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Bill Harvey
Commission Chair
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Good afternoon, Mr. Chairman and Honorable Plaskett, Ranking Member and Committee Members. My name is Bill Harvey and I am the Chairman for the Baker County Board of Commissioners.

I am honored and I thank you for asking me to testify today on behalf of Baker County and Eastern Oregon.

Background

Baker County spans over 3,000 square miles and close to two million acres making Baker County larger than the states of Rhode Island or Delaware. Federal agencies manage approximately 51.5% of our land in Baker county, comprising a total of 1,016,511 acres. The remaining 48% of land in the county, approximately 950,382 acres is for roads, rivers, towns and private property.

The citizens of Baker County rely on both public and private land for natural resources, recreation and the ability to continue our way of life, especially agriculture and livestock grazing, mining and timber harvest; therefore, all decision affecting public lands could potentially affect Baker County's economy, customs, culture and enjoyment of our land.

When I moved to Baker County in 1972, the County had six timber mills, but now we do not have any and yet the forest keeps growing. Forest timber sales have been drastically reduced in the past 20-30 years and yet, our forests are growing at a rate estimated at 80 million board feet for every 400,000 acres. Baker County, from public lands, only produce about 10-15 million board feet a year. It takes about 100 million board feet of timber to keep one mill in operation for a year, creating an average of 200 good family-wage jobs and another 100 unrelated jobs in our area.

Our forests are at great danger from wildfires every year because of overcrowding of the fuel loads from mismanagement of our public lands. This is caused by a change in thinking from timber production to a conservation mentality. This is not based on sound science and is not proper forest management, this is destruction by neglect.

Effects

Of the 1,016,511 acres managed by the federal government by both the US Forest Service and BLM, approximately 200,000 acres (or 20%) of our public lands are already closed to motorized travel. The closed areas are comprised of (2) two wilderness areas, wilderness study areas, areas of critical concern, wild and scenic river areas and designated roadless areas.

Now the Forest Service is proposing another 50,000 to 100,000 acres for closure to the public who use motorized travel within their Blue Mountain Forest Plan revision, which is not warranted or workable for Baker County. The public access roads within Baker county have been in place for over 50 years and have little need for road maintenance, the Forest Service has said repeatedly that they have no funding for road maintenance but they do very little anyway.

When our road accesses are closed, we are hindered in our ability to fight wildfires, do thinning projects, logging sales and recreational activities. Our forests are by Congressional designation through the Multiple Use and Sustainable Yield Act of 1960 to be used for all of these activities. This is what has worked for Baker County for over sixty years.

Conflicts

A major conflict we have with the Forest Service is in regards to our RS 2477 rights-of-ways to our historical accesses on our public lands.

RS 2477 rights-of-ways are a granted right from Congress. First granted to the territories and then to the State at statehood and then to the counties by state law. 43 U.S.C. subsection 932, "The right-of-way for construction of highways over public lands, not reserved for public uses, is hereby granted." The laws was also known as the Mining Act of 1866.

As a point of record, "rights-of-ways" are not a claim, they are a fully granted right by Congress and they also include a number of things besides roads such as carriage-ways, bridle-ways, pedestrian trails, livestock trails, wagon roads, mine-to-market, bridges and waterways.

In 1994, Baker County accepted all historical RS 2477 rights-of-ways by Resolution No. 94-1003 over all public lands within Baker County. Again, by Resolution No. 2000-1026, Baker County established a policy regarding RS 2477 rights-of-ways procedure for listing and mapping of these rights.

There have been many times that the Forest Service has agreed with Baker County that they County does have authority over RS 2477 rights-of-ways when we have presented historical documentation.

This could be resolved through the proper coordination process of government-to-government communication. No access should be closed without the proper process by law. We just don't want our roads closed by mistake by the Forest Service.

We now have an ongoing conflict with the Forest Service over a historical RS 2477 rights-of-ways dating back to the 1880's on our East Eagle Creek within Baker County. The Forest Service is demanding that a steel bridge be removed from crossing the East Eagle Creek. There have been many bridges that have crossed the creek at this location dating back to the 1880's and this is a replacement for an old bridge.

Improvement to a County right-of-way or road becomes the property of the County no matter who makes the improvements and a bridge is an improvement. This bridge serves many people who can safely cross this creek (river) at any time of the year and is badly needed for the health, safety and well-being of our citizens and law enforcement with search and rescue.

We have written many letters in regards to this issue and we are not making any progress. The lack of respect for Baker County's historical rights-of-ways and ignoring the coordination process has brought us to this conflict. As we have stated many times before, that no federal agency has the authority to close a RS 2477 right-of-way, period!

We are receiving letters from other County Commissioners from around our state and from other states that the Forest Service is doing the same activities with all the Western States. This seems to be a systematic plan for removing the public from our public lands. The words we hear most from the Forest Service is restrict, close and remove. This is not how you properly manage for multiple use of "our" public lands.

Historically, we have had "open" forests, meaning that we, as the public, are able to travel anywhere in our forests, not including restricted areas, for hunting, fishing, woodcutting, picking berries and mushrooms, camping and off-road motorized travel. Many of our older citizens who have lived and traveled the forests all their lives can now only travel by motorized travel being handicapped.

The Forest Service is now proposing a "closed forest" designation, which will restrict everyone to designated routes only. By violating this rule, a citizen who has traveled most of their lives through these forests will now face a fine of up to \$5,000 and one year in jail; so much for multiple use as the law says.

Coordination

The American Heritage Dictionary defines "coordinate" as, "one that is equal in importance, rank or degree."

The goal envisioned by Congress and the Secretaries of Interior and Agriculture, was that the coordination process would resolve conflicts between federal and local government. The ultimate goal that Congress has set for the "coordination" process is consistency between federal and local plans, policies and action.

Congress also recognized that local government must have a position in planning and policy making that is superior to that of the general public. It is important that local elected officials have meaningful input into management. Meaningful participation in management is critical to deterrence of adverse impact on the use of private land and on the economy of the government.

In 16 U.S.C. section 1604, the Forest Service is directed by Congress to coordinate the development of, the maintenance of, and the revision of land and resource management plans with local government.

The Secretary of Agriculture mandated in the 1982 Forest Service Planning Rules that in 32 CFR Section 219.1 (b)(9): Coordination with land and resource planning efforts of other federal agencies, state and local and Indian tribes; and Section 219.1 (b)(10): Use of systematic inter-disciplinary approach to ensure coordination and integration of planning activities for multiple-use management.

The Secretary of Agriculture issued travel management rules that required "coordination" with local governments in "designation" of roads, trails and areas for motor vehicle use."

36 Code of Federal Regulations, Section 212.53 of the specifically issued rules for governing the development of the Travel Management Plans states that you, "shall coordinate with appropriate federal, state and county (local) governments."

This is why coordination is so vital for County governments: to protect the rights of the citizens of Baker County. We stand ready and willing to follow through with the coordination process and to develop a good working relationship with our federal government partners.

Baker County has tried many times and through many meetings to work with the Forest Service through the coordination process to alleviate conflicts.

The Challenges that we face with attempting to work with the Forest Service through the coordination process is that many of their staff either do not believe that they need to do coordination or do not understand coordination or its processes. Coordination is not against the law; it is the law!

The willingness or level of involvement can be drastically different from one supervisor or regional forester to another. There is no consistency within the agency. I believe that formal and consistent standards and guidelines for the process of coordination would bring clarity and consistency to the process and help the counties and federal government to work together as Congress intended with the laws of coordination.

At the present time there is, as it seems from the County's stance, a great resistance to work through coordination with counties and little to no resistance to working directly with environmental groups. This is contrary to the law of coordination where it is directed by Congress that the federal government shall work government-to-government with the counties directly.

42 U.S.C. 4331 National Environmental Policy Act (NEPA) and (NFMA) 16 U.S.C. 1602 et seq requires both the secretaries of the Department of Agriculture and the Department of Interior to cooperate with local government to see that coordination is accomplished.

Congress makes it clear that federal projects must be studied in coordination with local government in order to assure that the social and economic needs of the local citizens are met and that the police power functions relating to provisions for safety, health and welfare are considered.

Coordination is a Congressional mandate for government agencies to work with County (local) governments and Baker County is willing and able to do so at any time. Coordination is required during the development and implementation of management actions and policies regardless of whether a NEPA process is involved.

Again, I thank you for the opportunity to testify before you today. I am encouraged by Congress stepping up with this committee to reach out to our counties (local) government to correct what has been a non-functional process.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Harvey", with a large, sweeping flourish extending to the right.

Bill Harvey, Chairman
Baker County Board of Commissioners