

Federal Lands Interim Committee – public hearing at Kamiah, Idaho – September 11, 2014

Testimony of Charles L. Graham

Thank you for being here. It's a long trip to an out-of-the-way place, but as you know, there are many people here who have strong attachments to the public lands that surround us. Thank you for coming to take our questions and to hear what we have to say. It shows a commitment to ordinary citizens that goes way beyond your service during the legislative sessions. We're grateful.

I submitted comments to the committee late last year, and I've thought long and hard about what I'd say to you today.

I thought about telling you that as a member of Backcountry Hunters and Anglers, which I am, it's important that we protect access to the National Forests for those, my wife and I and our children and grandchildren included, who backpack or ride into the backcountry and high mountain lakes to hunt elk and fish for cutthroat, and just to get away. But Holly Endersby, BHA's conservation Director, has done a much better job of making that case than I ever could, of stating the concerns about what it might mean for access if we manage these lands for the maximum long-term financial return. Could it mean leasing hunting privileges to the highest bidder? Yes, it could.

I thought about telling you that I am a member of the Society of American Foresters, and that as a forester I spent the early part of my working life in timber management with the Forest Service during the high harvest years, and that I was responsible for putting up for sale 16 million board feet of timber a year in the early 80s. We sent a lot of logs to the mills in Salmon, North Fork and the Bitterroot Valley. Intermountain Lumber in Salmon ran three shifts at times. As you know, it's gone now. I thought I'd say that while the Forest Service made some mistakes in the 70s and 80s, for which it paid dearly in legal challenges in the following years, the pendulum is in the process of swinging back to a reasonable place, and there is good work being done by the Clearwater Basin Collaborative and other groups. There's promise of restoring some trust between timber interests, the tribes, and environmental groups. And that trust appears to be leading to reasonable compromises and a return to good forest management, through stewardship contracts and other partnerships. Vincent Corrao has told you of other new and promising approaches. The Policy Analysis Group has looked at long term leases. There's now real hope for reducing losses to fire and disease, and to restoring some economic stability in places like Kamiah and Salmon and Bonners Ferry and Council.

But you've heard all this from people far more qualified than I am - members of the Collaborative, the tribes, and leaders in the forest industry - many of them concerned that the benefits of transferring ownership to the state are being overstated, and the costs – both short and long-term – are underestimated. Those who've seen the progress made in collaboration want those efforts, despite the frustrations, to be allowed to continue. And they want some of the other ideas tried.

And I thought about reminding you, though you've heard it from the Policy Analysis Group, about what J.D. Williams, the State Controller, said in 1995, the last time there was an effort like this to take over the national forests and BLM land from the federal government. In response to a bill introduced in the U.S. Senate by Larry Craig and Dirk Kempthorne to transfer 32 million acres of national forests and BLM land to the state, Mr. Williams said it would be "ill-advised and a financial disaster." I'm sure you've asked yourselves, "What's different this time around?"

When I considered that question, part – and maybe a very big part - of the answer seems to be that you have a "white paper" by a California law professor, Donald Kochan, who proposes a novel reading of Section 7 of the Idaho Admissions Bill, finding a "duty to sell" the remaining public lands, and downplaying the significance both of the language in Section 12 of the Admissions Bill, which states that "The state of Idaho shall not be entitled to any further or other grants of land...", and of the Idaho Constitution, which states in Article XXI, Section 19 that "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."

That's pretty clear language, and I have a couple of questions for you:

1 – Have you obtained an opinion from the Attorney General's office about the chances that Mr. Kochan's legal argument might ever succeed in court?

2 – Did Mr. Burgoyne and Mr. Davis, the two lawyers who have served on your committee, give you their opinions? (In their questions of Mr. Kochan when he spoke to the committee, both appeared to have some doubts.)

Because, what it all comes down to, despite all the time and effort and testimony from a lot of very smart people who are for and against this idea, is that if it doesn't stand a chance in court – and as a lawyer for 25 years I don't think it does - we're all wasting our time. And it's time for the lawyers, from the Attorney General to those in the legislature, to tell it straight - to us citizens and to your fellow legislators.

When you report your findings, I hope you will tell the legislature to put its efforts into making sure the Congress adequately funds the Secure Rural Schools Act, and that Payments in Lieu of Taxes –PILT – are protected and sustained, and to give full support to the collaborative efforts that show so much promise. You should explore the new and creative ideas for partnerships between counties and the Feds, for more stewardship contracts, maybe even long-term leases.

Please don't throw more of our tax money into the long drawn out legal battles that are sure to come if Idaho pushes for state control, fights we're very unlikely to win. We can have legal gridlock, or we can have problem-solving and collaboration for the public good.

Thanks again for coming and for listening.