

Commissioner Alan Gardner

Member

Washington County, Utah Board of Commissioners

Testimony

Before the Subcommittee on Forests and Forest Health

United States House of Representatives

Hearing on HR 5769 Washington County Growth and Conservation Act of 2006

September 14, 2006

Mr. Chairman and members of the Committee, I am pleased to be here representing the 140,000 citizens of Washington County, Utah. Had I been here just 20 years ago, I would have been representing 41,000 people, and if we have reason to meet like this in 10 years, I will be here in behalf of nearly 250,000 citizens.

We are a County experiencing tremendous growth. In August of this year, the U.S. Census listed us as the fastest growing county in the United States.

I have been a Washington County Commissioner since 1996 and am a native of the county. All my ancestors on both my mother's and father's side helped to establish the first communities. The first came with a group of Christian missionaries to the Native Americans in the area in 1853, and the others followed by 1863. I have a deep appreciation for them, and for the work they did and the hardships they endured to create the communities which now make up Washington County. It is because of this heritage that I have such a strong sense of responsibility toward assuring that the future of Washington County protects the quality of life which my grandparents and many like them sacrificed to create, and which draws people to our area in such incredible numbers today.

Washington County is an extraordinarily beautiful area of just over 1.5 million acres. About 84% of that land area is in some form of Federal or State ownership. Nearly one-third of the county, over 29%, is currently under some form of special, restrictive management. Our legislation would add to that number. Of the 16% of the land which is privately held, it is estimated that less than half qualifies for acceptable growth. As a result, we are faced with a tremendous challenge---huge areas of public lands, some very spectacular, on one hand, and less than 10% of our lands available to accommodate the thousands of people who are coming, and are yet to come, on the other hand. It is a formidable task to try to balance the preservation of our special places, while at the same time assuring that growth will be accommodated in a visionary manner that provides and maintains a high quality of life.

My five children and nine and one-half grandchildren reside in the County, as do all of my siblings. I want them and everyone else to have a bright future, with many opportunities to thrive and succeed. Our residents want smart economic growth, a strong and sustainable local job base, preservation of our special areas, and protection of the high quality of life that makes this place special. This legislation establishes policies that will allow us to develop a vision for the future, and then gives us the tools to accomplish the various elements of that vision.

The idea to pursue this course began after we carefully observed the legislative solutions for comprehensive land-use being realized in Clark and Lincoln Counties just across the border in neighboring Nevada. It occurred to our Board of Commissioners that the Nevada template made good sense for Washington County, Utah too. They have similar public land and growth issues. We have followed the Nevada pattern throughout our process.

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

In developing this legislation, we created a broad-based, twenty member working committee. Each member of the working group agreed up front to stay with the process, to collaborate in good faith, and to work for a successful, balanced product. The group included individuals with both local and national perspectives, such as the Dixie Wildlife Federation, Virgin River

Land Trust, Outdoor Retailers Association, Southern Utah Wilderness Association, Sierra Club, Wilderness Society, Blue Ribbon Coalition, and many others. All of our working meetings were open to the public, and very well attended. We scrutinized every acre of the County, from border to border, using multiple layers of GIS data such as transportation and utility corridors, water resources, endangered species habitat, roads and trails, city growth and annexation patterns, wildlife areas, ACECs, and much more. We then displayed this data on a full screen, allowing us to overlay, compare and contrast, and examine every area and every proposal in great detail. Several times, we scheduled two day meetings, with the first day around the table and the second day in the field. This allowed us to take the group on several field trips, with the public in attendance, to gain further perspective on the areas we were discussing and to help determine the best management scenario for these lands.

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

Frankly, by the time we finish our Vision Dixie growth planning process, which we will talk about in a moment, we will have had nearly five years of continuous public process in an effort to create a future for Washington County that works to everyone's benefit. We believe that this is unprecedented in Utah, and hope that it becomes the example for future collaborative projects. This legislation is a direct result of this extensive process, and is an integral part of the balanced overall picture of what will become Washington County in the decades that follow.

As I have indicated, one of our foremost objectives with this legislation was to get a handle on growth. We don't want to stop it, we just want to equip the county as well as the cities and towns in the area with the tools to direct growth, rather than just reacting to it. To this end, as a natural extension of our land-use planning process, we have initiated what we are calling "Vision Dixie". Vision Dixie is a comprehensive growth planning effort modeled after the Envision Utah process used in some of the major communities on the Wasatch Front to great success. It has also been used very successfully in other areas of the country as well.

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

The Vision Dixie process and this legislation are inseparably connected. The legislation empowers, the growth planning process directs. One cannot work to its fullest benefit without the other. The vision Dixie process could not succeed without this legislation, and may not continue unless we are successful here, and because of the importance of this overall effort to the future of Washington County, it is very important that we pass HR 5769.

The elements of our legislation are similar to the Nevada bills whose precedent we have followed. It establishes over 219,000 acres of permanent wilderness, including 93,340 acres of BLM wilderness, another 2642 acres of Forest Service wilderness, and 123,743 acres of wilderness inside Zions National Park. It creates the Red Cliffs National Conservation Area for the permanent habitat and protection of the endangered Desert Tortoise, and establishes 170 miles of the Virgin River as wild and scenic.

We have taken some criticism for, to quote, "Ignoring massive areas of the Zion/Mohave region in this process which some propose for wilderness". The reality is that this bill compares favorably with Nevada's legislation from a conservationist point of view. For example, as a percentage of total land area in Washington County, this legislation would add 14.1% additional Wilderness to the public lands there (BLM, Park Service, Forest Service). By comparison, the Nevada Clark County bill added 8.7% in new Wilderness, Lincoln County 11.3%, and White Pine 9.5% of new Wilderness. Moreover, while Nevada's bills release 50%, 24%, and 40% of total BLM Wilderness Study Areas, respectively, this bill releases only 8% of the WSAs in the county. Finally, when added to currently restricted federal lands in our county, i.e. non-multiple-use lands, fully 30% of the lands in Washington County will be restricted, off limits for full multiple use after this bill becomes law. It is true that not every interest group received everything it wanted out of this legislation, but let there be

no doubt, this has been a collaborative work. Everybody agreed to give up something in order to move forward. That is the point of collaboration. What is not true is the statement that large areas of the Zion/Mojave were ignored. Only a very small part of the Mojave region is in Washington County. This is a Washington County bill. We did not consider all the lands in the Mojave region, just those lands which lie within Washington County. The stakeholders know this, they were at the table. What is also not true, and perhaps more troubling, is the claim that if these lands are not included in this legislation they will be "lost forever". There is no hard release language in this bill. There is no law being made here that prevents future discussions or blocks continued advocacy. These lands will continue to be managed for their values, as they are now, and nothing will be lost. They simply will not be part of this "First Step" legislation. We have done our best to include those lands on which there was some level of agreement.

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

The bill also provides for long-term economic development and growth planning by establishing corridors for gas, electricity, water, and transportation. Following the Nevada pattern, it also provides for the disposal of up to almost 25,000 acres of BLM land in two tiers. The proceeds from the sale of these lands would be distributed in the same manner and based on the same formula as in Nevada, with 5% going to the State permanent school fund, 2% to the County to cover administrative costs, 8% to the Washington County Water Conservancy District for identified long-term water projects in the County, as demands dictate, and in direct correlation with the Vision Dixie planning effort, and 85% to a special fund for conservation projects identified by the legislation, including preservation of critical lands, management of wilderness areas, trail repair and reconstruction, and management of the Red Cliffs National Conservation Area, among other things. The Desert Red Cliffs Reserve, which is home to the desert tortoise, is one of the first and most successful habitat conservation plans in the country. This legislation will establish the Reserve as a National Conservation Area, thus giving permanence to a well-functioning conservation partnership. The 61,000 acre reserve still contains in excess of \$400,000,000 of non-federal lands that yet need to be acquired by the United States. Funding from land sales allowed by HR 5769 could help address this problem, while also helping to provide habitat protection for many other species around the county as well.

This section of the legislation, dealing with land sales, is the area that has generated the most criticism, and conversely, has received our most intensive effort in response to public input. Critics of this element of the bill have said that "Forty square miles of beautiful public lands will be made open to indiscriminate development, and that the County Commissioners, in the pockets of the developers, stand to profit greatly". This is simply not true. In fact, nothing could be farther from the truth.

The first tier of about 4300 acres, to be sold over a period of at least five years, is already identified by the BLM in their Resource Management Plan as suitable for disposal. In response to concerns from the public, we have added two layers of further protections for these directed sale lands: First, we have given the BLM an extra year to further scrutinize these lands before they are made available for sale, and, second, we have included covenant language that assures that if something of national importance is discovered on any lands offered for sale, the site would have to be protected.

The second tier of up to 20,000 acres, will only be made available for sale if it is identified in the Vision Dixie growth planning process as being very important to the overall county growth footprint, and then would be sold in sensible increments over a period of 10 to 20 years, or longer. As a Board of Commissioners, we recently passed a County Resolution in support of this concept, reaffirming that no lands in tier two of our legislation will be offered for sale unless they are identified by the Vision Dixie process as being important to the success of the county-wide growth vision.

What is happening now is uncontrolled growth---as much as 30% in the past three years is one recent statistic. As I said earlier, Washington County has just over 16% of their lands in private ownership. However, due to historic artifacts, topography, 12 different threatened and endangered species, and other restrictive problems, much of that land is unavailable for development. The Washington County Growth and Conservation Act makes it possible for the Vision Dixie growth planning team to actually develop a countywide growth vision and then identify lands that make the most sense to be developed as part of that countywide growth footprint. It is very unlikely that this will be all 20,000 acres. Whatever the end product is, the fact remains that this legislation equips the Vision Dixie Project Administrators with the ability to select those lands which best fit the ideals created by the growth planning team and then make them available for directed development as appropriate. Without the legislation, the planners would be seriously handicapped in their efforts to direct growth, create open space, and protect precious areas while at the same time assuring the high quality of life that draws people to this area.

At this point, I would like to mention that there are elements of this legislation which we are not entirely comfortable with as a Commission, and which I would like to mention in my testimony. I make the point because I wish to re-emphasize the fact that this was a collaborative effort, and we have all made sacrifices in order to make it come together. While I am here to strongly advocate the passage of this legislation, I also feel it is important to note those parts of the legislation which give us discomfort.

The first area of concern is in the designation of more wilderness acres in the County. With 29% of the County already in some form of restrictive designation, adding to that number has been a difficult pill for the County to swallow. This comes not from any anti-wilderness sentiment, but from the sense that there must be some practical balance to all things, and Washington County has already paid a heavy toll in the public land preservation arena. Consequently, while some are calling for more wilderness, we believe that it could have been less, given the circumstances.

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

Summarily, I would once again like to thank Senators Bennett and Hatch, and Congressmen Matheson, Cannon, and Bishop for their wonderful help and support in the development of this legislation. I would also like to thank the members of the Committee today for this opportunity to testify in support of HR 5769. I ask for your earnest consideration of this legislation, and believe that it will establish a strong precedent in Utah for collaboration and public process in public land matters in the future.

I would like to make one final point, if I may. We have had an unfortunate situation in the State of Utah in regards to our public lands. With our heavy concentration of advocacy groups on all sides of the issues, and with our extensive national exposure, we have allowed ourselves to be in a situation where the perfect has become the enemy of the excellent. Given the atmosphere in Utah, it is impossible to create land-use legislation that is perfect in the eyes of every stakeholder. Always in the past, we have all focused on what we disliked, ignored what we did like, and worked to prevent the passage of good legislation because of what it lacked. HR 5769 is truly an excellent bill, perhaps the best to come out of the State of Utah to date. I believe that it represents a maturity among stakeholders in trying to recognize the values of others and working to resolve long-standing disputes. This legislation is a superb balance between preservation and growth, and it is my profound hope that, once again, true excellence will not become the victim of an ill-fated reach for someone's idea of the perfect.

Thank you.