

WASHINGTON COUNTY GROWTH AND CONSERVATION ACT  
OF 2006 AND WHITE PINE COUNTY CONSERVATION,  
RECREATION AND DEVELOPMENT ACT OF 2006

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
PUBLIC LANDS AND FORESTS  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

**S. 3636**

TO ESTABLISH WILDERNESS AREAS, PROMOTE CONSERVATION, IMPROVE PUBLIC LAND, AND PROVIDE FOR HIGH QUALITY ECONOMIC DEVELOPMENT IN WASHINGTON COUNTY, UTAH, AND FOR OTHER PURPOSES

**S. 3772**

TO ESTABLISH WILDERNESS AREAS, PROMOTE CONSERVATION, IMPROVE PUBLIC LAND, AND PROVIDE FOR HIGH QUALITY DEVELOPMENT IN WHITE PINE COUNTY, NEVADA, AND FOR OTHER PURPOSES

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NOVEMBER 16, 2006



Printed for the use of the  
Committee on Energy and Natural Resources

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U.S. GOVERNMENT PRINTING OFFICE

33-094 PDF

WASHINGTON : 2007

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**WASHINGTON COUNTY GROWTH AND CONSERVATION ACT OF 2006 AND WHITE PINE COUNTY CONSERVATION, RECREATION AND DEVELOPMENT ACT OF 2006**

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**THURSDAY, NOVEMBER 16, 2006**

U.S. SENATE,  
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,  
COMMITTEE ON ENERGY AND NATURAL RESOURCE,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:30 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Larry E. Craig presiding.

**OPENING STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO**

Senator CRAIG. Good afternoon, everyone. The Committee on Energy and Natural Resources, Subcommittee on Public Lands and Forests will be convened.

This afternoon we will consider two large and complex pieces of legislation: S. 3636, Washington County Growth and Conservation Act in Utah and S. 3772, White Pine County Conservation Recreation and Development Act in Nevada.

I want to welcome our colleagues from Utah and Nevada. I see Senator Bennett and Senator Ensign are here and I understand that Senator Reid is en route and I believe Senator Hatch also plans to be here. They are all co-sponsors of the legislation we are considering today. I also want to extend a welcome to all of our witnesses that we are scheduled to hear from today.

I will forego an opening statement on today's legislation so we can allow ample time for our witnesses. But before I get started, I would like to remind everyone that both written and oral statements will be included in the record of this hearing and we will take additional testimony or supplemental testimony for up to 10 days after the hearing.

I am certain all of you had other commitments today and we have three votes scheduled for the floor at some time in the immediate future, so I will leave it at that because we're not quite sure but we will break during that time. We'll try to. I hope others of my colleagues will attend so we can jog and continue to take the testimony instead of recessing the committee. But regardless, we will hear from all our scheduled witnesses who have traveled here today.

With that, let me turn to my two colleagues that are before us. Senator Bennett, I'll turn to you first and welcome you before the committee.

**STATEMENT OF HON. ROBERT F. BENNETT, U.S. SENATOR  
FROM UTAH**

Senator BENNETT. Thank you very much, Mr. Chairman. I have a prepared statement, which I would appreciate appearing in the record.

Senator CRAIG. Without objection.

Senator BENNETT. I also have a prepared statement on behalf of Governor Huntsman in support of the legislation which I would ask to be included in the record.

Senator CRAIG. Without objection.

Senator BENNETT. Senator Hatch is unable to come and asked me to insert his as well.

Senator CRAIG. Certainly, without objection, all three will be put in the record.

Senator BENNETT. Thank you, Mr. Chairman. Now, just very briefly to summarize where we are on this one. It's been a subject of great public debate. It's a process that has been going on for well over 2 years. We've invited all stakeholders to participate. Some have chosen not to and then have complained that they have somehow been frozen out. But I want to put this in perspective first.

I'm grateful to be here with Senator Ensign and Senator Reid, who has just come in. Because of their pioneering work in dealing with wilderness issues in Nevada, they were able to produce a bill which passed the Congress, the previous Congress, unanimously and set the precedent for how wilderness debates should be dealt with, in my view. I remember the last statewide wilderness bill that was passed when I was a member of this committee. The blood on the floor was ankle deep. It was as difficult a legislative process as possible and it became clear that there was never going to be another statewide wilderness bill, given the contention that arises when you try to solve everything at once. And I salute Senator Reid and Senator Ensign for their leadership in deciding we will try to solve these problems on a county-by-county basis and the work they did in the last Congress with the two bills that passed the Congress unanimously gave us hope that we might be able to do the same thing in Utah. Therefore, we have patterned our bill along the Nevada precedent. We have followed the procedure that was followed in Nevada. We have taken the same parameters that were established in those bills and we have done our very, very best to stay within that historic precedent.

I believe still, that if there is going to be resolution of the wilderness issues, it's going to be along the pattern established by Senator Ensign and Senator Reid, in their pioneering work in the previous Congress.

This bill has been mischaracterized rather substantially in the press because as was the case in Nevada, there will be some public lands that will be put up for sale and the characterization has been that we have been in the hands of the developers who produced this bill, myself in the Senate with Senator Hatch's co-sponsorship and Congressman Matheson in the House. That makes it a bipar-

tisan issue because Congressman Matheson is the State's Democratic representative. The people say, why did you work with Congressman Matheson and I said because this is in his district and I don't want it to be a partisan issue. Washington County is a part of his district and so I have sat down with him and his staff and my staff have literally walked over every inch of the lands that we're talking about here.

We did not sit down with developers to say, what land do you want to buy and therefore, we'll carve it out and make it available to you as we have been accused of doing. On the contrary, we sat down with land managers and said, what land would make sense for you to divest yourself of? Because it is impossible to manage in the way that someone is asking you to manage—there are management facts on the ground that get ignored in Washington and the land managers themselves have identified the acreage that they felt would make it more efficient for them to manage these lands as wilderness. If they didn't have to manage certain parcels and those are the parcels that we anticipate being used for the sale.

So with that, Mr. Chairman, I appreciate your holding this hearing. I appreciate your giving us this opportunity and I commend the formal statements that I have submitted for the record to you, for your consideration.

[The prepared statements of Senators Bennett and Hatch and Governor Huntsman follow:]

PREPARED STATEMENT OF HON. ROBERT F. BENNETT, U.S. SENATOR FROM UTAH

Mr. Chairman and Senator Wyden, thank you for holding a hearing today on S. 3636, the Washington County Growth and Conservation Act of 2006. As the sponsor of this legislation, I am grateful that you included this important bill on your busy hearing calendar as the 109th Congress winds down.

S. 3636, and its companion in the House of Representatives, H.R. 5769, have the bipartisan support of Utah's entire congressional delegation. This legislation contains carefully crafted compromises that build on the success of the Nevada public land bills authored by Senators Reid and Ensign and passed unanimously by Congress. The Nevada bills have been enormously beneficial for their state and serve as a blueprint to address land and growth issues in Utah. These bills show that you can strike a successful balance between conservation measures and economic development initiatives, while protecting both the public lands and the communities that depend on them.

In Utah, federal agencies manage two of every three acres. For many communities, public land and its management affect nearly every aspect of life, from education and employment to social services and recreation. Many water developments, electrical transmission lines, and highways are located upon or must cross the public domain to provide residents with essential services. Without the involvement of the federal government, these land-locked communities cannot adequately plan for growth or meet the needs of citizens and visitors for infrastructure, transportation, housing, and clean water. Therefore, the federal government must play a significant and active role in securing the future and continued viability of these areas. And that is why this legislation is so critical.

Washington County, Utah—home to spectacular Zion National Park—is the fifth fastest-growing county in the United States. St. George—the county seat—is the nation's fastest-growing metropolitan area over the last five years. The effects of this virtually unchecked growth have caused local and state leaders to come together and take a proactive approach to plan for the future. With just over 16 percent of the county in private ownership, however, the future of the communities and the public lands that surround them are inextricably linked. This legislation provides a balanced framework for managing the growth, while also providing for the permanent protection of some of the most magnificent and sensitive landscapes in the West.

The Washington County Growth and Conservation Act of 2006 is the result of more than two years of work by a diverse group of stakeholders tasked with respon-

sibly addressing Washington County's growth challenges. As part of this effort, former Utah Governor Olene Walker and the Washington County Commission initiated the Washington County Land Use Planning Process and Working Group in June 2004. The working group was composed of 20 people representing diverse and broad interests—including the conservation community—and was charged with developing this legislation and a quality growth plan for the county. Over several months, the working group held a series of meetings and tours throughout the county. The participants discussed issues ranging from local transportation needs to federal land management and endangered species.

When the meetings concluded, Congressman Jim Matheson and I received recommendations from the group regarding the management of public lands within the county. We incorporated those recommendations into the draft proposal, and released it earlier this year for public comment. At our request, Washington County also held two well-attended open houses where interested people could examine maps and inquire about the proposal.

Based on the public input we received in our offices, including several meetings with environmental groups, we made significant changes to the proposal and introduced this legislation in July. Although we have tried to accommodate many viewpoints, it is impossible to satisfy everyone in this process. We have seen that if individuals and groups from all sides are willing to abandon the "all-or-nothing" approach and sit at the table in good faith, progress can be made. The result is a balanced and more comprehensive bill. This legislation represents significant progress in the long-standing disputes over public land management in Utah, and I am proud to sponsor it.

As an outgrowth of this legislation, Washington County has partnered with other organizations to create Vision Dixie, a quality growth planning process, to further engage the public on current and future county growth issues. I commend them for continuing this discussion and encourage the public to participate in this effort.

I look forward to working with my Senate colleagues this year to enact responsible, bipartisan legislation to address these long-standing issues in Utah.

Because of this bill's comprehensive nature, I will provide a summary of the significant provisions of this legislation.

#### SUMMARY

##### *Title I—Land Disposals*

S. 3636 directs the secretary of the interior to sell up to 24,300 acres in a two-tiered process. Federal land managers based in Washington County have already identified 4,300 acres of land for disposal, which will be sold after receiving the appropriate federal clearances. These acres will make up the first tier of land disposal. The first sale will occur within one year after the passage of the bill, with at least annual sales thereafter until the final prior to January 1, 2013. The second tier of land disposal includes up to 20,000 acres which may be sold only after being identified by federal land managers in cooperation with Washington County through Vision Dixie. These lands must be selected from within areas identified on the map, excluding wilderness areas, the tortoise preserve, and other areas of critical environmental concern. This gives maximum flexibility to the local quality growth planning group to select the lands to be sold. The secretary of the interior will be authorized to include, where appropriate, restrictive covenants on the deeds of transfer to protect paleontological, archaeological, or other interests of the United States. These sales will not begin until 2011, allowing the quality growth process sufficient time to identify appropriate lands.

The proceeds from the land disposal will fund conservation projects and federal and non-federal initiatives within Washington County. Projects include, but are not limited to, protection and management of the Red Cliffs National Conservation Area; processing of wilderness designations; projects relating to parks, trails, and natural areas; and trail repair and reconstruction within the Dixie National Forest.

##### *Title II—Wilderness*

S. 3636 designates the addition of 219,725 acres of land to the National Wilderness Preservation System. At the recommendation of the National Park Service, 123,743 acres within Zion National Park will receive wilderness designation. Wilderness designations also include 93,340 acres of Bureau of Land Management (BLM) land and 2,642 acres of Forest Service land. This will increase the percentage of wilderness acreage in the county from 3.4 percent to 17.5 percent.

Washington County has stunning natural areas and I support the wilderness compromise in this measure. The bill protects nearly 93 percent of existing BLM wilderness study areas and includes no hard-release language. Also the bill designates ad-



ditional acreage not identified by the BLM but selected by the stakeholders within the working group. More importantly, this bill ends the gridlock over BLM wilderness designations in the state of Utah, and removes uncertainty from these areas.

*Title III—Wild and Scenic River Designation*

This legislation designates 165.5 miles of the Virgin River and its tributaries as Wild and Scenic Rivers, following National Park Service's recommendation. This is the first Wild and Scenic River designation anywhere in Utah.

*Title IV—Utility Corridors and Rights-of-Way*

S. 3636 designates utility corridors in Washington County to meet the needs of the growing population. Subject to compliance with the National Environmental Policy Act (NEPA), these utility corridors may be used for transportation, water lines, or other such necessary transmission and utility distribution. The bill addresses the need for a transportation corridor around the south and west of St. George, diverting traffic from the center of the city by incorporating the Habitat Conservation Advisory Committee's unanimous recommendation for identifying the Northern Corridor Bypass. This unanimous recommendation requires the secretary of the interior to study different routes and then designate the appropriate corridor. This process will allow science and public input to dictate where the corridor should be located. The bill also identifies a pipeline corridor to address the county's future water needs.

*Title V—High Desert Off Highway Vehicle Trail*

S. 3636 authorizes the secretary of the interior to designate a system of existing motorized trails for off highway vehicle (OHV) use. The bill gives the secretary two years from the passage of the bill to complete a travel plan identifying the appropriate existing routes to include in the trail system, making sure to allow for public participation in the final decision. The legislation does not authorize the creation of any new trails for incorporation in the trail system. By identifying this trail in an environmentally-sensitive way, we create an opportunity for managed and responsible OHV use on the heavily-used west side of the county.

*Title VI—Red Cliffs National Conservation Area*

S. 3636 creates the Red Cliffs National Conservation Area, giving permanent protection to the endangered desert tortoise. The current habitat management plan will expire in 2016.

CONCLUSION

The Washington County Growth and Conservation Act of 2006 is the only viable solution to the county's current challenges. It's based on Nevada precedent, which passed the Congress unanimously and has worked extremely well to meet their growth needs. We brought stakeholders together, solicited public comment on the proposal, made revisions based on these comments, and now we bring it to the Congress for its consideration. I ask for your support on this bill—it will responsibly manage growth while putting conservation measures in place that will protect our natural treasures for future generations.

Thank you, Mr. Chairman and Senator Wyden, for holding this hearing today. I look forward to working with you and your staff to address any concerns you might have.

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PREPARED STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Mr. Chairman, let me first thank you and the members of the committee for holding this hearing today.

I am pleased that Washington County Commissioner Alan Gardner will be giving his testimony this afternoon. Alan is one of Utah's most seasoned and wise public officials, especially as it relates to difficult public land issues.

I hope the members of this committee consider carefully his comments and keep in mind that unlike land managers and biologists, Alan, as county commissioner, must balance all of the various interests in Washington County. He has more of a stake in maintaining his county's beauty and natural resources than anyone else I know. Yet he also must plan for the water, transportation, and recreation needs for one of our nation's driest regions and fastest growing populations.

It is my opinion that Alan Gardner and his companion commissioners, Jim Eardley and Denny Drake, are best positioned to find that difficult balance among competing interests, because no other decision maker is forced to consider all of the interests at stake in planning for the future.

It is the central role these commissioners played in crafting this proposal which compels me to support enthusiastically the Washington County Growth and Conservation Act. I congratulate Senator Bennett for what I consider to be an outstanding job of putting this complicated proposal into a sound legislative package, and I am a proud cosponsor.

Mr. Chairman, let's consider Washington County for a moment. It is easily one of the most spectacular settings in the nation. It is host to Zion National Park, the Dixie National Forest, the Pine Valley Wilderness, Sand Hollow Reservoir, Snow Canyon State Park, beautiful sand dunes, plenty of red rock cliffs, an important critical habitat reserve for the desert tortoise, and many other valuable natural resources.

For the most part, these resources sit on public lands. Only 16.1 percent of Washington county is private land, which must be shared by the people of the county for their homes and businesses. Consider that Washington County's population has doubled every decade since 1970, and that during this period the share of private land has not changed significantly. Clearly the county has some tough decisions to make, and this legislation will go a long way to allowing the county to manage its growth wisely.

Washington County is the driest county in the second driest state in the union. This legislation would go a long way to helping to meet these critical water needs. The county has a superb record of managing its water resources in a way that not only is very efficient, but also environmentally friendly, and that would continue with this bill.

The legislation also addresses the county's growing transportation needs by laying out important new transportation corridors that would best manage traffic concerns into the future.

Finally, the bill addresses the future recreational and conservation needs of Washington County. The Washington County Growth and Conservation Act strikes a careful balance between the need for new motorized recreational routes and the establishment of new wilderness areas.

I think what you'll find, Mr. Chairman, is that this bill is about finding balance in a very complicated scenario. You'll find that opponents of this legislation tend to focus on one particular interest and feel free to ignore competing needs in Washington County. They are not required to compromise, which is why they are not empowered by the population to make these tough decisions.

Their voices should be heard, though, and I can tell you, Mr. Chairman, that I have rarely seen a more public and inclusive policy making process than the one that produced the Washington County Growth and Conservation Act. Every conceivable interest was represented with a seat at the table and included in all of the discussions, which, by the way, were open to the general public. These public meetings were numerous, in-depth, informative, and non scripted. There are some who are unhappy with the outcome, but that is often inevitable with difficult issues. All in all, Mr. Chairman, I believe this legislation is fair and balanced.

Again, I thank you for holding this hearing and urge the committee's expedited handling of the Washington County Growth and Conservation Act.

Thank you.

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PREPARED STATEMENT OF HON. JON M. HUNTSMAN, JR., GOVERNOR, STATE OF UTAH

Mr. Chairman and members of the committee, I am pleased to submit for the record my written testimony in support of S. 3636, the Washington County Growth and Conservation Act. This legislation is not only important to the citizens of Washington County, Utah, but it is important to the entire State of Utah and other Western states. The precedent this bill sets for grass-roots collaboration and comprehensive planning is an example to all Western rural counties who struggle to find a balance between the preservation of special places on our vast public lands and the protection of the economic base that allows these communities to thrive.

The Office of the Governor was an original sponsor of the Washington County Land-Use Planning Project which led to this legislation, and has been supportive of their process from the beginning. S. 3636 is the product of a long and intensive effort by a broad-based group of people. The end result of this collaboration is important both because of the balance it strikes between preservation and growth, and also because it takes significant steps to end the long-standing stalemate over public lands in the State of Utah.

Washington County, Utah is experiencing tremendous growth. In August of this year, the U.S. Census listed this county as the fastest growing county in the United States. In the next ten years, it is estimated that the county will almost double in

size—from 140,000 people to nearly 250,000. This presents an extraordinary challenge to local leaders, who must find a way to manage and direct this growth.

Washington County is an extraordinarily beautiful area made up of just over 1.5 million acres. About 84% of that land is in some form of Federal or State ownership. Nearly one-third of the county is currently under some form of special, restrictive management. This legislation would increase the amount of lands subject to restriction. It is estimated that of the 16% of land in the county that is privately held, less than half of that private land qualifies for acceptable development. As a result, local leaders are faced with a tremendous challenge: huge areas of public lands, some absolutely spectacular, and very little private land available to accommodate the thousands of people who are coming, and are yet to come, to this area of the State. It is a formidable task to try to balance the preservation of special places while at the same time endeavor to assure that growth will be accommodated in a visionary manner to provide and maintain the high quality of life which is unique to the area.

Clearly, one of the foremost objectives of this legislation is to get a handle on growth. Communities in Washington County need the tools to direct growth proactively. To this end, and as a natural extension of their land-use planning process, County leaders have initiated what they refer to as "Vision Dixie." Vision Dixie is a comprehensive growth planning effort modeled after the Envision Utah process used in some of the major communities on the Wasatch Front to great success. It has also been used very successfully in other areas of the country. I am especially pleased to see this effort going forth in Southern Utah because I served as Chairman of Envision Utah, and I value the work they do in helping develop communities to achieve an equilibrium among growth, economic development, open space, and preservation of special areas. This is the aim of the Washington County effort, and the purpose of S. 3636.

To implement this planning project, Washington County has entered into an inter-local agreement with Envision Utah, the Oquirrh Institute, the Nature Conservancy, and each community in the County to create a county-wide growth footprint. This footprint is intended to give the communities a vision for growth, provide standards to define how that growth must occur, and provides the ordinances by which those standards are accomplished. This process for creating the footprint will be very inclusive, and will involve a great deal of public input. Quite simply, it provides an opportunity for all the citizens of Washington County to design their own future.

The Vision Dixie process and this legislation are inseparably connected. The legislation makes it possible to achieve the aims of the growth planning effort, and the Vision Dixie Process directs how the elements of the legislation will be applied. One cannot work to its fullest effect without the other, and because of the importance of this overall effort to the future of Washington County, it is extremely important for S. 3636 to pass.

There are some very important preservation elements in S. 3636. It establishes more than 219,000 acres of permanent wilderness, including 93,780 acres of BLM wilderness, another 2642 acres of Forest Service wilderness, and 123,340 acres of wilderness inside Zion National Park. It creates the Red Cliffs National Conservation Area for the permanent habitat and protection of the endangered Desert Tortoise, and establishes 170 miles of the Virgin River as wild and scenic, the first in Utah. It would also provide for the creation of the High Desert OHV Trail. This trail has been in the planning and development stages for several years. It will utilize established roads and trails on the west side of the County to create a designated route for the OHV community, thus greatly reducing the amount of resource damage that can occur with the constantly increasing popularity of Off Highway Vehicles. This legislation provides for the trail to be identified in an environmentally sensitive manner, and also allows for funding for development, monitoring, resource protection, and enforcement.

I am especially pleased with the manner in which the legislation deals with the transference of some areas of public land to private use. While this part of S. 3636 is patterned directly after the Clark and Lincoln County, Nevada legislation, it has, nonetheless, been a very complicated and controversial element of the bill. This section of the Washington County legislation has been handled in a most careful and appropriate way, with the county-wide growth planning effort, Vision Dixie, identifying and directing every sale of land, as well as establishing the standards under which any development may occur. I am confident that the manner in which these land sales are dealt with in this bill will become the standard for similar legislation in the future.

In summary, I applaud the efforts of the Washington County Commission, as well as the members of the Land-Use Planning Group. I believe their vision and courage

will pay substantial dividends in the years to come. I am also pleased that this has been a bi-partisan effort, with support from all members of our Utah Congressional Delegation. This is very important, given the difficult and delicate nature of the public land debate in our state. It speaks of the level of success which S. 3636 has achieved in balancing difficult and sometimes conflicting interests while addressing the needs of the lands and the people who use them.

S. 3636 is a vital and long-awaited first step in our quest to move forward in preserving our beautiful public lands. I urge you to give your approving vote to this legislation.

Senator CRAIG. Senator Bennett, thank you very much for those opening comments and also a general explanation of the procedure you have gone through so we appreciate having that information for the committee record.

Now let me turn to my colleagues from Nevada. Should I operate as if we were in the 109th still or the 110th?

[Laughter.]

Senator REID. 109th.

Senator CRAIG. All right. With that in mind, you're still in the minority, Harry.

[Laughter.]

Senator CRAIG. And I'll turn to Senator Ensign for his opening comments and then to our new majority leader, for his comments.

#### **STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA**

Senator ENSIGN. Thank you, Mr. Chairman. Thank you for holding this hearing. My comments will be brief. I appreciate all the work that this committee does and has done in the past, helping us with our legislation. Senator Reid and I have worked tirelessly. I really should say that our staffs have worked tirelessly because they are the ones that do most of the work.

They have and it's both our staffs here in Washington as well as our staffs in Nevada, sitting down with all of the stakeholders, everybody from the environmental groups, the local governments, developers, power companies, water companies, Federal, State and local governments—everybody involved, sitting down at the table and it is this special relationship where the local folks come up with local solutions that has paid our legislation work in the past and that's exactly what we've done here.

We actually did town hall meetings out in White Pine County on this bill, just like we did on the Lincoln County lands bill. The hallmark of these pieces of legislation is no one ever gets everything that they want but in the end, it's what everybody can kind of live with and then they always look back on the legislation and turn around and say, you know, that actually turned out to be a lot better than we thought it was going to be and it's funny, because all sides end up saying the same thing about it. And the legislation that we have before us today builds on what we have done in the past.

White Pine County has over 90 percent of its land owned by the Federal Government. It's where my grandmother was born, obviously many, many years ago and so it is a real special part of the State. It's where Great Basin National Park is located and some wonderful people reside there. What we've done is, we've sat down and not only identified about 45,000 acres of land for development,

we expanded the Ely Shoshone Tribal Lands. We expanded some State parks and we expanded some sensitive wildlife areas. We protect the Great Basin National Park. We enhance, in the bill, recreation and tourism opportunities in a pretty economically depressed county.

We also improve Federal lands with fuel reduction and wildlife habitat restoration.

We also did some amendments to the Southern Nevada Public Lands Management Act, which are also good for the Federal lands as well as our State.

The administration has come out against and they've expressed some opposition to this legislation. I want to address that very quickly. It really just has to do with budgets. They think that a lot of the money should go into the Treasury to help reduce the deficit and that's their perspective on this. While I appreciate wanting to reduce the deficit, we all know that if this money went into the Treasury, it would not go to deficit reduction, it would just go to other projects around the country.

We have carefully crafted, in looking at other examples in Western States, for instance, oil and gas revenue in Western States, 50 percent of the money goes to the Federal Government, 50 percent is the State government. That's fair and it has been worked out over time. Well, the money that has been raised in Nevada—we have carefully crafted—we make sure that 50 percent of that money is spent on Federal lands and 50 percent of it is spent on either State or county or on some other projects that we have in our State. Five percent of the money goes to the General Education Fund and other things but it's a 50/50 ratio that is very consistent with what we do in other parts of the Western United States and we've done that purposely to make sure that it follows that model.

We also have to point out historically that our legislation followed the Burton-Santini Act back in the early 1980's and so it is very consistent with residents and we think it just builds on what we have built in the past. There is a lot of local cooperation. We're still just tweaking the legislation just a little bit, a little more local input on it but overall, we think we have a pretty good piece of legislation.

I want to thank my colleague, Senator Reid and Neil Kornze of his staff along with my staff, John Lopez and Kevin Kirkeby—they've done a great job on this legislation.

[The prepared statement of Senator Ensign follows:]

PREPARED STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA

Thank you, Mr. Chairman for holding this hearing today. I appreciate your personal assistance in scheduling a hearing on the White Pine County Lands Bill at this late date in the session, and for allowing your staff to travel to White Pine County earlier this year.

Mr. Chairman, White Pine County, Nevada, is located in rural eastern Nevada. My great grandparents settled in White Pine County 100 years ago, so it is a very special place to my family and me. White Pine County is one of the most beautiful places in my state. It is home to Nevada's only national park, Great Basin National Park, with stunning peaks and glaciers. The citizens of White Pine County are fiercely independent and resilient. They have a great love for this rugged and diverse land.

This bill is the product of bipartisan cooperation and it represents a fair compromise between Senator Reid and me on a number of issues relating to the protection of White Pine County's natural resources. White Pine residents have spent over

two years meeting with a number of stakeholders to work through difficult issues. No one and no group has been left out of this decision making process, and all parties agree that it has been a fair process.

While not perfect, this measure strikes an appropriate balance between economic development, privatizing federal lands, and designating wilderness areas. On whole, the White Pine County Conservation, Recreation, and Development Act of 2006 is a good piece of legislation and it should be passed.

White Pine County, Nevada, has fewer than 10,000 residents. The county has seen more prosperous times. The closure of mines has been hard on the local economy. Additionally, the federal government manages a high percentage of land in the county which makes it difficult to foster growth. The bill seeks modest changes to the land ownership pattern to allow White Pine County to grow and increase its tax base, and gives residents some modest tools they need to prosper. We have also provided the same tools to the Ely Shoshone Tribe. We accomplish these goals through land disposal, natural resource and wildlife conservation, tourism development, additional protection for the wondrous Great Basin National Park, recreation opportunities, Nevada State Parks expansions, wilderness designation, and a study to determine if off highway vehicles should have a designated route through the county.

The White Pine County Conservation, Recreation, and Development Act of 2006 is modeled on an innovative law that I co-authored as a member of the House of Representatives with former Senator Richard Bryan. That measure, the Southern Nevada Public Land Management Act of 1998 (SNPLMA), is widely regarded as a huge success. Two successor laws I wrote with Senator Reid and Congressman Gibbons, the Clark County Protection of Lands and Natural Resources Act of 2002 and the Lincoln County Conservation, Recreation, and Development Act of 2004, followed SNPLMA.

These county bills for Nevada can and should be replicated in every county in Nevada. Many other Western states with large public land holdings may benefit from our Nevada model. The premise is simple: not all land is suitable for public ownership, and other public lands are suitable for increased protection. We settle long-standing wilderness issues by designating permanent wilderness areas and release wilderness study areas to multiple use. Years of disagreements between developers, multiple use advocates, governments, environmentalists, conservationists, and other stakeholders are settled by these land bills. Bringing together people from diverse interests has actually proved to be a very healthy exercise in Nevada; it has fostered a spirit of cooperation that will benefit generations of Nevadans to come.

The White Pine County Conservation, Recreation, and Development Act of 2006 also proposes significant amendments to the Southern Nevada Public Land Management Act of 1998. In some instances, we revise provisions in current law that need improvement. We add new expenditure categories for projects that will be beneficial to the citizens of Nevada and our environment.

For example, an improvement we make to current law relates to local governments in Clark and Lincoln Counties that use parks and trails funds in the SNPLMA Special Account. The localities are having difficulty building approved parks and trails projects. Local governments have to front their own funds and seek reimbursement from the Bureau of Land Management to build these projects. In some cases, this means millions of dollars that have to be borrowed or taken from other programs. To help local governments speed the development of parks and trails, we propose to pay local governments up front, eliminating a cumbersome reimbursement process. We can still maintain the financial integrity of all expenditures.

Additionally, we have significantly streamlined the affordable housing provisions in current law. Our revisions will make federal land available at a discount for workforce housing and improve the lives of hard working families across the state of Nevada.

For new expenditure categories, we have taken great care to propose using the SNPLMA Special Account for critical needs, and in particular, for projects and initiatives that have broad support from the environmental and conservation community. We propose a clean water project for Lake Mead in southern Nevada and hazardous fuels reduction programs for two of the most heavily visited and fire prone areas in Nevada: Lake Tahoe and the Spring Mountains. We seek to conserve Colorado River water through the buyback of turf from public entities. Eighty five percent of the Special Account is now used for environmental and recreational purposes. We do not seek to break from the purposes for which SNPLMA was established in 1998; doing so would be controversial and harm the prospects of the passage of this bill.

Please allow me to address the Administration's main criticism of this bill.

The Administration wants the land sale proceeds to go back to the Treasury to reduce the deficit. I am a fiscal conservative and my opposition to excessive government spending is well known. I would be the first one to help the Administration in this regard if I thought it would make a difference with our deficit. The reality—and everyone knows this—is that these dollars will be spent recklessly somewhere else if we direct them to the Treasury. Knowing that these dollars will be spent elsewhere, I think it is responsible to keep these land sale dollars in the county where they are generated so they will actually benefit federal lands in that county. This Administration and previous Administrations have not dedicated the financial resources necessary to protect our federal lands. Congress has not dedicated the resources. If it was not for the Nevada Congressional Delegation taking the initiative to write these lands bills—they involve a lot of staff work, time, and travel—we would not have, for example, \$300 million at Lake Tahoe to do restoration work on federal lands. I ask that you not penalize Nevadans for finding innovative ways to improve public lands. Other states who want this Nevada lands money should follow the example we have set in Nevada and write their own bills.

In summary, the White Pine County Conservation, Recreation, and Development Act is the culmination of two years of hard work and spirited debate. Senator Reid and I, and our staffs, have worked together closely and have made visits to and held meetings in White Pine County on numerous occasions. We have received thousands of comments and useful suggestions from people across Nevada. This bill touches every corner of our beautiful state, and I am proud to have been part of this endeavor. I look forward to working with my colleagues and interested parties to improve this bill as necessary.

Senator CRAIG. Senator, thank you very much. Now let us turn to Senator Reid.

**STATEMENT OF SENATOR HON. HARRY REID, U.S. SENATOR  
FROM NEVADA**

Senator REID. Senator, you've been gracious in the past in working with Senator Ensign and me on similar bills and making yourself available for hearings much like this one. This is an important piece of legislation for eastern Nevada and for the entire State and White Pine County is our only national park, the Great Basin National Park, which is really a wonder. It is representative of everything that is in the Great Basin. It has the oldest living thing in the world on it, the bristle cone pine trees. It has a glacier. It is just representative of the Great Basin and that's why people come from many, many miles. It's not easy to get to the Great Basin National Park and yet, the visitation is significant.

The bill is a product, as Senator Ensign mentioned, of a long and inclusive process of ranchers, miners, hunters, environmentalists, tribal officials, local electives and others. Senator, the Clark County and Lincoln County bills—I think that speaks volumes. One county has two million or more people in it. The other has 5,000 people in it, Clark County the two million. Lincoln County about 5,000 people are in it. But it's part of the State of Nevada and the legislation that we're asking you to approve today results in wilderness study areas and creates a mechanism for the BLM to sell land that it already has identified for disposal. We expand the Ely Shoshone Indian Reservation and add some protections to the lands around Great Basin National Park, and make reasonable additions to three popular State parks. There are also important divisions in this legislation that are needed to modernize the Southern Nevada Public Lands Management Act.

Mr. Chairman, on public radio today—and I listen to public radio every day and really admire what they put out but today was not one of their best days for a good product. They talked about Las

Vegas's sprawl. Las Vegas has no sprawl. That is why we're building all of these high-rise buildings. There is no land to sprawl on. Public radio this morning reported that some people are talking about this bill. Why should we add to the sprawl?

As we speak, we have 35 buildings being constructed in Las Vegas that go straight up. A few years ago, they would have gone out. There's no place to go out. We have no land. Approximately 90 percent of the land of the State of Nevada is owned by the Federal Government. Forty percent of the air space is controlled by the Federal Government. How much more do they need?

White Pine County is still here. More than 94 percent of the White Pine County is owned by the Federal Government. A little over 5 percent is private land. Is it asking too much in a county that is 95 percent Federal land, to put up a few acres for private ownership? I don't think so.

Does that mean that White Pine County is going to have urban sprawl?

We've worked on these bills. This bill, as partners, Senator Ensign and I. He was able to bring constituencies to the table that I couldn't and vice versa. What we ended up with is legislation forged out of careful and deliberate compromise. That is what legislation is all about. No one gets everything they want in this bill but we believe that everyone will benefit from what we have put forward here today.

This is a special place. Elk herds. As I've mentioned, the bristle cone pines, North America's southern most glacier, Lehman Caves. This legislation is important to the people of White Pine County.

Some have criticized our legislation as a harmful precedent because it might be followed by other States around the West. I don't think that's a very good reason to object to the bill. I am proud of the work that we did in our Clark County lands bill with Senator Ensign. My only concern is maybe we didn't do enough but we did as much as we could. There is no other State in the union like Nevada. The situation in Nevada is unique. Since we became a State in 1864, the Federal Government has been our neighbor in every direction and now the direction is even up. I repeat—40 percent of the air space is controlled by the Federal Government. Ninety percent of the land, approximately, is managed by Federal agencies. No other State faces this situation.

The State with the next highest percentage of Federal land, I believe, would be Utah or Alaska and they don't break the 70 percent mark. Senator Ensign and I went to Ely not too long ago to talk to people there in that little community at a very inconvenient time for them—convenient time for Senator Ensign and I. We had 150 or 200 people show up in that little, small community and we got a lot of feedback, most of it very positive.

One of the key messages we heard that day is that years of work have gone into this effort and they are ready to see this legislation completed. I don't know what to say about the administration opposing this bill, other than saying we are the legislative branch of government and we have as much right to move legislation forward as they have to oppose it and I would hope that they would be more reasonable.



I feel confident that this is good for my constituencies. I think it is good for the West and I would hope that we can get this bill moved and reported as quickly as possible. Thank you, Mr. Chairman.

Senator CRAIG. Well, Senator, thank you. All Senators assembled, thank you all for being here. The committee is pleased to accommodate you as we attempt to move this legislation forward. We have a roll call vote underway on the floor, the Bingaman amendment.

Senator REID. Mr. Chairman, I failed to ask. May I have my full statement made a part of the record?

Senator CRAIG. Without objection, it will be a part of the record. [The prepared statement of Senator Reid follows:]

PREPARED STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA

Mr. Chairman, thank you for taking the time to consider our legislation today. As you know, the White Pine County bill is the third in a line of major public lands bills that Senator Ensign and I have crafted together. We greatly appreciated your support for the Clark County bill in 2002 and the Lincoln County bill in 2004. Each of these pieces of legislation has ensured protection for some of Nevada's most incredible and untouched wild areas while also making economic development possible in our urban and rural communities.

The White Pine County bill, like those before it, is the product of a lengthy and inclusive process. Meetings and ground tours focused on improving public land management in eastern Nevada have been taking place for over 5 years. County Commissioners, ranchers, environmentalists, tribal officials, off-highway vehicle advocates, federal land managers, city officials, hunters and many others have contributed to this legislation during that time.

There is no doubt that this bill is ambitious. In addition to protecting more than 544,000 acres of backcountry as wilderness, it initiates a 3-year study of possible off highway vehicle routes, provides for the reasonable expansions of the Ely Shoshone Indian Reservation, Cave Lake State Park, Charcoal Ovens State Park, and the Steptoe Valley Wildlife Management Area. It also creates a process for gradually increasing the amount of private land in White Pine County, provides essential funding for landscape-scale habitat restoration work, and adds important protections to the lands surrounding Great Basin National Park.

The legislation also contains important improvements to the Southern Nevada Public Lands Management Act (SNPLMA). Passed into law in 1998, SNPLMA has brought essential resources to Nevada for the acquisition of environmentally sensitive lands and the enhancement of key public lands like the Desert National Wildlife Refuge, the Red Rock National Conservation Area and the Lake Tahoe Basin. Today we are proposing alterations that will help adjust SNPLMA to the changing dynamics of the country's fastest growing area.

Some will point out that this type of comprehensive public lands legislation is unusual—and it is. There's a good reason for that. Unlike any other state in the union, 87 percent of the land in Nevada is controlled or managed by the federal government. In White Pine County the number is closer to 94 percent and encompasses some 5.7 million acres under federal management by the Bureau of Land Management (BLM), the Forest Service, the National Park Service and the Fish and Wildlife Service.

To put these numbers into perspective for people who have never visited Nevada or the wide open spaces of the West, this one county is bigger than the entire state of New Jersey. It is also larger than Massachusetts, New Hampshire, Rhode Island, Connecticut, Delaware or Hawaii. And in almost all of those states the percentage of federal land is in the single digits.

Our citizens and visitors benefit greatly from open access to these vast public lands, but at the same time our towns are frequently boxed in by federal land and our counties are severely limited in the tax revenues available to them because of the large federal holdings. This situation requires that the Nevada congressional delegation play an active role in helping our communities meet their changing needs and provides an important opportunity to protect and improve our most sensitive public lands. By addressing these issues on a county-by-county basis we feel that we are better able to strike a fair balance between conservation, growth and other competing interests.

Like similar legislation that we have worked on in recent years, we do not expect anyone to endorse every title in this bill. When it comes to the topics of growth, conservation and stewardship in rural Nevada there are many strong and often opposing views. We believe that this legislation offers a solid middle ground and a path forward for the people of White Pine County.

Again, thank you, Mr. Chairman, for allowing this opportunity today. We believe this legislation is a tough compromise that deserves your support. Below I will provide some background on each of the titles in our bill:

*Title I—Land Sales*

The first title in this bill creates a mechanism to increase the amount of privately held land in white Pine County. Currently, 94 percent of the land in the county is managed by federal agencies. By increasing the total amount of private land in White Pine County, we create opportunities for growth and economic development that will also allow the county to provide greater support to its residents through an expanded tax base.

Our bill calls for up to 45,000 acres of land currently managed by the BLM to be made available for sale in reasonable increments. Each year a minor portion of the total acreage will be made available for public auction after a joint selection is made by the county and the BLM. As part of the land sale authority, the county has the power to halt the annual disposal of land if it deems that action to be appropriate or necessary.

There have been some concerns raised that the number of acres authorized for sale in this legislation is higher than the total number of acres listed as suitable for disposal in the forthcoming Resource Management Plan (RMP) for this area. I want to be clear that the 45,000 acre figure in our legislation is not, as some fear, a directive to the BLM to find additional lands to be sold above and beyond what is already deemed to be suitable for disposal in the RMP. This higher number simply creates a framework for land sales under the existing RMP and any acreage, up to the designated number, that the BLM might identify for disposal through regular order in future plans.

Similar to the Lincoln County bill, the funds raised from land sales under this authority are directed towards essential conservation efforts and for the implementation of various mandates in this bill, including an off highway vehicle trail study, designation of new wilderness areas, and the conveyance of lands into trust for tribal use. A minor portion is also made available to the county for essential uses.

*Title II—Wilderness*

I am very proud of the work we've done on the wilderness portion of this legislation. Working closely with ranchers, hunters, the federal agencies and the White Pine County Commission, we've been able to identify over 544,000 acres that are suitable for protection as wilderness. At the same time, 67,000 acres of BLM wilderness study areas are set to be released.

Twenty years ago I started work on another wilderness bill that included lands in White Pine County. Two wilderness areas in White Pine County came out of that process—Mount Moriah and Currant Mountain. At that time, the very idea of wilderness was still unfamiliar to many Nevadans and was seen by some as cause for alarm. I'm proud to say that today the situation is quite different. A great number of people in White Pine County have now embraced wilderness and the ways in which wilderness designation can compliment, and even improve, the land on which they have hunted, hiked and grazed for generations.

Since the introduction of this bill we have heard from many hunters, ranchers, miners and other concerned citizens about various minor boundary adjustments. We take this input seriously and are working to ensure that everyone's voice is heard. For instance, based on feedback we've received, boundaries along the west side of the proposed Schell Creek Range Wilderness Area were placed one-tenth of a mile uphill of the Ranger Trail and 30 feet from the boundary of private land that runs north of Cave Lake over to Success Summit. These are small points when we discuss them here, but they can make a world of difference on the ground.

*Title III—Transfers of Jurisdiction*

The third title of this bill makes two transfers of land between Federal agencies that will improve public land management in White Pine County. The first is a transfer of approximately 645 acres from the BLM to the Fish and Wildlife Service, to be managed as part of the Ruby Lake National Wildlife Refuge. The land became an inholding after the Fish and Wildlife Service purchased land surrounding the BLM parcel.

The second transfer of roughly 117,000 acres from the Forest Service to the BLM is land that currently surrounds the Great Basin National Park in a donut shape.

Under the present arrangement, the National Park Service, the Forest Service and the BLM manage an awkward patchwork of land. In some areas all three agencies have holdings within the span of a single mile. This division of management and labor makes proper stewardship complicated and inefficient. Of the land proposed to be transferred from the Forest Service to the BLM, roughly 50,000 acres will be withdrawn from mineral and land laws and 70,000 acres will be designated as the Highland Ridge Wilderness Area.

*Title IV—Land Conveyances*

Title IV provides for the conveyance of land to two existing state parks and a state wildlife management area. The Charcoal Ovens State Park will receive approximately 640 acres of BLM land to expand its current holdings. This land is already managed by the state through a Recreation and Public Purposes lease. Cave Lake State Park will also receive a conveyance of Forest Service land to help improve management of this popular area. More than 100,000 visitors travel to this park each year. Our conveyance is designed to expand the park boundaries to encompass areas on Forest Service land that have become popular camping and overflow areas, but which the state park's full-time rangers do not have the authority to patrol and manage. Because of serious budget and staff constraints, the Forest Service has also proved unable to properly manage this area. We have worked closely with the state to address their management needs while keeping the conveyance of Forest Service land to a minimal size. In August I toured this site and the proposed boundaries and believe them to be sound.

This title also directs the conveyance of roughly 6,200 acres of BLM land to the State of Nevada for an expansion of the Steptoe Valley Wildlife Management Area. These additions will maximize management options for this area while also creating a safety buffer between hunters and future residential and commercial development.

In addition to these conveyances of land to the State, the bill also provides for two small but important conveyances that will provide expanded economic opportunity for White Pine County. These include up to 200 acres for the expansion of the White Pine County Industrial Park and up to 1,500 acres for the planned expansion of the White Pine County Airport. Any funds collected from the lease, sale or conveyance of either the industrial park or airport lands will be directed for public uses.

*Title V—OHV Trail Study*

The fifth title builds on the designation of the Silver State Off Highway Vehicle Trail in Lincoln County by authorizing a 3-year study for a possible extension of the trail into and through White Pine County. If the Secretary of the Interior, working with local citizens and other stakeholders, is able to identify a route for the trail that would not significantly impact wildlife, natural or cultural resources, an extension of the Silver State Trail will be designated at the conclusion of the study. We believe that this proposal carefully balances the interests of the off road community, those concerned with conservation values, and those who currently use the land for grazing and similar uses.

*Title VI—Tribal Conveyance*

Perhaps no issue addressed by this legislation has been more discussed and debated than the conveyance of BLM land to be held in trust by the United States for the Ely Shoshone Tribe. Currently, the tribe holds 100 acres in two separate parcels within Ely city limits. For 3 years meetings have taken place in White Pine County to discuss possible configurations and areas for a tribal expansion. Local residents and interested parties have expressed strong feelings on all sides of this issue, and our proposal is stronger as a result of this dialogue.

The Ely Shoshone Tribe—one of many Western Shoshone tribal communities in Nevada, Utah, Idaho, and California—has about 500 members, most of whom live in the city of Ely. Like many tribes, the Ely have a number of modest commercial enterprises and provide a range of governmental, health and educational services to its members, including a language preservation program that brings youth, members and tribal elders together.

This bill transfers roughly 3,500 acres in four separate parcels into trust for the benefit of the Ely Shoshone Tribe. Over half of this acreage is contained in one parcel to the west of Ward Mountain. This larger area is designated exclusively for traditional tribal uses, such as ceremonial celebrations and gatherings and pine nut picking.

The conveyance also includes two parcels to the south of Ely and one approximately 10 miles north of McGill on highway 93. These lands are available to be used by the tribe for residential and commercial purposes. Importantly, the tribe and the county have both pledged their intention to work together to overcome any out-

standing concerns related to zoning, infrastructure and other issues related to the development of these lands.

The placement of these conveyances will allow the tribe to be a partner in the growth and economic development of White Pine County while also ensuring that the city of Ely has sufficient room to grow south along highway 93. We have taken special care to ensure that existing developments, like the KOA, have room to expand.

This conveyance represents a tough compromise between many important interests. Some have proposed that the tribe should receive in excess of 20,000 acres of land in and around Ely. Others have fought to block the tribe from receiving a single acre. We do not expect that the conveyance in this bill will please anyone completely, but we do believe it is a fair compromise that addresses the main concerns of all the concerned parties.

*Title VII—Rangeland Restoration*

Title VII of the bill addresses the invasion of non-native species and the unnatural encroachment of pinon and juniper pine in eastern Nevada by making funds from the Southern Nevada Public Land Management Act special account available for the implementation of the Eastern Nevada Landscape Restoration Project in White Pine and Lincoln Counties. In addition to funding this vital program we have authorized the Secretaries of the Interior and Agriculture to work with the Eastern Nevada Landscape Coalition and the Great Basin Institute in carrying out landscape-scale restoration efforts necessary to restore the health of eastern Nevada's rangelands.

In the interest of understanding and fully addressing the ecosystem changes that are taking place all across the Great Basin, this title also authorizes a feasibility study for an interagency research facility and experimental rangeland in eastern Nevada.

*Title VIII—Amendments to the Southern Nevada Public Land Management Act*

Since the passage of the Southern Nevada Public Land Management Act (SNPLMA) in 1998, thousands of acres of BLM land have been auctioned in southern Nevada. These sales have produced significant funding for conservation efforts, enhancements to our most prized public lands, and the acquisition of sensitive lands throughout our State.

Now, 8 years after its passage, we are seeking to update this legislation so that it continues to serve the full interests of the people of Nevada, our public lands, and the federal agencies that administer the programs funded by the original legislation. Here I highlight some of the key changes.

In this bill we provide funding for two separate 10-year hazardous fuels reduction programs, one for the Spring Mountains and one for the Lake Tahoe Basin including the adjacent lands in the Carson Range in Washoe and Douglas Counties and Carson City. The federal government has made a major investment to restoring Lake Tahoe and the surrounding basin in recent years. The hazardous fuels reduction program we propose is necessary to protect that ongoing investment and to protect the lake. A major fire in the basin would set back water clarity and other conservation efforts many years, and perhaps decades.

We also provide funding for the implementation of the Clark County Multispecies Habitat Conservation Plan, make Washoe County eligible for the acquisition of a popular open space area, and make funding available to help improve the water quality in Lake Mead and to provide a sustainable future for the Las Vegas Wash.

In order to make SNPLMA more manageable for the agencies and municipalities that administer the special account and its many programs, we have included authority that allows all federal agencies that carry out SNPLMA projects to get reimbursed for their direct costs. We have also provided an important authority for the BLM to use SNPLMA funds to properly clear and protect vacant parcels in the Las Vegas Valley from dumping.

One of the key provisions in this title calls for the Department of Interior to distribute funds for approved SNPLMA projects no later than 60 days after a transfer of funds is requested by the recipient. Currently, after a SNPLMA project has been awarded by the Secretary of Interior, the recipient is not able to access the funds except as a reimbursement. What this means is that a recipient must raise sufficient funds to cover the cost of the approved project, spend those funds, and then seek a reimbursement. This system creates unnecessary delays and results in increased construction costs. It also causes confusion in the annual federal budgeting process by creating the false appearance of substantial funds on the federal books when those funds have, in fact, already been obligated.

Another important change that we make to SNPLMA is a complete rewrite of the legislation's affordable housing title. While language was included in the original legislation that allows for land to be acquired at less than fair market value for the development of affordable housing, it took the BLM over 4 years to promulgate the guidelines for implementing this provision. Since that time no eligible party has successfully used these guidelines to secure land and build affordable housing anywhere in Nevada.

With an estimated 170,000 housing units needed in southern Nevada for affordable and workforce housing in the next 10 years, immediate action is needed. As a result, we have struck the largely unworkable language from the original legislation. We have replaced it with an authority allowing all legitimate interested parties to work with the BLM to pursue land for the development of affordable and workforce housing. We also take a further step and require that any parcel of Federal land over 200 acres in size that is auctioned in the Las Vegas Valley a minimum of 5 percent of the housing units be designated for affordable and workforce housing.

We feel that there is a unique opportunity within the framework of SNPLMA to address affordable housing needs in southern Nevada and we stand ready to work through any outstanding issues with this provision.

*Title IX—Great Basin Heritage Route*

Title IX calls for the creation of the Great Basin Heritage Route. I am pleased to report that in the time since the introduction of this bill, another legislative vehicle containing this language reached the president's desk and it has been signed into law.

CONCLUSION

In sum, Mr. Chairman, the White Pine County Conservation, Recreation and Development Act of 2006 is a far-reaching and complex piece of legislation. By making forward looking improvements to public land management and the stewardship of our shared natural resources, we believe we have crafted a bill that will serve the best interests of the people of White Pine County, eastern Nevada and our entire State.

I thank the Chairman for allowing us to appear before his committee today. I look forward to working with the committee to move this legislation forward.

Senator CRAIG. I don't know what the immediate future looks like. It doesn't appear—at least it is not yet announced that there are stacked votes.

Is it 3 o'clock? Well, I'm going to ask everyone to cool their heels. We will put the committee in recess and I'll vote early and often and in this case, it is legal and be back here to reconvene the committee. Those who have come to testify on these two pieces of legislation, the committee will stand in recess.

[Recess.]

Senator CRAIG. Thank you all very much for your patience. Let us move on with this hearing and I will call the first panel.

Chad Calvert, Principle Deputy Assistant Secretary, Land and Minerals Management, Department of the Interior, along with Joel Holtrop, Deputy Chief, National Forest System, USDA. Gentlemen, if you would come forward, please.

Thank you much. Chad, if you would proceed, we would appreciate it.

**STATEMENT OF CHAD CALVERT, PRINCIPLE DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR**

Mr. CALVERT. Thank you, Mr. Chairman. I appreciate the opportunity to testify today on S. 3636, the Washington County Growth and Conservation Act and S. 3772, the White Pine County Conservation, Recreation and Development Act. The administration supports the goals of both of these bills because they will help re-

solve many local land tenure issues. Our concerns with the bills are particularly limited to revenue allocation and distribution and to some technical issues that we believe can be fixed here in this Committee.

These concerns are more fully discussed in my written statement so I will just touch on some highlights here and I would be happy to answer questions you have.

The Washington County bill and the White Pine County bill would help resolve many public land issues. We have stated our support for the Members of Congress to work with local government and interested parties to resolve longstanding issues surrounding the wilderness study areas and other controversial land use problems.

With regard to the Washington County bill, title I of the bill would provide for disposal of roughly 25,000 acres of public lands out of BLM management and into private ownership. The Department supports the general proposition of making some public lands available for community growth where it is necessary and appropriate but we would urge Congress to modify this bill to allow for public process and identification of lands identified under section 102(b)(2). We trust in that process and it actually has been proposed in the White Pine County bill.

Title II of the bill would designate more than 217,000 acres of wilderness on Park Service and BLM lands in Washington County. It would release roughly 11,000 acres back to multiple use management, 92,937 acres of wilderness would be on BLM lands, 123,500 acres of wilderness on National Park Service lands and 2,600 acres of land in the Forest Service. As we have routinely stated, Congress has the sole authority to designate public domain lands to be managed permanently as wilderness and this administration supports these efforts in this legislation.

The legislation would also amend the Wild and Scenic Rivers Act by adding approximately 170 miles of segments of the Virgin River and its tributaries within and adjacent to Zion National Park and to the Wild and Scenic Rivers system. The Department supports the designation of these segments.

Section 401 of the bill addresses a number of issues related to utility corridors, transportation corridors and rights-of-way grants for water-related facilities. It is our understanding that most of these corridors are existing corridors. Our greatest concern is that one of the areas identified for a flood control reservoir is in the Fort Pearce area near the Arizona State line. We have noted the possibility that historic Fort Pearce could be impacted by that designation. The BLM suggests there are other potential sites for flood control along the Fort Pearce wash further upstream. We would like to work with the Committee to modify this language to provide for some planning prior to identification and conveyance of public lands for this purpose.

The Red Cliffs National Conservation Areas designated by title VI would be the first NCA in the State of Utah. Each of the NCAs designated by Congress and managed by the BLM is unique. However, for the most part, they have certain critical elements. These elements are included in this bill and we support this designation in this legislation.

With regard to White Pine County, title I provides for a process to dispose of up to 45,000 acres of public lands out of BLM management and into private ownership. We support the proposition of disposing of public lands to provide for community growth where appropriate and to identify these lands through a public process.

This bill would designate a number of wilderness areas within White Pine County, including over 284,000 acres of BLM-managed lands and 260,000 acres managed by the Forest Service. In addition, nearly 68,000 acres of Wilderness Study Areas managed by the BLM would be released for multiple use. The administration supports the efforts of the Nevada delegation to arrive at boundaries through consensus and compromise.

Title III provides for administrative jurisdiction transfers from the BLM to the Fish and Wildlife Service and from the Forest Service to the BLM, both of which we support because we believe that they will improve manageability. Title IV provides for the conveyance of Federal lands for State and county parks, which we support insofar as they affect the BLM-managed lands.

The Ely Shoshone Tribe currently has a reservation totaling approximately 100 acres in two separate parcels. This bill would add four additional pieces of land totaling 3,500 acres to the reservation.

The largest of the parcels, over 2,000 acres, is reserved for ceremonial uses. The Department supports increasing the Tribe's land base but the Government does not generally hold property improvements in trust and this section should be modified to reflect that.

With regard to the amendments to changes in the Southern Nevada Public Lands Management Act—the administration opposes adding more uses for money in that account. The new purposes in this bill would provide an additional authorization to use money for Great Basin restoration, local water conservation and development projects, local recreation opportunities and hazardous fuels reduction projects. The administration believes funding for these projects should go through the normal budgeting process where they can be better evaluated in terms of Federal priorities and the President's budget.

Finally, the Department does not support replacing the existing affordable housing provisions in the new standards. The BLM has made progress working with local governments and other Federal agencies under the existing standards and we are concerned that changing those standards now will complicate that process.

With regard to the special accounts that would be established for revenues in both the White Pine County bill and the Washington County bill, the administration believes that all American taxpayers should receive some benefit from the sale of public lands and we would like to work with the sponsors and the committee to determine an appropriate percentage of proceeds to return to the Treasury. The administration is also opposed to provisions that require interest to be deposited in the special accounts as the Department of Treasury advises us to require them to borrow money from other accounts to pay the interest.

I appreciate having the opportunity to present these views and we stand ready to assist in resolving the issues raised in my testi-

mony. I applaud the work of the delegations and look forward to moving both pieces of legislation forward.

[The prepared statements of Mr. Calvert on S. 3636 and S. 3772 follow:]

PREPARED STATEMENT OF CHAD CALVERT, PRINCIPAL DEPUTY ASSISTANT SECRETARY,  
LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

#### S. 3636

Thank you for the opportunity to testify on S. 3636, the Washington County Growth and Conservation Act of 2006. This bill attempts to resolve a wide range of public land issues in Washington County, Utah. We strongly support the efforts of the Utah delegation to resolve the longstanding issues surrounding Wilderness Study Areas (WSAs) and a number of other public land issues. The Department of the Interior supports the goals of the legislation, but opposes provisions that require lands to be sold, regardless of whether they have been identified for disposal. Furthermore, the Administration believes that all taxpayers should receive some benefit from land sales. We have concerns with the bill's revenue distribution and will work with the Committee during the legislative process to determine an appropriate percentage of proceeds to be returned to the Treasury. The Department views this legislation as a good approach to resolving some of the identified public land issues in Washington County, Utah and wants to continue working with the sponsors and with other interested members of Congress on some aspects of the bill.

#### BACKGROUND

Washington County, Utah, located in the southwest corner of the State bordering Nevada and Arizona, covers nearly 2,500 square miles, and has been one of the fastest growing counties in the U.S. With a population of only about 10,000 in the mid-1960s, today Washington County has over 100,000 residents. At the same time, more than 75 percent of the County is Federal land, managed by the Bureau of Land Management (BLM), the U.S. Forest Service (USFS), and the National Park Service (NPS). In addition, the County includes lands held in trust by the Federal government for the Shivwits Indian Tribe and lands owned by the State of Utah. How those lands are managed is a critical issue to the people of Washington County; this bill addresses a wide range of land management policies.

A number of provisions of this legislation have the potential to impact the Shivwits Indian Tribe with their reservation in southwestern Washington County. The Department would urge the sponsors to resolve any remaining issues with the Tribe regarding traditional access and other cultural and religious issues.

The bill as introduced references maps without dates. However, we have been informed by the sponsors of the bill that it is their intention to reference the three regional maps dated July 18, 2006, and created by the BLM at the request of Senator Bennett. Therefore, this testimony is based on those maps.

#### *Title I—Land Disposal*

Title I of S. 3636 provides for the disposal of nearly 25,000 acres of public lands out of BLM management and into private ownership. The Department supports the general proposition of making some public lands available for community growth where it is necessary and appropriate, but cannot support requirements to dispose of a specific amount of public lands that may not be suitable for disposal.

Under S. 3636 the disposal of land would take place in three phases. Disposal for the first two phases is by auction and, for phase three, by auction or through exchange. In the first phase, lands are to be disposed of within the first year after enactment of the bill (described in section 102(h)(I)(A)(i) as "First Directed Sale" lands), and include 1,125 acres of BLM-managed land specifically identified on the map in 15 separate, mostly smaller parcels. The majority of these lands have been preliminarily identified by the BLM for disposal through the 1999 St. George Resource Management Plan (SGRMP). The local BLM had previously reviewed these lands for cultural and historic issues, threatened or endangered (T&E) species conflicts and other potential values that could preclude a conveyance out of federal ownership, and believes that sale of these lands can be accomplished. Surveys and appraisals will be required; therefore an 18-month window, rather than the one year contemplated in the bill, would be more realistic.

In the second phase, the lands to be disposed of within the five years following the first disposal outlined above (described in section 102(b)(1) as "Directed Sale Lands") include approximately 3,262 acres specifically identified in one small and



two large parcels. Most of these lands had been preliminarily identified for disposal through the SGRMP. However, that identification was only preliminary. The local BLM has been made aware of conflicts on these lands, which include cultural resources as well as the presence of T&E species. Section 102(i) of the legislation anticipates these problems by allowing the Secretary of the Interior to place restrictive covenants on lands sold in order to protect the interests of the United States, including cultural or T&E species. The language gives the Secretary sufficient discretion and we do not oppose it.

Finally, the third phase includes lands to be disposed of not before 2010 (described in section 102(b)(2) as “Lands Eligible for Consideration Under Section 102 Disposal”). This includes over 372,000 acres from which at least 20,000 acres are to be identified for disposal and sold or exchanged (no upper limit is established by the legislation for disposal lands). The selections of the specific parcels are to be reached jointly by the BLM and the County. The legislation specifically excludes from consideration any lands that are designated as wilderness by this Act, the National Conservation Area designated by this Act, or any areas of critical environmental concern (ACECs).

I would note that without additional legislative direction, the BLM will look to the Federal Land Policy and Management Act (FLPMA) for guidelines to determine the suitability of lands to be disposed. In this case, the BLM has not yet identified 20,000 acres as suitable for disposal in this area and believes it may be difficult to identify that many acres that are suitable pursuant to FLPMA and in developable areas. For example, there is a high concentration of listed threatened or endangered species on BLM-managed land within Washington County and four of the ten listed species are endangered plants that depend on public land habitat to avoid extinction. Similarly the density of unique and special cultural resources in the identified area is exceptionally high. We recognize that the Department has discretion on the selection of lands for disposal, but point out this may conflict with the apparent non-discretionary target stated in Section 102(b)(2). The Department could not support this third phase unless the bill is modified to give BLM the flexibility to establish a discretionary disposal target through a public process.

In addition to these concerns with the disposal language, we also have concerns with language on the use of sales revenues. Section 103 of S. 3636 addresses the disposition of the proceeds from the sale of lands directed in section 102. Specifically, it directs that 15 percent of the proceeds be distributed to State and County entities, while 85 percent would be retained by the Federal government. Among the allowed uses of the Federal government’s share are: reimbursement of costs to prepare the lands for sale, acquisition of State and private inholdings within the NCA proposed by Title VI, various conservation projects on Federal land in Washington County, and other costs related to implementation of the Act. Section 103(b) authorizes interest to be earned on amounts deposited into the special account. As stated above, we’d like to work with the Committee to address our concerns with this section.

In addition, the Administration does not support section 103(b), which allows the land sales account to earn interest. The Department of the Treasury strongly opposes such provisions, which effectively require the Treasury to borrow more funds to pay this interest.

We would like the opportunity to address a few technical, but nonetheless significant, issues. For example, section 102(g) would withdraw over 375,000 acres in Washington County from the public land laws, the mining laws, mineral leasing laws, and mineral materials laws. Notably, this would preclude mineral materials sales for items such as sand and gravel—critical for many infrastructure needs on an unnecessarily broad swath of land. We would suggest modifying this language to allow BLM to use its general segregation and withdrawal authority once lands have been identified for disposal.

#### *Title II—Wilderness Areas*

The bill would designate a number of wilderness areas within Washington County including approximately 123,504 acres of wilderness to be managed by the National Park Service within Zion National Park, approximately 92,937 acres of wilderness to be managed by the BLM in 13 individual areas, and 2,643 acres of Forest Service wilderness. In addition, the bill would release 11,370 acres of BLM-managed lands from Wilderness Study Area status and would return them to the multiple public uses authorized by the Federal Land Policy and Management Act (FLPMA).

The BLM-managed lands that would be designated wilderness by S. 3636 include areas of rugged beauty, solitude, and important wildlife habitat. In the northeastern part of the County, the proposed Deep Creek and Deep Creek North wilderness areas consist of sheer canyon walls dropping to dramatic year-round rivers. Hanging

gardens with wildflowers compete with a variety of raptors; including bald eagles and giant California condors, for the hiker's attention. The steep and rugged Hurricane Cliffs form the most outstanding feature of the proposed Blackridge Wilderness. Soaring in elevation by 2,000 feet in under a mile, the area is a magnet for hikers, hunters and photographers.

In the southeast, Canaan Mountain's rugged topography includes peaks and colorful vermilion cliffs which form the southern gateway to Zion National Park. The scenic vistas available from these peaks increasingly attract recreationists.

Within the Red Cliffs National Conservation Area (NCA) proposed by Title VI of the bill, lie the proposed Cottonwood Canyon Wilderness on the east and Red Mountain Wilderness on the west. The Cottonwood Canyon Wilderness (and the adjoining Forest Service-managed Cottonwood Forest Wilderness) forms the spectacular "front range" between the city of St. George to the south and the Pine Valley Mountains to the north. Within minutes of downtown St. George, this area is prized for its primitive recreational opportunities. It lies within the Red Cliffs Desert Reserve, which has been federally designated as habitat to protect the threatened desert tortoise. It is also home to peregrine falcons and state-listed species such as the Gila Monster. The aptly named Red Mountain Wilderness provides a scenic backdrop to the communities of Ivins and Santa Clara and is a popular destination for local citizens.

The bill also designates the Cougar Canyon Wilderness located in the northwest corner of Washington County. Abutting the Nevada state line, this wilderness area would connect with the Tunnel Spring Wilderness in Lincoln County, Nevada, designated by Public Law 108-424. The area is dominated by wooded canyons and low mountain peaks and its designation would form a more manageable unit across state lines.

We applaud the hard work of the sponsor and other members of the Utah delegation in reaching consensus on BLM wilderness designation and WSA release. Congress has the sole authority to designate lands to be managed permanently as wilderness and we believe these areas are manageable as such. There are some technical issues related to Title II that we would like the opportunity to clarify. We would also like the opportunity to work with the sponsor and the Committee on possible minor boundary adjustments to ensure efficient manageability.

S. 3636 would also designate 123,743 acres of Zion National Park as wilderness. The lands proposed for wilderness designation are similar to those that were included in a proposal to recommend wilderness for the park that was originally transmitted to the President on June 5, 1974, by then Secretary of the Interior Rogers CB Morton and in the 2001 General Management Plan (GMP) for the park. The 1974 proposal recommended designation of 120,620 acres of the park as wilderness.

Differences in the acreage figures between the 1974 transmittal and S. 3636 are the result of land acquisition in the park that has taken place since 1974, acquisition of water and grazing rights, and termination of non-conforming uses. Additional lands within the park consisting of approximately 9,000 acres, but located in Kane County, have also been recommended for wilderness designation and were included in the 1974 transmittal and the 2001 GMP. Although the Department supports the wilderness designation for the park included in S. 3636, we suggest that the bill be amended to include this additional, previously recommended wilderness so that all the lands proposed for wilderness designation within the park are designated.

The four small units surrounding Zion National Park vary in size from 32 to 663 acres. These are logical extensions of the proposed wilderness areas within Zion National Park and are appropriate for wilderness designation. The legislation transfers administrative jurisdiction for the largest of these parcels, Watchman Wilderness, to the National Park Service but leaves the other three isolated pieces of wilderness with the BLM. Transferring all three of these small parcels—Beartrap Canyon Wilderness (40 acres), Goose Creek Wilderness (98 acres), and Taylor Creek Wilderness (32 acres)—to the National Park Service could make land management more efficient and would reduce confusion for the public. Transfer of these lands to Zion will improve their management and enhance the opportunities for visitor enjoyment of these special areas.

#### *Title III—Wild and Scenic River Designation*

The legislation amends the Wild and Scenic Rivers Act by adding approximately 170 miles of segments of the Virgin River and its tributaries within and adjacent to Zion National Park to the Wild and Scenic Rivers system. Seven of the segments are partially or wholly on BLM-managed lands while the remaining 32 segments are wholly within Zion National Park. All of the segments of the rivers that are recommended for designation as wild, scenic, or recreational rivers were found eligible and suitable for inclusion within the Wild and Scenic River System through the Zion

National Park 2001 GMP and through the BLM St. George Field Office Resource Management Plan completed in March 1999. The Department supports the designation of these segments.

*Title IV—Utility Corridors and Rights-of-Way*

Section 401 of the bill addresses a number of issues related to utility corridors, transportation corridors and rights-of-way grants for water-related facilities.

The utility corridors established under section 401(a) total over 900 linear miles at a width of approximately 1/2 mile in most locations. The corridors are intended to be used for utilities, water infrastructure, and transportation purposes. While many of the miles of corridors cross BLM-managed public lands and Forest Service-managed lands, large segments also cross private land, Indian tribal land, and land within Zion National Park. The proposal indicates seven segments that cross the Shivwits Indian Reservation. In addition, some of the corridors on the map appear to be duplicative. We believe a close and careful review of these corridors needs to be completed before this legislation proceeds to markup. We note that the Secretary is allowed to collect funds from the users of these corridors for cost-recovery, which we support.

In addition, the Secretary is charged with identifying a transportation corridor either through or around the Red Cliffs NCA designated by Title VI of this bill. Location of a transportation corridor in this type of sensitive area could be problematic or controversial. The Department would comply with NEPA and would proceed in full consultation with all affected Federal, state and local interests on this study. We appreciate the legislative language being clear on this point.

Finally, Title IV establishes ten areas totaling 8,844 acres as rights-of-way for water-related projects including reservoirs, canals, wells, storage and other related facilities. The areas range in size from 39 acres to two large areas of 1,770 and 5,408 acres. We have a few general concerns and one specific concern with these rights-of-way grants.

Under Title V of FLPMA the BLM has the authority to grant rights-of-way for a wide variety of uses including: roads, powerlines, pipelines, communications sites and reservoirs. The applicants for these rights-of-way pay both administrative cost recovery fees as well as rentals. In the case of linear rights-of-way, rent is determined by a published schedule. Rent for aerial rights-of-way is based on appraised value. Municipal utilities are charged rent if their principal source of revenue is customer charges.

In general, the legislation appears to allow the BLM to charge administrative cost recovery for these grants; however it does not allow the BLM to charge rent. We believe it is appropriate that the legislation either allow for the payment of rent, or provide for the outright purchase at appraised value of these lands by the water district. In addition, the grants for use are made in perpetuity. If the rights-of-way are not provided for outright purchase, we believe it would be more appropriate to make these easements dependent on their actual use and approval by any State or Federal agencies and for the life of the facility—so as not to permanently encumber the public lands for projects that may never be developed.

Our greatest specific concern is that one of the areas identified for a reservoir is in the Ft. Pearce area near the Arizona state line. A reservoir or flood control project on this site could inundate historic Ft. Pearce which is a National Historic Register site, as well as parking areas, a well-used designated OHV trail, interpretive displays and other important cultural sites including rock art panels. We believe that there are potential sites for flood control along the Ft. Pearce wash further upstream that would result in far less negative impacts to the resources. We would like to work with the Committee to identify a better site.

*Title V—High Desert OHV Trail*

Title V directs the Secretary to develop a travel plan within two years of enactment of this legislation to designate an OHV trail in Washington County. The trail is to be established on existing roads and trails. This trail has the potential to be a significant draw for tourism and will allow visitors and residents another way to experience and enjoy their public lands while hopefully minimizing OHV use outside of designated trail networks. We support the development of this trail. The agencies would like to combine the final travel plan and the management plan into a single document and would request the sponsor extend the time for developing the plan to three years.

*Title VI—Red Cliffs National Conservation Area*

The Red Cliffs National Conservation Area (NCA) would be the first NCA in the State of Utah. Each of the NCAs designated by Congress and managed by the BLM is unique. However, for the most part, they have certain critical elements; these in-

clude public land, mining and mineral leasing law withdrawal, OHV-use limitations, and language that charges the Secretary to only allow those uses which further the purposes for which the NCA is established. Furthermore, NCA proposals do not diminish the protections that currently apply to the lands. The Red Cliffs NCA proposal honors this spirit and the Department supports its designation.

The proposed Red Cliffs NCA would overlay the existing Red Cliffs Desert Reserve which was designed as a part of the Washington County Desert Tortoise Habitat Conservation Plan (HCP) adopted in 1996. The HCP protects important Desert Tortoise habitat while also allowing continued development in St. George and nearby communities. As directed, the BLM has acquired nearly 8,000 acres of State and private inholdings within the Reserve from willing sellers.

In addition to providing important habitat for the recovery of the desert tortoise and other listed species such as the Shivwits milkvetch and the Woundfin Minnow and Virgin River Chub, the proposed NCA is a popular area for recreationists. Over 130 miles of trails provide excellent opportunities for hikers, mountain bikers, and equestrians while ensuring compatibility with the species' recovery. The boundaries of the proposed NCA include nearly 44,000 acres of BLM-managed land.

There are significant cultural and historic resources within the NCA as well as the natural resources described in the legislation. We recommend that cultural, historic and paleontological resources protection be added to the purposes for which the NCA is established.

#### CONCLUSION

We would like the opportunity to work with the sponsors and the Committee to address the issues we have raised in our testimony along with some technical amendments. We applaud the hard work of the members of the Utah Congressional delegation on this legislation and we look forward to working with you to move the legislation forward.

#### S. 3772

Thank you for the opportunity to testify on S. 3772, the White Pine County Conservation, Recreation, and Development Act of 2006. This bill attempts to resolve a wide range of public land issues in White Pine County, Nevada. We strongly support the efforts of Senators Ensign and Reid to resolve the longstanding issues surrounding Wilderness Study Areas (WSAs) and a number of other public land issues. The Administration supports many of the goals of the legislation but opposes the bill as written. We have concerns with the bill's revenue distribution and will work with the Committee during the legislative process to determine an appropriate percentage of proceeds to be returned to the Treasury. We also oppose Title VIII regarding the changes in the distribution of revenues under the Southern Nevada Public Land Management Act (SNPLMA), Public Law 105-263, and have concerns with the specific language of the proposed expansion of uses of SNPLMA funds and proposed revisions to SNPLMA's affordable housing provisions.

#### BACKGROUND

White Pine County in eastern Nevada covers a sprawling 8,900 square miles with a population of just under 9,000 persons. The county seat of Ely and surrounding towns are home to the overwhelming majority of county residents. White Pine's high desert is truly wide open space. Ninety one percent of the county is owned by the Federal government, including 77 percent managed by the Bureau of Land Management (BLM), totaling nearly 4.4 million acres. Additional lands are managed by the Forest Service and the National Park Service through the Great Basin National Park.

#### *Title I—Land Disposal*

Title I of S. 3772 provides for a process to dispose of up to 45,000 acres of public lands out of BLM management and into private ownership. We support the general proposition of disposing of public lands to provide for community growth as appropriate, and we support identifying these lands through a public process.

The bill calls for the potential disposal of lands that have been preliminarily identified for disposal by the BLM through its land use planning process. The Ely Resource Management Plan (RMP) is intended to be finalized in the spring of next year. The bill provides for the disposal of lands identified in this upcoming plan as well as subsequent amendments to the RMP. We support this disposal process as it allows for full public involvement in determining which lands are best transferred from public to private ownership. Section 101(h) provides that sales of the land shall begin one year following enactment of this Act. We recommend that this be modified

to one year following completion of the Ely RMP. The BLM would undertake to complete all cultural and resource clearances, as well as appraisals and surveys, before any lands could be offered for sale. In addition, specific decisions on which of lands already identified for disposal would be sold would be determined jointly by the BLM and the county, thus allowing the BLM to exclude any lands with newly discovered conflicts.

We have concerns with the bill language on the use of sale revenues. Section 102 of S. 3772 addresses the disposition of the proceeds from the sale of lands directed in section 101. Specifically, it directs that 15 percent of the proceeds be distributed to State and county entities, while 85 percent would be retained by the Federal government. Among the allowed uses of the Federal government's share are: reimbursement of costs to prepare the lands for sale, the development and implementation of a multi-species habitat conservation plan for the county if determined necessary, and other costs related to implementation of the Act. Section 102(b) authorizes interest to be earned on amounts deposited into the special account. As stated above, we would like to work with the Committee to address our concerns with this section.

In addition, the Administration does not support section 102(b), which allows any amounts deposited in the special account to earn interest. The Department of the Treasury strongly opposes such provisions, which effectively require the Treasury to borrow more funds to pay this interest.

#### *Title II—Wilderness Areas*

The bill would designate a number of wilderness areas within White Pine County, including over 284,000 acres of BLM-managed lands and nearly 260,000 acres managed by the Forest Service. In addition, nearly 68,000 acres of WSAs managed by the BLM would be released from WSA status and interim protection of their wilderness values under section 603 of the Federal Land Policy and Management Act (FLPMA). Release will return these lands to non-wilderness multiple use. The BLM currently manages over 152,000 acres of WSA in White Pine County.

The eight proposed wilderness areas to be managed by the BLM represent a broad range of topography. Mount Grafton at nearly 11,000 feet soars over southern White Pine County and is the home for ancient bristlecone pines. High elevation basins in the Goshute Canyon area surrounded by massive peaks are filled with beautiful spring and summer wildflowers that add color to the dramatic landscape. Large open areas interspersed with pinyon and juniper provide excellent habitat for wildlife including mule deer, elk, and upland game birds such as sage grouse, blue grouse, and quail.

Opportunities abound throughout the proposed wilderness areas for primitive and unconfined recreation, including hunting, fishing, hiking, caving, and camping. Backcountry visitors will have the chance to witness nature close up, whether on towering limestone cliffs, in beautifully decorated wild caves or within a soothing Aspen grove.

The BLM supports the efforts of the Nevada delegation to arrive at boundaries through consensus and compromise. Congress has the sole authority to designate lands to be managed as wilderness and we believe these areas are manageable as wilderness. We would like the opportunity to work with the sponsors and the Committee on technical issues, including possible minor boundary adjustments to ensure the greatest manageability.

#### *Title III—Transfers of Administrative Jurisdiction*

Section 301 of S. 3772 transfers approximately 645 acres of land from BLM management to the U.S. Fish and Wildlife Service for inclusion in the Ruby Lake National Wildlife Refuge. These lands are an inholding within the existing National Wildlife Refuge and are currently managed by the U.S. Fish and Wildlife Service under a memorandum of understanding with the BLM. This transfer would not alter any current uses of the lands and we fully support this transfer.

Section 302 transfers approximately 117,000 acres from Forest Service management to BLM management, of which 62,500 acres will be part of the 70,000-acre Highland Ridge Wilderness area and the remaining 54,440 acres will become part of a new BLM-managed "withdrawal area." Some of the lands identified for transfer surround the Great Basin National Park in southeastern White Pine County (largely those identified as the "withdrawal area") while the Highland Ridge Wilderness lies to the south of Great Basin National Park. Administrative boundaries in this area are complex, with three Federal agencies providing management in one mountain range. This transfer would improve efficiency for the public and for regional resource management.

The 54,440 acre "withdrawal area" envisioned by the bill would allow motorized and mechanized vehicles on roads and trails designated for this use and withdraw

the lands from public land disposal and mining laws, as well as the mineral and geothermal leasing laws. All cooperative agreements currently in place would be continued by the BLM.

*Title IV—Public Conveyances*

Section 401 provides for the conveyance of Federal land to the State of Nevada and White Pine County for three separate public parks and/or wildlife and natural resource areas. In all three cases, the state of Nevada would pay all costs associated with the transfers, and the bill includes a reversionary clause for the lands to revert to the Federal government if they are used for purposes other than those described in the legislation.

Specifically, the BLM would transfer over 6,000 acres for the expansion of the Steptoe Valley Wildlife Management Area just southeast of Ely. The lands to be transferred surround the current 6,500-acre Wildlife Management Area. The Steptoe Valley Wildlife Management Area plans an expansion of the Commins Reservoir. This transfer would allow that expansion which will benefit the regional economy through improved hunting and fishing opportunities.

Second, the bill proposes to transfer 658 acres from the BLM to the State of Nevada for the expansion of the Ward Charcoal Ovens State Park. South of Ely, the Ward Charcoal Ovens State Park is a popular recreation area with, at its centerpiece, six beehive-shaped historic charcoal ovens. Constructed in 1873, they began as a method of converting pinyon and other woods to charcoal for use in smelting operations and later saw a variety of other uses, including hideouts for stagecoach bandits. The lands to be transferred from the BLM are currently under a Recreation & Public Purposes (R&PP) lease to the State and this provision would simply transfer those lands. Transfer of these lands will allow for the fuller interpretation of local mining history and we support their transfer.

The bill also proposes to transfer Forest Service lands for the expansion of Cave Lake State Park. We defer to the Forest Service regarding this provision.

Section 402 provides for the conveyance to the county of not more than 1,500 acres for the expansion of the White Pine County Airport and not more than 200 acres for the expansion of the White Pine County Industrial Park. While the legislation does not specify which acres are to be transferred, the BLM in Nevada has been working cooperatively with White Pine County to identify both of these parcels and transfer of these lands. We generally could support this conveyance, but we believe the legislation should require that the county pay fair market value for these lands. Also, we would like to work with the sponsors and the Committee to identify the location of these parcels on a map. While the legislation transfers the lands without consideration, if the county sells, leases, or otherwise conveys the land, any proceeds would be distributed according to the 85/15 formula established in Title I of this bill. As discussed previously, we have concerns with the bill's revenue distribution and will work with the Committee during the legislative process to determine an appropriate percentage of proceeds to be returned to the Treasury.

*Title V—Silver State OHV Trail*

Title V directs the Secretary of the Interior to complete a study of routes for the Silver State Off Highway Vehicle Trail. Following the study, the Secretary shall designate the trail if it is consistent with certain principles set out in the legislation, including that it is a continuation of the Silver State trail previously designated under Public Law 108-424 and that it will not have significant negative impacts on the natural and cultural resources. This trail has the potential to be a significant tourism attraction and will allow visitors and residents another way to experience and enjoy their public lands. We support the development of this trail, but we do not support using land sale funds to pay for these activities but instead prefer to go through the regular budgetary process.

*Title VI—Transfer of Land to be held in Trust for the Ely Shoshone Tribe*

The Ely Shoshone Tribe currently has a reservation totaling approximately 100 acres in two separate pieces. S. 3772 proposes to add four additional parcels of land, totaling 3,536 acres to the reservation. The largest of the four parcels, over two thousand acres, is reserved for ceremonial uses.

Under the bill, the Federal government would take those lands, including improvements and appurtenances, into trust for the tribe. While the Department supports increasing the Tribe's land base, it opposes the title as written.

The Department takes land, not improvements, in trust for a tribe. The Department does not have a trust obligation for improvements that are permanently fixed to real property. Therefore, “, including any improvements on, and appurtenances to, the land” in section 6(a) should be struck from the bill.

In addition, the Department is concerned that title VI is not clear regarding which lands would be taken into trust for the Tribe. We recommend that a legal description of the land to be taken into trust be included in the legislation, rather than just being referenced on a map. This will ensure that there is no confusion regarding which lands are to be taken into trust.

*Title VII—Eastern Nevada Landscape Restoration Project*

Title VII provides for the implementation and enhancement of the Eastern Nevada Landscape Restoration Project. The mission of the Eastern Nevada Landscape Restoration Project is to restore the dynamic and diverse landscapes of the Great Basin for present and future generations through collaborative efforts. These healed, diverse landscapes will be a result of restoration achieved and maintained with naturally occurring disturbances such as fire, in combination with other management prescriptions, including traditional uses.

Under the bill, the Southern Nevada Public Land Management Act (SNPLMA) account would be the source of funding for the Eastern Nevada Landscape Restoration Project. We oppose the expansion of the funds' uses beyond the currently authorized uses in SNPLMA.

*Title VIII—Amendments to the Southern Nevada Public Land Management Act of 1998*

The Southern Nevada Public Land Management Act (SNPLMA) established a process for the orderly sale of Federal lands in the Las Vegas Valley. Under SNPLMA, 85 percent of the proceeds from land sales are deposited in a special Federal account for various uses including: the acquisition of environmentally-sensitive lands; the creation of parks, trails, and natural areas; capital improvements; conservation initiatives; multi-species habitat conservation plans; water studies; and Lake Tahoe restoration projects. Five percent of the proceeds are paid to the State of Nevada General Education Fund and 10 percent are paid to the Southern Nevada Water Authority.

The revenue generated from SNPLMA land sales has greatly exceeded anticipated levels. To date, SNPLMA land sales have totaled nearly 13,000 acres and have generated \$3.032 billion in revenue and interest. Of this amount, approximately \$436 million has been paid to the State of Nevada General Education Fund and the Southern Nevada Water Authority, while approximately \$2.596 billion has been deposited in the Federal special account. Of the amount deposited in the special account, approximately \$2.092 billion is available to the Secretary of the Interior to fund land acquisitions; capital improvements; conservation initiatives; parks, trails and natural areas; multi-species habitat conservation plans; and Lake Tahoe Restoration projects. To date, approximately \$2.120 billion, or 95 percent, of the funds available to the Secretary for these projects have been authorized for expenditure.

Title VIII of S. 3772 proposes a number of changes to the use of SNPLMA's special account and use of the deposit in the Federal account from Federal land sales. Section 803 of Title VIII expands the use of the special account for specified projects and initiatives that benefit resources, improve infrastructure, and accommodate growth in Nevada. These projects include:

- implementation of the multi-species habitat conservation plan for Clark County, Nevada;
- payments to the Southern Nevada Water Authority for implementation of the "Cash for Grass" water conservation program;
- payments to the Southern Nevada Water Authority for water quality improvement projects for the Las Vegas Wash, the Las Vegas Bay, and Lake Mead;
- development of parks by the State of Nevada in Clark County;
- expansion of SNPLMA's parks, trails, and natural areas provision to include the acquisition of the Ballardini Ranch in Washoe County, Nevada, for a county park; and
- development and implementation of a ten-year multi-jurisdictional hazardous fuels reduction and wildfire prevention plan for the Lake Tahoe Basin and the Spring Mountains.

Other changes in Title VIII allow the BLM and other Federal agencies to more efficiently implement SNPLMA. Those changes include reimbursement for costs associated with clearing, protecting, and arranging for a sale, lease, conveyance, or disposal under SNPLMA, as well as expediting the transfer of funds to local entities. Finally, Section 804 of Title VIII rewrites the affordable housing provisions contained in SNPLMA that currently provide for the development of affordable housing in Nevada.

The Administration opposes the proposed changes to SNPLMA. We oppose the re-allocation of revenues that would provide a greater share of revenues to local entities such as the Southern Nevada Water Authority. We also have concerns with other provisions affecting the BLM portion of receipts, such as the low-income housing provisions, and the expansion of the kinds of activities on which BLM would be authorized to spend land sale proceeds.

In addition, we oppose payments from the special account to the Southern Nevada Water Authority for the water conservation and water quality improvement initiatives that are proposed in sections 803(1)(x) and (xi) of Title VIII of the bill. As we have noted, SNPLMA already provides for the payment of 10 percent of revenue generated from land sales to the Southern Nevada Water Authority for local water projects. To date, these payments have totaled approximately \$282 million, and additional revenue is guaranteed with future land sales.

Finally, while we support the intent of making housing available to low-income families and individuals in the burgeoning southern Nevada area, we cannot support the affordable housing provisions included in section 804 of Title VIII. As written, we believe the legislation may actually discourage the development of affordable housing due to some of the administrative processes that are included.

Over the past few years, the BLM has worked closely with other Federal agencies and local entities to implement the affordable housing provision contained in the existing subsection 7(b) in SNPLMA. The BLM is currently implementing the first affordable housing project in Clark County, Nevada under SNPLMA, and we understand that the State has plans for several other projects in both Clark County and Carson City, Nevada. The BLM has clear procedures in place to implement the SNPLMA affordable housing provisions and recently issued policies that increase the discount rates for land sales for such sales. The current law's requirements that BLM, the U.S. Department of Housing and Urban Development (HUD), and local and state governments have principal roles in affordable housing has been a fundamental reason for the progress to date. Changing these provisions of SNPLMA now may undermine our progress and complicate our efforts. We would like the opportunity to work with the sponsors and the Committee to resolve these concerns.

*Title IX—Great Basin Heritage Route*

Finally, we note that the provisions relating to the Great Basin Heritage Route were part of S. 203, which was signed by President Bush on October 12, 2006, and became Public Law No. 109-338. For this reason, we recommend that Title IX be removed from the bill.

CONCLUSION

We would like the opportunity to work with the sponsors and the Committee to address the issues we have raised in our testimony along with a host of smaller, more technical and managerial amendments. We applaud the hard work of Senators Ensign and Reid in attempting to resolve a number of difficult public lands issues and we look forward to further refinement of this legislation.

Senator CRAIG. Thank you very much.  
Now we'll turn to you, Joel. Please proceed.

**STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE**

Mr. HOLTROP. Mr. Chairman, thank you for the opportunity to provide the Department's views on the bills that are on the agenda today. I will limit my remarks to those portions of each bill related to the National Forest System lands and will defer to the Department of the Interior on provisions relating to the lands managed by the Bureau of Land Management.

Regarding S. 3636, in addition to provisions primarily affecting the BLM, this bill would establish 2,642 acres of National Forest Service System land as the Cottonwood Forest Wilderness, prescribe certain management objectives in the wilderness and provide for other management planning and conservation projects.



The Department does not oppose the proposed wilderness designation. The bill includes various provisions regarding management within wilderness. The Department prefers to follow the provisions of the Wilderness Act of 1964 in administering wilderness.

The Forest Service currently subjects proposed uses in wilderness to review on a case-by-case basis, allowing for cooperatively working with partners to balance use in compliance with the act.

The Department does not oppose the provision that would require the Secretaries to enter into a cooperative agreement under which the State or its designee would carry out wildlife management activities in wilderness areas. The Forest Service recently signed a cooperative agreement with the Association of Fish and Wildlife Agencies and the BLM that outlines policies and guidelines for fish and wildlife management in wilderness areas, including protocols for managing non-conforming uses. This national agreement provides a mutually agreed upon method to address management issues and it would be our preference to develop any State agreement in accordance with it, to maintain a consistent approach.

Regarding S. 3772, this is a complex land management bill with multiple provisions related to the Forest Service and BLM lands in White Pine County, Nevada. The Department recognizes that the bill sponsors have conducted extensive outreach and worked with several communities of interest in developing the various titles in the bill.

Title II would designate 259,908 acres of wilderness on National Forest Service lands. The Department generally supports these wilderness designations although we have concerns that some of the boundaries would make the areas difficult to manage and could result in conflicts between motorized and non-motorized users. These areas include those that have pass-through and cherry-stemmed roads, that have small islands of land surrounded by wilderness that lack wilderness characteristics, and that split administration between the Forest Service and BLM.

We would like to work with the committee and bill sponsors to modify the proposed wilderness boundaries.

For the most part, the Department does not object to the standard wilderness provisions in the bill.

However, the Department objects to or does not support provisions in title II regarding aircraft use and water development projects in wilderness for wildlife management. The Department should have the discretion whether to review and approve any potential aircraft landings or water development installation cooperatively with partners.

This approach allows for administration of the National Wilderness Preservation system in accordance with the Wilderness Act of 1964 and is consistent with the National Cooperative Agreement with the Association of Fish and Wildlife Agencies.

The Department also objects to the title II provision regarding a cooperative agreement between the State of Nevada and the Bureau of Land Management for wildlife management.

Portions of this agreement are not consistent with Forest Service wilderness management policy and the Forest Service is not a party to this agreement.

Title III would transfer administrative jurisdiction over 117,528 acres from the Forest Service to the BLM. This transfer would consolidate the administration of land surrounding the Great Basin National Park from two agencies to one, eliminating a ring of National Forest System land surrounding Great Basin National park, which is in turn, surrounded by BLM lands. The current situation makes the lands difficult to manage because of inconsistent management objectives and is a source of some confusion to the public.

Although the Department generally does not support the transfer of National Forest System lands without compensation or reciprocity, in this case, the transfer makes sense from an administrative standpoint. Because the transfer will provide for consistent management under continued Federal stewardship with continuation of existing uses, the Department does not object to it.

Title IV would convey an unspecified amount of National Forest Service land to the State of Nevada for no consideration to expand Cave Lake State Park. The Department opposes the transfer of land to the State for no consideration.

Thank you for the opportunity to discuss both of these bills and I'm happy to answer any questions you may have.

[The prepared statement of Mr. Holtrop follows:]

PREPARED STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM,  
FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide the Department's views on the bills which are on the agenda today. I will limit my remarks to the provisions of each bill related to National Forest System lands and will defer to the Department of the Interior on provisions relating to the lands managed by the Bureau of Land Management.

S. 3636

#### WASHINGTON COUNTY GROWTH AND CONSERVATION ACT OF 2006

This bill pertains to various aspects of Forest Service (FS) and Bureau of Land Management (BLM) lands in Washington County, Utah. It would authorize conveyance of BLM lands and provide for the distribution of the proceeds for various public purposes described in the bill including implementation of provisions of the legislation. The bill would establish new wilderness areas, including 2,642 acres of National Forest System land as the Cottonwood Forest Wilderness, provide for trail maintenance, travel management planning, and conservation projects, establish the High Desert Off Highway Vehicle Trail, and prescribe certain management objectives in wilderness areas designated in this bill.

The Department does not oppose the proposed designation of approximately 2,642 acres of National Forest System Land as a component of the National Wilderness Preservation System to be known as "Cottonwood Forest Wilderness," although we have concerns regarding some of the bill's provisions.

The Department does not oppose this wilderness designation. The area is scenic, rugged, and has a rich diversity of narrow canyons that provide the public with excellent opportunities for solitude and primitive recreational experiences. The area is also special by virtue of its location adjacent to a desert tortoise reserve. In addition, the area is contiguous to BLM land that would be designated as the "Cottonwood Canyon Wilderness." However, while the Dixie National Forest has determined that the area is suitable for wilderness, it expects to recommend that the area be managed as "Backcountry Area" in its proposed revision to the forest plan. The proposed management scheme differs from wilderness because it would allow a mix of motorized and non-motorized recreation to take advantage of the unique recreation opportunities that exist in the area.

The Department also requests an amendment to the bill to correct an error in Title II Wilderness Areas. The bill defines the term "Secretary" as the Secretary of the Interior. Accordingly, under section 202(a), the Secretary of the Interior would

manage the area of National Forest System lands designated as the “Cottonwood Forest Wilderness” by section 201(a)(5).

The bill includes various provisions regarding management within wilderness. The Department prefers to follow the provisions of the Wilderness Act of 1964 in administering wilderness. For example, the Department objects to section 202(d)(4)(B), which would remove the President’s discretion to authorize water resource development projects in wilderness, as provided in the Act. The Department also objects to the provisions in section 206(c), which would permanently authorize the State’s use of aircraft in wilderness for wildlife management purposes, and 206(d), which would authorize wildlife water development projects. The Forest Service currently subjects proposed uses in wilderness to review on a case-by-case basis, allowing for cooperatively working with partners to balance use in compliance with the Act.

Section 206(f) would direct the Secretaries to enter into a cooperative agreement under which the State or designee of the State would carry out wildlife management activities in wilderness areas designated by this title. The Department does not oppose this provision. The Forest Service has recently signed a cooperative agreement with the Association of Fish and Wildlife Agencies and the Bureau of Land Management that outlines policies and guidelines for fish and wildlife management in wilderness areas, including protocols for managing nonconforming uses (titled “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness” and dated June 2006). It demonstrates a common understanding between the States and Federal agencies. The agreement also allows for similar State-specific agreements if needed. The Department believes that this national agreement provides a mutually agreed upon method to address management issues, and it would be our preference to develop any State agreement in accordance with it to maintain a consistent approach.

Section 501 would direct the Secretaries to jointly complete a travel plan that identifies routes for the High Desert Off-Highway Vehicle Trail, would require the Secretaries to jointly designate the trail after the completion of the travel plan, and would direct the development of a management plan, and monitoring of the trail. The Department does not oppose the trail designation, although it is concerned about the costs of repairing constructing the trail. Work on this trail has not been a priority for the Forest. The Department is also concerned about the requirement to develop a management plan. The Forest is conducting forest-wide travel management planning to be completed in 2007. The management plan required by the bill could be duplicative of the current travel management planning process and could circumvent that process which would take into account public comment and balancing interests to provide an integrated plan for the forest as a whole.

#### S. 3772

##### WHITE PINE COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT ACT OF 2006

S. 3772 is a complex land management bill with multiple provisions related to Forest Service and Bureau of Land Management (BLM) lands in White Pine County, Nevada. The provisions related to the Forest Service include establishment and expansions of, and adjustments to designated wilderness areas, resulting in nearly 260,000 acres of new National Forest wilderness with associated management prescriptions.

S. 3772 would transfer 117,528 acres of land surrounding Great Basin National Park from the FS to the BLM. It would transfer an unknown number of acres from the Forest Service to the State of Nevada for expansion of Cave Lake State Park. The bill authorizes a study for potential creation of the Silver State Highway Off-Highway Vehicle Trail and also establishes the Great Basin National Heritage Route. It amends the Southern Nevada Public Land Management Act (SNPLMA) to provide funding to carry out research and landscape restoration projects related to the Great Basin Restoration Initiative.

The Department recognizes that the bill’s sponsors have conducted extensive outreach and worked with several communities of interest in developing the various titles in the bill. Our comments follow in order of the titles.

Title I relates to disposal of BLM lands, and we defer to the Department of the Interior on this and other provisions related to the BLM.

Title II would designate 259,908 acres of wilderness on Forest Service lands: five new wilderness areas totaling 240,713 acres, and expansion and adjustments to two existing wilderness areas totaling 19,195 acres. The Department generally supports the wilderness designations, although we have concerns that some of the boundaries would make the areas difficult to manage and could result in conflicts between mo-

torized and non-motorized users. These areas include those that have pass-through and “cherry-stemmed” roads, that have small “islands” of land surrounded by wilderness, that lack wilderness characteristics, and that split administration between Forest Service and BLM.

We would like to work with the committee and bill sponsors to modify the proposed boundaries to better align with administrative boundaries, to preserve wilderness characteristics, and to reduce the potential for conflicts between motorized and non-motorized users.

Sections 205, 206, and 207 include various wilderness management provisions. For the most part, these are standard provisions the Department does not object to. However, the Department objects to section 204(d)(5)(B), which would remove the President’s discretion to approve water resource development in wilderness, as provided in the Wilderness Act of 1964.

The Department also does not support section 209(c) regarding use of aircraft and section 209(d) regarding water development projects in wilderness for wildlife management. The current approach to aircraft landings in wilderness subjects proposed aircraft landings to review and approval on a case-by-case basis, which allows the Department to work cooperatively with partners to balance use in compliance with the Wilderness Act of 1964. In similar fashion, the Department should have the discretion whether to review and approve any potential water development structure or facility prior to installation. This approach provides for efficient administration of the National Wilderness Preservation System and is consistent with the recently revised document “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness”, approved by the Forest Service, Bureau of Land Management, and the Association of Fish and Wildlife Agencies in June 2006.

Section 209(f) references a cooperative agreement between the State of Nevada and the Bureau of Land Management regarding wildlife management activities in wilderness areas designated in the bill. Portions of this agreement are not consistent with Forest Service wilderness management policy, and the Forest Service is not a party to this agreement. Thus, the Department objects to this provision. The Forest Service would prefer to continue to work cooperatively with others under the above-referenced Policies and Guidelines document, which was amended in June 2006.

Title III would transfer administrative jurisdiction over 117,528 acres from the Forest Service to the BLM. This transfer would consolidate the administration of land surrounding Great Basin National Park from two agencies to one, eliminating a ring of National Forest System land surrounding Great Basin National Park, which is in turn surrounded by BLM lands. The current situation makes the lands difficult to manage because of inconsistent management objectives, and is a source of some confusion to the public. The transfer would allow for a continuation of current uses under existing permits or cooperative agreements.

Although the Department generally does not support the transfer of Forest Service lands without compensation or reciprocity, in this case the transfer makes sense from an administrative standpoint. Because the transfer will provide for consistent management under continued Federal stewardship with continuation of existing uses, the Department does not object to it.

For similar reasons, the Department would ask the bill sponsors and the Committee to consider two additional transfers of administrative jurisdiction from the BLM to the Forest Service to consolidate the administration of proposed Bald Mountain and Mount Moriah wilderness additions. The transfer would result in land boundaries that are easier to survey and manage. We would like to work with the Committee and the bill’s sponsors on amendments to further this idea.

Title IV would convey Forest Service land to the State of Nevada for no consideration to expand Cave Lake State Park. The amount of acreage is left blank in the bill text. The benefits of this transfer are not apparent. The Department opposes the transfer of land to the State for no consideration.

Title V authorizes both Secretaries to study routes for the Silver State Off-Highway Vehicle Trail. The majority of this proposed route would cross Bureau of Land Management lands, and we support working with that agency on the study. We defer to the Department of the Interior regarding additional statements concerning the earmarking land sale funds to pay for the construction of the trail.

Title VI would transfer land from the BLM to be held in trust by the United States for the benefit of the Ely Shoshone Tribe. The Department defers to the Department of the Interior on this provision.

Title VII would authorize funding through the SNPLMA to support the Eastern Nevada Landscape Restoration Project, which would restore rangeland and other land, including reducing hazardous fuels, in White Pine and Lincoln Counties. It

would also authorize grants to and cooperative agreements with the Eastern Nevada Landscape Coalition and the Great Basin Institute for the study and restoration of these lands. We defer to the Department of the Interior regarding this Title.

The Department fully supports efforts to restore landscapes, using scientific study to determine the most effective approaches to restoration and utilization of woody biomass. A number of efforts are currently focused toward this end, including those by the Forest Service's Fire Science Laboratory in Missoula Montana, the Forest Service Rocky Mountain Research Station, and the interagency Joint Fire Science Program.

Title VIII would authorize the expanded use of funds in the special account established under SNPLMA. The Department defers to the Department of the Interior regarding the proposed changes to SNPLMA. In general, the Administration opposes changes to current land sale authorities that do not ensure a significant portion of those proceeds are returned to the Treasury to benefit all taxpayers.

Title IX would establish the Great Basin National Heritage Route. We note that this section is now part of Public Law 109-338, enacted into law on October 12, 2006. For this reason, we recommend that Title IX be removed from the bill. We look forward to working with the National Park Service and the local coordinating entity on implementing this Heritage Route, particularly where it concerns National Forest System lands.

Thank you for the opportunity to discuss both S. 3636 and S. 3773. I am happy to answer any questions that you have at this time.

Senator CRAIG. Well gentlemen, thank you both very much. I have a couple of questions that we will want answered and then I may have additionally ones for the record. We will certainly work with both agencies as this legislation moves forward to fine-tune it to some of your suggestions.

Chad, I understand you support the phase I land disposal in the Washington County bill. How many acres are included in this and what is their principle or their potential value?

Mr. CALVERT. Yes, in phase I, which we call it phase I—it's actually designed in the bill as the sale of 4,000 acres, roughly 1,175 acres have already been identified for disposal in the local land use plan.

Those should be relatively simple to transfer via direct sale. We don't actually have an estimate—I'm sorry, 1,125 acres—we don't have an exact appraisal for the property but based on local land use values, it would exceed \$20 million, \$20 to \$40.

Senator CRAIG. Okay, how do you envision the process to identify lands for disposal under phase II and phase III of this bill?

Mr. CALVERT. The BLM generally prefers to use the local or the land use planning process to identify lands for disposal. We do that in order to know what is on the property, to go out and do surveys, actual formal surveys of the property prior to conveying out of Federal estate. We would envision that we would go through that process and it's actually a process that is laid out in the White Pine County bill.

Senator CRAIG. Okay. What is your estimate now as to how this bill will affect current management of public lands in the county?

Mr. CALVERT. Are you asking about Washington County, that bill?

Senator CRAIG. I am.

Mr. CALVERT. It shouldn't affect the management of Federal lands in the county to the extent that their designation is not changed. Where they have become designated as wilderness, clearly they will be managed that way and there is some properties that are currently Wilderness Study Areas that would become wilderness areas and they are not managed exactly the same. So there

may be instances where land use would be more restricted in those areas where it is conveyed out of the Federal estate. We would no longer be managing it. Beyond that, the bill itself shouldn't affect the management of remaining Federal lands in the area.

Senator CRAIG. Joel, I see this bill and I'm talking about the Cottonwood Forest Wilderness proposal and the Dixie Forest. This bill would legislate a relatively small 2,642 acres of wilderness to be called the Cottonwood Forest Wilderness. Is this area recommended for wilderness in the current Dixie Forest Land Management Plan?

Mr. HOLTROP. The current Dixie Forest Land Management Plan is a 1986 plan and it did not recommend any areas for wilderness in this area but because it is a 1986 plan, we're currently involved in a revision of that and we're pretty close to being able to come out with that revision and it is likely that there will be some wilderness recommendations in that plan in the areas already that have already been determined to be suitable for wilderness and there is some deliberations in the planning process.

Senator CRAIG. Is it possible to keep 2,642 acres in a wilderness character?

Mr. HOLTROP. Well, I think in this case, it's possible to do so. It would be immediately adjacent to a BLM wilderness and I think given, as I understand, the lay of the land there, I think it is possible that there is other wilderness nearby as well.

Senator CRAIG. Okay. I've seen our Utah Forest Organization map recommending virtually all of the Pine Valley District of the Dixie National Forest to be included in wilderness. The Utah Forest Organization is a coalition of a number of groups, including Southern Utah Wilderness Alliance, the Wilderness Society and the Wild Utah Project and other groups. Could you tell me how many acres of the Pine Valley District are proposed for wilderness or in inventoried roadless areas?

Mr. HOLTROP. The Pine Valley Ranger District is around 460,000 acres, of which about 50,000 is already designated wilderness. Of the remaining, there is a little over 200,000 acres that is inventoried roadless area.

Senator CRAIG. Okay, so better than half is currently being managed as wilderness?

Mr. HOLTROP. Over half is either already designated wilderness or is an inventoried roadless area.

Senator CRAIG. If the entire district were to be made into a wilderness, would there be any need for a district office in St. George?

Mr. HOLTROP. Well, obviously we always look at our administrative needs based on public and administrative needs but the fact that it would all be in wilderness, I don't think would automatically lead to a conclusion that there wouldn't be a need for an office there. There is a great deal of work. There is a workload that comes associated with managing wilderness. We have several other district offices around the country that are largely or completely wilderness with ranger district offices. I am familiar with a few of them out there on the Flathead National Forest in Montana, Moose Creek on the Nez Perce in Idaho and others around the country. So I don't think that designation alone would lead to a conclusion that there would need to be a district office in St. George.

Senator CRAIG. Gentlemen, thank you very much for your time before the committee today. We will work with both of the agencies, as I said, to resolve any questions or boundary concerns there might be and I appreciate you being here today to testify. Thank you both.

Let me call the second and last panel forward, please.

We have been joined by the Senator from the State of Washington. Senator Cantwell, do you have any comments prior to this panel?

Senator CANTWELL. Mr. Chairman, I do have a comment. I will submit a statement for the record in hopes that we can get to some questions.

[The prepared statement of Senator Cantwell follows:]

PREPARED STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Thank you, Mr. Chairman, and thanks to our witnesses who are here today to discuss these two complex wilderness bills.

Wilderness is certainly a hot topic in the West with bills pending in Oregon, Idaho, California, Nevada, and Utah, as well as my home state, and I look forward to your testimony today.

One of the many honors of being a Senator from Washington state is working to preserve and build on the legacy of the former chairman of this committee, Senator Scoop Jackson. Scoop was one of the architects and champions of the 1964 Wilderness Act, and facilitated passage of other landmark conservation bills such as the Land and Water Conservation Act and the Wild and Scenic Rivers Act. For the millions of Americans who enjoy their public lands protected under these laws, I thank him for his vision of preserving nature's grandeur in at least some parts of our vast nation.

Besides serving on this important Committee, I have been honored to carry on this legacy by cosponsoring with Senator Murray the Wild Sky Wilderness Act. Wild Sky passed the Senate in July, 2005 for the third straight Congress, only to be held hostage once again in the House. Designation of this 106,000-acre wilderness area would protect wildlife, promote clean water, and preserve one of the last remaining stretches of lowland forest along the west flank of the Cascade Mountains.

Wild Sky is also within a 90 minute drive for over two million Washingtonians, providing an accessible hiking experience for my constituents and also contributing to local communities. My own state enjoys a \$200 million per year outdoor recreational industry.

My constituents today have the same concerns that Scoop Jackson had—will they and their children one day have to chance to experience and appreciate what nature looks like in its pristine state?

To see an ecosystem that hasn't changed in thousands or millions of years? To see nature "untrammled" by humankind?

The federal lands system has opportunities for all user groups, motorized and non-motorized, but wilderness affords opportunities not found on other public lands: a recreational experience free from the hustle and bustle, noise, pollution, and crowds that result from cars, roads, and other motorized vehicles.

Wild Sky made clear to me the importance of working with local stakeholders and constituencies to craft bills that benefit multiple interests without sacrificing the quality of lands designated as wilderness. This is a delicate process and compromises are sometimes made to garner political support. But I believe we should not compromise on the ideals of the Wilderness Act or the environmental quality of the region at large.

It is because of this belief that I'm concerned by concept of bundling wilderness protection with the sale or conveyance of public lands. Wilderness designation should not be used as a veneer to mask other provisions that undermine land conservation measures, or could not pass Congress on their own merit. I understand the need for counties and cities, especially in the rural west, to consolidate their land holdings and make careful decisions to plan for additional population and economic growth. But I ask that we consider carefully whether existing developable private land is really insufficient for this growth.

The Washington County Growth and Conservation Act would direct the Bureau of Land Management to make available no less than 24,300 acres of public land for county development projects. The BLM, through their normal review process has not

identified this land as suitable for sale. The required formal public review process has never been conducted. On top of this, the County's own chamber of commerce estimates that more than 200,000 acres of private land remain available for development within the county.

To me, that leads to the question, what's the rush? Why not allow the BLM to proceed with their normal process for identifying and disposing of public land under the Federal Land Policy and Management Act? Why are we trying to rush this bill in last few days of the 109th Congress?

These are questions I look forward to hearing answered in your testimony and would like to explore further over the course of this hearing.

Thank you Mr. Chairman.

Senator CRAIG. Thank you very much. Then let us turn to the panel. Our panelists today are made up of Brent Eldridge, commissioner, White Pine County, Nevada; Jerry Greenberg, vice president of The Wilderness Society in Madison, Wisconsin; Alan Gardner, commissioner, Washington County, Utah; and Peter Metcalf, president, Black Diamond Equipment, Limited, Board Member, Outdoor Industry Association, Salt Lake City, Utah.

Commissioner Eldridge, we'll start with you. If you would turn your mic on and please proceed.

**STATEMENT OF BRENT ELDRIDGE, COMMISSIONER,  
WHITE PINE COUNTY, NV**

Mr. ELDRIDGE. Thank you, Senator Craig, members of the subcommittee, for holding this hearing today on S. 3772, the White Pine County Conservation, Recreation and Development Act of 2006. On behalf of the White Pine County Commission, I'm pleased to be here today to provide our testimony on the bill. We appreciate the time and effort the committee and staff, Senator Reid and their staff have committed to development of this bill.

I would first like to state that I am a fourth generation rancher in White Plain County. My great-grandfather came to the area in 1892, got involved in agriculture and for the last over 100 years, we've been there in ranching and agriculture. I was one of the ranchers who first dealt with wilderness in White Pine County as an agricultural person and I felt that the one area designated on Mount Moriah in the 1980's was adequate. Not until I had a chance to ride some other ranges in White Pine County with some friends in about 1996, did I realize what was happening to our mountains.

Five friends and I rode the Shell Creek Range, Upper Canyon, where I had never been before but my friends had gone many times. We found ORV, degradation—that was beyond what it should be in our high, fragile mountain and my friend turned to me at the time we looked over this meadow that had numerous ATV tracks through it. He said, if we're going to save this mountain, we have to do something about designation. That's when I got heavily involved. I was also subsequently elected to the White Pine County Commission and I, for the last 4 years, worked very hard at arriving at a recommended bill that would serve the needs of all of the people of White Pine County, including wilderness advocates.

White Pine residents have devoted hundreds of hours in our efforts to develop our proposal for the public lands bill. Our commission and advisory boards have discussed various aspects of the potential bill on a monthly basis over the past 2 years. We've held workshops, spent hours reviewing maps with ranchers, agency



staff, recreationists and others interested and conducted tours of the proposed projects. We've appreciated the working relationship we've developed with the representatives of the Wilderness Coalition and we're proud of our citizens and their commitment to reach consensus on the many and varied issues that rest in the bill.

The county commissioners asked me to report to you that we support the overall concept of a public lands bill. The community has five critical issues we would like to see addressed in the final version of the bill and we have numerous recommendations for minor changes in wording that we are submitting with our written testimony. The critical areas of concern remaining include one throughout the discussions in the proposed bill. The community's primary concern has been the need for extension of the water resources studies initiated with the BARCASS Project in the Lincoln County Conservation, Recreation and Development Act. There is a need for a transient water flow, ground water flow model for the Colorado flow system and the Great Salt Lake flow system. We believe it is in everyone's interests to have the best possible scientific information available for public review and comment.

Two, the community has asked for limited access to the Southern Nevada Public Land Management Act capital improvement and conservation funds to establish a central Steptoe Valley Environmental Enhancement Project. White Pine County has experienced substantial residential growth in the central portion of Steptoe Valley, due in large part to the influx of southern Nevada residents purchasing and building summer and retirement homes. In addition to the majority of the use of recreation facilities owned by the State of Nevada, including the Steptoe Valley Wildlife Management Area and Cave Lake State Park comes from southern Nevada residents. We propose the \$30 million in Southern Nevada Public Land Management Act funding be set aside for the Central Steptoe Valley Enhancement Project for three purposes: renovation of the Comins Lake, a prime fishery that supports over 70,000 angler days of activity per year, and two, expansion of water and waste water treatment facilities to serve the growing residential areas in Steptoe Valley, reduce dependence on septic systems and potential for contamination of the area and provide adequate water sources for fire protection along the Ward Mountain foothills.

Three, purchase sub-private land that includes sensitive habitat, contribute to environmental quality, open space and recreation. I'm not going to have time to get to all five points. I would just like to express a thank you for the opportunity to provide the testimony here and request that you look at our testimony in the record.

[The prepared statement of Mr. Eldridge follows:]

PREPARED STATEMENT OF BRENT ELDRIDGE, COMMISSIONER,  
WHITE PINE COUNTY, NV

On behalf of the White Pine County Commission, I am pleased to provide our written testimony on the White Pine County Conservation, Recreation, and Development Act, S. 3772. We appreciate the time and effort the Committee, its staff, Senators Reid and Ensign, and their staff have committed to development of this bill.

White Pine County residents have devoted hundreds of hours in our efforts to develop our proposal for a Public Lands bill. Our Commission and advisory boards have discussed various aspects of a potential, bill on a monthly basis over the past two years. We've held workshops; spent hours reviewing maps with ranchers, agency staff, and recreationists; and conducted tours of the proposed projects. We've ap-

preciated the working relationship we've developed with the representatives of the Wilderness Coalition and we are proud of our citizens and their commitment to reach consensus on the many and varied issues addressed in the bill.

The County Commission has asked me to report to you that we support the overall concept of a public lands bill; the community has five critical issues we would like to see addressed in the final version of the bill.

The critical areas of concern remaining include:

1. Throughout the discussions in the proposed bill, the community's primary concern has been the need for extension of the water resources studies initiated with the BARCASS Project in the Lincoln Conservation, Recreation, and Development Act. There is a need for transient ground water flow models for the Colorado Flow System and the Great Salt Lake Flow System to fully understand the water resources for both eastern Nevada and western Utah. We do not view the request for additional funding to continue the water studies as antagonistic to the Groundwater Development Project proposed by southern Nevada. As the West deals with the demand for water and the balance between urban and rural needs as well as environmental concerns and economic growth, we believe that it is in everyone's interests to have the best possible scientific information available, developed through the public sector, and available for public review and comment. To date, there are no provisions for additional water studies in the White Pine bill.

2. The community has asked for limited access to the Southern Nevada Public Land Management Act Capital Improvement and Conservation funds to establish a Central Steptoe Valley Environmental Enhancement project, White Pine County is experiencing substantial residential growth in the central portion of Steptoe Valley due in large part to the influx of southern Nevada residents purchasing and building summer and retirement homes. In addition the majority of the use of recreation facilities owned by the State of Nevada including the Steptoe Valley Wildlife Management Area and Cave Lake State Park comes from Southern Nevada residents. The residential growth and recreation activity do not provide enough additional local tax revenues to address their impacts. We feel it is critical and appropriate to use SNPLMA funding to protect the environment and recreational activity in Central Steptoe Valley. We propose that \$30 million in SNPLMA funding be set aside for the Central Steptoe Valley Environmental Enhancement Project for three purposes: 1) Renovation of the Comins Lake Dam. The Lake is a prime trout fishery that supports over 70,000 angler days' of activity per year and the Department of Wildlife reports that the use is 70 percent from Southern Nevada residents. It is located 6 miles south of Ely and the dam supports a portion of U.S. Highway 50. It has been surveyed by Nevada Department of Transportation engineers and is in need of immediate repair. 2) Expansion of water and waste water treatment facilities to serve the growing residential areas in Steptoe Valley, reduce dependence on septic systems and potential for contamination of the area, and provide adequate water sources for fire protection along the Ward Mountain foothills. 3) Purchase of private land that includes sensitive habitat to contribute to environmental quality, open space, and recreation.

3. The community has been extremely concerned about the provisions in Title VIII providing hundreds of millions of dollars for projects in both urban areas of the state: the Las Vegas Wash Waste Water Conveyance System, the Southern Nevada Water Authority Cash for Grass Program, the Tahoe Basin Restoration Project, the purchase of private land for a park in Washoe County, and providing Nevada State Parks Division with access to SNPLMA funds for development of parks located in Clark County. At the same time, under the current version of the bill White Pine County would have no access to the SNPLMA account for projects that will benefit the environment and recreational attractions which receive the majority of their use from Southern Nevada residents. Much of the growth currently being experienced by Clark County has been facilitated by the access to federal lands for disposal without the requirement to determine available water resources to support that growth. Now, Southern Nevada Water Authority is seeking to export all of the available water from Spring Valley and much of the available water from Snake Valley to the potential detriment of White Pine County's environment, economic activity in the eastern portion of the County, and the Great Basin National Park. White Pine County residents believe that it is only right that we should have access to a portion of the fund.

4. The most controversial aspect of the bill for White Pine County has been the Tribal Proposal outlined in Title VI. The proposal would convey hundreds of acres south of Ely to the Ely Shoshone Tribe. Residents in the area feel be-

trayed by the federal agencies that proposed the specific acreage to the Tribe, because they felt they were assured that the land would not be recommended for development due to environmental and jurisdictional concerns. State agencies have expressed strong concerns that concentrated development on those lands could result in negative environmental impacts to the Wildlife Management Area adjacent to it. The Ely City Council feels strongly that the proposal interferes with the ability for the City to expand. The City Council and County Commission recommended alternatives that would allow expansion of Tribal residential and commercial activity while avoiding the potential for negative environmental impacts. The staff recommendation has been to negotiate with the Tribe to develop an agreement to adhere to County zoning and planning standards. The Tribal Chairman expressed willingness to approach the Council about the potential of an agreement, but it has gone no further. The County Commission asks that the concerns of all citizens of the County be taken into account and the proposal supported by the local governments should be reconsidered.

5. In outlining the proposed wilderness areas, the County asked that the criteria include avoiding any actively used roads, negative impact to traditional uses of the land, and avoidance of areas with evidence of mineral potential. The Wilderness Coalition honored that request and made every effort to exclude areas with active mining claims. However, the mining industry has recently expressed strong opposition to the proposal to include land in wilderness areas that did not have a full mineral inventory as a Wilderness Study Area. We continue to receive calls from miners and mining companies concerned about claims within proposed wilderness areas. The County Commission would appreciate consideration of language to allow boundaries of proposed wilderness areas to be adjusted to accommodate active mine claims and documented mineral resources that may have been included within the designated wilderness areas.

The County Commission has additional requests for changes in wording throughout the bill that we feel will support the goals of conservation, recreation and development.

*Title I—Land Disposals*

1. The County supports the disposal of up to 45, 000 acres of land but would prefer to increase that amount if possible.

2. The Ely District Resource Management Plan has not been approved. If an approved RMP is required to make “the land available” for disposal and there is a delay in the approval process, it could mean a delay in being able to access the land. Possible changes in wording: Page 4, (b) Description of Land, 2) (A) “In Conformance with approved Land Use Plans, (B) Ely Resource Management Plan, (C) A subsequent Amendment to the Management Plan.

3. Allowed uses of the 10 percent to go to the County: add “Land Use Planning” as well as Natural Resource Planning.

4. Uses of the Special Account.

a. Add, any environmental studies and surveying required for the transfer of 200 acres for Industrial Park and Airport expansion to the County.

b. Processing Wilderness Designations, the bill covers fencing, signage, public education, and enforcement. Is it implied that the funds can be used for writing the wilderness management plans or for monitoring Compliance or should those two activities also be spelled out?

c. Costs of conveyance of land to the State of Nevada.

*Title IV—Public Conveyances*

1. The sale of 200 acres of Industrial Park land, at \$15,000 per acre would result in \$3 million in land sales. Using the 85/10/5 formula, the County would receive \$300,000, the state would get \$150,000 and the Special Fund would get \$2.55 million. The additional acreage requires streets, water, and sewer services to provide usable industrial sites. The land sales have to precede the funding but the infrastructure is critical to attract businesses to locate in the park. The \$300,000 will not cover the development costs, and the County will be dependent on grants to try to make the land usable. As written, the provision won’t help the County provide reasonably priced, full service industrial property to help attract new industry.

2. The Industrial Park Review Board finds that potential buyers are more comfortable with buying the property through N.R.S. 244.2815 instead of a public auction. The bill requires a competitive bid. This may make it more difficult to sell the property. It might be beneficial to ask if they could consider allowing the County to sell the land under the processes allowed through the N.R.S.

*Title V—Silver State Trail*

1. Add the language, NEPA processes in place of studies of the proposed route.  
 2. Add “Traditional Uses” as one of the categories of potential negative impacts.  
 Again, thank you for the opportunity to provide written comment and testimony on the proposed bill. I would be happy to answer any questions you may have about the process used to develop the County’s proposals and the concerns remaining in the community.

Senator CRAIG. Commissioner, thank you very much for that recognition. Your full statement will be a part of the record. I will have a couple of questions for you.

Now let me turn to Jerry Greenberg, vice president of The Wilderness Society.

**STATEMENT OF JERRY GREENBERG, VICE PRESIDENT OF  
THE WILDERNESS SOCIETY**

Mr. GREENBERG. Chairman Craig, members of the subcommittee and staff, thank you for the opportunity to testify today. I am here representing Friends of Nevada Wilderness, The Nevada Wilderness Project, Campaign for America’s Wilderness, Red Rock Audubon Society and The Wilderness Society.

First, I would like to thank Senators Ensign and Reid and their staffs for the hard work on this legislation. This bill has been 5 years in the making and during that time, we attended countless meetings and numerous public hearings with local officials, ranchers, off-road vehicle users, agency staff, sportsmen and women and staff from the congressional delegation. Throughout, participants came together in good faith to work through some very good, difficult and complicated issues and in so doing, have bridged the gap between what had been historically polarized viewpoints. This inclusive process and hard work has resulted in a bill that would designate 13 new wilderness areas while adding lands to two existing wilderness areas, totaling some 545,000 acres. By any measure, this represents significant gains in wilderness protection. Yet even as we support these wilderness designations, we also believe important areas should be added, specifically the central portion of the South Even Range WSA, the Blue Mass Mountains and the Antelope Range. We will continue to work with local interests and the designation to add these special places to the bill.

With respect to land disposal, we believe that decisions on which lands should be identified for sale should be made with extensive public involvement. We are pleased that the bill does that by deferring to the Bureau of Land Management’s current land use planning process.

Through this planning process, the draft Resource Management Plan or at least in 2005, identified about 23,000 acres for potential disposal in White Pine County. Based on this, we would recommend that the 45,000 acres in section 101(b) of the bill be reduced to reflect the acreage figure currently identified by the agency.

With respect to allocation of proceeds from land sales, we recognize that Nevada has unique laws regarding such allocation. However, we also believe that proceeds from the sale of public land should, as a matter of good conservation policy, be used primarily for conservation purposes.

Before closing, I would like to take a minute to address the differences between the White Pine County bill and the other bill we're hearing today, the Washington County bill. Part of my job with the Wilderness Society is to ensure that the organization is consistent in its approaches and positions on wilderness legislation. In urging passage of White Pine with the changes we have requested today, while advocating for Washington County not to pass in its current form. I believe we are doing exactly that, being consistent. The two bills are very different from each other.

On wilderness, the White Pine bill would designate 545,000 acres of ecologically critical lands, much of which is under threat from inappropriate ATV use and other development. Meanwhile, the majority of the wilderness that would be designated in the Washington County bill is located within Zion National Park and is therefore largely free from development threats. At the same time, most of the ecologically sensitive lands in the county that are right now under threat from inappropriate off-road vehicle use are left out of the bill.

With respect to land disposal, in both bills, we believe the acreage identified is excessive. Having said that, there are significant differences in the way the two bills handle land disposal. The Washington County bill mandates that the lands be sold and moreover, that they be sold outside of the public process inherent in the development of a resource management plan.

The White Pine bill does not. Instead, it defers to the BLM's current RMP process for determining which public lands are appropriate for sale. The Washington County bill would sell ecologically important lands, including highly sensitive desert tortoise habitat. The White Pine County legislation would not sell ecologically sensitive lands.

Finally a word on the process behind each bill. Virtually everyone involved in the discussions leading up to the White Pine bill agrees that the process was open, inclusive and fair. In Washington County, there is widespread disagreement among those who took part about how fair and open the process has been. This is one of the main points that I and the president of the Wilderness Society have made directly in discussions with Senator Bennett and his staff and I do want to acknowledge and thank the Senator and his staff for how open they have been in talking about our disagreements. I believe there is opportunity to continue these discussions in the next Congress and find ways to come to agreement.

In closing, we hope the subcommittee will give our comments and suggested bill improvements very serious consideration. With the improvements recommended in our testimony, we believe that the White Pine County legislation represents significant gains for the National Wilderness Preservation System and should be enacted without delay. Thank you.

[The prepared statement of Mr. Greenberg follows:]

PREPARED STATEMENT OF JERRY GREENBERG, VICE PRESIDENT OF  
THE WILDERNESS SOCIETY

Chairman Craig, Members of the Committee and staff, thank you for the opportunity to testify today. My name is Jerry Greenberg. I am the Vice President for Regional Conservation of The Wilderness Society. I am here today representing

Friends of Nevada Wilderness, The Nevada Wilderness Project, Campaign for America's Wilderness, Red Rock Audubon Society, and The Wilderness Society.

Collectively these organizations represent more than 3600 Nevadans including members in Thite Pine County and nearly 210,000 citizens across the country.

On behalf of the five organizations, I would like to thank Senators Reid and Ensign and their staffs for the hard work that has gone into this legislation. Their process has been fair, and they have worked hard to listen to the concerns and recommendations from all interested parties. I would also like to thank the staff of this Subcommittee for visiting White Pine County and touring some of the areas that would be designated as Wilderness under this legislation.

As you know, S. 3772 is a complex public lands bill built upon five years of local citizen efforts that addresses a variety of issues in White Pine County, Nevada. Although not perfect, this legislation is a compromise that addresses a number of competing uses on public lands and is product of a true bipartisan effort. With the improvements recommended in our testimony, we believe that this legislation represents significant gains for the National Wilderness Preservation System and should be enacted without delay.

While I will briefly address each title of the bill, our expertise is on the wilderness title of the legislation; therefore I will focus the majority of my testimony on that title.

#### TITLE I—LAND DISPOSAL

We recognize that many rural Nevada counties have communities that are surrounded by public lands. White Pine County is composed of about 95% federally managed land. Out of 5.7 million acres in the county, only 195,840 acres (3.4%) are privately owned, with much of this being family ranches.

We are pleased that the bill defers to current law and the Bureau of Land Management (BLM) Land Use Planning process for determination of which public lands are appropriate for sale in the future. We believe that the far reaching planning decisions of determining which public lands might be eligible for disposal should be made with extensive public involvement as part of the agency's land use planning process and carefully consider impacts to communities and natural and cultural resources. Over the last several years, there have been extensive public meetings regarding the potential sale of public lands in White Pine County. From the dozens of meetings we have attended, it seems clear that the majority of White Pine County citizens do not want to see a massive sell off of their public lands. These lands in public ownership are very important to people for a number of reasons, including serving as important watersheds, places for camping, hunting and fishing, caving, climbing and a broad array of other recreational opportunities.

In our view, another vital component of this bill is its retention of current law requiring environmental reviews prior to determination of whether or not a sale should take place. It is important to assess in detail what values may be found on these public lands, including cultural resources, prior to finalizing the determination of which lands should be sold.

Utilizing the planning process referred to above, the Ely BLM Field Office draft Resource Management Plan/Environmental Impact Statement released in summer of 2005 identified about 23,000 acres for potential disposal in White Pine County. As stated, we believe that the agency planning process appropriately applied should be the basis for determining the extent of any land disposal.

Thus, we recommend that the 45,000 acres mentioned in Section 101 (b) be reduced to more accurately reflect the amount of land that might reasonably and appropriately be identified for sale through the BLM Resource Management Plan or subsequent amendments.

It is also important to note that the lands identified in the RMP for potential disposal are primarily located in the Steptoe Valley and contain little to no ecological value. This valley contains the communities of Ely, McGill, and Cherry Creek, and is the location of the bulk of the county's infrastructure. This includes the airport, industrial park, railroad, highway, and transmission corridors.

With respect to allocation of proceeds from land sales, we acknowledge Nevada's unique laws regarding the disbursement of land disposal proceeds. However, we believe that proceeds from the sale of public land should be used for conservation purposes, as Nevada's current laws intend.

#### TITLE II—WILDERNESS AREAS

We believe the wilderness title represents a significant gain for conservation and wilderness in this part of the state. In order to present a better understanding of the wilderness quality lands found in White Pine County, I thought it would be

helpful to first begin by providing some background information on our wilderness proposal and our involvement with the White Pine County Commission and others that have been engaged in wilderness discussions over the last several years.

#### *White Pine County's Wild Landscape*

White Pine County is located in the eastern portion of the state, adjacent to the Utah border. The county consists of approximately 5.7 million acres of which approximately 95% is federally managed public land. Ely, the county seat, is located about four hours north of Las Vegas. The areas proposed for wilderness in White Pine County are at the heart of the Great Basin, where majestic mountain ranges tower over wide valleys of sagebrush.

This rugged and scenic landscape supports diverse plant and wildlife species, including elk, mule deer, cougar, pronghorn, sage grouse, a major raptor migration route, and a host of other birds, mammals, and reptiles.

#### *Our Involvement in White Pine County Discussions*

Almost 5 years ago, Nevada's congressional delegation asked all interested elected officials, groups and individuals, including our organizations, to develop and forward proposals for public land legislation dealing with White Pine County. At that time, we made a decision to engage in discussions and work with interested parties to find solutions to protecting the county's wild lands.

During this process we have submitted the citizens' wilderness proposal to the county Public Land Use Advisory Committee, the White Pine County Commission and to the congressional delegation. In addition, over the last few years we have attended countless meetings and numerous public hearings with local elected officials, ranchers, off road vehicle user groups, agency staff, sportsmen and women, and staff from the congressional delegation to discuss our proposal. We have also participated in numerous field trips with various interested parties to proposed wilderness areas to view the land firsthand and to find solutions to these complicated issues.

#### *Citizens' Wilderness Proposal*

For decades, citizens of Nevada have been inventorying wilderness quality lands in the state. Once the congressional delegation shifted focus to White Pine County, our organizations compiled existing data and began to collect new data in order to create the Citizen's Wilderness Proposal for White Pine County. Utilizing this two prong approach, we were able to develop a more accurate and up to date wilderness proposal for 730,000 acres.

The wilderness quality lands in the county are managed by two federal agencies, the Bureau of Land Management and the National Forest Service. Since part of our proposal is based on data collected from the land managing agencies we will first describe our proposal for lands managed by the BLM.

It is our belief that the Bureau of Land Management's wilderness inventories of the late 1970's were faulty for numerous reasons, and in order to develop an adequate wilderness proposal we needed more current and accurate information. In 1979, during its eight-month Initial Wilderness Inventory, the Nevada Bureau of Land Management used "existing information" and "inventoried" roughly 49 million acres and immediately dropped 32.9 million acres from further consideration. This was a rushed process by any measure. The public was then given only 90 days to comment on the decision.

The Bureau of Land Management then spent six months on "intensive" on-the-ground surveys of the remaining 16.1 million acres. Assuming they worked seven days a week, this "intensive" inventory required Bureau of Land Management personnel to survey 88,462 acres per day. After this intensive survey, which was cursory at best, the agency dropped 11.1 million acres from further consideration. Once again, the public was given only 90 days to comment on the decision.

Given the inadequate results of that rushed process, our coalition determined it was necessary to inventory public lands in the county managed by the BLM. The Citizen's Proposal for Wilderness in White Pine County includes all of the Bureau of Land Management Wilderness Study Areas (WSA) that lie partially or entirely in the county. Our organizations advocate for the protection of entire WSAs, whether recommended or not recommended for wilderness by the BLM. Based on field inventories and extensive research, we assert that each of these WSAs qualify as Wilderness and merits protection as such.

In addition to the WSAs, we have included some Bureau of Land Management managed lands that were not given WSA status by the agency following the Intensive Wilderness Inventory conducted during 1979-1980. The Coalition has conducted updated field inventories of many non-WSA public lands within the last several years and has determined that many do qualify for Wilderness based on the criteria

of the Wilderness Act. Many of these areas recommended for Wilderness designation in our Citizens' Proposal were originally dismissed by the BLM from further Wilderness study based on flawed criteria and rationale, which resulted in the dismissal of significant wild landscapes throughout Nevada.

The other federal agency that manages a significant amount of wilderness quality lands in the county is the Forest Service. Currently, the Forest Service manages the only two designated wilderness areas in the county, Currant Mountain Wilderness, partially located in the southwest part of the county, and Mt. Moriah Wilderness located entirely within the eastern part of the county. Both wilderness areas were designated in 1989. Similar to our review of BLM WSAs, we reviewed the boundaries of the congressionally designated wilderness areas to verify that the existing boundaries made sense from an ecological and management perspective. There are a number of Forest Service Inventoried Roadless areas in White Pine County that have extremely high wilderness values. Based on our field work, we included a number of them in our Citizens' Wilderness Proposal.

Wilderness values and wildlife habitat do not stop at administrative boundaries. When we created our proposal, we based our boundaries on ecological and physical features, rather than county lines or agency administrative boundaries. Our Citizens' Wilderness Proposal for White Pine County recommended Wilderness designation for approximately 730,000 acres of public land managed by the BLM and the Forest Service.

Using the latest technology and mapping methods, and with thorough research into biological, wildlife, cultural, and economic aspects of the landscape, we developed a comprehensive proposal for Wilderness in White Pine County. The process for creating this proposal consisted of conducting updated field inventories as well as researching current data provided by federal land managers, state offices, local citizens, and local governments. The field inventory process involved sending paid and volunteer field crews out to Eastern Nevada to photo document wilderness values as well as man-made impacts on the land and mark precise locations on a topographic map using a global positioning system (GPS) unit. To date, the field inventory process has yielded thousands of photos taken since 2000. The field inventory information was then compiled with existing data from other sources including people who lived and worked in the area in an effort to minimize potential conflicts with other uses and create the best possible boundary. Our data was then compared to information and rationale from the land managing agencies to help determine the validity of their recommendations. Finally, based on updated fieldwork and additional research, Wilderness proposal area boundaries were delineated and descriptions and Wilderness rationale were documented.

One of the most heartening wilderness efforts we engaged in was a jointly agreed-upon wilderness proposal for the High Schells (Schell Creek Range), signed by longstanding ranchers in White Pine County and endorsed by our organizations. This cooperative effort began in the late winter of 2002, as we discussed the possibility of garnering lasting protections for this wondrous mountain range, while finally halting the negative impacts to landscape being caused by years of irresponsible off road vehicle use. During the spring and summer of 2003, this collective group of concerned citizens met on a regular basis. Together, we traveled every key road and access point, talked over important ranching facilities that required continued motorized access along with historical uses of valid roads and routes in the area. The vast majority of ranchers who run livestock in the High Schells had a direct hand in drawing the agreed upon boundaries. Finally, in November of 2003, the group signed a letter supporting a new wilderness proposal for the High Schells, and recognized that existing grazing rights are permitted under the Wilderness Act, subject to such regulations as are deemed necessary by the Secretary. The letter further stated that the area should be managed in accordance with the Congressional Grazing Guidelines which emphasize that all reasonable measures must be taken to minimize the impact of grazing activities on wilderness character and to protect other resource values. The letter was sent to the Nevada Congressional Delegation and given to the White Pine County Commissioners. Although there have been minor adjustments made to the boundary of this proposal in order to prevent conflicts with snowmobiles and mountain bikes in certain areas and to increase hunter access in another area, this effort stands as a great example of cooperative conservation action based on understanding, respect and trust.

As a result of this effort, we were able to break down existing barriers to communication and bridge the gap between polarized viewpoints and work with other ranchers in the area. This work resulted in a number of jointly agreed upon boundaries that satisfied many of the interested citizens.



*Wilderness Designations in S. 3772*

We thank the Nevada congressional delegation for addressing wilderness in White Pine County. Additionally, we appreciate their willingness to consider our wilderness recommendations from our Citizen's Wilderness Proposal.

As you know, the legislation designates 13 new Wilderness areas and makes two significant additions to existing Wilderness areas, totaling approximately 545,000 acres (BLM = 285,000 acres; Forest Service = 260,000 acres). This bill would release approximately 65,000 acres from BLM WSA status.

Although not perfect, S. 3772 would protect a significant amount of wilderness and make important additions to the National Wilderness Preservation System.

Some highlights of the areas and resources that would receive Wilderness protection under S. 3772 include:

- Schell Creek Range Wilderness, consisting of approximately 122,000 acres, contains prime wildlife habitat, and popular destination for primitive types of recreation and hunting.
- Red Mountain, Bald Mountain, White Pine Range, and Shellback Wilderness Areas, along with additions to the designated Currant Mountain Wilderness comprise an extensive block of relatively intact wild landscapes and wildlife habitat.
- Becky Peak, Government Peak, and Bristlecone, are citizen proposed areas with high wilderness values that the BLM failed to include as WSAs during their intensive inventory.
- Highland Ridge Wilderness, adjacent to Great Basin National Park, protects a significant amount of wildlife habitat as well geologic and other natural resources.
- Mt. Grafton Wilderness, which includes the tallest peak on BLM land in Nevada and which protects low elevation benchlands important to wildlife.
- Goshute Canyon Wilderness—the diverse landscape and vegetation of this area is also excellent habitat for several important raptor species including peregrine falcon, bald eagle and American kestrel, and limestone cliffs and caves.

The legislation makes a technical correction to the Mt. Moriah Wilderness, designated in 1989. It is our belief that these technical corrections are long overdue. The original Mt. Moriah Wilderness boundary erroneously contained portions of well used vehicle routes, parking area as well as primitive camping and staging areas for hunters and horseback riders. There are other slight adjustments made to allow for historical motorized access to range facilities like water troughs and pipelines. By working with local ranchers and those involved during the development of the legislation in 1989, we were able to come to a joint agreement that resulted in support for the technical corrections along with adding additional acres to be designated as wilderness in the area.

Recently, mining interests have expressed concerns about small portions of certain areas being included in the wilderness proposals for White Pine County. Every effort has been made to exclude known and active mining areas from these proposals. Some mining groups have erroneously claimed that the Wilderness Act requires mineral surveys before areas can be designated wilderness. They specifically reference Section 4(d)(2) of the Wilderness Act. It is clear to us that Section 4(d)(2) deals only with already-designated national forest Wilderness areas. Perhaps they are mistakenly referring to Section 3(b) of the Wilderness Act, which was expressly limited to the study of 34 national forest "primitive areas" that took place in the late 1960s and early 1970s. It is very clear that there is no requirement in the Wilderness Act that mineral surveys be conducted before Congress can designate wilderness areas. Over all of these years, regardless of what party was in control, no such requirement has ever been put into law.

*Specific Comments regarding the Wilderness Title of S. 3772*

Although we are appreciative of the wilderness designated under S. 3772, we have some specific comments regarding the Wilderness title. We understand that over the years, conditions on the ground can change and sometimes these changes require minor boundary adjustments, resulting in small gains or losses for wilderness, in order to best protect the wilderness resources. We believe that some of the boundary modifications can be accommodated. However, we do not support a net loss of habitat in legislation due to the inappropriate management of an area.

This happened to the South Egan Range Wilderness Study Area. Much of the central portion of the WSA was not included for wilderness designation in this bill because illegal vehicle routes were created over the last twenty years after the area was designated as a wilderness study area. The wilderness values within the South Egan Range WSA were to have been managed so as to protect them until Congress

had the opportunity to determine what should be wilderness. Unfortunately, a number of illegally created routes have been created within the WSA and have led some to believe that these are “historically” used routes. We believe that some requests put forth by local residents and the county to use some of these routes can be agreed to. We however, believe that an expanded boundary, closer to the original WSA boundary is necessary to prevent further irresponsible off road vehicle use and to halt the fragmentation of key wildlife habitat and to protect the wilderness characteristics of the area.

There were a number of other areas worthy of protection that were not included in the legislation. We have provided detailed information of these areas in our Citizen’s Wilderness Proposal. In addition to the South Egan WSA, the areas not designated as Wilderness under this legislation that are most troubling to us include Blue Mass/Kern Mountains and the Antelope Range. The White Pine County Commission has repeatedly expressed a need for protecting the incredible scenic values of the Blue Mass/Kern Mountain area. We believe it is critical that this bill address protection for the Blue Mass/Kern Mountains area. We also believe that the wilderness values in the Antelope Range are worthy of wilderness protection. We request that these areas be added to the legislation and will continue to work with the delegation to ensure these places receive the protection they deserve.

The water rights language found in this legislation closely resembles language used in previous wilderness bills and is commonly referred to as “headwaters” language. Given the fact that many of these proposed wilderness areas contain more widely distributed water resources they require slightly different language than what has been used in previous public lands bills in Nevada. It is important to note that this language has been successfully enacted and implemented for the Colorado Wilderness Act of 1993 (PL 103-77) and subsequent wilderness laws. We feel this language is appropriate and will protect the flowing waters and wilderness resources of the areas designated in this bill.

Our organizations recognize certain “cherrystems” to allow for wilderness boundaries to be brought to lower elevations and to provide key access points. However, we also recognize that an abundance of “cherrystems” can accelerate the spread of invasive plants and further fragment wildlife habitat. Allowing vehicle access directly to natural springs greatly increases the harassment to wildlife using these water sources. We strongly believe that in order to best protect and lessen harassment and impacts to wildlife, “cherrystems” should be pulled back at least 0.5 to 1 mile from the water sources. Often, “cherrystems” are proposed as a result of an individual or group of people that desire to have motorized access on that particular route. Our organizations take pride in working with affected users to find common sense solutions that can work for everyone.

The presence of native wildlife at naturally fluctuating population levels is an important component of wilderness character. White Pine County, unlike Lincoln and Clark County, contains many natural springs and creeks for wildlife thus requiring the installation of fewer artificial water sources. In the event that new artificial water sources are determined to be necessary, we believe that the construction of new “guzzlers” should be prioritized outside of Wilderness areas.

#### TITLE III—TRANSFERS OF JURISDICTION

These transfers of jurisdiction in this title make good sense ecologically and from a management perspective. First, we support the transfer in this title that would transfer 645 acres of BLM land to the Fish and Wildlife Service. This acreage is currently a BLM inholding within the southern portion of the Ruby Lake National Wildlife Refuge in the northwestern corner of White Pine County. Second, we support the transfer of the Forest Service lands totaling about 117,000 acres to the BLM. Approximately 70,000 acres would be designated as Highland Ridge Wilderness. This transfer would allow for more effective management between the Park Service and the BLM instead of having three agencies managing a single unit. We believe that it is positive for wildlife and habitat management that the remaining 47,000 acres would be withdrawn from the BLM’s land disposal and mineral laws, and that vehicles will be limited to designated routes.

#### TITLE IV—PUBLIC CONVEYANCES

We are supportive of the conveyances outlined in this title. Most of the conveyances are open space to open space conveyances and will result in consolidated management of the areas and natural resources found within them. Specifically, we believe that the conveyance of 650 acres of BLM managed lands to Nevada State Parks in order to expand Ward Charcoal Ovens State Park, which is currently being managed by the State Parks, and the conveyance of 6,281 acres of BLM managed

lands to the Nevada Department of Wildlife to enlarge the Steptoe Valley Wildlife Management area just south of Ely are sensible solutions. We are generally supportive of other public conveyances for appropriate community needs when the lands do not possess any wilderness qualities or sensitive habitat.

TITLE V—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

Our organizations encourage a fully transparent decision making process independently initiated by the affected land management agency. We recognize that this bill provides some protections in the form of a study, criteria that must be met prior to designation (e.g., no significant impacts), and limits the extent of a trail system. In these respects, this bill is an improvement over the Lincoln County legislation that legislatively designated a site-specific trail system. We would prefer that the agency's obligations for monitoring and enforcement were mandatory and fully enforceable. In addition, we are concerned that this provision does not adequately address the current issues of inappropriate ORV use in the area. It is our belief that the BLM should have the opportunity to fully complete a comprehensive travel planning process for the district before decisions are made on this trail. Lastly, we support adding language to the bill that ensures that any proposed trail system will not significantly impact traditional uses such as livestock grazing. It is our preference that this legislation provide clear congressional direction that the study and planning process be conducted in accordance with NEPA requirements.

TITLE VI—TRANSFER OF LAND TO BE HELD IN TRUST FOR THE ELY SHOSHONE TRIBE

We believe that it is important for the native people in White Pine County to be fairly treated. Increasing the amount of land by 3,500 acres to be held in trust for the Ely Shoshone Tribe seems appropriate. It is our understanding that the bulk of the land is to be designated for traditional and ceremonial uses and that no gaming would be allowed on any of the parcels.

TITLE VII—EASTERN NEVADA LANDSCAPE RESTORATION PROJECT

We support the goals of the Eastern Nevada Landscape Restoration Project, which is part of the Great Basin Restoration Initiative. The ecological health of our Great Basin ecosystem is important given the increasing loss of our native grass and shrub lands to invasive and exotic species. It is our understanding that the projects implemented by this act would be small in scale and would be conducted in compliance with the Ely Field Office Resource Management Plan and the National Environmental Protection Act.

TITLE VIII—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT OF 1998

This title makes amendments to the Southern Nevada Public Land Management Act (PL 105-263). The original goal of that legislation was to make funds available to mitigate the results of the sale of public lands for development in Clark County. As previously stated, we believe that the proceeds from the sale of public lands should be used for conservation purposes. This ensures that the American public does not lose the conservation benefits which they cherish. To the extent that these amendments would move the use of these proceeds away from conservation benefits we would not be supportive of those changes.

We are supportive of the amendment to allow Washoe County to apply for funds to purchase land (up to 250 acres) of the Ballardini Ranch and develop a regional park and natural area. This is an important component of the acquisition provision in SNPLMA and in line with its purpose.

In closing, we hope the subcommittee will give our comments and suggested bill improvements very serious consideration. With the improvements recommended in our testimony, we believe that this legislation represents significant gains for the National Wilderness Preservation System and should be enacted without delay.

Senator CRAIG. Jerry, thank you very much.

Now let us turn to Alan Gardner, commissioner, Washington County, Utah.

**STATEMENT OF ALAN GARDNER, MEMBER, WASHINGTON COUNTY, UTAH BOARD OF COMMISSIONERS**

Mr. GARDNER. Mr. Chairman and members of the committee, my name is Alan Gardner and I am a commissioner from Washington

County, Utah. I am pleased to be here representing the citizens of Washington County, Utah. We are a county experiencing tremendous growth. The U.S. Census listed us as the fifth fastest growing county and the fastest growing metropolitan planning organization in the county.

Nearly 1,000 new residents arrive each month. The county is just over 1.5 million acres, of which 84 percent is in some form of Federal or State ownership. Over 29 percent of the county is currently in some form of special restrictive management, including protection for twelve different threatened or endangered species. This legislation would add to that number.

I want to publicly thank the entire Utah congressional delegation for their support leading to the bipartisan efforts you see today. I particularly want to thank Senator Bennett and Congressman Matheson for sharing our vision and working to advance it here in Congress.

We opted to be the first county in Utah to begin a comprehensive land use planning project, with the goal to develop legislation similar to what has been accomplished in Clark County, Nevada, our neighbor to the west. The Nevada legislation is very attractive to us. Washington and Clark Counties share many similar problems. As a result, we established a working group with the objective being land use legislation and long-term, county-wide growth planning. The result was a comprehensive and inclusive process. The group scrutinized the county, gathered all available data and covered every topic from power and transportation to endangered species and wilderness. The data gathered and conclusions reached by the working group were forwarded to Senator Bennett and Congressman Matheson for development of legislative language. Participants were also asked to submit written comments to Senator Bennett with their conclusions and suggestions for creating legislation based on the data gathered by the working group.

Over the course of the next 12 months following the Nevada precedent, the bill we are now discussing was written by Senator Bennett's staff in coordination with Congressman Matheson's staff. One of our foremost objectives of this legislation was to get a handle on growth, to address this and as a natural extension of our land use planning process, we initiated what we are calling Vision Dixie. Vision Dixie is a comprehensive growth-planning effort modeled after the Envision Utah process used in some of the major communities on the Wasatch Front and in other areas of the country with great success. The Vision Dixie process and this legislation are inseparably connected.

The legislation empowers the growth planning process. One cannot work to its fullest benefit without the other one because of the overall importance of this effort on the future of Washington County. It is important that we pass S. 3636.

The elements of our legislation are very similar to the Nevada bill, whose precedent we have followed. It established permanent wilderness including 93,340 acres of BLM wilderness, another 2,642 acres of Forest Service wilderness and 123,743 acres of wilderness inside Zion National Park as well as expanding the park. It creates 61,000 acres of Red Cliffs National Conservation Area for the permanent habitat and protection of the endangered desert tor-

toise and establishes nearly 170 miles of the Virgin River as Wild and Scenic.

There is no hard release language in this bill. There is no law being made that prevents discussions or blogs continued advocacy. There are elements of this legislation that we are not entirely comfortable with as a commission, which I would like to mention in my testimony.

First, in the designation of more wilderness in the county, with 29 percent of the county already in some form of special designation, adding to that number was not easy. This comes not from an anti-wilderness statement but from the sense that there must be some practical balance to all things and Washington County has already paid a heavy toll in the public land preservation arena.

Second is the failure of this legislation to cherry stem the Sawmill Road, which crosses what would become the Canaan Mountain Wilderness Area. The road was established in the early 1900's as an access road to a sawmill based at the cliff edge of the Canaan mountains where lumber was lowered many hundreds of feet by a cable operation to the valley floor below. It has historically been a favorite trail of OHV enthusiasts and remains a popular area today.

Based on recent court rulings, we believe that the road was closed illegally and every effort should be made to keep this historic road open.

I would like to make three final points. First, we have had a good public process.

Second, this legislation creates good conservation. There will never be full agreement on what should and what should not be protected by wilderness designation, species protection, etcetera. The process in Utah over the past three decades has been one to obstruct and deny. Good conservation, even if it falls short of someone's idea of all that could be done, is still good conservation.

And third, Utah needs this bill. The combative nature of the Utah Public Lands discussion demands that something be done to take a good first step. This legislation is the best effort to come out of the State in three decades. To continue to do nothing in the face of all of the growth and natural resource challenges that we face today would be irresponsible. We must move this bill forward.

And in closing, I would like to again thank Senators Bennett and Hatch and Congressmen Matheson and Cannon and Bishop for the help they have been and thank the Committee for the opportunity to be here today. Thank you.

[The prepared statement of Mr. Gardner follows:]

PREPARED STATEMENT ALAN GARDNER, MEMBER, WASHINGTON COUNTY, UTAH  
BOARD OF COMMISSIONERS

Mr. Chairman and members of the Committee, I am pleased to be here representing the citizens of Washington County, Utah. We are a County experiencing tremendous growth. In August of this year, the U.S. Census listed us as the fifth-fastest growing county in the United States, and the fastest growing metropolitan planning organization in the nation.

Nearly 1000 new residents per month arrive in Washington County, drawn by the wonderful natural beauty of the land, the warm climate, and the diverse recreational opportunities. The climate is not only attractive to the residents and visitors, but also provides a healthy habitat for a number of plants and animals, including twelve different threatened or endangered species, some found nowhere else in

the world. Our beloved Zion National Park also draws millions of visitors annually. As a result, many different groups rightly feel some ownership in the future of our area. Our legislation is an honest attempt to balance all of these needs and points of view.

I have been a Washington County Commissioner since 1996 and am a native of the county. My ancestors helped to establish the first communities, the first coming in 1855, over 150 years ago. I have a deep appreciation for them, and for the work they did and the hardships they endured to create the communities which now make up Washington County. It is because of this heritage that I have such a strong sense of responsibility toward assuring that the future of Washington County protects the quality of life which my Grandparents and many like them sacrificed to create, and which draws people to our area in such incredible numbers today.

The extraordinarily beautiful area that makes up Washington County is just over 1.5 million acres, of which about 84% is in some form of Federal or State ownership. Nearly one-third of the county, over 29%, is currently under some form of special, restrictive management. Our legislation would add to that number. As a result, we are faced with a tremendous challenge—huge areas of public lands, some very spectacular, on one hand, and less than 10% of our lands available to accommodate the thousands of people who are coming, and are yet to come, on the other hand. It is a formidable task to try to balance the preservation of our special places, while at the same time assuring that growth will be accommodated in a visionary manner that provides and maintains a high quality of life. We are confident that our legislation is an excellent step toward accomplishing this task.

The residents of Washington County want smart economic growth, a strong and sustainable local job base, preservation of our special areas, and protection of the high quality of life that makes this place special. This legislation establishes policies that will allow us to develop a vision for the future, and then gives us the tools to accomplish the various elements of that vision.

I want to publicly thank the entire Utah Congressional delegation for their support of this approach. I particularly want to thank Senator Bennett and Congressman Matheson for sharing our vision and then working to advance it here in the Congress. When we first approached our Delegation Members, they quickly grasped the potential of pursuing this objective and turned it into the bi-partisan effort you see here today.

Following an offer by then Governor Olene Walker to help facilitate working meetings, Washington County opted to be the first county in Utah to begin a comprehensive land use planning project. The goal was to develop legislation similar to what had been accomplished in Clark County, Nevada, our neighbor to the west. Washington County and Clark County share many similar problems; extraordinary growth, large areas of public lands, many interest groups advocating proposals for public management, diverse populations, heavy demands on resources and infrastructures, and so forth. The Nevada legislation, which combines land preservation with economic development, planning for future growth, and innovative ideas for land management, was very attractive to Washington County. Consequently, the Washington County Commissioners, with the assistance of the State of Utah, put together a working group. The purpose of the working group was to hold regular comprehensive working meetings with the final objective being land use legislation and long term county-wide growth planning. The group was made up of people who represented many diverse interests from around the county, the state and the region, including individuals with both local and national perspectives, such as the Dixie Wildlife Federation, Virgin River Land Trust, Outdoor Retailers Association, Southern Utah Wilderness Alliance, Sierra Club, Wilderness Society, Blue Ribbon Coalition, and many others, including federal agencies as advisors.

The members agreed at the beginning to adhere to several rules of engagement, which included the following: They would remain at the table until the process was finished; they would disagree agreeably so that a comfortable atmosphere existed for the free exchange of ideas and for open dialogue on all the issues; and, each member would keep the overall good of the project, the bigger picture, as the focal point and foundation of any proposals that were brought to the table.

From the beginning, the process worked well. The group scrutinized Washington County, gathered all available data, and covered every topic—from power and transportation to endangered species. Nothing was left off the table, and the county worked extensively to reach out to the community for expertise and proposals that were not sufficiently represented by the working group.

The result was a very comprehensive and very inclusive process. We did not debate each issue, or try to hammer out some compromise deal as has been done so unsuccessfully in the past. Rather, the data gathered and conclusions reached by the working group were forwarded to Senator Bennett and Congressman Matheson

for development of legislative language. Participants were also asked to submit written comments to Senator Bennett with their conclusions and suggestions for creating legislation based on the data gathered by the working group. Over the course of the next 18 months, following the Nevada precedent, the bill we are now discussing was written by Senator Bennett's staff in coordination with Congressman Matheson's staff, and in direct correlation with the County, members of the working group, and members of the public. It was a very carefully developed and well thought out process. We wanted all the stakeholders to be involved and their issues to be heard, and they were. We were very sensitive to the fact that if we were to err, we should err in favor of too much public participation rather than not enough. After the proposal was far enough along to formally introduce to the public, Senator Bennett and Congressman Matheson held a press conference, making maps and draft language available to all interested parties. We then held open houses in strategic areas in Washington County where we exchanged information and set up a process for receiving further comments from the public. As a result of those meetings and the correlating comments, a number of changes were made to the legislation before it was introduced.

To summarize, this has been a truly grassroots project. The participants, for the most part, have been dedicated to its success from the beginning, and the public has had ample opportunity to participate in the process.

As I said, one of our foremost objectives with this legislation was to get a handle on growth. It is vitally important that we equip the county and the cities and towns in the area with the tools to direct the phenomenal influx of people into the area. To this end, as a natural extension of our land—use planning process, we have initiated what we are calling “Vision Dixie”. Vision Dixie is a comprehensive growth planning effort modeled after the Envision Utah process used in some of the major communities on the Wasatch Front to great success. It has also been used very successfully in other areas of the country as well.

As the sponsor of this effort, the County has entered into an agreement with Envision Utah, the Oquirrh Institute, the Nature Conservancy, and all the communities in Washington County in order to create a county-wide growth footprint which gives all the communities a vision for growth, standards which should define how that growth must occur, and ordinances by which those standards are accomplished. This process will involve a great deal of public input, adding to the public input already provided in our land use planning project. In other words, it provides a forum for the citizens of Washington County to design their own future.

The Vision Dixie process and this legislation are inseparably connected. The legislation empowers, the growth planning process directs. One cannot work to its fullest benefit without the other, and because of the importance of this overall effort to the future of Washington County, it is very important that we pass S. 3636.

The elements of our legislation are similar to the Nevada bills whose precedent we have followed. It establishes permanent wilderness, including 93,340 acres of BLM wilderness, another 2642 acres of Forest Service wilderness, and 123,743 acres of wilderness inside Zion National Park. It creates the 61,000 acre Red Cliffs National Conservation Area for the permanent habitat and protection of the endangered Desert Tortoise, and establishes nearly 170 miles of the Virgin River as wild and scenic.

While there are groups that espouse far more wilderness than is included in this legislation, their tactics have produced no permanent BLM wilderness in the State of Utah. The passage of S. 3636 would change that stalemate. Further, there is no hard release language in this bill. There is no law being made here that prevents future discussions or blocks continued advocacy. We have done our best to include those lands on which there was some level of agreement, and have excluded areas where wilderness would make management difficult for the endangered desert tortoise or which would not allow for the improvement of critical winter habitat for mule deer in cooperation with the state of Utah. This area has been devastated by fire for the last two years. Neither the tortoise habitat nor the mule deer habitat were recommended by the Bureau of Land Management for wilderness designation.

This legislation would also provide for the creation of the High Desert OHV Trail. This trail has been in the planning and development stages for several years. It will utilize established roads and trails on the west side of the County to create a designated route for the OHV community, thus greatly reducing the amount of resource damage that can occur with the constantly increasing popularity of Off Highway Vehicles. Our legislation provides for the trail to be created in an environmentally sensitive manner, and also allows for funding for development, monitoring, resource protection, and enforcement. Our language for this section of the legislation is taken directly from the “Silver State Trail” language in Lincoln County, Nevada.

The bill also provides for long-term economic development and growth planning by establishing corridors for gas, electricity, water, and transportation. Following the Nevada pattern, it also provides for the disposal of up to 24,300 acres of BLM land in two tiers. The proceeds from the sale of these lands would be distributed in the same manner and based on the same formula as in Nevada, with 5% going to the State permanent school fund, 2% to the County to cover administrative costs, 8% to the Washington County Water Conservancy District for identified long-term water projects in the County, as demands dictate, and in direct correlation with the Vision Dixie planning effort, and 85% to a special fund for conservation projects identified by the legislation, including preservation of critical lands, management of wilderness areas, trail repair and reconstruction, and management of the Red Cliffs National Conservation Area, among other things. The Desert Red Cliffs Reserve, which is home to the desert tortoise, is one of the first and most successful habitat conservation plans in the country. This legislation will establish the Reserve as a National Conservation Area, thus giving permanence to a well-functioning conservation partnership. The 61,000 acre reserve still contains in excess of \$400,000,000 of non-federal lands that yet need to be acquired by the United States. Funding from land sales allowed by S. 3636 could help address this problem, while also helping to provide habitat protection for many other species around the county as well.

This section of the legislation, dealing with land sales, is the area that has generated the most criticism, and conversely, has received our most intensive effort in response to public input. We have tried to diligently and responsibly to address public concerns in how this would be accomplished. The first tier of 4300 acres, to be sold over a period of at least five years, is already identified by the BLM in their Resource Management Plan as suitable for disposal. In response to concerns from the public, we have added two layers of further protections for these directed sale lands: First, we have given the BLM an extra year to further scrutinize these lands before they are made available for sale, and, second, we have included covenant language that assures that if something of national importance is discovered on any lands offered for sale, the site would have to be protected.

The second tier of up to 20,000 acres, will only be made available for sale if it is identified in the Vision Dixie growth planning process as being very important to the overall county growth footprint, and then would be sold in sensible increments over a period of 10 to 20 years, or longer. The Washington County Growth and Conservation Act makes it possible for the Vision Dixie growth planning team to actually develop a countywide growth vision and then identify lands that should be developed as part of that countywide growth footprint. Whatever the end product is, the fact remains that this legislation equips the Vision Dixie Project Administrators with the ability to select those lands which best fit the ideals created by the growth planning team and then make them available for directed development as appropriate. Without the legislation, the planners would be seriously handicapped in their efforts to direct growth, create open space, and protect precious areas while at the same time assuring the high quality of life that draws people to this area.

There are elements of this legislation which we are not entirely comfortable with as a Commission, and which I would like to mention in my testimony. The first area of concern is in the designation of more wilderness acres in the County. With 29% of the County already in some form of special designation, adding to that number has been a difficult pill for the County to swallow. This comes not from any anti-wilderness sentiment, but from the sense that there must be some practical balance to all things, and Washington County has already paid a heavy toll in the public land preservation arena. Consequently, while some are calling for more wilderness, we believe that it could have been less, given the circumstances.

The second area of discomfort comes from the failure of this legislation to cherry-stem the Sawmill Road which crosses what would become the Canaan Mountain Wilderness Area. The road was established in the early 1900s as an access road to a sawmill based at the cliff edge in the Canaan Mountains, where lumber was lowered many hundreds of feet by a cable operation to the valley floor below for transport. It has historically been a favorite trail for OHV enthusiasts, and remains a popular area today. Based on recent court rulings, we believe that the road was closed illegally, and should have been cherry-stemmed in this process. While we have remained sensitive to the concerns surrounding this road, we would like to make the point in this testimony that it remains an area of concern for the Washington County Commissioners as well as for other stakeholders who have been involved in this effort. We believe that every effort should be made to recognize this problem and keep this historic road open.

I would like to make three final points, if I may.

First, we have had ample process. As you know in working with the public, someone always finds reason to complain; especially when they don't get everything they



want. This has been a careful, deliberate process of collaboration during which we have tried in every way possible to draw interested stakeholders into the design of the end product. It is an honest effort to move forward in a long-standing stalemate. Given the outstanding conservation features of this legislation, it is disappointing that we can't emphasize our areas of agreement and move forward, rather than, once again, cry foul about the few areas where we disagree. We seem continually to be forced into a situation where someone's idea of perfect legislation becomes the enemy of excellent legislation. S. 3636 is not perfect legislation, but it is by every standard excellent.

Second, as I have indicated, this legislation creates good conservation. There will never be full agreement on what should and what should not be protected by wilderness designation, species protection, and so forth. The process in Utah over the past three decades has been to obstruct and deny. Good conservation, even if it falls short of someone's idea of all that should be done, is still good conservation. To prevent its implementation because it falls short of the goals of certain single focus groups seems narrow-minded. We believe that any step towards good conservation is a good step, and this legislation is a major step in the right direction.

And third, Utah needs this bill. The combative nature of the Utah public lands discussion demands that something be done to take a good first step. This legislation is a very good first step, and represents the best effort to come out of our state in three decades. To continue to do nothing in the face of all the growth and natural resource challenges that we face would be irresponsible. We must move forward, and S. 3636 will allow us to finally do just that.

Summarily, I would once again like to thank Senators Bennett and Hatch, and Congressmen Matheson, Cannon, and Bishop for their wonderful help and support in the development of this legislation. I would also like to thank the members of the Committee today for this opportunity to testify in support of S. 3636. I ask for your earnest consideration of this legislation, and believe that it will establish a strong precedent in Utah for collaboration and public process in public land matters in the future.

Thank you.

Senator CRAIG. Commissioner, thank you very much for that testimony.

Now last to testify is Peter Metcalf, president, Black Diamond Equipment, Limited. Welcome before the committee.

**STATEMENT OF PETER METCALF, PRESIDENT, BLACK DIAMOND EQUIPMENT, LTD, BOARD MEMBER, OUTDOOR INDUSTRY ASSOCIATION, SALT LAKE CITY, UT**

Mr. METCALF. Thank you, Mr. Chairman, for the opportunity to testify about the Washington County Growth and Conservation Act. My name is Peter Metcalf. I'm a Utah resident, the president and founder of Black Diamond Equipment, a Utah-based outdoor equipment company with annual sales over approximately \$60 million per year, with over 300 Utah-based employees as well as global operations.

Black Diamond chose to relocate to Salt Lake in 1991, primarily because of its immediate proximity to wilderness quality public lands. With this experience, I've served on the executive board of the Economic Development Corporation of Utah as well as on Governor Huntsman's task force on the outdoor recreation economy and I've been honored with the Ambassador of the Year Award by the Salt Lake Visitors and Convention Bureau for my contributions to the State's visitation economy.

I'm also here today in my capacity as director and vice chair of the Outdoor Industry Association. OIA is a national trade association whose mission is to ensure the growth and success of the outdoor industry. The outdoor industry is made up of over 4,000 businesses with half a million employees, generating \$33 billion in sales every year. They have a twice-a-year trade show in Salt Lake

City, which is by far the largest State host each year and we are there because of the immediate access to the high quality public lands.

The Outdoor Industry Association opposes this legislation because the bill falls far short of truly protecting our public lands and balancing the needs of the region. We ask that the bill be withdrawn and reworked to allow for more public review and improvements.

Washington County, as we know, is home to Zion National Park, however this is but one piece of the county's spectacular wild landscape. Many lands outside the park deserve protection as well, especially now as the landscape is under pressure from the region's intense population growth. Over half of the legislation's proposed wilderness is located within Zion National Park, which are largely protected from threats while only a fraction of the wild BLM land outside the park, which are vulnerable to threats, would be protected. Many stunning and desert expanses near Zion and the Mojave have been excluded. This legislation would leave out many treasured local canyons, forests, and mountain landscapes that are presently protected.

The OIA strongly urges sponsors of this legislation to protect all the regions preserving wild lands. These areas are, in part, what makes Washington County unique and a desired place to live, to work, to recreate.

We are concerned with this legislation because when it promotes the sale of up to 24,000 acres of public land in a region already struggling to preserve open space and faced with sprawl and diminishing opportunities for close-to-home recreation. The BLM has already disposed of 18,000 acres nearly in the past 10 years. We urge the Committee not to create the expectation that Utah's public lands should be sold to ensure funding deficits, especially if those lands have provided significant recreation or cultural values.

Third, their numerous rights of way utility corridors and then authorizes the BLM to create a county-wide off-road vehicle trail yet it fails to develop any balanced recreation plan in the region or the means to enforce it.

High quality public lands such as those found in Washington County are critical to our industry. Active outdoor recreation is increasingly a strong and vital part of our Nation's economy, especially in rural areas. The economic impact is impressive. Outdoor recreation contributes \$730,000 billion to the U.S. economy, several billion in Utah and 6.5 million jobs nationwide. Clearly, recreation and public lands play a very special and critical role in our economy.

In addition, we know that active outdoor recreation improves the health of Americans. Studies cite that 25 percent higher health care costs for those people who are physically inactive. While 80 million Americans currently use outdoor activities as their main form of exercise.

Protecting the public lands that support outdoor recreation is critical to establishing and sustaining balance, economic ecosystems across the Nation, especially in the West. We urge the committee to look at ways that communities can maximize the ben-

efits from our public lands rather than simply selling them off for private development.

Many Utahans care deeply about this region, as do I but feel that this legislation falls far short. A June 21 statewide poll showed that 89 percent of Utahans think public hearings should be held in different locations around Utah before this legislation is voted on. This has not happened. Even in Washington County, the local sentiment is split. Since OIA and Black Diamond have taken an active position in attempting to stop this legislation, we have been amazed at the ground swell of enthusiastic feedback from customers that is nearly unanimous in its support of our work.

So in conclusion, we suggest that the sponsors of this legislation withdraw it. We urge the subcommittee to find a more sustainable approach to public land management. As Stewart Brand has written, "Natural systems are priceless in value and nearly impossible to replace but they are cheap to maintain. All you have to do is defend them." For one of Utah's largest, most vibrant and sustainable economic sectors, active outdoor recreation, Mr. Brand's insights resonate.

"We must defend that which cost us nothing to create but will cost us all so dearly to lose." Thank you.

[The prepared statement of Mr. Metcalf follows:]

PREPARED STATEMENT OF PETER METCALF, PRESIDENT, BLACK DIAMOND EQUIPMENT, LTD., SALT LAKE CITY, UT, BOARD MEMBER, OUTDOOR INDUSTRY ASSOCIATION

#### INTRODUCTION

Thank you for the opportunity to testify before this subcommittee about the Washington County Growth and Conservation Act, S. 3636. My name is Peter Metcalf. I am a Utah resident and the president and founder of Black Diamond Equipment, a Utah-based outdoor equipment company with annual sales of approximately \$60 million per year with over 300 Salt Lake City based employees, another 30 in Europe and 50 more employees in Asia.

I am also appearing before the committee today in my capacity as a member of the board of directors and vice-chair of the Outdoor Industry Association (OIA). OIA is a national trade association whose mission is to ensure the growth and success of the outdoor industry. The outdoor industry is made up of over 4000 businesses with 500,000 employees in all 50 states, generating \$33 billion in sales every year. Last year, 159 million Americans participated in outdoor recreation, with the greatest numbers in the gateway sports of hiking, biking, camping and paddle sports. OIA's member companies include Yakima, Mountain Hardware, The North Face, Cascade Designs, Vibram USA, Johnson Outdoors, REI, Eastern Mountain Sports, JanSport, Smartwool, Timberland, Columbia Sportswear, Black Diamond Equipment, GoLite, Vasque/Redwing and more. Attached is a letter concerning the Washington County Growth and Conservation Act to the Committee from thirty-one retailers in the outdoor industry.

I appreciate that the sponsors of the legislation have attempted to craft legislation to address the needs of communities and public lands in southwestern Utah. This legislation has sparked a helpful discussion about the future of Washington County and our public lands. I am encouraged to know that a local planning effort, known as Vision Dixie, is underway. The local planning process is dearly needed and I hope this continues, however, the Washington County Growth and Conservation Act is premature before completion of the local planning.

The OIA opposes this legislation because we are concerned that the bill falls short of truly protecting our public lands and balancing the needs of the region. Our recommendation is that the bill be withdrawn and reworked to allow for more public review and improvements. It is our hope that such a process may ultimately lead to a bill that could be more fully supported by Utah citizens and all citizens who care about our public lands.

## WILDERNESS AND THE OUTDOOR RECREATION INDUSTRY

Many Americans may not know of Washington County by name, but many Americans do know of this region's spectacular landscape protected within Zion National Park. Zion National Park is but one piece of the county's spectacular wild landscape. Many lands outside the park deserve protection as well. At the same time, the landscape is clearly under pressure from the region's intense population growth. The OIA has taken a position in opposition to this legislation because we are concerned about the specific impacts this bill would have on public lands and recreation opportunities in Washington County. We also have concerns about this legislation as a matter of public policy.

First, we are concerned that the legislation fails to protect many wild public lands in Washington County that truly deserve protection. The legislation designates roughly 220,000 acres of wilderness across Washington County. Much of the proposed wilderness (120,000 acres) is located within Zion National Park. Unfortunately, only a fraction of the wild Bureau of Land Management (BLM) land outside the park would be protected under this legislation. Many stunning canyons and desert expanses near Zion National Park or in the Mojave Desert have been excluded by this bill. Similarly, the bill would add less than 3,000 acres of Forest Service wilderness despite the fact that the county is home to over 380,000 acres of Forest Service land. Just 50,000 acres of Forest Service wilderness is currently protected in the region. The legislation would actually strip Wilderness Study Area protection from over 15 square miles of now protected lands. On a whole this legislation would leave out many treasured local canyons, forests, and mountain landscapes.

The OIA supports the protection of wilderness and strongly urges sponsors of this legislation to protect all of the region's deserving wild lands. These areas are, in part, what makes Washington County unique and a desired place to live, work and recreate.

## SELLING PUBLIC LAND

We are also deeply concerned that this legislation would allow the sale of significant amounts of public land and direct those sale proceeds toward funding local and federal government projects. Under Title I of this legislation, as much as 24,300 acres of public land in a single county could be sold off for development. As I understand from the Bureau of Land Management, the agency has already disposed of roughly 18,000 acres of BLM land in the past ten years. Still this legislation calls for more disposal of public lands in Washington County. We are concerned that this legislation promotes the sale of public land in a region already struggling to preserve open space and faced with diminishing opportunities for close-to-home outdoor recreation opportunities.

The legislation earmarks two percent of land sales proceeds to the County for administrative services, eight percent to the Water Conservancy District, five percent to the state for education, and the remaining eighty-five percent to various federal projects in Washington County. On a national perspective, we are deeply concerned that this legislation sets a dangerous precedent of selling federal lands owned by all Americans to fund local and federal government projects. We are sympathetic to local governments which face funding shortfalls, however, we urge the committee not to create the expectation that our public lands should be sold to meet short-term funding deficits.

## CONSERVATION GAINS AT RISK

The legislation contains numerous provisions that promote development of public lands without an appropriate balance for conservation of at-risk wild lands. The bill establishes hundreds of miles of corridors for utility lines, highways, and pipelines. Public lands would also be dedicated to water development and dam sites. The legislation also authorizes the BLM to create a county-wide off-road vehicle trail, yet the bill fails to consider other types of recreational use of the landscape or the need to develop a long term travel management plan on public lands in the county.

The outdoor industry depends upon the long-term protection of our public lands and has worked to help achieve protection of lands that outdoor users can enjoy. As the outdoor industry has grown over the years, this industry has increasingly worked to reinvest in our public lands and enhance the public's enjoyment of open spaces. We are concerned that this legislation would turn back the progress protecting our public lands that many outdoor retailers have sought to achieve over the years. Further, if this approach is repeated across the nation, many lands across the American West or beyond could be at risk of being sold.

## LOCAL COMMUNITIES AND THE OUTDOOR INDUSTRY

The failure to protect wild lands in Washington County could have direct economic and cultural consequences to the communities in the region. Active outdoor recreation is increasingly a strong and vital part of our nation's economy, especially in rural areas.

This year, Outdoor Industry Foundation, with the support of many other trade groups including the travel industry, completed the industry's first study quantifying the contribution of active outdoor recreation to the U.S. economy. We looked at eight activity categories: bicycling, camping, fishing, hunting, paddling, snow sports (including downhill skiing, snowboarding, cross-country/nordic, snowshoeing), hiking and backpacking (including mountaineering/canyoneering), and wildlife viewing. With the support of Secretary of the Interior Dirk Kempthorne and Utah Governor Jon Huntsman, we released the findings this summer and the numbers are impressive.

Active Outdoor Recreation contributes:

- \$730 billion to the U.S. economy
- Generates \$289 billion annually in retail sales and services across the U.S.
- Touches over 8 percent of American's personal consumption expenditures more than 1 in every 12 dollars circulating in the economy
- Generates \$88 billion in annual state and national tax revenue
- Supports nearly 6.5 million jobs across the U.S.

The bottom line is that recreation and public lands play a special and critical role in our economy.

Active recreation and public lands offer other benefits as well: The study also shows that outdoor recreation is a primary vehicle of transferring wealth from our wealthier urban/suburban parts of the states to rural areas. It's a way of taking the dollars and casting those dollars to the areas where they are needed most.

In addition, we know that outdoor recreation improves the health of Americans. Studies cite 25% higher health care costs for those people who are physically inactive. An OIF research project titled Exploring the Active Lifestyle examined "how, when and why active Americans become active" and it showed that 8 out of 10 active Americans feel that they are happier, have better family relationships and less stress in their lives when they are active. And 80 million Americans currently use outdoor activities as their main form of exercise.

Protecting the public lands that support outdoor recreation is critical to establishing and sustaining balanced local economic ecosystems across the nation, especially in the West. We urge the committee and sponsors of this bill to look at ways that communities can maximize the benefits from our public lands, rather than simply selling them off for private development.

## LOCAL AND STATE-WIDE CONCERNS

Finally, I want to take a brief moment to explain how this bill is being received in Utah. It is nearly impossible to miss the widespread concern about this legislation throughout Utah. Many Utahns, including myself, care deeply about this region, but feel that this legislation falls short. A June 21st statewide poll showed that eighty-nine percent of Utahns think public hearings should be held in different locations around Utah before the legislation is voted on in Washington, DC. This legislation has not gone through the needed public review. Even in Washington County, the local sentiment is split. Three city councils have passed resolutions opposing the bill, four have passed resolutions in support, one city council has opposed a resolution for the bill, and four have taken no action. Over forty letter-to-the-editors against the bill have been published in Washington County newspapers. The Salt Lake Tribune has run three editorials and many LTE's opposing the legislation.

## CONCLUSION

In closing we suggest that the sponsors of this legislation withdraw this legislation so that there can be more public review and opportunities for improvements. Many Utahns have concerns with the legislation and want a better public process. We believe that our public lands ought to be protected for the enjoyment of current and future generations. Instead of proposing to sell off our public lands for private development, at a time that many communities in the west are taxing themselves to use public money to buy private land to prevent its development, we urge the subcommittee to find a more sustainable approach to public land management and addressing the funding needs of the local and federal government. As Stewart Brand

has written: "Natural systems are priceless in value and nearly impossible to replace, but they are cheap to maintain. All you have to do is defend them."

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STATEMENT OF AMERICAN ALPINE INSTITUTE, LTD.; ADVENTURE 16; BLACK DIAMOND EQUIPMENT LTD; BROUDY/DONOHUE PHOTOGRAPHY; CASCADE DESIGNS; CHACO, INC.; CHAMPAIGN SURPLUS STORE, INC.; CLOUDVEIL MOUNTAIN WORKS, INC.; EARTH GAMES; GREAT OUTDOOR PROVISION CO.; HI-TEC SPORTS USA, INC.; HOWADESIGN; KEEN FOOTWEAR; KELTY; MERCURY ADVERTISING; MOONFOTO; ONTARGET PUBLIC RELATIONS LLC; OUTDOOR INDUSTRY CONSERVATION ALLIANCE; PACK RAT OUTDOOR CENTER; PATAGONIA; PINENEEDLE MOUNTAINEERING; RETAILERS OF THE OUTDOOR INDUSTRY; SNEWS LLC; TRAVEL COUNTRY OUTDOORS; THE BASE CAMP; THE ELEPHANT'S PERCH; THE FOREST GROUP; TIBETAN TRADER INC.; UTE MOUNTAINEER; WILD RIVER OUTFITTERS; AND WILDERNESS SPORTS

Dear Senator Domenici, Senator Bingaman, and the members of the committee, we are writing to express our opposition to S. 3636, the Washington County Growth and Conservation Act of 2006.

Our companies operate in the outdoor industry, which generated retail sales of \$33.3 billion in 2005. Our customers depend on protected public lands as destinations to use the products we make and sell.

We have a special interest in Utah's public lands due to the spectacular beauty and recreational opportunities found there. The State of Utah also serves as the location for our industry's twice yearly trade shows, which bring roughly \$30 million into Utah's economy each year.

S. 3636 would substantially rewrite federal laws controlling southwestern Utah's public lands in ways that could harm the public's ability to climb, hike, camp, watch wildlife, hunt, fish, and sightsee in these special places.

First, S. 3636 would convey thousands of acres of public lands near Zion National Park and the Mojave Desert into private hands. In the process, the bill could divert hundreds of millions of dollars in federal proceeds from public land conservation to support local development, a fundamental shift from current policy. By creating this loophole, S. 3636 provides a dangerous incentive to liquidate our nation's natural heritage. We urge you to oppose selling public lands to subsidize local projects and government budgets.

Second, though we generally support new wilderness designations for the recreational benefits they provide, we are concerned about the wilderness component of this legislation. S. 3636 fails to preserve the most vulnerable and unprotected lands in Washington County: especially the ecologically rich Mojave Desert region. The bill also rolls back Wilderness Study Area protection now in place for roughly 9,500 acres, or 14 square miles of BLM land.

Finally, S. 3636 would require that the BLM establish a new system of off road vehicle routes, despite the BLM's inability to manage existing use. We are concerned these designated routes would attract more off road vehicle use to proposed wilderness areas and wildlife habitat.

We urge you to improve this legislation to safeguard our public lands, or alternatively to stop its passage. Thank for considering our concerns about S. 3636.

Senator CRAIG. Peter, thank you very much. Because of the time, I will not ask all the questions that we have prepared. We may submit some of them to you in writing for your response.

Commissioner Gardner, let me turn to you. Being that we've just finished discussing the Utah bill, I understand there has been a fair amount of negative press about the bill. In particular, I was a bit surprised that papers like the *New York Times* and the *Los Angeles Times* wrote very negative articles and editorials on the bill in the process. Is that a correct observation?

Mr. GARDNER. That is a correct observation. However, as you read the articles that have been written, you can see the words that SUA has presented to them, that they mirror identical a lot of the local things that initially came out, that SUA came out with against the bill in Washington County. So it is just an effort by them to bring it to a higher scale.

Senator CRAIG. So am I to assume that neither of the papers came to the location and examined the location and made observations from that?

Mr. GARDNER. The *LA Times* did come and visit the area. The New York papers, Boston—didn't come to the area. We submitted comments to them after the articles came out and nothing was published in the papers.

Senator CRAIG. Well, Mr. Metcalf's testimony leaves the impression that there is very little, if no local support for the bill. How would you respond to that, commissioner?

Mr. GARDNER. Well, we just had an election there and the commissioners on the board that has been very involved in this was elected with about 75 percent majority vote. So I would think that there is some support for the bill in the county.

Senator CRAIG. In this election, was it a significant issue?

Mr. GARDNER. It wasn't a big issue. It was brought up and discussed by the Democratic candidate and the other candidate that was opposed. There were three people in that election and it was discussed in the election.

Senator CRAIG. Okay, Mr. Metcalf, in listening to your testimony and Commissioner Gardner's, I would think we were talking about almost two different pieces of legislation. It is my understanding that your group had a representative participate fully in all the various meetings leading up to the bill and that an individual actually made a statement in support of the final agreement, is that correct?

Mr. METCALF. That is not quite correct. We have a wide membership. If we do have a member who did participate in that, in the process but not as an official representative of OIA.

Senator CRAIG. And OIA had no official representative participating?

Mr. METCALF. That is correct.

Senator CRAIG. Okay. Would you find it acceptable if it were more clearly stated in the bill that the land for disposal will be identified by including the Vision Dixie planning and by involving public input through BLM planning processes?

Mr. METCALF. Certainly the fact that there has not been a Vision Dixie process in the front end of this is very problematic. The way to create a quality—a good quality of life of vision for the future that creates a community with a medium and long-term economic future is to engage in a thoughtful planning process like they do and then determine which lands need to be sold, which lands need to be held onto and also give consideration to which lands need to have permanent wilderness designation and that has not occurred yet.

Senator CRAIG. You state that only a fraction of the public lands will be protected and my staff and I in looking at this find that nearly a fourth of the Federal lands in the county will be designated wilderness and more than half are protected by other designations. One only needs to look at the map and I've looked at the map to see how much of the Federal land is already set aside in some form of protective designation in southern Utah. I guess my ultimate question is then, how much is enough?

Mr. METCALF. Well sir, when you talk about lands being protected and in Federal hands—that also includes lands that can be used for lumbering. It's lands that can be used for off-road—

Senator CRAIG. I'm not talking about multiple use, I'm talking about National Park Service systems, wildernesses, designated non-use or roadless areas, where those kinds of commercial activities cannot go on. That is what we find by the maps, is designed in this particular county. Is that not accurate?

Mr. METCALF. Well, let me say this. I'm not an expert on what percentage of the land should be preserved or not. It's not a numbers game from our perspective. It's a matter of there are some spectacular lands, canyons, mountains, plateaus, mesas, desert areas that are beautiful from a recreational standpoint that are not getting protected and we believe they deserve protection. When we look at the amount of Federal lands down there, it's a very small percentage that we're really talking about.

Senator CRAIG. Since your organization is a national organization, am I correct to assume that you have similar concerns and therefore oppose the Nevada legislation or have you expressed an opinion on it?

Mr. METCALF. We have not expressed an opinion on the Nevada legislation.

Senator CRAIG. Thank you very much. Commissioner Eldridge, from your written testimony, it appears there are still a few issues that the county would like to see addressed if possible. Besides these few issues, is the county satisfied with what would come out of the bill and is the county going to benefit by those actions?

Mr. ELDRIDGE. Yes. The county is satisfied with the progress thus far, the terms of this bill. It does feel—as I mentioned, there are a few things that we feel should be added or amended but overall, the county supports this bill.

Senator CRAIG. Have you made those areas of interest to you available to the committee?

Mr. ELDRIDGE. I believe they are in our written testimony, yes.

Senator CRAIG. Okay. I thank you for that. Mr. Greenberg, in your written testimony, you described the BLM wilderness inventory as faulty and limited to two separate 90-day public comment periods. You went on to describe a Citizen's Wilderness Proposal. What kind of public process did the Citizen's Wilderness Proposal use and how long was the public comment period on that one, do you recall?

Mr. GREENBERG. As a citizen's effort, it really is very open and very public and it went on for some time. So in a sense, while there is no formal public input or process like an agency would have, it was one where very many people could get involved, did get involved and we were open to as many people wanting to get involved as possible and so we very much looked for the public to be involved. In that sense, it was very much a public process.

Senator CRAIG. How many acres total were identified in the Citizen's Proposal?

Mr. GREENBERG. It was 730,000 acres, sir.

Senator CRAIG. Are there other ways to protect these lands? And with a well-deduced designation?



Mr. GREENBERG. As you know, sir, there are a number of different ways you can protect land. In this case, wilderness is the right protection for these lands. Things such as off-road vehicle use, wilderness is one of the best tools, in fact, to help ensure that those lands are not damaged from inappropriate use. There are, of course, places where it is appropriate. Wilderness, it is not.

Senator CRAIG. Your group appears to have accepted the idea of land disposal in Nevada while wilderness groups, including the Wilderness Society, seem to strongly object to this concept in other states. In fact, statements have been made by other members of the Wilderness Society that no public land should be disposed of, such as right next door in Utah. Why is this so? Why can you accept that in Nevada but you cannot accept it in other places in the Nation?

Mr. GREENBERG. Well, we actually see the land disposal as being excessive in both bills and we've said so. We do believe there can be a place for land disposal. It needs to go through the right processes, it needs to be a public process and it really should be tied to specific sorts of needs and issues before the public good and these things we've stated consistently across all bills. So we're hoping that we can continue to work on the White Pine legislation and improve those aspects of the land disposal, that we have been consistent in our statements about that.

Senator CRAIG. Okay. Well, gentlemen, to all four of you, thank you very much for your patience today before the committee. Oh, I'm sorry. Maria, I'm very sorry. I apologize. Before I make my concluding statement, let me turn to the Senator from the State of Washington who has been patient.

Senator CANTWELL. Thank you, Mr. Chairman. I will submit a longer statement for the record, too and I certainly appreciate you holding this hearing. As a Senator from Washington sitting in Scoop Jackson's seat in the U.S. Senate, I feel a particular focus to this issue, since he was the author of the 1964 Wilderness Act. I certainly want to make sure that we are continuing in the good stead of making sure that Wilderness Acts proceed with the right level of oversight and communication, given the delicate political balance that they often are. Mr. Chairman, I want to thank you for your long support for the Wild Sky Wilderness bill, which I will mention, has passed the Senate several times and back and forth but we've not been able to pass both bodies at the same time, which leads me to the question about what's the problem in this particular proposal as we've gone through many things of dotting the i's and crossing the t's in Washington State on something that I think is a lot less controversial.

Here's my question. This process obviously, of selling Federal land that seems to be married in this bill, a Wilderness Act but yet circumventing the BLM process of selling Federal lands, is obviously, as you were alluding to, a little bit short-cutting the process of stakeholders and others and their discussion of the impacts of selling that Federal land. So what precedent are we setting here and what are some of the problems of doing that, that we should be specifically concerned with, as this bill moves out of this committee?

To either Mr. Greenberg or Mr. Metcalf and I'm happy to hear from Mr. Gardner, if he wants to chime in.

Mr. GREENBERG. Speaking about White Pine County, the legislation doesn't tie it to a RMP process. So that's on the White Pine side. On the Washington County side, we are very much concerned that it is, in fact, not tied to an RNP public process where the land could, in fact, be identified in a proper way, understanding what the resources and values are, both natural and cultural. So that is a very big issue for us on the Washington County bill, absolutely.

Senator CANTWELL. What about the—in general, whether that process is there. Historically, obviously, the BLM process is a long process and so you think having legislation that has a review process in it spelled out is good enough? Or the White Pine versus the Washington County or would you prefer that we do it the old fashioned way of having a wilderness bill and then having any Federal lands sold through the BLM process.

Mr. GREENBERG. Certainly if we were writing the legislation, we would be writing wilderness legislation and allowing the BLM to do its job through the land disposal process that it has.

Senator CANTWELL. Why is that preferable?

Mr. GREENBERG. There are laws in place to handle disposal and tens of thousands of acres, in fact, are being disposed of year by year, by year. It does happen. It allows the public a chance to be involved but that is where the White Pine legislation actually is helpful because it still ensures the public will be involved and it's very critical to us that that's a core value that the public is, in fact, involved. So it allows for the resources rather than actual or cultural to be identified, for there to be discussion about that, to understand what the management implications are. There is a whole process, history and tradition by which that can take place. To the degree that a piece of legislation is going to address it—the more that it is used to that, adheres to that, the less problem we have with it.

Senator CANTWELL. I guess I'm concerned, as a member of this committee, where this process leads to in various wilderness bills moving forward. It becomes a standard norm. Is this really what we want to become a standard norm? Certainly I don't think Washington County is the way we want to do it and I would even suggest that in this particular case, it's setting a precedent and process and procedure that I think we need to think of the pluses and minuses of doing it this way versus the safeguards that we have in the normal process.

Mr. Metcalf, do you have any comment?

Mr. METCALF. I think speaking on behalf of OIA, we share your concerns. We also recognize that certain political realities in the times we live in and we are keen to see wilderness bills that preserve wild recreational areas, preserved and if one needs to engage in some kind of land dispersal, then we are open to that as it's been done in White Pine County. The concern is really in Washington County, is number one—that it is departing from existing law and practices and it's a huge concern. How will it change next time and second, the lands being disposed of aren't even identified at this point in time. It's not as if we have some specific lands that we've all agreed have no cultural, recreational or other value. In-

stead, it's sort of more the cookie jar approach of let's just pick up to 25,000 acres. We need the funding and we'll sell the south without identifying it and then we'll tie in it with some paltry amount of lands being preserved. That is a big concern for us.

Senator CANTWELL. Mr. Gardner?

Mr. GARDNER. Yes, thank you. I appreciate the opportunity to comment on that as far as the Washington County bill goes. The 4,300 acres that are identified in the first phase of that sale have already had their cultural clearances and all of these—they've already been through the process, they've already been cleared for sale and they consist mostly of isolated parcels of BLM ground that have been hard for them to manage. The additional part that is identified in the bill, from up to 20,000 acres to be sold, is going to be identified in our Vision Dixie process, the planning process, public process we're going through at this time. And it is my understanding that they still, even then, will have to go through a BLM plan amendment and through the normal channels to actually get that ground to sale purposes. It would be merely a method of identifying ground that the local communities feel would be of benefit to them and as Mr. Metcalf mentioned in his statement, in the past 10 years, there has been 18,000 acres of BLM land sold in Washington County. What he failed to mention is that there has also been 18,500 acres of ground that BLM has acquired, of private ground and there is yet in our Habitat Conservation plan that would be a national conservation area. In this bill, there is yet about 7,500 acres in there that has yet to be acquired by BLM that currently at this time, as a conservative estimate, has a value in excess of \$400 million.

So there are two sides to the issue of selling and acquiring BLM ground.

Senator CANTWELL. So you would oppose any attempt to improve this wilderness bill that is similar to the White Pine legislation that at least puts the process more on track at the same time? The process of selling Federal lands?

Mr. GARDNER. I think our process is a very similar process to what White Pine has and what Lincoln and Clark County have already been in the process of doing.

Senator CANTWELL. Mr. Chairman, I will submit further questions for the record but I do remain concerned about this process from a precedent-setting perspective. I think there was one other time that we had a precedent set in 1998. So I'll review those and come back to the committee. But I think from a perspective of the complexity that wilderness bills are, we are adding a new level of complexity in the selling of Federal lands in a unique process. So perhaps we can have more oversight as a committee on this, from a large perspective in addition to the individual bills that we will be discussing. Thank you.

Senator CRAIG. Senator, I appreciate that dialogue. I think it is very constructive. One of the things that I think this committee and those of us who've attempted to designate wilderness areas have found over the last decade, is a near-impossibility of doing so, largely because everybody wants to adhere absolutely to the 1963 Act and we know that what might have worked in 1963 and in large parcels of those that seem to be immediate and easily identi-

fied, is the case. But as we become more complicated in identifying those and as landlocked counties need to grow a little bit because of the pressure that is on them or economies are struggling because of certain changes in public policy, I think it is a worthy point of discussion.

I've taken the public position that I'm opposed to the sale of public lands and have been rather vocal about it except in those rare occasions where we can collectively and in a public way, identify and do so and what seems to be happening—I've got a couple of bills emerging out of Idaho now that local environmental groups have agreed to and ranchers and off-road vehicle people and the whole combination have come to a compromise on because they are a balance. They are not just wilderness. They are a little bit of grazing relocation, maybe some grazing buy-out, maybe some public land that is taken private because of landlocked communities and those kinds of things.

And I'm not suggesting this is the path into the future but I am suggesting that the 1963 Act as we know it has pretty well stalled out. It is very difficult today to designate wilderness and wilderness alone. If you're listening to all the publics involved. And I think it seems to be that case in Idaho. I think that's probably the problem in Utah and it's also the concern in Nevada, in part. And of course, the State of Washington and the State of Idaho are nowhere near as landlocked federally as is the State of Nevada, especially but Utah has a similar configuration. So it is a struggle and it is one that is worthy of the dialogue you're talking about because I'm not sure we move further ahead if it's no to everything except absolute designation of wilderness. If that comes, it comes in very small parcels usually. It can't be connected in the comprehensive and associated with others and at least it hasn't been, except in rare occasions, so that is a worthy dialogue for all of us to have as we try to move some of these stalled out designations and in my State, the roadless area review, RARE-2, should have been resolved a decade or two ago. I tried mightily for a couple of times. It didn't work because of the absoluteness of those who were the advocates of and now I have my colleagues trying to strike a balance. We'll see how far we get but that is important.

Gentlemen, again thank you for your time and your testimony and there may be questions coming your way as it relates to these two pieces of legislation.

I know the Senators involved are quite intent on causing them to move if they can. So we will work with you and with the agencies involved to make them as good as possible. Thank you all.

The committee will stand adjourned.

[Whereupon, at 4:40 p.m., the hearing was adjourned.]

## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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##### RESPONSES OF SECRETARY KEMPTHORNE TO QUESTIONS FROM SENATOR CANTWELL

###### CONCERNS OVER SALE OF PUBLIC LANDS

*Question 1.* I understand that the area around Washington County contains many archaeological sites, cultural places, and habitat for endangered species and that it will be difficult to identify lands suitable for sale in a manner that does not compromise these valuable resources. I understand that the Bureau of Land Management (BLM) and the Forest Service's normally identifies lands suitable for sale during periodic revision of land use plans under section 202 of the Federal Land Policy and Management Act (FLPMA). This revision process includes public involvement, tribal involvement, considers multiple uses, uses an interdisciplinary scientific approach, protects areas of critical environmental concern, relies on an inventory of public lands and resources, considers present and potential uses, considers the scarcity of values involved, weighs short term and long term benefits, provides for compliance with pollution laws, and coordinates activities with other federal agencies. Under section 203 of the FLPMA, land sales are to be made only after section 202 consideration and only then if the Secretary determines that lands to be sold meet criteria consisting of (1) the lands are difficult or uneconomical to manage as public lands, (2) the land was previously acquired for a purpose no longer required, or (3) sale of the land serves public objectives. Has the Administration determined whether or not 25,000 acres of publicly held land, in addition to the 18,000 recently identified by the BLM, exist in Washington County that are suitable for sale under the existing criteria in section 203 of the FLPMA? Have these lands been identified, and if so how was the public involved in the identification process?

Answer. Of the lands identified in Section 102(b)(1), the Bureau of Land Management (BLM) has identified, conducted National Environmental Policy Act (NEPA), and completed related clearances on 1,125 acres. The remaining 3,175 acres have been identified for disposal in the applicable land use plan, but NEPA and related clearances is not complete. Regarding the 20,000 acres referred to in Section 102(b)(2), the BLM has not identified any of this land for disposal in the applicable land use plan. The Administration recommended making this identification subject to the FLPMA process you noted.

*Question 2.* If this bill were to pass, how will the Administration be able to ensure public involvement in the process as required under existing law?

Answer. If S. 3636 were to become law, the BLM would look to the specific provisions of the legislation, such as those requiring compliance by qualified bidders with local planning and zoning laws, including revisions to County plans adopted after passage of the Act, as well as other relevant laws, and provisions in the Federal Land Policy and Management Act (FLPMA), for direction on how to proceed.

*Question 3.* If this bill is enacted, how can the Administration ensure that land sales do not come in conflict with areas designated as critical for recovery of endangered species?

Answer. Section 102(i) of S. 3636 allows the Secretary of the Interior to place restrictive covenants on parcels of lands to "protect the interests of the United States." This would allow a restrictive covenant prohibiting, for example, any surface disturbance if that were necessary to protect endangered plant species.

*Question 4.* I understand that the Washington County bill contains blanks for the map references, but that BLM has prepared unofficial maps. Who directed you to produce these maps, and what process was used for their development, given re-

quirements under existing federal law like the Federal Land Policy and Management Act (FLPMA)?

Answer. The BLM prepared maps as a service for S. 3636 at the request of the sponsor. The BLM regularly provides this service at the request of Senators and Members of Congress. These maps reflect the specific requests of those members but do not reflect the support or opposition of the Department of the Interior for a particular legislative proposal. All such maps are dated and clearly marked that they are prepared at the request of a particular Senator or Member of Congress.

ADMINISTRATION OPPOSITION TO LEGISLATIVELY-DIRECTED PUBLIC LAND SALES

*Question 5.* I understand from your testimony that the Administration objects to provisions within S. 3636 requiring the sale of public lands. I also understand that last year the Bush Administration tried to revise a law that passed in 1998, the Southern Nevada Public Lands Management Act, that set the precedent for re-directing public land sale funds for specifically legislated county conservation or development projects. I believe these legislatively-directed federal land sales are a key issue in several of the wilderness bills pending before Congress. Therefore could you expand on the Administration's objections to land sale provisions in these bills?

Answer. The Administration believes all taxpayers should benefit from the sale of federal lands, and that there should be a limit on the amount of federal funds retained for mandatory spending not subject to regular oversight through the appropriations process. The Administration has not objected to the sale of public lands where they have either first been identified for disposal pursuant to FLPMA, or would be identified for disposal through a public process provided for in the legislation. With regard to the land sale provisions in S. 3636, we have recommended changes to allow for flexibility and a public process.

*Question 6.* What criteria does the Administration use when determining whether they oppose any particular federal land sale proposal?

Answer. The Department of the Interior generally looks to BLM's primary authorizing statute, FLPMA, for guidance in evaluating various land sale proposals. BLM is delegated the authority to sell federal lands that have been identified for disposal through the public planning process provided under Section 202 of FLPMA, and BLM generally considers this public process to be highly valuable. The criteria used by the Secretary to assess the merits of disposal for certain parcels of land are provided in Section 203 of FLPMA, and BLM generally takes into account the same factors when assessing legislative land sale proposals.

*Question 7.* If the amount of revenue from federal land sales going to local entities is restricted to a certain level, does that change the Administration's support for a particular proposal? I understand total revenues from the proposed Washington County land sales could exceed \$1 billion.

Answer. The Administration believes all taxpayers should benefit from the sale of federal lands. The Administration's views on the appropriate revenue division in the sale of federal lands is reflected in our 2007 proposed budget. In that request, we proposed to amend the Federal Land Transaction Facilitation Act (FLTFA), P.L. 106-248, to: (1) allow BLM to use updated management plans to identify new areas suitable for disposal, (2) allow a portion of the receipts to be used by BLM for restoration projects, (3) return 70 percent of the net proceeds from these sales to the Federal Treasury, and (4) cap DOI receipt retention at \$60 million per year. The Administration's proposal to amend FLTFA would continue to dedicate a portion of BLM land sale proceeds for high-priority land acquisition projects elsewhere.

*Question 8.* Does the Administration believe that there should be a connection between the acreage proposed for disposal and the demonstrated need for specific lands by local communities?

Answer. Yes. The Administration supports the general proposition of making some public lands available for community growth where it is necessary and appropriate, but cannot support the requirement to dispose of a specific amount of public lands that may not be suitable for disposal.

*Question 9.* Do you consider the areas to be protected reflective of Administration wilderness priorities in Nevada and Utah?

Answer. The 1964 Wilderness Act and Section 603 of FLPMA make it clear that Congress has the sole authority to designate and permanently manage BLM lands as wilderness. The Administration's responsibility outside of the public planning process is to respond to and comment on wilderness legislation. The BLM-managed areas proposed for designation under S. 3636 and S. 3772 meet the requirements of the Wilderness Act of 1964, and the Administration supports Congress in designating them as wilderness. BLM would like to work with the sponsors and the Committee on possible minor boundary adjustments to ensure efficient manageability.

*Question 10.* Are there any wilderness quality federal lands nationwide currently slated for disposal?

Answer. There is no definition of "wilderness quality federal lands."

The Department of the Interior manages designated wilderness under the administration of three agencies: the National Park Service, The United States Fish and Wildlife Service, and the Bureau of Land Management. Neither the Park Service nor the Fish and Wildlife Service are actively disposing of lands within their jurisdiction.

The BLM disposes of limited amounts of land under conditions identified in approved land use plans. These are typically small tracts of public land located close to population centers. The BLM never identifies for disposal lands that are designated either as wilderness or as wilderness study areas.

#### FLEXIBILITY IN THE WILDERNESS ACT

*Question 11.* While the 1964 Wilderness Act prohibits commercial activities, motorized access, or roads and structures, the Act does provide considerable flexibility for activities that do not conform with these general restrictions. I understand that several dozen previously enacted wilderness bills allow otherwise prohibited activities in some circumstances. Activities such as allowing a local government to maintain access to a watershed, or limited boating use in certain lakes. How do these allowable activities, which are based on the Wilderness Act exceptions, differ from what is being proposed by the legislation under consideration at today's hearing?

Answer. The nonconforming uses allowed under S. 3636 and S. 3772 are similar to exemptions contained in previously enacted laws. Historically, certain wilderness laws have contained special provisions needed to respond to activities specific to an individual wilderness. Likewise, S. 3636 and S. 3772 provide some exemptions to The Wilderness Act. Special provisions include: allowing the State to use aircraft to manage wildlife and feral horses and burros, requiring the Secretary to authorize wildlife facilities when specific conditions are met, and allowing installation and maintenance of climatological data collection devices as if the areas were not designated wilderness.

#### RESPONSES OF JERRY GREENBERG TO QUESTIONS FROM SENATOR CANTWELL

##### COMPROMISE WILDERNESS PACKAGES

*Question 1.* Unfortunately, the politics of wilderness designation seem to have grown more contentious over the last few years, despite growing recognition of the social and economic benefits of preserving our nation's last remaining pristine areas. This could be in part due to pressures of population growth in the West, the rise in popularity of off road vehicle use, and difficult economic conditions present in many rural counties. These challenges became apparent to me over the course of working with my colleagues in Congress to pass the Wild Sky Wilderness Act. I learned through that process that by involving local stakeholders in an open and transparent process it is possible, to develop a wilderness package that everyone can agree on. However, I note that we did not have to try and include lots of special provisions that legislate specific rights for various interest groups, including revenues linked to federal land sales. Mr. Greenberg, could you please comment for me on your views of striking the right balance between compromise and protection in wilderness designation bills? Do these bills strike that balance?

Answer. The question of how to achieve the right balance in public lands bills is indeed a difficult one with no obvious answers. This is especially true in recent years as more and more Americans move near to and/or recreate on the public lands, resulting in heavier, more intensive use, and more competing demands on the land than ever before. Particularly noteworthy is off road vehicle use, which barely existed on the public lands as little as two decades ago. Today, the number of vehicles has exploded, and due to their very nature and the fact that they have largely been unmanaged, they are found in more and more places, including remote backcountry areas. The explosion in numbers has led to widespread damage and increasing conflict among many different public lands users.

Yet, off road vehicle use is but one example of a growing list of recreational uses that can lead to disagreement and conflict. Add to this, other growing demands such as a highly accelerated energy development program and it becomes clear why public land management, including wilderness protection, has grown more complex, difficult, and in many cases contentious over time.

As for the White Pine County legislation, S. 3772, it is important to recognize that it is not a wilderness bill. Rather, it is a bill that attempts to deal with multiple

public lands issues facing White Pine County. The Nevada congressional delegation has decided that instead of addressing each and every public lands issue facing each county in Nevada in a piece-meal fashion they would address them in one legislative effort on a county-by-county basis. That being said, we have made a decision to engage in conversations at the local level to advocate for deserving areas to be protected.

The White Pine bill is a good example of legislation that attempts to balance various needs. To begin with, the bill would designate 545,000 acres of ecologically critical lands under threat from inappropriate ATV use and other development, a significant gain for land protection by any measures. And while there are aspects of the land disposal provision we want to see changed, the legislation would ensure that lands identified for disposal go through the Resource Management Plan process. Finally, virtually everyone involved in the development of the legislation feels that the process was open, inclusive, and fair.

On the other hand, the Washington County legislation, in our minds, is an example of legislation that does not strike a fair and balanced solution. A majority of the land that would be designated as wilderness is located within Zion National Park and therefore already mostly free from development threats. Conversely, tens of thousands of acres of wilderness lands at risk from ATV use and other threats would be left unprotected. With respect to land disposal, the legislation mandates that land be sold outside of the public process inherent in the development of a Resource Management Plan. Lastly, there is widespread disagreement among those who participated about how fair and open the process has been.

In summary, it is our opinion that S. 3772 does strike a fair balance in addressing these complex public lands issues. However, the Washington County legislation (S. 3636) does not.

*Question 2.* How would you characterize the overall quality of wilderness protection offered by the Washington County bill?

Answer. The Washington County bill does provide additional protections to lands and waters within Zion National Park by designating nearly 124,000 acres of wilderness and numerous miles of Wild and Scenic River designations within the park. While these lands and waters are deserving of protection, they are already well protected from development pressures and inappropriate motorized recreation by the national park designation. In contrast, the public lands managed by the Bureau of Land Management (BLM) and U.S. Forest Service within Washington County, which are at risk from unmanaged off road vehicle (ORV) use, mining, logging and other development activities, are largely left unprotected.

The Utah Wilderness Coalition and citizens of Utah have identified approximately 300,000 acres of BLM public lands that qualify for wilderness designation within Washington County. Over 200,000 of these acres are left out of the Washington County bill, including nearly 70,000 acres of the lands previously identified by the BLM as potential wilderness. In 1999, the BLM finalized a survey of lands proposed for wilderness designation in America's Red Rock Wilderness Act. In Washington County, the BLM identified a number of qualifying wilderness areas that would not be protected by the bill, including: Cougar Canyon, the Narrows, Joshua Tree, Beaver Dam Wash, Red Mountain, Orderville Canyon, Deep Creek, the Watchman, Goose Creek, Spring Creek Canyon, Black Ridge, Canaan Mountain, Parunuweap Canyon, Moquith Mountain, and Upper Kanab Creek.

While the Washington County bill would designate approximately 93,000 acres of BLM land as wilderness, 80,000 acres of this proposal are already protected as WSAs. That means less than 13,000 acres of vulnerable unprotected land would be designated.

At the same time, the Washington County bill would also remove existing protections for certain wilderness lands. The legislation would release roughly 9,500 acres of currently protected BLM WSAs. For example, the Canaan Mountain WSA would be shrunk to include only the canyon tops of the area, removing protections for the vulnerable wildlands along the base of Canaan Mountain. By stripping the canyon's base of its current WSA protection, the bill would actually leave this canyon more vulnerable to impacts than it now is.

Of particular concern, almost none of the landscape in the Mojave Desert in the western side of the county would be preserved, despite the great threats from growing ORV use. This half of the county encompasses a vast area of largely undeveloped public lands important both as habitat for endangered species and as a source of archeological and culturally significant resources. This unique and biologically rich region is the only place in Utah where the endangered desert tortoise and iconic Joshua tree are found. The desert tortoise is highly susceptible to ORV use; individual animals are sometimes literally crushed to death under the wheels of larger ORVs, and the vehicles also destroy underground burrows that provide refuge for



tortoise and the young. Yet, only a fraction of this critical tortoise habitat is currently protected against irresponsible ORV use.

Similarly, Forest Service lands are virtually ignored in this bill. Less than 3,000 acres of national forest wilderness areas would be designated, though citizens identified 300,000 acres of Forest Service land that deserve wilderness protection. We would recommend a much more thorough review of Forest Service lands if this legislation proposes to make wilderness designations.

*Question 3.* Do you believe this protection is sufficient to counter the likely growth, sprawl, and resource use that will be encouraged by non-conservation provisions within these bills?

Answer. In stark contrast to the Washington County bill, the wilderness protection contained in the White Pine County legislation (S. 3772) is substantial. The 13 new wilderness areas that would be designated in S. 3772 represent significant gains for conservation and wilderness in Nevada. We also consider these to be significant and important additions to the National Wilderness Preservation System. Although we proposed over 730,000 acres for wilderness in White Pine County, we feel that the 545,000 acres identified in the bill is a good first step for wilderness protection in White Pine County. We continue to advocate for better protection for the South Egan WSA and the Blue Mass/Kern mountain area.

We feel strongly that the land conservation provisions within the Washington County legislation are inadequate to protect deserving public lands and waters, and are concerned that the bill actually would encourage more unplanned development in one of the fastest growing counties in the nation. The bill contains numerous provisions that would promote more sprawl by selling off public lands to private developers and by authorizing new development infrastructure across the county.

Of top concern is the bill's provision to dispose of as much as 24,300 acres of BLM land within Washington County, much of which would likely be sold to private developers. This provision conflicts with existing laws that govern the purpose for and way in which land disposal is carried out. Moreover, the St. George Chamber of Commerce has said that 200,000 acres of private land are already available for development. The BLM has the authority to sell and exchange public lands; according to the St. George Field Office, the BLM has already disposed of some 18,000 acres of BLM public land in the last decade. The bill also fails to ensure that many sensitive and wild lands that are proposed for wilderness will not be sold for private development.

S. 3636 would further promote development by authorizing the creation of new highways, new utility corridors, a new ORV trail system, and new rights-of-way for water development across the county. In addition, 9,000—10,000 acres of BLM public lands would be given away to the county or granted to the County as a right-of-way with no return to the public trust.

The legislation would authorize these development-oriented provisions before the Envision Dixie process is allowed to run its course. This local planning process was only recently initiated in order to address the county's many growth challenges in a deliberate and thorough manner that allows for public input and thoughtful dialogue.

*Question 4.* While the 1964 Wilderness Act prohibits commercial activities, motorized access, or roads and structures, the Act does provide considerable flexibility for activities that do not conform with these general restrictions. Could you comment on how the bills before us propose activities that are outside the scope of the exceptions allowed under the 1964 Wilderness Act?

Answer. The varied benefits derived from wilderness depend in large part on the preservation of its undisturbed, natural integrity. Wilderness is a resource providing services important to humans and the rest of the natural world. While a principal of wilderness is to allow natural process to freely operation, there may be times when it is appropriate to reintroduce fire, remove exotic species or take other steps.

S. 3636 and S. 7372 contain similar wilderness management provisions. In general neither bill introduces wholly new precedent. However, while acknowledging that Congress has used its prerogative to continue to interpret language relating to wilderness management, it is also critical to ensure that the underlying intent of the Wilderness Act is not in any manner weakened or diluted. Whether or not specific provisions have appeared in other legislation is not in and of itself determinative. In the context of these two bills, this is especially relevant to the issue of wild-life management.

The presence of native fish and wildlife populations at naturally fluctuating population levels is an important component of wilderness character. Maintaining healthy populations of nature wildlife and restoring populations that have been depleted due to human influence can be primary reasons for designating an area as wilderness. Habitat modification in wilderness is inappropriate "except as necessary

to meet minimum requirements for the administration of the area for purposes of [the Wilderness] Act.” (Section 4(c)).

In certain limited instances, however, habitat modification in wilderness may be necessary to maintain wilderness character. Specifically, certain management activities may be necessary to restore wildlife populations that have been suppressed by human-caused habitat degradation. Where they occur, such forms of intervention must be the “minimum tool” necessary to accomplish the task and should be designed to be temporary and directed at stabilizing native species.

With respect to artificial water sources (e.g., “guzzlers”), we note that both White Pine County and Washington County contain many natural springs and creeks. As noted above, the Wilderness Act provides the flexibility to allow land managers to carefully analyze whether or not any particular activity—including the installation of guzzlers—is necessary to further the purposes of the Wilderness Act. Given this, we believe that adequate direction is provided to managers in the Wilderness Act itself (coupled with agency guidelines) and any new legislative language specific to guzzlers is unnecessary and runs the risk of diluting the intent of the Wilderness Act and confusing land managers by suggesting that particular activities (for example, the construction of guzzlers) are necessary.

Similarly, while existing activities related to wildlife survey, monitoring, capture, and water transport might be consistent with the Wilderness Act in any given situation, language in these two bills have the potential for suggesting to land managers that all existing activities may continue even if conditions change. Clearly, such an interpretation is inconsistent with the Wilderness Act.

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#### RESPONSES OF ALAN GARDNER TO QUESTIONS FROM SENATOR CANTWELL

##### COMPROMISE WILDERNESS PACKAGES

*Question 1.* If this bill were to pass, what effect would it have on S. 882, America’s Red Rock Wilderness Act, which is sponsored by 17 Senators? Specifically, does S. 3666 dispose of any lands that are identified as suitable for wilderness protection in that bill?

Answer. The language of S. 3636 specifically excludes any lands which have already been withdrawn for any purpose, including wilderness, ACEC, NCA, or National Park. Further, we have made every effort to avoid any other proposals for special designation in identifying the pool of lands from which potential sale lands may be selected.

Consequently, none of the 4300 acres identified in the directed sale parcels of S. 3636 would have any effect on S. 882, America’s Red Rock Wilderness Act. Further, the lands that may be selected in tier two would all be selected in the county-wide and very public growth vision process, “Vision Dixie,” and that process will minimize conflicts with lands that hold special value to any stakeholder.

*Question 2.* Has the County estimated the amount of revenues that would be generated from the public land sales proposed under S. 3636? Are you concerned that these revenues would create a disparity between Washington and other Utah counties?

Answer. The County has not done an official analysis to determine the value of the lands in the 4300 acres that have been identified in the directed land sales. In a discussion with the BLM area manager, we estimated a rough value of between \$75,000,000 and \$125,000,000 on that land. There is no estimate on anything that may be sold in the second phase. The areas where land may be acquired will be identified by the “Vision Dixie” public planning process that we are currently conducting. Acreage totals have yet to be determined, so it is hard to make an estimate until the public has an opportunity to weigh in with recommendations.

The BLM still must acquire around 7500 acres of desert tortoise habitat inside our existing Habitat Conservation Plan area (Red Cliff National Conservation Area) in S. 3636. It has a conservative value of \$400,000,000.00.

We are not concerned that the revenues generated will create a disparity between Washington and other Utah Counties. In fact, the other counties are watching very closely and are anxious for S. 3636 to pass. Four other counties have started a joint process for a similar bill, and others are preparing to request legislation if we are successful. Further, the funds raised by land sales go into conservation projects in the County and to address impacts from such large areas of public lands in the county.

I would also like to comment on Mr. Metcalf’s answer to Chairman Craig’s question as to the participation of a representative of the Outdoor Retailers serving on the working group and being a strong supporter of S. 3636. Mr. Metcalf implied that

the person was not really a representative. That is not the case. Washington County contacted Outdoor Retailers and asked for a name to serve on the working group. They responded by submitting two names: Lin Alder and Doug Syphus.

Lin moved to the area around 1986 with his family when his father came to Dixie Junior College and was partially educated in Washington County. At the time his name was submitted, he was a free-lance photographer and writer, traveling extensively (often out of the country). Doug Syphus' family had been in the County for at least three generations. He has been employed at Outdoor Outlet for over 20 years and a partial owner since 1991. Outdoor Outlet sells tents, sleeping bags, rappelling, backpacking and all other types of outdoor equipment. They employ 7 to 15 people, depending on the season of the year. Doug is an avid hiker and backpacker. He has been a scoutmaster for the Boy Scouts of America and at the time he joined the Working Group was in charge of overseeing scouting activities for eight different groups of boys from 12 to 18 years of age.

Doug was selected because we felt his qualifications were better because he had daily contact with large numbers of people using our local public lands for recreation on a regular basis. After returning from the Senate hearing, I visited with Doug Syphus. He stated that he had been contacted by Outdoor Retailers, who asked if he was willing to have his name submitted to serve on the Working Group, to which he agreed.

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RESPONSES OF PETER METCALF TO QUESTIONS FROM SENATOR CANTWELL

COMPROMISE WILDERNESS PACKAGES

*Question 1.* As a business man who is directly impacted by the loss of pristine public lands, how would you assess the cost-benefit ratio of the various provisions in the Washington County bill? In other words, do you believe the lands designated for wilderness protection are a good trade for the loss of public recreation opportunities on the lands proposed for sale and the potential environmental damage resulting from new utility corridors and dams and other development oriented activities allowed under the current bill?

Answer. The first question inquired about the cost-benefit analysis of the provisions of the legislation. From my perspective, there is no question that S. 3636 represents a net loss for Utah wild lands. Our wild lands are a finite, irreplaceable asset. Even the best business plan can not recreate wild lands. Once lost, they are gone and will no longer be a benefit to the local community or the American public.

As I noted in my oral testimony, I choose to make Utah the home of Black Diamond Equipment because Utah truly personifies my company's close ties to the out-of-doors. The products we make are for outdoor recreation and in many ways Utah is second to none in spectacular outdoor recreation opportunities. Because our Salt Lake City headquarters sits within minutes of congressionally designated wilderness I am constantly reminded of the tremendous benefits that our community and my business enjoys by having wilderness so close to home.

Southwestern Utah is no different with its redrock landscape and scenic deserts close to the growing communities in and around St. George. We must preserve the southwestern Utah landscape so that communities and visitors can enjoy a wealth of outdoor recreation opportunities close to home.

I would caution against simply adding up acreage numbers and making generalizations about the costs or benefits of this bill. The numbers in this bill do not adequately reveal the fact that so many wild places that are most at risk would receive no protection under this legislation. At the same time, some currently protected areas would be stripped of protection. In this sense, the legislation is a step backwards for our wild public lands. Similarly, the acreage figures suggested for disposal fail to account for the fact that thousands of acres have already been disposed of in the past decade, or the fact that there are, according to the local chamber of commerce, roughly two hundred thousand private acres currently available for development and growth.

The lands sales provision would promote the sale and development of as much as 24,300 acres of public land. I am deeply concerned about selling off Utah's redrock country and dedicating the majority of proceeds for local development projects. The American public and the local communities would lose an irreplaceable natural asset if Congress sells off public lands simply because a community is experiencing growth.

The provisions for water development, rights-of-ways, and utility corridors would fundamentally change the landscape of southwestern Utah. Though sponsors of this legislation claim these provisions are needed to accommodate growth, the pending

local planning process, known as "Vision Dixie," is the appropriate vehicle to assess the specific needs of the community. I would urge the committee to allow this local process to complete its work before making congressional mandates that would impact the community.

*Question 2.* How would you characterize the overall quality of wilderness protection offered by the Washington County bill?

Answer. As I have noted in my first response, the wilderness provisions of the bill are a step backwards for wilderness protection in southwestern Utah. The majority of proposed wilderness designations are within Zion National Park. While I do not want to diminish the value of designating National Park wilderness, it is important to note that the park is already well protected from development pressures and inappropriate motorized recreation. The public lands (managed by the Bureau of Land Management and Forest Service) outside Zion National Park are in greatest need of protection. Over two-thirds of BLM wild lands in the county that deserve protection are left behind. The Forest Service wilderness provision of the bill designates only 3,000 acres, though citizens have identified thousands of additional acres of Forest Service land that deserve wilderness protection.

The bill both fails to protect places most at risk and strips protections from public lands currently protected from harm. For example, wild lands like those along the base of Canaan Mountain are currently protected as Wilderness Study Areas, but under S. 3636, protection for Canaan Mountain would be shrunk to include only the canyon tops. The bill would strip the canyon's base of its current Wilderness Study Area protection and leave this canyon more vulnerable to impacts than it currently is. In other examples, the bill adds designated wilderness in an area known as Black Ridge to make up for the acreage stripped of protection in Canaan Mountain. However, the bill sponsors drew arbitrary boundary lines that leave critical areas vulnerable but also make management difficult. The effect is that while acreage is added to the bill, it fails to protect this canyon.

When I look at this bill, the most fundamental question is whether our wild public lands would be better or worse off. I am convinced that this bill would leave southwestern Utah's wild lands worse off and the American public would lose an irreplaceable asset.

APPENDIX II

Additional Material Submitted for the Record

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BOARD OF COUNTY COMMISSIONERS,  
*Lyon County, NV, September 1, 2005.*

Hon. HARRY REID,  
*U.S. Senator, 600 E. Williams, Suite 302, Carson City, NV.*  
Re: 2005 Lyon County Lands Bill

DEAR SENATOR REID: Lyon County has been working with our congressional delegation for over four years on a Lyon County Lands Bill, but not until recently were we informed that the bill will not move forward unless we agree to include wilderness areas (Bald Mountain—80,979 acres and East Sister of the Sweetwater Mountains—11,274 acres).

Lyon County approved several years ago LLC 10.13.02 which states “no additional wilderness areas shall be designated in Lyon County”. We believe this is still the desire of our county and feel bound to honor this decision.

Therefore, we wish to advise you that we are not pleased with this ultimatum for the inclusion of the wilderness areas, and thus have decided at our September 1, 2005 Lyon County Commission meeting that if our lands bill is denied because of this omission then so be it. We are very disappointed that this ultimatum has brought this process to an end.

BOB MILZ,  
*Chairman.*  
PHYLLIS HUNEWILL,  
*Vice-Chair.*  
LEROY GOODMAN,  
CHET HILLYARD,  
DON TIBBALS,  
*Commissioners.*

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NORTHWEST MINING ASSOCIATION,  
*Spokane, WA, November 3, 2006.*

Senator LARRY CRAIG,  
*Chairman, Public Lands and Forests Subcommittee, Senate Energy and Natural Resources Committee, Dirksen Senate Office Bldg., Washington, DC.*

Re: S. 3772—White Pine County Conservation, Recreation and Development Act of 2006

DEAR CHAIRMAN CRAIG: We are writing to express our members’ strong opposition to the White Pine County Conservation, Recreation and Development Act of 2006 (S. 3772), recently introduced by Senators Ensign and Reid of Nevada. As explained below, we believe this legislation reflects extremely poor public policy and is not in the best interests of White Pine County, Nevada, the residents of Nevada, the Nation and the public in general.

We believe this bill should be rejected in its entirety. It is nothing more than a back door attempt to add additional wilderness in White Pine County, Nevada without regard to the policies, principles, procedures and requirements set forth in the Wilderness Act of 1964 (1964 Wilderness Act), the Federal Land Policy and Management Act of 1976 (FLPMA), the National Forest Management Act (NFMA), and the Multiple-Use and Sustained Yield Act (MUSYA).

Congress has long promoted the multiple-use management of our public lands. This philosophy has been reaffirmed time and time again as evidenced by the above-mentioned Acts. It is sound public policy and has served the needs of our Nation and our citizens well. Congress also set forth wilderness policy and guidelines in the

1964 Wilderness Act and policies and guidelines for the management of public lands in the General Mining Laws, FLPMA, NFMA, MUSYA, NEPA, and ESA.

Enactment of S. 3772 would not only withdraw 545,320 acres of Public Lands from mineral entry and any hope of future economic development, but also from management for multiple-use. No motorized recreation, no access for handicapped citizens who require wheelchairs or other means of mechanical access, and no motorized access for hunting, fishing or other outdoor activities. The bill would take 545,320 acres that today can be enjoyed by all and limit the use to a very small segment of society. The bill would adversely affect the economic future of White Pine County without any real benefit accruing to White Pine County.

Section 2 (c) of the 1964 Wilderness Act defines wilderness as:

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

Much of the acreage designated for Wilderness in Title II of S. 3772 does not meet the above-quoted Wilderness Act definition of Wilderness. In addition, in five (5) of the proposed wilderness areas totaling about 231,669 acres, are lands administered by the U.S. Forest Service that have not undergone mineral resource assessment as required by Sec. 4(d)(2) of the 1964 Wilderness Act. Another area, the Mount Mariah Additions, has been assessed by the USGS/U.S. Bureau of Mines and found to have moderate mineral potential. Furthermore, these proposed withdrawals of public land administered by the Forest Service have not been reviewed in any formal manner with the public and there has been no modern opportunity to comment upon the management of these lands.

Economically viable mineral deposits are rare and hard to find. In 1999, the National Research Council (NRC) of the National Academy of Sciences, in response to a request from Congress, prepared and published a report entitled *Hardrock Mining on Federal Lands*. In this report the NRC stated:

Hardrock mining occurs where minerals are concentrated in economically viable deposits. Ore deposits form as variants of such geologic processes as volcanism, weathering, and sedimentation operating with an extraordinary intensity. Ore deposits typically are parts of large-scale (several miles across and perhaps just as deep) ore-forming systems in which many elements, not just those of economic interest, have been enriched. *Only a very small portion of Earth's continental crust (less than 0.01%) contains economically viable mineral deposits. Thus, mines can only be located in those few places where economically viable deposits were formed and discovered* (emphasis added).

Many hardrock commodities are associated with magmatic and hydrothermal processes, which in turn, are associated with modern or ancient mountain belts. The abundant igneous rocks and associated hydrothermal systems and the mountainous or sparsely vegetated terrain make the West the location of most hardrock mines in the United States. Id. at 2-3

Nevada has been blessed with many of the geologic systems and process described above and this is a major reason why Nevada is the leading hardrock mining state in the country, the third leading gold producer in the world, the economic engine that drives northern Nevada's economy and a major contributor to the state's revenue. In 2004, Nevada mining directly employed 11,690 people at an average wage of \$63,388. An additional 51,000 jobs were made possible by vendors of goods and services to the industry, and Nevada mining provides approximately 100 million dollars in state tax revenue every year.

It makes no sense to lock up and withdraw the areas set forth in Title II from mineral entry when these areas have the potential to be the mines that will drive northern Nevada's economy long into the future. There must be a new, modern mineral potential evaluation of each area. Even those areas previously evaluated

(whether as part of RARE I, RARE II, WSA or another evaluation process), must be re-evaluated. Continually evolving technology and knowledge enables the discovery of mineral potential and mineral deposits in areas previously thought to be non productive or uneconomical. Northern Nevada is a classic example of this truth.

In most of the world, today's mines are located in historic mining districts originally discovered by the prospectors and miners of more than 100 years ago. However, this is not the case in the primary gold producing area of northern Nevada. What has turned out to be the area of perhaps the second highest gold concentration in the world wasn't known to exist prior to the development in the 1960's of fire assay techniques that could identify invisible gold and heap leach technology that made it possible to economically recover microscopic particles of gold.

As a result of its favorable geology, Nevada has tremendous potential for the discovery of additional mineral deposits. Areas where prospective rocks are beneath a cover of young, valley-filling sediments and volcanic rocks have only been explored to a limited extent, and ore deposits continue to be discovered in and near Nevada's historical mining districts.

Today we are seeing significant investment in exploration in areas of northern Nevada not previously explored using modern tools and techniques. This exploration could lead to the discovery of the next major mine, ensuring the long term economic health of White Pine and other northern Nevada counties. White Pine County, northern Nevada and the Nation cannot afford to preclude this possibility by locking up public land as Wilderness and withdrawing it from mineral entry.

In addition to being the third largest gold producer in the world, Nevada hosts deposits of many minerals that are critical to our national and economic security, such as copper, molybdenum, silver, specialty clays, magnesite, lithium, cement, barite, gypsum and construction aggregate. Our national and economic security requirements demand that areas of mineral potential remain open to exploration, discovery and development.

One of the most egregious aspects of S. 3772 is that mineral evaluations conducted by the Nevada Bureau of Mines & Geology, the Nevada Division of Minerals and the U.S. Bureau of Mines/U.S. Geological Survey pursuant to 1964 Wilderness Act mineral potential survey requirements have been ignored treated as though they do not exist.

Forty years ago, the Congress wisely recognized not only the importance of our Nation's mineral wealth to the national and economic security of our country, but also that economically viable mineral deposits were rare and occurred only where they could be found, even if it was inside of a Wilderness Area. Section 4(d)(2) of the 1964 Wilderness Act requires that wilderness areas be surveyed on a planned, recurring basis by the U.S. Bureau of Mines and the U.S. Geological Survey to determine mineral values and to make those results available to the public, the President and Congress. Section 4(d)(3) further provided a 20 year window (until midnight December 31, 1983), where the General Mining Laws and mineral leasing laws would still apply in areas designated as part of the National Wilderness Preservation System by the 1964 Wilderness Act. In other words, those areas remained open to mineral entry until January 1, 1984. It is important that this Committee and this Congress act as wisely as your predecessors in 1964.

Set forth below are our specific comments on the proposed wilderness areas and additions. For the reasons set forth in this letter, these areas are unsuitable for inclusion in the National Wilderness Preservation System and should remain open to mineral entry and managed for multiple-use.

- Carrant Mountain Additions (including the White Pine Range and Red Mountain): The U.S. Forest Service in the 1985 Forest Plan states: "The potential for the occurrence of economic mineralization is high in the southwest and southern parts of the area. The rest of the area has moderate mineral potential." The proposed additions are situated on the west, northwest, and southeast sides of the existing wilderness area, and cover areas of high and moderate mineral potential (industry and Forest Service assessments only);
- Schellback Wilderness: This area, located immediately south and southeast of Illipah has not been studied by the USGS, as required by the 1964 Wilderness Act;
- Schell Creek Range Wilderness: This proposed withdrawal covers a vast area, in fact nearly all of the Schell Creek mountain range. It has not been assessed by the USGS, as required by law. Earlier work by the U.S. Bureau of Mines stated "The likelihood of the occurrence of mineral deposits and extensions of known deposits is great throughout the entire proposed wilderness" [referring to the earlier Roadless designation]. The 1985 Forest Plan and DEIS for the

(then) Humboldt National Forest recommended that the area not be included in the Wilderness system;

It is our understanding that the Humboldt-Toiyabe National Forest is not including these five (5) areas in its ongoing review and revision of the Forest Plan, because of this draft bill. It would seem important that the Forest Service undertake the "suitability assessment" of these areas as part of the overall Forest Plan revisions.

The BLM-administered lands proposed as wilderness areas by this bill cover the remainder of the 545,000 acres. The former Public Lands Committee of the Nevada Mining Association assessed each BLM Wilderness Study Area in Nevada and developed a comprehensive evaluation of the mineral potential of each area, and tabulated the reviews of other groups, including the BLM, and the State of Nevada Governor's Consistency Review Panel (a special State Clearinghouse procedures and review committee).

Our specific comments on these areas are set forth below. Again, for the reasons set forth in this letter, these areas are unsuitable for inclusion in the National Wilderness Preservation System and should remain open to mineral entry and managed for multiple-use.

- Mount Grafton: The area is considered to have low to moderate mineral potential, especially along the western and southern boundaries (a portion which would be "released" if the bill is enacted). The Governor's Consistency review recommended that the area be dropped from further wilderness consideration;
- South Egan: This area is considered to have moderate to high mineral potential, especially on the west side of the area (a very small portion of which would be "released" if the bill is enacted.). The area has potential for gold (discovered near Lund), uranium, and base metals. The BLM has twice (1987 and 2001) recommended that the area be dropped from further consideration for wilderness designation, and the Governor's Consistency Review Panel has also recommended that the area not be designated as a wilderness area. There also has been some local public opposition to the area being proposed as wilderness;
- Egan Ridgeline: This area is at the northern end of the South Egan area, and has been evaluated as part of the South Egan study area;
- Highland Ridge: This is not currently a BLM WSA or an Instant Study Area, and has not been evaluated in any manner. The area adjoins the southern boundary of Great Basin National Park;
- Government Peak: Again, this area is not a BLM WSA, and has not been evaluated in any manner;
- Bald Mountain: the area is not a BLM WSA. It was evaluated by the U.S. Forest Service and found to be lacking in wilderness attributes. It is situated south of Illipah, in the vicinity of the Schellback, White Pine Range, and Red Mountain proposed wilderness areas, all of which are adjacent to the Currant Mountain Wilderness area. No mineral assessments have been completed in this area;
- Becky Peak: This area is situated at the north end of the Schell Creek Range, and is not currently a BLM Wilderness Study Area. The mineral potential of the area has not been studied, and the various State of Nevada agencies who participated in the Governor's Consistency Review Panel did not assess the area;
- Goshute Canyon: The Goshute Canyon area covers much of the Cherry Creek Range of northern White Pine County. Much of the area is considered to have moderate mineral potential, with the southern end, which is not included in the proposed wilderness defined by this bill. It is worth noting that the White Pine Regional Planning Commission, the City of Ely, and the White Pine County Commission have all opposed this area as wilderness, as such designation may adversely affect the construction of the planned White Pine Power Project;
- Bristlecone: This area is situated a short distance ( nine miles) and due west of the town of McGill and is not a current BLM WSA.

It is apparent that S. 3772's drafters gave little, if any consideration to the prior recommendations of the U.S. Forest Service, the U.S. BLM, or the various agencies of the State of Nevada (including the Governor's Consistency Review Panel). One of the proposed areas, Goshute Canyon may negatively affect a major energy development project, the White Pine Power Project, which has been supported by essentially every local governmental entity. One area (South Egan) has been strongly opposed by local citizens, yet the opinions of the locals have been ignored. Several areas that have never been assessed for wilderness criteria or suitability have been included as new wilderness proposals. Some of the areas included clearly do not



meet the 1964 Wilderness Act definition of Wilderness (S. 3772 redefines "wilderness" so that areas which do not meet the traditional definition of wilderness can be included in the National Wilderness Preservation System).

To proceed with a markup of this bill is tantamount to encouraging a form of wilderness extortion, where, in order to appease wilderness advocates, additional wilderness is created as a quid-quo-pro for selling public land. Lyon County, Nevada has already advised Senator Reid that it is unwilling to cave in to the Senator's ultimatum that additional Wilderness be created in Lyon County in exchange for privatizing public land in the county (see attached letter).

NWMA strongly objects to a public policy of creating new wilderness areas and adding areas to the National Wilderness Preservation System in exchange for selling public lands. Any proposal to sell public lands not covered by current land use plans developed under FLPMA or the NFMA should stand or fall on its own merits following an opportunity for public comment and debate.

Likewise, adding acreage to the National Wilderness Preservation System should follow the procedures, requirements and policies set forth in the 1964 Wilderness Act, and should be debated and justified based on the ability of the lands to meet the 1964 Wilderness Act definition of wilderness rather than used as a political pawn to gain the support from wilderness advocates for the selling of unrelated public lands.

Currently, there are approximately 107 million acres in the National Wilderness Preservation System. That means 107 million acres of public land is off limits to mineral and energy development, and essentially off limits to almost all forms of multiple-use activities as well as modern, science-based land management. The vast majority of Americans are not able to use or enjoy wilderness areas because of the restrictions imposed. Isn't it time to start asking ourselves how much wilderness do we need? There are approximately 2.9 million acres of Wilderness in Nevada, an amount that is equal to almost half of the entire Humboldt-Toiyabe National Forest. How much is enough?

S. 3772 also ignores the fact that Congress already has provided the land management agencies with the tools to address the purported rationale for the bill. FLPMA and the NFMA provide the BLM and USFS respectively, the authority to solicit public input into land use, resource management and forest plans; the authority for the sale of public lands so identified in the planning process; the authority to exchange public lands for private lands; the granting of rights-of-ways; and all other authorities needed to manage the lands in the public interest following environmental evaluations required by NEPA and other federal laws. Prior to FLPMA, the Recreation and Public Purposes Act of 1954 authorized BLM to sell public land at reduced prices to local governments where such a need exists. In other words, Congress has provided the federal land management agencies with sufficient statutory authority to manage the public lands according to priorities set by Congress and the land management agencies already have the authority they need to sell, dispose or trade public lands pursuant to the policies set by Congress and the authorities granted by Congress in the Recreation and Public Purposes Act of 1954 and FLPMA.

We also want to use this opportunity to express our strong opposition to the county public land bill process in general. NWMA is in receipt of a copy of a letter from the Public Lands Foundation (PLF) expressing opposition to the White Pine County Bill as well as the Washington County (Utah) Growth and Conservation Act (S. 636), and the Central Idaho Economic Development and Recreation Act, HR 3603. We agree with the PLF that these county public land bills seriously undermine the integrity of our western public lands by making repeated exceptions and loopholes around many of our nations most fundamental land management and environmental laws. At worst, these bills suggest the unraveling of our national public land management policy in favor of a piecemeal and haphazard view of valued public resources.

S. 3772 is unnecessary and it is inappropriate for Congress to politicize the management of public lands by the introduction of complex and unneeded legislation like the White Pine County bill.

If the Committee holds a hearing on S. 3772, or any similar bill, NWMA would appreciate an opportunity to provide oral and written testimony in opposition to the bill. We urge your Committee to reject this ill-conceived bill.

The Northwest Mining Association (NWMA) is a 112 year old non-profit mining industry trade association based in Spokane, Washington. NWMA has more than 1,300 members residing in 31 states and 6 Canadian provinces. Our members are actively involved in exploration and mining operations on public lands throughout the United States, especially the western states. More than one-third of our members live in or are actively working in Nevada. Many of our members have partici-

pated in previous mineral potential surveys of public land. NWMA's broad and diverse membership includes every facet of the mining industry including geology, exploration, mining, engineering, environmental services, equipment manufacturing, technical services and sales of equipment and supplies. NWMA's membership represents a true cross-section of the mining community.

Sincerely,

LAURA SKAER,  
*Executive Director.*

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SHIVWITS BAND OF PAIUTES,  
*North Ivins, UT, November 15, 2006.*

Hon. PETE V. DOMENICI, *Chairman,*  
Hon. JEFF BINGAMAN, *Ranking Member,*  
*Committee on Energy and Natural Resources, Dirksen Senate Office Building, U.S. Senate, Washington, DC.*

DEAR SENATOR DOMENICI, SENATOR BINGAMAN, AND THE MEMBERS OF THE COMMITTEE: On behalf of the Shivwits Band of the Paiute Tribe of Utah, thank you for holding a hearing in the Public Lands and Forests Subcommittee on S. 3636, the Washington County Growth and Conservation Act. The Shivwits Band is one of five bands of the Paiute Indian Tribe of Utah, a federally recognized tribe. As some of the first residents of Washington County, our people share an indelible cultural and historical connection with the surrounding Bureau of Land Management (BLM) lands impacted by this legislation.

For the November 16, 2006 hearing in the Public Land and Forests Subcommittee of the Senate Energy and Natural Resources Committee, please consider for the legislative record the attached letter on the Washington County Growth and Conservation Act, sent on November 13, 2006 from the Shivwits Band to Senator John McCain (R-AZ) and Senator Byron Dorgan (D-ND), Chairman and Ranking Member of the Senate Indian Affairs Committee.

Thank you again for scheduling this hearing, and thank you for considering our statement on S. 3636.

Sincerely,

GLENN ROGERS,  
*Shivwits Band Chairman.*

[Attachment].

SHIVWITS BAND OF PAIUTES,  
*North Ivins, UT, November 13, 2006.*

Hon. JOHN MCCAIN, *Chairman,*  
Hon. BYRON DORGAN, *Ranking Member,*  
*Committee on Indian Affairs, U.S. Senate, Hart Office Building, Washington, DC.*

Re: Washington County Growth and Conservation Act, H.R. 5769, S. 3636

DEAR SENATOR MCCAIN AND SENATOR DORGAN: My name is Glenn Rogers and I am the Band Chairman of the Shivwits Band of the Paiute Tribe of Utah. I am writing on behalf of the Shivwits Band to inform the Indian Affairs Committee about our views and concerns regarding S. 3636/H.R. 5769, the Washington County Growth and Conservation Act (The Act). This legislation has been referred to the Senate Energy and Natural Resources Committee and will be the subject of a hearing on November 16th. We are concerned that in the final days of the 109th Congress, sponsors of this legislation may try to pass this bill despite serious conflicts with the interests on the Shivwits people and our land. Therefore, we are asking for your assistance in addressing our concerns about the Act, but more immediately, we request your assistance to ensure that the Act is not hastily passed in the final days of this Congress.

The Shivwits Band is one of five bands of the Paiute Indian Tribe of Utah. Our Reservation is located on the western side of Washington County, Utah, and is approximately 29,000 acres in size. My people were amongst first to live in Washington County. Our culture, history, and traditions are intimately connected with the surrounding BLM lands.

The Shivwits Band was not adequately consulted by the local government, the department of the Interior, or authors of the legislation. As a result, the Washington County Growth and Conservation Act contains many provisions that will significantly harm our community. Specifically, the act could result in: right-of-way being developed on the Reservation, unmanaged ORV use and trespassing on the Reservation, privatization of culturally important areas, and potential harm to populations of plants and animals, such as the desert tortoise, which are important to the

Shivwits. further, because the Act was created without any consultation with the Shivwits, if passed it will establish a precedent of excluding affected tribes from consultation about land use planning legislation.

#### DISCUSSION

##### *A. Consultation*

Approximately 3 years ago we attended one meeting to discuss issues surrounding land use. During the process of drafting the Act, the Shivwits were never consulted by the sponsors of the Act, the County Commission, or the Department of the Interior. We have sent comments to the sponsors of the Act expressing our concerns. However, we did not receive any meaningful response until after the Act was heard in the House. This failure to consult with the Shivwits Band violates the policy and promise of government to government relations. This clearly is harmful to the Shivwits, but it also has greater national implications. If the Act is passed, it threatens to set a precedent of excluding Tribes from taking part in the formation of land use policy. This committee should not support such a precedent.

Since the Act was heard in the House, we have met once with Representative Matheson's staff and representatives from the local BLM. We are scheduled to meet with Representative Matheson's staff again. We sincerely appreciate Representative Matheson's efforts, and hope that our conversation will result in changes in the Act. However, as of this date the Act remains very problematic to the Band. In the Senate, we are similarly concerned that discussions with Senator Bennett's office have failed to result in improvements to the legislation. Finally we are happy to discuss our concerns at any time. However, we are deeply concerned that at this late date, it will be almost impossible for the Band to have any real and meaningful impact on the Act. It is our understanding that the sponsors of the Act hope to pass the Act during the "lame duck session". We would undercut these efforts. I would, therefore, respectfully request that the Committee support our desire for additional time by opposing passage of the Act during the lame duck session.

##### *B. Cultural Resources*

The Shivwits have lived in Washington County for generations. Many of the BLM lands surrounding the current Shivwits Reservation are culturally significant to the Shivwits, and contain remains important to our people. The Band is very concerned that the Act will result in the sale or transfer of public lands that are of importance to the Shivwits people to private developers. The Shivwits Band would urge that these lands be retained as public lands. If land is sold, there should be an intensive survey and consultation with the Shivwits Band before sale to ensure lands of cultural significance are protected. Currently, the draft legislation provides consultation for land sales only for the County. If land with cultural values is eventually offered for sale after consultation with the Shivwits, the Shivwits Band requests the right of first refusal. Further, the Band should have the opportunity to remove any human remains, funerary objects, or other items in order to prevent them from being desecrated.

The legislation authorizes the Secretary to include a restrictive covenant in any deed of transfer of any parcel of land disposed of. However, the restrictive covenant provision will not adequately protect cultural resources. The use of restrictive covenants is optional, and there is no requirement or guarantee that such covenants will be utilized to protect cultural resources. Further, the Act does not provide any funding to monitor or enforce these restrictive covenants. It is our understanding that the BLM itself has expressed concerns about whether adequate resources are available to monitor these restrictive covenants. Finally, the restrictive covenants would still allow for the privatization of cultural resources. As a fundamental concept we believe it is highly inappropriate for these resources to be privatized.

##### *C. Proceeds from Land Sales*

The Act proposes to dispose of as much as 24,300 acres of BLM land in Washington County over a number of years. Of this amount, 4,300 acres must be sold and 20,000 acres may be sold or exchanged. Any lands sold will presumably generate proceeds. The Act provides that the State of Utah shall receive five percent of the proceeds, the Washington County government shall receive two percent, and the Washington County Water Conservancy District shall receive eight percent. The Shivwits Band receives no benefits despite our status as a sovereign government. We do not necessarily support the notion of selling lands to fund government needs, but if such a sale occurs, we the formula in the Act is simply unfair to the Shivwits People.

#### *D. Utility Corridors*

Section 401(a) of the Act would establish a total of 900 linear miles of utility corridors at a width of approximately ½ mile in most locations. According to the legislative maps dated July 18, 2006, it appears that several utility corridor segments are designated across Shivwits Reservation. We have heard that the BLM has expressed concerns that seven segments of the proposed utility corridors cross the Shivwits Reservation. At no point have the sponsors of the Act consulted with us about utility corridors. We continue to seek clarification about the impacts of utility corridors on the Shivwits Reservation. While ultimately the Band may agree to utility corridors on the reservation, this decision should be made by the Band at the local level—not via federal legislation.

#### *E. Land Transfers and Right-of-Way*

The Shivwits believe that, in its present form, the Act unduly favors the local Washington County Water Conservancy District by granting this entity right-of-way for free and perpetuity. The Shivwits Band is a recognized sovereign government, but we were not afforded similar benefits. We have concerns that the proposed transfers may potentially impact the Band's existing water resources, as well as the Band's legal water rights. Further we question the basic concept of transferring land, free of cost to the Water Conservancy District. The Shivwits Band would also like additional information about what project are planned by the Water Conservancy District, particularly on lands slated for transfer to the Water Conservancy District directly north of the Shivwits Reservation.

#### *F. High Desert ORV Trail*

The Act also calls for the development of the high Desert ORV Trail. The location of the ORV route system proposed by the Washington County Commission is of serious concern to the Band. We have already expressed some of our concern about this ORV system, and about general ORV use in and near the Shivwits Reservation, to the BLM. We experience ongoing problems with off-road vehicle users trespassing on the Reservation, and we are concerned that the High Desert ORV Trail will only make this problem worst. We would like to see this issue addressed in the Act. The Act should specify that the High Desert ORV Trail be designed to minimize trespassing on the Reservation, and that the Band should have significant input in the final route designation. Further, we have already seen that the BLM is unable to manage the current level of ORV use on public lands in Washington County, especially near the Shivwits Reservation. The Act should provide the additional funding necessary to manage and enforce the new system, as well as current and future ORV use on public lands near the Shivwits Reservation. The High Desert Trail system will be a new ORV route System spanning the length of the County, and it will undoubtedly attract additional ORV users to Washington County, resulting in an increased demand for emergency services. The Act should clarify who will provide these services, and how these services will be paid for.

#### *G. Native Plants and Animals*

In addition to the issues listed above, we are concerned that the Act will harm native plants and animals including, but not limited to, the desert tortoise, Shivwits milk-vetch, bearclaw poppy, and Virgin River spinedace. The Act should balance the need for development with the need to protect all native plants and animals. Washington County is unique, and the plants and animals that inhabit this area are found in very few other places. The Shivwits Band placed a high priority on these native plants and animals, and request that this proposed legislation make every effort to protect them.

#### CONCLUSION

In conclusion, The Shivwits Band would like to stress our opposition to this legislation. It would cause lasting damage to culture, history, and way of life. The Act fails to uphold the promise of government to government relationship, and it fails to provide a balance between development and preservation. We urge you to join us in opposing this legislation.

Thank you for your consideration of these matters,  
Sincerely

GLENN ROGERS,  
*Shivwits Bans Chairman.*

NATIONAL WILDLIFE FEDERATION,  
Washington, DC, November 16, 2006.

Hon. LARRY CRAIG, *Chairman*,  
Hon. RON WYDEN, *RANKING MEMBER*,  
*Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN CRAIG AND SENATOR WYDEN: On behalf of the National Wildlife Federation (NWF) and our more than four million members and supporters, we write to you to express our views regarding S. 3636, the "Washington County Growth and Conservation Act of 2006."

Instead of providing real solutions to deal with the rapid growth in Washington County, Utah, S. 3636 further encourages development at the expense of our public lands. Since 20 square miles of public land have already been privatized in the last six years and estimates by the local chamber of commerce place over 200,000 acres of private land as still available for development, the sale and/or exchange of up to 38 square miles (24,300 acres) of BLM public land and giveaway of the rights-of-ways to water developers in about 14 square miles of BLM public land as proposed in S. 3636 is unnecessary and detrimental to the millions of Americans who hunt, fish, hike, camp and engage in other forms of recreation on our public lands.

Masquerading under the guise of a "Conservation Act", S. 3636 would, in actuality, disregard the many tenets already in place to conserve public lands in Washington County. Although the bill would designate new wilderness, most of this area is already protected in Zion National Park and thus could not compensate for the numerous anti-conservation measures in S. 3636. In addition to the aforementioned privatization of BLM public lands, the bill would also remove Wilderness Study Area protection from 14 square miles of public lands. Then, in perhaps S. 3636's most egregious disregard to existing conservation law, a new mandate would be created to direct the revenue from the public land sales away from conservation funding as currently required and instead towards local interests and development projects.

Additional provisions in the bill could have devastating effects on wildlife and wildlife habitat. S. 3636 would require the BLM to consider building a highway through the Red Cliffs Desert Tortoise Reserve, which is supposed to be set aside as critical habitat for the endangered desert tortoise. The bill would also require the BLM to establish a new off road trail system, even though existing ORV trails have damaged wildlife habitat and non-motorized recreational opportunities on public lands in Washington County. Proposals in the bill would also have far reaching effects, as S. 3636 would use a portion of the public land sale revenues to contribute to the construction of a 120 mile water pipeline from Lake Powell of waters derived from the Colorado River. Not only would the pipeline construction cause potential damage to public lands, but this water diversion would reduce already deficient Colorado River flows, thus affecting river habitat and those who utilize the river for recreational and other purposes.

Given that the "Washington County Growth and Conservation Act of 2006" undermines existing conservation law, encourages development of our public lands, and fails to designate over 70% of citizen proposed wilderness in the Zion-Mojave region, the National Wildlife Federation cannot support this legislation. We urge you to reassess how to best manage the rapid population growth and sprawl in Washington County without sacrificing our public lands.

Thank you for your consideration.

Sincerely,

JIM LYON,  
*Senior Vice President, Conservation.*

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*Indian Springs, NV, November 26, 2006.*

Hon. LARRY CRAIG,  
*Chair, Subcommittee on Public Lands and Forests.*

Re: White Pine County Lands Bill, S. 3772

DEAR SENATOR CRAIG: Five generations of our family have lived in the southern Nevada area, and more in adjacent areas of Utah. We firmly believe that the decisions being made regarding the White Pine County Conservation, Recreation and Development Act of 2006 ( S. 3772) will determine the fate of the entire State of Nevada as well as that of the entire region.

Solid science is essential for the decisions on the present and future transfer of water from one area of Nevada to another. To that end S. 3772 should ADD author-

ization of at least \$12-13 million study by the USGS, the Desert Research Institute, and the State of Utah to develop predictive hydrological models to ascertain the effects of water development in groundwater basins in White Pine and Lincoln Counties, and adjacent areas in Utah, and for future integration into an understanding of the entire region. All data and findings of such studies must be made immediately available to all parties for review and critique. This will allow the counties and the State to protect the groundwater table from excessive draw-downs and protect springs and seeps, and to make more precise economic decisions to protect the diversity and sustainability of the arid region..

There should be NO funding of the SNPLMA for a wastewater pipeline into Lake Mead. This is economically wasteful, and would be used to artificially subsidize excess growth in southern Nevada, Southern Nevada must learn to live within its means, and not bankrupt the system. It is basically an absurdity, to contaminate the reservoir, then have to expend the energy to pump the sewage laden water back and treat the sewage. Viable alternatives exist, such as treating the water and recycling it without sending sewage into Lake Mead and downstream in—the Colorado River. A treatment plant of this scale is due to come online in the next year in the Los Angeles area.

White Pine County Lands funds should not be used for SNPLMA turf removal. The SNWA can easily accomplish the turf removal through incentives in their rate structures. Proceeds of land sales in White Pine County should go to White Pine County for its needs. Rural counties should not be treated as colonies of the urban areas, stripped of their land and water resources for the short term exploitation by others. Nevada has little to show for the Comstock Lode exploitation of the mid 1800's. If diversity and water are lost this time, there would be little hope for any future recovery.

Sincerely,

JIM & ANN BRAUER.

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*Baker, NV, November 19, 2006.*

Senator LARRY CRAIG,

*Chair, Senate Subcommittee on Public Lands and Forests, Washington, DC.*

DEAR SENATOR CRAIG: I wish to express my opposition to S. 3772, The White Pine County Conservation, Recreation and Development Act of 2006, as it is currently written. I strongly urge that the subcommittee adopt the following critical changes to the bill.

The bill must include funding to do a study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine County, Lincoln County and adjacent areas in Utah. White Pine County is the target of a plan by the Southern Nevada Water Authority to export 141,000 acre-feet of groundwater per year from this desert region to the Las Vegas area 285 miles away. White Pine County has repeatedly asked for funding for such a study to provide independent, scientifically credible information. The importance of adequate scientific knowledge of the amount of water available is crucial before this project is undertaken.

Please, eliminate SNPLMA funding authorization for the \$751 million wastewater pipeline into Lake Mead. Public land sale revenues should not be used to subsidize Las Vegas growth. Such funding is not needed because Clark County wastewater agencies have stated publicly that they already have sufficient funds to complete the project.

This is the WHITE PINE COUNTY Public Lands Bill, and the use of those public funds should be applied to the needs of White Pine County.

Respectfully yours,

TONIA HARVEY.

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*Carson City, NV, November 20, 2006.*

Senator LARRY CRAIG,

*Chair, Senate Subcommittee on Public Lands and Forests, Washington, DC.*

DEAR SENATOR CRAIG: I wish to express my opposition to S. 3772, The White Pine County Conservation, Recreation and Development Act of 2006, as it is currently written. I strongly urge that the subcommittee adopt the following critical changes to the bill.

The bill must include funding to do a study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in

groundwater basins in White Pine County, Lincoln County and adjacent areas in Utah. White Pine County is the target of a plan by the Southern Nevada Water Authority to export 141,000 acre-feet of groundwater per year from this desert region to the Las Vegas area 285 miles away. White Pine County has repeatedly asked for funding for such a study to provide independent, scientifically credible information.

Please, eliminate SNPLMA funding authorization for the \$751 million wastewater pipeline into Lake Mead because public land sale revenues should not be used to subsidize Las Vegas growth. Such funding is not needed because Clark County wastewater agencies have stated publicly that they already have sufficient funds to complete the project.

Thank you very much,

JAN GILBERT.

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*Reno, NV, November 21, 2006.*

Senator LARRY CRAIG,  
*Chair, Senate Subcommittee on Public Lands and Forests, Washington DC.*

Re: S. 3772

DEAR SENATOR CRAIG: I am urging the Subcommittee to amend the White Pine County Conservation, Recreation and Development Act of 2006 by

- Add AUTHORIZATION OF a \$12 million study (funded by the Southern Nevada Public Lands Management Act) by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Reasons: 1) White Pine County has requested SNPLMA funding for such a study, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.
- Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Reasons: 1) Revenues from public land sales should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited and could be as much as \$751 million, but it's not needed because Clark County wastewater agencies have said they already have sufficient funds to complete the project without the subsidy.
- Adding the Nevada Department of Wildlife to p. 49 Title VIII line 20 (xiv) development of any park or Wildlife Management Area administered by the State of Nevada . . .

Thank you for your time.

TINA NAPPE.

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*Wendover, UT, November 22, 2006.*

Senator LARRY CRAIG,  
*Chair, Senate Subcommittee on Public Lands and Forests, Washington, DC.*

DEAR SENATOR CRAIG: I am writing you concerning S. 3772, The White Pine County Conservation, Recreation and Development Act of 2006.

The single most threatening thing for White Pine County at the present moment is the proposed water withdrawal from White Pine County for Clark County and Las Vegas. Yet this bill, supposedly for the betterment of White Pine County, has more provision in it for Clark County than it does for White Pine County.

I ask that 2 areas be specifically addressed in this bill:

1) Provide \$12 million in funding to allow the USGS, the DRI, and the State of Utah to do studies to provide solid, scientific information about impacts of the proposed water withdrawal from White Pine County for Las Vegas—before Southern Nevada Water Authority (SNWA) is allowed to invest billions of dollars in a project that has the potential of destroying White Pine County.

2) Eliminate the proposed \$751 million funding for a wastewater pipeline into Lake Mead. Clark County wastewater agencies have gone on record saying they already have sufficient funds to complete the project. Further, this money from public land sales should not be used to support the growth of Las Vegas. The growth of Las Vegas is only sustainable as other parts of the state give up their primary resource—water—to Las Vegas, thereby threatening the existence of people, vegetation, and wildlife in thousands of acres in rural Nevada and Utah.

Thank you for your consideration of these issues.  
Respectfully yours,

KATHRYN HILL.

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*Reno, NV, November 24, 2006.*

Hon. LARRY CRAIG,  
*Chairman, U.S. Senate, Subcommittee on Public Lands and Forests*

DEAR SENATOR CRAIG AND SUBCOMMITTEE MEMBERS: I am writing to the subcommittee to oppose S. 3772, the White Pine County Conservation, Recreation and Development Act of 2006. I ask that the Committee not pass this legislation without substantial changes, two of which I list below.

Please add authorization of funding for a \$12 million study by the USGS, Desert Research Institute (an institution of the University of Nevada), and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Such a study is critically needed because White Pine County is the target of a plan by the Southern Nevada Water Authority to remove 141,000 acre-feet of groundwater each year and send it to Las Vegas to fuel explosive growth. This study should be authorized in this legislation because 1) White Pine County has continuously requested funding for such a study from the SNPLMA funds during the past three years, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.

Please, eliminate the funding from SNPLMA for the wastewater pipeline into Lake Mead. The funding should not be allowed by the subcommittee because 1) Revenues from public land sales, which are an asset of all Americans should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited for a project already projected to cost \$751 million, and is not needed because Clark County wastewater agencies have said they already have sufficient funds to complete the project without the subsidy, 3) during numerous meetings on the WPC bill authorizing this funding was never requested nor discussed.

Thank you for considering my comments.

Respectfully yours,

DENNIS GHIGLIERI ROSE STRICKLAND.

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*Caliente, NV.*

Senator LARRY CRAIG,  
*Chair, Senate Subcommittee on Public Lands and Forests, Washington, DC.*

DEAR SENATOR CRAIG: I wish to express my opposition to S. 3772, The White Pine County Conservation, Recreation and Development Act of 2006, as it is currently written. I strongly urge that the subcommittee adopt the following critical changes to the bill.

The bill must include funding to do a study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine County, Lincoln County and adjacent areas in Utah. White Pine County is the target of a plan by the Southern Nevada Water Authority to export 141,000 acre-feet of groundwater per year from this desert region to the Las Vegas area 285 miles away. White Pine County has repeatedly asked for funding for such a study to provide independent, scientifically credible information.

Please, eliminate SNPLMA funding authorization for the \$751 million wastewater pipeline into Lake Mead because public land sale revenues should not be used to subsidize Las Vegas growth. Such funding is not needed because Clark County wastewater agencies have stated publicly that they already have sufficient funds to complete the project.

Respectfully yours,

BRENT H. PERKINS.

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STATEMENT OF NOMI SHEPPARD, BAKER, NV

I am a resident of Snake Valley in White Pine County, NV. I fear the Las Vegas pipeline will destroy our community and our environment. Please take the following steps to ensure careful, scientific, unbiased thinking to divert a potentially disas-



trous, devastating situation. This will set precedence for future water developments in the West.

- Add AUTHORIZATION OF a \$12 million study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Reasons: 1) White Pine County has requested SNPLMA funding for such a study, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.
- Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Reasons: 1) Revenues from public land sales should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited and could be as much as \$751 million, but it's not needed because Clark County wastewater agencies have said they already have sufficient funds to complete the project without the subsidy.

Thank you.

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STATEMENT OF TERRY MARASCO, SILVER JACK INN, BAKER, NV

The current BARCASS 1 study will only state a water budget. It is imperative that the bill authorizes a \$12 million study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah because 1) White Pine County has requested SNPLMA funding for such a study, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.

Since the Clark County wastewater agencies have stated that they have the funds, Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Tax payers should not have to foot this bill.

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STATEMENT OF JON SHIPP

I would like to express my opposition and serious concern over the provisions of S. 3772, The White Pine County Conservation, Recreation and Development Act 2006, as presently drafted.

I would strongly request that the following changes to the bill are made in subcommittee, to protect the integrity of this legislation.

1) The bill must include funding for an independent study by the State of Utah, USGS and DRI to develop a hydrological model to predict the effect of water extraction from Groundwater basins in White Pine and Lincoln Counties in Nevada, and Millard and Juab Counties in Utah. This funding is essential to produce scientific information and has been repeatedly requested. The possible extraction of water from this region could destroy the areas just created for conservation and recreation.

2) Authorization for SNPLMA funding with regard to the wastewater pipeline into Lake Mead should be eliminated. Public land sale revenues should NOT be used for a project where Clark County NV have already stated sufficient funds are held and where the money is effectively subsidizing the growth of a city (Las Vegas) that has not had the foresight to plan ahead.

The fact that proposed water extraction could seriously impact on resources in Utah makes it imperative that full scientific investigation is undertaken before any additional extraction is undertaken. There are water rights in both states that could be effected, plus a National Park and Wilderness areas.

There is also the potential for release of dust containing Nuclear waste, should the water table fall too low and the surface plants die or be removed.

Your serious consideration of these amendments is requested.

*Reno, NV.*

Senator LARRY CRAIG,  
*Chair, Senate Subcommittee on Public Lands and Forests.*

DEAR SENATOR CRAIG: On the whole, the White Pine County Lands bill is well constructed and in the best interests of Nevadans and the U.S. However, two changes are imperative if the bill is not to be counterproductive:

1) Please add authorization of the \$12 USGS, DRI, Utah, Nevada hydrological model for White Pine and Lincoln Counties in Nevada and in western Utah. At present, water and environmental resources are severely threatened by proposals to extract ground water for shipment to Las Vegas. We do not have a comprehensive model of the affected aquifers; \$12 million is a small price to pay for a genuinely descriptive study of available water resources.

2) Delete the \$751 million dollar funding for wastewater treatment, which would merely encourage Las Vegas to drain distant aquifers and process the water for return flow credits, subsidizing the unplanned urban sprawl of the Las Vegas Valley.

Thank you for your consideration.

STEPHEN TCHUDI.

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STATEMENT OF DEON REYNOLDS

I wish to express my opposition to S. 3772, The White Pine County Conservation, Recreation and Development Act of 2006, as it is currently written. I strongly urge that the subcommittee adopt the following critical changes to the bill.

The bill must include funding to do a study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine County, Lincoln County and adjacent areas in Utah. White Pine County is the target of a plan by the Southern Nevada Water Authority to export 141,000 acre-feet of groundwater per year from this desert region to the Las Vegas area 285 miles away. White Pine County has repeatedly asked for funding for such a study to provide independent, scientifically credible information.

Please, eliminate SNPLMA funding authorization for the \$751 million wastewater pipeline into Lake Mead because public land sale revenues should not be used to subsidize Las Vegas growth. Such funding is not needed because Clark County wastewater agencies have stated publicly that they already have sufficient funds to complete the project.

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*Baker, White Pine County, NV.*

Senator LARRY CRAIG,  
*Chair, Senate Subcommittee on Public Lands and Forests.*

DEAR CHAIRMAN CRAIG AND MEMBERS OF THE SUBCOMMITTEE: I ask you to set S. 3772 aside until two changes—(1+) one addition, (1-) one deletion—are made:

(1+) I ask the Subcommittee to ADD monies to fund a study by the USGS, DRI and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln counties in Nevada and adjacent areas in Utah. At the present moment this multi-billion dollar SNWA project is flying blind. The development of a competent hydrological model is a minimal requirement.

(1-) And I ask the Subcommittee to DELETE funding authorization for the wastewater pipeline into Lake Mead. Clark County wastewater agencies have already publicly stated that they have the money to do this job. They just want the Subcommittee to fund it for them.

Thank you, Chairman Craig and Members of the Subcommittee.

PETER FORD.

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STATEMENT OF KEN HILL, PRESIDENT, NORTH SNAKE VALLEY WATER ASSOCIATION

I am writing in behalf of a western Utah citizens group, North Snake Valley Water Association. We are concerned about S. 3772, the White Pine County Conservation, Recreation and Development Act of 2006.

We feel the bill should contain authorization of water study to be conducted by U.S. Geological Survey (USGS), Desert Research Institute (DRI), and the state of

Utah to develop a comprehensive hydrological model. These entities are currently conducting a study in groundwater basins in Lincoln and White Pine Counties and adjacent areas in Utah. But that study is under funded and inadequate. A study needs to be carried out to predict the effect of water development.

A second study is necessary and was included in some of the early drafts of the White Pine County bill and has great support in White Pine County. Such a study would provide vital, independent, peer-reviewed data to allow the county and Nevada to protect water-righted springs and seeps and to protect the groundwater table from excessive draw downs. This information also is vital for Utah in adjacent Snake Valley. Funding for this study should be authorized in an amount of \$12-\$15 million.

S. 3772 also should be restricted to matters that directly concern White Pine County. We favor, for example, the elimination of SNPLMA funding for the effluent pipeline into Lake Mead. Revenues from public land sales should not be used to facilitate and subsidize growth in southern Nevada. Such growth is fueling the potentially disastrous reach for groundwater into eastern Nevada and western Utah. Additionally, Clark County officials have publicly stated their local resources are sufficient to complete the project which could cost more than \$750 million.

Thanks for your consideration of this matter.

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STATEMENT OF ABIGAIL C. JOHNSON, SNAKE VALLEY CITIZENS ALLIANCE, BAKER, NV

I am a resident of White Pine County. I am very concerned about that provisions in the proposed public lands bill for White Pine County NV do not address the County's needs.

The water study and model are essential to understand the impacts of groundwater exportation. Funding a wastewater pipeline to Lake Mead in Clark County is unnecessary, and was never agreed to in the five years of local meetings leading up to the drafting of this bill

Please support the following changes to S. 3772, the White Pine County Conservation, Recreation and Development Act of 2006.

- Add AUTHORIZATION OF a \$12 million study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Reasons: 1) White Pine County has requested SNPLMA funding for such a study, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.
- Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Reasons: 1) Revenues from public land sales should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited and could be as much as \$751 million, but it's not needed because Clark County wastewater agencies have said they already have sufficient funds to complete the project without the subsidy, 3) during meetings authorizing this funding was never requested nor discussed.

Thank you.

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STATEMENT OF KELLY CLARK, CARSON CITY, NV

I am very concerned about the White Pine County Lands Bill.

This bill needs to add the following elements to be fair to the citizens of Eastern Nevada:

- Add AUTHORIZATION OF a \$12 million study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Reasons: 1) White Pine County has requested SNPLMA funding for such a study, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.
- Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Reasons: 1) Revenues from public land sales should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited and could be as much as \$751 million, but it's not needed because Clark County wastewater agencies have said they already have sufficient funds to complete

the project without the subsidy, 3) during local meetings, authorizing this funding was never requested nor discussed.

Support additional language to the bill that would provide long-term, ongoing funding to restore and rehabilitate Nevada lands affected by wildfire. Nevada's wildlands are being decimated by cheatgrass and wildfire. Something must be done now to fight cheatgrass with drill seeding and aerial seeding, to contract with local people in the rural areas to complete restoration efforts once BLM has stabilized lands, and to provide both economic support for the rural economy in this state. Such funding would help to support wildlife habitat, which would help keep threatened and endangered species from becoming more rare and threatened—something we cannot afford in Nevada.

Thank you for consideration of this message

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STATEMENT OF SARAH MERSEREAU-ADLER, RURAL ECONOMIC DEVELOPMENT  
ADVOCATE, CARSON CITY, NV

You have before you S. 3772, addressing public lands issues in White Pine, Lincoln, and Clark counties in Nevada. It is critical that two amendments be made to the bill in order to adequately determine potential impacts on the environment, water supplies and associated water rights.

- Add AUTHORIZATION OF a \$12 million study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Such a study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.
- Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Reasons: 1) Revenues from public land sales should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited and could be as much as \$751 million, but it's not needed because Clark County wastewater agencies have said they already have sufficient funds to complete the project without the subsidy, 3) during local meetings, authorizing this funding was never requested nor discussed.

Thank you for this attention to this critical issue.

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STATEMENT OF STEVE PALMER

Please make the following changes to S. 3772, the White Pine County Conservation, Recreation and Development Act of 2006.

- Add AUTHORIZATION OF a \$12 million study by the USGS, DRI, and the State of Utah to develop a hydrological model to predict the effect of water development in groundwater basins in White Pine and Lincoln Counties and adjacent areas in Utah. Reasons: 1) White Pine County has requested SNPLMA funding for such a study, 2) study would provide independent, scientifically credible information to allow the county and state to protect the groundwater table from excessive drawdowns and protect water-righted springs and seeps.
- Eliminate SNPLMA funding for the wastewater pipeline into Lake Mead. Reasons: 1) Revenues from public land sales should not be used to subsidize Las Vegas growth, 2) the funding authorization from SNPLMA is unlimited and could be as much as \$751 million, but it's not needed because Clark County wastewater agencies have said they already have sufficient funds to complete the project without the subsidy, 3) during local meetings, authorizing this funding was never requested nor discussed.

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STATEMENT OF KATIE FITE, BIODIVERSITY DIRECTOR, WESTERN WATERSHEDS  
PROJECT, BOISE, ID

My name is Katie Fite, and I am Biodiversity Director of Western Watersheds Project (WWP). I was formerly Executive Director of the Committee for the High Desert (CHD). I request that this testimony be placed in the record for the White Pine Bill.

First, I would like to submit an Opinion Piece that I wrote concerning four recent quid pro quo bills.

REGIONAL PERILS OF PRIVATIZATION OF PUBLIC LANDS AND PUBLIC ASSETS THROUGH  
2006 DEVELOPMENT/WILDERNESS BILLS

A recent *Salt Lake Tribune* article and Editorial describes the fray over the draining of the regional aquifer underlying western Utah and eastern Nevada to propel breakneck growth in Las Vegas. Yet, no mention is made that the water pipelines that could turn this part of the Great Basin into the next Owens Valley were brought about by a complex land, development and wilderness Bill in Nevada's Lincoln County. By using the sugarcoating of wilderness, politicians quietly put in place the mechanism for a water grab that they could not have achieved by any other means—at least not without a prolonged and bloody battle.

A new privatization/wilderness Bill that would sell off more than 45,000 acres of BLM land in Nevada's White Pine County for industrial and other development is pending. With the water situation in the region already at a crisis point—where will the water to support more explosive development from the same aquifer come from? Industry plans here include a proposal for a giant new coal-fired power plant near Ely with others in the wings. Industrial development in the heart of the Great Basin will consume a tremendous amount of water. It will also spew mercury and other pollutants into a shared regional Nevada, Utah, and Idaho airshed—where winter smog inversions in urban areas now threaten human health.

On the heels of Nevada's land and resource liquidation schemes, Utah's own Washington County Bill would sell off large blocks of BLM lands, and facilitate development. And two more privatization wilderness Bills are moving forward in Idaho. CIEDRA, a central Idaho Bill, promotes trophy home sprawl by turning public land over to the County for sale, and strips parts of the protection of the Sawtooth National Recreation Area. In Owyhee County to the south, the Owyhee Initiative would impose an indirect form of privatization of public lands through an elite Board of Directors to oversee all 3.8 million acres of public lands in the County. (Note: White Pine's parallel here is enablement of a local group, the Eastern Nevada Landscape Coalition, also closely linked to the livestock industry, to take over some functions of BLM—and spend taxpayer funds on chaining, burning, herbiciding and otherwise killing trees and sagebrush on public lands—in the name of "restoration"). The OI would also allow ranchers to privatize a potential 75,000 acres of BLM public land parcels. 200,000 acres of sagebrush and forested BLM WSAs—critical to wildlife populations shared with Nevada and Oregon—would be released. Plans are already made for elaborate livestock water projects and burning to intensify use by privately owned cattle.

Fallout from the Las Vegas pipelines serves as a stark reminder that the public needs to take a long hard look at ALL consequences of these complicated development, cronyism and wilderness Bills—now on a fast-track in Congress. What will the long-term effects be to the region—to water supplies, airsheds, and wildlife habitats—and even the quality of any wilderness that is designated?

Shrewd enemies of public lands, developers and politicians are using an incremental County-by-County approach, coating the most bitter of Bills with flawed wilderness, to mask their looting of the public land commons for private gain. It's time for western politicians to recognize that intact public wild lands, with blocks of real Wilderness, are critical to our environmental health and regional well-being. They should begin by shoving this crop of bad Bills into the shredder!

THE WHITE PINE BILL

The Wilderness component of the White Pine Bill in no way offsets the many harmful provisions of the Bill, or the new harmful precedents for public lands that it would set. Provisions of the Bill include both direct and indirect privatization measures that will have harmful implications for public lands and resources extending far beyond the borders of White Pine County.

The lands affected by the Bill include the beautiful public wild lands of the Great Basin in eastern Nevada. I have visited these lands, including White Pine and Lincoln County, for over 20 years to hike, camp and enjoy the beautiful clean air vistas. Sweeping desert valleys lie between rugged forested mountains. The air is currently some of the cleanest in the nation—with grand vistas—where one can see for dozens of miles.

The scenic vistas of the sweeping valleys and ranges are threatened by fast-track industrial and other development, including for dirty polluting industry such as coal-fired power plants and associated infrastructure, that will be facilitated under the Bill's track privatization of over 45,000 acres of public lands.

The air quality of the entire region is threatened by the fast-track land privatization enabling energy development that would turn this beautiful part of the Great Basin into an Energy Colony of Las Vegas.

The enablement of the ENLC and privatization of functions of BLM under the White Pine Bill has a parallel in other recent proposed quid pro quo legislation. In the Owyhee Initiative legislation, a group of special interests (a “Board of Directors” and a science center overseen by the BOD) would also be enabled by a sprawling quid pro quo wilderness bill. Both Bills promote cronyism, elevate the desires of local interests above those of the broader public in management of the public lands—and would use taxpayer funds to carry out livestock-industry friendly science and manipulation projects.

Both the ENLC and the OI BOD are unnecessary, and if established or enabled under legislation, will likely drain hundreds of millions of dollars from federal taxpayers to carry out the wishes of a hand full of local interests. They also both would elevate cronyism in management of public lands—something which the American people just resoundingly just voted against!

*Proposed Energy Developments in White Pine County*

Large-scale energy, utility corridor and industrial development proposals now abound in White Pine County, and they will be propelled forward by the White Pine Bill.

For example:

[http://www.nv.blm.gov/ely/nepa/040\\_06\\_038\\_cherry\\_creek\\_geothermal\\_DRFONSI\\_061\\_306.pdf#search=%22SWIP%20coal%20impacts%20Ely%22](http://www.nv.blm.gov/ely/nepa/040_06_038_cherry_creek_geothermal_DRFONSI_061_306.pdf#search=%22SWIP%20coal%20impacts%20Ely%22). Page 15 of this EA—Reasonably Foreseeable Future Actions “a total of 8700 acres would be developed for coal and wind energy production” . . . “similar success with coal and wind generation facilities may lead to expanded production”.

There are many coal-fired and other power plant, and energy infrastructure projects in the wings. These include the SWIP (Southwest Intertie) powerline, and other large-scale powerline and energy development projects in the works, such as Northern Lights. See:

[http://www.transcanada.com/pdf/company/projects/NorthernLights\\_LR.pdf#search=%22northern%20lights%20alberta%20borah%20](http://www.transcanada.com/pdf/company/projects/NorthernLights_LR.pdf#search=%22northern%20lights%20alberta%20borah%20)  
<http://www.legislature.idaho.gov/sessioninfo/2006/standingcommittees/henrmin.pdf#search=%22SWIP%2022northern%20lights%22%20minutes%20environment%22>, pages 1-5.

Pollution from, large-scale energy development in White Pine County not only will locally pollute air that is among some of the cleanest in the Nation at present—including Great Basin National Park, it will pollute a regional airshed shared with Utah and Idaho. Positioning a large energy industry area on the eastern edge of Nevada north of Las Vegas frees the glittering city from having to deal with the pollution from energy needed to support its energy excesses.

All this industrial development in rural Nevada will require large volumes of water use—in a region where the water situation is already at a crisis point. Why is Las Vegas letting the Nevada politicians that do its bidding get away with this? Why is it not kicking and screaming over the water to be used in industry in the White Pine? Perhaps because the quid pro quo is that Las Vegas gets cheaper energy from development in White Pine—and its not going to squawk about that.

Plans underway cynically link coal and wind development. See: <http://www.lspower.com/news/?release=20051115>, and earlier link. Siting huge wind mountain-top dynamiting wind farms on top of rugged ridges and mountains in the Great Basin may have devastating consequences on the regions’s sage grouse, golden eagle and other wildlife—plus spawn a tangle of powerline, roading and other infrastructure development cutting across desert valleys (vs. more appropriate siting for wind facilities such as on depleted flat windy ag. lands in southern Idaho’s Snake River Plain and similar areas).

The White Pine Bill empowers the Eastern Nevada Landscape Coalition—a private group that has promoted conversion of the pinyon juniper forests of the Great Basin on BLM and National Forest lands into wood chips for industrial-level biomass use. Large-scale biomass production from public lands in the Great Basin—where pinyon and juniper trees may grow only a few inches in a century—would result in extensive alteration and destruction of important biological resources on public wild lands.

Note: Ely BLM has recently prepared a Draft RMP with maps show many potential wind energy sites. The Ely DRMP maps also show large areas being made available for disposal. The White Pine Bill allows BLM land privatization in acreages exceeding even the acreage proposed in the DRMP. Plus, the Bill’s privatization would occur in unknown locations. The Ely DRMP has been set up to aid imposition of the ENLC large-scale manipulation and deforestation schemes across Lincoln and

White Pine Counties—and in a way cedes control to this group—and the white Pine Bill sets this in stone.

*Downwinders in Idaho and Utah Will Suffer from Coal Plant and Other Development-Linked Pollution Propelled by White Pine Bill*

Idaho and Utah are downwind from central Nevada—as the downwind cancer legacy of Nevada nuclear testing in the 1960s so starkly shows. Idaho's Custer County, Gem County and other areas in Idaho received large doses of radiation on the winds from central Nevada. In fact, compensation for Idaho downwinders from the Nevada tests has been proposed in recent Congressional legislation.

Today both Idaho and Utah are receiving massive doses of mercury from Nevada as airborne pollution from gold-roasting by largely foreign-owned giant cyanide heap leach gold mines. Toxic mercury carried by the wind from the gold roasting rains down on the region's streams and reservoirs to the north and east—making fish now unsafe to eat. See December 2005 New York Times article (Attached).\*

The devastating environmental and human health effects of mercury pollution associated with coal-fired power plants is well known. Air pollution across the region from coal-fired power plants and other development in White Pine County will be facilitated by fast-track privatization of BLM land under the White Pine Bill.

*Region's Aquifers Will Be Further Drained by Fast-Track Industrial Development*

Like the White Pine Bill, it's immediate predecessor the Lincoln County Bill, was developed behind closed doors with local interests and wilderness-seeking conservationists. In 2004, the Lincoln County Bill quietly legislated the now highly controversial water pipeline corridors that will facilitate de-watering of the regional aquifer underlying large portions of Nevada including White Pine County, western Utah and even other states.

By the time it was realized how ecologically destructive the Lincoln County water pipelines would be, conservationists promoting wilderness in closed-door dealmaking were so deeply invested in getting wilderness that they were not willing (or able?) to pull away from the Bill.

The 2006 White Pine Bill's parallel to the water pipeline deal is the devastating effects of fast-track land disposals facilitating industrial and other development. The full extent and implications of such development has received virtually no public attention to date.

Not only will industrial and other development stemming from the fast-track privatization of over 45,000 acres of BLM lands in White Pine County pollute a regional airshed, it will also place even more strain on the very same aquifer that will undergo the massive drawdown and water export to Las Vegas set in motion by the Lincoln County Bill!

*Brown Sky Wilderness and Wild Lands—Pollution Will Mar Some of Nation's Cleanest Air*

The disposal of vast tracts of BLM lands to facilitate industrial and other development will ironically lead to industrial pollution of the air over the very Wilderness areas that would be designated. The air of Great Basin National Park will be dirtied by White Pine development.

Even downwind Class I airsheds (such as that over the existing Jarbidge wilderness—that was designated as part of the Wilderness Bill) will be polluted by soot and toxics pumped into the air by fast-track White Pine industrial development.

Right now, the air quality in central Nevada is better than almost anywhere else in the Nation. This land privatization and development legislation, by laying the foundation for actions that will degrade air quality, visibility, and aesthetics, will destroy a national benchmark for air quality, and deprive all Americans of the opportunity to enjoy this clean air and great scenic vistas.

A behind-the-scenes deal appears to have been cut between some wilderness promoters over power plant development—where there is no ruckus being made over coal power plants sought by some local interests in White Pine. This is in sharp and noticeable contrast to the outcry raised by Wilderness advocates over a proposed Sempra coal plant near Gehrlach in western Nevada in recent years. To curry favor and gain support of local interests for wilderness, some conservationists are looking the other way—and not actively opposing the construction of giant coal-fired power plants and extensive energy infrastructure and development in White Pine County.

\*Attachments have been retained in subcommittee files.

*White Pine Bill Title VII Would Facilitate Large-Scale Deforestation and Accelerate Desertification Processes By Enabling the ENLC*

The nationally significant pinyon juniper forests on public lands in both White Pine and Lincoln Counties are greatly threatened by the provisions of the Bill that would fund and enable the Eastern Nevada Landscape Coalition.

The pieces are being put in place for a massive assault on pinyon juniper and juniper—to convert them to grass for cattle forage—under the guise of “rangeland health” and “fire prevention”.

“Findings” of the White Pine Bill Title VII are that there is an increasing threat of wildfire, and that to address this all, “the secretaries shall carry out the Eastern Nevada Landscape Restoration Project” . . . “the secretaries may make grants to the ENLC and the GBI . . . to assist in reducing hazardous fuels . . .”.

In many ways, the ENLC is analogous to the OI Board of Directors and its associated “Science Center”. It is a group of special interests with strong ties to the public lands livestock industry that would be empowered by federal legislation—and also provided with direct funding mechanisms to kill trees and shrubs on public lands with. As in the OI, these provisions elevate is about local control and partial privatization of functions of BLM.

The ENLC is headed by a former Director of the Nevada Cattlemen’s Association, and promotes the public land manipulation agenda of local ranching interests. It would be greatly enabled and provided with large amounts of taxpayer dollars under the White Pine Bill.

The ENLC promotes large-scale deforestation and vegetation manipulation designed to kill woody vegetation (pinyon, juniper, sagebrush) and promote grass (i. e. livestock forage) on BLM and Forest lands. The ENLC for the past several years has sought to acquire funding to accomplish deforestation projects on public lands.

Ecological science recognizes the serious threats facing arid western vegetation communities, including both pinyon juniper and sagebrush. But the massive landscape-level manipulation schemes and disturbance projects promoted by the ENLC are very likely to make matters worse, not better. The ENLC promotes burning, chaining, herbiciding native vegetation on public lands to make them “healthy”. The ENLC-promoted projects are the very same types of projects have been conducted in years past by BLM and the Forest to promote cattle forage—kill woody vegetation and plant grass. Such projects have contributed greatly to habitat loss and fragmentation for native species, including the demise of species such as sage grouse or pinyon juniper dependent species in many areas of the West.

The Bill’s enabling of the ENLC would also facilitate BLM’s highly controversial Draft 17 States Vegetation Treatment/Weed EIS, which lists Nevada as the area where the largest number of “treatments” would occur (the other three top states are Idaho, Utah, and Oregon). The Weed EIS covers not only herbiciding (for example, killing pinyon-juniper with the chemical Tebuthiuron), but also is accompanied by a Volume on broad range of treatments aimed at killing trees and sagebrush.

The Ely Draft RMP describes landscape-level restoration treatments. The White Pine Bill in Title VII describes “landscape-scale restoration treatments”, and the RMP has been written to elevate the programs of the ENLC.

This all is aimed at promoting harmful multi-million dollar costly projects that disturb public wild lands—without addressing the vast weedlands, failed crested wheatgrass seedings, chainings, burns and herbiciding projects and other highly disturbed areas that already exist on BLM lands, or the CAUSES of the problems that are to be “treated”—such as relentless grazing pressures and other human-imposed disturbances. The ENLC would serve as a pass-through group for taxpayer funds, be in a position to keep portions of funds for administration of various manipulation projects that will be handed out to contractors who may be cronies.

See Link of recent chaining in neighboring Elko County at [http://www.westernwatersheds.org/facts\\_photos/photos/lphotos.html](http://www.westernwatersheds.org/facts_photos/photos/lphotos.html) and then click on “Spruce”, illustrating the type of project that would be inflicted across broad landscapes of Lincoln and White Pine Counties through enactment of this Bill. These are the type of projects ENLC would be enabled to carry out—using large sums of taxpayer dollars, particularly federal fire funds.

*Ely-Mount Wilson “Urban Interface” Project, Promoted by ENLC, Illustrates Excesses*

My first experience with the ENLC arose with the Ely-Mount Wilson Urban Interface projects several years ago—circa 2002. These projects would have deforested over 50 square miles of BLM lands in two areas—the Mount Wilson summer home area near Pioche in Lincoln County, and an area extending to 14 miles south of Ely in White Pine County. Much of the land was targeted for tree killing was miles from any habitation. BLM prepared an EA, promoted by the ENLC, that would have chopped pinyon and juniper into piles of two inch thick wood chips blanketing the



land. Pinyon juniper was claimed to be rampantly invading, and had to be treated across 50 square miles.

Nevada land survey records from the 1880 survey showed that the trees were NOT invading—that the lands were mapped in 1880 by surveyor's as "Pine Nut Forest". FOIA records also revealed that BLM, passing some funding through ENLC, planned to spend 10 to 12 million dollars of federal fire funds to kill the "invading" trees here.

WWP and CHD sued BLM. As a result, BLM brought in its national level fire experts, who found that only 13% of the 50 square mile land area needed to be thinned to protect the various summer home and other habitation interfaces—not the vast area targeted by local interests. We thought this sounded much more reasonable—and settled the lawsuit, saving taxpayers many millions of dollars as a result. Plus, the forested lands were carefully thinned and many older trees remained—they were not chained, burned, poisoned, or otherwise killed and treated as weeds.

FOIA documents obtained as part of this process showed that the UI Project was planned as a prototype for large-scale biomass removal of pinyon and juniper on public lands.

Interestingly, portions of the UI Project BLM lands at Mount Wilson were later legislated for privatization by the Lincoln County Bill. And now some of the UI Project lands south of Ely may be privatized for fast track development under the White Pine bill.

#### *White Pine Bill's Enabling of ENLC Would Thwart Full and Open Public Processes*

My concerns about ENLC and the insertion of a this group's interest into public lands legislation was only heightened on a recent November, 2006 Ely BLM tour of proposed vegetation manipulation/treatment projects that I attended.

On this tour, input and discourse over divergent views on public lands management and "treatment" were scorned by a representative of the ENLC, who clearly felt that the ENLC world view of deforestation through expensive taxpayer-funded manipulation of wild landscapes using federal fire funds was the ONLY way to manage public lands.

Under the White Pine Bill, massive landscape-level projects aimed at killing native woody vegetation (pinyon, juniper—even mowing or herbiciding sagebrush) would be used to build establish a costly and expensive local interest and livestock industry-serving non-governmental bureaucracy, through the ENLC directly receiving federal grants for manipulation/"treatment" or by its serving as a pass-through for federal funding and garnering funds for overseeing/administering contracts.

This recent experience only heightened my concerns about the disregard of the ENLC for a concept of a broader public than just local interests in White Pine and Lincoln Counties. Public lands belong to all the American public—and not just local interests and their cronies who seek to use public funds to conduct cattle forage/"rangeland health" treatments or other projects in the name of "restoration", or "fire control" or to build a self-serving bureaucracy.

#### *Enabling and Funding ENLC Is A Step Towards Privatization of Public Lands*

The ENLC—is redundant in the functions it would perform. BLM, USGS (research) and other federal entities already do whatever it is that the ENLC would do. Running taxpayer funds and projects through the ENLC amounts to a form of privatization of the functions of BLM and privatization of management and oversight of activities on the public lands. BLM and other federal agencies already exists to administer and develop any "rangeland" or "restoration" projects.

Moreover, a series of federal laws—ranging from FOIA to FACA that allow for public oversight of management of public lands—and that shine the light of openness and accountability on undertakings on public lands—these do not exist in the case of the ENLC.

The ENLC seeks to take over BLM duties (and likely for a lot more cost). And as any bureaucracy does, will seek to perpetuate itself with a constant and ever-greater flow of funds.

There are serious ecological concerns here. The land manipulation/"treatments"/deforestation projects promoted by the ENLC and funded primarily by federal fire funds—carry with them significant risks that will result in serious ecological problems—such as weeds thriving in the wake of treatment disturbance and dominating the treated lands. The arid sagebrush and pinyon juniper landscapes that the ENLC seeks to radically alter would be further endangered by enabling the ENLC.

It must also be noted that the White Pine's Bill overt land privatization—and the associated development of energy infrastructure cutting across the surrounding still-public lands—will only heighten the risk of weeds and of fire facilitating expansion

of exotic species like cheatgrass. As lands are privatized, and industry and sprawl develops, this will result in cries to spend many more millions of dollars on trying to fireproof neighboring wild landscapes. Plus, development on privatized lands, new OHV Routes promoted under the Bill, will likely result in many more human-caused fires—an added drain to federal taxpayers.

*Mature and Old Growth Pinyon Pines and Dependent Wildlife are Threatened by the White Pine Bill's Enabling of the ENLC*

The pinyon and juniper forests of White Pine and Lincoln Counties provide critical habitat for the pinyon jay and many other species of native wildlife. Continental assessments of bird species show the importance of the forested wild lands of Nevada for pinyon juniper dependent and many other species of wildlife. Recent large-scale die-offs of pinyon across the southwest (New Mexico, Arizona, Colorado) have elevated the significance of the pinyon juniper forests of the Great Basin even more.

*Nevada Land History is Being Ignored in Pro-Manipulation Claims that Target Killing Trees by Claiming they are Invading Sagebrush*

“Trees that pre-date Euro-American settlement represent woodland structure before the impacts of our land uses, and thus need to be preserved during restoration as is true in other ecosystems.” William L. Baker and Douglas J. Shinneman.

The “range” livestock industry woody vegetation manipulation mindset espoused by the ENLC is also illustrated by recent very expensive projects promoted just across the border in Elko County. Attached is a recent ACEC proposal prepared by WWP for BLM wild lands that are contiguous with White Pine County. This ACEC proposal, and the project that it is a direct counter to, serve to illustrate the political moves and mindset that pervades the ENLC manipulation schemes and flavors the manipulation “research” that Title VII of the White Pine Bill enables.

Also Attached is a peer-reviewed paper by William L. Baker D. J. Shinneman that examines the lack of credible evidence for many of the invasion and low intensity fire frequency claims being made by ENLC and ag. college and other “range” researchers who are garnering large grants to conduct treatment after treatment that to kill woody vegetation on public lands—while at the same time ignoring cleaning up the weed messes that are the result of the exact same treatments done on past years.

Rather than conduct research to heal the damaged public lands that are the result of these very same manipulations that have been conducted in the past across the Great Basin, they instead promote broad-scale new disturbance that promotes grass (i. e. cattle forage).

Pinyon juniper is being killed to try to grow more sagebrush in the hopes that this may delay/avert listing of sage grouse under the ESA Much of the suitable sage grouse habitat at middle and lower elevations in the Great Basin has been greatly altered by livestock grazing, livestock/fire/livestock/fire, and has been converted to, or is at serious risk of conversion to, cheatgrass and other weeds. Thus, likelihood of enhancing sage grouse habitat there—especially at the landscape level and especially as abusive land practices continue unabated—is minimal.

As a result, in Nevada and around the West sage grouse habitat “enhancement” projects focus primarily on interjecting new disturbance to plant communities at higher elevations—to try to create more sagebrush habitat. Unfortunately, many of the higher elevation sites are in reality in the moisture and climate regime that characterizes pinyon juniper communities, which are well recognized to grow over a broad range of soil types (Trimble 1989).

Also, since many sagebrush communities have been depleted of grasses and forbs by chronic and ongoing livestock grazing impacts, sagebrush communities too are targeted for massive manipulation—mowing, beating, plowing—to stimulate grass—to promote continued high stocking of cattle and sheep on public lands.

It is more palatable (politically) to kill ancient or mature trees critical to many species dependent on them—to promote patchy successional sagebrush rather than reckon with the ecological problem of the rehabilitation of weed-invaded lower and middle elevation sagebrush sites. The White Pine Bill's enabling of the ENLC promotes just such self-serving land manipulation and wrongly terms its disturbance “restoration”.

The extensive manipulation that ENLC promotes imposing on the Great Basin landscape has been shown to greatly reduce for long periods of time the very shrub (sagebrush) that it is claimed needs to be perpetuates.

*Political Pressures to Placate Public Lands Livestock Industry Drive Pinyon-Juniper Deforestation and Sagebrush Manipulation Include Seeding and Thinning Projects*

Elk numbers have greatly increased across much of northern and central Nevada—leading to more controversy with the public lands livestock industry. Killing mature and old growth trees (and manipulating/thinning sagebrush, too) using federal fire funds and claiming “fuels reduction benefits” is a politically expedient way for land management and game agencies to placate powerful public lands ranchers. Federal fire funds have provided a new, abundant and near-bottomless source of tax dollars to funnel into these efforts to placate public lands ranchers.

Ignored is the fact that big game, especially mule deer and a host of other wildlife species eat pine nuts, seek shelter and escape cover at all times of the year in forested vegetation, and that forested areas often are the ONLY areas where competition for food, cover and space with domestic livestock is somewhat less. Thus, the lower elevation forested areas of Nevada’s arid ranges may often be havens for big game and other wildlife. Juniper is consumed in harsh winter conditions.

Not only do seedings and manipulation projects that promote abundant fine fuel elevate the risk of mow to moderate fires, the disturbances that open up native shrub and tree communities, and accelerate drying and desiccation of sites, may elevate risks of fire due to increasing site aridity. The role of livestock grazing, wood-cutting and other removal of vegetative cover in accelerating drying and desertification processes has been described by Sheridan (1981), Dregne (1986) and others.

*Disturbances and Manipulations Pose Serious Risk and Are Fraught with Uncertainty*

A broad body of research demonstrates the controversial nature and risks of various vegetation manipulation and disturbances that would be promoted over Lincoln and White Pine Counties (Lanner 1981, Baker and Shinneman 2003).

White Pine Bill Title VII states that “forest and rangeland in the Great Basin are degraded as a direct consequence of land management practices . . . that disrupt the occurrence frequent low intensity fires. Not only does the Bill do nothing to address the MANY land management problems in the Great Basin, a growing body of science contradicts the Bill’s assertion that frequent low intensity fires were the norm in Great Basin systems—and instead that infrequent higher intensity fires were the norm in many areas.

Several recent articles by Dr. William L. Baker shed new light on the claimed conditions on which manipulation proposals are based. See Attached.

“If restoration of fire . . . is to be based on sound science, significant methodological hurdles . . . must first be addressed and resolved . . . localized site-specific studies are always needed before undertaking restoration . . . we suggest that before undertaking restoration, managers or scientists date some of the largest trees on a site. If these trees pre-date European settlement, removing or thinning them is inappropriate if restoration is the goal. Trees that pre-date Euro-American settlement represent woodland structure before the impacts of our lands uses, and thus need to be preserved during restoration as is true in other ecosystems (e. g. Friederici 2003)”.

Science-based management based on reasonable, sound and precautionary science that minimizes disturbance, should be the aim of any “treatments” imposed on this fragile landscape. Legislation should not enshrine a scientific viewpoint that is increasingly shown to not be true.

In turning over public funding and oversight to groups such as the ENLC, there is no certainty that sound and precautionary science will be applied on these public lands that belong to all Americans.

*Pinyon Pines, a Great and Little Understood Resource, Are—and Will Be -Targeted for Manipulation, Deforestation and Potential Biomassing through Enabling and Funding the ENLC*

Pinyon pine in the Great Basin represents a great economic opportunity for harvesting of pine nuts. The pinyon pine forests of Nevada are especially important for pine nut production as the trees in the Southwest have suffered large-scale recent die-offs.

Die-offs of varying extent have also recently occurred in several Nevada ranges, so the ENLC landscape-level manipulations of healthy mature and old growth pine nut-producing trees are very significant.

Global climate change processes are causing mortality of many of the West’s conifers, and the proposed waste and destruction of forested lands through enabling the ENLC must be examined in this context, also.

The old growth and mature pinyon pine of the Great Basin provide a source of pine nuts for many species of wildlife (mule deer to pinyon jays) and for human consumption. In fact, the economic value of pine nuts may exceed the economic value of the livestock produced on these lands on a per acre basis.

The great majority of the pine nuts consumed in America (80%) are imported, including from China. See [www.pinenut.com/noha.htm](http://www.pinenut.com/noha.htm) Sarashkin and Gold, 2004 "American Pinon Pine Nuts: an important Use for Public Lands?". This import often results in inferior quality, chemically-treated nuts, and adds to the trade imbalance currently facing America. Also, [www.pinenut.com/about.htm](http://www.pinenut.com/about.htm), including: "pinyon nuts 28 times more earth efficient in terms of protein produced per acre"; "pine nuts at least 148 times more profitable than beef in terms of public lands grazing".

The Bill promotes and enables large-scale vegetation manipulation by an entity that promotes an agenda that largely views trees as weeds—and promotes the killing of mature and often ancient trees in the magnificent forested landscapes of Lincoln and White Pine Counties by highly invasive, destructive and often outrageously expensive tree-killing techniques is promoted.

Rather than (herbiciding, chaining, burning, mastication, and other manipulation) that treat the trees as weeds to be destroyed and wasted so that livestock forage grass can be grown, they must be viewed (and managed and protected from undue degradation) as a forest for their important biological, aesthetic and economic values where careful collection and harvest of forest products may occur.

Careful and sound science-based and precautionary forestry methods to protect the health of trees, as well as in designing any fire-reducing "treatments" is necessary to protect this landscape.

*White Pine Is Part of A Recent Series of Nevada Wilderness and Other Land Disposal Bills That Privatize Public Lands, Promote Development, and Disregard Environmental Laws*

The White Pine Bill (see Attached 2004 Testimony in opposition to Lincoln County) set aside a successful lawsuit against the Bureau of Land Management in which the Committee for the High Desert was a plaintiff. A federal court in Nevada had ruled that BLM had failed to study the environmental consequences of land disposal under the Lincoln County Land Act (yet another piece of recent BLM land disposal and development-promoting legislation in eastern Nevada). A federal court in Nevada had found that BLM's NEPA review failed to analyze the consequences of extracting water from nearby basins to supply LCLA development; failed to develop mitigation plans for threatened and endangered species; and ignored the cumulative impacts of the LCLA combined with other development for the region. The Lincoln County wilderness bill specifically overturned that Court Decision.

The White Pine Bill's specific legislative enabling of the ENLC (promotes local cattle and development interests) will serve to taint fair and full NEPA review of projects on public lands. It will also make public oversight and scrutiny of actions conducted on public lands much more difficult.

*Water Provisions of White Pine Bill Fail to Ensure Waters Will Remain in Any Wilderness Designated Under this Bill*

The water provision of the White Pine Bill claims that "because of the unique nature of the land designated as wilderness by this title, it is possible to provide for proper management and protection of the wilderness . . . in ways different from those used in other laws". The Bill then describes how direct water developments inside the wilderness would not be allowed, but fails to ensure that water will be perpetuated in Wilderness.

The Bill ignores the fact that massive ground water pumping from an aquifer that underlies the Wilderness areas (the aquifer draining resulting from the Lincoln County Bill authorization of pipelines) will de-water lands inside the Wilderness, too. The same aquifer underlies the region, and does not stop at the Wilderness boundary.

The bottom line is that the White Pine Bill does not protect the wilderness areas from the aquifer depletion and drying up of springs and streams resulting from the Las Vegas pipeline water export. The Bill wrongly claims to: "protect the wilderness values of the land designated as wilderness . . . by means other than a federally reserved water right"—yet provides no mechanisms to do this.

*Public Lands Sacrificed to Bail Out County*

White Pine County right now is in receivership, with the state administering its dealings. Is the sale of public land in this Bill being done in part to bail out a County that has not been able to handle its own finances in the past? i.e. puffing the County on Welfare by selling the public's land? See [http://www.digitalcandidate.com/upload/nreectf\\_f\\_833\\_06.doc](http://www.digitalcandidate.com/upload/nreectf_f_833_06.doc) :

“Mr. Rubald said that the economic impacts looked at specifically are the wind project and the LS power study. He stated that these numbers needed to be taken into consideration when looking at the fact that White Pine County is currently under the State Department of Taxation’s assistance because they are in “severe financial distress. “This is a statutory term used to describe counties that are going through severely tough financial times. He said that some of these concerns can be addressed by promoting economic development activities, not the least of which is the power plants and the wind generation facility”.

In this context, how can a County with this track record be trusted to make responsible decisions regarding fast-track development that would be propelled by this Bill?

*Development and other Provisions of White Pine’s Predecessors Are Already Causing Significant New Problems*

The Clark County and Lincoln County Bills have set in motion a large-scale series of development and water-depleting activities. The promoters of these quid pro quo wilderness bills—where land disposal, cronyism and political favors for local interests have been given much free reign—are now seeing some of the consequences of their actions.

The results of these bills—run away growth and water consumption—is so out of control in the region that the White Pine bill looks BACKWARD—and contains provisions to try to stave the hemorrhaging of public resources and host of problems being caused by the development and other provisions of its predecessor Development/Wilderness Bills.

For example, Title VIII of the White Pine Bill authorizes paying for rolling up lawns in Las Vegas sprawl development with the proceeds of some of the Clark County public land sales—instead of using the money to purchase or protect other lands as was promised in the Clark County legislation.

I urge you to oppose this Bill.

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STATEMENT OF KATIE FITE, BIODIVERSITY DIRECTOR, WESTERN WATERSHEDS PROJECT, BOISE, ID

My name is Katie Fite, and I am Biodiversity Director of Western Watersheds Project (WWP). I request that this additional testimony be placed in the record for the White Pine Bill.

ANTI-DEMOCRATIC AND PRIVATIZATION PROVISION

I want to stress that the White Pine Bill enshrines a provision that is blatantly anti-democratic, as well as being a step towards privatization of public lands. As described in Testimony submitted separately, the Bill elevates and funds the Eastern Nevada Landscape Coalition’s world view in the “Eastern Nevada Landscape Restoration Project” in management of public lands that belong to all three hundred million Americans. This Bill basically elevates the ENLC, and the Eastern Nevada Landscape Restoration Project (which is essentially the ENLC’s world view). The Secretaries of the Interior and Ag are essentially ordered (“shall” under this Bill) to carry out its bidding.

It is alarming that federal legislation would elevate as all-knowing a PRIVATE non-profit entity, and set up legislation so that it can dictate management—and fire policy, too—on the public’s land.

This serves to set up a parallel, separate PRIVATE entity to take over many of the functions of BLM, the Forest Service and other federal agencies, as well as dictate agency priorities—all at a likely bloated cost to the taxpayer.

The Bill mandates that the intensive manipulation and disturbance schemes of the ENLC, a local “collaborative group” SHALL be imposed on the public wild lands across White Pine and Lincoln County. There is no guarantee that such a group will follow Best Available Science, will listen to or incorporate important new information, will weigh or balance information that might conflict with local viewpoints and range manipulation desires of local ranchers or ag extension agents to kill trees and sagebrush and promote grass, or desires of local heavy equipment operators to be supplied with an endless stream of federal tax dollars to deforest pinyon-juniper and chip them up for large-scale biomass endeavors to fund local contractors and energy speculators. I stress the very slow growing nature of trees in these arid lands, and the long-term irreparable environmental damage that can quickly be done by short-sighted management actions. A local cabal will take over control of the public’s lands.

*Release of Designated Wilderness in Existing Mount Moriah Wilderness Area*

The Bill also would release a portion of the Mount Moriah Wilderness. We have heard that this is being done to accommodate livestock pipelines and please public lands ranchers. There is no explanation in the Bill for why this would occur—were the pipelines built after Wilderness designation, or before? If pipelines already exist—are they in trespass? If so, they should be removed. And if this release is aimed at freeing up lands for new pipeline construction, there is no possible justification for this. Unfortunately, livestock pipelines are present in other wilderness areas—why should the Mount Moriah lands be treated any differently? Is there any relation between the release here and potential future mining—do claims exist in the area to be released?

This serves to illustrate some of the many uncertainties involved in this Bill developed in closed-door dealmaking with local interests.

## WILDERNESS STUDY AREA RELEASE

I strongly oppose the release of any Wilderness Study Areas under this Bill.

## HERITAGE TRAIL PROVISION PROMOTING PRIVATE PROFITEERING ON PUBLIC LANDS WITH PUBLIC FUNDS?

It is of concern that the Heritage Trail provision would promote current “multiple uses”. Does this mean that it would promote and provide taxpayer-funded positive publicity for the public lands livestock industry, or the mining industry -where individuals or corporations reap private profits from multiple use of public land?

*Will Heritage Trail Promote Mormon Religion or World View?*

I am also concerned that the Heritage Trail provision may provide inadequate protection from over-promotion or over-glorification of the Mormon church world view in trail development and interpretation—especially if that Church were to become one of the partners in various Trail developments.

Also Attached to this submission is a December 2005 New York Times article on mercury pollution, water scarcity, and other regional issues that I failed to attach to previously submitted testimony.

Thank you for your consideration of these concerns.

## STATEMENT OF BROOKS PACE, DAMMERON VALLEY, UT

## S. 3636, THE WASHINGTON COUNTY GROWTH AND CONSERVATION ACT

Mr. Chairman and members of the committee, my Name is Brooks Pace and I live in Dammeron Valley, Utah. Thank you for the opportunity to submit this testimony to the subcommittee with regard to S. 3636, the Washington County Growth and Conservation Act. Washington County has been my home and that of my fathers and grandfathers back 3 generations. I grew up riding and hunting in the mountains and deserts of the region and I know it well and I truly love it. I have spent the past 30 years working in the housing and real estate industry in Washington County.

I am here to explain to the Committee the serious concerns that I and many of the residents of Washington County have with the Washington County Growth and Conservation Act. The towns of Rockville, Virgin, Springdale, as well as a local citizens group called Citizens for Dixie's Future, the Shivwits Band of the Paiute Tribe, the Southwest Chapter of Back Country Horsemen, educators, community leaders, and many others have all expressed their opposition to this bill. This bill presents a very controversial and unwise approach for coping with growth in Washington County. Washington County is growing rapidly, but I am concerned that this legislation risks destroying the natural beauty and livability of this corner of southwestern Utah.

Washington County is home to some truly spectacular public lands, some of which are covered with towering cliffs, majestic washes and canyons, ancient artifacts, and lava flows. It is also one of the fastest growing counties in the nation. The entire County cries out for meticulous planning to prepare for the inevitable growth which will occur within our natural limits. Without such planning we'll destroy the quality of life for the residents and dull the incredible natural experience for visitors who come by the millions.

Instead of the comprehensive plan for the future that we need, the Washington County Act would allow the sale of as much as 24,300 acres of public land. The assumption is that this public land is needed to meet the demand for private development across the county. Public lands in Washington County are an invaluable asset

to our communities and to the citizens of the nation. Moreover, there is no need to sell off these lands when many private lands have yet to be developed. The St. George Chamber of Commerce recently estimated that there are roughly 20,000 acres of private undeveloped land in Washington County. I am concerned that the legislation allows the sale of as much as 24,300 acres without first permitting the local planning process to determine what the community needs and wants.

Undoubtedly our public lands are valuable. It is likely that selling as much as 24,300 acres could generate millions or perhaps hundreds of millions of dollars. But our public lands are also immensely valuable to our communities as open space. I believe that many residents came to Washington County because of the stunning natural environment. The Washington County Act does far too little to protect this landscape. Many areas that should be wilderness are not protected in this bill. In fact, the bill would roll back wilderness protection from 15 square miles of BLM land currently protected as wilderness study areas. The loss of these wild lands would forever change the character of Washington County.

The bill also makes significant changes to the landscape of Washington County by giving the Washington County Water Conservancy District rights of way to approximately 9,000 acres of BLM land, free of cost. It also appears that hundreds of linear miles of utility corridors for water infrastructure, electricity lines, and transportation would be created under the bill. What is troubling is that these critical planning decisions are being made before any local consensus has formed.

I would like to briefly focus on the issue of water. Water is the biggest limitation to growth in the West. Our majestic but sadly overused Colorado River needs special consideration. This bill flaunts that due consideration and provides funds that can be used to design and engineer another diversion to the system. I hope this Committee will see the importance of not further over taxing this lifeline of the West. At some point some committee will have to break precedent and start the process of updating the Colorado River Compact. The health of the West depends on it.

We have enough water locally developable to provide for 350,000 residents, roughly two and one half times our current population; call it 120,000 homes and the requisite commercial, industrial and recreational demand which includes over ten thousand other homes and condos and a dozen golf courses. Yes, we would like more water. But do we deserve it on the backs of other regions who are struggling to survive in this time of diminished river flows and over appropriation? Is our allocation provided for in the Colorado River Compact so inviolable that we would fly in the face of reason and spend up to a Billion dollars diverting more water from this distant stream?

Finally, in Utah, we take significant pride in our history and our past. Our history is an intimate part of our identity. This bill will literally sell our past to the highest bidder. As currently written the bill provides no protection for cultural, historical, archaeological, or paleontological resources. Indeed, one of the rights-of-way could result in the flooding of Ft. Pearce, a national historic site. We can plan for the future, while preserving the past, but this bill fails to do so. Many of us in Washington County want these resources protected.

There is a better way to plan for our future, one that is supported by the community. You've read and heard testimony about the Vision Dixie process currently underway in the County. It's an attempt to bring the County citizens to town hall like workshops and meetings where they can envision what different growth scenarios will look like. So far the meetings have brought out a variety of opinions and ideas. This has been an immense process for our community, and has put us on the path of planning for our future. I applaud the Commission for supporting it and thank Senator Bennett and Representative Matheson for their efforts in bringing Vision Dixie to Washington County. The community is excited about this opportunity, but now we need your help. We need the time to come up with a true community vision of our future.

Please listen to reason and to the wishes of the citizens of Washington County before acting on this legislation. It is quite possible that our elected politicians got ahead of their constituents on this issue. Over 1600 signatures have been obtained in the last few weeks asking that this Bill at least be tabled until we have finished our Vision Dixie process. Then we may have a clearer picture of the needs of the communities in Washington County and the consensus approach for solving the region's issues. Let Vision Dixie run its course and then we can work to develop a bill that truly meets the needs of Washington County.

STATEMENT OF VIVIAN PARKER, BIOLOGIST FOR THE CALIFORNIA INDIAN  
BASKETWEAVERS ASSOCIATION

Dear Senators and Staff of the Energy and Natural Resources committee of the U.S. Senate:

As a biologist working on behalf of resource issues for the California Indian Basketweavers Association in California during the last eight years, I have had the opportunity to study and learn a great deal about the way that our resource agencies have historically managed the public lands encompassed by the Great Basin and Intermountain Region, of which the lands in White Pine County at issue in this bill are included.

Regarding the proposed bill, we have grave concerns regarding portions of the bill included in Title II—Eastern Nevada Landscape Restoration Projects. This portion of the bill would codify and institutionalize a program which is largely unjustified by the current state of science regarding the ecology of pinyon and juniper woodlands. The practices proposed by the Eastern Nevada Landscape Coalition (ENLC) are likely to exacerbate current trends of degradation of these public lands, including non-native weed invasion, loss of habitat for wildlife, loss of biological diversity, and may contribute to further climate change.

The projects proposed by the ENLC aim to justify the removal of vast acreages of native pinyon and juniper in the name of “range improvement” or “restoration.” The arguments in support of these projects are based on an assumption that these trees are “invading” rangelands due to fire suppression. We find that there is insufficient evidence that pinyon and juniper are expanding their range in response to fire suppression. Rather, we find scientific controversy regarding this issue. Range researchers cite fire suppression and refer to the expansion of juniper as “invasion” or “encroachment.” Botanists, paleoecologists, and climatologists, on the other hand, refer to pinyon juniper “expansion” as natural and a result of climate shifts coupled with the impacts of intensive grazing impacts (Lanner 1977; Burwell 1998; Harris et al. 2003).

I would ask the Senators to take note that there is a big difference between range management, as a science, and ecology or natural history-based science. Range improvement, by its very definition, aims to increase the availability of pasture forage for the benefit of grazing livestock, or to be more specific, in order to allow a greater number of livestock on a given acre of land. Historically, millions of acres of sage brush and pinyon juniper woodland have been cleared in the region. Clearing of these native lands was conducted by cutting down the trees, through burning, through plowing and dragging rails across the sagebrush, the use of bulldozers, aerial and ground based herbicide spraying, and “chaining”—whereby a heavy anchor chain is attached to two tractors, and pulled through large acreages in order to uproot the sage brush and small trees. Aerial seeding of non-native grasses has been conducted on a large scale for many decades as well, and continues in some areas. Pinyon and juniper trees were widely cut to use for lumber, for mining timber, for firewood and charcoal. These practices have been well documented in history books, text books, and USDA and USDI literature and is not debatable. It is simply the history of management of the region.

As a result of these practices, coupled with intensive and frequently unregulated and unsustainable livestock grazing on fragile arid lands, much of this region has become severely degraded with altered water cycles, loss of species or biological diversity, altered fire regimes due to invasive non-native annual grasses, and establishment of non-native weedy species that are thorny or prickly in response to the grazing pressure (Mack 1981). Needless to say, these effects have greatly impacted the ability of Native Americans to continue their traditional cultural practices. The loss of pinyon pine and juniper is a grave concern to native people in the region. The pinyon pine nut is one of the most nutritious and important food crops which is native to North America. Today the pinyon pine is under threat due to widespread die-offs in some locations.

The Eastern Nevada Landscape Initiative, or Project, aims to increase the removal of pinyon and juniper woodlands on thousands of acres of public lands, in the name of “range improvement” or restoration. Restoration, in this sense, is a misnomer. In fact, there is no scientific basis for widespread clearing of pinyon and juniper.

Plant populations naturally expand and contract in response to a variety of gradients but especially in response to climate shifts (Davis 1986). Scientific researchers have documented that pinyon and juniper respond most dramatically to increased precipitation and warmer climatic regimes. The climate was undergoing just such a change around 1850, during the time that this region was becoming settled with the first wave immigrants. While these trees were naturally increasing their



range, pioneers were engaged in removing them for a variety of purposes. Today, the trees are re-establishing themselves in accordance with the prevailing climatic conditions.

Climate is a significant issue because moisture is the single most important limiting factor in pinyon juniper establishment (Cronquist et al. 1986). Research has shown that climate has fluctuated between warm and cold, wet and dry repeatedly over the last 20,000 years (Kinney 1996). Most importantly, the climate shifted dramatically right around 1850 to a warmer, wetter period:

“In temperature, the shift was from the coldest century-scale interval of the Holocene, as indicated by the tree-line and glacier records, to one of the warmest periods of the past 4,000 years, as suggested by the recent upward movement of the tree line. In moisture availability, the shift was from moderate effective drought, as evidenced by the records of tree rings and lake levels, to the relative wetness of the present century—a century that appears, from the records of lake levels, to the fourth-wettest of the past 4,000 years (Stine 1990) and that includes the third-wettest fifty-year interval (1937-1986) of the past millennium.

In fact, juniper had reached its maximal extent during the Neoglacial period (4000 to 2000 ago), which was followed by a 400 year drought period during which sagebrush and other desert scrub communities expanded (Kinney 1996). The disappearance of bison from the Great Basin region also contributed to an increase in grasses which may have otherwise checked the trees. Western juniper and pinyon have expanded and contracted corresponding to periods of high moisture and drought (ibid). The present expansion is a natural response to higher moisture levels.

A doctoral dissertation (Burwell 1998) examined the scientific literature documenting the historical dominance of pinyon and juniper on the east slope of the Sierra Nevada. While conditions here are not the same as in White Pine county, they are similar. Both regions are home to the rare Bristlecone Pine and both have undergone similar paleoecological histories. He concluded:

“Contrary to popular assumptions, the Native Americans did not promote wildfire [in this region] and changes in the fire regime are not likely to have influenced the position of the lower montane treeline ecotone. Competitive exclusion by grasses and forbs may have limited tree establishment prior to 1870. Livestock grazing likely removed competition, allowing trees to invade mesic sites during dry years when grass and forb production is low. The combination of reduced competition and increasing summer precipitation since 1870 has allowed greater pinyon recruitment on xeric sites.”

I am including here, below, a recent ENLC News Release that clearly demonstrates that the ENLC program is primarily about removal of pinyon and juniper, and native sagebrush as well. While the language utilizes the same words used by ecologists and biologists, I must ask you to read between the lines and recognize that the removal of native species in this manner is not restoration. While we support judicious use of thinning and pruning in the Wildland Urban Interface to help reduce the risk of property damaging wildfires, we object to the use of massive clearing of native plant species and trees in the guise of ecosystem restoration. If projects are designed to convert native ecosystems into pasture grazing lands, then they should be so described, rather than trying to mask such proposals with a veneer of scientific jargon that is without real scientific basis.

In this current era of looming ecological crisis due to global warming, we must act decisively to protect natural resources that are helping to store carbon. In this case, the expansion of native tree species in an otherwise treeless and arid region is providing natural carbon storage that can help ameliorate the effects of warming in the region. The natural transpiration of trees also helps to humidify and modify the local climate, ultimately helping to reduce warming and wildfire risk. In addition, the pinyon juniper woodland ecosystem is of tremendous importance for a large number of wildlife species, including the rare pinyon jay. The pinyon nut is essential food and cover for untold numbers of birds and small and large mammals, including bears.

If I can provide you with additional information or references, I would be happy to do so. This topic really deserves a much greater and more detailed discussion than I am able to provide in this limited time frame. Thank you for your consideration.

[Attachment.]

[Below is an excerpt from: <http://www.envlc.org/PressReleases.html>]

## EASTERN NEVADA LANDSCAPE COALITION

ENLC NO. 06-001  
 FOR RELEASE: Friday, November 21, 2005  
 CONTACT: Betsy Macfarlan (775) 289-7974

## Gleason Creek Restoration Begins

The Eastern Nevada Landscape Coalition, based in Ely, Nevada, began this season's restoration project on the Gleason Creek watershed. Restoration work included thinning 120 acres of Pinyon pine and juniper trees from the black sagebrush shrublands; removing 200 acres of sparsely scattered juniper trees in the Wyoming sagebrush flats; followed by brush beating approximately 400 acres of the Wyoming sagebrush.

The purpose behind these landscape-scale restoration projects is to improve soil stability, and increase biological diversity of the watershed. These measures strengthen the land's resiliency to wildfire and heavy water run-off, and in turn, help protect our communities from the negative effects of these events. To accomplish this objective, the young encroaching juniper and Pinyon trees are removed in the valley bottoms and thinned on the upper benches to allow native bunch grasses, forbs, and shrubs to thrive. Dense tree cover prohibits the growth of herbaceous and shrub vegetation exposing bare ground that is more vulnerable to erosion. Abundant herbaceous vegetation is critical for soil maintenance, and wildlife forage.

Brush beating is another restoration treatment that allows herbaceous vegetation to increase. This involves mechanically removing the sagebrush with a rotary chopper. A variation in sagebrush size and distribution across the landscape contributes to the health and resiliency of shrublands and can be attained by brush beating in a pattern that mimics the small, low-intensity fires that historically occurred here.

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## STATEMENT OF JANINE BLAELOCH, DIRECTOR, WESTERN LANDS PROJECT

The Western Lands Project is a public-interest organization that monitors federal land exchanges, sales, and conveyances, and generally works to prevent the privatization of our public lands. On behalf of our members across the West and beyond, we work to keep public lands public. We request that this testimony be made part of the record on S. 3772.

We object to many aspects of this bill, including special exceptions for harmful activities inside newly-designated wilderness and failure to reserve a federal water right in wilderness. However, our testimony will focus on the land sales and giveaways in the bill and the re-allocation of federal land sale money for local use.

## LAND DISPOSAL

We oppose this bill, as we have a series of previous land privatization bills sponsored by the Nevada delegation. Since 1998, the Senate co-sponsors have managed to turn over to Nevada developers and local interests more than 150,000 acres of federal land belonging to all citizens of this country. We urge members of this subcommittee to bring a halt to these wholesale privatization bills and reaffirm the value of retaining and protecting public land.

Members of the Nevada delegation try to rationalize their land grab bills by complaining about the preponderance of federal land in their state. They speak of federal land ownership as though it were an unquestionable burden imposed by a cruel government. The fact is, there is a reason that so much of the state remains in the public domain: like much of the arid West, the land was not coveted by settlers because they understood that land wasn't worth much without water. Even the State of Nevada sold off most of the land it had been allotted at statehood.

Unfortunately, engineering and greed have made it possible to ignore the reality of Nevada's aridity, and for more than 20 years, the country's fastest-growing city has been expanding across the Mojave Desert. For the last eight years, much of the expansion has been made possible through legislatively-mandated sales of our federal lands and local development subsidies.

The White Pine legislation orders the sale of more than 45,000 acres of our national public land, to be sold competitively at auction. One of the bill's sponsors has stated that he plans to enact more of this kind of public land legislation "county-by-county" throughout Nevada. Three counties—Lyon, Pershing, and Lander—are in various stages of compiling wish lists for future public lands bills affecting their jurisdictions. This incremental, locally-directed takeover of our commons must be halted.

Members of this committee surely recall that over the last year, several proposals were floated by the President and members of Congress to sell off large swaths of public land to meet various budgetary needs, and that the public overwhelmingly rejected these ideas. Those schemes made headlines. The White Pine bill probably won't, but it nonetheless represents the same betrayal of the public interest.

Proceeds from sales of the federal land will be divided as follows:

- 5 percent to Nevada for general education
- 10 percent to white Pine County (WPC) for funding its public safety and social services programs
- 85 percent in a special account to cover the costs of offering/selling the land; processing subsequent public land use authorizations and rights-of-way (for development of public lands sold under the Bill); inventorying and managing archeological resources in WPC; studying the route of the Silver State Off Highway Vehicle Trail; processing the WPC wilderness designations; and studying and assessing non-motorized recreation opportunities in the County, among other things.

Three of the aforementioned earlier Nevada land bills the 1998 Southern Nevada Public Land Management Act, Clark County bill of 2002, and Lincoln County bill of 2004—allocated the same percentages of land sale proceeds to the local, state, and federal governments. But the SNPLMA and Clark County bills authorized (and emphasized) use of the federal proceeds to acquire environmentally sensitive lands in Nevada. This bill does not authorize any such use of the funds, but keeps expenditures even of the federal proceeds within white Pine County.

Only in Nevada do local interests receive this kind of largesse from American taxpayers, who lose both land and money and unwittingly subsidize development in a landscape totally unsuited to it.

## NEPA/FLPMA COMPLIANCE IN QUESTION

It is not clear whether the sales will be conducted in compliance with the National Environmental Policy Act (NEPA). A one-year deadline specified for the sales may allow adequate time to conduct NEPA, and there is no overt waiver of NEPA in the bill. However, since the bill states that Interior "shall" offer the land for sale within one year of the Act's passage, it suggests that there would be no discretion not to sell the land as a result of NEPA analysis.

The sales would comply with the Federal Land Policy & Management Act (FLPMA) to the extent that sale lands are to be taken from lands already identified for disposal in the BLM's Ely Resource Management Plan (RMP) "or a subsequent amendment to the management plan."

But the net result is that FLPMA compliance is nominal, or at least incomplete. A new RMP is actually in progress and expected to be finalized in Spring 2007. The

draft of the new Ely RMP identifies approximately 23,000 acres as suitable for disposal, so the amendment referred to is likely already being contemplated in order to add enough disposal lands to make available the full 45,000 acres aspired to in the bill. The fact that an acreage goal for disposal is being dictated in the legislation undermines the FLPMA planning process. There may be a rationale for privatizing some or all of the land already identified by the BLM, but doubling that amount by fiat is not in the public interest.

It is unlikely that much, if any, of the land to be privatized in the white Pine bill is intended for residential or small-scale commercial development. However, there are several large-scale energy, utility corridor, and industrial development plans already underway in the county that could be facilitated by the land sales.

As is so often the case with these privatization bills, especially for Nevada, it is not possible to know what future, connected developments might flow from the land sales or what plans are lurking. For example, in a previous Nevada land bill, an obscure and cryptically-worded provision would have given away approximately 11,000 acres of public land to a private developer with close connections to one of the co-sponsors. If it weren't for that provision having been exposed in the media, the public would be out 11,000 acres that were later appraised at more than \$10 million.

What is the anticipated use behind this sudden glut in private land?

It is also difficult to understand how white Pine County will sustain growth of the magnitude suggested by privatization of 45,000 acres. The Southern Nevada Water Authority has plans to run pipelines to the county and ship its water to Las Vegas—a plan facilitated through the giveaway of 450+ miles of public right-of-way in a 2004 land sale bill for Lincoln County, Nevada, PL 108-424.

#### MORE AMENDMENTS TO SNPLMA

As mentioned above, the Southern Nevada Public Land Management Act allotted 85 percent of Las Vegas Valley public land sale proceeds to a special fund for acquisition of environmentally sensitive land in Nevada and other public-oriented uses. This allocation of the funds was to provide some kind of balance (both environmental and political) against the accelerated land sales. However, the two Nevada land bills passed subsequent to the SNPLMA included amendments that have provided more “flexibility” in the use of the land sale proceeds and allotted more of the money to local and state projects, whittling away at the larger public purpose that was to be served with the money.

Where SNPLMA amendments in the two previous bills whittled, the White Pine bill's amendments carve. The latest SNPLMA amendments in Section 702 of the White Pine unabashedly rob the special fund. They allow proceeds from federal land sales in Clark County to be used:

- to develop and implement a hazardous fuels and wildfire prevention plan (including biomass and biofuels energy production) for the Lake Tahoe Basin and the Spring Mountains;
- to fund a Clark County program for removal of lawn/turf by public institutions to conserve water;
- to fund a Clark County program for improving wastewater management systems for the Las Vegas Valley, and
- to develop and administer state parks in Clark County.

If things continue in this vein—there are 14 more counties in Nevada potentially awaiting their own public land bills—the purchase of environmentally sensitive land originally mandated in the SNPLMA will disappear altogether, with each bill taking new development subsidies from the funds.

A particularly cynical amendment to SNPLMA in this bill re-defines the term “affordable housing” from housing that serves individuals or families ‘whose income does not exceed 80 percent of median income for the area’ to housing that serves individuals or families ‘with an income of not more than 120 percent of the median income.’

The amendment requires that 5 percent of total housing units be developed as affordable housing for land sales of 200+ acres. Previously SNPLMA authorized, but did not require, the Interior Secretary to sell public lands for affordable housing at less than market value to government entities. Thus with the new amendment, local entities can receive a discount on land while meeting a more lenient standard for “affordability.”

## FREE LAND CONVEYANCES

More local subsidies are offered in the form of direct, free conveyances of public land. BLM is to give 6,900 acres to the State of Nevada for free, for expansion of a wildlife area and a historical site. An unspecified amount of additional federal land is to be conveyed for the expansion of a state park. BLM is also to convey 1,500 acres for free to White Pine County to expand the county airport and 200 acres to expand the County Industrial Park.

These provisions are not necessary. Where public purposes could be served, existing laws already provide for acquisition of federal land, and they also provide a more transparent process, with public involvement and environmental analysis that better protect the larger public interest.

## CONCLUSION

We respectfully urge you to reject this bill and close the door on any future proposals for wholesale privatization of our public lands. We must stop facilitating sprawl across the Mojave, rewarding Las Vegas' state of denial, and funding pet projects with taxpayer dollars. Thank you for your consideration of this testimony.

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STATEMENT OF THE SIERRA CLUB; SOUTHERN UTAH WILDERNESS ALLIANCE; THE WILDERNESS SOCIETY; WASATCH MOUNTAIN CLUB; BUCKEYES FOR WILD UTAH; CALIFORNIANS FOR WESTERN WILDERNESS; COLORADANS FOR UTAH WILDERNESS; COLORADO PLATEAU RIVER GUIDES; COLORADO RIVERKEEPER; CONSERVATION NORTHWEST; DEFENDERS OF WILDLIFE; EARTHWORKS; ENVIRONMENTAL WORKING GROUP; FOREST GUARDIANS; GLEN CANYON INSTITUTE; GREAT BASIN MINE WATCH; GREAT OLD BROADS FOR WILDERNESS; IDAHO CONSERVATION LEAGUE; ILLINOIS TASK FORCE FOR UTAH WILDERNESS; KLAMATH-SISKIYOU WILDLANDS CENTER; LIVING RIVERS; MAINERS FOR UTAH WILDERNESS; MOUNTAINEERS; NATURAL RESOURCES DEFENSE COUNCIL; NEVADANS FOR UTAH WILDERNESS; NEW YORKERS FOR UTAH WILDERNESS; OLYMPIC FOREST COALITION; OREGON NATURAL DESERT ASSOCIATION; PUBLIC LANDS FOUNDATION; RED ROCK FORESTS; REDROCK ACTIVISTS OF MASSACHUSETTS; SAVE OUR CANYONS; THE LANDS COUNCIL (WASHINGTON STATE); THE SPIRIT OF UTAH WILDERNESS, INC.; TONGASS CONSERVATION SOCIETY; UMPQUA WATERSHEDS; VERMONTERS FOR UTAH WILDERNESS; WASHINGTON LEAGUE FOR UTAH WILDERNESS; WESTERN ENVIRONMENTAL LAW CENTER; WILD WILDERNESS; WILDERNESS WATCH; WILDLANDS CPR

Thank you for the opportunity to submit a statement for the record before the Senate Energy and Natural Resources Subcommittee on Public Lands and Forests on S. 3636, the Washington County Growth and Conservation Act. This statement represents the views of the Utah Wilderness Coalition, an alliance led by The Wilderness Society, Sierra Club, Southern Utah Wilderness Alliance, and the Wasatch Mountain Club as well as the 38 groups noted above. Collectively, we represent over a million supporters nationwide. We have a common interest in preserving our nation's public lands and natural legacy, including the Zion-Mojave proposed wilderness in Southwestern Utah. We welcome the opportunity to work towards a solution to address the challenges facing the residents of Washington County, local communities, and public lands in Utah.

## OVERVIEW

We oppose the Washington County Growth and Conservation Act as it has been introduced because it is bad for Washington County, bad for Utah wilderness, unfair to the American public, and unsound public policy. We are not alone in our opposition; thousands of citizens—locally, statewide and nationally have voiced their concerns, as have numerous hiking, outdoor recreation, outdoor retail, equestrian, wildlife, archeological, scientific, and historic preservation interests.

We recognize that Washington County is on an unsustainable course of development. Rapid population growth is straining the region's water supplies, transportation infrastructure, housing supply, and natural landscape. There is widespread agreement that unless Washington County changes the way it is growing and/or how it responds to growth, the existing problems will continue to worsen. For this reason we believe it is important to seek solutions to the problems facing this region. Rather than seeking cooperative solutions, the bill forces a predetermined outcome on a community that is currently engaging in a community growth planning process thereby relegating that public process unimportant and moot. We strongly disagree that the answer to these challenges requires the sweeping federal land law

changes proposed in S. 3636; we also believe that this legislation will exacerbate, not solve, the rampant sprawl and growth that the region is currently facing.

The legislation before the committee would dispose of, including giving away, public lands to finance local development. The bill requires the Bureau of Land Management (BLM) to sell public land and appropriate proceeds from the sale of public land to local entities and various projects within the county. It also provides for new roads, new utility corridors, a new off-road vehicle trail system, and new rights-of-way for water development, many at no cost to private interests. The monetary and ecological value of these giveaways is huge. The conservation side of this bill is meager in comparison to the scope of developments encouraged by the legislation. It fails to protect over 70 percent of citizen proposed BLM wilderness, risks important historical and cultural resources, and undermines endangered species protection.

#### LOCAL, STATE-WIDE, AND NATIONAL OPPOSITION

On all levels—locally, state-wide, and nationally—there is strong and visible opposition to this legislation. The local citizen planning organization, scientists, tribes, outdoor retailers, national editorial boards and thousands of public citizens have all raised serious concerns with the legislation as drafted.

##### 1. Local Concerns

S. 3636 is highly controversial in Washington County. The Towns of Rockville, Virgin, and Springdale have each passed a resolution opposing the bill. Citizens for Dixie's Future, a local citizens' planning organization, have written to the bill sponsors in opposition to S. 3636. The Shivwits Band of the Paiutes, located west of the city of St. George, have submitted testimony and written in opposition to this bill. The Backcountry Horsemen of Southwest Utah have written in opposition to S. 3636.

Opposition is also visible through the citizen comments in the local paper, the St. George Spectrum. Since the release of the draft legislation on March 22nd, 2006, over 40 letters to-the-editor have been printed in the St. George Spectrum against the legislation. [See Attachment 1 for selected quotations.] Concern from the public comes from all corners of Washington County. The authors of the aforementioned letters-to-the-editor live throughout communities in Washington County, including St. George, Hurricane, Springdale, Ivins, LaVerkin, New Harmony, Brookside, Washington City, Toquerville, and Santa Clara.

##### 2. Statewide Concerns

Across Utah, citizens have expressed widespread concern with the Washington County Growth and Conservation Act. The Utah Wilderness Coalition hosted a hearing in Salt Lake City in which approximately 200 concerned citizens attended, 33 individuals spoke, and 60 individuals submitted written testimony. The comments amounted to 85 pages of transcribed oral testimony plus 76 pages of submitted written testimony. At least 1,775 Utahans contacted their Member of Congress to oppose the legislation prior to introduction of the legislation in July 2006.

The *Salt Lake Tribune* authored three editorials opposing the Washington County Growth and Conservation Act. [See Attachment 2 for selected quotes of the editorials.] In a July 13th editorial entitled "A bad plan: Bennett's bill would encourage St. George sprawl," The Salt Lake Tribune said:

What Washington County needs is a plan to control its fast-paced growth and protect its fragile natural resources. Unfortunately, Sen. Bob Bennett's Washington County Growth and Conservation Act doesn't offer one. It's a plan, instead, for even more urban sprawl and consumption.

Many Utah public interest organizations oppose the Washington County Growth and Conservation Act. These include: Colorado Riverkeepers, Glen Canyon Institute, Living Rivers, Redrock Forest, River Runners for Wilderness, Save Our Canyons, Southern Utah Wilderness Alliance, Utah Environmental Congress, Utah Native Plant, Wasatch Mountain Club, Western Wildlife Conservancy, and Wild Utah Project.

##### 3. Widespread National Concern

Concern with the Washington County Growth and Conservation Act is as strong nationally as it is locally and state-wide. Over 100,000 citizen comments were sent to Senators and Members of Congress in opposition to the Washington County Growth and Conservation Act before the act was introduced. Citizens from across the nation have continued to write, call, and email in opposition to this legislation.

Nearly 80 national and state-based conservation organizations oppose the bill. [See Attachment 3 for list of organizations.] Similarly, the Outdoor Industry Association recently issued a statement on the bill saying:

[The] Outdoor Industry Association opposes the Washington County Growth and Conservation Act of 2006 [S. 3636]. While OIA appreciates the efforts of many to craft protection for this deserving area, we are concerned that the bill falls short of the true protection needed and in the end does more harm than good.

In addition, a September 8th letter opposing the Washington County Growth and Conservation Act was signed by 32 outdoor retailers including,

American Alpine Institute, Ltd.; Adventure 16; Black Diamond Equipment Ltd; Broudy/Donohue Photography; Cascade Designs; Chaco, Inc.; Champaign Surplus Store, Inc.; Cloudveil Mountain Works, Inc.; Earth Games; Great Outdoor Provision Co.; Hi-Tec Sports USA, Inc.; HOWADESIGN; Keen Footwear; Kelty; Mercury Advertising; MoonFoto; OnTarget Public Relations LLC; Outdoor Industry Conservation Alliance; Pack Rat Outdoor Center; Patagonia; Pineneedle Mountaineering; Retailers of the Outdoor Industry; SNEWS LLC; Travel Country Outdoors; The Base Camp; The Elephant's Perch; The Forest Group; Tibetan Trader Inc.; Ute Mountaineer; Wild River Outfitters; Wilderness Sports

The outdoor retailers' letter stated, "[S. 3636] would substantially rewrite federal laws controlling southwestern Utah's public lands in ways that could harm the public's ability to climb, hike, camp, watch wildlife, hunt, fish, and sightsee in these special places."

National newspapers, including the *New York Times*, *Boston Globe*, and *Los Angeles Times*, have editorialized in opposition to the Washington County Growth and Conservation Act. The *New York Times* described the bill as "a raid on national resources aimed at helping private developers. It is the worst sort of Congressional earmarking. And it gives true wilderness bills a reputation they do not deserve."

#### FEDERAL LAND DISPOSAL

We have many serious concerns with the bill's provision to dispose of as much as 24,300 acres of BLM land within Washington County. First, the legislation directly conflicts with existing public lands policy that provides for the retention of our public lands. Second, Washington County has an abundant amount of developable private land, according to the St. George Chamber of Commerce. Third, the BLM already has authority, which it has successfully exercised, to sell and exchange public lands. Fourth, according to the St. George field office, BLM has already disposed of 18,000 acres of BLM public land in the last 10 years. Fifth, there are roughly 85,000 acres of state-owned lands in the county that could be traded for developable public lands. Sixth, although a local planning process called "Vision Dixie" has just been initiated for Washington County, the land sales called for in the bill are not explicitly tied legislatively to this long-term, growth planning process. Finally, the legislation fails to ensure many sensitive and wild lands that are proposed for wilderness will not be sold for private development.

The sale of public lands in S. 3636 fundamentally shifts land management policy in southwestern Utah away from retention and public management of our public lands towards privatization and development of these national assets. Existing land policy, as articulated in the Federal Land Policy and Management Act (FLPMA), states that public lands "be retained in Federal ownership" except where disposal will serve the national interest. (FLPMA, Sec. 102(a)(1)). This policy is a cornerstone of our nation's view of federal lands. When the Administration proposed this spring to sell public lands to fund the Rural Schools Program, there was widespread and fervent bipartisan opposition. In March, 54 Members of Congress led by Rep. Chandler and Rep. Keller wrote to the House Budget Committee opposing the Administration's land sale proposal and saying, "Congress should not develop the habit of selling treasured public lands to the highest bidder as a means of temporarily plugging gaps in the budget." Our county's public lands provide unparalleled benefits to the American people and local communities surrounding those lands, and existing law provides a fair and balanced approach to public land sales.

It is unclear why the BLM should be mandated to dispose of thousands of acres of public land when there is already plenty of private developable land. According to the St. George Chamber of Commerce's website about economic development opportunities in the county, "It is estimated that only about 9% of the potentially developable private land (225,000 acres) in the county has already been developed."

It is unclear why S. 3636 mandates disposal of up to 24,300 acres of public land when the agency has already disposed of significant amounts of public lands in the past ten years. According to the BLM St. George Field Office, the BLM has disposed of 18,000 acres of BLM land since 1996. If all 24,300 acres are disposed through S. 3636, the total amount of land disposal in Washington County in the past ten years would exceed 42,000 acres. In other words, in the last decade, roughly one of every 18 acres of BLM lands in the county will have left federal ownership.

Given that the BLM already has the authority to dispose of public lands and has successfully used that authority to dispose of 18,000 acres in the past 10 years, it is unclear why a new mandate should seek to override this existing authority. BLM's existing land sales approach ensures maximum public participation, review, and comment. The process is abundantly transparent. S. 3636 would require the BLM to meet various deadlines and use certain maps to define areas eligible for sales. The legislation would also appear to greatly diminish public involvement by providing in Sec. 102(d) that the Secretary and County "shall jointly select" parcels to be offered for sale or exchange. This is a clear departure from FLPMA sec. 202 which uses the public planning process to identify lands for disposal.

Though the legislation mandates the disposal of public land, S. 3636 does little to account for the 85,000 acres of state-owned land that could be traded for developable public lands to help the county meet its demand for more private land. Sec. 102(e) and 102(h) makes only a passing reference to exchanges. A much more direct and substantial effort to address these lands is needed. According to the State Institutional Trust Lands Administration (SITLA), there are roughly 85,000 acres of state-owned land in Washington County. SITLA's mandate is to maximize the economic development potential of its lands to serve the state's school children. Purchasing or exchanging SITLA land would equally serve both SITLA's mandate and the county's demand for land.

Further, it is unclear how the land sales in the bill are tied to the long-term growth planning process recently initiated for Washington County called "Vision Dixie." As some supporters of S. 3636 have noted, Vision Dixie and the legislation should go hand-in-hand, but in fact S. 3636 makes only one reference in Sec. 102(e) to local planning. This section provides little more than an agreement from potential bidders for public land that they will abide by city and county zoning and a general plan for the area. Although we have been given oral assurances by bill supporters that future lands sales and exchanges will incorporate the results of the Vision Dixie planning process, the legislation does not actually reflect these promises. It appears that the legislation results in an end-run around the planning process as the local planning process has only just begun yet the bill already contains maps defining eligible areas for land disposal. The bill also fails to address the possibility that the multi-year planning process fail or not reach completion before the second tier of land sales is slated to begin in 2010. For the land sales to be effectively integrated into any long-term growth plan for the county, the legislation should specifically tie those sales to a pre-existing plan, otherwise recommendations of the planning process could be rendered moot by land sales in S. 3636. The fact that the Vision Dixie process is not nearly complete, is yet another reason why S. 3636 is not ready for congressional action.

Finally, section 102 inadequately protects sensitive public lands, culturally or historically valuable lands, and areas proposed for wilderness not designated in the bill. As currently written, sec. 102(b)(2) expressly prohibits from land sales areas "designated as wilderness . . . an area of critical environmental concern . . . and [land] in the Red Cliffs National Conservation Area." The bill directs the BLM to design restrictive covenants as necessary to protect other resources. This is insufficient because restrictive covenants require ongoing oversight and monitoring to ensure that protective stipulations are implemented. A cash-strapped, resource-constrained agency such as BLM will likely not have the ability or means to oversee dozens of complicated covenant provisions that may be needed to protect sensitive lands.

#### DISPOSITION OF FEDERAL LAND SALE PROCEEDS

S. 3636 would distort the land-sales process by earmarking all but five percent of land-sales proceeds for specific uses in Washington County. Normally proceeds from public land sales would be reinvested in land acquisition pursuant to the Federal Lands Transaction Facilitation Act (FLTFA). We are concerned that this legislation creates a loophole that diverts funds normally for conservation towards a host of locally earmarked projects. Second, we find the specific earmarks dangerously ambiguous. Third, we fear that this legislation creates the expectation that public lands can be used to make up for budget shortfalls and pay for local projects.



Under existing law, funds generated from public lands sales are reinvested in conservation land acquisition, but the Washington County legislation largely rejects this current practice by directing funds from public land sales to local, private development interests. Currently, the Federal Land Transfer Facilitation Act (FLTFA) directs proceeds from federal land disposal towards acquiring “inholdings” and lands “adjacent to federally designated areas [which] contain exceptional resources” and directs that at least 80% of proceeds must be expended within the State in which the funds were generated.

The Washington County Growth and Conservation Act departs markedly from this equation by diverting all but 5% of the funding to entities or purposes within Washington County. While some of these earmarks may have conservation value, others clearly do not (e.g., directives to finance agency administrative costs for selling public land, construction of off-road vehicle routes, and unspecified “projects relating to parks, trails and natural areas”). More concerning, however, is the bill’s precedent of liquidating national assets to fund local projects, be they meritorious or not.

The funding scheme in section 103 would give 8 percent of all public land sale proceeds directly to the Washington County Water Conservancy District. Two percent of the total proceeds would go to the county government. We understand that Washington County, like virtually every county and state government, has spending needs that may not be fully funded. However, we are deeply concerned that this bill creates expectations and demands among local governments in Utah for selling off public lands in order to fund local projects and ongoing administration expenses. Our groups are also concerned that the new formula for the disposition of land sale proceeds created by S. 3636 serves as a de facto appropriations process for Utah. We urge you to refrain from creating a mandate that would sell public lands to subsidize local projects and government budgets.

In addition to selling off public lands, the bill would also impact public lands by giving the Washington County Water Conservancy District rights to develop nearly 9,000 acres of BLM public land. Section 401(b) broadly grants the Water Conservancy rights-of-ways for development of “any reservoirs, canals, channels . . . pipes . . . pipelines . . . and other facilities . . .” related to water infrastructure in the county. In a departure from current policy, these rights-of-ways would be granted without rental fees and in perpetuity. It is important that the legislation be much more specific about the precise uses of transfer lands, and require that any such lands would revert to public management when and if the original use expired. Further, federal land should not be granted for without rental fees or in perpetuity to the water conservancy district—millions of dollars taxpayer dollars would be surrendered.

Finally, Section 401(a) would establish roughly 900 miles of half-mile-wide utility corridors across public, private, and tribal lands. This is done outside the checks and balances required by sections 202 and 503 of FLPMA. The authors of the legislation have yet to disclose for what specific purposes such a large swath of utility corridors, some of which are duplicative or controversial, need be granted over previously undisturbed public lands outside of the normal planning process.

#### WILDERNESS DESIGNATION

The bill’s protections for wildlands are woefully inadequate and dwarfed by the scale of development envisioned by other titles of the bill. The bill would designate just 92,937 acres of BLM land as wilderness in Washington County. As measured against America’s Red Rock Wilderness Act, S. 3636 fails to protect nearly two-thirds of the wild BLM lands in the county that deserve protection. Almost none of the landscape in the Mojave Desert in the western side of the County is protected and the bill leaves behind over 200,000 acres of wilderness identified by citizen inventories and proposed for protection in America’s Red Rock Wilderness Act.

The Zion-Mojave wilderness in the western half of the county is a unique and rare environment. It is the only place in Utah where the endangered desert tortoise and iconic Joshua Tree are found. Amid explosive suburban development, habitat fragmentation, population growth, increasing water scarcity, and damaging off road vehicle (ORV) use, a meaningful Zion-Mojave wilderness promises refuge for the region’s fragile plant and wildlife and would be a haven for outdoor enthusiasts, families, naturalists, and hikers.

The Utah Wilderness Coalition has identified approximately 300,000 acres of BLM public lands that qualify for wilderness designation within Washington County. These proposed wilderness areas include Colorado Plateau wildlands adjacent to Zion National Park as well as portions of the Mojave Desert. Nearly 70 percent of the citizen proposal for Utah wilderness, including lands identified as potential wil-

derness by BLM officials, is left unprotected in this legislation. Furthermore, the legislation would release roughly 9,500 acres of currently protected BLM Wilderness Study Areas.

Of particular concern, almost none of the landscape in the Mojave Desert in the western side of the County would be preserved. The Mojave Desert in western Washington County encompasses a vast area of largely undeveloped public lands important both as habitat for the endangered desert tortoise and as a source of archeological and culturally significant resources. The desert tortoise is highly susceptible to ORV use; individual animals are sometimes literally crushed to death under the wheels of larger ORVs, and the vehicles also destroy underground burrows that provide refuge for tortoise and their young. Yet, only a fraction of this critical tortoise habitat is protected against irresponsible ORV use.

The bill ignores nearly 70,000 acres of the lands identified by the BLM in 1999 as potentially qualifying wilderness. In 1999, the BLM finalized a survey of lands proposed for wilderness designation in America's Red Rock Wilderness Act, including areas of Washington County, and found many tens of thousands of acres of qualifying lands. In Washington County, the BLM documented qualifying wilderness (not already designated as WSAs) in Cougar Canyon, the Narrows, Joshua Tree, Beaver Dam Wash, Red Mountain, Orderville Canyon, Deep Creek, the Watchman, Goose Creek, Spring Creek Canyon, Black Ridge, Canaan Mountain, Parunuweap Canyon, Moquith Mountain, and Upper Kanab Creek. Unfortunately, S. 3636 protects very few of these areas.

Forest Service lands are virtually ignored in this bill. S. 3636 designates just 2,642 acres of Forest Service land which is adjacent to the Cottonwood Canyon unit. Washington County holds 425,285 acres of Forest Service lands. Because the bill designates just 0.6 % of that area as wilderness, we are concerned that many Forest Service areas have been left out. The Utah Forest Network has proposed wilderness designation for over 300,000 acres of Forest Service Land within the Pine Valley Ranger District of the Dixie National Forest in Washington County, including the Bull Valley-Cave Canyon Roadless Area and the Racer Canyon/Mogutsu Roadless Area. We would recommend a much more thorough review of Forest Service lands if this legislation proposes to make wilderness designation.

More than one-half of the lands proposed for wilderness designation in this bill are within Zion National Park. Though worthy as designated wilderness, the lands in Zion National Park already enjoy significant protection pursuant to the Park's Service preservation mandate.

Now more than ever, as the pressures of growth mount in Washington County, the special places of the wild Zion-Mojave need and deserve to be protected.

#### OTHER IMPACTS ON FEDERAL LAND MANAGEMENT

S. 3636, section 401(a)(1)(B) requires the BLM to examine the option of placing a "transportation" corridor in the Red Cliff Desert Reserve, meaning that the bill could result in the authorization of a freeway through the Reserve even as the bill permanently sets aside the reserve as a National Conservation Area. Any consideration of authorizing a freeway within the reserve would run counter to the fundamental purpose for which the Reserve was established, and represents a renegeing of the original agreement that established the Reserve. Proposals that could affect habitat or the desert tortoise should be subject to laws such as NEPA and review by the Red Cliffs Desert Reserve Advisory Committee and technical committee. Language should make clear that such proposals cannot be approved if they would harm the tortoise or its habitat.

Section 501 would require the BLM to establish a new system of ORV routes—that would likely result in increased motorized recreation, especially given the county's growing population and proximity to Las Vegas—despite the BLM's inability to manage existing use levels and before the completion of a long-overdue, district-wide travel plan. The BLM is seven years behind in adopting a comprehensive travel management plan for the St. George Resource Area and must address current enforcement issues concerning ORV use before actively encouraging more use. BLM should complete a comprehensive travel plan (including route designations) for the entire St. George Field Office before legislatively designating an ORV route system.

#### CONCLUSION

In conclusion, we stress our opposition to this legislation. The bill would cause lasting impacts to the landscape and communities in Washington County before a plan for the future of this area has determined what is needed for the region. Local, state-wide, and national opposition highlight the dangers of selling off massive

amounts of public lands to fund local development. We believe our public lands, the public, and local communities would be worse off should this legislation pass.

For more information, please contact: Suzanne Jones, The Wilderness Society (303) 650-5818; Scott Groene, Southern Utah Wilderness Alliance (801) 486-3161; or Lawson LeGate, Sierra Club (801) 467-9294.

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STATEMENT OF DIANA BUCKNER, CHAIRWOMAN, ELY SHOSHONE TRIBE

Mr. Chairman, the Ely Shoshone Tribe would like to thank you for the opportunity to present our written comment and testimony on the White Pine County Conservation, Recreation and Development Act of 2006.

This Bill designated approximately 3,650 acres of land to be transferred to the BIA to be held in trust for the Ely Shoshone Tribe. We originally asked for 22,000 acres, then 15,000 acres and now we are at 3,650 acres. This is a result of the compromise the Tribe has made in good faith; we have worked with Senator Reid's and Senator Ensign's staff, WPC Chairman Eldridge, some of the WPC Commissioners, the BLM and held numerous public meetings. We tried to negotiate in good faith with the White Pine County Commission and the City Council, but they chose to go forward without us. The Bill also identifies lands that will be conveyed to other governments, the City and County, both with needs similar to the Tribe. To become self-sustaining, the Tribe has identified a great need to expand our reservation land base. The primary reasons for land expansion is housing, economic development and to exercise spiritual and cultural traditions.

The Tribe has always been stewards of the lands and we are concerned with the water, air and wildlife. We have an Environmental Department that coordinates with White Pine County, and follows State and Federal laws when developing codes and ordinances. We have several ordinances in place, and have a full time Tribal Emergency Response Commission, that coordinates with the City of Ely Fire Department, Forest Service, White Pine County Local Emergency Planning Committee. The Tribe also has a Spill Prevention/Response Plan for the Silver Sage Travel Center implemented, using codes from NRC and EPA.

Our Tribal Law Enforcement Department follows the Ely Shoshone Tribe Law and Order Code, along with the ordinances, and also the NRS if applicable. We have a MOA in place with White Pine County for dispatch services, backup services and coroner services. We also have a MOA in place with the City of Ely for first responder and fire protection services.

90 of our 110 acres are located on highway 93 south of Ely on both east and west sides of the highway. When acquired, the established 90 acres was surrounded with minimal surroundings. Within the last 25 years the Tribal boundaries have been surrounded by public education systems, economic and community development with high scale homes.

Ely Shoshone Tribe has always complied with and adhered to all city and county ordinances. We understand that there is a concern to our local community, we have always been good neighbors and will continue to be. If there were no signs posted, you would not know where reservation boundaries ended and private property began.

Even though, as a Federally Recognized Tribe with Cooperating Agency status in government to government relationship, in a good faith effort, the tribe has taken all public and government concerns into consideration and has made many compromises regarding real issues. As we have stated at several meetings, to conform to all existing ordinances, zoning and planning standards. The Ely Shoshone Tribal Council has agreed to conform to these standards but no further communication has been received from the County.

The Shoshone people have been here for a 1000 years, our ancestors are buried here, and our traditional ways are still practiced by many of our tribal members. There are historical sites on Ward Mountain and the entire Ward Mountain area has spiritual and historical significance. The original proposal for parcel one was located all on the west side of highway 93 adjacent to Ward Mountain. With the Tribe's compromise, acreage has been divided by highway 93 with the majority of the acreage on the east side. Impact to the growth of the City is minimal. City boundaries are presently north of our current 90 acre parcel.

Proposed parcel two is only 600 plus acres. The acres are adjacent to an existing community with development continuing north and south of the proposed acres. The proposed parcel would have minimal impact no greater than what presently exists. We have received no documentation from State and/or Federal agencies showing adverse affects on Wildlife.

We have always been good neighbors to our community, but we will not apologize for the fact that we are Shoshone Indians with the same needs as White Pine County.

Thank you for the opportunity for Ely Shoshone Tribe to provide a written comment and testimony on the proposed White Pine County Conservation, Recreation and Development Act of 2006. If you have any questions, please do not hesitate to call me.

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STATEMENT OF BRENT ELDRIDGE, CHAIRMAN, WHITE PINE COUNTY, NV,  
BOARD OF COMMISSIONERS

Dear Chairman Craig and members of the subcommittee, I testified on S. 3772 during the hearing held on November 16, 2006. I write to offer a few brief comments which I respectfully request be added to my earlier written testimony.

During the hearing on S. 3772 Senator Cantwell raised concerns regarding disposal of federal lands and a precedent for such being established by the bill. I respectfully offer the following for the sub-committee's consideration.

White Pine County is recovering from severe economic depression which had occurred in the 90's due to closing of a large local mine. The mine has re-opened, again providing good-paying jobs. The county is also experiencing an influx of retirees and others relocating here to enjoy our moderate summer climate and scenic beauty. Several new service industries have opened, and it appears we're on the brink of an economic boom. Since our county is almost 95% federally owned, substantial growth can be accommodated only through disposal of federal lands. There are 5.7 million acres in White Pine County, and we're asking that up to 45,000 acres, an additional eight-tenths of one percent, be made available for future community growth.

We first began the administrative process of acquiring federal land from BLM for expansion of our airport in 1993. That process has not yet concluded; legislation is the only practical and reasonable manner in which to expedite accommodation of our impending community land needs.

It might be noted that almost all western lands were at one time federally-owned. As communities grew and industry and agriculture had needs for expansion, federal lands were disposed-of incrementally to meet those needs. I believe it's only fair for Congress to accommodate small land-locked communities such as ours in the same manner in which others have been in the past; the precedent was, indeed, established many years ago.

It's been suggested in the media that wilderness designations are trade-offs for land disposals. As such relates to White Pine County, I disagree. I've addressed the community need for land disposal above, which is, in my view, independent of the wilderness issues. Here I will address the wilderness component in S. 3772 which enjoys substantial support from among White Pine County's people.

Until the early 1990's White Pine County's roadless backcountry changed little through regular traditional uses, and was used and enjoyed by many who cared for the land. The advent of the four-wheel ATV brought severe impacts to our high mountains which, if allowed to continue and expand, will put tire tracks on nearly every pristine inch traversable by those very-capable machines. Most folks in our community have reversed their opposing position on wilderness, due to results of indiscriminate ATV use, and now support protection of most lands now proposed for wilderness designation in the bill. White Pine County needs wilderness protections as urgently as it needs land disposals; designations should, however, attempt to avoid areas holding high mineral and energy potential.

Title VII of the bill addresses needs related to maintenance and improvement of lands mostly owned by the federal government. Noxious weeds and woody invasive species have vastly reduced traditional productivity of the land, negatively impacting every segment of our regional economy dependent upon the federal lands—wildlife habitat and hunting-related resources, vital watersheds providing water for all, aesthetics and viewsheds serving tourism and casual recreation, and properly-managed livestock grazing, to name some. For the sustained health of our watersheds, forests and rangelands, I believe it's imperative that steps be taken to reverse this downward spiral of federal-land productivity through adoption and implementation of the provisions in Title VII.

Thank you for this opportunity to further comment on the bill. Your consideration will be appreciated.

## STATEMENT OF GAY BOMAN, RESIDENT, ST. GEORGE, WASHINGTON COUNTY, UT

I am writing to you concerning my opposition to Senator Bennett's Senate Bill 3636, Washington County Growth & Conservation Act of 2006, both as a resident of the county and as a citizen of the United States. This bill would authorize the transfer of 24,300 acres or forty square miles of public (BLM) land to the county for sale to developers.

Growth has already brought problems of traffic, water, loss of vistas, insufficient school funding, lack of affordable housing and auto pollution. Projected growth from development of current private land will at least triple our population and worsen these problems. The public does not need to subsidize further growth. Transfer of any public land is unnecessary.

The land designated "eligible for transfer" on the bill's maps contains some of our most scenic and culturally important areas. Americans from all over the United States plus international travelers currently visit these places. The bill would deprive them from seeing the historic Fort Pearce, petroglyphs, archeological sites and historic trails of Warner Valley, the peace and quiet of the Red Cliffs Desert Reserve, and the beauty of the Santa Clara Reserve.

The bill would also designate fifteen per cent of sales to the county and part of the proceeds for administrative costs. Building lots in Washington County currently sell for up to one million dollars. The amount of money the county will reap from these sales and the government will lose will be huge. It is not the government's responsibility to finance our county's or any community's development, especially at the expense of losing our public lands.

This bill was put together without adequate public knowledge or input. Please do not approve Senate bill 3636.

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