

Statement of

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**Before the House Natural Resource Committee
Subcommittee on National Parks, Recreation and Public Lands**

Regarding H.R. 4822

A bill to clarify that the Upper Missouri River Breaks National Monument does not include within its boundaries any privately owned property, and for other purposes

June 13, 2002

Mr. Chairman, representative Rehberg and Members of the Subcommittee, my name is Hugo Tureck, and I am vice-chairman of the Friends of the Missouri Breaks Monument. Our organization is made up of business people, hunters, farmers and ranchers and those who love open spaces. As a unified coalition, we are committed to protecting and preserving the Upper Missouri River Breaks Monument in its present form.

I thank you for the opportunity today to testify in opposition to H.R. 4822, submitted by Representative Rehberg. I would also like the attached documents and editorials submitted for the record.

My family and I have the privilege of being public land ranchers not far from the Monument. We raise cattle and small grains on a dry land operation that is beginning its fourth year of drought. I was also the chairman of the Bureau of Land Management, Central Montana Resource Advisory Council, (RAC), from 1999 until

2002. Our RAC is made up of 15 individuals representing many different points of view including ranchers, sportsmen, conservationists, elected officials and individuals representing oil and gas and timber interests. Being a consensus council, our job is to find common ground.

After visiting the Missouri Breaks in the summer of 1999, the Secretary of the Interior requested that the RAC take on the task of finding out how Montanans felt about this vast and wondrous landscape of mostly public lands. Our charge was to find out what Montanans agreed upon and what we held in common. As chairman of the RAC, I oversaw the preparation for and development of the report that we presented to the Secretary. To reach the greatest number of people living in the area, we conducted hearings in several communities in Central Montana. To encourage participation we accepted testimony during the day as well as in the evening. Hundreds of Montanans from all walks of life felt this issue important enough, that they took time from their busy lives to attend the meeting presenting statements and listening to others. We also received hundreds of letters.

As I listened to the testimony and read the many letters, I was moved by the passion that Montanans felt for this place. Rancher or floater, hiker or hunter, bird watcher or just a person seeking solitude; it made no difference. All felt a special love for this land we call the Missouri Breaks.

This is what the RAC told the Secretary of the Interior: Montanans want this enchanted place to remain as wild tomorrow as it is today. Montanans also want to see the cultural and historical artifacts that abound in this Monument protected and they consider it critical that wildlife habitat be enhanced. The people of my state also want to see traditional uses including hunting ,fishing and grazing to continue. Finally, and of critical importance, Montanans want to make sure that all private property rights are protected.

I can tell you today that the majority of Montanans that testified or wrote letters supported the idea of a Monument as the best way to protect this landscape. They were also adamant in voicing that public land belongs

to all Montanans and to all Americans. It was a small but vocal minority that opposed the Monument.

When the President of the United States, using the powers given to him through the Antiquities Act, created the Monument, he did so using the report from the RAC to the secretary stressing what the people of Montana so strongly agreed upon as the foundation of the proclamation, including protecting private property rights.

The Monument Proclamation states that the: “establishment of this Monument is subject to valid existing rights”. The proclamation further states that “....there are hereby set apart and reserved as the Upper Missouri River Breaks National Monument, for the purpose of protecting the objects identified above, all lands and interests in lands owned or controlled by the United States.”

Unfortunately, H.R. 4822, does not protect private property rights by removing such lands from the Monument. Private property rights were and are already protected by the proclamation and within existing government law and policy. We live in a system that protects private property rights. The Presidential Proclamation reassures us that private property rights are protected. By placing this language in the proclamation, the President also lets us know that it would take an act of Congress to remove this protection as this hearing today attests to.

The Proclamation also explains why private property was included within the boundaries of the Monument. What the proclamation clearly states is that if property with significant historical, cultural, wildlife or landscape qualities are purchased by the United States from a willing seller, these lands will be “reserved as part of the Monument.”

Why is this important? There are a significant number of historical and cultural sites that are on private land, but are an integral part of the historic and wildlife landscape. Sites like the Nez Pearce trail where in 1877 Chief Joseph led his band across the Missouri River and up Cow Creek toward his final battle with General Miles. Sites like the Kid Curry hangout where gunfighters and rustlers hid from the law. Sites like the

Bull Whacker Trail where bull trains hauled supplies from cow island to Ft. Benton when the water levels were so low that river travel was impossible. These and other sites are a part of our national identity. These are sites that help us define ourselves as Americans and deserve adequate protection for future generations to enjoy. Today, if a landowner chooses to sell his land that contains one of these sites to the government, it becomes a part of the Monument and is protected for all Americans. If this legislation passes, that will not be the case.

I would argue that without the current expectation(that land sold to the Government will become part of the Monument) there is a shift in perspective and expectation away from protecting these resources to doing nothing. There will be less interest in purchasing or trading public lands for in holdings from willing sellers if there is no guarantee, as there is now, that the land become part of the Monument. The future of the Monument and its abundant wildlife, historical, and ecological values now within the boundary will be jeopardized and our ability to preserve a piece of history and wildness, will be ultimately lost.

Throughout this testimony, I have stressed the important concept of willing sellers. There are numerous rumors about how our government has cynically tried to force or intimidate individual landowners into selling, or how our government has attempted to restrict private property rights. As a public lands rancher I am naturally curious if any of these rumors can be substantiated. I have called upon those making these claims to give us evidence. I have yet to see any. I have, however come across 43 U.S.C. 1715(a) that states that the BLM has no eminent domain authority meaning that by law, the BLM is prohibited from condemning private lands.

Representative Rehberg recently told the editorial board of the Havre Daily News that "he wants to eliminate any worries the landowners may have that the federal government would somehow try to restrict the landowners use of their own property." The Havre Daily News responded in their editorial as follows: "Rather than exacerbating people's fears, Rehberg should be reassuring landowners that they have nothing to worry about." Representative Rehberg has also stated that including private land within the boundaries of the Monument will open that land up to vandalism and trespass. But in reality drawing a line on a map would be of little help. On our ranch, our private lands are checker boarded with public lands. It is almost impossible for a person to tell where my private land ends and the

publics' land begins. If I want to keep the public off of my property and on the public land, I would need to clearly mark my boundaries. This is already my right and my responsibility.

There is something very troubling about this proposed legislation. Apparently those asking for this legislation have little trust in their government to treat its citizens fairly. It also seems those asking for this legislation have little faith in their fellow citizens, yet ask these citizens to trust them when they proclaim that they are the stewards of these public lands.

Finally, I know that Representative Rehberg feels that little thought went into drawing the current boundaries. I have visited with local field office managers, the state director of the BLM and with some BLM staff in Washington. Let me assure you that the boundaries of the Monument were drawn in accordance with the Antiquities Act that "...the smallest area compatible with the proper care and management of the objects to be protected." The boundaries are based on input from local, state and federal scientists and land managers to include those special objects of significance, then adjusted in response to citizen input. Areas with major developments and/or high percentages of private lands were removed.

Twenty-six years ago, Congress led by Senator Metcalf of Montana created the Upper Missouri River Wild and Scenic River. Forty-six percent or 35,800 of the 81,000 acres that this bill would remove from the monument are within the boundaries of the wild and scenic designation. Just think, twenty-six years ago Congress knew that they could do this and private property rights would not be violated. Twenty-six years later, we know Congress was right: that private property rights were not violated and that the river was better protected than before.

Twenty-six years later the President of the United States using the powers granted to him through the Antiquities Act acted to create a monument protecting a much larger area for future generations. This monument with its inspiring landscape celebrates Lewis and Clark and their role in the building of a nation. It celebrates so much of what they stood for. Let us not weaken this Monument by passing legislation such as this. Rather, let us work together to put in place a management plan for this new Monument

that serves not just a few special interests but the interests of all Americans now and for future generations.

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