

**SEN. MICHELLE STENNETT**  
SENATE MINORITY LEADER  
DISTRICT 26  
BLAINE, CAMAS, GOODING &  
LINCOLN COUNTIES



**REP. MAT ERPELDING**  
HOUSE ASST. MINORITY  
LEADER  
DISTRICT 19  
ADA COUNTY

## Idaho State Legislature

January 30, 2015

Senator Chuck Winder  
Assistant Minority Leader  
Chairman, Federal Lands Task Force  
Statehouse Mail

Dear Mr. Chairman,

The enclosed report is the Minority Report from two members of the Federal Lands Task Force, a joint committee, in response to the task force conclusions in the final report.

It is to be noted that we commend the task force for its thoroughness in process and the inclusion of public hearings that allowed Idaho citizens to participate and be heard.

However, the undersigned Senators disagree with certain elements of the task force's recommendations. We respectfully request this Minority Report be attached to the Federal Lands Task Force report.

Sincerely,

Senator Michelle Stennett

Representative Mat Erpelding

---

---



## Idaho State Legislature

We commend the task force for its thoroughness in process and the inclusion of public hearings that allowed Idaho citizens to participate and be heard.

However, as members of this task force, we have an obligation to point out several facts that show the futility of Idaho continuing to pursue a takeover of lands that taxpayers all across America currently help us maintain.

We must emphasize that we oppose any state efforts to pursue title to, or takeover of, Idaho's federally-administered public lands. Public access must be preserved. Instead, our recommendation is to continue to find collaborative solutions to better land management working in cooperation with federal, state, and local governments, agencies, industry, Native American tribes, conservation groups, and local communities. The legislature should not control this process and interstate compacts have to be approved by the US Congress.

The Federal Lands Task Force report and the Idaho Department of Lands failed to analyze the full extent of the cost of a federal lands takeover, such as fire suppression, current PILT and county payments, or the cost of ramping up to full production. There is no peer review in this analysis and it failed to use generally accepted accounting and economic analysis protocols.

We believe the Constitutional Defense fund is not an appropriate use for this cause as it has clearly been demonstrated to be unconstitutional. Suggesting that there should be an appropriation of \$500,000 for further economic analysis without clear language about what entity will be responsible for the work seems premature.

Below are the details to support our conclusions above:

First, it is unconstitutional. Neither the U.S. nor Idaho constitutions allow it. Article IV (the Property Clause) of the U.S. Constitution gives Congress, not the courts, authority over lands and territories. At the state level, Article 21, section 19 of the Idaho Constitution (the Disclaimer Clause), states in part: "[T]he 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..." Idaho, as a territory, agreed to this disclaimer as a condition of statehood. In an April 23, 2014 survey, Idaho Attorney General Lawrence Wasden stated "...the Idaho Territory was created by an act of Congress on March 4, 1863, and signed into law by President Abraham Lincoln during the Civil War. The Idaho Territory was created from lands that had previously been organized as both the Oregon Territory and the Washington Territory. In other words, the federal government held the lands a long time before Idaho became a state on July 4, 1890. It is quite difficult to 'take back' lands that we, as a state, have never owned. Even Ken Ivory, the Utah legislator that advocates this idea, readily acknowledges that Idaho never owned these lands." The report never distinguished between appropriated vs. unappropriated lands or their implications. These Forest Service lands are appropriated and reserved by the federal government.

January 30, 2015

Page 2

Second, Idaho can't afford to take over those lands and maintain them, even if the Federal government gave them to us, which they won't. A Congressional Research Service report says federal agencies spent \$392 million managing federal lands in Idaho in 2011-12 and the state would bear most of these costs alone if the federal lands are transferred. A transfer could be a net loss to the state, and to the endowments supporting K-12 and other beneficiaries. Fighting wildfires costs millions of dollars. Federal law enforcement fights crimes (like the kidnapping in the Frank Church wilderness last year or drug running). Our local sheriffs and police departments don't have the manpower or budgets to adequately take over. Idaho has \$262 million of maintenance to do on our roads and bridges with no budget or infrastructure plan in the works. How would Idaho manage roads and trails on federal lands? The Idaho Department of Lands (IDL) does not have the resources, staff, expertise, or even a formal calculation of the costs associated with a takeover. IDL is constitutionally required to seek the highest return for endowments and is under no obligation to manage lands solely for public use or recreation.

The economic analysis presented to the task force conducted by Dr. Evan Hjerpe, Director of the Conservation Economic Institute, concluded that administering these lands would cost Idaho \$1.5 billion in the first 10 years and more than \$2 billion over 20 years. It would cost the state 2,500 jobs, mostly in rural communities, and \$11 million lost in annual state income tax.

Simply put, the state would have to sell those lands to the highest bidder: wealthy private individuals, private corporations, international corporations, developers, or foreign countries.

However, we do need to manage these lands differently. Collaboratives around the west have successfully managed public lands better. Idaho has already proven that collaboratives work to better manage lands, create jobs, boost selective logging and improve overall forest health through cooperative land planning. Some collaboratives have operated for 10 years thinning forests, clearing understory, restoring watersheds, and creating jobs. These collaborative are composed of state and federal agencies, timber companies and other private enterprises, conservation groups, local governments and communities, and should include the tribes.

In addition, the National Forest Foundation and the community-based Forest Stewardship (Demonstration) Programs through the Ford Foundation and the Pinchot Institute for Conservation are stellar examples of organizations specializing in sustainable forestry while sustaining rural communities all over the West.

Respectfully,

Senator Michelle Stennett

Representative Mat Erpelding