

Who wrote lands task force report, anyway?

Marty Trillhaase/Lewiston Tribune

Funny thing about the Idaho Legislature's public lands task force: Its final report reads as if Idaho Deputy Attorney General Steve Strack was the author.

Two years ago, Strack - chief of Attorney General Lawrence Wasden's natural resources section with 26 years experience - told the task force something it did not want to hear: The idea of suing the federal government into relinquishing millions of acres to the state was doomed to failure.

Strack said it ran afoul of the Property Clause of the U.S. Constitution, which gives Congress absolute control over disposal of federal lands.

The task force report agrees.

Strack pointed out the U.S. Supreme Court has reiterated that idea time and again.

It's in the task force's report.

Strack reminded the task force how Idaho's 125-year-old state Constitution recognized as much: "The people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof ... "

It's in the report.

And Strack advised members that rather than litigation, they should follow the model of the Carey Act - the vehicle Congress used to transfer 1 million acres to each of the Western states.

It's in there.

Also in there is a conclusion Strack himself could have written: "Legal analysis suggests that litigation of state claims to ownership of federal lands would be a time-consuming and expensive endeavor without a great deal of certainty as to the outcome. ... If litigation were a panacea, it would have succeeded decades ago."

But the panel, headed by Sen. Chuck Winder, R-Boise, and former state Rep. - and now Idaho Secretary of State - Lawrence (Boss) Denney - was so enamored of Utah legislator Ken Ivory's argumentum ad ignorantiam that it hired its own lawyer, former Interior Solicitor William Myers of Boise in the hope of getting a different answer.

At last count, the panel had paid Myers more than \$60,000 and probably burned through most of a \$20,000 budget pursuing this fallacy. Even the Idaho County commissioners got into the act, funneling \$15,000 of taxpayer money toward Ivory's American Lands Council.

But a private-sector attorney can't rewrite constitutions, laws and court rulings to conform with mystical legal theories.

Meanwhile, as the task force was wrapping up its work, it got disquieting news: If it prevailed and got possession of Idaho's national forests, the state would take a financial bath. It would require logging levels not seen in 40 years plus favorable timber markets just to make a go of it.

So the task force settled for complaining about federal lands management policies and agreed to wait for the outcome of the lawsuit Ivory is pressing his state to pursue.

Not listening to Strack meant more than wasting money.

It was a huge distraction. While people like Denney and Winder at the state level, or Idaho County Commissioners Skip Brandt and Jim Chmelik on the local scene were talking about acquiring state lands, the props went out from under the Secure Rural Schools program.

Nobody was complaining while Congressman Raul Labrador and Sens. Mike Crapo and Jim Risch, all R-Idaho, allowed authorization of the program to lapse without much of a protest.

If the SRS is not restored, Idaho County stands to lose \$7.6 million. Clearwater County is out nearly \$1.4 million.

Instead of devising more collaborative programs among stakeholders on the ground, statewide candidates such as Denney sold voters the unattainable notion of taking over and exploiting the federal lands.

That's two more years avoiding the obvious: Rural Idaho's economic future does not lie in restoring its past.

How does that look to the bulk of Idahoans who live in cities and regard the federal lands as places for recreation?

What is someone living outside the Gem State supposed to think of politicians who could be so wrong for so long?

When this team comes up with Plan B, will anyone listen?

Bad enough we lost money on this.

But Idahoans also wasted time, energy, focus - and our good name. - M.T.