular lands have been recommended for non-wilderness because of the dramatic juniper encroachment. Yet, to this date, no management action has been initiated to address the juniper encroachment problem.

Since the early days of the prior Administration in Washington, emphasis has been placed on riparian area improvement, restoration, and protection. Each time we review an allotment evaluation in our County we see the BLM emphasizing riparian condition. Yet, water developments which could help immeasurably in riparian protection, are restricted and denied in these Study Areas. A well which was put in prior to commencement of the wilderness study in the Jack’s Creek area of our County, covered by the 1989 Environmental Impact Statement, still sits today without a pump installed---representing potential for riparian protection, stymied by BLM restrictions.

Let me tell you of a horrible example of how the BLM restrictively limits riparian and ecological improvements. In the early 1990s, ranchers who share an allotment in Owyhee County were granted

permission to build a riparian protection fence, part of which would be in a Wilderness Study Area. But, the permission was so restrictive that no one could reasonably have been expected to complete the fence under the terms specified by the BLM. The ranchers were given only 4 days to build a 3 mile fence in extremely rough terrain. Materials had to be carried in on foot because no motorized equipment could be used in the area. The ranchers requested that they be given more time, but the BLM refused, insisting that the fence had to be completed in its entirety within the four days.

John Fend of the BLM (who now holds a position in the Bureau in D.C.) warned the ranchers that if the fence was not entirely completed within the four days, the ranchers would have to remove those portions which had been completed. A series of questions about leniency as to the fourth day made it clear that the BLM had no intention that the fence could be completed. The BLM position was crystal when Fend replied “no” to the question “If we have the whole fence completed, but need to string one strand of wire 100 feet, can we do that on the 5<sup>th</sup> day?”

On the first of the allotted 4 days, the ranchers hand carried posts and wire into the area, laying the supplies out along the three mile fence course. Working from before dawn until after dark, the ranchers could see that they would not be able to complete the task.

But, on day 2, before dawn, as they made their way to the fence line, they saw their friends and neighbors streaming toward them. 32 men, women and children in this sparsely populated region, came with wire stretchers, post pounders and other tools necessary to complete the job. They had heard what the BLM had done, and were determined to help make the improvement which would enhance the ecology of the allotment.

With the help of their neighbors, the fence was completed at 6pm on the fourth day. Just after the work was finished, John Fend called one of the ranchers and told her that the work would have to stop because the time was up. She told him that the work was completed, and he was stunned by the news. It was obvious that the BLM had not expected that the fence improvement could be made in the time allotted.

Shortly thereafter, an anti-grazing conservation group filed an appeal of the decision to permit construction of the fence. Without consulting the ranchers who had worked so hard with their neighbors’ help to meet the impossible terms, in fact without even advising them, the BLM settled the appeal and told the ranchers the fence would have to be removed.

BLM fire crews then went into the area, including the Wilderness Study Area, with motorized vehicles and tore out the fence. They made no attempt to even save the wire, balling it up so that it would be useless. The motorized vehicles damaged the resource. Ranchers have pictures evidencing this travesty in the Wilderness Study Area.

The rigid interim management policy applied by the Idaho BLM to the administrative wilderness study areas needing intensive management is harmful to the environment, to viable multiple uses as mandated by Congress and to the economic welfare of our citizens. The only management options considered by the BLM within the administrative wilderness study areas are prohibitions for recreational access and elimination of livestock grazing. Ironically, proper management of recreational uses and proper management of livestock grazing are the most effective tools to preserve and enhance the landscape scale ecosystem function in the unique areas of Owyhee County.

We believe that the rigid “no touch” management policy is inconsistent with the legislative intent of Congress in passing the Wilderness Act of 1964 and the wilderness section of the Federal Land Policy and Management Act of 1976. The House Committee Report as to the Wilderness Act pointed out the importance of **legislative, not administrative,** control of the wilderness areas:

“A statutory framework for the preservation of wilderness would permit long-range planning and assure that no future administrator could arbitrarily or capriciously either abolish wilderness areas that should be retained **or make wholesale designations of additional areas in which use would be limited.**”

The Committee Report also stated: “Furthermore, by establishing explicit legislative authority for wilderness preservation, Congress is fulfilling its responsibility under the U.S. Constitution to exercise jurisdiction over the public lands.”

The bill now under your consideration is consistent with, and will implement, the intent of Congress stated in that Report. It will assure that it is Congress, not an endless administrative policy, which will mandate the designations and the uses of the land within those designations. The Congressional intent in passing the Wilderness Act was to exercise its constitutional responsibility for management of the public lands, not leave that responsibility to administrators without Congressional designation. “America’s Wilderness Protection Act” will implement that intent.

When Congress broadened the impact of the Wilderness Act to the BLM lands by amending FLPMA in 1976, the legislative intent was the same as that expressed in passing the Wilderness Act. The Committee Report pointed out that Section 603 of FLPMA provided that administrative recommendations as to wilderness designation would be submitted to Congress “for appropriate action”.

There is no evidence in the report that the Committee intended that there be no action by Congress once the recommendation was received, and that during the period of no Congressional action, the multiple uses of the area would be rigidly curtailed. Rather, the Committee foresaw “appropriate action” by Congress once a recommendation was received.

The Committee Report even emphasized that the review process should be expedited. The Report stated that the Committee “expects the Secretary to establish priorities in a manner which will expedite the review process and which will cause minimum interference with existing multiple use management of the public lands.” “America’s Wilderness Protection Act” will expedite Congressional review of administrative recommendations, and will assure that long delays and inaction will not result in harm to the environment including the human element of the environment.

The FLPMA Committee Report made it clear that Congress did not intend for long Congressional delays to result in rigid restriction of use. As to those areas recommended for wilderness, the Committee Report pointed out that the Secretary would have authority to allow at least minimum management improvements “such as wildlife habitat and livestock control improvements where needed for protection or maintenance of the lands and their resources and for continuation of their authorized uses.” That authority has not been exercised in our County. Through the many years since the recommendations were furnished to Congress, permission for improvements has repeatedly been withheld.

Moreover, there is nothing in the Committee Report evidencing an intent to allow the BLM to impose rigid use limitations even on those study areas not recommended for wilderness designation. Yet, in our County,

management improvements have been denied in those areas which the BLM determined to be unsuitable for wilderness designation.

“America’s Wilderness Protection Act” does not endanger wilderness designations. It simply places a time limit for Congress to act on the agency’s recommendations. If Congress has not accepted a recommendation to designate wilderness within the time limit set by the Act, the “wilderness study area” is released so that management actions can be taken to protect the ecology of the landscape. Timely action by Congress will call for Congress to exercise its rightful jurisdiction over use of the public lands as emphasized in the Wilderness Act Committee Report in 1974. It will be Congress which sets the parameters for use in the wilderness designations, and in all others the multiple uses authorized by Congress will continue.

For purposes of resolving land use conflicts which are harmful to our environment, for purposes of providing clear legislative guidance as to the use of unique lands, we ask that you pass “America’s Wilderness Protection Act”.