

Can't sue Uncle Sam into submission? Who knew?

Marty Trillhaase/Lewiston Tribune

The legislators behind stoking the embers of Idaho's perennial Sagebrush Rebellion have made a startling admission:

They were wrong.

Their idea of suing Uncle Sam into submission and acquiring 20 million acres of national forests and 15 million acres of federal range land?

Ain't going to happen.

"We're already pretty confident that from a legal perspective, we don't stand on very firm ground if it were a matter of litigating," state Sen. Chuck Winder, R-Boise, told the Spokesman-Review's Betsy Russell last month.

Winder and state Rep. (and GOP nominee for secretary of state) Lawrence (Boss) Denney are the co-chairmen of an interim committee created on just such a premise.

They got the idea from Utah Rep. Ken Ivory, who was the toast of the 2013 legislative session.

Ever since deputy Idaho Attorney General Steve Strack told them they were on the wrong track 13 months ago, however, they've been in a state of denial.

On Strack's side of the ledger were:

- The property clause of the U.S. Constitution says Congress may dispose of public lands as it chooses.
- When Idaho came into the union in 1890, it adopted a constitution stating the people "do agree and declare that we forever disclaim all right and title" to the federal lands.

"The lesson I took away was that where we saw progress in the past (in terms of transfer of land ownership) has been the result of congressional action," Strack said. "The limited litigation experience we have wasn't successful. We know Congress does respond when the states can make a compelling argument. The Carey Act was a great example of that."

On the legislators' side of the ledger:

Cash. Lots of it.

It hired former Interior Solicitor Bill Myers of Boise and paid him \$410 an hour to look into the matter. After shelling out \$41,410, it appears the panel has reached a consensus that acquiring the federal lands "would be a difficult row to hoe to win a case in court," Mike Nugent -

legislative staff Research and Legislation Division manager - told the Tribune's Kathy Hedberg Thursday.

Winder said much the same thing to the Idaho Statesman's Rocky Barker: "It's going to be a political solution. ... It's going to have to be a bipartisan process."

Elsewhere across the West, the sheen is coming off Ivory's grand design.

Barker reports that lawmakers in Montana and Nevada have dropped the idea of taking legal action. Even in Ivory's Utah - where the Legislature imposed a Dec. 31 deadline for federal compliance - the attorney general is backing off and does not plan to file a lawsuit by the end of the year.

Not that Strack was the only voice that Winder, Denney and others chose to ignore. Leaders of industries dependent on federal lands urged a political solution - something more in line with the collaborative efforts that are underway in the Clearwater Basin.

And ordinary Idahoans repeated what they've been saying every time this notion has emerged since the late 1970s. Idaho can't afford to take over management of these federal lands, which now costs as much as \$500 million a year. Inevitably, the state would sell off prime properties to the highest bidder and the "No Trespassing" signs would go up.

"They learned how much Idahoans love their public lands," Boise State University political science professor John Freemuth told Barker.

But that has not deterred Winder and Denney from taking their show on the road.

Last week, the panel wound its listening tour through Kamiah, St. Maries and Sandpoint. Next month, it's on to Idaho Falls, Soda Springs, Twin Falls and Hailey.

Hey, after wasting your money on a flimsy legal strategy, what's wrong with spending even more on the state's expense account?

Are they that inept?

Or that cunning? - M.T.