



*Nez Perce*

**TRIBAL EXECUTIVE COMMITTEE**

P.O. BOX 305 • LAPWAI, IDAHO 83540 • (208) 843-2253

TESTIMONY OF  
SAMUEL N. PENNEY, CHAIRMAN  
NEZ PERCE TRIBAL EXECUTIVE COMMITTEE  
ON AMENDMENTS TO IDAHO WILDERNESS,  
SUSTAINABLE FORESTS AND COMMUNITIES ACT  
March 15, 1994

Hello, I am Samuel Penney, Chairman of the Nez Perce Tribal Executive Committee (NPTEC). NPTEC is the nine-member elected governing body of the Nez Perce Tribe. I thank you for the opportunity to provide comments on what continues to be a very important issue to everyone in the state of Idaho—the management of our wilderness.

The Nez Perce Reservation is situated in the northcentral Idaho area and encompasses some 760,000 acres. Originally, the Nez Perce Tribe exclusively occupied a vast territory of about thirteen million acres, which included northcentral Idaho, southeastern Washington and northeastern Oregon. In addition to the areas that were exclusively used and occupied, the Nez Perce people extended their hunting, fishing, trading, and other food gathering activities westward down the Columbia River, and to the east to the area that is presently the state of Montana.

In the 1855 treaty with the United States, the size of the federally recognized homelands was reduced, but a very significant provision was included in that treaty. That provision reserved to the Nez Perce the right to hunt on open and unclaimed lands and fish at all usual and accustomed places outside the current reservation boundaries. The nature and scope of these rights, as determined by several court cases, included the right of the Tribe to participate in the management of the lands and waters in these off-reservation areas. This co-management authority is extremely important to the tribe because protection of these natural resources also protects our traditional, cultural practices. This authority should also serve to place the Nez Perce Tribe on the same level as other governmental entities holding management responsibility, rather than being recognized as just another "interested party".

Although we are not clear as to the underlying negotiations that led to the

Idle National  
ct, Idaho  
ional Forest  
Idaho  
Boise National

amendment to the bill, our comments address the general concern of the Nez Perce Tribe regarding the fact that so much of the designated wilderness and special management areas are now released from protection. We agree that jobs in Idaho are important. But it is the traditional view of the Nez Perce people that the environment and the various components that make up the ecosystem are interrelated. If one aspect of the system is disturbed, the entire system suffers. Piecemeal protection does not afford the necessary protection that native species of plants and wildlife need in order to survive.

In regard to the Meadow Creek area and the release of 58,000 acres of wilderness designation in the Selway Bitterroot Wilderness, the Nez Perce Tribe has been working on a major restoration effort for spring Chinook salmon in that area. In 1993, the Tribe outplanted about one hundred thousand chinook salmon parr. An extensive monitoring and evaluation study is being conducted on downstream migrants, to determine the potential for more extensive salmon and steelhead production in the Meadow Creek area. Additional fish will be outplanted this year from the broodstock reared by the Nez Perce tribe.

Water quality, habitat protection, and minimizing sediment sources will be essential to the success of anadromous fish recovery in Meadow Creek. The strategy plan for such recovery requires that the stream-side management zones are ensured adequate protection from logging practices along the Creek. If the intent is to release so much of the area from wilderness designation for logging, stream-side management zones will be critically important in rehabilitating the habitat and restoring the anadromous fish resource.

The Meadow Creek area is also a critical area for resident fish populations, including cutthroat and bull trout. The grey wolf and grizzly bear recovery are also important aspects of this ecosystem and the entire Selway Bitterroot Wilderness area. As I mentioned before, our cultural tradition of looking at the entire circle of life, rather than each area or species individually, reflects our statements today that the pristine qualities of the Meadow Creek area should be protected by extension of the wilderness designation.

The plan to prohibit the creation of buffer zones around a wilderness that would prove to be a detriment to any adjacent, private property owner should be carefully reviewed. If the particular use of that private property has the effect of damaging the environment to the extent that species are in danger or habitat in the adjacent wilderness area is ruined, a determination should be made that prohibits that particular use.

The addition of 1000 acres of wilderness at the head of Bear Creek in the Nez Perce National Forest is responsible public policy. Although we need further clarification on exactly where that addition is located, the protection afforded by the designation

will have a per release of 20,0 Clearwater Ns be required in habitat. This Vanderbilt Hi drainage is a will be import

To offset the acres added t White Sand whether this place a value this area, whi

The apparent Perce Nationa area than we required to b should be imj

As a matter o wilderness de in HR 1570a: Representativ people of Idal

We would be legislation y providing em

Faint, illegible text on the right margin of the page, appearing as bleed-through or very light print.

Faint, illegible text on the right margin of the page, appearing as bleed-through or very light print.



**STATEMENT OF SAMUEL N. PENNEY, CHAIRMAN, NEZ PERCE  
TRIBAL EXECUTIVE COMMITTEE, LAPWAI, ID**

Mr. PENNEY. Thank you, Mr. Chairman. My name is Sam Penney, chairman of the Nez Perce Tribal Executive Committee, which is the nine-member elected governing body of the Nez Perce Tribe. I would like to thank you for the opportunity to provide comments today on this important bill for the State of Idaho, the management of our wilderness.

I would also like to point out that we strongly support Congressman LaRocco's efforts to move this bill forward. Originally, the Nez Perce Tribe exclusively occupied a vast territory of about 13 million acres which included north central Idaho, southeastern Washington, and northeastern Oregon. In addition to these areas that were exclusively used and occupied, the Nez Perce people extended their hunting, fishing, trading, and other food-gathering activities westward down the Columbia River, and to the east to the area which is presently the State of Montana.

In the treaty of 1855 the tribe reserved the right to hunt on open and unclaimed lands and fish at all usual and accustomed places outside the current reservation, and the nature and scope of these rights are determined by several court cases. The Nez Perce Tribe is on the same level as other governmental entities holding management responsibility, rather than being recognized as just another interested party.

I would like to also point out, Mr. Chairman, that the Nez Perce Tribe is involved in Regions 1, 4, and 6 of the U.S. Forest Service. We have a memorandum of agreement that we participate on some of the activities in those areas of the area I just described, of our territory.

Although we are not clear as to the underlying negotiations that led to the amendment to the bill, our comments address the general concern of the Nez Perce Tribe regarding the fact that so much of the designated wilderness and special management areas are now released from protection. We agree that jobs in Idaho are important, but it is the traditional view of the Nez Perce people that the environment and the various components that make up the ecosystem are interrelated. If one aspect of the system is disturbed, the entire system suffers. Piecemeal protection does not afford the necessary protection that native species of plants and wildlife need in order to survive.

In regard to the Meadow Creek area and the release of 58,000 acres of wilderness designation in the Selway Bitterroot Wilderness, the Nez Perce Tribe has been working on a major restoration effort for spring chinook salmon in that area. In 1993, the tribe outplanted about 100,000 chinook salmon parr. And extensive monitoring and evaluation study is being conducted on downstream migrants to determine the potential for more extensive salmon and steelhead production in the Meadow Creek area.

Water quality, habitat protection, and minimizing sediment sources will be essential to the success of anadromous fish recovery in Meadow Creek. The strategic plan for such recovery requires that the stream management zones are assured adequate protection from logging practices along Meadow Creek. If the intent is to

There has been no criticism that there would be a benefit of Commerce in

there, dealing with on all sides of this, move the ball down the river to understand what their perfect example of

restoration projects in the Meadow Creek Special Management Area. Community and people work in the woods, like that idea, so I like this. As I said in my management.

So if we keep those rights to the people on the river.

Mr. Chairman.

Hansen, that you

accumulated wilderness here, and I look at the effort to be

H. Penney, chairman of the Nez Perce Tribal Executive Committee of Lapwai, Idaho; David H. Penney, Boise; David H. Penney, Boise; Pat H. Penney, Boise; and Scootch H. Penney, Boise, witnesses, who are from Idaho, too. Those are working to save the trout and view that people in our Nation. Development or own resource values.

Mr. Penney's statements have been made part of the record in five minutes, it is my pleasure to proceed.

release so much of the area from logging, stream-side management zones will be critical in restoring the anadromous fish resource.

The Meadow Creek area is also a critical area for resident fish populations, including cutthroat and bull trout. There is also the gray wolf and grizzly who also inhabit these areas. As I mentioned before, our cultural tradition of looking at the entire circle of life rather than each area or species individually reflects our statements today that the pristine qualities of the Meadow Creek area should be protected by extension of the wilderness designation.

The plan to prohibit the creation of buffer zones around a wilderness that would prove to be a detriment to any adjacent private property owners should be carefully reviewed. If the particular use of that private property has the effect of damaging the environment to the extent that species are endangered or habitat in the adjacent wilderness area is ruined, a determination should be made that prohibits such use.

The addition of 1,000 acres of wilderness at the head of Bear Creek in the Nez Perce National Forest is responsible public policy. The tribe is concerned that the release of 20,000 acres at Fish Lake and Fish Trail in the Great Burn area of the Clearwater National Forest will be a serious mistake. Our hope is that buffer zones will be required in the stream-sided management zones to assist in the protection of fish habitat. The protection of these water zones will be important to the survival of these fish populations as well as other wildlife.

Tomorrow, Mr. Chairman, the Nez Perce Tribe, along with the Federal negotiation team and the State negotiation team and the tribal negotiation team, will be meeting in Boise, our first ever meeting regarding the Snake River Basin adjudication. This does have some bearing on this bill, I believe, because of the in-stream flow issues. As I read Congressman LaRocco's statements that it would be addressed later on in this process, I just want to inform you that we are underway in the Snake River Basin adjudication.

Mr. Chairman, in conclusion I would like to share with you that the document that I have been reading, and I will quote from it to sum up my statements, states that the wildlife resources can be conserved only by eternal vigilance in balancing the forces of natural growth and replacement against the destructive forces of man's exploitation.

And then in regard to some of the fisheries issues, when the spawning areas themselves have been destroyed or rendered unsuitable, equally serious results have followed. Deforestation following logging operations and excessive grazing have, in countless places, removed covering vegetation over spawning streams, with the result that the temperature of the water has been raised beyond the tolerance of many species.

Soil erosion has covered with mud the gravel where eggs are normally deposited. The rapid runoff of drainage waters caused by deforestation has scoured the stream beds, destroyed spawning, fry, and fish food. Pollution from mines, smelters, industry plants and cities has rendered other once-productive spawning areas unfit for fish life.

If the cycle is to be continued unbroken, the entire system must be protected. And I read this document with great interest, Mr.

Chairman. The date of the United States Section 113, and that is the same problems, taking place.

I would like to thank LaRocco for having my testimony on behalf of

[The statement of]

Mr. VENTO. Thank you be back with some questions

Our next witness is Boise. Craig?

#### STATEMENT OF CHAIRMAN

Mr. GEHRKE. Thank you, Mr. Chairman. I am pleased to discuss H.R. 3732, The Wilderness Society

Both The Wilderness Society and Frank Church were there for the discussion and been very much involved in RARE-II national forum

Both our groups address Idaho's wilderness gone through to discussion of Idaho will we appreciate his effort

It is unfortunate, 3732 at this time for management and are two issues from my the record, the first

Our groups firmly unneeded and also would be done in Idaho was originally developed review for the first

Since Idaho and Forest Service did which conservation is sufficient. Therefore released by the fore for certainty and ring

The other point I guage is that it do postpone it from the from passage of this est Service will do

Chairman. The date of this document that I just quoted from, from the United States Senate on April 9, 1937, adopted Senate Resolution 113, and that is almost 50 years ago today, and yet some of the same problems, especially in these wilderness areas, are still taking place.

I would like to thank you, Mr. Chairman, and Congressman LaRocco for having me here today. It is my pleasure to present this testimony on behalf of the Nez Perce Tribe.

[The statement of Mr. Penney may be found at end of hearing.]

Mr. VENTO. Thank you, Mr. Penney, for your statement. We will be back with some questions.

Our next witness is Craig Gehrke of The Wilderness Society of Boise. Craig?

**STATEMENT OF CRAIG GEHRKE, THE WILDERNESS SOCIETY,  
BOISE, ID**

Mr. GEHRKE. Thank you, Mr. Chairman. My name is Craig Gehrke, State Director of the Idaho Office of The Wilderness Society. I am pleased to have this opportunity to appear before you to discuss H.R. 3732. This testimony is submitted on behalf of both The Wilderness Society and The Sierra Club.

Both The Wilderness Society and The Sierra Club have been very much involved in Idaho's wilderness issues for many years. We were there for the designation of the Gospel-Hump, Hell's Canyon, and Frank Church-River of No Return Wilderness. We have also been very much involved in the decade-long effort to pass post-RARE-II national forest wilderness legislation for Idaho.

Both our groups appreciate Congressman LaRocco's efforts to address Idaho's wilderness issues. The process with which he has gone through to develop this bill has been the most meaningful discussion of Idaho wilderness we have seen in the past decade, and we appreciate his efforts. We know it is a tough issue.

It is unfortunate, however, that our groups cannot support H.R. 3732 at this time for various reasons, including both flaws in policy management and area designations. I just want to briefly focus on two issues from my written testimony that will be submitted for the record, the first being the release language question.

Our groups firmly oppose release language in this bill as being unneeded and also changing the way national forest planning would be done in Idaho. As you are well aware, release language was originally developed to get the Forest Service out of the wilderness review for the first round of forest plans.

Since Idaho and Montana haven't had wilderness bills yet, the Forest Service did the wilderness review with their forest plans, which conservationists challenged but the court held was legally sufficient. Therefore, wilderness lands in Idaho have already been released by the forest plans. Roadless lands in Idaho are not locked up for certainty and in fact wilderness area development is occurring.

The other point to keep in mind with H.R. 3732's release language is that it does appear to take the wilderness review and postpone it from the regular forest planning process to 10 years from passage of this act. The way we read this, essentially the Forest Service will do a wilderness review unrelated to the forest plan-