

**H.R. 523, DOUGLAS COUNTY,  
WASHINGTON, PUBLIC UTIL-  
ITY DISTRICT CONVEYANCE  
ACT; AND H.R. 1011, VIRGINIA  
RIDGE AND VALLEY ACT OF  
2007**

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**LEGISLATIVE HEARING**

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS  
AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

Thursday, May 10, 2007

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**LEGISLATIVE HEARING ON H.R. 523, TO REQUIRE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN PUBLIC LAND LOCATED WHOLLY OR PARTIALLY WITHIN THE BOUNDARIES OF THE WELLS HYDRO-ELECTRIC PROJECT OF PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY, WASHINGTON, TO THE UTILITY DISTRICT. (DOUGLAS COUNTY, WASHINGTON, PUD CONVEYANCE ACT); AND H.R. 1011, TO DESIGNATE ADDITIONAL NATIONAL FOREST SYSTEM LANDS IN THE STATE OF VIRGINIA AS WILDERNESS OR A WILDERNESS STUDY AREA, TO DESIGNATE THE KIMBERLING CREEK POTENTIAL WILDERNESS AREA FOR EVENTUAL INCORPORATION IN THE KIMBERLING CREEK WILDERNESS, TO ESTABLISH THE SENG MOUNTAIN AND BEAR CREEK SCENIC AREAS, TO PROVIDE FOR THE DEVELOPMENT OF TRAIL PLANS FOR THE WILDERNESS AREAS AND SCENIC AREAS, AND FOR OTHER PURPOSES. (VIRGINIA RIDGE AND VALLEY ACT OF 2007).**

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**Thursday, May 10, 2007  
U.S. House of Representatives  
Subcommittee on National Parks, Forests and Public Lands  
Committee on Natural Resources  
Washington, D.C.**

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The Subcommittee met, pursuant to call, at 10:03 a.m. in Room 1334, Longworth House Office Building, Hon. Raúl M. Grijalva [Chairman of the Subcommittee] presiding.

Present: Grijalva, Bishop, Sarbanes, Shuler, Sali, Lamborn.

**STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA**

Mr. GRIJALVA. Let me call to order the Subcommittee on National Parks, Forests, and Public Lands for this hearing today.

I am pleased to welcome my colleagues, and our distinguished panelists today, to today's Subcommittee hearing. In particular, I want to thank those witnesses who have traveled to Washington to join us.

Today we are meeting to consider two measures: H.R. 523, the Douglas County Public Utility District Conveyance Act, and H.R. 1011, the Virginia Ridge and Valley Act.

H.R. 523 would authorize the conveyance of approximately 622 acres of land currently owned by the Bureau of Land Management to the Public Utility District in Douglas County, in Washington State. The Public Utility District is in the early stages of the relicensing process before the Federal Energy Regulatory Commission, and they feel that consolidating the ownership of land within the boundary of the project will be beneficial.

However, concerns regarding the effect of selling this land on some of the natural resources in the area has been raised. Input from today's witnesses will be helpful in assessing those concerns.

Our second bill, H.R. 1011, the Virginia Ridge and Valley Act, was introduced by our colleague, Rep. Boucher, and we welcome him here today. H.R. 1011 designates nearly 43,000 acres in the Jefferson National Forest in southwestern Virginia as wilderness, and nearly 12,000 acres as national scenic areas.

H.R. 1011 is a strong bipartisan measure that is cosponsored by the five other Representatives from Virginia. The Senate companion measure is sponsored by Sen. Warner and Sen. Webb.

Furthermore, H.R. 1011 has broad support from other leaders, such as Gov. Tim Kaine, four County Boards of Supervisors, local businesses, state organizations, and faith groups.

I am pleased that we will hear from Rep. Boucher on our first panel. I understand the measure before us today represents several years of fine-tuning to iron out concerns with previous proposals.

Each of the areas within H.R. 1011 are either recommended wilderness area, areas in the 2004 Jefferson National Forest Plan, or have been endorsed by the local Board of Supervisors of a relevant county.

Some may argue that the wilderness legislation should be bound to the forest plan. While we value the Forest Service's input, the Wilderness Act clearly gives Congress the sole authority and responsibility to designate wilderness.

There are also those who have argued that wilderness designation is in conflict with the multiple-use mandate of the National Forest System, and therefore oppose any designation of wilderness. Wilderness is a multi-use resource, a fact Congress affirmed in the Wilderness Act, and as well as the Multi-Use Sustained Yield Act.

Once again, we look forward to our witnesses' insights and thank them for their effort. And I would like to recognize the Ranking Member, Mr. Sali, for any opening statements he may have.

**STATEMENT OF THE HON. BILL SALLI, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF IDAHO**

Mr. SALLI. Thank you, Chairman Grijalva. I would like to welcome Representatives Rick Boucher and Doc Hastings to the hearing today.

Rep. Hastings' bill I find to be a common-sense effort that would convey 382 acres of BLM land at fair market value to the public utility district that is referenced. Due to the isolation of these parcels, the BLM has difficulty managing them, and has left management up to this public utility district. That district has a stellar environmental record and will continue to use this land to provide recreational opportunities to the surrounding communities.

The public utility district will cover all costs, and this conveyance will have no determination on its ongoing hydropower licensing proceedings.

I do have some concerns, though, with Rep. Boucher's bill, H.R. 1011. It would designate 13,856 more acres of wilderness, more than the 25,200 acres that were recommended by the Forest Service Forest Plan. Development of the recently revised Jefferson National Forest Plan consumed 11 years, millions of dollars, and extensive public involvement that included over 3,000 members of the public. It was developed by career civil servants, who are among the best and brightest of our professional land managers.

Unfortunately, this bill ignores many of the recommendations of those professionals. Several of the proposed wilderness areas in H.R. 1011 are currently managed to maintain threatened, endangered, and sensitive species.

The Forest Service needs to use mechanized equipment to manage these lands to comply with the ESA. H.R. 1011 would take away these prudent management options.

This bill also ties the hands of professional land managers who need to perform proactive treatments that could reduce the risk of wildfires.

In my state, there are over 4 million acres of designated wilderness. A lot of it looks like the picture that is on the screen. This is wilderness that meets the 1964 Wilderness Act standards of land that is pristine and untrammelled by man.

H.R. 1011 would designate thousands of acres that have roads, utility corridors, towers, mountain biking areas. Some areas, like the Brush Mountain proposal, are so surrounded by development that the Forest Service is concerned about fire spreading quickly to highly developed housing areas in the city of Blacksburg, Virginia, home of Virginia Tech.

I will conclude by saying that recreation is a valuable use of the National Forest System, along with all the other uses. As recreation pressures increase on the nation's public lands, we should be creating more opportunities for the average visitor, not less.

This bill reduces recreational opportunities for 99 percent of visitors, while enhancing opportunities for just 1 percent. As baby boomers age and gain a few pounds, Congress needs to make our Federal lands more user-friendly to these folks. And designated wilderness, as we find in this bill, takes those recreational opportunities away from these folks.

Thank you, Mr. Chairman.

Mr. GRIJALVA. Thank you, Mr. Sali. And for all the panels, we limit the oral testimony to five minutes. Without objection, the statements of all the witnesses today will be made part of the record in its entirety.

And with that, let me turn to the first panel, our distinguished colleagues, and begin with Congressman Boucher on H.R. 1011. Sir?

**STATEMENT OF HON. RICK BOUCHER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA**

Mr. BOUCHER. Thank you very much, Mr. Chairman and Members of the Subcommittee. It is a privilege for me to have the opportunity this morning to testify before you in support of bipartisan wilderness legislation, which we have introduced for the State of Virginia.

All of the proposed wilderness areas and wilderness study areas and national scenic areas that would be designated in this legislation reside within the Congressional District that I have the privilege of representing. But I am pleased to be joined in cosponsorship of the measure by a bipartisan majority of Virginia's House delegation. A majority of our entire delegation is cosponsoring, including our Democratic colleagues Bobby Scott and Jim Moran, and Republican colleagues Frank Wolf, Tom Davis, and JoAnn Davis.

An identical bill has been introduced in the Senate, as the Chairman indicated, with the chief sponsor Senator John Warner, and cosponsored by our other United States Senator from Virginia, Jim Webb. And we have worked very closely with Senators Warner and Webb in the construction of the legislation that we are presenting to you this morning.

The bill designates 43,000 acres of wilderness or wilderness study areas, and designates 12,000 acres of national scenic areas. The bill has been constructed over a number of years in a very careful process that involves conservation organizations, civic organizations, faith-based organizations, business owners, local governments, and scores of interested citizens. It has been broadly endorsed by those with whom we have worked in order to construct it.

It carries the recommendation for wilderness designation of either the U.S. Forest Service, as reflected in the management plan, or of the local governing body for each county in which a proposed wilderness area is situated. And I would note that testifying on today's panel of witnesses is a representative of the local governing body of Montgomery County, where the town of Blacksburg and Virginia Tech is located, endorsing the passage of the bill.

I have attached to my proposed written statement eight pages containing a lengthy list of endorsing organizations and individuals. I would note that the bill has been endorsed by Virginia's Governor Tim Kaine, and in fact is the only wilderness bill, to our knowledge, to be endorsed by the International Mountain Bicycling Association.

All of the acreages protected in the bill have unique features that merit preservation. The Appalachian Trail traverses a number of these wilderness areas. Most of the terrain is truly rugged, and is not suitable for timber extraction.



I believe, and the local governments endorsing the bill believe, that these new protected areas will place a broad economic benefit to the advantage of our localities. Tourism is our single fastest-growing industry, and the outdoor experience that we offer in our region will clearly be enhanced by the passage of this measure.

I would note, Mr. Chairman, that while we will not rely on wilderness alone to attract large numbers of travelers, we know from the experience that we have had with our existing wilderness areas that the wilderness experience is a valuable part of the outdoor recreation component of our tourism development strategy.

The areas we propose to designate for protection will provide solitude and superb wilderness recreational opportunities for hiking, for hunting, for fishing, for camping, bird watching, backpacking, and horseback riding.

Thousands of people travel to our region each year to enjoy the outdoor experience in the Jefferson National Forest, and the passage of this legislation will clearly enhance that outdoor experience.

Senator Warner and I, over the last two years, have worked extensively with the Forest Service and its very capable representatives in attempting to address concerns that the Forest Service has expressed with the legislation. In response to that expression of concerns by the Forest Service, we have made a number of modifications in the bill that is pending before you today, from the version that we introduced during the course of the last Congress. And we truly believe that we have addressed the principal concerns that the Forest Service has presented to us.

Today the Forest Service may express further reservations about the legislation, and I ask that a point-by-point answer that I have prepared to these reservations be received as a part of this testimony, and be made a part of your record of proceedings today.

Mr. Chairman, I thank the committee for conducting today's hearing, and I very much hope it will be the privilege and pleasure of this committee to report our legislation to the Floor. And I will look forward to any questions that you care to ask.

Thank you, Mr. Chairman.

Mr. GRIJALVA. Thank you. Thank you, sir.

With that, let me turn to Congressman Hastings with regard to H.R. 523. Sir?

**STATEMENT OF THE HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON**

Mr. HASTINGS. Thank you, Mr. Chairman and Mr. Ranking Member, for holding this important hearing on pending public land legislation, including my bill, H.R. 523, a bill that would convey certain BLM properties to the Douglas County Public Utility District in central Washington, in my district.

The Douglas County PUD operates the Wells Hydropower Project on the Columbia River in north-central Washington. As a Federal project license holder, the PUD manages the Wells Dam and the associated reservoir for multiple purposes, including power generation, fish and wildlife protection, and recreation.

Almost all of the land encompassing the project area is owned by the PUD, with the exception of several small BLM land holdings, and that is what this bill is about.

I believe a higher level of resource and recreation management can be achieved on these lands if they are under PUD ownership. This would enable the PUD to manage the project across the landscape, and would allow the BLM to concentrate its limited resources elsewhere in the state, where there are large contiguous blocks of BLM land.

The Douglas PUD has a stellar reputation as a steward of the environment. They worked diligently with Federal and state agencies, tribal governments and environmental groups, to develop a model habitat conservation plan for salmon and steelhead.

I have to tell you, Mr. Chairman and Members of the committee, this was a very difficult thing to accomplish, and it took many, many years to realize. In addition, the PUD rigorously protects other forms of wildlife found in the area, and provides for public access whenever possible. For all intents and purposes, they are the day-to-day land managers in this project area.

For those of you that are from areas of the country with public power entities, I would just note that the Douglas PUD is a public agency under Washington State law, with elected commissioners who meet regularly in public meetings. This legislation then would facilitate the conveyance of land from one public agency to another. And for you Members of the Subcommittee who were at this hearing on this issue last year, I want to thank you for unanimously supporting this bill last year, both in committee and later on the House Floor.

I regret, and I am sure that you regret, that a number of common-sense land bills had to be reintroduced this year because they were ultimately not passed by the other body. I guess that seems to be something that we historically have to go through every year, and this is one of those pieces of legislation.

However, I hope that you will approve this legislation again, and that it will move quickly through the House to the other body for their consideration.

And again, I want to thank you and Members of this committee for holding this hearing on this legislation. I urge you once again to favorably act on this bill. And I am willing to stand for any questions that you may want to ask.

Thank you very much.

[The prepared statement of Mr. Hastings follows:]

**Statement of The Honorable Doc Hastings, a Representative in Congress from the State of Washington, on H.R. 523, Douglas County, Washington Land Conveyance**

Mr. Chairman and Ranking Member:

Thank you for holding this important hearing on pending public lands legislation, including my bill—H.R. 523—that would convey certain BLM properties to the Douglas County Public Utility District.

The Douglas County PUD operates the Wells Hydropower Project on the Columbia River, in North Central Washington. As the federal project license holder, the PUD manages the Wells dam and the associated reservoir for multiple purposes, including power generation, fish and wildlife protection, and recreation. Almost all of the land encompassing the project area is owned by the PUD, with the exception of several small BLM holdings.

I believe a higher level of resource and recreation management can be achieved on these lands if they are under PUD ownership. This would enable the PUD to manage the project across the landscape, and it would allow the BLM to concentrate

its limited resources elsewhere in the state where there are large contiguous blocks of BLM land.

The Douglas PUD has a stellar reputation as a steward of the environment. They worked diligently with federal and state agencies, tribal governments, and environmental groups to develop a model Habitat Conservation Plan for salmon and steelhead. This was a very difficult thing to accomplish and took many years to realize. In addition, the PUD rigorously protects other forms of wildlife found in the area and provides for public access wherever possible. For all intents and purposes, they are the day to day land managers of the project area.

For those of you from areas of the country without public power entities, I would note that the Douglas PUD is a public agency under Washington state law with elected commissioners who meet regularly in public meetings. This legislation would facilitate the conveyance of land from one public agency to another.

For members of the Subcommittee who were at the hearing on this issue last year, I thank you for unanimously supporting this bill, both in Committee and later on the House floor. I regret that a number of common sense lands bills had to be reintroduced this year because they were ultimately not passed by the other body. However, I hope that you will approve this legislation again and that it will be moved quickly to the full House for further consideration.

Again Mr. Chairman, I thank you and the members of the Subcommittee for holding a hearing on this legislation today. I urge the favorable consideration of this bill and look forward to working with you and your staff on this issue.

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Mr. GRIJALVA. Thank you. Let me extend appreciation and thanks to the gentlemen for your testimony.

Before we begin any questions the colleagues on the committee might have, let me indicate to you, both of you, that you are welcome to join us at the dais and participate in the rest of the hearing as we go through the other panels.

With that, I have no questions for the Congressman. And Mr. Sali?

Mr. SALI. Congressman Boucher, I am sorry, I note that you chair the Subcommittee on Energy and Air Quality, and that you also represent a district that is rich in coal reserves.

Under the Clean Air Act, Congressionally delegated wilderness areas that are over 5,000 acres are eligible for Class I air designations, and that would apparently prohibit any new industrial emissions in the areas.

With this in mind, would the enactment of your bill affect any future development, industrially, in the area? Or should we address this issue in your bill?

Mr. BOUCHER. Well, I thank the gentleman for that question. My understanding of the state of the law—and this is based on some of those same questions having been posed more than 20 years ago, when we added Virginia's first acreages to our wilderness inventory—is that it would take an Act of Congress to make any designations of Class I status for wilderness areas which today are Class II. And all of the wilderness areas that we added in the 1980s are Class II. I think there is one wilderness area—as memory serves, it is the James River Face Wilderness Area, that is actually, I believe, in Representative Goodlatte's district—which is Class I. But it is Class I by virtue of having been so designated at the time the very first wilderness legislation was passed many decades ago.

Everything else that we have in Virginia is Class II. It is my intention that everything that we are adding here be Class II. I assumed the Subcommittee that I chair would have some jurisdiction over any effort to amend the Clean Air Act in order to

elevate the status to Class I, but that simply is not going to happen.

But if the gentleman would be more comfortable with a provision in this bill that would address that question, I would not oppose it. I would leave it to the Chair and the Ranking Member to decide whether that might invoke the jurisdiction of another committee—mine, namely. And while I can assure you that I would endorse it in that committee—

[Laughter.]

Mr. BOUCHER.—having it be referred to that committee might slow down the progress of the bill through the House, and that is an event I would not welcome.

But let me just give assurance to the gentleman that there is no intention here that any of these areas ever become Class I. It would take a further Act of Congress for them to become Class I, and that simply is not going to happen. And certainly not through the committee that I chair.

Mr. SALI. In the West we have a lot of public lands, and in my state, and awful lot of wilderness. We consider recreation a very valuable asset. And I guess it seems like the idea here should be to create more recreational opportunities on public lands, as we determine what designations we will give them.

It looks to me like this bill will reduce recreational opportunities for probably about 99 percent of visitors, and the trade-off being it will enhance those recreational opportunities for about 1 percent.

First of all, am I correct in that assessment? Second of all, if you would describe the recreational opportunities that will be available for the lands that are the subject of this bill? Who can use it, those kinds of things.

Mr. BOUCHER. I would say to the gentleman that I do not agree with the assessment that passing this bill would broadly restrict recreational opportunities. In fact, I think exactly the opposite would be the case, because the wilderness areas would prove attractive to people who are in search of solitude, a remote experience for horseback riding, backpacking, camping, hunting, fishing, winter sports of various kinds, including snowshoeing and cross-country skiing, mountain bicycling.

And I would note, as I said in my opening statement, that this is the only wilderness bill, to my knowledge, that has ever been endorsed by the International Mountain Bicycling Association. And we worked very closely with the International Bicycling Association as we wrote this bill. We have assured bicycling access to terrain that this organization very much anticipates being made wilderness.

In fact, representatives of that organization told us that there are thousands of people who enjoy mountain bicycling, who are traveling through Virginia at the present time trying to get to other areas where there is better terrain access and more opportunity to engage in bicycling. And because of the trail construction and management functions that are directed in this legislation, the trails in our areas would be upgraded and made more appropriate for mountain bicycling; and that, in turn, would draw a large number of additional mountain bicyclists to our region.

So I truly believe that when this bill becomes law, we are going to see an increase, rather than a decrease, of outdoor recreational opportunities.

Mr. SALI. Can I approach this just a little differently? I have a bad back, and I am not likely to hike very far, and I am not likely to bicycle very far. For people that are in my circumstance, if we pass this bill, and you know, for those of us who need to rely on motorized vehicles, what kind of recreational opportunities will be precluded from the land that are included in this bill?

Mr. BOUCHER. Well, the first thing I would say to the gentleman is that he really should come to my Congressional District, and I would be happy to help him make some reservations in order to travel there, because we offer superb outdoor recreational opportunities in our stretches of national forest. I have some counties where the national forest is as much as 65 percent of the entire land mass of the county. And these are areas where the outdoor recreational opportunities available to anyone, with motorized access or non-motorized access, are ample.

We are declaring a relatively small percentage of the acres in the national forest to be wilderness. And yes, it is true that there will be some roads that exist within these areas that will not be useable for motorized traffic once they are declared to be wilderness. But given the tremendous acreages where we do have that motorized access, that will remain in multiple use, which constitute well more than 90 percent of the entire national forest, there is no shortage of recreational opportunity for people who require motorized access.

And I think the gentleman would find a vacation in my district to be very satisfying and enjoyable, and I hope you will bring the whole family.

Mr. GRIJALVA. Thank you, Mr. Sali. I turn to my colleague, Mr. Sarbanes. Any questions?

Mr. SARBANES. Not at this time.

Mr. GRIJALVA. Thank you, sir. Mr. Lamborn?

Mr. Lamborn. Thank you, Mr. Chairman, but I have no questions, either.

Mr. GRIJALVA. Thank you. And again, let me thank the witnesses, and you are welcome to join us and participate in the remainder of the hearing.

Mr. HASTINGS. Thank you.

Mr. BOUCHER. Thank you, Mr. Chairman.

Mr. GRIJALVA. Let me welcome the second panel, if we can continue with that part of the hearing.

Let me welcome the panel and begin, if I may, with Mr. Ferguson from the Bureau of Land Management. Sir, your testimony.

**STATEMENT OF MIKE FERGUSON, ASSISTANT DIRECTOR,  
BUSINESS AND FISCAL RESOURCES, BUREAU OF LAND  
MANAGEMENT**

Mr. FERGUSON. Thank you, Mr. Chairman. Thank you for the opportunity to testify on H.R. 523. This legislation directs the Secretary of the Interior to convey certain public lands located wholly or partially within the boundaries of the Wells Dam Hydroelectric Project to Public Utility District—

Mr. GRIJALVA. If you could turn on the microphone.

Mr. FERGUSON. Is that better? All right. Thank you, Mr. Chairman, and thank you for the opportunity to testify on H.R. 523. This legislation directs the Secretary of the Interior to convey certain public lands located wholly or partially within the boundaries of the Wells Dam Hydroelectric Project to the Public Utility District No. 1 in Douglas County, Washington.

The BLM supports this conveyance. When we testified on similar legislation in the previous Congress, we raised several concerns. We greatly appreciate the work by Representative Hastings' staff and the Subcommittee staff to address our concerns, as reflected in the text of H.R. 523. We look forward to working with the bill's sponsor and the committee on a few key concerns that are still outstanding.

Since 1998, the public utility district has expressed a strong desire to purchase all BLM-managed public lands within the project boundaries. After the previous Congressional hearing, we worked with the utility district to identify precisely which lands it wants to acquire. We also worked with the bill's sponsor to develop a map that correctly identifies these lands.

Some of the public lands the utility district wants are located within the boundaries of the project. These were reserved for power site purposes by the order of the Federal Power Commission. Some of the lands lie outside the designated project boundary.

We encourage the sponsor and the committee to provide safeguards to protect the known resource values on these lands, which include bald eagle roosts and approximately two miles of Columbia River shoreline currently opened to the public.

Section 3[f] of H.R. 523 directs that proceeds from the sales be deposited into the working capital fund of BLM. We strongly recommend instead that these funds be deposited into the Federal Land Disposal account, established by the Federal Land Transaction Facilitation Act.

Thank you for the opportunity to testify. I will be glad to answer any questions.

[The prepared statement of Mr. Ferguson follows:]

**Statement of Mike Ferguson, Assistant Director, Business and Fiscal Resources, Bureau of Land Management, U.S. Department of the Interior, on H.R. 523, Douglas County, Washington, PUD Conveyance Act**

Thank you for the opportunity to testify on H.R. 523. This legislation directs the Secretary of the Interior to convey certain public lands located wholly or partially within the boundaries of the Wells Dam Hydroelectric Project [Federal Energy Regulatory Commission Project No. 2149-19795] (Project) to Public Utility District No. 1 of Douglas County, WA, (PUD). The BLM supports this conveyance. During consideration of similar legislation in the 109th Congress (H.R. 4789), we raised several concerns. The BLM greatly appreciates the work by Rep. Hastings' staff and Subcommittee staff to address our concerns, as the text of H.R. 523 reflects. We look forward to working with the bill's sponsor and the Committee on the few key concerns still outstanding.

Since 1998, the PUD has expressed a strong desire to purchase all BLM-managed public lands within the Project boundaries. During the 109th Congress, we worked with the PUD to identify precisely which public lands it wishes to acquire, and we worked with the bill's sponsor to develop a map that correctly identifies these lands. Some of the public lands the PUD wishes to acquire are located within the boundaries of the Project. These were reserved for power site purposes by order of the Federal Power Commission (FPC Order dated July 12, 1962, for Power Project No. 2149). Some of the lands requested by the PUD lie outside (but contiguous to) the designated project boundary. We encourage the sponsor and the Committee to

provide safeguards to protect the known resource values on these lands, which include Bald Eagle roosts and approximately two miles of Columbia River shoreline currently open to the public.

Section 3(f) of the legislation directs that the proceeds from the sales be deposited into the "working capital" funds of the BLM. We strongly recommend instead that these funds be deposited in the "Federal Land Disposal Account" established by P.L.106-248, the Federal Land Transaction Facilitation Act (FLTFA).

Thank you for the opportunity to testify. I will be glad to answer questions.

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Mr. GRIJALVA. Mr. Holtrop.

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

Mr. HOLTROP. Thank you. Thank you for the opportunity to provide the Department's view on the Virginia Ridge and Valley Act. I am Joel Holtrop, Deputy Chief, National Forest System of the Forest Service.

Mr. Chairman, this is my first opportunity to appear before your committee, and I look forward to working with you and this committee on issues affecting the Forest Service.

We commend the sponsors and the committee for its collaborative approach, how they have worked with us, and who have sought local involvement that has contributed to support for this bill. The Department supports several of the designations included in the bill, but we object to other designations in the bill, and to mandatory planning and construction requirements.

The Department would like to work with the committee to offer suggestions which we think will improve H.R. 1011. The Department supports the provisions that would designate the proposed Garden Mountain and Hunting Creek Camp Wilderness Areas. The Department supports designation of the Stone Mountain Wilderness Area, but is also willing to work with the committee to look at other options for protection.

The Department supports the designation of many of the additions to existing wilderness. The Department does not oppose the designation of the Lynn Camp Creek Wilderness Study Area, the Mountain Lake B Addition, the Shawvers Run Additions B and C areas. However, we do have concerns about the suitability of these additions as components of the National Wilderness Preservation System due to their size and configuration.

The Department does not support the designation as potential wilderness for the 349-acre portion of the Kimberling Creek area. As it limits the Secretary's discretion in the allocation of scarce resources and other management actions. Future wilderness designation of this area could be reevaluated after restoration activities occur.

The Department does not support wilderness designation for the Brush Mountain and Brush Mountain East areas. These areas lie on the north side of Brush Mountain, and contain fire-dependent forest habitat, which make up approximately 50 percent of these two areas.

Wildland-urban interface exists on the north and south boundaries. If designated as wilderness, our ability to utilize prescribed fire for the maintenance of southern yellow pine forest

communities, and to conduct hazardous fuels reduction projects, would be hampered.

Additionally, the narrow width of, and the bisecting powerline corridor within, these areas detract from their naturalness, and offer few opportunities for solitude.

The Department could support the designation of the Racoon Branch area as a wilderness if agreements are reached that resolve trail maintenance issues in the area, and if the requirement contained in Section 5[d] of the bill for a sustainable trail is amended to provide more flexibility for future alternative trail locations.

Nearly six miles of the Virginia Highlands Horse Trail and the Dickey Knob Trail traverse this area. These trails are heavily used by both equestrians and mountain bikers. Wilderness designation would eliminate mountain bike use within the area. While equestrian use is compatible with wilderness designation, heavy use and ground conditions along the Virginia Highlands Trail necessitate extensive maintenance to maintain the integrity of the trail, and protect watershed and other resource values.

To maintain the trail to the standards that are needed without mechanized or motorized equipment will require cooperative agreements and commitments from user groups to help in maintenance, to protect the resources, and to provide for continued equestrian use of the trail.

Section 4 of H.R. 1011 would establish Seng Mountain and Bear Creek National Scenic Areas. Although we have some concerns over the limitations on our ability to improve black bear habitat as a result of this designation, the Department could support designation of the Bear Creek National Scenic Area if allowances were made for seasonal motorized use of forest development road no. 6251 during hunting season, with the road remaining closed the rest of the year.

The proposed Seng Mountain NSA is within the Congressionally designated Mount Rogers National Recreation Area. The Mount Rogers National Recreation Area is managed to provide public premier outdoor recreation benefits, and the continued use by a diversity of recreation users. The Seng Mountain area contains a motorized trail, the Barton Gap Trail. Motorized use of the trail would be prohibited under H.R. 1011. The Barton Gap Trail is one of only five designated motorcycle trails in the George Washington and Jefferson National Forests, and is an important part of the diversity of recreation opportunities that we provide the visitors that use the forests in the Mount Rogers National Recreation Area.

The Department could support designation of the Seng Mountain National Scenic Area if the overlapping designation issue is clarified, and if continued motorized use on the Barton Gap Trail was allowed.

H.R. 1011 would require the Secretary to establish a trail plan to develop hiking and equestrian trails on lands designated as wilderness by this bill. The Department considers the requirement to develop additional trail plans to be unnecessary.

H.R. 1011 would also require the Secretary to develop a trail to provide a continuous connection for non-motorized travel. We believe that it would be costly and difficult to provide a trail in this general location that would be safe. The Department does not



support a requirement to construct trail facilities without adequate consideration for alternatives, priorities, and funding sources.

This concludes my statement, and I would be happy to answer any questions that you may have.

[The prepared statement of Mr. Holtrop follows:]

**Statement of Joel Holtrop, Deputy Chief, National Forest System, Forest Service, U.S. Department of Agriculture, on H.R. 1011, Virginia Ridge and Valley Act of 2007**

Thank you for the opportunity today to provide the Department's view on H.R. 1011, the Virginia Ridge and Valley Act of 2007. I am Joel Holtrop, Deputy Chief, National Forest System of the Forest Service. I look forward to working with this committee on issues affecting the Forest Service.

H.R. 1011 would designate 27,817 acres in the Jefferson National Forest as new components of the National Wilderness Preservation System. Specifically, the bill would designate the following areas: Brush Mountain East Wilderness, Brush Mountain Wilderness, Raccoon Branch Wilderness, Stone Mountain Wilderness, Hunting Camp Creek Wilderness, and Garden Mountain Wilderness. H.R. 1011 would also designate 11,344 acres as additions to existing wilderness areas namely, Mountain Lake Wilderness, Lewis Fork Wilderness, Little Wilson Creek Wilderness, Shawvers Run Wilderness, Peters Mountain Wilderness and Kimberling Creek Wilderness.

H.R. 1011 would designate 3,226 acres in the Jefferson National Forest as the "Lynn Camp Creek Wilderness Study Area." The bill also would designate 349 acres depicted on the map as the "Kimberling Creek Additions Potential Wilderness Area" as a potential wilderness area for eventual incorporation in the Kimberling Creek Wilderness. The bill would set forth requirements regarding ecological restoration within this area and would provide for the designation of the area as a wilderness within 5 years.

In addition, the bill would designate 11,583 acres of the Seng Mountain and Bear Creek areas as National Scenic Areas for purposes of ensuring the protection and preservation of scenic quality, water quality, natural characteristics, and water resources; protecting wildlife and fish habitat; protecting areas that may develop characteristics of old-growth forests; and providing a variety of recreation opportunities.

Finally the bill would direct the Secretary of Agriculture to develop a management plan for the designated national scenic areas. The Secretary also would be required to develop a trail plan for hiking and equestrian trails on lands designated as wilderness by this Act and to develop a plan for non-motorized recreation trails within the Seng Mountain and Bear Creek National Scenic Areas. The bill also would direct the Secretary to develop a sustainable non-motorized trail in Smyth County, Virginia.

We recognize and commend the delegation and the committee for its collaborative approach and local involvement that has contributed to support for this bill. The Department is in support for several of the designations included in the bill but we object to other designations in the bill and to mandatory planning and construction requirements. The Department would like to work with the Committee to offer suggestions which we think will improve H.R. 1011.

**Wilderness Proposals**

During the development or revision of a forest land and resource management plan (LRMP), a National Forest conducts an evaluation of potential wilderness or wilderness study area that satisfies the definition of wilderness found in section 2(c) of the Wilderness Act of 1964. On NFS lands in the eastern United States (east of the 100th meridian) the criteria for evaluating potential wilderness recognizes that much, if not all of the land, shows signs of human activity and modification. The Record of Decision for the revised Jefferson National Forest LRMP, signed on January 15, 2004, was developed over an eleven year period with extensive public involvement. It contains recommendations for 25,200 acres of wilderness study areas, including new wilderness study areas and additions to existing areas designated as wilderness.

The Department supports the provisions in H.R. 1011 that would designate new components of the National Wilderness Preservation System that are consistent with the Jefferson National Forest LRMP recommendations for wilderness study. These areas include the proposed Garden Mountain and Hunting Creek Camp Wilderness areas.

The Stone Mountain area (referred to as Cave Springs area in the LRMP) is entirely underlain by Federal mineral ownership and is not currently under mineral lease. The Jefferson National Forest LRMP recommended this area for wilderness study. Congressional designation would make this the only wilderness within the Cumberland Mountain ecological section in Virginia. The Department supports designation of the Stone Mountain Wilderness Area but is also willing to work with the committee to look at other options for protection.

The Department supports the designation of additions to existing wilderness areas for the following areas: Kimberling Creek A and B additions, Lewis Fork addition, Little Wilson Creek addition, Mountain Lake A and C additions, Peters Mountain addition, and Shawvers Run A addition.

The Department does not oppose the designation of the "Lynn Camp Creek Wilderness Study Area", the Mountain Lake B addition, and Shawvers Run Additions B and C areas. However, we have concerns about the suitability of these additions as components of the National Wilderness Preservation System (NWPS) due to their size and configuration. An additional concern with the Mountain Lake addition B is that it contains a 59 acre private inholding which could require associated road access in the future if the parcel is developed.

The Department does not support the designation as "potential wilderness" for the 349 acre portion of the Kimberling Creek area. The designation "Potential Wilderness" is not a designation referenced in the Wilderness Act of 1964. A subsequent designation of wilderness following a fixed time period and associated compulsory changes in conditions can serve to limit the Secretary's discretion in the allocation of scarce resources and other management actions associated with the administration of the National Forest System and the NWPS. We use the term, potential wilderness, in our wilderness evaluation process under our LRMP efforts to evaluate areas as potential additions to the NWPS. The Kimberling Creek addition was recently acquired as NFS land and in its current condition does not contain the basic natural characteristics that make it suitable for wilderness due to an extensive road network. We would recommend that the committee consider allowing the Secretary to continue the current management prescription for this area which is Dispersed Recreation-Unsuitable. This management emphasis provides for a variety of dispersed recreation uses with minimal vegetation management and would allow use of motorized and mechanized equipment for needed road and trail rehabilitation work. We plan to develop rehabilitation plans and implement these plans within the next 5 to 10 years. While this area was not recommended as a potential wilderness area in the LMP, future wilderness designation of this area could be reevaluated after restoration activities occur.

The Department does not support wilderness designation for the Brush Mountain and Brush Mountain East areas. These areas lie on the north side of Brush Mountain and are separated by a 345 Kilovolt powerline corridor. They were not recommended for wilderness study in LRMP. They contain fire-dependent forest habitat which make up approximately 50 percent of these two areas. Additionally, the areas are largely surrounded by private lands. Wildland urban interface (subdivisions and housing developments) exists on the north and south boundaries. If designated as wilderness, our ability to utilize prescribed fire for the maintenance of southern yellow pine forest communities and to conduct hazardous fuels reduction projects would be hampered in these interface areas. Our ability to use prescribed fire is compromised when we cannot mechanically construct firelines to better control fire management activities. Additionally, the narrow width of, and the bisecting powerline corridor within these areas detract from their naturalness and offer few opportunities for solitude.

The Department could support the designation of the Raccoon Branch area as a wilderness area if agreements are reached in resolving trail maintenance issues in the area and if the requirement contained in section 5(d) of the bill for a sustainable trail is amended to provide more flexibility for any future alternative trail locations. Nearly six miles of the Virginia Highlands Horse Trail (VHHT) and the Dickey Knob Trail traverse this area. These trails are heavily used by both equestrians and mountain bikers. Wilderness designation would eliminate mountain bike use within the area. While equestrian use is compatible with wilderness designation, heavy use and ground conditions along the VHHT necessitate extensive maintenance to maintain the integrity of the trail and protect watershed and other resources values. To maintain the trail to the standards that are needed without mechanized or motorized equipment will require cooperative agreements and commitments from user groups to help in maintenance to protect the resources and to provide for continued equestrian use of the trail.

### National Scenic Area Proposals

Section 4 of H.R. 1011 would establish Seng Mountain and Bear Creek National Scenic Areas (NSA). Although we have concerns over the limitations on our ability to improve black bear habitat as a result of this designation, the Department could support designation of the Bear Creek NSA if allowances were made for seasonal motorized use of Forest Development Road #6251 during hunting season, with the road remaining closed the rest of the year.

The proposed Seng Mountain NSA is within the congressionally designated Mount Rogers National Recreation Area (NRA). The Mount Rogers NRA is managed to provide public outdoor recreation benefits and the continued use by a diversity of recreation uses. The Seng Mountain area contains a motorized trail, the Barton Gap Trail #4624. Motorized use of the trail would be prohibited under H.R. 1011. The Barton Gap Trail is one of only five designated motorcycle trails on the George Washington and Jefferson National Forests and is an important part of the diversity of recreation opportunities that we provide the visitors that use the Forest and the Mount Rogers NRA. The Department would like to work with the committee to resolve any confusion resulting from the overlapping designations for the Seng Mountain area. The Department could support designation of the Seng Mountain NSA if the overlapping designation issue is clarified and if continued motorized use on the Barton Gap Trail was allowed.

### Trail Development Plans

H.R. 1011 would require the Secretary to establish a trail plan to develop hiking and equestrian trails on lands designated as wilderness by this bill. The designated lands would be administered in accordance with the Wilderness Act. Trail development in wilderness rarely occurs in order to preserve wilderness character. The Forest Service already addresses trail management and planning standards within the LRMP planning process. The Department considers the requirement to develop additional trail plans to be unnecessary.

H.R. 1011 also would require the Secretary to develop a sustainable trail to provide a continuous connection for non-motorized travel between County Route 650 and Forest Development Road 4018. This trail would be along State Route 16. We believe that it would be costly and difficult to provide a trail in this general location that would be safe for both equestrians and mountain bikers. The existing gravel road (State Route 650), is winding and narrow and contains several blind curves. It receives high local use and is the main access road for campers and recreational vehicles to enter Hurricane Campground. Further, a potential connector trail for horses and bikes from Route 650 along the route of the old Marion-Rye Valley rail bed would require crossing State Route 16, a 55-mph state highway that receives heavy commercial use, in a location with poor sight distance. Trail construction along the stream would be unlikely to meet our Forest standards for riparian protection. The Department does not support such a requirement to construct trail facilities without adequate consideration for alternatives, priorities and funding sources.

This concludes my statement, I would be happy to answer any questions that you may have.

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Mr. GRIJALVA. Thank you, sir. In my opening statement I mentioned that, with regards to H.R. 523, that there was some concerns and some need for clarification on some points. And to that end, to get some clarification as this legislation moves, let me ask Mr. Ferguson a couple of questions.

The BLM parcels that would be sold under the legislation, have they been formally identified for disposal by BLM, on a BLM land use plan?

Mr. FERGUSON. None of the lands that are identified in this bill are included as being identified for disposal under the land use plan, which was approved in about 1987.

Mr. GRIJALVA. So that means that they could not be sold administratively?

Mr. FERGUSON. Generally, our focus is on either disposal through exchange or sale only of parcels identified for sale or disposal in our land use plans.

In this case, we cannot take any administrative action because they have been reserved for power site purposes.

Mr. GRIJALVA. And let me go back. Why aren't they listed for disposal?

Mr. FERGUSON. Because they were reserved in 1962 for power site purposes. So when we did the land use plan, that was the driver for those parcels.

Mr. GRIJALVA. And so if we wanted, if BLM wanted to identify these parcels for disposal, that would require amending the land use plan as it stands currently?

Mr. FERGUSON. It would actually require several steps. It would require approval from the Federal Energy Regulatory Commission. It would require amending the land use plans. It would require appraisals. And it would require public notification.

Mr. GRIJALVA. Public notification, public comment would be part of that.

Mr. FERGUSON. Right. Yes, sir.

Mr. GRIJALVA. So if we legislate through this legislation, do you have any concern that the public then would not have any opportunity to, A, be notified, and B, comment?

Mr. FERGUSON. Well, I believe, by virtue of having hearings, it affords the public an opportunity to provide some comment.

Mr. GRIJALVA. If BLM owns the land during the relicensing process, do you anticipate, would you anticipate putting any requirements on the license to, say, protect resources on those public lands.

Mr. FERGUSON. The current license runs through 2012. It is too early for us to really know what kind of conditions or recommendations we would provide for the proposal.

Mr. GRIJALVA. So at this point it would be, so any different requirements, any conditions would be down the road, as we approach 2012?

Mr. FERGUSON. Yes, sir. It is a little too early for us to evaluate that.

Mr. GRIJALVA. Let me ask you about precedent, and then I will move on.

Any concern on the part of BLM that we might set a precedent here that could be a bad precedent, where anyone seeking a new license would try to get BLM or other agencies to sell any land they own within that boundary.

Mr. FERGUSON. I believe that we can consider any future proposals that are similar on a case-by-case basis. I am sure there are people who may raise that concern, you know. In this particular case we have on the order of a dozen small, isolated parcels that total 622 acres. I suspect that we would want to look a little deeper and a little more closely if it was a large piece and involved more significant resources.

Mr. GRIJALVA. OK. Last point. And if I may, the issue of public access. What current rules do we have regarding public access to the river on the parcels that are owned by BLM?

Mr. FERGUSON. We have no specific rules. It is an undeveloped site. It is just open to public access.

Mr. GRIJALVA. So the access is available——

Mr. FERGUSON. Yes, sir.

Mr. GRIJALVA.—pretty readily. How do you expect, if the land is sold to the public utility, do you anticipate those open-ended rule in terms of accessibility to continue, or not?

Mr. FERGUSON. I wouldn't want to speculate on what the public utility district would want to do. I think if there is a concern over that, that may be something that Congress may want to consider in providing some protections within the legislation.

Mr. GRIJALVA. Very kind, thank you. And let me turn to Mr. Sali. And I probably, I have some questions for Mr. Holtrop, but in the second go-around. And my time is up now, sir.

Mr. SALI. Mr. Chairman, Mr. Hastings has time problems. If I could just trade spots with him, let him go right now.

Mr. GRIJALVA. Sir?

Mr. HASTINGS. Thank you very much, Mr. Chairman. And thank you once again for your courtesy in allowing me to come up here on the dais.

For Mr. Ferguson, thank you for being here and for your agency working with the PUD on this over the last several years.

One of the concerns that you referenced in your testimony was the bald eagle. We have a lot of bald eagles up in our part of the country.

Just to clarify, are bald eagles nesting on the BLM parcels that are affected by this bill?

Mr. FERGUSON. I am not aware of any nest sites on any of these parcels. I know there are some roost sites. I am not aware of any nesting.

Mr. HASTINGS. Right. One of these, it just dawned on me, one of these sites to be transferred is underwater, is that correct? That BLM owns, that is underwater?

Mr. FERGUSON. I believe at least one of them, yes.

Mr. HASTINGS. Yes. Generally speaking, and this is I think probably overall for your agency, is BLM seeking to consolidate its smaller, isolated parcels into larger ones? And if, in fact, you are, would this conveyance then be consistent with that policy?

Mr. FERGUSON. First of all, the conveyance would be consistent with the policies that we have. In general, we look at small, isolated tracts that are difficult to manage as being available for disposal.

Again, that was not the case with these, because of the power site withdrawal.

Mr. HASTINGS. And because the way they are physically located within the project.

Mr. FERGUSON. Yes.

Mr. HASTINGS. But overall, though, I mean, if the desire is to consolidate BLM land which happens, I know, sometimes in a checkerboard pattern in various parts, this would be consistent with at least that consolidation, because this is isolated. Would that be a correct statement?

Mr. FERGUSON. Yes, sir, it would.

Mr. HASTINGS. OK. And finally, when you were responding to the Chairman about the relicensing, to date you have not indicated any interest in opposing any conditions at all, or taken a position, on the relicensing of the Wells Dam.

Mr. FERGUSON. To my knowledge, we have not even begun conversations about what we might or might not consider in the way of recommendations.

Mr. HASTINGS. OK. So it is fair to say, I mean, obviously nothing is set in concrete, but your interest is zero right now. That could change. But your interest is zero right now, is that correct?

Mr. FERGUSON. I hesitate to say our interest is zero. But your point that we have not really taken an active role in discussions is correct.

Mr. HASTINGS. OK, all right. Thank you. Thank you very much, Mr. Chairman. Again, thank you for the courtesy; I appreciate it.

Mr. GRIJALVA. Thank you very much, sir. Mr. Sali, any questions?

Mr. SALI. I think I heard you say just a few minutes ago that mountain biking would be an excluded recreational activity in wilderness areas, and yet I heard Congressman Boucher a few moments ago describe mountain biking as one of the recreational opportunities that would exist for the area in H.R. 1011.

Is he correct, or are you correct?

Mr. FERGUSON. We are both correct. The National Wilderness Preservation System, we do not allow mountain biking in designated wilderness. This piece of legislation does also have a couple of national scenic areas designated, which, through negotiations and discussions with the Mountain Biking Association, were decided to be national scenic areas so that mountain biking could continue to be used in those areas, as well as in the Raccoon Branch Wilderness Area, which has a currently popular mountain bike trail.

Legislation designates an alternate route to be constructed around that, which is one of those areas that we have some concern over the designation of that specific route.

Mr. SALI. Can you describe for me, in terms of percentage of the amount of land we are dealing with, what part will be allowed, mountain biking be allowed on, and what part will it be excluded from? What percentage?

Mr. FERGUSON. Well, of the parcels of land that we are describing in this particular piece of legislation, the 39,000 acres or so that would be designated wilderness would not have mountain biking on it. The wilderness study and the potential wilderness that are included in here would eventually, if they became wilderness, would not allow mountain biking. And the national scenic areas, which are nearly 12,000 acres, would allow mountain biking.

Mr. SALI. And 12,000 acres for all three of those last categories?

Mr. FERGUSON. The national scenic areas is around, is 11,583 acres.

Mr. SALI. And the wilderness study areas, and there was one other category?

Mr. FERGUSON. The wilderness study area is 3,226 acres; the potential wilderness, 349 acres. So it is another 3,500 acres.

Mr. SALI. So on about a third of it it would be allowed, and—well, actually less than a third, I guess.

Mr. FERGUSON. Of these particular parcels. Of course, that has to be understood in the context of a 1.8 million acre national forest.

Mr. SALI. Right. Can you describe what is a forest plan? How it is developed, what does it cost. You know, why do we use it, those kinds of things?

Mr. FERGUSON. Certainly. The forest plans are required of each of our national forest units, under the National Forest Management Act. And they, under the regulations that the Jefferson National Forest Plan was prepared, which was completed in 2004, it took us many years of work and millions of dollars to prepare this plan.

It provides long-term direction on the allocation of the land resources, taking into account a consideration of the various uses that the national forests are set aside for, both providing opportunities for public services and recreational opportunities, and timber opportunities, and oil and gas, and mineral extraction, as well as protecting ecosystems.

And the forest plan is a publicly, is a public process that we go through in order to make some determinations as to how we recommend the forest is going to be managed in the long term.

Mr. SALI. Does H.R. 1011 follow the guidelines of the forest plan?

Mr. FERGUSON. There are aspects of H.R. 1011 that are very specifically similar to what our forest plan has. There are other aspects of it which are somewhat different than what our forest plan recommendation was. And then there are some in which it was different enough that we had a hard time becoming comfortable with that.

The forest plan is, it is a plan that we are very comfortable with. We are confident in the forest plan that we put together. We are confident in the public process that we used. But we aren't so certain that that is the only possible appropriate approach to take, and that there are other public processes that come into play, including Congress's ability to take a look at both our forest plan and other input that they get as to what wilderness designations, because Congress will pass the laws to actually designate wilderness.

What we try to do is to encourage looking at what our forest plan has included as its recommendation. And then, if there are additional recommendations for additional wilderness beyond what our forest plan said, we look at how we felt, why we made the decisions that we made. Are there aspects of having a wilderness that causes us such concern that we can't at least be somewhat supportive of it? And so we do some weighing as we look at a piece of legislation.

Mr. SALI. Can you kind of follow up and describe which areas are outside of the forest plan, with respect to H.R. 1011? And your level of discomfort, I guess.

Mr. FERGUSON. I can talk about that. Several of the wilderness additions are consistent with the forest plan. A couple of the new wilderness areas are consistent with the forest plan.

The areas in the legislation that are significantly, that are different enough from the forest plan for reasons—and it is not just because it is different from the forest plan, but the resource reasons that we considered in making our recommendations.

The areas that created the greatest discomfort for us were the Brush Mountain and Brush Mountain East designations, as well as we struggled with the Raccoon Branch designation, mostly because

of the trail issues associated with that, recognizing the importance of continuing to provide mountain biking opportunity, and also recognizing the difficulty of providing a safe, economically feasible trail as an alternative.

Mr. SALI. Thank you, Mr. Chairman.

Mr. GRIJALVA. Thank you, Mr. Sali. Let me, before they are going to call us to vote, and hopefully we will get done with this panel and the questions, let me, Mr. Holtrop, let me ask you a couple of questions relative to the legislation introduced by our colleague.

We are going to work on your comfort level for a little while there. You raised some concerns about the term potential wilderness. And the concept is not new. I am sure you are aware that this concept was used in the Northern California Coastal Wild Heritage Act, the Creek Wilderness, and the Illinois Wilderness. Am I correct that that term was used in those designations?

Mr. HOLTROP. I don't recall for sure. I don't know that it has been used before. And it is certainly used in even our own planning process.

Mr. GRIJALVA. Let us go to another point that you mentioned in your response to my colleague, the Ranking Member's, questions. That had to do with, your testimony that you do not support the wilderness designation for Brush Mountain and Brush Mountain East areas.

However, the local County Board of Supervisors, the neighborhood association closest to the areas, have endorsed the proposal. And so the concern about the wildland-urban interface I think has been addressed by these local landowners.

I also understand that the bill sponsors offered to work with the Forest Service to incorporate fire language from the Northern California Coastal Wild Heritage Act. And was this language offer accepted or rejected with regard to the Forest Service, sir?

Mr. HOLTROP. I can't address directly the question about the language from the Northern California Forest Protection Act. But what I can say is that there are a variety of reasons why we do not support the Brush Mountain and the Brush Mountain East wilderness proposal.

Some of those reasons are because there are some ecosystem needs for the use of fire for maintaining an ecosystem in that area, and that the burgeoning growth of the wild and urban interface on both sides of that.

But there is also the fact that it is a very long, narrow corridor, with roads on both sides, a power line corridor through it. It doesn't really provide the type of solitude experience that you expect in wilderness.

Mr. GRIJALVA. Another point that you made, that the Forest Service could support the Raccoon Branch wilderness area if agreements were reached on trail maintenance on the Virginia Highlands Horse Trail. I think you mentioned that.

Mr. HOLTROP. That, and if we can address the issues of an alternative trail for mountain biking.

Mr. GRIJALVA. I am going to submit for the record a grievance submitted to the Forest Service for voluntary services, from several local individuals and groups, to perform the trail maintenance in the Raccoon Branch. The Forest Service has been provided with



copies of these documents. I would ask you, and you could submit that later, to look at these documents, and respond to us at some point whether they address your concerns or not in terms of the maintenance question.

Mr. HOLTROP. I would be happy to do that. I am aware that that work has been done. I appreciate the work of the sponsors in the committee to work on working out those types of arrangements.

This is a trail that requires a considerable amount of work. And the continuing dialogue we would have to have is the long-term commitment and the clear recognition of the magnitude of the tasks that these organizations are agreeing to take on.

Mr. GRIJALVA. My cursory look at those agreements, I think that the commitment is a solid one, and I would hope that you would review those documents that are available to you.

Mr. HOLTROP. We would be happy to.

Mr. GRIJALVA. I wanted to mention one last thing. And Mr. Bishop is here; I don't know if he has any questions.

You mentioned also, Mr. Holtrop, that the designation issue that we are talking about, there is two levels of comfort. And you know, it is a prerogative of Congress to do those designations, given the information at the hearing and the quality and content of the legislation that we are reviewing.

And I would hope that as we go through this process, that I think many of the concerns that you raised have been addressed, or attempted to be addressed, and we will review those. If there is any additional issues that you want to raise, if you could submit those to us. But at least my look at it, it seems a lot of the points that you are bringing as points of discomfort have been dealt with at some point or another with that legislation. But that is an opinion at this point.

With that, any other questions? We have votes. Do you want to come back, Mr. Bishop? You are next.

Mr. SALI. I am done.

[Discussion held off the record.]

Mr. GRIJALVA. Are there going to be any additional questions, Mr. Shuler, Mr. Bishop, for the panel? No.

OK, thank you very much. And then we will resume I would hope in an hour or less, after we take these votes. Thank you very much.

[Recess.]

Mr. GRIJALVA. I reconvene the committee meeting, and welcome our next panel. Thank you very much, gentlemen. And let me begin with Mr. Davenport, please.

**STATEMENT OF TOM DAVENPORT, MANAGER,  
MOUNT ROGERS OUTFITTERS, DAMASCUS, VIRGINIA**

Mr. DAVENPORT. Mr. Chairman Grijalva, Members of the Subcommittee, thank you for the opportunity to express my views as a businessperson on H.R. 1011, the Virginia Ridge and Valley Act, introduced by Representative Rick Boucher.

My name is Tom Davenport. I am the Business Manager for Mount Rogers Outfitters, an outdoor recreation retail establishment focused primarily on the backpacking and hiking segment of

the market, located in Damascus, Virginia. I have lived in Damascus for the past 16 years.

First I want to highlight the significant role the outdoor recreation retail industry plays in the U.S. economy, generating \$289 billion annually in sales and services. It exceeds the sales of segments such as pharmaceutical and medicine manufacturing, automobile and light truck manufacturing, power generation and supply, and the motion picture and video industry, among others.

Outdoor retailing is also significant in the Southeast, generating \$51.3 billion in sales annually, and supporting nearly 800,000 jobs, more than any of the other eight census regions in the U.S.

Outdoor retailing is also significant in small communities such as ours, in the Ninth Congressional District. Over the past 10 years, the town of Damascus has grown a respectable tourism-based economy. We have achieved national recognition in Backpacker Magazine and the Wall Street Journal.

Our local economic success rests largely on two factors: A fair amount of entrepreneurial talent, and two, the proximity of a significant outdoor-resource attraction.

People come to Damascus not because there is something to do or see in the town, but because of the recreational opportunities on the national forest. Because of the nature of our business, because of our proximity to national forest lands, and because of our interest in the quality of our outdoor recreation opportunities, we are actively involved in the management of national forests. We help maintain trails, we collaborate in public-participation opportunities, and we participate in forest plan processes.

The managers of the Mount Rogers National Recreation Area have been supportive and responsive to the needs of our business, as well as other outdoor recreation businesses in Damascus. We view the Forest Service as a partner, and share a credit with them for the economic revitalization in our community.

We think we are being realistic, however, in recognizing that the direction of national forest management can swing on political considerations, independent of our ability to control or influence them locally. We think that it is in our economic self-interest to secure the present and future integrity of a few of the best places on the national forest. We think it is in the economic self-interest of much of the rural portion of the region encompassed by the Ninth Congressional District.

We were pleased to see the Boards of Supervisors of Smyth County, Bland County, Montgomery County, and Craig County endorse the permanent protection of these Federal lands in their district.

Given the scale and distribution of Federal lands in the district, outdoor recreation retail sales could play a significant role in other local economies, just as it does in Damascus.

Economics is about how to best utilize our natural, human, and capital resources to ensure our long-range future. The designations contained in the Virginia Ridge and Valley Act we think provide the most secure assurance that a key component of our economic vitality, our resources attraction, remains a high-quality resource.

We ask that you advance this legislation.

I will be glad to answer any questions the committee may have.

[The prepared statement of Mr. Davenport follows:]

**Statement of Tom R Davenport, Business Manager for Mt Rogers Outfitters,  
on H.R. 1011, The Virginia Ridge and Valley Act**

Chairman Grijalva, Ranking Member Bishop and members of the Subcommittee, thank you for the opportunity to express my views as a businessperson on H.R. 1011, the Virginia Ridge and Valley Act, introduced by Representative Rick Boucher.

I am the business manager for Mt Rogers Outfitters, an outdoor recreation retail establishment focused primarily on the backpacking and hiking segment of the market.

I am a relative newcomer to the retail industry; the first 25 years of my career were in manufacturing management.

I am pleased now to be a part of a growing sector of the U.S. economy rather than a declining one. Nationwide the outdoor recreation retail industry generates \$289 billion annually in retail sales and services. This makes outdoor recreation retailing big business, exceeding the sales contributions of several economic sectors, including pharmaceutical and medicine manufacturing; automobile and light truck manufacturing; power generation and supply; securities, commodity contracts, and investing; legal services; and the motion picture and video industry.

Outdoor recreation retailing is also big business in the southeast. Of nine geographic census divisions in the U. S., the South Atlantic Region, which includes Virginia, generates more active outdoor recreation sales than any other, followed by the Pacific Region. In our region the industry generates \$51.3 billion in retail sales annually and supports nearly 800,000 jobs.

One significant feature about our industry is that you do not have to be a big operator to participate. It does, however, require a fair measure of entrepreneurial talent, and it requires a significant natural resource attraction.

Our business is a small operation. We are located in Damascus, VA, a small community (population 981) surrounded on three sides by National Forest lands. Our business was the first outdoor retail business in Damascus, founded in 1991 by Dave Patrick, who, the previous year, was the first person from the area to complete a thru hike of the Appalachian National Scenic Trail (AT). The Appalachian Trail, in fact, follows a course down the main street of Damascus and on the sidewalk in front of our store.

Long distance hikers and backpacking enthusiasts recognize the area around Damascus as an outstanding backpacking venue. The June, 2006 edition of Backpacker Magazine highlighted the section of the AT from Grayson Highlands to Damascus as the best weekend hike on the entire AT. The article refers to our store as "the AT's top hiking store". Last year, the Wall Street Journal ran a feature about the "Trail Days" festival in Damascus, an event that draws maybe 20,000 people to our small town for a reunion and celebration of the hiking adventure.

The economy of the town of Damascus is highly dependent on the National Forest and the natural resources and scenic quality of the area. We do have one light industrial facility on the outskirts of town and one general service grocery store. All other economic activity revolves around outdoor recreation, mostly on National Forest. People come to Damascus, not because there is something to do or see in the town, but because of the recreational opportunities in the National Forest.

So far, we have managed to build our economic base locally, meaning that there are no regional or national chain-store franchises operating in the town—with the exception of gasoline service stations and one minor food establishment.

The vast majority of the customers and clients that we serve at Mt Rogers Outfitters come from outside the area, even outside the state of Virginia. North Carolina, Ohio, Indiana, Michigan, and Florida stand out as major sources of our customer base. We are, therefore, bringing "new" money into the area. We provide a variety of products and services for the customer. We emphasize gear that is functional (as opposed to gadgetry or fashion); we emphasize fit and performance (providing impromptu demonstrations and comparisons of products along with fit workshops); we provide detailed consultation in planning the ventures; we provide a bunkhouse for overnight stays in town; and we provide transportation to and from various trailheads. More importantly, we provide a gateway to a valued resource—one our customers cannot access in their home area.

Many of our customers are, or become, long distance hikers or they seek off trail adventures to strengthen their outdoor skills and enhance their outdoor experience. Most of our customers value the solitude, remoteness, and natural qualities associated with the National Forests in our region. The comments we hear from these

folks show that they connect with the mountains and forest in a very powerful and dynamic way, and that their experience elicits very strong emotions.

Because of the nature of our business, because of our proximity to National Forest lands, and because of our interest, and our customer's interest, in the quality of our outdoor recreational opportunities and experience, we have been actively involved in participation in the management of the National Forest. We help maintain trails, we collaborate in public participation opportunities, and we participated in the forest plan revision process.

During that planning process we advocated for Wilderness recommendations for Seng Mountain, Raccoon Branch, Garden Mountain, Hunting Camp/Little Wolf Creek, and for the proposed additions to Lewis Fork and Little Wilson Creek. These are the areas most frequently visited by our customers according to our shuttle records.

We readily acknowledge that the management activities of the Forest Service in our service area have been generally sound and reasonable. The managers of the Mt Rogers National Recreation Area have been supportive and responsive to the needs of our business as well as the other outdoor recreation businesses that have recently sprung up in Damascus. We view the Forest Service as a partner and share credit with them for the economic revitalization in our community.

We think we are being realistic, however, in recognizing that the direction of National Forest management can swing on political considerations independent of our ability to control or influence them.

We think it is in our economic self interest to secure the present and future integrity of a few of the best places. Indeed we think it is in the economic self-interest of much of the rural portion of the region encompassed by the Ninth Congressional District. We were pleased to see the Smyth County and Bland County boards of supervisors endorse the permanent protection of these special areas in their counties. Given the scale and distribution of Federal lands in the District, outdoor recreation retail sales could play an increasingly significant role in other local economies, just as it does in Damascus.

Economics is about how to best utilize our natural, human, and capital resources to ensure our long range future. The designations contained in the Ridge and Valley Act provide the most secure assurance that a key component of our economic vitality—our resource attraction—remains a high quality resource. We ask you to advance the Virginia Ridge and Valley Act.

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Mr. GRIJALVA. Thank you very much. We will turn to Mr. Muffo, Montgomery County Board of Supervisors.

**STATEMENT OF JOHN MUFFO, SUPERVISOR, MONTGOMERY COUNTY BOARD OF SUPERVISORS, BLACKSBURG, VIRGINIA**

Mr. MUFFO. Chairman Grijalva, Ranking Member Bishop, and Members of the Subcommittee, I am John Muffo, a member of the Montgomery County Board of Supervisors. And I would like to thank you for providing me with the opportunity to testify today in support of H.R. 1011, the Virginia Ridge and Valley Act.

I have lived in this area for 22 years, and it is easy to understand why the Montgomery County slogan is "naturally good for business." We are located along Virginia's technology corridor and the Blue Ridge Mountains. Our county is home to Virginia's largest and most technologically oriented university, Virginia Tech.

The nationally renowned Virginia Tech Corporate Research Center is home to a college of osteopathic medicine, and over 100 companies engaged in leading-edge technology research.

Amidst this growing development, Montgomery County is blessed with beautiful mountains and valleys and streams. Hiking, fishing, hunting, mountain biking, and other outdoor activities are enjoyed by residents and visitors alike. The Blue Ridge Parkway is easily accessible. The nearby Claytor Lake State Park is one of the most popular parks in the entire state.

The New River, which, by the way, is the second-oldest river in North America, is a popular destination for canoeing, fishing, and tubing. Hiking and mountain biking trails abound, and are used widely. And most importantly, over 19,000 acres of the Jefferson National Forest are located in Montgomery County.

During the Forest Service planning process in 2003, the Montgomery County Board of Supervisors adopted a resolution supporting wilderness designation for portions of Brush Mountain in Montgomery County. This resolution was adopted after a series of public meetings by the Board, with significant public input.

While the Forest Service did not include our recommendations in the final plan, I am pleased that Senator Warner and Congressman Boucher did listen to the citizens and the Board of Supervisors, and did include the Brush Mountain wilderness area in the Virginia Ridge and Valley Act.

The Board considered a number of factors when we voted to support a Brush Mountain Wilderness Area. First, and most importantly, we believe that the designation of the Brush Mountain Wilderness Area would enhance the quality of life for our constituents.

The designation of portions of Brush Mountain as wilderness area ensures that this section will be enjoyed by current and future generations in its natural state. The protection of viewsheds is a high priority for the Montgomery County Planning Commission and the Board of Supervisors.

Brush Mountain is a natural scenic backdrop for Blacksburg and nearby communities, and should be preserved to the extent possible.

The County Comprehensive Plan recognizes and promotes the fundamental notion that the county's natural resources are vital to the county's quality of life, and provides substantial economic and recreational opportunities for the citizens of Montgomery County.

Eco-tourism already benefits Montgomery County and has the potential to grow. It is a key element of the county's economic development plan. The Brush Mountain Wilderness Area, along with other outdoor activities, would certainly enhance Montgomery County as an attractive destination for outdoor enthusiasts.

Looking at these factors, it is clear that the designation of the Brush Mountain Wilderness Area is a good investment for our community.

Mr. Chairman, we in Montgomery County appreciate our national forest lands, and support responsible stewardship of those lands. Certain timber harvesting is an integral part of that forest plan, but so, too, should be other activities and considerations, such as recreation and viewshed preservation.

As a member of the Board of Supervisors, I have learned that as our county grows at a rate of 1,000 people a year, approximately so, so do the demands for more recreational opportunities. The Jefferson National Forest offers a wide variety of outdoor activities that my constituents enjoy every day.

Whether it is hiking, hunting, bird watching, fishing, or just enjoying nature, this area is what makes Montgomery County special. That is why the designation of the Brush Mountain Wilderness Area is so important. Favorable Congressional action would set aside a small portion of the forest for all to enjoy.

I urge that the committee pass the Virginia Ridge and Valley Act.

Thank you, and I will be happy to answer any questions that you may have. And as an aside, I shared these comments with my fellow supervisors before coming here, and there were no negative comments in regards to them.

Thank you.

[The prepared statement of Mr. Muffo follows:]

**Statement of The Honorable John A. Muffo, Montgomery County Board of Supervisors, on H.R. 1011, the Virginia Ridge and Valley Act**

Chairman Grijalva, Ranking Member Bishop and members of the Subcommittee, I am John Muffo, a member of the Montgomery County Board of Supervisors, and I would like to thank you for providing me with the opportunity to testify today in support of H.R. 1011, the Virginia Ridge and Valley Act.

It is easy to understand why Montgomery County's slogan is "Naturally good for business." We are located along Virginia's Technology Corridor in the Blue Ridge Mountains. Our county is home to Virginia's largest and most technologically oriented university, Virginia Tech. The nationally renowned Virginia Tech Corporate Research Center is home to a college of osteopathic medicine and over 100 companies engaged in leading-edge technology research.

Amidst this growing development, Montgomery County is blessed with beautiful mountains and valleys and streams. Hiking, fishing, hunting, mountain biking and other outdoor activities are enjoyed by residents and visitors alike. The Blue Ridge Parkway is easily accessible. The nearby Claytor Lake State Park is one of the most popular parks in the entire state. The New River, which is the second oldest river in North America, is a popular destination for canoeing, fishing, and tubing. Hiking and mountain biking trails abound and are widely used. And most importantly, over 19,000 acres of the Jefferson National Forest are located in Montgomery County.

During the Forest Service Planning process in 2003, the Montgomery County Board of Supervisors adopted a resolution supporting wilderness designation for portions of Brush Mountain in Montgomery County. This resolution was adopted after a series of public meetings by the Board and with significant public input. While the Forest Service did not include our recommendation in the final plan, I am pleased that Senator Warner and Congressman Boucher did listen to the citizens and the Board of Supervisors and did include the Brush Mountain Wilderness Area in the Virginia Ridge and Valley Act.

The Board considered a number of factors when we voted to support a Brush Mountain Wilderness Area. First and most importantly, we believed that the designation of the Brush Mountain Wilderness Area would enhance the quality of life for our constituents. The designation of portions of Brush Mountain as wilderness area ensures that this section will be enjoyed by current and future generations in its natural state.

The protection of viewsheds is a high priority for the Montgomery County Planning Commission and the Board of Supervisors. Brush Mountain is a natural scenic backdrop for Blacksburg and nearby communities and should be preserved to the extent possible.

The County Comprehensive Plan recognizes and promotes the fundamental notion that the County's natural resources are vital to the County's quality of life and provide substantial economic and recreational opportunities for the citizens of Montgomery County.

Eco-tourism already benefits Montgomery County and has the potential to grow. It is a key element of the county's Economic Development Plan. The Brush Mountain Wilderness Area, along with other outdoor activities, would certainly enhance Montgomery County as an attractive destination for outdoor enthusiasts.

Looking at those factors, it is clear that the designation of the Brush Mountain Wilderness Area is a good investment for our community.

Mr. Chairman, we in Montgomery County appreciate our national forest lands and support responsible stewardship of those lands. Certainly timber harvesting is an integral part of the forest plan, but so too should be other activities and considerations such as recreation and viewshed preservation.

As a member of the Board of Supervisors, I have learned that as our county grows at a rate of approximately 1,000 people per year, so do the demands for more recreational opportunities. The Jefferson National Forest offers a wide variety of outdoor activities that my constituents enjoy every day. Whether it is hiking, hunting,

birdwatching, fishing or just enjoying nature, this area is what makes Montgomery County special.

That is why the designation of the Brush Mountain Wilderness Area is so important. Favorable Congressional action would set aside a small portion of the forest for all to enjoy. I urge that the Committee pass the Virginia Ridge and Valley Act.

Thank you. I will be happy to answer any questions that you may have.

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Mr. GRIJALVA. Thank you, Mr. Supervisor. We turn to Gerald Gray.

#### **STATEMENT OF GERALD GRAY, CLINTWOOD, VIRGINIA**

Mr. GRAY. Chairman Grijalva, Ranking Member Bishop, and Members of the Subcommittee, thank you for the opportunity to testify today in support of H.R. 1011, the Virginia Ridge and Valley Act.

My name is Gerald Gray; I am an attorney in Clintwood, Virginia, in Dickenson County, in Congressman Boucher's district. Dickenson County is located in far southwestern Virginia. The northern boundary of the county borders Kentucky, and on that state line there is a small portion of the Jefferson National Forest which separates the two states.

Although my home county isn't slated for any proposed wilderness designation, nearby also in the district is the Stone Mountain Wilderness Area, which I think is a very good addition to the Jefferson National Forest, and it is in nearby Lee County.

I have lived and practiced law in Dickenson County since 1973. During that time I served two terms as the Commonwealth's Attorney. I currently serve on the Industrial Development Authority, the Chamber of Commerce Board, as well as the Board of Directors of the Ralph Stanley Museum and Traditional Mountain Music Center.

I am also President of the Virginia Forest Watch, and I serve on the Board of Directors of the Virginia Conservation Network. But I am not here to testify before you this afternoon on behalf of any of these organizations or boards; I am here as a user of the national forest area. I am a fisherman and a horseback rider. I believe that it is very important to protect these special places of the Jefferson National Forest, and this proposed Act is going to accomplish just that.

I am a fly fisherman. I have fished many of the rivers and creeks in the Jefferson National Forest, including those in the existing wilderness areas and the areas that are going to be expanded under this law. I have caught a lot of native trout throughout the national forests in Virginia and elsewhere. I fully support the public stewardship of our public lands.

My wife and I are avid horseback riders. We have ridden many of the trails within the Jefferson National Forest, including those in existing wilderness areas. We have many friends who share our passion for the woods and the trails in the national forests.

I believe that horseback riding gives a unique perspective of the natural beauty of our forests. That is why I fully support H.R. 1011. This legislation would protect nearly 55,000 acres in the Jefferson as wilderness, wilderness study, or a national scenic area. It is a balanced bill, resulting from an open process which

took a number of years, which involved public consultation and input.

As a result of this inclusive process, the bill enjoys broad support in the local communities that would be affected by these designations.

I particularly want to commend Senator Warner and my Congressman, Rick Boucher. I think that this Act is a good example of a collaborative effort in developing legislation. As the committee may be aware, the areas included in H.R. 1011 are based on either the recommendations of the National Forest Service, or were endorsed by the local County Board Supervisors, such as Mr. Muffo's board in Montgomery County. These criteria to develop and determine which areas ought to be designated, developed by Congressman Boucher and Senator Warner, have maximized, in my opinion they have maximized public participation.

My wife and I, in fact, did participate in the forest planning process for the Jefferson. We attended planning meetings held throughout the area, participated in the various working groups, and submitted our comments.

And while I appreciate the effort that went into the final plan, I do believe that the final plan fell short of providing a level of protection and wilderness that a majority of the public had supported. I believe that it is essential that we protect and preserve these rare treasures available in the Jefferson, and it is essential that our children and their children have the opportunity, the same one that we have had, to experience the wonder and beauty of the national forest.

To reach the final result, as expressed in the Virginia Ridge and Valley Act, the Forest Service process was supplemented by several boards' and supervisors' actions. Under this process, citizens were able to present their views to their local elected officials, who were able to consider areas within the local context. At a local level, the citizen voices were heard. The result, expressed in the Act, was a blending of the Forest Service process and local input. I like the comprehensive approach, and I ask that this Subcommittee support that approach.

Some critics of the legislation claim wilderness designation will put these areas off limits to hunting, fishing, or horseback riding. Although I am not a hunter, I can tell you from the aspect of fishing and horseback riding, that is simply not true. I believe that the wilderness designation is essential to maintain the pristine quality of these areas. By so doing, the quality of the experience is maintained and improved.

Mr. Chairman, I urge the committee to approve H.R. 1011. The bill's result, as I stated before, of extensive public input is crucial to maintaining and improving a high quality of life in southwestern Virginia.

Thank you for your attention.

[The prepared statement of Mr. Gray follows:]

**Statement of Gerald L. Gray, Clintwood Virginia,  
on H.R. 1011, The Virginia Ridge and Valley Act**

Chairman Grijalva, Ranking Member Bishop, and members of the Subcommittee, thank you for allowing me to testify today in support of H.R. 1011, the Virginia Ridge and Valley Act.



I am Gerald Gray. I am a resident of Dickenson County, in Southwestern Virginia. Dickenson County borders Kentucky, and is home to a portion of the Jefferson National Forest near the top of the mountain ridge which separates the two states. Although my home county is not slated for wilderness or other designation, the proposed Stone Mountain Wilderness is located in nearby Lee County.

I have lived and practiced law in Dickenson County for over 30 years. During that time, I have served as the Commonwealth's Attorney (1984-1991). I am currently a member of the Boards of the Dickenson County Industrial Development Authority, The Ralph Stanley Museum and Traditional Mountain Music Center, and the Dickenson County Chamber of Commerce.

I also am the President and Chair of the Board of Directors of Virginia Forest Watch, <http://www.virginiaforestwatch.org>) grass-roots based coalition of individuals and environmental groups, and I am a board member and serve on the Executive Committee of the Virginia Conservation Network, <http://www.vcnva.org>) a state-wide coalition of conservation groups, which is also the Virginia affiliate of the National Wildlife Federation.

I am here to testify today, not as a representative of any of those organizations, but as an individual who personally enjoys our forestlands and who recognizes the need to protect the special places of the Jefferson National Forest.

Mr. Chairman, I enjoy the woods. I am a fly-fisherman and have fished many of the rivers and creeks in the Jefferson National Forest, including those in existing wilderness areas. I have caught many (and released most) native trout throughout the National Forests in Virginia and elsewhere. I fully support public ownership and stewardship of our public lands.

My wife and I are avid horseback riders. We have ridden many of the trails within the Jefferson National Forest, including those in existing wilderness areas. We have many friends who share our passion for the woods, and the trails in the National Forests. I believe that horseback riding gives a unique perspective of the natural beauty of our forests.

That is why I fully support H.R. 1011. This legislation would protect nearly 55,000 acres of the Jefferson National Forest as wilderness, wilderness study or national scenic areas. It is a balanced bill resulting from an open process of public consultation and input. As a result of this inclusive process the bill enjoys broad support in the local communities.

I particularly want to commend Senator Warner and my Congressman, Rick Boucher, for introducing the Virginia Ridge and Valley Act and for the process that they used in developing their bill.

As the Committee may be aware, most of the areas included in H.R. 1011 are based upon the recommendations of the National Forest Service or else were endorsed by the local County Boards of Supervisors. These criteria, developed by Congressman Boucher and Senator Warner, maximized public participation.

My wife and I participated in the forest planning process for the Jefferson. We attended planning meetings held throughout the area, participated in the various working groups and submitted our comments.

I believe that the final Forest Plan fell short of providing the level of protection and wilderness that a majority of the public had supported. I believe that it is essential that we protect and preserve those rare treasures available in the Jefferson. I believe that it is essential that our children and their children have the opportunity to experience the wonder and beauty of our National Forests.

To reach the final result as expressed in the Virginia Ridge and Valley Act, the Forest Service process was supplemented by several Boards of Supervisors' actions. Under this process, citizens were able to present their views to their local elected officials who were able to consider areas within the local context. At the local level, the citizen's voices were heard. The result as expressed in the Act was a blending of the Forest Service process and local input. It is a comprehensive approach, which I hope that the Sub-Committee will support.

Some critics of this legislation claim wilderness designation will put these areas off-limits to hunting, fishing or horseback riding. I can assure the Committee that nothing is further from the truth. In fact, I believe that wilderness designation is essential to maintain the pristine quality of these areas. By so doing, the quality of the experience is maintained and improved.

Southwestern Virginia is blessed with many creeks and rivers within our forestlands. These waters are a crucial lifeline for native trout and for local communities.

Unfortunately these rivers and streams face problems of development, more contaminants and increased sedimentation from logging—absent the protection offered by the Wilderness and other designation.

In conclusion, Mr. Chairman, I would urge the Committee to approve H.R. 1011. This bill is the result of extensive public input and is crucial to maintaining—and improving—a high quality of life in Southwestern Virginia.

Thank you. I will be glad to answer any questions that you may have.

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Mr. GRIJALVA. Now let me turn to our last witness on this panel, Mr. Steve Henson. Sir?

**STATEMENT OF STEVE HENSON, EXECUTIVE DIRECTOR,  
SOUTHERN APPALACHIAN MULTIPLE-USE COUNCIL, CLYDE,  
NORTH CAROLINA**

Mr. HENSON. Mr. Chairman, Mr. Ranking Member, thank you for the opportunity to come here today and be invited to talk about H.R. 1011.

My name is Steve Henson. I am here today representing my organization, the Southern Appalachian Multiple-Use Council. We were established in 1975 by a group of businessmen who thought the multi-use concept of land management for our national forest was a pretty good idea toward landscape management. Our mission is to promote the balanced protection of forest land values across our region.

With membership in several Appalachian states, including Virginia, we regularly participate in forest planning throughout the region on seven national forests. We have supported many activities initiated by Congress, Administrations, and U.S. Forest Service. We have also opposed plans that we felt weren't consistent with long-standing directives by Congress, or showed bad judgment regarding natural resource management.

H.R. 1011 is one of those proposed actions we adamantly oppose, for it does not follow the direction of Congress, and in our view is bad judgment for managing large areas of public lands.

The Virginia Ridge and Valley Act of 2007 came as quite a shock to us publics who monitor Federal land issues in the region. It virtually tosses out eight years of contentious debate on the revision of the Jefferson National Forest Plan, approved by the Forest Service in 2004.

During the Jefferson debate, wilderness potential, according to the planning process and the Wilderness Act of 1964, was highly scrutinized by teams of stakeholders. The result was 25,243 acres of suitable national forest lands designated as wilderness study areas. This designation means that the Forest Service has studied the areas, and recommends them for wilderness through the legislative process.

We disagree with the Forest Service about the plan's recommendations regarding wilderness study areas for a number of reasons. We felt that some areas were completely surrounded by private lands; some contained important infrastructure and private inholdings. These designations would also eliminate many recreational activities long established in the areas, and restrict needed active management for wildlife, including threatened and endangered species.

It was our view that these lands should have been removed from wilderness consideration because they didn't meet the basic criteria for wilderness designation, as defined by Congress.

After reading the bill, we were astounded to find that not only had recommended wilderness areas been expanded, but also a new wilderness study area had been created; and the bill included a new category of highly restricted national scenic areas. The total acres involved amounted to over 54,000 acres, all of which can be characterized as wilderness or de facto wilderness. These additions contain many of the same elements that should, under Congress's direction for wilderness and special areas designations, disqualify them from consideration, and remain in active management status.

Obviously the Virginia Ridge and Valley Act of 2007 is an attempt to circumvent the longstanding process of public input and evaluation, established by Congress, for permanent dedication of public lands to the most restrictive of Federal designations.

Just how restrictive? Congressionally designated wilderness areas allow motorized vehicles and equipment by administrative agency only under catastrophic conditions. The only wildlife management technique allowed is prescribed burning; and to our knowledge, there has never been a prescribed burning in any wilderness area in the region.

Any preventative measures for catastrophic health, forest health issues, such a fire, insect, and disease, can be employed only after many hoops and approval at the highest levels of the bureaucracy.

In the specific case of H.R. 1011, 19,241 acres of proposed additional wilderness or de facto wilderness are already designated in the Jefferson plan as back country. Back country provides near-wilderness-like experience for man and beast. The difference is there is a lot of routine maintenance for forest health and fire control.

In Montgomery County, some of these acres back up to an extensive housing development only a step away from wilderness wild-fire. Back country protects the land, wilderness limits the human endeavor.

What wasn't surprising about H.R. 1011, the environmental groups that worked with Congressional offices to draft the bill and promote it in the region. The Southern Environmental Law Center and their offspring, Southern Appalachian Forest Coalition, have lobbied long and hard for permanent land protections across the region. We know this because we have had to fight them every step of the way to actively manage public lands for many years.

For instance, we know that their ultimate agenda is an elaborate plan to set aside a minimum of 50 percent of the land in the United States in wilderness or highly restricted designations for the protections of biodiversity. This plan is called the Wildlands Project, and is well documented on the internet.

There you will find such strategies as closing major highways, including the Blue Ridge Parkway; removing major dams; and creating a reasonable economic system based on organic farming. You will also find the names of environmental organizations, including the Southern Environmental Law Center and Southern Appalachian Forest Coalition, developing and supporting the Wildlands Project.

It is interesting to discover that their activities are financed predominantly through large grants from foundations, not grass-roots activism and membership contributions.

Mr. Chairman, we believe that wilderness is a legitimate and worthy use of public lands. However, perpetuity is a long time, and thoughtful consideration and open public debate prior to Congressional action are essential, just as the Code of Federal Regulations requires that the Jefferson National Forest Plan revision provides.

It will be a travesty to approve the Virginia Ridge and Valley Act of 2007, designed by environmentalists with a hidden agenda, and without the careful scrutiny Congress has demanded on public land activities across the country.

Thanks for your time and consideration.

[The prepared statement of Mr. Henson follows:]

**Statement of Steve Henson, Executive Director, Southern Appalachian Multiple-Use Council, on H.R. 1011, Virginia Ridge and Valley Act of 2007**

Mr. Chairman:

Thank you for inviting me to this hearing on H.R. 1011.

I am here today representing my organization, the Southern Appalachian Multiple-Use Council. We were established in 1975 by a group of businessmen who thought the multiple-use concept of land management for our national forests was a pretty good way to approach landscape stewardship. Our mission is to promote the balanced protection of forestland values (water, fish & wildlife, timber, recreation and wilderness) across our region.

With membership in several Appalachian states, including Virginia, we regularly participate in forest planning throughout the region on seven national forests. We have supported many activities initiated by Congress, administrations, and the U.S. Forest Service. We have also opposed plans that we felt weren't consistent with long-standing directives by Congress or showed bad judgment regarding natural resource management. H.R. 1011 is one of these proposed actions we adamantly oppose for it does not follow the directives of Congress and, in our view, is bad judgment for managing large areas of public lands.

The Virginia Ridge and Valley Act of 2007 came as quite a shock to us publics who monitor federal land issues in the region. It virtually tosses out 8 years of contentious debate on the revision of the Jefferson National Forest plan approved by the U.S. Forest Service in 2004.

During the Jefferson NF debate wilderness potential, according to the planning process and the Wilderness Act of 1964, was highly scrutinized by teams of stakeholders. The result was 25,243 acres of suitable national forest land designated as "Wilderness Study Areas." This designation means that the Forest Service has studied the areas and recommends them for wilderness through the legislative process.

We disagreed with the Forest Service about the plan's recommendations regarding "Wilderness Study Areas" for a number of reasons. We felt that some areas were completely surrounded by private lands, some contained important infrastructure (roads and power lines) and private inholdings. These designations would also eliminate many recreation activities long-established in the areas, and restrict needed active management for wildlife, including threatened and endangered species. It was our view that these lands should have been removed from wilderness consideration because they didn't meet the basic criteria for wilderness designation as defined by Congress.

After reading the bill we were astounded to find that not only had recommended wilderness areas been expanded, but also a new wilderness study area had been created; and, the bill included a new category of highly restricted "National Scenic Areas." The total acres involved amounted to over 54,000 acres, all of which could be characterized as "wilderness" or defacto wilderness. These additions contain many of the same elements that should, under Congress's direction for wilderness and special areas designation, disqualify them from consideration and remain in active management status.

Obviously, the Virginia Ridge and Valley Act of 2007 is an attempt to circumvent the long-standing process of public input and evaluation, established by Congress, for the permanent dedication of public lands to the most restrictive of federal designations.

Just how restrictive?

Congressionally designated wilderness areas allow motorized vehicles and equipment by the administrative agency only under catastrophic conditions. The only wildlife management technique allowed is prescribed burning, and to our knowledge

there has never been a prescribed burn in any wilderness area in the region. Any preventive measures for catastrophic forest health issues, such as fire, insect and disease can be employed only after many hoops and approval at the highest levels of the federal bureaucracy.

In the specific case of H.R. 1011, 19,241 acres of the proposed additional wilderness or defacto wilderness are already designated in the Jefferson Forest Plan as Backcountry. Backcountry provides a near-wilderness-like experience for man and beast. The difference is that it allows for routine management for forest health and fire control. In Montgomery County some of these acres back up to an extensive housing development—only a step away from wilderness wildfire. Backcountry protects the land. Wilderness limits the human endeavor.

What isn't surprising about H.R. 1011 are the environmental groups that worked with Congressional offices to draft the bill and promote it in the region. The Southern Environmental Law Center (SELC) and their offspring Southern Appalachian Forest Coalition (SAFC), have lobbied long and hard for permanent land "protections" across the region. We know a lot about them because we have had to fight them every step of the way to actively manage public lands for many years.

For instance, we know that their ultimate agenda is an elaborate plan to set aside a minimum of 50% of the land in the United States in wilderness or highly restricted designations for the protection of "biodiversity." The plan is called The Wildlands Project and is well documented on the Internet.

An excellent web site describing the Project's plan for this region is [www.wildlandsprojectrevealed.org](http://www.wildlandsprojectrevealed.org). There you will find such strategies as closing major highways (including the Blue Ridge Parkway), removing major dams, and creating a regional economic system based on organic farming. You will also find the names of environmental organizations, including SELC and SAFC, developing and supporting The Wildlands Project. It is interesting to discover that their activities are financed predominately through large grants from foundations, not grass roots activism and membership contributions.

Mr. Chairman, we believe that wilderness is a legitimate and worthy use of public lands. However, perpetuity is a long time and thoughtful consideration and open public debate prior to Congressional action are essential—just as the Code of Federal Regulations requires and the Jefferson National Forest plan revision provides. It would be a travesty to approve the Virginia Ridge and Valley Act of 2007 designed by environmentalists with a hidden agenda, and without the careful scrutiny Congress has demanded on public land activities across the country.

Thanks again for the subcommittee's time and consideration.

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Mr. GRIJALVA. Thank you, sir. And I thank all the panelists for your testimony.

Let me begin my opportunity for questions with the supervisor. Mr. Supervisor, the Forest Service has told us that they do not support the wilderness designation for Brush Mountain and the Brush Mountain East based on fire concerns. How do you view these concerns, as an elected official and representative in the area?

Mr. MUFFO. Well, I don't quite understand it, frankly. Safety obviously is a primary concern for us, and fire safety is one of those concerns.

As you mentioned earlier, the neighborhood association in the area that borders that area actually supports this bill. There is a road on the top of the mountain—and by the way, I think it is helpful for people to understand there is a very, very steep mountain, and that is what we are talking about. The back side of the mountain.

It is the front side of the mountain that is developed. So this fire, in order to actually, the fire to reach it, it would have to go up the mountain, over and down the mountain to reach the developed part. And there is a fire road that goes right on top of the mountain.

So I am not really sure exactly how the fire is supposed to reach these people. But that being said, and by the way, I have lived

there 22 years; I have never seen a fire up there. And I go there, I see the mountain every day. I am not sure, our gentleman down here, I am not sure how often he views the mountain, but I see it every day.

Also, if it is a wilderness area, there is no reason why fire can't be suppressed up there. That road, by the way, would not be in the wilderness area, and there would be no—the fact that it is a wilderness area I understand doesn't mean that fires can't be fought there.

And so I just don't understand how it would affect it negatively in any way.

Mr. GRIJALVA. Let me ask you a couple more questions, Mr. Supervisor.

Mr. MUFFO. OK.

Mr. GRIJALVA. You heard from your fellow panelist, Mr. Henson, that the charge that the Virginia Ridge and Valley Act of 2007, the legislation we are talking about, circumvents the process of public input.

Are there designations in H.R. 1011 consistent with the public process that you had in your area, that just, in general, the public process community being involved? One of the issues being raised today is that we circumvented that process.

Mr. MUFFO. We have public input. We had open meetings. By law, we have to advertise our meetings. This issue was on our agenda. We had public input at our meetings, and the public that came to our meetings was supportive of this issue.

And by the way, when I go to the grocery store, I have to face these people. And I am not some faceless bureaucrat. So I have to live with these people. So I am not sure who—maybe the Forest Service has a different way of communicating with these folks I don't have, but the seven people on our board have to face the people who live there.

So anyway, that is all I can say. We have to deal with these people on a regular basis, and they are telling us they want it.

Mr. GRIJALVA. Let me follow up, Mr. Supervisor. Last question, and then I will turn to some of the other witnesses.

And having served in the wonderful capacity as a county supervisor myself for 13 years, your going to the grocery store analogy is absolutely true. Sometimes you dreaded going for that piece of grocery.

Mr. MUFFO. Exactly.

Mr. GRIJALVA. And sometimes you really enjoyed it. Beyond Montgomery County, can you list the other counties in Virginia that passed resolutions in support of this additional, that were not included in that Jefferson Forest plan?

Mr. MUFFO. I think some of the other folks here are more knowledgeable about that than I. I know Craig is a border county that did, and Smith and Bland.

Mr. GRIJALVA. OK. Mr. Davenport, let me ask you some questions. You were dying to give an answer, so I might as well ask you.

Mr. DAVENPORT. Thank you.

Mr. GRIJALVA. The Forest Service again raised some concerns about the maintenance of the trail in the proposed Raccoon Branch

Wilderness Area. Did Mount Rogers Outfitters submit an agreement for voluntary services with the Forest Service to perform those maintenance activities that they were concerned about?

Mr. DAVENPORT. We have, Mr. Chairman. We were approached. And by the way, we do trail maintenance on a regular basis for other trails. And this one we added, and we have signed the agreement to maintain one of the trails in the Raccoon Branch area.

Now, there are other maintenance agreements that the Emery and Henry Outing Club has signed, and the Horseback Riders Association have signed, to maintain the horse trails that the Forest Service was concerned about. The Mount Rogers Appalachian Trail Club has endorsed the bill; they would be the maintainers of a major segment of the Appalachian Trail in the area.

Mr. GRIJALVA. And, Mr. Davenport, quickly—I am going past my time. But the gentleman on the panel, Mr. Henson, also made the charge that in the past, public lands rob rural communities.

In your testimony you spoke of the dependency on the National Forests and natural resources for the economy of the community. Could you just add a little more to that part of the testimony?

Mr. DAVENPORT. There is, in our community, just outside of town, one light industrial organization, a factory. There is a general-purpose grocery store. Actually, that grocery store only came to town recently, largely the result of the economic revitalization in the town.

The rest of the businesses, all of the businesses in the town depend upon tourism. For our business, 95 percent of our customers or clients come from outside the area. Places like Michigan, Ohio, Indiana, Florida; those are some of the major areas that they are coming from. So these are people bringing in what I call new money to the area, and it is what drives our business and what drives our town.

Mr. GRIJALVA. Thank you very much. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. Mr. Henson, you expressed some concerns with the forest planning recommendations for wilderness study areas. Do you have other specifics that you could highlight that would be examples of some of the problems if this was the designation?

Mr. HENSON. Well, I know the Department mentioned several problems that they had with some of the areas, as far as them meeting the criteria.

In our assessment, for instance, the Stone Mountain area is completely surrounded by private lands. There is two roads, trails, running through it that are multiple-use trails and roads that would have to be closed down or changed dramatically.

Also, the Mountain Lake additions, that includes a large, private inholding in that area. There is also a need in that area for prescribed fire on a regular basis just to maintain an ecosystem there. I think it is the Table Mountain Pine ecosystem that they want to try to continue there.

In the Shawvers Run additions, there is a need in there to do thinning treatments having to do with Indiana Bat. I think there is an Indiana Bat area there that they have recognized to not be a very good area for helping out the endangered Indiana Bat. And

in order to do that, they need to do management prescriptions, such as thinning, in those areas, just for example.

Mr. BISHOP. And from what I am taking, is what you are saying is there is a great many of these areas that the Forest Service land can be managed to protect the integrity of the forest itself. But as a wilderness designation, all those protections, all those abilities to manage would be gone, one of which obviously is, we have talked about already, is fire suppression. And in a wilderness area, the Forest Service cannot reduce the fuel loads, nor can they maintain any kind of machinery for any kind of fire bricks whatsoever.

All of these, I think what you are saying is, then, would threaten the actual integrity of the forest if it was changed in its designation.

Mr. HENSON. In our view, that is correct. We have a very well-developed science as having to do with natural resource management, and you know, we know that we can improve a lot of those resources out there. You know, we can manage for the wildlife, we can manage for endangered and threatened species.

But in order to do those things, you have to have access, and you have to be able to do those things and not have those high restrictions that you get with designated wilderness. And in this case, highly restricted national scenic areas.

Mr. BISHOP. Mr. Muffo, since this proposed boundary is abutting certain private subdivisions in the Blacksburg area, would you be in favor or willing to change those designations of those areas that abut it for the public safety factor that would be involved?

Mr. MUFFO. Actually, it is my understanding that it doesn't actually abut; that there is an area that is actually maintained that is for service area, that it doesn't actually abut. Is that correct? Yes, that is my understanding.

That there actually is a maintained area, and that the—again, it goes up the mountain. There is a road, there is a maintained area, and then there is the developed area.

Mr. BISHOP. OK. Once you get wilderness, there won't be, so that is nice.

How many men actually serve on the Board of Supervisors?

Mr. MUFFO. There are five men and two women.

Mr. BISHOP. OK, I used men generically. So it is a board of seven.

[Laughter.]

Mr. BISHOP. OK. What was the vote in support of this recommendation?

Mr. MUFFO. The original vote was four to three. And there has been a change of two members since then.

Mr. BISHOP. And the Forest Service still took your recommendation, and did not recommend it as part of their analysis, is that right?

Mr. MUFFO. Correct.

Mr. BISHOP. OK. Is there any private property in this proposed expansion area?

Mr. MUFFO. No.

Mr. BISHOP. Community, civic property?

Mr. MUFFO. No.

Mr. BISHOP. So everything is Forest Service land?



Mr. MUFFO. I believe that is correct, yes.

Mr. BISHOP. Mr. Davenport, what percent of your business deals with mountain biking?

Mr. DAVENPORT. We have no mountain bike business.

Mr. BISHOP. OK. Then you will be OK with this, because mountain bikes can't go to a wilderness area.

Mr. DAVENPORT. We have worked, Mr. Bishop, we have worked with mountain bikers on these proposals. And we have changed some of our desires to have wilderness and other areas to accommodate mountain bikers.

Mr. BISHOP. Well, that is nice, but you still can't have mountain biking in a wilderness area.

And I guess the last concern, Mr. Muffo—Mr. Davenport, the mic is by you if you want to do it anyway—if all this is Forest Service land anyway and you have access to it, how are you actually going to increase the access for a citizen by changing it to a designation of wilderness? Will more people be able to get on the land and enjoy this experience if it is wilderness, as opposed to Forest Service?

Mr. MUFFO. We think we can attract more people.

Mr. BISHOP. Will more people be able to get on the land if it is wilderness, as opposed to Forest Service?

Mr. MUFFO. I don't think there will be any fewer. We think we can attract more people because it will be, it will be identified as wilderness.

Mr. BISHOP. There is a part of me, Mr. Chairman—I am sorry, I am over here, and I will be done right now. That is OK.

There is a part of me that would like all of you to have as much wilderness as you want to. I would like everyone in the East to have the same wonderful experience with wilderness designation that those of us in the West have, even though, Mr. Gray, not all horses are welcomed in wilderness areas. It depends on the area at the time.

But at the same time, if the idea is simply to allow people to enjoy it, you are getting the same kind of enjoyment, the same kind of factor with the Forest Service as you would with wilderness. If indeed it is simply a marketing idea, you could probably get more creative marketing people within your county.

I appreciate you being here. I appreciate what you are doing here. I appreciate you presenting some issues as to the legal definition of wilderness in the 1964 Wilderness Act that have some restrictions that we should look at. I appreciate your emphasis and interest in this particular bill. I appreciate you taking the time to come all the way up here and testifying in front of us. Thank you for your time.

Mr. GRIJALVA. Thank you, Mr. Bishop. And let me thank the panel for your thoughtful testimony. And as I said earlier, your entire testimony will be made part of the record.

And let me call the next panel up.

[Pause.]

Mr. GRIJALVA. Welcome. Thank you very much. And let me begin with Mr. Dobbins.

**STATEMENT OF BILL DOBBINS, CEO AND MANAGER, DOUGLAS COUNTY, WASHINGTON, PUBLIC UTILITY DISTRICT, EAST WENATCHEE, WASHINGTON**

Mr. DOBBINS. Thank you. I have been coveting this water all day.

Mr. GRIJALVA. Enjoy.

Mr. DOBBINS. Well, thank you for the opportunity to testify on H.R. 523 today.

Good afternoon. My name is Bill Dobbins. I am the General Manager of Douglas County PUD. My bosses are three elected commissioners who make their decisions in weekly open public meetings.

This bill is important to us because of our desire to manage and protect Wells Project lands consistently. We own and operate the Wells Hydroelectric Project on the Columbia River in the center of Washington State.

Wells has the best juvenile fish passage on the Columbia. Operation of Wells is subject to an aquatic habitat conservation plan with a no-net impact standard. It was developed according to the Endangered Species Act.

Power from Wells flows to six utilities and the Colville Confederated Tribes.

The Wells Reservoir has 93 miles of shoreline. Douglas PUD owns 89 of those 93 miles in fee title. The Douglas PUD land use policy has these goals: Sustain the existing natural ecosystem, develop recreation facilities that will not interfere with the natural ecosystem, protect historic, cultural and archaeological sites, and allow public access. No substantive issues about how this land will be managed have been raised.

Since the original license was issued in 1962, except for the BLM land, Douglas maintained fee title ownership of a buffer around the reservoir. Encroachments began to appear on district land in the early nineties, as civilization expanded.

Inspections of shorelands were increased at that time to bi-weekly, and a resurvey of the project boundary was begun, so that we could prevent further encroachment. As a result of the resurvey, Douglas has purchased additional land where erosion has occurred or where original survey errors were discovered.

Since it owns the vast majority of the shorelands, Douglas desires to manage and protect all of the lands consistently. This is the reason we began working with BLM in 1998 to acquire BLM parcels scattered around the reservoir.

Most of the tracts are partially underwater, and include very steep hillsides. One triangular piece is completely underwater. Several have no road access. It took from 1998 to 2005 to complete a land exchange for two of the originally identified parcels. At this rate it would take an unreasonable amount of time and Agency staff effort to complete the transfer for the remaining 11 parcels. BLM recommended Congressional authorization as a more reasonable approach.

Douglas PUD will pay fair market value, plus BLM's transaction costs. The land will remain in government ownership, and will be open to the public for its enjoyment.

The BLM raised a concern about bald eagle habitat on one of the tracts. To comply with ESA, Douglas is required to protect eagle

habitat on land it owns, just as it has on two adjacent parcels, one since 1964 and the other since 1991.

We consider action by the U.S. Congress to be an open process. This is the second hearing on this bill. Also, for the transfer of the two parcels I just mentioned that was completed in 2005, there were no comments received through the NEPA process.

The BLM has been involved in a Wells relicensing process that is currently underway for two and a half years, starting August 2005; most recently, on Tuesday of this week. I understand this is different than the BLM representative stated earlier.

The BLM has not raised any issues in the public relicensing process. Deadlines have passed. We certainly would not expect it, but if BLM recommended mandatory conditions on the license without first raising the issues in the public process, the result would not be open and transparent. The public has no opportunity to comment on mandatory conditions.

Now, a FERC license is not a static document. It is adaptive. The current Wells license has been amended several times over its 45-year life, for land, fish, and operational reasons. The Douglas PUD will protect these lands, pursuant to the Wells Project FERC license, the Federal Power Act, the Endangered Species Act, the Wells Project Habitat Conservation Plan, the Land Use Policy, and all other applicable laws.

We believe this transaction is in the best interests of the public, and urge your support of H.R. 523. Thank you very much.

[The prepared statement of Mr. Dobbins follows:]

**Statement of William C. Dobbins, General Manager,  
Public Utility District No. 1 of Douglas County, Washington**

**Introduction:**

Douglas County PUD appreciates the opportunity to provide testimony on H.R. 523. My name is Bill Dobbins. I have worked for Douglas County PUD since 1987 and have served as General Manager since 1996. In my time at Douglas County PUD I have been involved in numerous resource activities including development of the Wells Project Habitat Conservation Plan (HCP) and the Colville Tribes Land Settlement.

Douglas County PUD is a small electric utility serving approximately 17,500 electric customers in rural Douglas County located near the center of Washington State. Douglas County PUD is governed by a three-member board of locally elected Commissioners who serve in their non-partisan positions for six-year terms.

The Wells Hydroelectric Project is owned and operated by Douglas County PUD. The Wells Project has an installed nameplate capacity of 774.3 megawatts with a maximum generating capability of 840 megawatts. This hydroelectric generating project on the Columbia River is a hydrocombine structure that lends itself to the most efficient juvenile fish passage on the mainstem Columbia River. The Wells Project license expires in 2012. Douglas County PUD formally began the relicensing process under the Integrated Licensing Process (ILP) by filing its Preliminary Application Document (PAD) with the FERC on December 1, 2006. Prior to filing the PAD, Douglas County PUD engaged in a rigorous two-year outreach process with the local towns and counties, the state and federal resource agencies and the local Indian tribes.

H.R. 523 will authorize the Bureau of Land Management (BLM) to sell, at fair market value plus transaction costs, specified lands associated with the Wells Hydroelectric Project and amounting to an approximate total of 622 acres, consisting of 10 small tracts that should be part of the Wells Project and one larger adjacent parcel that was added by the BLM (Exhibit 1, BLM map). Most of the property is partially under water and includes extremely steep hillside (Exhibit 2, Typical Tract). One parcel is completely submerged (Exhibit 3, Submerged Tract). This sale will result in nearly all of the shore lands associated with the Wells Hydroelectric Project being owned and protected by Douglas County PUD with the proceeds from

the sale being used by the BLM to directly meet its goals related to consolidation of its holdings. We thank the committee for its support of this bill last year and urge your support of H.R. 523.

This testimony has three purposes:

1. To describe Douglas County PUD's intentions with regard to management of these lands and to tell you why it is in the public interest.
2. To address concerns.
3. To urge your support for H.R. 523.

#### **Reservoir Land Management:**

From the beginning of the Wells Project in the early 1960's, Douglas County PUD made the decision to own as much of the land surrounding the Wells Reservoir as was needed to provide a buffer between the reservoir and other landowners. This decision was made because it was the best way for Douglas County PUD to protect against erosion onto private lands, to allow public access to the reservoir shore lands and to protect wildlife habitat on those lands. Many

In the early 1990's encroachments on Douglas County PUD land were discovered. This discovery initiated an involved process of resurveying the entire Wells Project reservoir. The goal of the resurvey project was to correct any property ownership discrepancies, purchase additional property in areas where erosion had occurred, eliminate any encroachments and prevent future encroachments. Douglas County PUD also began bi-weekly patrols of the reservoir to detect any sign of encroachment or habitat degradation.

In 1993, Douglas County PUD adopted a Land Use Policy for all Douglas County PUD owned lands and land rights. This policy provides guidance for land use management decisions, with the following goals:

- sustaining the existing natural ecosystems,
- developing only those recreation facilities that will not interfere with the preservation of natural ecosystems,
- protecting historic, cultural and archeologically significant sites, and
- allowing public access, where practicable, to waters and lands of the Wells Project.

The Wells Project FERC license allows Douglas County PUD to issue permits for use of project land consistent with the Federal Power Act and the Douglas County PUD's Land Use Policy. Permits are only considered after the applicant has received approval for all other required permits (e.g. Hydraulic Permit, Shoreline Development Permit, Corps of Engineers 404 Permit, 401 Water Quality Certification, Section 10, etc).

The Wells Project Habitat Conservation Plan (HCP), approved by the Federal Energy Regulatory Commission June 21, 2004, requires that when making land use or related permit decisions on Douglas County PUD owned lands that affect reservoir habitat, Douglas County PUD shall consider the cumulative impact effects in order to meet the conservation objectives of the HCP, the requirements of the FERC license and other applicable laws and regulations. Douglas County PUD is required to notify and consider comments from the signatories to the HCP regarding any land use permit application. The signatories include the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Washington Department of Fish and Wildlife, the Confederated Tribes of the Colville Reservation and the Yakama Indian Nation.

In the course of the resurvey project, Douglas County PUD discovered some parcels of land, including the BLM land, which it needed to purchase to restore the appropriate buffer between the reservoir and private property. In the case of the privately held parcels, Douglas County PUD purchased only enough land to re-establish the buffer. Larger parcels were divided to accomplish this purpose, that is, to acquire the strip of land along the reservoir that, from an engineering standpoint, was needed as a buffer. The BLM indicated no willingness to divide the parcels that it owned. The BLM indicated that the only way it could transfer the land was if Douglas PUD would get involved in a three-way land exchange. One such land exchange was completed. It was difficult and time consuming. Douglas County PUD started working with BLM on this issue in 1998 and acquired two parcels through this exchange in 2005. It became apparent that it would take many years to accomplish the goal of managing all of the land around the reservoir in a consistent fashion. BLM staff suggested that the most efficient way to transfer the land was if the Congress directly authorized BLM to sell it to Douglas County PUD. This was the reason that our Congressman, Doc Hastings, introduced H.R. 4789, which was passed by the House of Representatives last year. Time ran out for the bill to be considered by the Senate. H.R. 523 is the same as the bill approved last year.

After Douglas County PUD purchases this land from the BLM, two segments that are currently state highway will be divided out and dedicated to the State of Washington for that purpose. The balance will be managed in conformance with Douglas County PUD's Land Use Policy and the Wells Project FERC license, which will result in that land being maintained in its natural state and monitored on a regular basis. The land will be open to the public.

This is a simple transfer of public land from one government agency to another. The resource goals of the two agencies are uniquely similar. The new owner, Douglas County PUD, simply has a more focused interest in these lands that are scattered and small in terms of the BLM's holdings. They would be contiguous with the other Wells Project lands and would be more actively managed as a result.

**Eagle Habitat and Public Access Concern:**

In its testimony given on March 9, 2006 before the House Resources Committee on H.R. 4789, the BLM provided the following statement:

We encourage the sponsor and the Committee to provide safeguards to protect the known resource values on these lands, which include Bald Eagle roosts and approximately two miles of Columbia River shoreline currently open to the public.

This language implies that there are known Bald Eagle roosts located on all of the parcels to be conveyed under the bill. In fact, only one of the parcels identified on the BLM exhibit map may have a potential for an Eagle roost (Exhibit 4). It should be noted that if Bald Eagle roosts were discovered or established on any lands purchased by Douglas County PUD under H.R. 523, they would also be managed for the sole purpose of protecting and securing any such roosts. Douglas County PUD policies, the Federal Power Act and the Endangered Species Act require that Eagle roosts be protected. As shown on Exhibit 4, Douglas County PUD owns a parcel of land (acquired in 1964) immediately adjacent to the property to be acquired from BLM and another slightly upstream. The upstream Douglas County PUD parcel is the site of a Bald Eagle roosting area, which is already protected by Douglas County PUD. That parcel was part of a larger parcel acquired in 1991 primarily for development of an electric substation site. The area utilized by eagles was subdivided from the substation property for the sole purpose of protecting and securing the roost, and is successfully managed for that purpose. This is representative of Douglas County PUD's typical approach to wildlife resource issues.

The BLM testimony language set forth above mentions the need to maintain public access to two miles of Columbia River shoreline. Nothing in the legislation would change or alter Douglas County PUD's public access policies, areas or opportunities. As a public agency and as a FERC license requirement, Douglas County PUD makes every effort to maximize public access to the Wells Project shoreline and reservoir, particularly for water-related recreation activities.

**Recently Discovered Concerns:**

Only last week, in preparing for this hearing, Douglas County PUD became aware of concerns that had been raised regarding H.R. 523. While it was difficult to discover the source of the concerns since correspondence was not copied to Douglas County PUD, we believe it is appropriate to respond to a letter dated March 16, 2007 and sent to the Committee by Ms. Kate Miller of Trout Unlimited. We appreciate that Ms. Miller was willing to provide a copy of her letter to us on May 4, 2007.

The letter states that the bill "appears to be a highly transparent effort to sell off BLM land to avoid use of the agency's authority to require environmental protections for these lands."

Douglas County PUD is not pursuing this land acquisition to avoid the authority of the BLM to impose conditions on the new Wells Project license under Section 4(e) of the Federal Power Act. As stated in the Wells Project PAD filed on December 1, 2006, "The shoreline of the Wells Reservoir is approximately 93 miles long. Douglas County PUD owns approximately 89 miles of shoreline in fee title". In addition to the Wells Reservoir, Douglas County PUD owns over 2,140 acres of land within the Wells Project Boundary. Lands within the Wells Project Boundary include shrub steppe, irrigated agriculture, wildlife habitat, such as the Wells Wildlife Area (WWA) and recreation lands, including parks in Pateros, Brewster and Bridgeport." The BLM parcels account for approximately 3.5 miles of shoreline, or about 3.7 percent of the total Wells Project shoreline.

If the BLM had significant concerns about the impact of the Wells project on the subject parcels or other lands in the vicinity of the Wells Project, the proper place to raise those concerns would be in the current process for relicensing the Project. In August 2005, Douglas County PUD initiated a series of activities and public

meetings in preparation for the relicensing of the Wells Hydroelectric Project. Douglas County PUD identified the BLM as a key stakeholder in the relicensing process and has encouraged BLM's participation in the relicensing process from the outset. The BLM received the Information Request Letter sent on August 8, 2005. The BLM was present at Douglas County PUD's Integrated Licensing Process Workshop on October 18, 2005 and volunteered to participate in the Cultural, Terrestrial and Recreation resource work groups. The Consultation Record indicates that the BLM's Rich Bailey, Jim Fisher and Sally Sovey have been on the resource work group distribution lists.

The resource work group process included 34 separate meetings over the course of two years to address Cultural, Terrestrial, Recreation and Aquatic issues associated with the Wells Project. Over 150 issues or concerns were addressed throughout the course of these meetings. The BLM received meeting announcements, agendas, meeting notes and work group documents by email. The BLM's Rich Bailey and Ann Boyd participated by phone in one of the resource work group meetings. The resource work groups mutually developed 12 agreed upon study plans, which were included in Douglas County PUD's PAD.

In addition to the resource work group meetings, Douglas County PUD conducted 31 separate voluntary stakeholder outreach meetings, including meetings with the BLM on September 29, 2005, October 25, 2006 and November 29, 2006. Also included in the FERC relicensing process is the opportunity for stakeholders to submit comments on the Pre-Application Document and FERC's Scoping Document and for stakeholders to submit additional study requests. The first comment period has concluded, and BLM has not requested any additional studies or modifications to the agreed upon study plans or raised any issues related to the PAD or FERC's Scoping Document. Based upon this process, Douglas County PUD believes that it has a positive working relationship with the BLM and that its concerns are being adequately addressed.

The Trout Unlimited letter also states that this legislation will create a loss of "public resource without public input." In fact, there will be no loss of public resource; rather, there should be a resulting increase. The parcels in question would only change to another public holder, the Douglas County PUD, and the funds received by the BLM can be put to use to expand its holdings in areas that would be consistent with its long-term goals. Regarding public input, the Douglas County PUD Commission meets locally in open session every Monday, the FERC relicensing process offers substantial and open public input opportunities, and, during the National Environmental Policy Act (NEPA) process conducted during the initial BLM/PUD land exchange in 2005, there were no comments submitted.

Finally, the Trout Unlimited letter states that the change in ownership threatens to impact listed salmonids present in the project area and raises concerns under NEPA and compliance with the ESA. This concern is not valid. This land constitutes less than four percent of the reservoir shoreline. The best way to benefit the fisheries resource is to include the BLM property with the balance of the shoreline that is already owned and managed to meet project objectives by Douglas County PUD. The fisheries resources in the Wells Project area enjoy the "no-net-impact" standard incorporated in the Wells Project HCP. The HCP has been made a part of the Wells License. The Wells HCP sets the standard for protection of the salmon and steelhead passing the Wells Project.

The relicensing process for the Project is rigorous and includes NEPA compliance. Trout Unlimited and the Hydro Reform Coalition did receive a copy of the Wells Project PAD and are aware of the timelines associated with the FERC Integrated Licensing Process. Trout Unlimited and the Hydro Reform Coalition did not file any comments on the Wells Project PAD or the FERC scoping document on the Wells PAD in the allotted time. Likewise, these two entities did not file any study requests in the prescribed time.

#### **Summary:**

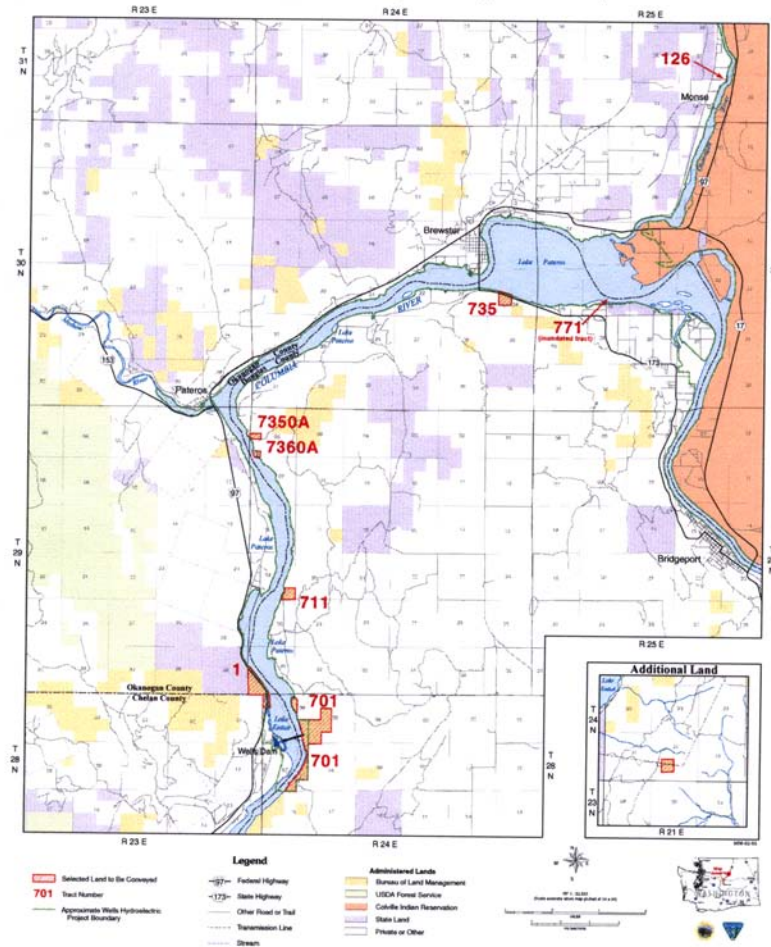
Douglas County PUD desires to own and uniformly manage the lands surrounding the Wells Project Reservoir. The BLM is willing to sell the necessary lands to complete Douglas County PUD ownership. Douglas County PUD is willing to pay fair market value plus transaction costs to acquire the lands. The BLM can use the proceeds of the sale to expand its holdings or otherwise pursue its land management goals. The lands will be adequately protected by Douglas County PUD pursuant to the Wells Project FERC license and associated licensing process, the Federal Power Act, the Endangered Species Act, the Wells Project HCP and the Douglas County PUD Land Use Policy and all other applicable laws. We believe this transaction is in the best interests of the public and urge your support of H.R. 523.

**Exhibit 1**  
**BLM Map Depicting The Scattered Tracts**

**Douglas County Public Utility District Proposal**

March 2, 2006

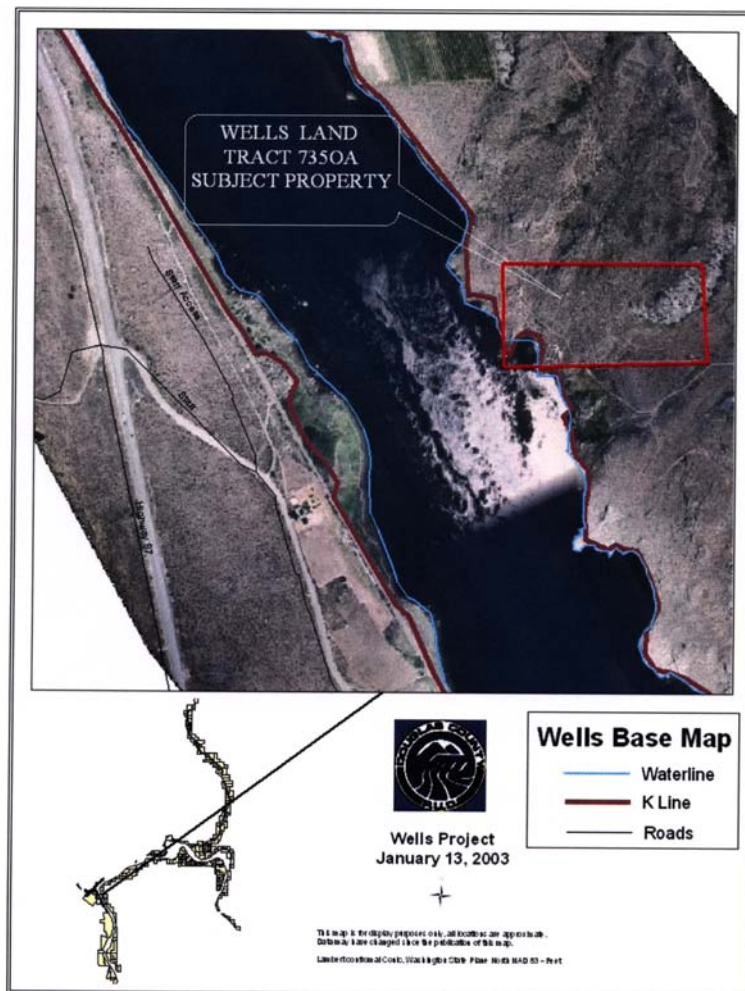
This map prepared at the request of Congressman Hastings



## Exhibit 2

### Typical Tract

Note that the purple line, labeled the “K” line and otherwise known as project boundary, generally shows the area that Douglas County PUD owns, that is, the area between the river and the K line.

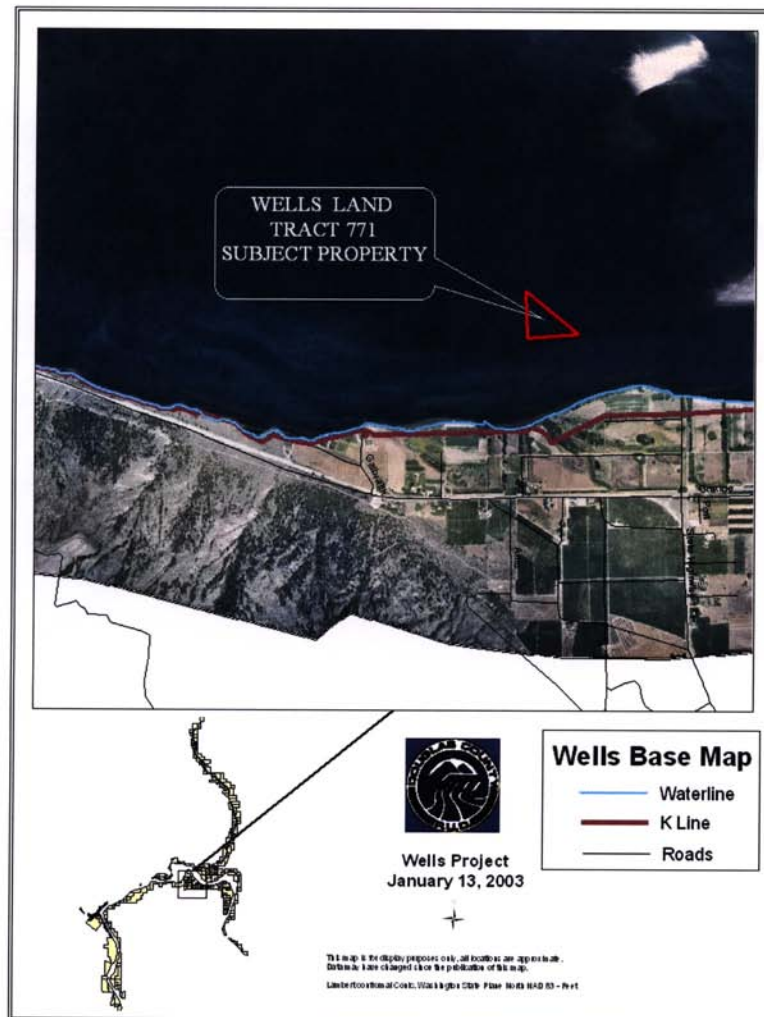




### Exhibit 3

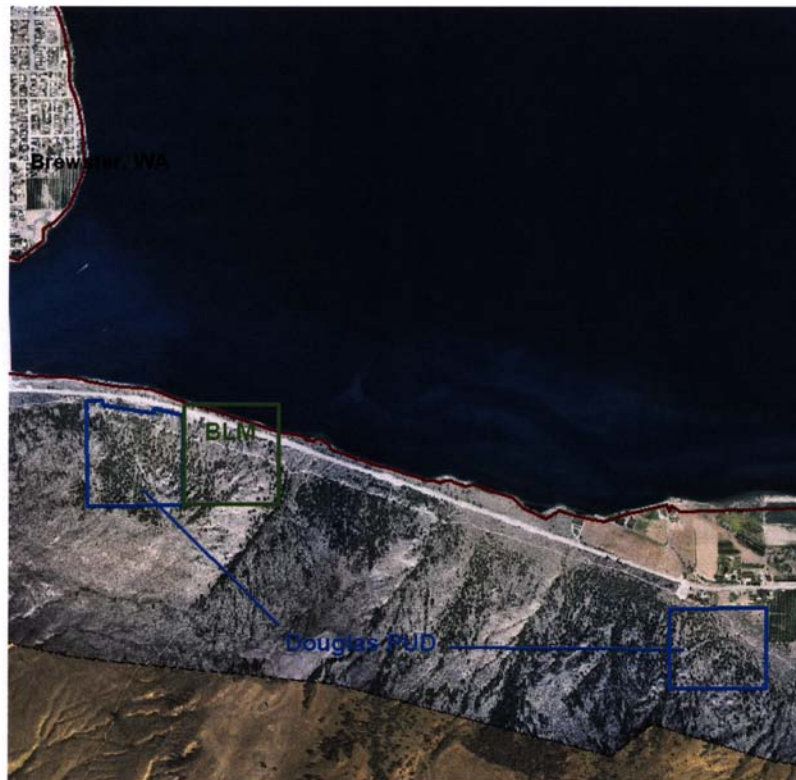
### Submerged Tract

This tract has been submerged since the construction of the Wells Project. Although this is an allowable use of BLM land, this tract does not provide benefit to the BLM in the traditional sense. Together with the other tracts, this one should be sold to the Douglas County PUD.



#### Eagle Habitat

Note that Douglas County PUD has owned the tract on the left since 1964 and has maintained this tract in its natural state. Also, Douglas County PUD has owned the tract on the right since 1991. This tract was originally purchased for a substation site. It was subdivided into three parcels. One of the parcels was dedicated for a substation site, a second included a house that was resold and the third is the area outlined in blue that was retained in its natural state because of its value as eagle habitat.



Mr. GRIJALVA. Thank you, sir. Mr. Seebach.

#### **STATEMENT OF JOHN SEEBACH, HYDROPOWER REFORM COALITION NATIONAL COORDINATOR, AMERICAN RIVERS, WASHINGTON, D.C.**

Mr. SEEBACH. Mr. Chairman, Mr. Ranking Member, and Members of the Subcommittee, thank you for inviting me to testify at this hearing today.

My name is John Seebach, and I am the National Coordinator of the Hydropower Reform Coalition, which is a group of more than 140 conservation and recreation organizations that are dedicated to protecting and restoring rivers impacted by hydropower dams.

I am speaking today on behalf of American Rivers, which is the coalition's chair. American Rivers' hydropower staff has spent

countless hours over the past 30 years collaborating with utilities, Federal and state agencies, American-Indian tribes, and many others to advocate for the protection of rivers, public trust resources, and the public's right to participate in decisions on how these resources will be managed.

American Rivers opposes H.R. 523. By directing Interior to sell more than 600 acres of public land, this bill would circumvent three bedrock laws that are in place to protect the public trust: the Federal Land Policy and Management Act, the Federal Power Act, and, indirectly by extension, the National Environmental Policy Act.

It would also affect the ongoing relicensing of the Wells Hydroelectric Project by removing existing Federal authorities that are intended to protect public lands on which the project is located.

There are two important principles at stake here. First, we believe that Federal land transfers should be conducted through an open public process. The decision to sell this land is a serious one. The district does not have the same conservation mandate as the BLM, and this bill would do nothing to ensure that the land will remain in public hands or be managed for conservation in the future.

None of the land covered by this bill has been identified as suitable for disposal in the Spokane Resource Management Plan. In other words, without this bill, the BLM would need to amend the Resource Management Plan in order to sell this land, a procedure that would necessitate public notice and comment, and would likely trigger full NEPA review, as well.

To our knowledge, there has been no such review, and this bill would deny the public an opportunity to participate in that decision.

Laws like the Federal Land Policy Management Act and NEPA bring careful analysis, and an open, deliberative process, to important decisions like these, so that we can know that we are making the right decisions. We should give those processes a chance to work, not bypass them.

Second, we feel that Congress should avoid legislating the outcome of individual hydropower licensing proceedings. This bill would effectively preempt the BLM's authority to protect public lands affected by the Wells Hydropower Project by giving those lands to the operator—excuse me, by selling those lands to the operator of the project.

The 50-year license for the Wells Project, which was issued by the Federal Energy Regulatory Commission, is set to expire in 2012. And the District has begun the process of seeking a new license.

A hydropower relicensing almost always results in public benefits that go beyond power production, like protected fish and wildlife habitat, improved water quality, and enhanced opportunities for public recreation. This is especially true for projects like this one, which were originally licensed before Congress passed our modern environmental laws. Although I certainly don't mean to discount their stewardship of the land.

The Federal Power Act gives Interior the ability to place conditions on hydropower licenses that it deems necessary to protect its

Federal reservations, and the public's use of those reservations, from any adverse impacts caused by a hydroelectric project, so long as the reservation falls within the project boundary. These conditions typically protect things like water quality, recreation and public access, fire prevention, vegetation, and wildlife. This bill would remove these protections by directing Interior to give up its authority over those lands.

All of the lands referred to in this bill are affected by the project. One tract was inundated by the reservoir, one tract has transmission lines running through it, and the remaining tracts are on the banks or near the banks of the river and the reservoir.

It is still too early in the relicensing process to know if the BLM would find it necessary to require such conditions. The study phase of the relicensing has barely begun, and that is the point. It would be much better if the issue of how this land is managed, and by whom, was addressed by stakeholders during the hydropower relicensing, which is a very open public process.

Making this decision before the process has gotten started would, in our view, be premature, and could prejudice the outcome.

Finally, directing the BLM to sell public lands during an ongoing hydropower licensing would set a dangerous precedent that sends a clear message to other hydropower operators. If you want to avoid the cost of license requirements designed to protect the environment from your project, then you need only go to Congress and ask you to tell the Agency to sell you the land.

Now, even if that is not the intention here—and I believe Mr. Dobbins when he tells me that it is not; we have spoken about this, and had a good conversation—the result would still be the same, which is a loss of Federal authority to protect public values during the first opportunity in 50 years that it has had to exercise that authority.

In conclusion, American Rivers opposes H.R. 523 in its current form. It would result in a net loss of public land, in a net loss of Federal authority to protect public values at an existing hydropower project. It would set a damaging precedent that could undermine future hydropower licensing proceedings.

Decisions about the sale of public lands should be made through the open, deliberative, and public processes already provided by the Federal Land Policy Management Act. We recognize that dealing with complex administrative proceedings can be frustrating; but it is also important to remember that these processes have been put in place to protect the public.

Thank you very much.

[The prepared statement of Mr. Seebach follows:]

**Statement of John C. Seebach, National Coordinator,  
Hydropower Reform Coalition**

Mr. Chairman and members of the Committee:

My name is John Seebach, and I am the national coordinator of the Hydropower Reform Coalition, a consortium of more than 140 conservation and recreation organizations dedicated to protecting and restoring rivers impacted by hydropower dams. I am appearing today on behalf of American Rivers, which is the Coalition's chair. The views presented in this testimony are those of American Rivers, and not necessarily those of the entire Coalition. I would like to thank the Committee for holding this hearing, and for extending me this opportunity to testify on H.R. 523, the Douglas County, Washington, PUD Conveyance Act.

American Rivers is the national organization that stands up for healthy rivers so our communities can thrive. We believe rivers are vital to our health, safety and quality of life. We pioneer and deliver locally-oriented solutions to protect natural habitats and build sustainable communities. We lead national campaigns to raise awareness of river issues and mobilize an extensive network that includes more than 65,000 members and activists to help safeguard our rivers for today and tomorrow.

#### **American Rivers opposes H.R. 523**

H.R. 523 directs the Secretary of the Interior to sell more than 600 acres of public land managed by the Bureau of Land Management (BLM) to the Douglas County Public Utility District (PUD), overriding three laws that protect public land and the broader public interest, including the National Environmental Policy Act (NEPA), the Federal Land Policy and Management Act (FLPMA), and the Federal Power Act (FPA). This bill would also affect the ongoing relicensing of the Wells hydroelectric project by removing existing federal authorities that are intended to protect these lands from the project's impacts. American Rivers is opposed to this bill on two basic principles:

- **Federal land transfers should be conducted through an open public process:** This bill would result in a forced sale of public land that bypasses the existing legal framework for a land transfer process, thwarting public participation, environmental review, and competitive bidding requirements. The procedures outlined in the Federal Land Policy and Management Act offer the appropriate forum for disposing of federal land.
- **Congress should generally avoid legislating the outcome of individual hydropower licensing proceedings:** By removing the land in question from federal ownership, the bill would materially affect existing federal authorities—and potentially the outcome—of the ongoing relicensing of the Wells hydroelectric project. Congress should not preempt the BLM's authority to protect lands affected by a hydropower project by forcing the sale of those lands to the operator of that project.

#### **Federal land transfers should be conducted through an open public process**

By circumventing the land transfer procedures outlined in FLPMA and, by extension, environmental review under NEPA, H.R. 523 would dispose of public land located on the shores of a stretch of the scenic Columbia River without any meaningful review to determine if the proposed land transfer would best serve the public interest.

It is extremely rare for the BLM to sell riverside land. Absent this bill, the BLM would not be able to sell the land identified in this bill, as none of the land has been identified as suitable for disposal in the Spokane Resource Management Plan (RMP). Under existing law, the BLM would need to amend its RMP in order to sell this land, a procedure that would require, at the minimum, a public notice and comment period. Any proposed sale of this land would likely trigger NEPA review as well. H.R. 523 would effectively remove both of these deliberative processes from the proposed land transfer. There would be no opportunity for the public to participate in the decision, submit comments, or ask questions about how the land is currently being managed and how it might best be managed in the future.

Under the terms of H.R. 523, the land would simply be sold to the PUD without any stipulations regarding its future management or additional public discussion of the potential immediate or future consequences of the sale. While the bill would transfer the land to non-federal public ownership, the Douglas County PUD and the BLM have very different missions. There are strict rules that govern how the BLM should manage the public lands in its care. The PUD, on the other hand, must balance land stewardship against the financial interests of its own ratepayers. There would be nothing to prevent the land from being sold to private interests after the transfer required in the bill is complete.

American Rivers does not believe that this Committee has enough information to determine if the actual land transfer being proposed in this bill would result in a net benefit to the public. Instead, we support an open, transparent, public review of the facts of this particular case: precisely the sort of review that this bill would preclude. Laws like NEPA and FLPMA ensure that decisions like these are accompanied by careful analysis and an open, deliberative process. These formal processes would give other members of the public—who may be more familiar with the resource and have a direct interest in how it is managed—an opportunity to be heard.

**Congress should not legislate the outcome of an individual hydropower licensing proceeding**

While the terms by which H.R. 523 proposes to sell public lands—a forced sale to a pre-ordained buyer without the public participation, environmental review, or competitive bidding that would ordinarily be required by law—are clearly not in the public interest, another aspect of the bill is even more troubling. The lands in question are located either within or adjacent to the project boundary of the Wells hydroelectric project, which is operated by the PUD under the terms of a Federal license (P-2149) that will expire in May of 2012. This bill would effectively remove the Secretary of Interior's authority to place conditions that the Bureau of Land Management (BLM) deems necessary to protect these BLM-managed public lands and the public's use of those lands from the adverse impacts of the Wells hydroelectric project.

The Wells hydroelectric project currently operates under a 50-year license issued by the Federal Energy Regulatory Commission (FERC; previously the Federal Power Commission) in 1962. The PUD has already begun the 5-year process of seeking a new license for the project, filing a Pre-Application Document with FERC on December 1, 2006. FERC has already initiated the NEPA scoping process for this relicensing. The relicensing of a hydropower facility almost always results in tangible benefits for non-power public values, such as protected fish and wildlife habitat, improved water quality, and enhanced opportunities for public recreation. These improvements can be particularly significant at projects like the Wells project, which received its original license in an era before the advent of modern environmental laws.

Section 4(e) of the Federal Power Act instructs FERC to give equal consideration to environmental and recreational resources as well as power resources when issuing a license for a hydroelectric facility. The same section of the Federal Power Act also requires FERC to ensure that it does not issue licenses that interfere with the purposes of federal reservations that overlap the boundaries of hydropower projects, including Indian reservations, national forests, and other federally reserved lands. The Federal Power Act accomplishes this goal by requiring FERC to include in its licenses any conditions that the responsible Secretaries deem necessary for the "adequate protection and utilization" of these reservations.

The March 2, 2006 map prepared by the Douglas County PUD shows that the Wells hydroelectric project overlaps two federal reservations: the Colville Indian Reservation on the east, and several tracts of federal land that is managed by the BLM. The proposed transfer includes all BLM-managed land that overlaps the project boundary of the Wells Hydroelectric project. The authority to condition hydropower licenses under section 4(e) is limited to reservations that overlap the project boundary. By requiring that all BLM-managed land overlapping the project be sold to the PUD, H.R. 523 would remove the Secretary of the Interior's authority to require license conditions that will protect BLM-managed land from any adverse impacts caused by the operation of this hydropower project. In so doing, the bill would materially affect existing federal authorities during an ongoing federal licensing proceeding.

All of the lands in question are clearly affected by the project: one tract is inundated by the reservoir, one tract has transmission lines running through it, and the remaining tracts are on the banks of the river and reservoir. Section 4(e) conditions typically include provisions designed to protect water quality, recreation and public access, fire prevention, vegetation, and wildlife. It is still too early in the relicensing process for the BLM to determine if section 4(e) conditions would be necessary to protect these reservations, but information from the study phase of the relicensing or other relevant public input could lead the Secretary to determine that such conditions would be necessary. Congress should not preempt this authority by forcing the BLM to sell the land during the pending relicensing process.

Directing the BLM to sell public lands during an ongoing hydropower would set a dangerous precedent. The message to hydropower operators would be clear: if you wish to avoid license requirements designed to protect the environment from your hydropower project—and the costs associated with meeting these responsibilities—ask Congress to sell you the land. Whether or not that is the intention behind this particular bill, the result would be the same: a loss of federal authority to protect public values during the first opportunity in fifty years to exercise that authority.

In addition to our substantive concerns outlined above, we note that there is no real urgency behind this proposal. We have not yet been presented with any compelling reason why this land should be sold while the Wells project relicensing proceeding is still pending. A FERC hydropower licensing process involves NEPA review, and offers an excellent opportunity for public participation and collaborative discussions among all stakeholders. Licensing often results in broad agreements

about how project-related land should be managed. As it earns its new FERC license, the PUD could win broad stakeholder approval for some sort of land transfer. In the past American Rivers has supported land exchange legislation, such as the Tapoco Project Licensing Act of 2004, that resulted from comprehensive settlement agreements. While we remain opposed to this bill, we note that this hearing has already spurred some positive discussions with the Douglas County Public Utility District (PUD), and we hope to continue these discussions.

### Conclusion

American Rivers strongly opposes H.R. 523 in its current form. It would result in a net loss of public land and a net loss of federal authority to protect public values at an existing hydropower project. It would set a damaging precedent that could undermine future hydropower licensing proceedings. Decisions about the sale of public land should be made through the open, deliberative, and public processes already provided by FLPMA and NEPA. We recognize that dealing with complex administrative processes can be frustrating, but it is also important to remember that these processes have been put in place to protect the public.

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Mr. GRIJALVA. Thank you, and thank the panelists.

Let me turn to the Ranking Member, Mr. Bishop, if he has any comments. I know he has a pressing appointment. Any comments or questions?

Mr. BISHOP. No. I just thank both gentlemen for being here. I appreciate your testimony. It will be included, and I thank you for that.

I yield.

Mr. GRIJALVA. Thank you. Let me, just some general questions. Mr. Dobbins, can you identify the specific advantage for the public utility district of owning these BLM parcels? What would be the, what is the advantage of that?

Mr. DOBBINS. The advantage is that when we are out in the field, if we own all the lands around the reservoir, and we notice things on those lands, we don't have to go back and check are these ours or someone else's. We want to be able to manage and protect all of those lands consistently around the reservoir.

Mr. GRIJALVA. And let me just follow up. In the licensing process, is there something specific that requires or mandates that the district own all the land in the project boundary?

Mr. DOBBINS. No. Ours is the most conservative approach that you could take. We are trying to protect those lands and ownership of them as the most conservative approach to that.

Mr. GRIJALVA. So there is no mandate to own.

Mr. DOBBINS. No.

Mr. GRIJALVA. Is there any, in the current license, is there any resource protection requirements in the current license that you work with right now?

Mr. DOBBINS. Oh, yes. It is substantial. We are allowed to give permits for private use of the land to adjacent landowners, but the hurdles are very steep as far as permitting that. We have to go through all the state and Federal resource agencies before we can even consider issuing a permit. And then actually, the Habitat Conservation Plan steepened that terrain, and caused us to have to do more review before we can actually offer that.

But our leaning is toward protecting the wildlife habitat naturally. Our own policies state that.

Mr. GRIJALVA. And those requirements are with the specific license that you hold now.

Mr. DOBBINS. Yes.

Mr. GRIJALVA. OK. Let me just, one question before I turn to Mr. Seebach.

If the legislation in H.R. 523 were enacted, could you legally sell the parcels that you are acquiring to other buyers? I realize that may not be the intent, to sell them, but could you?

Mr. DOBBINS. That depends on how FERC decided to use the, you know, what restrictions FERC put on.

If they are included in the project boundary, then we have to clear any sale through FERC.

Mr. GRIJALVA. OK. For the sake of clarification, have you, in the current project boundary, have you sold, has any land been sold?

Mr. DOBBINS. Any—let us see. There have been small adjustments for one reason or another, but they all have to go through the FERC process. FERC goes through the public process of notice and all that.

Mr. GRIJALVA. So you can, given whatever—

Mr. DOBBINS. I think that we could, yes.

Mr. GRIJALVA. Mr. Seebach, one question. Could you compare, if it is possible, the BLM's resource management goals with the resource management goals of the public utility district? Are they the same?

And the other part of the question is the fact that the utility district has rate payers. Does that impact resource management plans?

Mr. SEEBACH. I think it could. I am not sure that I can accurately assess that in this case. I know that I have spoken with Mr. Dobbins, and I believe they take their commitment to conservation seriously. But I don't feel like I could adequately—I would have to get back to you on that one to answer it correctly.

Mr. GRIJALVA. OK. Thank you very much, and thank you for your patience. I appreciate your testimony. And this meeting is adjourned. Thank you.

[Whereupon, at 1:10 p.m., the Subcommittee was adjourned.]

