Policy after Politics

How should the next administration approach public land management in the western states?
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Presented on June 1, 2000
By The Andrus Center for Public Policy
Cecil D. Andrus, Chairman
At Boise State University
Boise, Idaho

CONFERENCE REPORT

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Management of the public lands in the west isn’t working very well. Without regard to one’s perspective on individual issues, almost anybody close to the land will tell you that we have problems that have gone unaddressed and that now must be confronted. The two previous conferences sponsored by the Andrus Center have helped us define the problems.

In the 1998 and 1999 conferences, we heard a great deal from the national directors of the Bureau of Land Management, the Forest Service, the National Park Service, and the U.S. Fish and Wildlife Service about the tangled web of overlapping and often contradictory laws and regulations under which our federal public lands are managed. It became apparent that little was going to change in the Washington-based, top-down decision-making process that has been the rule for so long. Consequently, it seemed appropriate this year to reverse the process and to ask for advice from those on the front lines of implementing the policy decisions made in Washington: the governors of the most affected states.

This year, we invited both current and former governors to come to Boise in June of this year to tell us what public land management policies look like from their perspectives. The particular question we asked them to consider was “How should the next administration approach public land management in the western states?”

They told us...in spades. With remarkable candor and clarity, they laid out problems and possible solutions for the next administration to consider. The accompanying conference report summarizes those, and in November of this year, I will deliver a copy of this report personally to the president-elect and to the appropriate cabinet appointees. The policies suggested here by the governors can best be put in place early in the “honeymoon” of a new administration, and it is our sincere hope that the president-elect, whether he is a Democrat or a Republican, will listen to what they have said.

Cecil D. Andrus
Chairman
Boise, Idaho
June 2000
7:00 a.m.  Registration, 2nd floor, BSU Student Union
8:15 a.m.  Continental breakfast. Lobby of Jordan Ballroom, BSU Student Union
8:40 a.m.  Opening gavel for Policy After Politics, Jordan Ballroom, BSU Student Union
Remarks and introductions by: Cecil D. Andrus, Chairman, Andrus Center for Public Policy
8:50 a.m.  Welcome and comments by: Dirk Kempthorne, Governor of Idaho
9:00 a.m.–10:30 a.m.  Keynote address: "How should the next administration approach public land management in the western states?"
John Kitzhaber, Governor of Oregon
A senior western, two-term Democratic governor and recent advocate of breaching the four lower Snake River dams to aid salmon recovery.
Marc Racicot, Governor of Montana
Two-term governor and former state attorney general, who plays an influential role as close friend and advisor to Governor George W. Bush.
10:30 a.m.  Refreshment Break
11:00 a.m.  Question and Answer Forum
Moderated by: Cecil D. Andrus, Chairman, Andrus Center for Public Policy
Noon  Luncheon, Jordan Ballroom, BSU Student Union
Speaker: Jay Shelledy, Editor, Salt Lake Tribune
1:30 p.m.–2:30 p.m.  Panel Discussion
Moderated by: Marc Johnson, Former Chief of Staff for Governor Andrus
Participants:
John Kitzhaber, Governor of Oregon
Marc Racicot, Governor of Montana
Phil Batt, Former Governor of Idaho
First Republican governor in 24 years, former legislator, lieutenant governor, and leader on nuclear waste issues.
Norm Bangerter, Former Governor of Utah
Former Chairman of Western Governors Association, two-term Republican governor, former speaker of the Utah House of Representatives, leader on western resource issues.
Mike O’Callaghan, Former Governor of Nevada
Idaho native, University of Idaho graduate, two-time Democratic governor, currently executive editor of the Las Vegas Sun
Jay Shelledy, Editor, Salt Lake Tribune
Former editor and publisher of Moscow Pullman Daily News, former managing editor of Lewiston Morning Tribune, award-winning columnist, reporter, and keen observer of western politics.
2:30 p.m.–3:30 p.m.  Forum for questions to and from speakers, responders, and audience
Moderated by: John C. Freemuth, Ph.D., Senior Fellow, Andrus Center for Public Policy
3:30 p.m.  Conference adjourned
Western governors, without regard to party affiliation, have long been willing to speak with candor and clarity about the relationship the federal government has with the states that contain most of the land that belongs to the public. Who better than current and former governors, then, to address the question: "How should the next administration approach public land management in the western states?"

Our speakers emphasized a common theme: how the next administration approaches land management, rather than what the substance of that administration’s policy should be. That theme was reflected in the development of the following policy objectives:

POLICY OBJECTIVE NO. 1: Public land and natural resource management bureaus and agencies need to be consolidated into a single cabinet-level department.

Public land decision-making is overly fragmented, perhaps more than the ecosystems it claims to protect. There is no reason for the U.S. Forest Service to be in the Department of Agriculture while other public land agencies are located in the Departments of Interior and Commerce. As a result, public land policy suffers from unnecessary turf wars and multiple clearing points. Although policy debate is important, at some point the "federal family" must speak with one voice.

POLICY OBJECTIVE NO. 2: Public land policy and its implementation should be decentralized whenever feasible.

The emphasis was on decentralized and delegated decision-making authority. Our publicly-owned lands would continue to be managed and administered by federal agencies, but "local feds," such as forest supervisors and regional foresters in the case of the U.S. Forest Service, should be empowered to make more binding decisions than is currently allowed. Decentralized decision-making also involves having the necessary resources available for relevant officials to be able to act effectively.

POLICY OBJECTIVE NO. 3: Decisions made through collaboration work best. Command and control regulation is one of many tools available to reach the goal of environmental quality but should be used infrequently.

Western governors, among others, clearly have a vital role to play on western land issues. That role can vary from offering important policy advice to serving as cooperating agents in public policy-making. They certainly should not be "surprised" by federal initiatives and have no foreknowledge of policy proposals. Such surprise is indicative of top-down, Washington-centered public policy-making, which causes unnecessary polarization and anger in the west. Federal regulation as a policy tool is only one of many options.

POLICY OBJECTIVE NO. 4: Political appointments to land agencies should single out individuals who have an intimate understanding of western issues and a record of inclusive decision-making.

It is important that political appointees have a set of beliefs that corresponds with the president...
that appoints them. Appointees will also often need to make final decisions and reconcile disagreements among staff. That said, appointees who bring both specific knowledge of western issues and reputations as inclusive problem-solvers are more likely to build the sort of trust needed in public land policy decision-making. Their staffs should have the same understanding of western issues.

POLICY OBJECTIVE NO. 5: There must be an underlying set of realistic, widely acceptable principles that allow public land management to proceed with less conflict.

This condition has existed in the past, such as in the political consensus around the ideas and principles of the Conservation Movement at the turn of the last century. Some ideas that received discussion at the conference included sustainability, watershed health, and ecosystem health. Those ideas were often linked to a set of principles that might allow them to be implemented, principles such as the Western Governors’ Association’s “Enlibra.”

POLICY OBJECTIVE NO. 6: Land management agencies should be allowed by Congress and by the Office of Management and Budget to develop multi-year budgets for landscape and watershed management.

Proper stewardship of western resources cannot be made to conform to the arbitrary requirements of the Congressional budget cycle. Many worthwhile projects take months and even years to plan and execute properly.
The Goal of the *Policy after Politics* Conference

The Policy after Politics conference was convened by the chairman of the Andrus Center, Cecil D. Andrus. The purpose of the conference was to offer advice to the next presidential administration on the following question: “How should the next administration approach public land management in the western states?” The speakers at the conference were a bipartisan group of current and former governors of western states, men known as successful leaders and politicians in their respective states. Each speaker was presented with the above question and asked to tailor his remarks and thoughts around it.

Governors John Kitzhaber of Oregon and Marc Racicot of Montana keynoted a day filled with their perspectives and the perspectives of current and former governors Dirk Kempthorne, Phil Batt, and Cecil Andrus from Idaho; Norm Bangerter from Utah; and Mike O’Callaghan from Nevada. In addition, Jay Shelledy, editor of the *Salt Lake Tribune*, offered observations from the fourth estate during his luncheon address. The results of this conference, held June 1, 2000, are presented in this report.

The impetus for the conference was a desire to look toward the future, the next presidential administration, and its possible public land policies. The two previous Andrus Center conferences on public lands brought together leaders of the major federal land bureaus to offer their perspectives on land management. Having heard that perspective, the Andrus Center thought it best to provide a fresh approach offered by leaders, none of whom, with the possible exception Governor Kempthorne, will run again for the gubernatorial position. Hence, the Center hoped that these leaders would offer frank advice from a bipartisan western perspective on what the next administration ought to do in formulating public land policy.

> "In this and like communities, public sentiment is everything. With public sentiment, nothing can fail; without it, nothing can succeed. Consequently, he who molds public sentiment goes deeper than he who enacts statutes or pronounces decisions."
> Abraham Lincoln

> "I want to go just as far in preserving the forests and preserving the game and wild creatures as I can lead public sentiment. But if I try to drive public sentiment, I shall fail, save in exceptional circumstances."
> Theodore Roosevelt

> "In the long run, Forestry cannot succeed unless the people who live in and near the forest are for it and not against it."
> Gifford Pinchot
Report on the Policy after Politics Conference

The conference followed a format that allowed for extended remarks, reactions to those remarks, and numerous questions from the audience. Governor Kemphorne made welcoming remarks that centered on the key question of the conference. His comments were followed by extended remarks from Governors Kitzhaber and Racicot. The former governors then responded and added to the comments of Governors Kitzhaber and Racicot and, at the same time, received questions from conference attendees. Conference transcripts have been analyzed to develop a set of policy objectives, which are discussed below. Complete transcripts are available through the Andrus Center.

POLICY OBJECTIVE NO. 1: Public land and natural resource management bureaus and agencies should be consolidated into a single cabinet-level department.

This point was made directly by a number of speakers. Jay Shelledy set the stage in his luncheon address when he called for the consolidation of natural resource agencies, including those with oceanic natural resource management responsibilities. As he bluntly put it: "It makes as much sense for forest management to be under Agriculture—with its corn, beets, and hog bellies—as it does for banks to put Braille on the keys of drive-up ATMs."

The governors agreed and added other insights. Governor O’Callaghan urged that all the agencies limit the number of supervisory positions to no more than four levels, along the model of the "old Forest Service." Governor Racicot pointed out that such reorganization would allow for a reconciliation of policy positions within the executive branch. He used bison policy in Montana as an example of an issue on which he has asked the Montana Department of Livestock and the Montana Department of Fish, Wildlife, and Parks to reconcile their positions. As John Kitzhaber put it: "It is impossible to determine what the federal position is on Columbia Basin issues," and he urged that the federal agencies speak with a "common voice." Governor Batt reminded attendees that this proposal had merit but that "Congress has an interest in perpetuating a multi-agency perspective through its committee system." Thus, Congressional approval of reorganization is essential.

It is clear that the emphasis of the governors was placed on process considerations regarding reorganization, not substantive ones. Reorganization was favored, not because it would lead to a more "pro-development" or "pro-environmental" outcome, but because it would lead to a clearer federal position. All participants recognized that further analysis of such consolidation would be required. The goal of such consolidation would be for the federal government to administer its public lands under a single, unified policy.

There is an abundance of evidence that agencies have a number of reasons to resist reorganization, coordination, and mandated
deference to other agencies’ positions on issues when it appears to violate the core mission or belief system of the first agency. For example, at the second Andrus Center conference on public land management, Jamie Clark, Director of the U.S. Fish and Wildlife Service, remarked that "issues like organization and reorganization tend to crater." They crater because there is organized resistance to the proposals, often orchestrated by the agencies being proposed for reorganization, industry groups with vested interests, and members of Congress with committee assignments. Thus, a new administration’s strategy to bring such coordination about needs to be carefully and completely analyzed, given priority among competing initiatives by the new administration, and given enough political capital to succeed. Such capital is most available at the beginning of a new administration.

**POLICY OBJECTIVE NO. 2: Public land policy should be decentralized whenever feasible.**

Jay Shelledy hit on the dilemma facing public land management when he pointed out that,

"[Congress is] just as bad as anyone else on the other side of the Potomac, questioning what’s happening at the local level and requiring every decision to be made inside the walls of Congress rather than trusting people at the local level to do it.”

Governor Racicot Montana

American taxpayers, to subdivide the public interest to the greed of those who may live closest to a given chunk of federal real estate or run of water."

Public lands are national lands with national constituencies; yet, it may not follow that decisions must be made in Washington, D.C. Shelledy went so far as to urge that the federal land agencies be moved out of Washington, closer to the land and people whose lives are affected by their policies. For example, "the BLM headquarters belongs in the west."

The governors’ emphasis was on keeping the decision-making within the current public land system, rather than on other mechanisms discussed by some advocates, including land transfer or privatization. As Governor Racicot remarked,

"I trust Dale Bosworth [Regional Forester]. He lives in a community in the state of Montana. If I were the Chief of the Forest Service, I would invest him with more authority to make thoughtful decisions about what’s occurring on the ground and give him the resources to be able to do that."

Forest Service employees, Governor Racicot said, are often "absolutely demoralized because they no longer have the ability to be professionals and to make discretionary decisions." There is shared blame in this area, particularly as it relates to funding or the lack thereof. He noted:

"Congress is as much engaged in these issues as anyone in the executive branch of government. Quite frankly, they have a long way to go in terms of becoming responsible partners in this process, providing proper resources, and not using the budgetary process strategically to obstruct, retard, and delay appropriate things that ought to occur on the ground, not questioning every single decision. They’re just as bad as anyone else on the other side of the Potomac, questioning what’s
happening at the local level and requiring every decision to be made inside the walls of Congress rather than trusting people at the local level to do it."

Governor O’Callaghan used the example of water to remind people that sometimes policy solutions do take on a more regional scope, as in the case of water allocation on the Colorado River and the Colorado River Commission. He praised Secretary Babbitt for taking a regional approach and not giving in to the water needs of California, by far the largest state in the Colorado River Basin. Sole state control on the water issue was not capable of resolving the water disputes.

**POLICY OBJECTIVE NO. 3: Decisions made through collaboration work best. Command and control regulation is one of many tools available to reach the goal of environmental quality but should be used infrequently.**

The point was made over and over again by various speakers. Governor Kitzhaber offered a number of examples from Oregon. First, he referenced the Eastside Panel, made up of a group of scientists, and a Forest Health Advisory Committee, which has come up with "eleven management principles for restoring ecosystem health." He went on to describe the plan as recommending:

"...active management to promote ecosystem health while avoiding highly sensitive or highly controversial areas. It also emphasizes learning from our effort through a monitoring component. The restoration treatment includes understory and commercial thinning; road maintenance, closure, and/or obliteration; prescribed burning; noxious weed treatment and prevention; riparian planting; and streamside restoration. The by-product of many of the thinning treatments is wood for local mills to help stabilize rural communities. The thinning also reduces the risk of catastrophic fires, which have increased significantly as the forest health has deteriorated."

This effort led first to a focus on individual Forest Service and Bureau of Land Management projects that met the eleven-point plan’s criteria and, more recently, on an entire watershed project of three million acres, called the Blue Mountain Demonstration Project. That project is also being proposed to the Secretaries of Commerce and of Agriculture as a pilot study to see how federal public land decision-making might be accelerated and decentralized. Perhaps, too, part of the Forest Service’s "K-V" funds for forest restoration could be used to accomplish some of these objectives.

Governor Kitzhaber then turned to a discussion of federal policies, notably the Endangered Species Act (ESA) and the Clean Water Act, which impact the management of private lands or the behavior of individuals. His point was that reliance on the command-and-control style of these laws was of limited utility. As one example, he pointed instead to local watershed councils (from the Oregon Plan for Salmon and Watersheds), which have taken streams off an EPA list of streams that threatened water quality and have led to voluntary actions to protect coho salmon habitat. He also stated that regulation would not control the actions of thousands of individuals, actions that create non-point source pollution. Only learned and voluntary "sustained environmental stewardship" could accomplish that end. Finally, he urged that the next administration place people in regulatory positions who are committed to "trying to get to yes."

"President Clinton seemed surprised when I told him that his Administration’s roadless policy could have an impact on Idaho’s access to revenue-producing state lands."

Governor Kempthorne Idaho
Governor Racicot amplified the forest health theme of his friend, Governor Kitzhaber. He asked people to reconsider the question of below-cost timber sales or what might be called the subsidizing of timber production on some of the federal public lands.

"If we want to vindicate the environmental ethics we all claim to believe in our national forests and roadless areas, then we’re going to have to pay something to keep those lands in the proper condition. If we’re going to pay something, then that means the rest of the country doesn’t just get to get engaged in this process to tell others that rely on the land presently, ‘you are no longer part of the equation.’ We have to discover ways for us to be able to engage them and to keep them whole.”

The maintenance of forest health conditions becomes a way to achieve this goal. Governor Racicot went on to suggest that Montana has been more successful at selling timber on state lands but also noted that the state has been able to craft the sale of "viewshed protection" instead of timber as a way to make money for state school lands.

Governor Andrus reminded attendees that modernization in the timber industry, such as mill automation, has reduced the number of timber jobs in a manner different from public land policy-making. Governor Bangerter elaborated on this theme, noting that "when I was a boy, people got a job, stayed in that job, and retired in that job. That isn’t the same anymore."

There are certain economic changes, then, that may well go beyond public policy shifts and be less amenable to a public policy solution.

Governor Racicot also urged people to take a look at a consensus project on grizzly bear delisting in Idaho, Montana, and Wyoming an effort that involved a number of different groups and represented a type of decision-making worth emulating. Their recommendations were endorsed by the governors of the three states and sent on to the U.S. Fish and Wildlife Service. He also informed people that, although he and Governor Kempthorne disagreed about grizzly bear reintroduction in the Selway Bitterroot Mountains between the two states, the recommendations from the citizens’ advisory group associated with that project had been well received by USFWS. Finally, he reminded people that only the state of Montana had resisted earlier federal attempts to eradicate the bear.

Several speakers urged caution on the question of consensus decision-making. As Governor O’Callaghan noted, “I don’t think you can make policy by everyone sitting down and agreeing. We don’t demand that we agree, but we demand to be included and heard.” Sometimes consensus happens. When it doesn’t, we shouldn’t just duck the issue. Federal stewardship of the land and water may require a decision. As Jay Shelledy said:

"In the federal-versus-state debate over public land management are New Age problem-solving systems: holistic management, watershed coalitions, resource advisory councils. All are based on loosely defined principles of consensus-building. It is inherently flawed ...Senseless consensus-building is the easy way out for federal land managers who don’t want to do their jobs. Indeed, they ought to listen to the arguments, weigh carefully the evidence and science, make a decision, and then take the heat. And don’t congratulate yourself if all sides are foaming at the mouth over your decision. It only means you failed on all fronts. Be a leader.”

POLICY OBJECTIVE NO. 4: Political appointments to land agencies should
single out individuals who have an intimate understanding of western issues and a record of inclusive decision-making.

There was unanimity on this point. Governor Kemptthorne reported, "President Clinton seemed surprised when I told him that his Administration's roadless policy could have an impact on Idaho's access to revenue-producing state lands." Whether Clinton should have known this fact is not the point; the implication is that none of his staff was aware of it.

Governor Kitzhaber noted that, although appointees need not be from the west, most "should be someone who is very creative in his or her outlook...and someone who is committed to a hands-on involvement with the western political and community leadership in making those decisions." Both he and Jay Shelledy went even further, urging key agency people to spend time traveling in the west, regardless of where the headquarters might be located.

In Shelledy's mind, the current Secretary of Interior, Bruce Babbitt, met these criteria: "He was raised on an Arizona ranch and is as close to the earth as any of us and, it would seem, close enough for the people of Arizona to elect him governor twice." As to debate over the new national monuments, Shelledy praised Babbitt for learning how to work the process better as he went along by listening to people. In addition, with Katie McGinty's departure as head of the Council on Environmental Quality, the Secretary had more influence inside the Administration. Governors Kitzhaber and Racicot were also supportive of the way Secretary Babbitt is approaching potential national monuments in their two states. As Governor Racicot said:

"...the Secretary has provided an example, a model, of exactly what it is that we're suggesting today. He has listened, he has visited, he has looked into the eyes of the people that live here, he has tried to find flexible solutions that allow for the continuation of traditional uses, he's tried to leave people whole, and I think there is every reason to believe that we can accomplish this in a positive thoughtful way."

Governor Andrus asked about the utility of the next Administration's using the western governors as a key advisory group. Governor Bangerter said yes, but that it would depend on the quality of western governors and on a commitment from the next administration to "build policy from the bottom up instead of imposing from the top down." In the experience of Governor Batt, the "Western Governors Association is way ahead of its national counterpart because the western governors are willing to leave the politics out of it and look at the mutual concerns of the west." This regional focus of the WGA would make it a natural advisor to the next administration.

POLICY OBJECTIVE NO. 5: There must be an underlying set of realistic, widely acceptable principles that allow public land management to proceed with less conflict.

"To recast the debate, federal land management must be built on the foundation of a single over-arching policy objective that drives the management plan."

"I don’t think you can make policy by everyone sitting down and agreeing. We don’t demand that we agree, but we demand to be included and heard."

Governor O'Callaghan Nevada

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Governor Kitzhaber Oregon

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Governor Kitzhaber Oregon
policy objective that drives the management plan.” He offered two closely-related objectives that met his criteria: watershed health and ecosystem health. Earlier, Policy Objective No. 3 detailed how Oregon has tried to implement these concepts. Governor Kitzhaber then expanded this notion of over-arching policy objectives by referring to the Enlibra principles, which he and Governor Mike Leavitt of Utah have developed and which have been adopted by the Western Governors’ Association. He noted that one of the principles is "National standards, neighborhood solutions." One size doesn’t fit all. We might very well have over-arching policy objectives determined nationally, but they should be implemented locally through experiments like those in Oregon.

Governor Racicot added to this discussion by recasting some of the traditional multiple use doctrines:

“To me, the notion of bringing about sustainability on federal lands has to do, first of all, with recognizing that different lands should be used for different purposes at different points in time. We have to recognize that multiple uses are appropriate on some of those lands although exclusive use may be appropriate to others.”

Criticism of multiple use as a working, implementable doctrine for public land management has been growing. “Multiple use” is a misnomer, and, on some occasions, temporary use of the land for a particular purpose may be in order. A new idea, such as watershed health, may become an over-arching policy driver for public lands with the result that multiple use, as it is understood today, would need to be revised.

**POLICY OBJECTIVE NO. 6: Land management agencies should be allowed by Congress and by the Office of Management and Budget to have multi-year budgets for landscape and watershed management.**

Jay Shelledy had a good proposal that would fit into how we might wish to implement an over-arching new policy when he called for a multi-year budget cycle for natural resources. As he said, "Nature does not conform to fiscal years.”

No enterprise as large and complex as the federal land management bureaucracy should be required to constantly justify its policies and objectives through the budget-making process. It only stands to reason that multi-year budgets would ensure less frequent and less rancorous debate in the Congress, provide more flexibility to land managers on the ground, and force Congressional and Administrative policy-makers to commit to a long-range vision.
We are in an era of continuing contentious debate over the purpose of public lands. At the Andrus Conference, the governors suggested that we need to discover the basis for an agreement about public lands, one that will allow their management to proceed without continuing contention and confrontation. Several important possible solutions were given hearing at the Andrus conference. The governors discussed policy reform at a level not discussed since the days of the Progressive Conservation Movement of the late 19th century when a set of ideas and principles were developed that allowed this country to maintain a unifying public land policy.

Note, though, that the governors were talking about something more and deeper than consensus. Consensus and collaboration are useful processes, but process alone will not succeed. Definition and commitment to scientifically sound principles, consistently applied, will allow for sustainable management of the public’s western lands.

If we ever arrive at such a principled process, then Governor Kitzhaber’s “watershed health” and other suggestions are in place to help bring about better management. Decentralized decision-making, well-chosen political appointments, collaborative processes, and intelligent governmental and scientifically-based principles may then work together to see that such a new shared vision comes about on the ground where it matters most: the landscapes of the American West.

It is clear that western governors understand these issues, but they also understand politics. If any of these valuable suggestions are to stand a chance of coming into practice, the next Administration must act on them quickly. This report offers a "First 100 Days" agenda on western issues if the next administration is willing to propose it.
American Forest and Paper Association
Bullitt Foundation
Elam & Burke, P.A.
Hawley Troxell Ennis & Hawley LLP
Holland & Hart LLP
Idaho Conservation League
Intermountain Forest Association
Monsanto Company
National Cattlemen’s Beef Association
National Parks Conservation Association
Nature Conservancy
Northwest Mining Association
Public Lands Council
Rocky Mountain Elk Foundation
Skinner Fawcett
Thompson Creek Metals Company
Trout Unlimited
Trout Unlimited, Idaho Council
USDI Bureau of Land Management
USDI Fish and Wildlife Service
USDA Forest Service, Intermountain Region
USDI National Park Service, Pacific West Region