

*Approved by the
Federal Lands Interim Committee*

**MINUTES
FEDERAL LANDS INTERIM COMMITTEE
October 28, 2013
Capitol Building – East Wing – Room EW42
700 West Jefferson Street
Boise, Idaho**

Co-chair Representative Lawrence Denney called the meeting to order at 9:00 a.m.

Members present included: Co-chair Senator Chuck Winder, Co-chair Representative Lawrence Denney, Senators Bart Davis, John Tippets, Sheryl Nuxoll and Michelle Stennett and Representatives Mike Moyle, Terry Gestrin (sitting in for Representative Stephen Hartgen) and Grant Burgoyne. Representatives Stephen Hartgen and Eric Anderson were absent and excused. Staff members present were Katharine Gerrity, Ray Houston and Toni Hobbs. Others present included Mike Roach, Office of Senator Risch; Mitch Silvers, Office of Senator Crapo; Doug Taylor, Office of Congressman Raul Labrador; Bonnie Butler, Office of Governor Otter; Andy Brunelle, Idaho Capital City Coordinator, U.S. Forest Service; Commissioner Jim Chmelik, Idaho County; Scott Hauser, Upper Snake River Tribes Foundation; Tim S. Olson, Nez Perce Tribe; Russell Westerberg, Kootenai Tribe; Anita Hamann, Division of Financial Management; Bob Geddes, Russ Hendricks and Dennis Tanikuni, Idaho Farm Bureau; Wally Butler, Jonathan Parker and Bill Myers, Holland and Hart; Chairman Nathan Small and Randy L'Teton, Shoshone Bannock Tribes; Vice-Chairman Joel Moffett, Nez Perce Tribe; Helo Hancock, and Bill Roden, Coeur d'Alene Tribe; Marty Morache and Angela Rossmann, Ada County Fish and Game League; Pat Barclay, Idaho Council on Industry and the Environment; Holly Endersby, Backcountry Hunters and Anglers; Scott Stouder, Trout Unlimited; Grant Simonds, Idaho Outfitters and Guides Association; Harry Soulen and Stan Boyd, Idaho Wool Growers; Wally Butler, Idaho Farm Bureau Range Consultant; Richard Savage, Wyatt Prescott and Karen Williams, Idaho Cattle Association; Ric Branch, Idaho State Grazing Board Central Committee; Tom Flynn, Outdoor Alliance; Bill Sedivy, Idaho Rivers United; Craig Gehrke, Wilderness Society; Will Whelan, Idaho Nature Conservancy; Mark Hill; Jack Lavin, Society of American Foresters; Jim Nunley, Idaho Wildlife Federation; Jonathan Oppenheimer, Courtney Washburn and Barbara Gudgel, Idaho Conservation League; Jerry Deckard, Associated Logging Contractors; Jim Riley, Riley and Associates; Bob Boeh, Idaho Forest Group, Vincent Corrao, Northwest Management, Inc.; Todd Hatfield; Tyler Mallard, Risch Pisca; Jack Stuart, Tea Party Boise; Commissioner Gordon Cruickshank, Valley County; Jack Lyman, Idaho Mining Association; Del Kohtz, Idaho Water Company, LLC; Danielle Ahrens; and Ken Devries.

NOTE: All copies of presentations, reference materials, and handouts are on file at the Legislative Services Office and are also available online at the Legislative Services Office website:
<http://www.legislature.idaho.gov>.

Co-chair Denney requested a silent roll call. **Co-chair Winder** reminded those in attendance that the committee's work is an ongoing process that will continue for more than another full year. He added

that there will be an opportunity for public input during the December 4 meeting of the committee. He said that he appreciates everyone's patience with the process.

Co-chair Denney called for approval of the minutes from the August 9, 2013 meeting. **Senator Nuxoll** referenced the information from the minutes associated with the Clearwater Collaborative. She indicated that it is her understanding that the collaborative receives money every year but the money does not go directly to the collaborative. She said that she hopes to hear testimony today that will clarify that point. **Senator Nuxoll moved that the committee accept the minutes. Senator Tippetts seconded the motion. Motion passed by unanimous voice vote.**

The committee received a letter and report from the **Office of Congressman Simpson**. Those documents are available on the LSO website. **Congressman Simpson** noted in his letter that he was writing to share with the committee a report that he requested from the Congressional Research Service regarding annual federal public land expenditures and revenues in Idaho.

Congressman Simpson's letter indicated that he wanted to be clear that he was drawing no conclusions from the information contained in the report and that he was sharing it with the committee without advocating any particular outcome of the committee's deliberations. He also noted that the information contained in the report represents only a snapshot in time, includes expenditures and revenues in only a single fiscal year and does not include the full scope of expenditures and revenues for all federal agencies with responsibilities in Idaho.

Mr. Doug Taylor, Office of Congressman Labrador, presented the committee with written comments from **Congressman Labrador**. **Mr. Taylor** told the committee that he was requested to read a letter to the committee that was prepared by **Congressman Labrador**. The Congressman's letter is also available on LSO's website.

Mr. Taylor, in reading the remarks into the record, noted that **Congressman Labrador** commended the Legislature for establishing the Federal Lands Interim Committee. The Congressman stated that these lands, if managed properly, can provide economic benefits and recreational opportunities for Idahoans, and can serve as a foundation for a strong future for years to come.

Congressman Labrador said that since being elected to Congress, he has served as a member of the Committee on Natural Resources and has come to the conclusion that the federal management system is broken, laws are outdated, regulations are ill-advised and federal agencies are overwhelmed with compliance burdens. He said that our public lands and communities are suffering.

Congressman Labrador stated that the House of Representatives recently passed H.R. 1526, the *Restoring Healthy Forests for Healthy Communities Act*. He added that the bill included legislation that he wrote, H.R. 1294, the *Self-Sufficient Community Lands Act*, which transfers the management of about 200,000 acres of federal land in Idaho to the state. He said that passing the legislation with bipartisan support in the House was a great victory for the state, but they still have a long battle ahead before it becomes law.

Congressman Labrador went on to note that Congress must eventually reform the federal laws that govern the management of federal lands, such as the National Environmental Policy Act, the Federal Land Policy and Management Act and the Endangered Species Act so that public lands can be

sustainably managed to create healthy ecosystems and healthy communities. He concluded by saying that he looks forward to the committee's recommendations.

Senator Tippetts asked **Mr. Taylor** why the federal legislation only included 200,000 acres of land within the state, where the lands are located and how they were selected. **Mr. Taylor** responded that he believes the legislation was generated by some county commissioners in the state. **Mr. Taylor** added that he believes it would be in the nature of a pilot program to demonstrate what Idaho could do.

Senator Tippetts then asked, in terms of a pilot program, whether the Congressman has taken a position on that particular approach. **Mr. Taylor** responded that he did not believe a pilot program was the Congressman's idea originally. He added that he would have to note that he only recently joined the Congressman's staff and wasn't on staff as the legislation was being initially developed. **Mr. Taylor** added however, that the Congressman is very comfortable with this approach and thinks it is a thoughtful approach. It is a way to demonstrate what the state could do and whether it would be successful.

Senator Stennett noted that during the summer fires, **Senator Crapo** and **Senator Risch** came to the area and spoke of collaboratives. She asked whether Congressman Labrador has reviewed the possibility of collaboratives. **Mr. Taylor** responded that their district staffs in Lewiston and Coeur d'Alene are involved in the collaboratives.

Mr. Taylor concluded that they would like to make the resources of the Committee on Natural Resources available to the committee, to the extent possible, and they would welcome any requests for assistance.

Co-Chair Denney noted that the committee would be hearing from a series of interest panels throughout the day. He indicated that the committee has invited presenters to provide comments on one or more of the following topics:

- Perceived benefits and/or concerns relating to the present state of management, control and ownership of public lands held by the federal government in the state of Idaho;
- Perceived benefits and/or concerns should management, control and/or ownership of such public lands be transferred to the state of Idaho;
- Management priorities on public lands that need to be developed for both state and local entities;
- Any further comments you would like to provide relating to the management, control and/or ownership of such public lands in the state of Idaho.

The first panel to address the committee was the Tribal Interest Panel comprised of Chairman Nathan Small of the Shoshone-Bannock Tribes; Mr. Helo Hancock, Legislative Director for the Coeur d'Alene Tribe; and Vice-Chairman Joel Moffett of the Nez Perce Tribe . Handouts from all three presenters are available on the LSO website.

Chairman Nathan Small of the Shoshone-Bannock Tribes was the first panelist to address the committee. **Chairman Small** told the committee that the tribes unequivocally oppose the notion that federal lands be transferred to the state on the basis that it would gravely impact the rights of the tribes and would impact resources found on the lands.

Chairman Small said that the wealth of public lands found within state borders is intended to protect a way of life for the tribes that should be passed from generation to generation and not to satisfy the desires of a few special interests.

Chairman Small said that the tribes oppose any federal land disposition, sales or transfers to private entities or state government based on two fundamental reasons. The first reason, he noted, is that the United States government entered into a solemn treaty with the tribal people wherein the tribes reserved certain off-reservation hunting, fishing and gathering rights which they continue to exercise on unoccupied lands of the United States. The tribes also ceded specific lands to the United States and reserved in the cession agreements communal rights for grazing, timber and use of the public lands. He went on to say that the second reason is that the United States and its agencies have a trust responsibility as established in the Fort Bridger Treaty and other federal laws, policies and executive orders to protect and preserve the rights of Indian tribes, and to consult with the Tribes prior to such land sales or transfers.

Chairman Small said that the idea that federal lands could be transferred to the state is in conflict with the Idaho Constitution and Idaho's Admissions Act. **Chairman Small** pointed out Section 12 of the Admission Bill which provides that *"(T)he state of Idaho shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act."* He went on to cite Article XXI, Section 19, of the Idaho Constitution which provides *"(A)nd the people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indians or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United State..."* He added that there are blatant legal implications this issue presents.

Chairman Small told the committee that the public lands need constant maintenance and careful management, and that Idaho lacks the resources to manage the vast federal lands base in our state during a "normal" year, much less during an extreme fire season as we have experienced. **Chairman Small** added that the federal lands do not have massive reserves of oil or natural gas and he questions where revenue would come from.

Chairman Small stated that this is not sound legislation or a good path for the state of Idaho and those that have lived here since time immemorial. He said that when the tribes entered into the treaty with the United States, they reserved all of the rights he just mentioned and they have been practicing those rights ever since. He told the committee that it is essential that they have the opportunity to leave the reservation to hunt, to fish and to gather, and to protect their cultural sites. The treaty provides that they shall have those rights so long as they make the reservation their permanent home. He added that they did not give up anything on the lands other than to live on the reservation, and therefore retained all of those rights.

Chairman Small went on to say that the tribes have cultural sites that are up to 14,000 years old. The tribes, he added, have been here prior to the area even becoming a territory. He said that during the migration from the east to the west, there were a lot of people looking for a new way of life but, at the same time, a lot of people's way of life began to end. He said that the Boise Valley is still part of his people's land and that they have been coming back here year after year to have some type of

celebration. He stated that his people were scattered to numerous reservations. **Chairman Small** told the committee that it had to understand that when they entered into the treaty, they reserved the right to continue to come off the reservation to areas to hunt, to fish and to gather as long as the lands were under federal control or unoccupied lands of the United States. He said that the idea of transferring such lands to the state would diminish their rights. He added that if special interest groups come here to mine and to graze, it would create destruction to the land. He said that their ability to leave the reservation to hunt, to fish and to gather, it is a reconnection for his people and a strengthening of their culture.

Chairman Small went on to say that they have objected to some of the grazing that goes on now, particularly with domestic sheep due to diseases they carry that are transmitted to and kill bighorn sheep. He asked who is protecting them as well as anadromous fish found here. He stated that the tribes co-manage with the state and federal government, as well as a lot of special interest groups who want to see the continuation of anadromous fisheries. He added that mining interests create a great deal of destruction, leaving EPA and special interest groups with years of work to perform reclamation. He commented that seventeen of the phosphate mines in the state are superfund sites. He said that we cannot allow these types of things to happen.

Chairman Small said that in terms of timber and fires, in their minds, fire results in a regeneration and renewal of the land. He said that he believes clearcutting is worse than fires because it is not a regeneration of the land. He said that many of their cultural sites have been obliterated. He said that they believe a transfer to the state would destroy their past and diminish their rights and they don't believe it is in the best interest of the state of Idaho to take such a course of action.

The next panelist before the committee was **Mr. Helo Hancock, Legislative Director with the Coeur d'Alene Tribe.**

He said that most people would agree that too much government and too many regulations can have negative consequences socially and economically and that it appears the concerns stem from decades of struggle over management of federal lands, particularly in the areas of grazing and logging. He added that the tribes are no stranger to the frustrations of federal governance.

Mr. Hancock stated that it was the federal government that displaced tribal members from their homelands and confined them on reservations. In addition, the federal government passed laws allowing the vast majority of reservation lands to be homesteaded by non-Indian settlers. When precious metals like gold and silver were discovered in parts of the reservation, the government reduced the size of the reservation multiple times.

Despite these frustrations, **Mr. Hancock** indicated that there are some things that he would suggest the committee further investigate. He said that there is a unique fiduciary relationship that tribes have with the federal government which includes reserved and guaranteed rights to hunt, to fish and to gather on federal lands on or near the reservation. He said that there are also heightened rights of co-management and other areas of levels of involvement in the administration of federal lands on or near reservations and that protection of those rights is vital to the tribes.

Mr. Hancock told the committee that in the case of the Coeur d'Alene Tribe, one major concern is the oversight, enforcement and management of the environmental regulations, resultant damages and liabilities that may arise on lands transferred to the state. He added that the tribe has spent decades and

millions of dollars trying to stop contaminated mining waste from being dumped into the lake, rivers and streams in the Coeur d'Alene River Basin. He said that the protection from further environmental catastrophes would be a major concern if ownership were to change hands.

Mr. Hancock said that federal lands are managed with goals other than profit. Considerations like public enjoyment, conservation, access and wildlife habitat drive many of the management decisions of the Forest Service and BLM.

Mr. Hancock went on to address the legal impediments to accomplishing the contemplated transfer. He reminded the committee that strikingly similar attempts to force the federal government to transfer title to public lands have been made in the past. He said that all attempts have ended with a predictable and unsuccessful result. **Mr. Hancock** noted that any transfer of federal lands could only be done by Congress and the President. **Mr. Hancock** said that if the federal government or Congress is going to transfer title to any lands, they should be transferred back to their rightful ownership, which would be to Indian Tribes, in many cases.

Mr. Hancock said that there is no question that improvements can be made in the management of federal lands in Idaho. He pointed out that we already have a few examples where this has happened, such as the Clearwater Collaborative and the Kootenai Valley Resource Initiative. He said that it is these types of cooperative, stakeholder controlled, negotiated forums that will bring lasting change to the management of federal lands in Idaho. **Mr. Hancock** concluded by noting that the millions of dollars that might be spent trying to fight the federal government over who has rightful title to these lands could be used to facilitate the kinds of citizen-based management that has proven successful with federal agencies in the management of Idaho natural resources.

The next panelist to address the committee was **Vice-Chairman Joel Moffett of the Nez Perce Tribe**.

Vice-Chairman Moffett told the committee that the Nez Perce Tribe has a relationship with what are today the nation's public lands that predates the existence of the United States itself. He stated that the Nez Perce reserved rights in its 1855 Treaty that the tribe exercises on the public lands. The rights, he said, are also the foundation for the tribe's role as a co-manager of its treaty resources and why the tribe is so involved in any decisions regarding the management of the nation's public lands.

Vice-Chairman Moffett stated that for thousands of years, the Nez Perce occupied a geographic area encompassing a large portion of what is today the inland Northwest United States, over 13 million acres that stretched from the continental divide forming the present border between Idaho and Montana to the Blue Mountains of Northeast Oregon and Southeast Washington.

Vice-Chairman Moffett told the committee that under the 1855 Treaty, the tribe ceded to the United States aboriginal title to land encompassing most of present day Northeast Oregon, Southeast Washington and Central Idaho. The tribe, he said, reserved an exclusive reservation homeland over much of the same area. Specifically, the Vice-Chairman citing from the 1855 Treaty noted: *"(t)he exclusive right of taking fish in all the streams where running through or bordering said reservation...also the right of taking fish at all usual and accustomed places in common with citizens of the Territory; and of erecting temporary buildings for curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land."*

He said that a subsequent treaty in 1863 reduced the size of the land reservation but preserved the

1855 Treaty reserved rights which the tribe continues to exercise. The tribe continues to monitor, engage and co-manage cultural and natural resource issues throughout Nez Perce treaty territory. He said that it is well-established law that their treaty-reserved rights to use resources on “open and unclaimed lands” apply to federal lands such as U.S. National Forests.

Vice-Chairman Moffett stated that the tribe is concerned with any proposal that is made that could adversely affect their treaty-reserved activities on federal lands including fishing, hunting, gathering plants or firewood and pasturing animals. He added that the tribe has a treaty-based, legally-established fiduciary relationship with the United States and its federal agencies which cannot be subcontracted away.

Vice-Chairman Moffett said that federal public land is part of the national heritage of all American citizens, across all states. He noted that if there are problems with land management, those problems should first be addressed through a national dialogue guided by our federal constitutional process. He added that Senator Crapo’s efforts in the Clearwater Collaborative have included representatives of sovereigns, industry and the public, and has helped the dialogue advance.

Vice-Chairman Moffett told the committee that Indian treaty-reserved rights, as a baseline, must be respected for the legal primacy they hold. He went on to say that the tribes must be included in any co-management discussion and resolution. He said that the tribe’s management participation must be acknowledged. He reminded the committee that the tribe does a great deal of on-the-ground work on public lands. He said that the tribe, working with the Bonneville Power Administration, brings more watershed and fisheries restoration funding to the forests in their area than any other entity, including the Forest Service. The Nez Perce have been acknowledged with national awards for their work in restoring fisheries habitat on national forest lands. They have partnered with the Forest Service in monitoring big horn sheep and other wildlife to assist management of these species. **Vice-Chairman Moffett** stated that these are successes for the resources, for jobs, and most of all successes for all who have an interest in the nation’s public lands.

Vice-Chairman Moffett concluded by stating that the Nez Perce Tribe and all tribes in Idaho have a contractual relationship with the United States of America. He said that they entered into treaties and executive orders which hold primacy. He said that the covenants in those documents are intended to protect their way of life.

Representative Burgoyne told **Mr. Hancock** that it has been his view that the United States government is a sovereign and the tribes are sovereign. He asked if the state of Idaho was to step into that relationship, whether that would fundamentally alter the nature of what a state is in our federal system and whether the treaties would have to be renegotiated. **Mr. Hancock** responded that he wasn’t sure and he doesn’t think there is a lot of precedent out there from other states.

Representative Burgoyne asked whether **Mr. Hancock** believes that if the state of Idaho were to substitute for the federal government, are there provisions in the treaties that would have to be changed, at least with respect to the identity of the owner of those lands and with respect to how those lands would be administered. **Mr. Hancock** responded that they absolutely would have to be changed. He said that a number of provisions would have to be changed or they would be in breach. He added that he doesn’t believe you can novate a treaty between two sovereigns and that there would be some major legal challenges if one party to a treaty was substituted with another, particularly when you have 150 to 160 years co-existence in that treaty relationship.

Representative Burgoyne said he understands there is a distinction between executive order treaties and Senate confirmed treaties. He asked whether there would be some treaties with tribes in the state of Idaho that would have to go back to the Senate to novate those treaties. **Mr. Hancock** responded that he believes so. He said that if there were changes to the treaties, he believes Congress would have to be involved in approving those changes.

Senator Nuxoll asked whether tribal children go to public schools funded by PILT and SRS or whether they go to privately funded tribal schools. **Chairman Small** responded that a part of the treaty with the Shoshone-Bannock Tribes is that the government will provide educational opportunities for the children. He said that the children that attend public school receive federal aid money and the children that go to charter schools also have a certain amount of money granted to them for purposes of education. He added that they also have their own tribal schools for which the state does not provide any funding.

Chairman Small, in responding to an earlier question, stated that the tribes have an inherent right to sovereignty. He added that there are two types of sovereignty, one that is inherent and one that is granted.

Senator Nuxoll noted that in 2012, in Idaho County, at least 750,000 animals died in fires. She asked whether anyone has a comparison of elk, big horn sheep and salmon destroyed in the fires and the aftermath of the fires on federally managed ground as opposed to state managed ground. **Vice-Chairman Moffett** said that in terms of state managed land, he does not have a number readily available. In terms of federally managed land, there are cases of significant negative impacts to the resources, specifically big horn sheep, which are an important first food to the tribal nation. He said that big horn sheep have experienced an incredible decline. He said that a large part of the decline is due to disease, specifically the transmission of disease from domestic sheep. He added that the Nez Perce have been proponents of creating a bigger buffer between domestic sheep and big horn sheep. He said that they believe the federal government and tribes can better co-manage that resource and others.

Senator Nuxoll asked what specific revenue the tribes would be losing if federal lands were transferred to state management. **Chairman Small** responded that the Shoshone-Bannock Tribes do not make any money from lands that are not part of the reservation. He said that they expend huge amounts of money when they co-manage an area. He said that what they get back are the first foods and the assurance that these things will be there in the future for the benefit of the people.

Senator Nuxoll clarified that she was primarily referring to federal money and whether the tribes would be losing any federal money. **Chairman Small** responded that it would depend on how a transfer would happen. He made reference to an earlier question about the renegotiation of treaties. He reiterated that it is not money that is coming to the tribes. The money is going into the federal lands which benefit all that use the lands.

Senator Davis asked **Mr. Hancock** about Section 7 of the Admissions Bill which provides that five percent of proceeds of sales of public lands sold by the United States subsequent to admission shall be paid to the state. **Senator Davis** said that he sees that the clause can be read two ways. One way of reading it is that it creates an affirmative duty for the federal government to sell the land. He also believes you could read it in a way that means *if* the lands are sold, the state would receive the designated percentage of proceeds. He said that it is his understanding that similar language appears in admission acts in other states, that these states also had tribes with tribal treaties and that the federal

government, within those states, divested themselves of substantially all of that land. He asked how the courts, tribes and Congress dealt with those situations. **Mr. Hancock** responded that perhaps the best example for testing whether the federal government had a duty to dispose of those lands would be in Nevada. He added that Nevada was at the forefront of this issue in the Sagebrush Rebellion. He said that courts have consistently found that such language does not set forth a requirement that the federal government dispose of those lands. He said that he hasn't seen a case in a state where the federal government was required to dispose of lands under an enabling act or an admissions act, or how that would affect a tribe's rights or treaties. He said he is not sure how that would play out.

Senator Davis clarified that his question was not really about whether Idaho would or would not succeed in litigation. He said that his question deals with those states where similar language existed and the federal government chose to divest land, whether any of those circumstances were determined to be an encroachment on tribal contract or historic rights in which Congress was compelled to act. **Mr. Hancock** said that he would do some research on the issue and provide additional information at a future date.

Senator Davis asked whether there is a difference between a contract novation and an assignment of contract and whether the federal government could make an assignment of a treaty to a state provided the state accepts all the terms and conditions of the treaty. He also asked whether such action would require treaty approval by the U.S. Senate. **Mr. Hancock** responded that he will also research and review that issue and supply future analysis to the committee.

Representative Burgoyne asked if Mr. Hancock is aware of a fair market value relating to the tribe's treaty rights on federal land in Idaho and also the amount the federal government spends annually to fulfill its trust obligations. **Mr. Hancock** indicated that he would look into those questions.

Co-Chair Winder told the panel that he wanted to assure them the committee was here to listen and learn, and that no decision has been made one way or the other. He said that the committee was here under HCR 21, not HCR 22. He added that the committee looks forward to their help in understanding a very complicated issue. He said that they intend to give the issue the due diligence necessary and the committee thanks the panelists for taking the time to come and share and express their views relating to their very long history on occupying this land.

Co-Chair Denney also thanked the panelists.

In follow-up to an earlier question, **Chairman Small** told the committee that when the federal government sells land to a state, it is usually surplus land or land that has been fractionated to the extent it is not useful to them. He said that they have asked the federal government for first right of refusal and to share in the cost of sales. He added that he knows of no situation where a tribe has willingly agreed to come under state control. He said there are some tribes in the east that are state-recognized but not federally-recognized. In response to another earlier question regarding value, **Chairman Small** said there is no associated cost because the land is not for sale.

Following a short break, the second panel to address the committee was the Sportsmen/Wildlife Interest Panel comprised of Mr. Scott Stouder with Trout Unlimited; Ms. Holly Endersby with Backcountry Hunters and Anglers; Mr. Grant Simonds with the Idaho Outfitters and Guides Association; and Mr. Marty Morache with the Ada County Fish and Game League.

Mr. Stouder, Trout Unlimited, was the first panelist to address the committee.

Mr. Stouder told the committee that when you think of Trout Unlimited what is real visible with the group is its restoration efforts. He said that about ten years ago when he started to work for the organization, they started another arm called their “protection efforts” and he was the first one hired. **Mr. Stouder** said that since that time, the division has grown to about twenty-five employees. He said that his responsibility in the state of Idaho is to protect the headwaters of our streams and most all of that is located on federal land. He added that the healthiest watersheds are in the unroaded portions of federal land.

Mr. Stouder said that his background is not in conservation, but in timber. He said that his family has owned mills and contract logging organizations for fifty years in Oregon and that he cut timber for over twenty years. **Mr. Stouder** said that he also packed into the Frank Church Wilderness for thirty-five years.

Mr. Stouder thanked the committee for inviting him and seeking their input. He said that the idea of transferring federal land to the state is a nonstarter for their group in terms of support. **Mr. Stouder** told the committee that federal lands, especially undeveloped lands, are particularly important to Trout Unlimited.

Mr. Stouder said that he didn’t plan on talking about the legal or economic arguments in his presentation. He said that the value of our federal lands, particularly in the headwaters of Idaho to the downstream quality of coldwater fisheries habitat, is the most important aspect in their organization.

Mr. Stouder said that he did some research with their science team in preparation of his testimony. He said that they looked at the percentage of 303(d) (Clean Water Act) listed streams on state versus federal lands. He said that at the present time, about twenty-five percent of the streams are listed as 303(d) limited. On federal land, about fifteen percent are so listed.

Mr. Stouder told the committee that he knows there is a lot of concern today about wildfires and sediment input from that. He said that their research has not shown that it has been all that detrimental. He said that there is some short-term impact from wildfires but there seems to be more long-term impacts from active management even though road building and logging have really improved over time.

Mr. Stouder went on to say that based on his membership in Trout Unlimited, where he has served on an advisory committee for the past ten years, as a part of which they distribute Title II SRS funds, and based on his service on the Clearwater Collaborative, he believes such groups are a better answer to integrating local decision making processes with federal management. He said that in the Clearwater Collaborative they have seen a big involvement from environmental interests, sportsmen’s interests, local government and federal government. He said that he has seen the groups come together in agreements that they all support.

Mr. Stouder told the committee that he was interested to listen to the tribal panel describe their treaty rights. He said that American citizens, by birthright, also have a right to these lands. He added that by virtue of being born in this country, we take it for granted that these public lands are ours to be involved in and ours to benefit from. He noted how so many Americans from cities and from other states come to our public lands for hunting, fishing and gathering.

He told the committee that over the weekend he hiked up to a trailhead near his home that is a trailhead into a roadless, wilderness area. He reminded the committee that it is elk and deer season. He said there were fifteen vehicles parked at the trailhead and eight of these were from out-of-state, one all the way from West Virginia. He said he considered what a privilege it is to go out on our public lands. He said that he wanted to leave the committee with the thought that the federal lands are a lot bigger than the state and that it is an American birthright to enjoy them. He said that he lives in Idaho because of the federal lands.

Mr. Stouder concluded by saying that he knows there are concerns over management. However, he said that he knows more active management is being done through collaborative efforts. He also said he has concern over what the state would do with the roadless rule on which it took a great deal of effort to reach an agreement.

The next panelist to address the committee was **Ms. Holly Endersby with Backcountry Hunters and Anglers**.

Ms. Endersby began telling the committee she moved to the West because she grew up in Chicago. She said that her parents made sure that she and her brother got outside and to them that meant the nearest forest preserve which was only fifty acres. There were no national forests. She said that when she first came to the West, she was amazed that there was something as marvelous as a forest on federal land.

Ms. Endersby told the committee that she lives to hunt and fish and that she is teaching her grandchildren to hunt and fish, as well as to be stewards of the land. She said that Backcountry Hunters and Anglers is a national conservation group of outdoorsmen and outdoorswomen in the spirit of Teddy Roosevelt. **Ms. Endersby** stated that they are not environmentalists, but rather conservationists. Members of the group hunt and fish and their goal is to protect wild, intact public land so that native wildlife species have quality habitat so that there can be hunting and angling traditions going on into the future. Their organization is spread across the United States, Australia and Europe. She said that members from Europe comment that the United States has what every other country wants – federal land on which every citizen can walk, ride, hunt and fish. She said that is the treasure of the Gem State.

Ms. Endersby noted that Idaho is a state that others come to because their states have already given resources away to private interests. She said that Teddy Roosevelt came here to hunt caribou and elk. He was so impressed by the Gem State that he began to consider the idea of national forests.

Ms. Endersby said that she recently spoke to a man who had just made his second trip with an Idaho outfitter. The outfitter had told him that he was the first Idahoan to book a trip. Everyone else came from out-of-state. She went on to say that the federal lands do not represent only trees. They are an economic driver, especially for rural areas where fishing and hunting keep those areas alive. She said that they count on the federal lands to support hotels, grocery stores, restaurants and gas stations.

Ms. Endersby said that we have nine million acres of federal roadless lands in the state. She echoed back to Mr. Stouder's comments about the lengthy process that the state went through relating to the Roadless Rule. She said that it was democracy in action. She participated in the meetings. She said that the people of Idaho have decided that they want to protect those lands. She added that they really are not economically viable. Most of them have a climate that is not conducive to growing

great numbers of trees. Western Oregon, California and Washington are tree-growing country. She said that we do have some good inland timber but that it is at lower elevations and in the roaded front country.

Ms. Endersby noted that she has also been on the Clearwater Collaborative for five years. She said that they have increased timber production and resource projects by fifty percent through collaboration resulting in jobs and money for rural economies. They have received money because they have proven through collaboration that they can make things work. They can get people into jobs and product off of the forest while still protecting roadless lands for the qualities they exhibit.

In conclusion, **Ms. Endersby** reminded the committee that once you give wildland away, it will be gone forever. She said that the people she represents love that land and use it to hunt, fish, hike and horseback ride and that this is true of people all across the United States caring about Idaho's public federal lands.

Mr. Grant Simonds, Idaho Outfitters and Guides Association (IOGA), was the next panelist to present to the committee.

Mr. Simonds told the committee that IOGA is a statewide business trade organization that he has been associated with since 1985. He clarified that there is a licensing board independent of the association that licenses approximately 400 outfitter businesses annually and that most of these businesses operate on public lands and waters managed by either the Forest Service or BLM.

Mr. Simonds noted that the underpinnings of a successful outfitter business are clean, free-flowing streams, quality and quantity of wildlife populations, reasonable regulation and appropriate access. **Mr. Simonds** noted that outfitters pay three percent of gross revenue to the federal government for the privilege of operating on public lands. This fee includes fees for grazing livestock on public lands associated with a hunt operation. However, the fee does not include federal recreation fees or the six percent sales tax. He said that a typical outfitter nets less than five percent after all bills are paid.

Mr. Simonds then addressed outfitter requirements while operating on state endowment lands. He said that the state has proposed the per acre fee for all 23 outfitters be increased to \$.05. For an outfitter that leases in excess of 174,000 acres in the Priest Lake supervisory area, this would amount to \$8,700 annually. He went on to say that the average operating area of a hunt outfitter is 150 square miles of federal public lands. In an earlier example, **Mr. Simonds** noted that if an outfitter has gross revenue of \$100,000, at the current time he would pay \$3,000 in use fees to the federal government. He stated that if the proposed state lands fee per acre for the average hunt outfitter increases to \$.05, under state operation, an outfitter would have to pay \$4,800.

Mr. Simonds went on to note a number of questions IOGA has relating to the amount of fees that the state would charge for those that operate on rivers and streams currently managed by the Forest Service and BLM. He also questions what would happen to outfitters who operate on federally designated Wild and Scenic Rivers. He said that he can see some advantages to state permitting in that the permit terms would be less onerous. He added, however, that he questions how the state could afford permit management for 400 licensed and permitted outfitters and how permitting and fees would be affected.

Mr. Simonds reiterated the importance of access to his group and questioned how the state would

afford the huge cost of fire suppression and rehabilitation after fires as well as trail management and maintenance. **Mr. Simonds** concluded by stating that for his group, despite the travails that outfitters face with federal use permit management, the potential sale of public lands is a nonstarter.

The final panelist in this group to address the committee was **Mr. Marty Morache, Ada County Fish and Game League.**

Mr. Morache began by telling the committee about his background. He noted that he has dialogued with hundreds of wildlife biologists, fish and game administrators, state and national politicians, including the President of the United States, over the course of fifty-five years in involvement in wildlife management. He noted that he worked and knows this area and its wildlife from one end of the state to the other through backpacking, horse work, via helicopter and straight-wing aircraft, by canoe, trail bike and white water rafting. He said that the inescapable conclusion that he has arrived at, and he believes it is obvious to those who understand wildlife management, is that the welfare of wildlife is inextricably tied to winter survival.

Mr. Morache said that winter survival means winter ranges for both big game and upland game birds. He noted that his presentation would be focused around this issue.

Mr. Morache went on to say that deliberations concerning the possible transfer of federal lands to the state should factor in the economic value of Idaho's wildlife found largely on federal public lands. He noted that this involves not only Idaho residents, but nonresident recreationists as well.

Mr. Morache told the committee, since 1991 through 2011, at five-year intervals, the U.S. Fish and Wildlife Service has conducted national surveys of fishing, hunting and wildlife watching and photography in the Western United States. He stated that for Idaho, the most recent survey in 2011 showed that a total of 447,000 anglers fished 5.5 million days, expending \$422,120,000. He said that nonresidents comprised 208,000 of the 447,000. He went on to state that there were 246,000 hunters that hunted 3,227,000 days, expending \$477,548,000. The total wildlife-watching participants were numbered at 558,000, participating over 3,757,000 days and expending \$432,041,000. He said that taxpayers, in our state and nationally, have an interest in the wildlife found in Idaho. He added that most of these activities took place on national forest land and BLM land.

Mr. Morache said that the Forest Service budget in Idaho in 2011 was \$158 million and the cost of fighting fires was \$175 million. He noted that the BLM's 2012 budget in Idaho was \$117 million and another \$22 million was spent on fire suppression.

Mr. Morache recounted that the Chief of the U.S. Forest Service indicated that climate change affecting the public land ecosystems portend increased potential for large fires throughout the West in the future. He said that one wonders how Idaho, with limited financial and firefighting capability, hope to contend with such formidable challenges if we were to take over management of 32 million acres.

Mr. Morache noted that his next comments would involve a very important wildlife resource associated with two game management units, those being Unit 32 and Unit 32A. He stated that this is a major winter range, approximately thirty miles by twelve miles. It is in the Payette and Weiser Watersheds, specifically the Little Willow Creek drainage, the Big Willow Creek drainage, Squaw Creek drainage in the Payette Watershed and Crane Creek and Lower Weiser in the Weiser Watershed. This is winter habitat for big game and upland game birds.

Mr. Morache stated that big game summer on West Mountain Ridge, Council Mountain, Indian Mountain, Upper Little Salmon and Upper Little Fork of the Weiser. They winter range in the Little and Big Willow Creek drainages, with elevations between 3,500 and 5,000 feet. He added that an important feature in any winter range is south and west facing slopes which accelerate snow melt. He said that such winter range provides adequate space, security associated with topographical relief, cover and food. Upland game birds need understory which is vital to chick survival. He said that understory is now impaired by drought. This will result in decreased bird populations next year.

Mr. Morache asked how the integrity of winter range be maintained if the state were to take over the federal public lands given the criteria that it professionally and prudently manage Idaho endowment assets to maximize long-term financial returns to public schools and other trust beneficiaries.

Mr. Morache then showed the committee the areas he addressed via a PowerPoint presentation that is available on LSO's website.

Senator Tippetts said that he understands the concerns around the potential sale of public lands, the costs associated with management and Mr. Simonds' concerns relating to fees. He asked if they were to set those concerns aside, would they be comfortable if the state didn't intend to sell these lands. He also asked whether they have a concern that the state would be less protective of the public lands.

Mr. Morache responded that the concern that emerges from the wildlife community is the mandate the state has to manage the state land to maximize return. He said that he interprets this to mean the maximization of timber harvest, adding that we have almost maximized old growth timber in the state, now being in secondary growth, or it means increased cow management on the lands. He said that they have had to do battle with the federal government on many instances relating to cow management and they believe the state would have to increase such management which would put stress on the wildlife even more than they are today. He reiterated the additional complication of drought.

Mr. Stouder responded that Trout Unlimited is not comfortable with the Forest Practices Act as it applies to fisheries protection, especially with roadbuilding. He said that up until the late 1990s, the Idaho Forest Practices Act didn't even require fish passages be a mandate for culvert replacement, although it does now, but it is still weaker with lack of design qualifications for culverts that the federal government has in place. He added that he has learned in the collaborative process how arduous some of the federal acts are relating to forest management. However, he said on the other side of that is that they don't think Idaho's Forest Practices Act is strong enough to protect their interests.

Ms. Endersby commented that if they are referring to "excess" federal land, she finds that bothersome in that she doesn't believe there is an excess of water, clean air or native wildlife on federal land. She said that a forest is more than trees and timber, but rather an interrelated ecosystem and habitat. She told the committee that a forest is not simply timber production.

Senator Davis noted that Mr. Stouder had referred to the 303(d) designations and asked whether those were internal calculations or EPA calculations.

Mr. Stouder responded that DEQ is mandated, he believes every two years, to give an integrated report on streams in the state to the EPA. They are working on 2012 data now so the information provided was taken before that time based on 2010 data. All of those reports are available. There are many factors

considered in putting the data together. He said that their science team took six to ten years to compile that data. They extracted state versus federal areas through the use of maps.

Co-Chair Denney referred Ms. Endersby to her testimony about the increased timber harvest in the Clearwater Collaborative and asked how many board feet that was.

Ms. Endersby responded that she will get him that figure and added that it also involved restoration as well as timber.

Co-Chair Winder asked how many acres are involved in the Clearwater Collaborative. **Mr. Stouder** responded that it includes the Clearwater Forest and Nez Perce Forest, and actually encompasses the entire basin. **Co-Chair Winder** asked whether it involves issues such as utilization, hunting and fishing rights, interrelationships, etc.

Mr. Stouder responded that there are some issues that they have purposely stayed away from. There are twenty-five members including tribal representation. Their focus is on land management decisions. He said that they are involved with the forest plan revision process. He noted that participants include the forest industry, local government, tribal interests, sportsmen interests, conservation interests and environmental interests. **Mr. Stouder** noted their website and told the committee the process has been going on for five years. He added that the process of collaboration is evolving with the definition yet to be defined. He said that the point he wants to make is that it is working, especially since their point in collaborating was to resolve the conflicts that existed there for years over management decisions on federal forest lands, particularly associated with timber harvest.

Ms. Endersby added that the Congressional Landscape Restoration Act has already brought \$10 million into the basin and is projected to bring in about \$40 million over the ten year scope of that project. She added that all of the environmental and conservation groups on the collaborative have pledged to not just support active management but to encourage increased active forest management. You have people that used to be on opposite sides coming together to make the situation better.

Senator Nuxoll asked how the \$40 million will be spent and who does it go to.

Ms. Endersby responded that the money is not given to the collaborative. She said that it is given to the Forest Service but Congress required that it be a collaborative application so there had to be a collaborative in operation in order to even submit a project. She said that the money is parceled out to, for example, private timber companies that bid on the different projects. She mentioned another project involving the Youth Conservation Corps. In addition, she said that the tribe has received money to work on weed control and some of the money has gone into fisheries. **Ms. Endersby** told the committee that the money is spread throughout the basin.

Senator Nuxoll asked what the Forest Service does with its money.

Ms. Endersby responded that as an example, the Forest Service will do the preparation work for the sales so that portion of the grant is used by the service to run through NEPA, timber cruising, and conduct bidding. She added that some of the money has been used for trail maintenance.

Senator Stennett found some information in response to **Co-Chair Winder's** questions. **Senator Stennett** said that what she found is that in the Nez Perce/Clearwater National Forest they have treated

over 47,000 acres, creating or sustaining over 125 jobs and delivered over 11 million board feet to the mills. In the Payette National Forest over 27 million board feet have been approved. She added that so far there haven't been any lawsuits or problems with the process.

Following a lunch break, the committee heard from a Grazing Interest Panel represented by Mr. Harry Soulen with the Idaho Wool Growers; Mr. Richard Savage with the Idaho Cattle Association; Mr. Wally Butler, Idaho Farm Bureau Range Consultant; and Mr. Ric Branch - Idaho State Grazing Board Central Committee.

Mr. Harry Soulen with the Idaho Wool Growers was the first panelist to address the committee.

Mr. Soulen told the committee that he serves as President of the Idaho Wool Growers. He said that he is in business as Soulen Livestock Company and they run on federal ground, both BLM and Forest Service ground, and private ground. They also have state leases.

Mr. Soulen said that most people in the sheep industry would be supportive of the state taking over the management and operation of federal land in Idaho, although there are causes and concerns going both ways. **Mr. Soulen** said that they have had a number of federal allotments that they have run on for many years that have been closed to them. He said that the ones that are still left open, the additional management that they have had to take on associated with reporting into the Forest Service, GPSing their bands on a daily basis, and turning in reports on a weekly basis has resulted in quite an onerous and expensive situation. He added that they don't have those issues on the blocks of state ground on which they operate. From that standpoint, he thinks the state could do a much better job. He noted that they have some of the same concerns relating to BLM land.

Mr. Soulen said that some of the concerns that do have to be discussed involve grazing fees. During the past year, the state grazing fees were \$6.36 per amu and the federal fees were \$1.35 an amu. He also said that the state grazing fee is scheduled to go up for next year and he believes the amount is set at \$6.63 per amu. **Mr. Soulen** told the committee that permittees that have large blocks of ground, whether it be state or federal ground, could experience a big impact related to fees.

Mr. Soulen said that another area that needs to be discussed is in relation to state grounds when your permits come up. He said that you can get into a competitive bid process and some of the competitive bids can get high enough that, as a permittee, you can't afford to maintain that permit. He said that if you lose permits that are key to your operation, it could put you out of business.

Mr. Soulen went on to say that on another local issue, as permittees get slowly closed off of federal allotments and go out of business, that impacts the tax base of the counties. **Mr. Soulen** said that as a personal example, they have had to sell off 3,000 head of ewes and employ fewer people than they did years ago. He told the committee they spend a fair amount of time in small towns like McCall, Weiser, outside of the Kuna area and just outside of Emmett. He said that their business has shrunk down simply because they have lost grazing opportunities.

Mr. Soulen said that with the opportunities of potential state management, and the grazing lands staying open, he thinks state management would be beneficial to individuals and the state as well.

The next panelist to address the committee was **Mr. Richard Savage with the Idaho Cattle Association.**

Mr. Savage told the committee that Idaho's cattle ranching families have a great deal at stake in this discussion. Because of the majority land ownership by the federal government in Idaho, he said the viability of the state's entire cattle industry is structured around the use of these lands.

Mr. Savage noted that many communities across Idaho, where public lands account for at least half of the landmass, depend on the tax base, commerce and jobs created by the public land grazing industry. Without federal land grazing, grazing use of significant portions of state and privately-owned lands would also necessarily cease, and the cattle industry would be dramatically downsized, threatening infrastructure and the entire market structure.

Mr. Savage told the committee that their industry is also crucial to the management of the land and resources. Ranchers are the ones on the ground day in and day out, watching over the land and resources that their livelihoods depend on. He said that grazing is recognized as an important tool for the management of these lands and the resources by improving the health of the range, reducing fine fuels that lead to catastrophic wildfires and creating wildlife habitat where none existed before.

Mr. Savage went on to say that due to growing regulatory threats and litigation associated with public lands, grazing on federal land has been reduced by a full 30% over the past few decades. He said that the security of the future of the cattle industry in Idaho is at great risk. **Mr. Savage** stated that permit renewals are subject to compatibility with a Resource Management Plan or Land Use Plan, prior environmental analysis under NEPA, a potential need for consultation under Section 7 of the ESA and the likely appeal by an anti-grazing organization that has been granted "interested public" status by the agency and standing by the courts. **Mr. Savage** stated that the federal government is clearly paralyzed in its ability to effectively manage its lands and change is necessary.

Mr. Savage told the committee that given all the problems currently associated with management of grazing on Idaho's federally-owned lands, his group welcomes the opportunity created by this interim committee to seek creative approaches and they hope the dialogue will be productive in producing real solutions. He added that what their industry needs most, and what they hope would become the goal and end result of the state's potential effort to manage Idaho's public lands, is flexibility and stability.

Mr. Savage also indicated that there remain some unanswered questions and concerns that they would like to ensure are adequately reviewed and addressed as the committee continues with this process. He said that of great importance to the economic viability of many western ranches is the stability of the federal lands grazing permits associated with the private base property. He added that these permits are a valued property interest of the ranchers who hold them and are tied to that base property. They represent a rancher's "grazing preference," which is exclusive, taxed, included in a ranch's deed, transferable, and the subject of equitable protection (all attributes of a property right). He said that in considering state management of these permits, they are concerned that the state's current grazing lease management process would then be applied to the hundreds of federally-administered grazing permits. **Mr. Savage** said that although ranchers currently live with the threat that their permits could be drastically cut through litigation or endangered species-mandated actions, it would also be a great threat to stability if those permits were changed so that they could be taken by another interested party through a conflict auction process every few years.

Mr. Savage went on to say that they also question whether those things that threaten our stability now would even be changed under a state management scheme, such as the Endangered Species Act. He said that they assume that most, if not all, aspects of the law and its associated demands, will still have

to apply, regardless of which agency is managing the land.

Mr. Savage concluded by saying that an additional concern is the resulting loss of PILT funds to counties. Through this process, the discussion has been focused on the benefits of increased timber harvest to the affected communities. He pointed out that there are counties in Idaho whose federal lands are predominantly rangelands, not timber-producing forests. He stated that timber receipts would not be able to make up for the lost PILT revenue to counties that provide the needed infrastructure for those counties.

The third panelist to address the committee was **Mr. Wally Butler, Idaho Farm Bureau Range Consultant.**

Mr. Butler told the committee that the Idaho Farm Bureau stood in favor of HCR 21 when it was passed during the 2013 Legislative Session and continues to support it now. He noted that he believes the intent of the committee is to analyze the management of public lands. He said he believes that has not really been discussed and there has been somewhat of an assumption that they would come under state ownership. He went on to say that he believes the charge to the committee is more to analyze a much broader set of circumstances.

Mr. Butler said that he is the President of the Society for Range Management (SRM) on an international basis. He noted that this has given him the opportunity to meet and network with those involved with the range from all over the world. He said that there is a lot of similar sentiment relating to management that the committee is addressing.

Mr. Butler said that SRM provides a lot of the science that we have missed in the conversations so far today. It is the science that says that much of the wildlife habitat for winter range is provided on private land and some of the lower lands of the public land. He told the committee that he believes we need to make sure we are dealing in science rather than emotion in regard to how we care for the land.

Mr. Butler noted that some of the big fires we have had in recent years, starting especially in 2007, have provided some real opportunity to learn about fuels management and to learn about what grazing can and cannot do on the land. He recounted how during previous sessions he has given committees updates relating to the recovery after the Murphy Complex Fire. He said that there are areas where proper grazing didn't prevent fires but made them much more manageable.

Mr. Butler said that when he was in the livestock business in the 1970s, he was managing a ranch in northern Idaho and it was an allotment that was held out by the Forest Service as being a showcase of how to manage the land. He told the committee that if he were managing the land today in the same way he did then, with his scientific background and similar backgrounds of others he worked with, they would be out of compliance. Times and expectations have changed. He added that the knowledge they have has also changed and consequently we need to change along with it.

Mr. Butler went on to say that he monitors hundreds of thousands of acres of federal lands, both Forest Service and BLM lands, on behalf of ranchers. He said he tries to keep the ranchers and the agencies on the same side of the fence when environmentalist driven lawsuits are brought. He added that dialogue, relating to management, needs to be brought forward and he commends our legislature in beginning that dialogue. **Mr. Butler** said that there are changes in land management all the time and they need to look at some of those opportunities. He recounted that one of his colleagues summed up the federal

management debacle when he said that what we need now is management before catastrophe. He added that this could relate to fire, bug kill, etc. He added that this particular colleague worked for an agency.

Mr. Butler, in commenting on some earlier testimony, told the committee that he has been involved for quite some time in the 303(d) listings. He said that one of the things we need to do when looking at listings on federal versus state land is to split the federal land as well. We need to split off the wilderness and wilderness study areas from the more actively used part of the forest and BLM land. He believes the percentages would be close to the same.

In regard to another earlier statement about the constitutional mandate, **Mr. Butler** said that “maximum” is not the key word. It is a descriptive term. He said that the real key term is “long term.” He stated that it is the long term return to the land. It is not maximizing something this year, but rather the maximum *long term* return.

Mr. Ric Branch with the Idaho State Grazing Board Central Committee was the final grazing panelist to address the committee.

Mr. Branch told the committee that the central committee is made up of members of the Boise, Burley, Idaho Falls, Salmon and Shoshone grazing districts which were created by the Idaho Legislature under the provisions of the Taylor Grazing Act. He said that the purpose of the act was to improve range conditions, provide for their orderly use and development and to stabilize the livestock industry. He said the act effectively closed the rangelands to homesteading in the Dakotas and western states. It established grazing districts on the vacant, unappropriated and unreserved lands of the public domain and established grazing advisory boards.

Mr. Branch went on to say that board duties included the allocation of permits, determination of boundaries, seasons of use and the carrying capacity of the range. He added that a new permit system granted grazing privileges by preference to ranchers who had actually used a grazing district’s land before 1934. He said that these were owners of land who could support livestock on base ranches during seasons when herds were not on the grazing districts and that the permits are a unique form of ownership, constituting a property right of the utmost importance.

Mr. Branch noted that many are concerned about the dysfunction of the federal government and its agencies. He said that roads are being obliterated in national forests resulting in lack of access for recreationists, hunters and multiple use industries. He stated that in the Owyhees, operators cannot use rangeland improvements to help meet standards and guidelines on the ground. Instead AUMs are being cut, causing irreparable damage to families and communities. **Mr. Branch** said that rules, regulations and litigation are eating up the budgets of federal agencies resulting in less money going on the ground for improvements.

Mr. Branch told the committee that he believes a model can be developed for management or ownership of public lands in the state of Idaho. He said the model would uphold the integrity of valued property interests of individuals while assuring multiple use by citizens and other natural resource industries. He went on to say that he envisions a model independent of the Land Board and its endowments, much more efficient in achieving rangeland health by more effective use of budgetary funds on the ground to meet the goals of good land stewardship.

Mr. Branch said that he wholeheartedly endorses the state searching for a better way to ensure that public lands have management more beneficial to its citizens and resources. He stated that a common sense approach is needed in these areas and he believes the state could provide that management.

In response to a question from **Senator Stennett**, **Mr. Branch** recounted a recent fire in Adams County where those that lived in the area saw smoke and notified the Forest Service. He said that the fire could have been easily suppressed at that time. However, the Forest Service instead ordered bulldozers out of Mountain Home, 150 miles away, when there were ranchers with bulldozers right there. He added that there have been fires in the New Meadows area where the Forest Service has taken several days to set up camp which delays the actual suppression work.

Representative Burgoyne noted that **Mr. Branch** had mentioned that the lands could be managed independent of the land board and the endowments. He asked what kind of state land management model he envisions for any transferred federal lands. **Mr. Branch** responded that endowment lands tend to be higher quality lands than BLM land or Forest Service grazing allotments. Those lands are there for schools and are special. He said that he thinks the model would be much smaller with less onerous regulation. He added that you would still have to abide by the ESA as well as other federal mandates.

Representative Burgoyne then asked what any of the panelists believe is the fair market value of grazing land and timber land. **Mr. Branch** responded that he has been to some presentations relating to states in the East as well as Hawaii that were able to retain their public lands and he believes there are ways for the states to receive the lands without payment. He said that the federal lands were the lands that no one wanted, that were thought of as low quality lands. **Mr. Savage** added that what comes to his mind is the lack of water and that without water there isn't much value.

The next panel to address the committee was the Environmental Interest Panel comprised of Mr. Jonathan Oppenheimer with the Idaho Conservation League; Mr. Bill Sedivy of Idaho Rivers United; Mr. Tom Flynn, Boise Area Mountain Bike Association, Boise Climbers Alliance, the Winter Wildlands Alliance, Idaho Rivers United, the American Alpine Club and the Outdoor Alliance; and Mr. Craig Gehrke of the Wilderness Society.

Mr. Oppenheimer, Idaho Conservation League, was the first panelist to address the committee. **Mr. Oppenheimer** told the committee that the Idaho Conservation League is the state's oldest and largest nonprofit conservation organization representing over 20,000 supporters from around the state.

Mr. Oppenheimer stated that he initially wanted to recognize and relate that they understand where the concerns come from that resulted in HCR 21 and HCR 22. He said that he understands the intent is to study the issue with an open mind and appreciates that intent. He said that he has an interest in these lands, not only having children in public schools in the state but also having interests in fishing and recreating on the lands.

Mr. Oppenheimer went on to say that the quality of life and the traditional Idaho values are intricately intertwined with the public lands in the state. He said he thinks the resolutions emanate from frustration with some of the management issues. He said that he would pose to the members of the committee that if we are really interested in resolving some of those core frustrations with management practices, whether it be lack of protection for some of the lands or the desire to see more active management, he strongly believes there is a model that can recognize these divergent interests and hopefully bring them together in such a way that the dialogue can be moved further. **Mr. Oppenheimer**

stated that what he sees, particularly from HCR 22, is that it steps back away from the goal of finding real, on-the-ground resolutions to some of these issues.

Mr. Oppenheimer told the committee that the Idaho Conservation League believes the desire to turn over 32 million acres of public land to the state is a misguided effort based on revisionist history that would result in a loss of access and harm to water quality and that would cost Idaho taxpayers in both the cost to manage the lands as well as the value we receive from those lands today. He said that according to a draft economic analysis they are working to finalize, this proposal would cost taxpayers in excess of \$1.5 billion at the conclusion of ten years and over \$2 billion at the conclusion of twenty years. He went on to say that, as a result, the Idaho Conservation League is strongly opposed to the proposal and urges that the committee table the proposal and instead consider some of the meaningful efforts that are finding common ground that are advancing the dialogue and finding real on-the-ground solutions and resolutions to some of these critical issues.

Mr. Oppenheimer said that he wanted to share some statistics about some of the different collaboratives that the Idaho Conservation League is engaged in from Bonners Ferry to the Owyhee Initiative. He went on to say that there are no fewer than seven collaborative efforts that they are engaged in. **Mr. Oppenheimer** said that today there are 131 million board feet of timber that are on the way to mills and there are millions of dollars that are creating jobs in Idaho, including federal dollars and in-kind matching dollars. **Mr. Oppenheimer** provided the committee with handouts relating to the Clearwater Collaborative. He said that this effort shows us what can be accomplished under the existing regulatory scheme.

Mr. Oppenheimer noted the Kootenai Valley Resource Initiative was a recipient of one of the collaborative forest restoration projects that was incorporated in the 2009 Omnibus Public Lands bill that Congress passed which allocated and appropriated up to \$40 million per year for ten collaborative projects around the nation. We have three of those projects in Idaho. They are provided direct federal investments as well as Forest Service matching funds and in-kind contributions.

Mr. Oppenheimer said that he thinks it is important we recognize that this is not the first time we have seen proposals like this come forward. He added that there has been a history of these types of proposals, whether it was the federal lands task force or proposals in the late 1970s and early 1980s associated with the Sagebrush Rebellion. He went on to say that ultimately the foundation for those proposals were refuted by the courts and proved unworkable. He said that these efforts stand in direct and compelling contrast to the successes that have been made and realized in the collaborative efforts.

Mr. Oppenheimer said that with history we have seen these earlier proposals go by the wayside, either by the courts or a realization that they were unworkable. He said that fundamentally, nothing has changed. He noted the handout he brought associated with a legal assessment of the Sagebrush Rebellion which was prepared in 1980 by the Idaho Conservation League. He added that none of the laws that are noted have changed. He said whether you are looking at the Admissions Act, the Idaho Constitution or the United States Constitution, none of them create the “solemn compact” idea that the committee heard about from Dr. Kochan.

Mr. Oppenheimer went on to make some comments relating to their economic analysis. He said that in the Congressional Research Service summary that was provided through the office of Congressman Simpson, as well as additional economic information that is available, the cost of managing these lands far outweighs the potential to bring in revenue – just relating to fire alone.

Mr. Oppenheimer pointed the committee to the analysis of the Department of Lands; where they anticipated spending \$43 million per year on pre-suppression and suppression. He added that in 2012, the federal government spent over \$200 million managing fires. He said that on one fire alone, the Trinity Ridge fire, the federal government spent \$54 million. **Mr. Oppenheimer** also noted that the state of Idaho has a much higher per acre cost associated with fire suppression, \$575 per acre compared to about \$209 per acre that it costs the federal government. He said that these costs would result in the need to sell off tremendous assets.

Mr. Oppenheimer said that Idaho Department of Lands land is not considered public land. They tolerate but do not manage for public access and recreation. He said that the value Idahoans place on public lands is immeasurable.

Mr. Oppenheimer said that one of the questions the committee should address is what this would cost the state of Idaho given the constitutional requirement to balance the budget. He also mentioned that there are 3,000 federal jobs subject to state income tax today. He also addressed funding for recreation management in terms of campgrounds, trailheads, boat ramps and other facilities.

Mr. Oppenheimer concluded by saying that they believe the proposal to turn over thirty plus million acres of federal lands to the state is unrealistic from a constitutional, economic and practical standpoint. He said that it would cost Idaho taxpayers billions of dollars and the only way it would pencil out would be to auction off our public lands. He said that we should focus on ways that Idahoans are coming together to find common ground with real results on the ground.

Mr. Bill Sedivy, Idaho Rivers United, was the next panelist to address the committee.

Mr. Sedivy told the committee that Idaho Rivers United is a statewide, non-profit river conservation organization headquartered in Boise. He noted that the group has about 3,500 members and that about seventy percent of the members live in the state. Members utilize Idaho's vast tracts of public lands for whitewater boating, fishing, hunting and camping. He said their members appreciate the ecological, cultural, spiritual and economic benefits that Idaho rivers provide. Their mission is to protect and restore the rivers of Idaho and they believe that all Idahoans benefit from clean, healthy rivers.

Mr. Sedivy said that, questions of legality aside, the people of Idaho Rivers United oppose any transfer of federal lands to the state for many reasons. He went on to say that they believe the proposal could lead to the sale of vast tracts of public lands to private interests. He added that this would be bad for Idahoans in that it would impact our public lands heritage and restrict access to boating, fishing, hunting, camping and other outdoor activities.

Mr. Sedivy stated that they do not believe that Idaho possesses the financial resources necessary to appropriately care for and manage the lands and asked that the committee do a full and thorough economic analysis.

Mr. Sedivy told the committee that rivers flowing through public lands contain much of the nation's best habitat for imperiled stocks of salmon, steelhead and bull trout. He said that they are concerned that the state's agencies lack capacity and political support to match federal protection efforts now in place.

Mr. Sedivy said that his group believes that river recreation on federal lands is managed well and fairly efficiently by the federal agencies. He stated that public land recreation plays an important role in Idaho's economy and transfer could result in a significant decline in state tourism.

Mr. Sedivy went on to say that the resolutions are silent on Wild & Scenic Rivers and National Recreation Areas. His group is concerned that such silence forces them to assume that the state would attempt to void these protections if transfers occurred.

Mr. Sedivy added that Idahoans have proven, under the leadership of Senator Crapo and others, that they can come together collaboratively to resolve differences over the management of federal lands. The Owyhee Initiative and Clearwater Basin Collaborative are two examples of such efforts.

Mr. Sedivy concluded by stating that Idaho's public lands and the wild rivers that flow through them are vital cogs in Idaho's natural and cultural heritage. He said that our vast tracts of public lands and thousands of miles of free-flowing rivers make Idaho truly unique and special among states. He stated that our public lands, our mountains, rivers, lakes and deserts, are among our nation's most precious assets.

The next panelist to present testimony was **Mr. Tom Flynn speaking on behalf of the Boise Area Mountain Bike Association, Boise Climbers Alliance, the Winter Wildlands Alliance, Idaho Rivers United, the American Alpine Club and the Outdoor Alliance.**

Mr. Flynn told the committee that he is a backpacker, angler, mountain bike racer, rock climber, back country skier and paddler. He said that his interest is primarily recreation. He said that together, the groups he is representing have thousands of members throughout the state. He said that they have a direct and personal interest in the management and conservation of our public lands. He said that they know Idaho's public lands firsthand and have a stake in how they are cared for. **Mr. Flynn** showed the committee slides of the Sawtooth Recreation Area throughout various seasons, the Boise Foothills and the Middle Fork of the Salmon.

Mr. Flynn told the committee that outdoor recreation matters in Idaho. It matters to the economy, to communities and as a way of life. He said that outdoor recreation is big business, generating \$6.3 billion dollars every year in Idaho, supporting 77,000 jobs and generating \$461 million dollars a year in state and local tax revenue. **Mr. Flynn** went on to say that recreation contributes to healthy communities and that for many, outdoor recreation is why they live in Idaho. **Mr. Flynn** went on to say that outdoor recreation helps the state attract top talent which is obvious in how we market the state.

Mr. Flynn asked whether the state's budget would meet the needs of outdoor recreation, what happens to outdoor recreation if public lands are sold and how will state management affect outdoor recreation. In terms of the budget available for roads, trails and recreation, **Mr. Flynn** noted that they looked at the Department of Lands "back of the napkin" assessment. He said that maintaining roads and trails does not appear to have been considered. That fact is troubling for his groups.

Mr. Flynn said that the Forest Service and BLM are underfunded but they nevertheless spend a lot of money on roads and trails. He said that in 2011, the Forest Service spent \$23.5 million and the BLM spent about \$3.5 million on roads and trails. He went on to say that roads and trails, on average, probably cost the federal agencies \$22 million per year to maintain. He asked whether the state would be able to match that amount. If roads and trails are not maintained under state management and

control, there would be serious repercussions for the recreation community as well as economic and social benefits outdoor recreation brings.

Mr. Flynn said that in the budgets they have seen, it looks like there is a significant gap between what the state plans to spend and what the federal government currently spends on public lands in Idaho. **Mr. Flynn**, in referring to the Congressional Research Service report, told the committee that the three land management agencies spent \$392 million managing all 32 million acres of public land in Idaho. **Mr. Flynn** noted HCR 22 and commented that if the state did achieve transfer of federal lands and then determined it could not afford to maintain roads and trails, let alone fire suppression, it seems to them that public lands would have to be sold. **Mr. Flynn** went on to say that private land is entirely different than public land. He said that vast amounts of public land distinguish America from the rest of the world and Idaho from many other states.

Mr. Flynn said that it is worth mentioning the recent federal government shutdown. One of the main lessons from that was that public lands and access matter to people. If public lands were sold, they would be lost to the people forever.

Mr. Flynn said that from an outdoor recreation perspective, federal management works and the reason it works is that there is a process with well established ways to balance multiple uses, consider the public good and incorporate public input.

Mr. Flynn told the committee that he wanted to share a cautionary example from Utah. He said that near Vernal there is an area called the Book Cliffs that is prime hunting and fishing and it is managed by Utah's State and Institutional Trust Lands Administration. He said that recently they announced that the area had been leased without anyone knowing for oil and gas development, leading to outrage from hunters and anglers and from Utah's Governor and Congressman Rob Bishop. This led to the decision being largely reversed. He said that this shows what can happen when there isn't a process and that the only goal the state had was to maximize revenue, but it wasn't what people wanted. **Mr. Flynn** added that he brought this up to illustrate the limitations of state management.

Mr. Flynn said that in Idaho, lands managed by the state are explicitly not public lands, as demonstrated on the Department of Lands website. Management is intended to secure the maximum long-term financial benefit. He added that there are no considerations for multiple uses, benefits for the public or even public use. He noted that this would be bad for all Americans, not just Idahoans. He said that there is definitely room for improvement in federal management, but that it is not worth trading the process we have now for no process.

Mr. Flynn asked what would happen to the Roadless Rule which is an example of the federal government as owners working with input from the state to create good management. He asked what would happen to roadless areas under state control.

Mr. Flynn referred to a letter **Representative Burgoyne** received from the Department of Lands that is posted on the committee's website. He noted, in response to a question relating to recreation, that the department responded that it does not manage for recreation. In addition, the response provided that there are generally no limitations on the types of dispersed recreation allowed.

Mr. Flynn concluded by asking if process and balance goes away, what will happen to the places he showed the committee earlier. He added that many of these ideas about state management are not

coming from people within the state of Idaho.

Mr. Craig Gehrke with the Wilderness Society was the final panelist to address the committee.

Mr. Gehrke said that he has spent the majority of his twenty-eight years with the Wilderness Society nagging the Forest Service to do something different, to build more trails, protect more wilderness and put more money toward restoration. He said that despite that fact, he cannot envision anyone else managing those lands. He added that he believes national public lands are one of the best ideas this country has ever had. **Mr. Gehrke** told the committee that the Wilderness Society does not support any transfer of federal lands to the state. He said that would tear at the fabric of what makes Idaho a very special place.

Mr. Gehrke said that in preparing for his presentation he found a 1980 publication by Ted Trueblood in his files. He reminded the committee that Ted Trueblood was an outdoor writer for *Field and Stream*.

Mr. Gehrke said that Ted Trueblood blew the whistle on the Sagebrush Rebellion. The title of the publication was "*They're Fixing to Steal Your Land.*" He noted that there have been numerous movements over time to take public lands.

Mr. Gehrke said that the immediate previous panelists have already made many of the points he was going to make but there were several things that came up that he would address. He went on to say that comparing state and federal management is like comparing apples and oranges. He said that the mandates are totally different and the perception that everything would be the same if the state took over is simply wrong. He said that the lands would no longer be managed for multiples uses, but rather to maximize revenue.

Mr. Gehrke said that the public forests offer a host of uses. He said that the federal lands have some of the best water quality in the state of Idaho. He said that public forests are what forests are supposed to look like, that they are not croplands but are messy, diverse and productive.

Mr. Gehrke recounted how the issue of fire has come up numerous times. He said that he would urge the committee to consider the difference between state lands and forest lands in terms of location and topography. State lands are far easier to get to. He said more logging is not going to make national forests fireproof. He said he doesn't intend to say that we can't take action to protect communities and structures from fire, but the idea that forests would be logged at a landscaped level to reduce fuels is not supported by anything that has come forward in the scientific community.

Mr. Gehrke said that promises have been made that we'll have more jobs if we increase logging on the national forests. He said that if we have learned anything in this state we should have learned that there is no direct connection between the number of logs cut and jobs. He said that in the 1980s and 1990s, over 200,000 acres of roadless lands were logged in the Boise National Forest, exceeding their decadal timber harvest. In one year, they cut more trees than any other national forest in the country. In that same time period, **Mr. Gehrke** noted that the mills in Council and Horseshoe Bend closed. He said that housing starts, demands, technological improvements, processing costs and exports all affect the number of jobs. He said that the promise of more money from more logs is false.

Mr. Gehrke told the committee that the Wilderness Society has been part of the Clearwater Collaborative and part of the Owyhee Initiative and believes that is the way forward. **Mr. Gehrke** said that the Clearwater Basin was ground zero for a lot of the timber wars in the 1980s and 1990s. Their

group was involved in litigation but are now with others, supporting the goals of the collaborative. He said that the work is slow but far better than the gridlock and they are making progress.

Mr. Gehrke asked the committee to consider the diversity of wildlife in the national forests. Species are here not only for Idahoans but for the rest of the United States. He said that they are here, not because of management, but due to diverse habitat and security.

Mr. Gehrke concluded by saying that the point has come up that some states back east acquired federal land at statehood and that we should have the same right to do that. He said that as a native Idahoan, he doesn't know who would want Idaho to look like an eastern state.

Senator Stennett asked about law enforcement costs on state versus federal lands. **Mr. Oppenheimer** said that there are a whole host of economic components that need to be looked at, including law enforcement. He added that many of the components were left out of the analysis by the Department of Lands. He said one major one was that in 2012, the federal government reimbursed counties \$54 million for PILT and SRS. He added that the department estimated a net benefit to the state of \$51 million to \$75 million and if you take \$54 million off the top of those figures that number becomes much smaller. He said if you then factor in the \$22 million for roads and trails associated with recreation, law enforcement and a whole host of other costs associated with management, the number comes down well below zero and there would only be one choice to generate revenue – that being to sell off the lands. **Mr. Oppenheimer** went on to comment that the department's estimate relating to timber sales was high.

Senator Tippets said that he understands endowment lands have to be managed to maximize the long-term financial gain for the institutions. He asked whether it was a given that those lands would be considered endowment trust lands. **Mr. Oppenheimer** responded that he believes there is language in the constitution to that effect but he recognized that during a previous presentation by the Attorney General's Office there was testimony that it wouldn't necessarily be the case. He said it would be good to hear from the Attorney General's Office as to where flexibility comes into play.

Senator Winder asked for a copy of ICL's survey and **Mr. Oppenheimer** indicated he would provide that. **Senator Winder** also asked about the timber pricing information conveyed by **Mr. Oppenheimer**. **Mr. Oppenheimer** explained the database from which he obtained his information. He said that the information for 2012 sales were, in some instances, one-quarter or less than the estimate the department used in its analysis.

The final panel of the day was the Timber Interest Panel, represented by Mr. Jerry Deckard on behalf of Associated Logging Contractors; Mr. Bob Boeh, Idaho Forest Group; Mr. Jim Riley, Riley & Associates; and Mr. Vincent Corrao, Northwest Management, Inc.

Mr. Jerry Deckard, on behalf of Associated Logging Contractors, was the first panelist to address the committee.

Mr. Deckard told the committee that their group, which was established in 1966, consists of over 400 logging contractor and wood hauler businesses as members and an additional 100 associate member businesses that are suppliers to their members. **Mr. Deckard** said that the group also owns and operates an affiliated workers' compensation insurance company, an affiliated insurance agency and a workplace safety consulting company.

Mr. Deckard said that the group has been involved in forest land management issues on public and private lands since its founding and are active on the federal and state level as well as in the judicial arena. He told the committee that they have a long history of advocating for sound, science-based forest management by their professional foresters as carried out by their professional timber harvesters and haulers. **Mr. Deckard** added that they have participated in discussions, round tables, conferences, studies and committees over the years on the very issues now before the committee.

Mr. Deckard reminded the committee about the testimony of Dr. Jay O’Laughlin during the August meeting and the extensive data that he and others at the College of Natural Resources, University of Idaho, compiled that show the forest health challenges facing our public lands in Idaho.

Mr. Deckard said that it was clear to his group that whatever the reason may be, our federal forest lands are in dire need of active forest management and that lack thereof has left Mother Nature to her own devices which, for Idaho, is management by fire. **Mr. Deckard** went on to say that they don’t believe wildfire is the best tool to be used, is severely damaging and has become more catastrophic and unmanageable each year.

Mr. Deckard said that they have long advocated that the state, as demonstrated by the Department of Lands, is a better land manager for the forest lands. He said that they understand that their mission is different and the laws they work under are not as cumbersome as those that the federal foresters must work under. He added that they also know that changes, as to how federal lands are managed, have to come from Washington, D.C., and will likely not come from Boise, Idaho.

Mr. Deckard stated that Associated Logging Contractors would express a concern that should a shift in management occur, that there be funding in place to be certain that the state and its taxpayers are not footing the bill for national priorities and management directives. He said there is also a concern that there be funding to assure there is adequate professional staff in place to perform the needed management functions on the ground. He went on to say that if turning over management to the state involves working under NEPA and other regulatory burdens, as well as involvement in litigation with environmental interests, the question needs to be asked whether Idaho would be ahead.

Mr. Deckard said that regardless of who manages our federal public lands, scientific data shows a very clear danger of wildfire consuming more forested acres including those in the so-called “wildland-urban interface.” He said that perhaps the best thing that could come from the committee’s work would be demanding and assisting in ramping up the thinning efforts that absolutely need to occur to diminish the threat to our forests and to the communities within them. This would also create jobs and strengthen the state’s economy, especially in the rural communities of Idaho that remain in double digit unemployment status. He said that this should be a priority.

The next panelist to address the committee was **Mr. Bob Boeh, Vice-President, Government Affairs, Idaho Forest Group.**

Mr. Boeh provided the committee with a PowerPoint presentation entitled “*Federal Forest Management – A Case For Change.*” **Mr. Boeh** said that they have five sawmills in Northern Idaho and employ about 800 people.

Mr. Boeh said that problems with forest management exist throughout the Western United States. He

said that they would like to focus on the roughly twenty-five percent of the lands in the National Forest System that are designated for timber production. He said that they would like those lands to be given the same kind of certainty that the wilderness lands have.

Mr. Boeh went on to say that growth on the National Forest System lands has drastically exceeded removals for the last three decades. He added that when you are growing trees and you don't remove them, something is going to remove that fuel, either by wildfire or active management. **Mr. Boeh** went on to say that when you manage the removals, you make money and when you fight fires, you spend money.

Mr. Boeh showed a depiction of the Forest Service budget over time and how more and more of the budget is being used for fire-related programs. He said that he believes this year well over fifty percent was spent in regard to fires. Moneys that could have been used for management are being used for firefighting.

Mr. Boeh noted that to them, fire is no different than any other natural disaster and they think money for fighting fires should come out of FEMA funds, leaving the Forest Service budget for management on-the-ground.

Mr. Boeh stated that forests and wood products should be sequestering carbon. He added that when you have wildfires, it actually releases carbon into the atmosphere. He noted that if left unmanaged, the National Forest System is likely to become a carbon source.

Mr. Boeh told the committee that what this all means for Idaho is that the actual board feet sold is essentially about twenty percent of what it could be realistically if the lands were actively managed. This results in increased poverty levels across numerous counties that have heavy Forest Service ownership.

Mr. Boeh stated that active management certainty must equate to the permanent nature of wilderness designation. He said that if you get more active management, you get more payments being made to the counties. He noted that the lands that are suitable for timber production would have a sustainable base for the communities where they are located.

Mr. Boeh noted that they have heard a lot about collaboration and he said that they support collaboration. He said that they are involved in five or six collaboratives throughout the state. He said, however, that to them collaboration is a tool to be used and not the solution to the problem. He stated that there are too many acres that need active management. He went on to say that collaboration is very slow and very costly. He said he would encourage the committee to look at an example such as the Clearwater Basin Collaborative in terms of how much money they spent versus how much timber they sold.

Mr. Boeh said that they think we need to come up with some general guidelines for managing the forest. In the event the land manager, whether it be the state or the Forest Service, can't live up to the guidelines, collaboration should occur.

Mr. Boeh stated that they believe federal legislation is necessary to streamline compliance with several environmental statutes on the small portion of the National Forest System already identified as having a timber management objective, which can serve as the basis of a federal forest trust. He added that the Forest Service currently spends about \$356 million annually on NEPA compliance. He said the reform

should streamline the NEPA analysis, ESA consultation and judicial review for projects conducted on lands designated for timber production. He added that an arbitration process could be instituted to resolve disputes and provide conflict resolution without litigation. He said that reform should set clear volume and acreage treatment targets to ensure accountability and clarify to the courts that timber projection is the primary objective on this small portion of the National Forest System. He continued by saying reform should focus ecology and economics in the design, operation and management of projects on lands designated for timber production.

In responding to an earlier comment, **Mr. Boeh** said that he believes the \$200 per million board feet figure used by the Department of Lands is a good number. He said that it does depend on species, size and quality of timber. He added that it also depends on the kind of restrictions that are put in contract.

Mr. Boeh went on to comment on HB 1526 which has passed the House. He said that he thinks what we need to be doing is urging Senators Crapo and Risch to get something proposed and get something out of the Senate so that we can have a conference and get some of the issues resolved and move forward with the management of the federal lands.

In terms of the role of the state of Idaho, **Mr. Boeh** told the committee that the Idaho Department of Lands could contract with the Forest Service to lay out and administer timber sale contracts and could look for ways to utilize “good neighbor authority” (which is in the Farm Bill) to manage some Forest Service lands. **Mr. Boeh** concluded by saying that state management of federal lands offers much promise for getting approximately three million acres of Forest Service suitable timber base under active management and contributing to local/state economies and communities. He said that a minimum of 300 mmbdft of additional harvest could be achieved, creating an additional 5,100 jobs as well as increasing Idaho’s GDP to over \$55 billion, as well as significant returns to counties and local communities for schools, roads and infrastructures.

Mr. Jim Riley, President, Riley & Associates, was the next panelist to address the committee.

Mr. Riley stated that his company is a natural resource policy consulting group and they work with all levels of the government. Prior to starting his consulting company, **Mr. Riley** ran the Intermountain Forest Association. He said that his clients today include forest land owners, forest manufacturing companies, forest firefighting businesses, some counties and previously some loggers. **Mr. Riley** said that he was appearing before the committee on his own behalf only.

Mr. Riley commented on the excellent data presented by **Dr. Jay O’Laughlin** and by **Mr. Boeh** that describes the source of our problems. He said that we have serious forest health problems throughout the federal forest lands and that some lands are in more serious trouble than others. He added that we demonstrate to ourselves every fire year the problems that occur due to the lack of active management on these lands.

He said that we have discontinuances of commitments the federal government has made to our local governments. **Mr. Riley** noted that there is instability in the SRS Act funding and in PILT funding. He said that this has all caused problems for our counties. **Mr. Riley** went on to say that we have serious problems with economic development in many forested rural communities. He underscored the poverty information presented by **Mr. Boeh**. He said that he believes we have increasing unhappiness among all stakeholders.

Mr. Riley told the committee that there is a fundamental problem in that there is a disproportionate impact on those states where the federal government owns larger proportions of land. He said that having worked with Congress many times to get resolutions to these problems, the differences are very real. He added that it is hard to get agreements about federal forest policy between states that have a predominance of federal lands, such as Idaho, with states that do not. He stated that one has to ask if it makes good national policy for the federal government to have such unequal treatment of states. **Mr. Riley** said that this is magnified by what has happened with the Forest Service where they have had a lack of focus on their mission statement over the last thirty years. He said that the problem is not with the people that work for the service, but rather the problem is organizational. He said that its mission has become an attempt to avoid controversy which only invites controversy.

Mr. Riley said that he is also a supporter of collaboratives and has worked with a lot of them. He said this is not a new idea and one of the greatest collaboratives over his era was when the Frank Church Wilderness of No Return was passed in 1980. He explained that a group of citizens from Central Idaho came together and worked out a deal relating to wilderness in Central Idaho. He said if you look at the Act, there is reference to the necessity of active management. **Mr. Riley** added that the Clearwater collaborative is recollaborating about the very decisions that were made in 1980. He said the problem with collaboration is that it is temporary.

Mr. Riley said that this all contrasts dramatically with what goes on in state forests. State forests have a clear purpose with clear management intent. He noted that the state has a State Forest Practices Act which is based on some of the highest principles of adaptive management.

Mr. Riley told the committee that what he believes they have before them is a huge economic opportunity if they can find a way to address the problem. He said the Idaho forest products business sector contributes \$2.8 billion annually from the industry, all done off of just twenty to twenty-five percent of the forest land in the state. He went on to say that if they were interested in doubling the numbers, they could do this on less than twenty-five percent of the federal lands.

Mr. Riley stated that the key is a sustainable increment. He said he has seen situations where they have created a surge of timber onto the market and this does not have the long-term stabilizing impact that they need to have. He said he wants to underscore the concept of a sustainable increment of timber being necessary in order to gain economic development and to attract the investments that they need in new infrastructure.

Mr. Riley said that a sustainable increment is also important for private landowners. A surge that is not sustainable only acts to undervalue their product. He added that what helps them is continued capital investment. An example of this is when Idaho underwent the Forest Asset Management Plan and approved a fifteen percent increase in the amount of timber because they could do so sustainably. He said this attracted capital investment in sawmills in Lewiston and other places because there was confidence in the private sector that the log supply would exist.

Mr. Riley noted that there is also a significant environmental opportunity. He said that by better investment in our forest lands, we bring about greater environmental benefits. He told the committee that this isn't just from timber management but also includes such things as large game management, recreation, etc. **Mr. Riley** also discussed the intermingled ownership of lands in Idaho. He said that there are opportunities for collaborative efforts.

Mr. Riley addressed the four models that have been presented to the committee. He added that the approach does not have to be that it is an all or nothing proposition. He said that the federal lands base is diverse and some may be more appropriately managed by the Department of Lands, such as the endowment lands are, while others may be more appropriately managed by other state agencies, such as recreational areas. He added that we do not have to change the purpose of all federal lands. He said that if you think of it as parcels of federal lands allocated to the right use, there are four models.

Mr. Riley said the first model would be outright land ownership by the state. He indicated that a secondary question is what the state would do then, sell the land or keep it. **Mr. Riley** noted that there is a robust market for forest land in Idaho. There is also the possibility of land exchanges.

Mr. Riley went on to comment on the second model, state management while leaving it in federal ownership. He said that this concept was brought forward by five counties in 2012. The federal delegation has advanced this concept in HB 1526 which passed the House with bipartisan support.

Mr. Riley said that the third model would involve the state contracting with the federal government. He said that without reform to the processes the federal government has to go through, it is doubtful the private sector would find this approach a very rewarding experience.

Finally, **Mr. Riley** noted that the fourth model would involve federal or state control with private sector involvement. He believes there are opportunities for private equity firms or other forest management businesses to take on the business of forest land management, even if it is for broad purposes.

The final presenter for this panel and for the day was **Mr. Vincent Corrao, President, Northwest Management, Inc.**

Mr. Corrao also provided a PowerPoint presentation to the committee entitled "*Management Priorities on Public Lands.*" **Mr. Corrao** noted that they are one of the largest consulting firms in the state, located in Moscow, Idaho.

Mr. Corrao noted that over the years they have had the opportunity to work on six stewardship contracts with the BLM and Forest Service. He added that they are very active in the Clearwater Basin Collaborative.

Mr. Corrao said that in 2009, Secretary of Agriculture, Tom Vilsack, said that a complete commitment to restoration and an all lands approach to forest restoration is where they wanted to go. He added that retired USFS Chief Bosworth recently stated at the National SFI Convention that federal land management is not a fire problem, but a management problem and that more funding is not the answer, but how the money they have is spent.

Mr. Corrao went on to address Idaho's continuing efforts on public land management. He addressed the history of the state's efforts. In 1996, work began to address the situation through the Policy Analysis Group. That work resulted in a publication addressed earlier by **Dr. Jay O'Laughlin**. **Mr. Corrao** also noted the federal lands task force working group that completed "*Breaking the Gridlock*" in 2000. **Mr. Corrao** participated in this work. He also commented on collaboratives, charter forest and trust law initiatives. He noted that there have been past efforts to have the state manage and/or take ownership of federal lands, as we are doing now pursuant to HCR 21.

Mr. Corrao addressed the key recommendations from the past. He said that in 1998, the Policy Analysis Group report identified land leasing as a potential as federal lands are leased today for oil and gas exploration, livestock grazing, utility corridors and ski resorts. He noted that in 2000, the *“Breaking the Gridlock”* report recommended five pilot projects, with none of the projects recommending state management, control or ownership. **Mr. Corrao** said that the report recommendations also included a trust law framework with public values, local governments and a local advisory council. He went on to say that key recommendations were to address the uncertain decision making, destabilization of resource communities and deterioration of environmental quality on federal lands.

Mr. Corrao told the committee that what we have today to address federal land management includes the National Fire Plan of 2000 which is intended to deal with the Wildland Urban Interface, where thousands of acres adjacent to rural and urban communities are to be prioritized. He said that we also have the Healthy Forest Initiative and the Healthy Forest Initiative Restoration Act, both of 2003, the Collaborative Forest Landscape Restoration Act of 2009, Stewardship Contracting from 2003 and the Tribal Forest Protection Act of 2004. He said that the tribes, through the Intertribal Timber Council, got this act passed and it is very similar to Stewardship Contracting.

Mr. Corrao said that we also have new initiatives addressing federal land management. These include the National Cohesive Wildland Fire Management Strategy which aims to restore and maintain resilient landscapes, creating fire adapted communities and responding to wildfires through a multi-agency effort. **Mr. Corrao** also addressed the Anchor Forest Concept which provides an environmentally sustainable supply of timber to maintain infrastructure to treat forest health and restoration needs. It is an effort put forward by the Intertribal Timber Council. He told the committee about the Good Neighbor Authority which allows the Forest Service to delegate to State Foresters implementation of certain forestry projects on federal lands. **Mr. Corrao** also commented on the Ecological Restoration Policy in Forest Service Manual 2020. This proposed policy would provide broad direction for restoring National Forest System lands and associated resources to achieve sustainable management and ecological integrity.

Mr. Corrao noted that the barriers to success include legal issues of the NEPA and ESA process, appeals and litigation remain key barriers. He added that key USFS managers and planners are constantly moving job locations every two to three years, making efforts in this multi-year process very difficult, and in many cases nearly impossible. He said that champions are needed in the federal leadership to advocate the needs of management on federal lands. He added that federal expertise to manage large scale multi-resource activities has been eroded in many areas. In addition, he said that climate change will continue to negatively impact forest ecosystems and increase carbon into the atmosphere.

Mr. Corrao suggested that the federal interest in landscape management could be platforms for state management with federal lands in a cooperative effort. He said that national forest designations of land allocations often identify two to twenty-five percent of the national forest as available for active management and these lands could be the key to begin moving in a pro-active manner. **Mr. Corrao** noted that the state could explore the lease option to manage federal lands identified for active management on national forest and BLM land. He added that we could consider expanding Forest Stewardship Contracting, HFRA and WUI treatments, Good Neighbor Authority and Local Advisory Councils with Charter Forest and Trust Law initiatives. He noted that another future consideration should be that poor forest health and lack of management will have the same results as in the recent past, with larger fires and more deteriorating forests.

In addressing what he considers some major hurdles, **Mr. Corrao** stated that expecting the state or anyone else to manage federal lands under existing laws, at best, will be very expensive and will probably have similar results as experienced if those laws aren't changed. He went on to say that lands identified for active management must be able to work through the necessary environmental review without frivolous appeals and litigation. He said that all interested stakeholders must participate and engage in the planning process. If not, the right to appeal after all the hard work is invested by collaboratives and stakeholders is lost and is a disincentive to participation in the process. Finally, he noted that champions are needed in federal leadership to make the commitment to stand with their positions and have science and resource experience direct the process as many USFS Chiefs have identified.

Mr. Corrao noted our continued large fires and pointed out that the Stafford Act waives NEPA procedures for certain federal actions taken or carried out within a Presidentially-declared emergency or disaster area. He said that this act provides the statutory authority for federal disaster response activities and for FEMA's disaster assistance programs for a community's recovery.

Representative Burgoyne said he believes this panel has indicated that they are not as interested in a wholesale transfer of federal lands to the state as in finding ways to get the federal government to be more responsive and more responsible in cooperation with the state and private industry. He asked whether that statement was accurate. **Mr. Riley** responded that in his view, they are looking at all models in an attempt to make this work better. He added that we have a proven agency inside state government that knows how to manage lands, that have a dedicated purpose of sustainable timber management while protecting other uses. He said that he doesn't care as much about who owns the lands but would like to see management be transferred to the state agency that has the demonstrated ability to carry that management out.

Senator Tippetts referenced **Mr. Corrao's** mention of unhealthy forests and contributing factors such as climate change and management practices. He asked whether there were any authoritative studies that would help them understand the relative importance of those factors on the health of our forests. **Mr. Corrao**, in first addressing the factor of climate change, responded that many areas are getting hotter and dryer. As an example, he said that twenty-five years ago Missoula, Montana got three to five days yearly where the temperature was over 100 degrees. They are now reporting up to twelve to fourteen days in excess of 100 degrees. He said that whether one believes in climate change or not, we are seeing moisture go out of the soil and longer and hotter fire conditions resulting in longer fire seasons. He went on to say that on the national forests we have a lot of overstocked, heavily dense stands that have a lot of mortality. He said that when you put those two factors together, you are going to get more fires. He said that he believes **Dr. O'Laughlin** may have accounted for some of this information in his publications.

Senator Tippetts then asked whether **Mr. Corrao** is telling the committee that there really isn't a good understanding of how better management practices could offset the negative impacts we are seeing from climate change or whether we can be confident that better management practices could ameliorate the impacts we are seeing from climate change. **Mr. Corrao** responded that we do have studies, one of the best ones being by the Forest Service. It was published in regard to the Wallow Fire, occurring in an adjacent forest to the White Mountain Apache Reservation. The publication showed that treatments saved homes and protected resources. He added that there are quite a few studies like that and he will supply that information.

Senator Nuxoll asked **Mr. Boeh** about one of the charts he presented. The chart referenced the number

of million board feet sold over the course of a number of years. She asked him what amount he suggested should have been sold. **Mr. Boeh** responded that he suggested it should have been around 500 million board feet. He said that is in the event we are conducting active management on those acres.

Senator Nuxoll then commented that we are now logging primarily off state and private lands. She asked how long we would be able to keep the mills busy at the present rate if nothing improves. **Mr. Boeh** responded that there would be a lot of assumptions that would have to go into a response. However, he said that they believe within the next ten to fifteen years, if there isn't more volume that comes off of the federal lands because they own so much of the property, there will be a decline in the capacity in the state.

Co-chair Denney thanked all the panel presenters for their participation. He noted that the next committee meeting will be on December 4, 2013. He told the audience that the committee will be taking public testimony at the December 4 meeting. There will be public testimony taken first thing in the morning and again right after lunch. The meeting was adjourned at approximately 4:30 p.m.