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Statement of

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Before the

U.S. Senate Committee on Indian Affairs

On

S.2605
The Nez Perce-Snake River Water Rights Act of 2004

July 10, 2004

Mr. Chairman and members of the Committee, I am James S. Riley, President and CEO of Intermountain Forest Association (IFA) headquartered in Coeur d'Alene, Idaho. Our association represents forest land owners and forest businesses of Idaho.

IFA has a long history of developing and implementing solution-oriented policies for forest stewardship and conservation of our Idaho's remarkable and abundant forest lands. In addition, IFA provides expertise and creative opportunities for member landowners and businesses to develop cooperative relationships with other interests in forest policy.

I am honored to be here today to express our support for S.2605, and present our views on this unique and historic agreement among the diverse interests of Idaho and the Nez Perce Tribe concerning water rights, fisheries and forestry in Idaho. The agreement we have reached, among ourselves and with the federal government, is a remarkable accomplishment. All of the members represented by IFA are proud of our role in securing this accomplishment. We are also proud of the successful collaboration we have formed with the other Idaho organizations and interests represented at this hearing today.

The legislation before this committee is the product of many years of work, much innovation, and much compromise by all involved. S. 2605 includes the essential legislative components of a broader Agreement referred to by Sec. 4 the legislation. Other parts of the agreement will be accomplished administratively. Overall the Agreement resolves a long standing dispute over the water, fisheries and related resources of our state. This Agreement involves private, tribal, state, and federal government interests.

This Agreement is unique – both in terms of its substance and in terms of the diverse coalition of interests which have come together on the terms. As it is implemented it will bring significant benefits to the public wildlife resources, stability to the private sector by relieving the risk of continuous litigation, and support for the Nez Perce tribal fisheries programs. With the support of Congress, implementation of this Agreement and its component programs will allow land owners, resource managers for all sectors, and private and public interests to focus their energies and investments on management of our natural resources in a manner which brings significant benefits to fisheries resources, and allows for the continuation of free enterprise and resource economies of our state.

Others on this panel will discuss the important water user, Tribal, and State elements of this proposal. I will focus my attention on the forestry-fisheries provisions, which are an integral part of this overall agreement.

Background

The geographic areas covered by this agreement are the vast Clearwater and Salmon River basins of Idaho. This is the heart of our state and includes more than 20 million acres of land, of which 65% is forested. Seventy five percent of the Clearwater Basin forest land, and nearly all of the Salmon Basin forests, are managed by the federal government as National Forests. Yet within the Clearwater basin there are one million acres of private forest lands, and an additional 336,000 acres of forest managed by the State of Idaho. The private forest lands are owned by both large commercial forest landowners, managed for sustained production of timber and related resources, and by small non-industrial landowners managed for a variety of purposes but commonly including timber harvest where this use meets the landowners' personal objective.

Forest management in Idaho is among the most environmentally and economically advanced anywhere in the world. All forestry activities are regulated by the Idaho Forest Practices Act which sets mandatory standards for all forest operations, including related activities such as road construction, road maintenance, and reforestation. The Idaho Forest Practices Act (FPA) standards are established by a board of experienced natural resource management professionals for the explicit purpose of ensuring forest stewardship and the long term sustainability of our forests, land, and water.

Forestry operations in Idaho are carefully and continuously monitored to ensure absolute compliance with the FPA standards, and to collect data for continuous improvement of those standards. The State of Idaho conducts periodic effectiveness monitoring with the Idaho Department of Environmental Quality and includes the federal agencies responsible for certain wildlife and fisheries species. Data from this monitoring demonstrate and ensure that forestry in Idaho protect the fish species listed as threatened or endangered under the Endangered Species Act.

This Agreement is not about providing fundamental threshold protections for these species as required by law, because that requirement is being fully met by existing practices. This Agreement is all about providing a program for forest owners to provide additional support for listed fish species, beyond the minimums required by law.

Forestry-fisheries Component of the Snake River Basin Adjudication Agreement

The forestry-fisheries component of the Agreement uses the Idaho Forest Practices Act framework as a base for providing additional forestry measures to benefit fish in forested habitats. The additional measures are made available to voluntarily enrolling landowners who will then benefit from participation in the habitat improvement programs authorized by this agreement, secure protection from subsequent litigation over management of ESA listed fish species, and consequently add value to their lands. The agreement terms outline specific provisions agreed to by forestry interests, the State of Idaho, and federal fisheries experts in the Department of Interior and NOAA Fisheries, as providing additional significant opportunities, beyond those minimally required by the ESA, to benefit fish species in forested habitats.

Elements

Briefly there are four essential elements of the forestry-fisheries portion of this agreement.

First, and foremost, it is voluntary for private landowners. It is voluntary because it establishes standards for forest management which go well beyond the requirements of current law. Consequently land owners are provided an opportunity and incentives to participate. The initial expectation, based on preliminary feed-back from potentially enrolling landowners, is that this program will attract broad participation.

Second, there are specifically articulated standards for:

- 1) Forestry operations in riparian areas;
- 2) Road construction, particularly for stream crossings.

These standards are described in detail in the Agreement term sheet and will be mandatory for any voluntarily enrolling landowner.

Third, there are recognized processes for assessing existing forest facilities and infrastructures that are potentially limiting fish productivity, and mechanisms to replace or improve these limiting conditions when identified.

Last, there are agreed upon “adaptive management” processes to continuously improve both our collective understanding of the interaction between forestry and fisheries, and to improve the application of the management practices.

Over time the expectation is for wide-spread enrollment from Idaho’s private forest landowners, both large and small, as they come to understand the opportunities to enhance fish species, consistently with the fundamental objectives for which they own the land, and to gain the benefits afforded by this agreement. Today, private forestry interest in enhancing ESA fish populations is severely limited due to the increased exposure to litigation over alleged future harm to the very species a landowner helps promote.

Relation to S. 2605

Implementing the specific elements of the Agreement’s forestry-fisheries component is being accomplished administratively, using the current authorities of Sec. 6 of the Endangered Species Act, and the state authorities provided under the Idaho Forest Practices Act and related Idaho law. However, S. 2605 is needed for two important reasons. First, forestry is just one part of this multi-party, complex Agreement. S. 2605 gives important recognition to the entire agreement, and authorizes essential non-forestry components. For the full benefits of the forestry-fisheries program to be realized, this program needs to be accomplished within the context of all the other components this Agreement, including those authorized by S.2605.

Second, the funding authority established by this legislation will be available for qualifying forest habitat projects. The habitat improvement funding is essential to accomplish existing fish-limiting infrastructure improvements, and to maximize support for broad voluntary landowner participation.

Conclusion

Senators, S. 2605 will authorize important programs which benefit both the people of Idaho and the Nez Perce Tribe, but also is nationally justified as it provides essential support to species recognized as threatened or endangered under the Endangered Species Act. It is born by the unique multi-party agreement described in this hearing today. I am honored to be part of the Coalition which is before you today. IFA strongly and fully supports this Agreement and we urge its timely consideration and passage by this Congress.