

Remarks to Idaho Legislative Federal Lands Interim Committee

December 4, 2013, Boise, Idaho

Lawrence Schoen, Chairman, Blaine County Board of Commissioners

Introduction:

Thank you for the opportunity to present to the Committee today. It is an honor. I hope the people of Idaho shall learn and benefit from these hearings. Our challenge is to be the best stewards of our public lands that we can be. They are the magnificent, common natural heritage of the people of Idaho and the United States.

Remarks:

I am adamantly opposed to the proposal being investigated by this Committee to transfer ownership of Federal public lands wholesale to Idaho or any other western state. The reason is that such an action would irreparably harm local communities like mine and others in Idaho economically, environmentally and culturally. It would harm irreversibly the heritage of these lands and what they represent to us as Idahoans and to all Americans, not least Native Americans whose trust has been violated enough in our shared history.

In light of the legal framework, little realistic chance exists of wholesale transfer taking place, but the consequences are so broadly negative, that nothing should be left to chance, at any stage of this process. This is why I am here. Other realistic and positive avenues for change in public lands management exist and should be pursued.

Idaho Counties should oppose the wholesale transfer of federal public lands to the states because this action would:

- leave Idaho with inadequate resources, human and financial, to manage these vast natural resources, including wildland firefighting;
- disrupt current federal payments to counties, with no foreseeable, reliable way to make up for this loss of revenue to Idaho local government;
- disrupt local economies, their environment and culture, including the broad right of public access;
- subject the lands to piecemeal commercial development by lease or sale, exempt from the public process of local land use authority, including comprehensive planning, zoning and subdivision law and procedure.;
- subject the lands to wholesale privatization with all the above consequences.

If we are unhappy with the status quo, we have alternatives that do not necessitate wholesale transfer and all these resulting negative effects. Many legitimate reasons exist to be dissatisfied with the condition of our public lands today and how they are managed. There are alternatives to the status quo, however, that do not involve transfer. It is up to us to discern these avenues for progress and work together

to implement them. It is important and valuable that we respectfully discuss and debate these issues.

On the legal framework, very briefly, though I am not a lawyer, neither is my colleague, Mr. Chmelik. I've read most of what's been posted by American Lands Council, as well as the legal briefs prepared for this Committee. Clearly, even if this transfer gets to the SCOTUS, it will go no further. Though transfer supporters pluck quotes extraneously from American political literature, there is no imperative for transfer. Compared to the case histories presented by your own Committee's legal research, these excerpts form neither a convincing argument, nor a body of law on which a judicial decision might be based. In some excerpts, Federal lands are referred to as "waste lands," "unproductive," "refuse." 2020 is not 1820. The values ascribed to these lands are very different today.

Idaho is not prepared, equipped or capable legally or financially to assume management of public lands and could never come close to fulfilling Federal responsibilities associated with these public lands. Federal lands today are managed for multiple use. Some of these uses do generate revenues to help pay for government administration. In most of these cases, the federal government is criticized not for generating too much revenue, rather, for not generating enough to pay for proper management and long-term stewardship. Other uses on Federal lands do not generate any revenue, but that does not diminish their importance to Idahoans.

State endowment lands, on the other hand, are managed just to generate revenues in support of the State's public schools system. The proposal is that transferred lands would be managed as endowment lands. Still, our educational system is underfunded and the Department of Lands' meager income from activities on endowment lands provides for minimal regional staffing and not enough other resources essential even for basic monitoring and stewardship. I'll give the Committee examples of this in a moment. The fundamental question posed by the transfer proposal for you to consider is: Where will the State derive revenues adequate to carry on all its administrative and management activities *and* fund Idaho schools *and* replace the federal lands payments?

Federal public lands counties receive federal funding--called Payment in Lieu of Taxes (PILT)--and replacement moneys under Secure Rural Schools legislation(SRS). The premise of these payments is that public lands management decisions do generate various local impacts and affect associated local revenues and costs. PILT money usually is deposited in county general funds. SRS moneys are used in part for local road and bridge maintenance and still, Idaho's transportation system, like our education system, is underfunded. In FY 2013, forty-four Idaho Counties containing

32,597,631 acres of Federal public land, received a total of \$26,326,163 PILT and \$28,889,790 through SRS.

If the State takes over federal lands, it has no means to replace those funds paid to counties by the nation. Even if resource extraction and other State management actions led eventually to positive net cash flow to the State and local communities, this would take years. (In reality, its chances of ever happening are near zero.) What is to be done in the interim? The question cannot be ignored: is it the implicit intent of public lands transfer supporters to defund local government to such an extent?

On the other hand, it must be acknowledged that Counties are placed in the awful position each year of having to wait to the last minute in their fiscal year and in their budget process to learn if a dysfunctional Congress will extend this financial support. This is no way to run a program. Congress has a real obligation to public lands counties like mine to provide this funding. On balance and in general, though, I want the Committee to understand that I view the risks of continuing with federal support payments and improving those programs and developing a more cooperative relationship with our federal partners to be less than the risks to local communities of handing ownership and management of these vast lands to the states and large corporations.

One of the stated goals of this movement to transfer public lands to states is to revitalize local resource utilization industries, especially forest products, mining and grazing. How is it assumed that this revitalization would occur? Many, if not most Idaho Counties do not have large or any stands of commercially harvestable timber. A few do. Do the Sponsors propose that the timber counties will share their income with the rest of Idaho?

Many if not most Idaho Counties do not have commercially feasible or any mineral deposits. A few do. Do the Sponsors propose that the mineral counties will share their income with the rest of Idaho?

Blaine County does have mineral resources and it was once a mining center with some of the richest lodes in North America. Today, some of those old claims exist side by side with developed, residential private property. In reality, even with gold at \$2000 an ounce, initiating a sustainable mining operation takes years and millions of dollars of investment. Mining is one of the most volatile of all industries. It generates enormous land use impacts. Will the state invest in managing these impacts and will it yield authority to local governments to ensure mines and mine waste are properly managed, so that our water and air, roads and residential areas are protected?

Some Idaho counties have rangeland resources. Do the Sponsors propose that the rangeland counties will share their income with the rest of Idaho? How will the State manage its vast new rangeland areas to benefit graziers, while also protecting the resource?

And with all of this presumed new logging, mining and grazing activity, how will the State generate the income to be able to succeed at the enormous and costly

and generally non-income producing task of conserving habitat for all wildlife--game and non-game? These are tremendously valuable resources about which Idahoans care very deeply.

Many Idaho Counties have a significant recreation component to their local economies. Tourism and recreation are our dominant industries in Blaine County, worth an estimated 25% of local employment and more than \$150 million just in visitor spending. Blaine County is an economic driver for the entire Magic Valley region, if not southern Idaho, providing jobs and quality of life opportunities that serve as enticements to many corporate recruits.

Most of this recreation takes place on huge tracts of public lands, including areas adjacent to, near or accessible from Ketchum and Sun Valley. The federal agencies pay for trail maintenance and water access points. They coordinate with local agencies like Counties, Recreation Districts and users--the people, biking clubs, hiking clubs, riding clubs, ORV clubs, fishermen, hunters--to create the best possible recreation experiences on public lands, in the context of other uses occurring on them. These planning and management activities are purely a cost right? Otherwise, how popular have you found trail user fees to be in Idaho? Where will the State find the revenue to continue these trail and access design, building and maintenance activities, in order to perpetuate Idaho's thriving and growing tourism and recreation industries?

Transfer proponents assure us they would never support any proposal that diminishes public access. This puts them at odds with themselves. Mr. Chmelik and I have debated the point. We are both from the east where public access is a rarity. Hunting in the east, as in Europe, is often by fee for access to private lands. Try getting easily to a river, lake or estuarine shoreline. What we in the west would assume to be public, or at least to have some public access component, is in the east strictly private. You may access these areas, but most likely you would be trespassing.

Idaho without access to public lands is like New York without the Statue of Liberty or Broadway, Paris without the Eiffel Tower or her cafes, Egypt without the souk or her great pyramids. Vast, open public lands and access to them is the essence of Idaho and the West. It is one of our most precious rights, one of our most precious and apparently fragile possessions. Those who support this public lands transfer proposal are threatening to take this right, this gem of the Gem State away from Idaho citizens, the public and the world; perhaps not intentionally, but it would be the inevitable result, because Idaho is not equipped, prepared or capable of managing multiple use across such a vast landscape.

Statewide, according to the national Outdoor Industry Association, the value to Idaho's economy of outdoor tourism and recreation is \$6.3 billion, generating 77,000 jobs, \$1.8 billion in wages and \$461 million in state and local tax revenues. Public lands transfer threatens to disrupt and damage Idaho's outdoor recreation economy

and our right of public access. So, we cannot ignore the question, who would dare to risk all this and why?

Perhaps the most obvious of all questions to come before you is where, oh where will the State derive the resources to manage wildfire on public lands? The Forest Service's cost to fight just the Beaver Creek Fire in Blaine County exceeded \$26 million. To assert or assume that the Federal government would or should retain responsibility for wildland fire preparedness and suppression even after it no longer owns the land is wishful thinking at its most pernicious. To argue that it should, because federal mismanagement created the conditions for wildfires to persist is absurdly simplistic and without legal foundation.

State endowment lands are authorized to be used to generate revenues to support the system of public schools and not specifically for other uses. At the very height of the Beaver Creek Fire emergency this summer, I mediated between the Dept of Lands and US Forest Service over the daily lease rate of State lands sought by USFS for expansion of its incident command post north of Hailey. The main ICP site was owned privately. The private landowner, recognizing the nature of the emergency, had given free use of his property to all responders, their support teams and equipment. Idaho literally was delaying camp expansion, dickering over a couple hundred dollars a day. Even in the middle of the direst emergency, the issue blocking the use of State land for camp expansion and incident management was money, even though the existing lessee--a farmer--did not object, the site would be restored at Federal expense and the use would cost the State nothing.

Potentially so much more confounding than this single situation during the Beaver Creek Fire, imagine Idaho managing uses that generate little or no income, but that are expensive to sustain. What will be the charges for recreation and public access on public lands managed by the State? What will be the State's fees and charges for overseeing resource extraction companies. How will they compare to federal lease or royalty rates? Will they be affordable to industry? And if they are affordable to industry, will the State recover its costs?

In states like Pennsylvania--which in proponents' vision we would resemble if transfer were to occur--a never-ending and bitter battle is waged over state royalties for coal and gas extraction. As the arguments and lawsuits are fought, the landscape of Pennsylvania is dismantled and permanently disfigured or destroyed. It is exceedingly nasty there.

Now, think of the debate over grazing fees on BLM land. Many of you hate groups like Western Watersheds, who propose raising fees so there is the revenue to do a better job administering and managing the resource? Would the State raise grazing fees so it can not only manage the resource but also bring revenue to Idaho schools? Do you suppose just because Idaho now owns these lands, ranchers will merely acquiesce to higher fees? State grazing fees are already higher than Federal

fees. The ranchers won't and the only alternative will be privatization, likely with existing permittees given first right of refusal. Will that be fair to others?

In general, what history or expertise does the Dept of Lands have managing for multiple use? It has little to none, again, because that is not its mandate. How will the State resolve conflicts among users? It will not. It will simply restrict activities to what yields revenues. Where will the State find revenues adequate to replace the federal lands payments, carry on all its administrative and management activities *and* fund Idaho schools? The general fund?

Please look at some photos of conditions on State lands in Blaine County. They represent just a few shots of activities permitted by the Dept of Lands in just one location in Blaine County. The shooting range is a rogue shooting range that has been allowed to exist for years now. The State earns nothing from this activity. It simply occurs. No-one runs it; no one is responsible for it. It's full of trash. There are no rules or guidelines for its safety. It is no coincidence that it is on a State parcel and not a Federal parcel.

The other two activities are on leased sites: a composting operation and a gravel and materials pit. I have no objection to these kinds of operations, per se. Indeed, they represent normal economic activity. The issue is that Dept of Lands leases them and permits them with impunity, without local agency involvement, subject to State regulation, but not to any local land use or zoning authority and without regard to other local impacts, including the cost of delivery of local services. Moreover, the State simply lacks adequate resources to monitor or enforce what goes on inside their boundaries.

The Department's mandate is to maximize revenue--however incremental--for the benefit of schools. Anyone seeking to do just about anything anywhere on State lands is given permission. And this is what you get and what Idaho communities can expect from transfer. No zoning guides any of this because the State exempts itself from local zoning codes. These uses just happen, as long as they return revenues to the State and sometimes even if they don't.

Now, let's hear the rest of the story. The push in 2013 to transfer federal public lands to the western states is as old as the story of American settlement. In light of all the points I've just tried to convey--that the State has inadequate resources to manage these lands, that wholesale transfer will be disruptive to local communities and that State-owned lands are exempt from local land use authority--it should be obvious that the likely outcome, if not the real goal of public lands transfer is privatization.

On the one hand, the pursuit of economic opportunity is legitimate, vital and an essential part of our American culture and identity. In counties and states with a high proportion of public land, these opportunities are shaped by and at times limited

by the issues of public land ownership. As in any set of circumstances, public lands ownership creates both challenges and opportunities.

On the other hand, the net income, if any, to be earned by the State and local communities through State ownership is infinitesimal compared to the potential for gain for those few individuals and corporations who have access to capital to purchase public lands on any sort of meaningful economic scale.

And now we have huge pools of capital seeking access to ownership of vast resources, our public lands, which currently are off limits. And the pitch, of course, is economic opportunity for working class families. There is some truth to the pitch, but it is mostly a smokescreen. The real money is not to be made in resource extraction. Logging and mining are costly enterprises, hugely cyclical industries for which profit is anything but guaranteed. They are likely to be just small parts of enormous, vertically integrated corporations, likely headquartered somewhere other than here. The big money resides in the real estate value. This is where the big old-line timber companies are making their money today, all across America.

Let me explain briefly how privatization from State ownership might occur and describe the unintended consequences. Lands would be sold, as offers arose from which the State supposedly would increase its direct earnings. When the lands are sold to generate optimum sales revenue, the State goes about this by pre-entitling the proposed use, while the land is in State ownership. The State and the buyer skirt local zoning ordinances and permitting, since the State is exempt. This ensures the buyer will pay the highest price and gets the entitlement it is buying. Of course, this pre-entitlement process exempt from zoning does not usually happen in a private sector real estate transaction, in which investors pay their money and take their chances.

An illustrative example might be a large timber parcel in any county. Under a lease, the logging company would remove the timber from the State-owned land. A developer, possibly the timber company itself, might then offer to buy the now cleared land from the State. The land is no longer generating logging revenue, because it's been cut. The State is compelled to maximize its return and agrees to sell the land for development. The developer plans the development, the State pre-entitles it, then sells it, subject to a plan that has not gone through any local planning process.

Those are the short-term consequences. The developer builds many new homes and subdivisions. Over time, the forest grows back in this geographic zone. Along come a few dry years, then, inevitably, forest fire in and among the trees and homes in this regrown forest that once was public land. What do you have then? A catastrophic wildfire.

What we had in Blaine County this summer with the Beaver Creek Fire was not a catastrophic wildfire. It was a big, angry, fast moving blaze that threatened three Idaho towns. But it was the result of a confluence of natural phenomena and it was not catastrophic. Could it have been fought differently? Perhaps. In any case, because of talented firefighting, good zoning and subdivision ordinances and building codes in

my County, no lives and only one house were lost. That can't be said of many other wildfires in many other places in America in recent years, including in Idaho, where development has been allowed in remote or hazardous areas at great risk to public safety.

A fire in a forest filled with homes is a catastrophic fire by definition. Am I saying development should not be allowed in the timber counties? Of course I am not saying that. I am saying that transferring Federal lands to the State on a wholesale basis will lead to random privatization of these lands on a huge scale, including in remote areas. Development will follow without benefit of local land use planning and with inadequate accounting for the costs of providing local services, including public safety. In some cases, this will lead to true disaster--fire being one of them--that will be like nothing people are complaining about in Idaho today. These examples of end runs around local land use planning are as disruptive to local communities as any economic cataclysm.

I want to wrap up on a positive and hopeful note. Do we have choices other than substantial Federal divestment? Are there other avenues and other potential outcomes for public lands management? Are there other working models for success? Yes. At its heart, effective public lands management requires from all stakeholders: good communication--including personal presence and listening to other points of view--collaboration, transparency, accountability, practicality, scientific research, responsiveness, respect, openness to new ideas and above all, mindfulness.

We can identify several real reasons why public resource management by the Federal government is sub-optimal today. Many years of underfunding has starved these agencies of the resources they need to fulfill their respective missions properly. As a County Commissioner and as a farmer, I experience this in the work we do each year with our field offices. A political atmosphere charges professional management decisions. Lines of communication and avenues of cooperation are corroded by ill will. Endless lawsuits plague even reasonable management decisions made in a reasonable time frame. In this context, BLM, USFS, USFWS and other agencies are barely able to do their jobs. Local people feel everyone and everything matters but them. This situation has been true for many years and it is only getting worse and so we find ourselves here today.

The solution is to change this dynamic by changing the way we behave towards one another and by ensuring we actually, physically work together to promote the exchange of ideas, the understanding of each others values and the development of respectful relationships. It can be done. In Blaine County we communicate regularly with our Federal and State land, water and wildlife management partners. They communicate regularly with us. Each agency recognizes the mission of the other and we view each other as valued, respected members of our community. This attitude does not prevail in many counties where locals and State and Federal agencies view

each other as adversaries. It shocks me, frankly, when I travel and hear insults being hurled angrily across the room in public meetings.

The working relationship between private interests, public citizen interests, State and Federal interests must and can be improved by face to face discussion, cooperative dialogue and goal-setting. This model takes a willingness on all sides to achieve better outcomes. One purpose of the process is to provide a 'safe' and respectful setting in which people can learn and understand each others values. Good examples of solution-oriented projects abound: Owhyee Initiative, Clearwater Collaborative, Roadless Rule, Blackfoot Challenge. The Community Forests Trust concept sounds promising and could be successful if it is conditioned appropriately.

As noted throughout my testimony, different counties have different attributes, serve different demographics and accordingly have different goals and needs. The challenges this represents must be addressed on a more focused basis, county by county, community by community, forest by forest, watershed by watershed. The wholesale transfer of Federal lands to the State of Idaho is not the solution. That is like putting the cart before the horse.

Among my other pursuits, I am an investor and my investments include real estate and natural-resource-based companies, like miners. I recognize the essential nature of these activities. In fact, it may be more socially and environmentally responsible of us as a nation to obtain our raw materials here in the US, rather than from countries which do not practice good regulatory oversight. My farm produces forage products. I recognize the economic and environmental value of well-managed grazing by the livestock industry. We are a consumer nation and these industries yield products we need and want. Our future as a nation is jeopardized, however, if we do not practice thoughtful and cooperative stewardship of all our natural resources.

Can the public and business, local, State and Federal agencies come together to collaborate realistically on achieving environmentally-sustainable, manageably-scaled, socially-responsible economic development opportunities on our public lands? Can local communities benefit economically from the use of public lands, while the engaged industries are held accountable for the risks and impacts they create, without shifting them unacceptably to taxpayers? Can the wild and scenic natural characteristics of our public lands can be preserved to benefit wildlife and fish as well as humans, for the sake of our general well-being? In sum, can our national public lands, which belong to the American people collectively, be managed effectively to provide this multitude of benefits to us all? The answer is yes, they can. All it takes to do these things is the will. Those of us who seek better outcomes on our public lands, but who oppose public lands transfer to the states stand before you ready to do their part.

Thank you for your time and attention today.

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