

**STATEMENT OF  
TROY HEITHECKER  
ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM  
U.S. DEPARTMENT OF AGRICULTURE – FOREST SERVICE  
BEFORE THE  
UNITED STATES SENATE  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING**

**June 12, 2024**

**Regarding:**

- S. 2156, “Bolts Ditch Act”**
- S. 3123, "Modernizing Access to Our Public Waters Act"**
- S. 3322, “Ranching Without Red Tape Act of 2023”**
- S. 3346, “Montana Headwaters Legacy Act”**
- S. 3593, "Truckee Meadows Public Lands Management Act”**
- S. 3596, to amend the Mineral Leasing Act to amend references of gilsonite to asphaltite**
- S. 3617, "Cape Fox Land Entitlement Finalization Act”**
- S. 3790, “Alaska Native Vietnam Era Veterans Land Allotment Extension and Fulfillment Act”**
- S. 3985, "Sarvis Creek Wilderness Completion Act”**
- S. 4310, “Chugach Alaska Land Exchange Oil Spill Recovery Act”**
- S. 4424, “National Prescribed Fire Act “**
- S. 4457, “Southern Nevada Economic Development and Conservation Act”**
- S. 4449, “River Democracy Act”**
- S. 4456, To amend the Granger-Thye Act to modify the maximum term for certain special use permits for housing**
- S. 4451, “RESERVE Federal Land Act”**

Chair Cortez-Masto, Ranking Member Lee, and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA), Forest Service, regarding various Federal land management bills.

**S. 2156, “Bolts Ditch Act”**

S. 2156, the “Bolts Ditch Act,” seeks to resolve issues associated with the use and maintenance of Bolts Ditch near the Town of Minturn, Colorado. The headgate and approximately 450 linear feet of the ditch are located within the Holy Cross Wilderness on the White River National Forest. These features were included within the Holy Cross Wilderness when Congress passed the Colorado Wilderness Act, designating this wilderness area in 1980. The structure and ditch were constructed in 1882 and previously delivered water to Bolts Lake via Bolts Ditch. Section 1101(a) of the John D. Dingell, Jr. Conservation, Management, and Recreation Act (the “Dingell Act,” Public Law 116–9) was enacted in 2019, requiring the Secretary of Agriculture to issue a special use authorization to the Town of Minturn for nonmotorized access and use for the purposes of the diversion of water and use, maintenance, and repair of Bolts Ditch and Bolts

Ditch headgate. Presently, the Town of Minturn has no right to water from Bolt's Ditch. In 2021, the Town of Minturn filed an Application for Water Rights and Approval of Plan for Augmentation and Exchange in Case No. 21CW3030. This application includes the Bolts Ditch. No decree concerning water rights has been issued for this case as of January 2024.

S. 2156, the "Bolts Ditch Act," would amend Section 1101(a) of the Dingell Act to additionally require the Secretary of Agriculture to issue special use authorizations to the Upper Eagle River Regional Water Authority and Eagle River Water and Sanitation District for the same use and access as currently mandated for the Town of Minturn, i.e., nonmotorized access and use of the Bolts Ditch Headgate and the Bolts Ditch for the purposes of the diversion of water and use, maintenance, and repair of the ditch and headgate.

Given the location of these features within the Holy Cross Wilderness, maintenance, repair, and operation of these permanent facilities may have minor impacts on the wilderness character of the area. Additionally, Bolt's Ditch is located on Cross Creek, which was identified as an eligible Wild and Scenic River by the White River National Forest Plan in 2002. The plan directs that each eligible stream identified will be managed to maintain eligibility until a suitability study can be completed. Individual suitability studies can be initiated when a project is proposed that may alter the free-flowing character or would affect the resources that made the stream eligible. The action of diverting water to Bolt's Ditch may impact the suitability of Cross Creek, but no study has yet been undertaken to confirm that potential outcome.

USDA does not oppose S. 2156 but anticipates minor impacts to wilderness resources and a potential impact to Wild and Scenic River suitability if the bill is enacted and we look forward to working with the committee to ensure any impacts are as limited as possible.

### **S. 3123, "Modernizing Access to Our Public Waters Act"**

S. 3123, Modernizing Access to Our Public Waters Act" (MAPWaters Act) would direct DOI and the USDA Forest Service to jointly develop and adopt interagency standards to ensure compatibility and interoperability among applicable Federal databases with respect to the collection and dissemination of geospatial data relating to public outdoor recreational use of Federal waterways and Federal fishing restrictions. "Federal waterway" is defined in the bill as "any portion of a body of water managed partially or wholly by 1 or more of the relevant Secretaries." Not later than four years after enactment, the Secretaries must digitize and make publicly available online geographic information system data that includes Federal waterway restrictions, Federal waterway access and navigation information, and Federal fishing restrictions.

USDA generally supports the goal of this bill to improve recreational access in the National Forest System (NFS), but we note several significant issues that must be addressed before this goal could be met in a timely fashion. The Department would like to work with the bill sponsor and the Committee to address the issues posed by this bill. Our comments on this bill pertain to its effect on management of NFS lands. USDA defers to the Department of the Interior (DOI) regarding the effects on DOI bureaus and the federal lands under their jurisdiction.

The USDA Forest Service manages 155 national forests and 20 national grasslands, comprising 193 million acres in 41 states and Puerto Rico. These lands contain three million acres of lakes and 400,000 miles of streams, including 130 designated wild and scenic rivers. These exceptional resources support fishing, rafting, kayaking, and many other watersports and activities.

There are many parallels between this bill and the recently enacted Modernizing Access to our Public Land Act or “MAPLand Act” (Pub. L. No. 117-114). Implementation of the MAPLand Act has shown the considerable costs associated with this type of work. While funding would be authorized through the MAPWaters bill, as with the MAPLand Act, unless Congress chose to appropriate the authorized funds, the agency would have to consider reducing support for other existing program needs to fulfill these new requirements.

Some of the information and classes of data specified by this bill are currently available and accessible in Forest Service databases, but others are not. This bill would raise but not solve several data management issues and distinctions between the role of the federal government in relation to other governmental entities. For instance, section 4(b)(2) requires the Secretaries to provide online bathymetric information and depth charts, but the Forest Service lacks the subject matter expertise to provide these data, which are typically compiled by States for inland waters. Additionally, the Forest Service does not maintain spatial information on water bodies that are closed to watercraft or have horsepower limitations. Although this bill appropriately does not require federal agencies to collect and compile information on watercraft use or fishing restrictions imposed by other governmental entities, the federal information alone may lack value to the public without access to information on restrictions imposed by other governmental entities.

There are several significant issues with definitions in this bill which would likely result in litigation. Determining jurisdiction and applying the bill’s definition of “Federal waterway” would be difficult if not impossible and would require much more than gathering and compiling data. In some cases, this task could require significant research on state law, how NFS lands were reserved or acquired, and private land deeds, all of which could lead to litigation if private landowners dispute the determination. Additionally, with respect to wild and scenic rivers, this bill would apply only to the portions of the rivers flowing through federal lands, rather than the entire river, which the Forest Service or a DOI agency is responsible for administering, even on non-federal lands.

As defined in the bill, “Federal waterway” could include waters of the United States that are under the jurisdiction of another federal agency. Other Federal agencies that manage significant portions of Federal waterways, including the U.S. Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the U.S. Coast Guard, and the Bureau of Indian Affairs, as well as Tribal governments, are not mentioned in this bill.

Other definitions could be interpreted in different ways, resulting in inconsistent implementation by the affected agencies, as has been the case with the MAPLand Act. The term “public outdoor recreational use,” a critical term in the bill, is not defined. The bill focuses only on fishing and boating and is silent on whether the agencies should include other types of recreational waterway use, such as swimming, and whether the bill applies to privately owned marinas and resorts

providing waterway access that are located on federal lands and that are authorized under a special use permit. At a minimum, it would be helpful for the bill to require the Federal Geographic Data Committee to play an active role in implementation to ensure consistency and provide facilitation across the agencies.

We recommend that additional time be allowed to implement this complex bill. Additionally, the date for reporting should be changed to allow submission of information after the end of the fiscal year, so that administrative units could prioritize keeping facilities open for public use and maintaining preparedness for emergencies such as wildfires during summer and early fall.

USDA appreciates the Committee's interest in this important topic and strongly supports efforts to foster recreational use of federal lands. We generally support the goal of this bill and look forward to working with the bill sponsors and the Committee to promote improved data and mapping of recreational opportunities on federal land.

### **S. 3322, "Ranching Without Red Tape Act of 2023"**

Section 1 of S. 3322 would require the Agency to issue regulations within 1 year of enactment that would allow Forest Service grazing permittees to carry out minor improvements to existing rangeland improvements after notifying the Agency. The bill would require the Agency to respond to those notifications within 30 days and, if the Agency does not respond, would authorize the permittee to carry out the improvements.

In this section, "minor range improvement" is defined in a way where some covered actions would be subject to National Environmental Policy Act analysis requirements. This would make the 30-day approval deadline hard to meet, especially in situations which do not meet the criteria for use of a Categorical Exclusion. It would be helpful to narrow the definition of a "minor range improvement" to ensure that the activities requested match those enumerated in current Forest Service regulations outlining the scope of activities eligible for a categorical exclusion so we can meet the required timeline while adhering to applicable laws, policies and regulations.

The Forest Service would note that even actions falling within the scope of a CE may involve extraordinary circumstances, which could make the 30-day deadline hard to meet. The Agency is also concerned with the requirement to issue regulations within 1 year. There are mandatory processes required for agency rulemaking, including public review and comment, that would make it difficult to complete within 1 year.

Section 2 of S. 3322 would establish a mechanism for permittees to submit requests to the Forest Service to construct new rangeland improvements. The bill would require the Agency to respond to those requests within 30 days and, when a request is approved, expedite the completion of the rangeland improvement.

The agency's ability to expedite the construction of rangeland improvements associated with a covered request will depend upon staff capacity and funding, which may not meet the public's expectations. This could lead to unnecessarily denying a request as a result of insufficient time for review.

The Forest Service acknowledges the need to be nimbler in responding to rangeland improvement needs and supports the intent of S. 3322 to help the agency do so. We would like to work with the committee on refining the language to ensure timeframes and expectations are achievable and on streamlining our processes and taking a nimbler adaptive management approach to expedite rangeland improvements.

### **S. 3346, "Montana Headwaters Legacy Act"**

S. 3346 would designate 21 river segments across the Custer-Gallatin, Helena-Lewis and Clark, and Beaverhead-Deerlodge National Forests in Montana as components of the National Wild and Scenic Rivers System. This statement today pertains only to the designations that would be administered or co-administered by the Secretary of Agriculture and provisions applying to the Forest Service. We defer to DOI on portions of the bill pertaining solely to DOI. The agency values the Wild and Scenic River System's importance in protecting and enhancing rivers for the benefit and enjoyment of future generations and we appreciate the sponsor's work toward designating new river segments in Montana.

Most of the 297 miles of river segments included in the bill on NFS lands align with agency land management plan eligibility determinations and preliminary classifications, and we are in full support of their inclusion.

These river segments were each determined eligible through Agency processes to be free flowing and possess one or more outstandingly remarkable values, including river-related recreation, scenery, wildlife, fish, heritage, and geology values. About 25 percent of the river segments included in the bill were either not found eligible for designation and/or had a different preliminary classification identified during the Custer Gallatin and Beaverhead-Deerlodge river eligibility evaluations. Our eligibility and preliminary classification determinations were made through a systematic inventory of rivers across the Forests per the requirements of the 2012 Planning Rule, and featured robust public, State and local government, and Tribal review and engagement. The Agency has not completed the suitability step of the river study process for any of the segments in this bill, which would inform administrative recommendations for wild and scenic river designation.

The timeframes for completing detailed boundaries and CRMPs, identified under Sections 3(b) and 3(d) of the Wild and Scenic Rivers Act, can be challenging to meet, especially for the number of river segments included in this bill. USDA would like to ensure new designations are properly integrated into the National Wild and Scenic Rivers System with enough time to develop the required comprehensive river management plans (CRMPs) and to establish detailed boundaries in cooperation with Tribes, State, and local governments, and interested stakeholders.

USDA supports the intent of S. 3346 and would appreciate the opportunity to work with the bill sponsor and the Committee on how to proceed with those river segments which differ from agency determinations and to ensure adequate time for completion of CRMP and boundary requirements.

### **S. 3593, "Truckee Meadows Public Lands Management Act"**

S. 3593, “Truckee Meadows Public Lands Management Act” contains multiple provisions that impact management of NFS lands on behalf of the American public, including conveyance, disposal and transfer of NFS land, as well as legislated withdrawal. USDA supports the intent of the bill to provide for economic development and conservation in Washoe County, Nevada and would like to work with the committee and sponsor to clarify language and resolve concerns. USDA defers to DOI as to the effects of this bill on any DOI bureaus and the federal lands under their jurisdiction.

#### **TITLE I – PUBLIC PURPOSE CONVEYANCE AND DISPOSAL**

Section 101 would convey parcels managed by the Humboldt-Toiyabe National Forest to local and state government entities for a variety of public purposes. These conveyances would provide for the needs of the growing Reno, Sparks and Washoe County, Nevada communities.

We would like to work with the committee and sponsor to clarify the terms and processes to protect the public interest, such as requiring consideration for conveyances at market value and retaining easements that allow for continued public or administrative access where needed. The parcel proposed for conveyance to the Washoe County School District contains a small amount of critical habitat for Webber’s ivesia, a threatened plant species. USDA does not support conveyance of partial parcels due to the management challenges this creates. We recommend engaging the U.S. Fish and Wildlife Service to discuss whether this parcel could be conveyed in its entirety.

Section 101 would convey multiple Santini-Burton Act (Public Law 96–586) parcels managed by the Lake Tahoe Basin Management Unit to local and state government entities. These environmentally sensitive lands were acquired by the USDA Forest Service under the Act to maintain undeveloped open space; preserve the land’s natural characteristics; and protect water quality, stream environment zones, and important wildlife habitat. The language in Section 101 is broad, allowing uses for “public purposes,” which ultimately could include development or activities that would not protect these environmentally sensitive lands. Thus, USDA believes these lands should be retained and managed as part of the NFS or the bill text should require that the parcels be used only for purposes consistent with the Santini-Burton Act.

Section 102 would also require the Secretaries of the Interior and Agriculture to conduct sales of approximately 15,860 acres of federal land to qualified bidders subject to valid existing rights and sections 202 and 203 of the Federal Land Policy and Management Act of 1976. It would also require the sale of 30 acres of BLM and USDA Forest Service lands for affordable housing.

USDA has no concerns with disposal of the NFS lands identified for disposal in this section to support economic development and affordable housing but would like to work with the committee and sponsor to clarify the terms and processes in this section to protect the public interest.

#### **TITLE II – TRIBAL TRUST LAND**

Section 204 would require the transfer of certain lands to be held in trust by the U.S. Government for the benefit of the Washoe Tribe of Nevada and California. The bill includes two parcels of NFS lands totaling approximately 495 acres. We would like to note that DOI

traditionally acquires land into trust because it has the exclusive authority to manage Tribal trust lands and trust resources on those lands. USDA has no authority to manage Tribal trust lands or trust resources. We would like to discuss options regarding these parcels and would like to work with the sponsor and committee to address maintaining public recreation and habitat management for sensitive species including goshawk and spotted owl.

## **TITLE VI – WITHDRAWAL OF CERTAIN LAND**

Section 601 would withdraw approximately 58,383 acres of NFS lands on the Lake Tahoe Basin Management Unit and the Carson Ranger District of the Humboldt-Toiyabe National Forest under the public land, mining, and mineral and geothermal leasing or mineral materials laws, subject to valid existing rights. This provision would address further expansion of the wildland urban interface and related impacts to the Lake Tahoe Basin Management Unit and the Humboldt-Toiyabe National Forest, including the Mt. Rose Wilderness. The Forest Service has no concerns with this Title. We would like to clarify that the Lake Tahoe Basin Management Unit is already withdrawn under the Water Infrastructure for Improvements to the Nation (WIIN) Act (Public Law 114–322).

### **S. 3596, to amend the Mineral Leasing Act to amend references of gilsonite to asphaltite**

S. 3596 would amend the Mineral Leasing Act (MLA) to replace the term “gilsonite” with “asphaltite.” The MLA identifies gilsonite as a leasable mineral but does not contain references to asphaltite.

Gilsonite leasing on NFS lands is a partnership between the Bureau of Land Management (BLM) and the Forest Service. The BLM is the administrator of the federal mineral estate and issues prospecting permits, exploration licenses and conducts lease sales for gilsonite or vein-type deposit hydrocarbons. In context of use and development of federally owned gilsonite deposits, the Forest Service’s principal responsibility is for management of surface resources. The Forest Service seeks to ensure that development of subsurface resources is carried out in a manner that will minimize the impact on these surface resources.

The BLM has the final decision whether to issue gilsonite leases on federal lands. Under the MLA the Forest Service recommends surface resource stipulations to the BLM for prospecting permits and leasing on NFS lands reserved from the public domain. However, on acquired NFS lands (e.g., those lands added to the NFS by the Weeks Act of 1911 or the Bankhead Jones Farm Tenant Act of 1937) the BLM may not issue gilsonite leases without the consent of the Forest service pursuant to the Mineral Leasing Act for Acquired Lands of 1947.

S. 3596 will not change the Forest Service’s role in the administration of this commodity on NFS lands under the existing law and regulation, but the agency may need to update the Forest Service Manual 2820 to reflect the amendment in the MLA. Additionally, Forest Service notes that DOI has recently become aware of a potential intellectual property dispute regarding the use of the term “gilsonite.”

### **S. 3617, "Cape Fox Land Entitlement Finalization Act"**

S. 3617 would allow the Cape Fox Corporation (Cape Fox), a village corporation established under the Alaska Native Claims Settlement Act (ANCSA), to obtain its remaining land entitlement under ANCSA from portions of the Tongass National Forest that differ from its existing selection in the Tongass which is currently pending conveyance by the Bureau of Land Management (BLM).

As proposed, the Secretary of the Interior is directed to convey to Cape Fox the surface estate to an approximately 180-acre tract along a 2.5-mile stretch of eastern shoreline on the west side of George Inlet on Revillagigedo Island within the Tongass National Forest, Ketchikan Ranger District. The Sealaska Regional Corporation would be conveyed the subsurface interest of the parcel.

The parcel proposed for conveyance connects two parcels of private land owned by Cape Fox and generally follows the boundaries of a transmission line corridor labeled as a right of way in Federal Energy Regulatory Commission (FERC) license (No. 11393) for the Mahoney Lake Hydroelectric Project. The project is licensed but has not been constructed. If constructed, the transmission line corridor would likely be used to connect the Mahoney Lake site to the existing Beaver Falls Power Grid.

The Agency currently has the legal authorities necessary to permit the City of Saxman, the FERC license holder, to use NFS lands for the construction of a road and transmission line, and other uses of NFS lands associated with the possible hydroelectric project. As such, the Forest Service does not consider the legislation necessary for the development of and access to the potential hydroelectric project. To the extent that the project requires use of the parcel proposed for conveyance, the City of Saxman would also need to secure permission from Cape Fox after conveyance.

With one minor exception, the 2.5-mile stretch of coastline of the proposed parcel is the only federally owned coastline on the west side of George Inlet, which provides unrestricted access to the NFS lands further inland. We would like to work with the sponsors of the bill to provide technical assistance to ensure continued access to federal lands as it would have been available for lands selected under ANCSA.

On issues related directly to the conveyance process, the Forest Service defers to the Bureau of Land Management as the Federal agency tasked with transferring to Alaska Native corporations title to lands pursuant to ANCSA.

### **S. 3790, “Alaska Native Vietnam Era Veterans Land Allotment Extension and Fulfillment Act”**

S. 3790 and S. 3802 would extend the Alaska Native Vietnam Veteran Land Allotment Program for another five years and make certain NFS lands available for selection. Under the original 1906 Alaska Native Allotment Act, Alaska Native Vietnam Veterans would generally not have been eligible to select NFS lands because they could not have established the requisite personal use and occupancy of the land for the requisite period prior to establishment of the Forests.



Adopting either bill would create an opportunity that was not available when the 1906 Alaska Native Allotment Act was repealed in 1971.

The 1906 Alaska Native Allotment (ANA) Act allowed Alaska Natives to obtain title to up to 160-acres of land that they had personally used and occupied for five years. NFS lands were not eligible for transfer unless the claimant could establish personal use and occupancy predating the forest reservation or if the NFS land was chiefly valuable for agriculture or grazing purposes. The Tongass and Chugach National Forest reservations date from 1902-1909.

The 1906 ANA Act was repealed in 1971 when Congress enacted ANCSA. Subsequently, because of concerns that some Alaska Native Veterans may have missed their opportunity to apply for an allotment because of their military service, Congress enacted legislation in 1998 that reopened the 1906 Act for a short period. The 1998 Act retained the personal use and occupancy requirement, meaning only personal use and occupancy predating establishment of the Forests qualified. It also precluded conveying allotments containing NFS lands. In 2019, section 1119 of the Dingell Act created another opportunity for Alaska Native Vietnam Veterans to select allotments from certain “vacant, unappropriated, and unreserved” federal lands. This language and other provisions in section 1119 limited selections to BLM lands. Unlike the previous programs, section 1119 does not require a claimant to demonstrate personal use and occupancy. This may result in claimants selecting lands from areas where they do not have traditional ties.

Both bills would require the Secretary of Agriculture to consult with the Secretary of the Interior, the State of Alaska, and Native Corporations to identify NFS lands that could be made available for allotment. NFS lands would not be made available for selection if the conveyance interferes with biological, physical, cultural, scenic, recreational, or subsistence values; interferes with the unit’s management plan; is located within 300 feet from the shore of a navigable body of water; is not consistent with the purposes for which the unit was established; or is Congressionally designated wilderness. S. 3790 would also make available certain wildlife refuge system lands for selection.

We are committed to further discussions with the Subcommittee and sponsor of the bill regarding the availability of NFS lands for selection.

### **S. 3985, "Sarvis Creek Wilderness Completion Act"**

S. 3985 would amend the Colorado Wilderness Act of 1993 to add nearly 7,000 acres to the Sarvis Creek Wilderness.

Designated by Congress in 1993, the 44,556-acre Sarvis Creek Wilderness is located entirely in the State of Colorado and managed by the Medicine Bow-Routt National Forests and Thunder Basin National Grassland. The rugged, heavily wooded terrain rises in elevation from 7,004 to 10,734 feet. Unlike most Colorado wilderness areas, Sarvis contains no alpine tundra. Sarvis Creek and Silver Creek, the two primary drainages, run westerly through the dense forestland, past small gravel bars before emptying into the Yampa River. There is no suitable timber base overlapping with the area proposed for expansion, and the expansion area currently has no roads, trails, or commercial use. There is a grazing allotment that extends into the

expansion area and that grazing would continue after wilderness designation pursuant to Section 4(d)(4)(2) of the Wilderness Act, which states, “the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.”

The USDA supports the goals of S. 3985 and appreciates the outreach and coordination on the part of the bill sponsor with regard to the Forest Service’s interests and concerns. We would appreciate the opportunity to continue working with the bill sponsor and Committee staff to support effective communication and coordination with local communities related to any changes to management practices.

### **S. 4310, “Chugach Alaska Land Exchange Oil Spill Recovery Act”**

S. 4310 directs a land exchange between the federal government and Chugach Alaska Corporation (CAC) subject to valid existing rights. As proposed, the legislation requires an exchange of 231,036 acres of subsurface estate owned by CAC for 65,403 acres of fee simple land owned by the federal government including 63,443 acres of NFS lands managed by the Forest Service. The land exchange is required not later than 1 year following enactment, if the CAC offers to convey all rights, title and interest in and to the non-Federal land. Additionally, the legislation directs federal acquisition of approximately 100,000 acres of CAC subsurface estate that underlies non-federal surface estate – where the surface estate is owned by Native village corporations or the State of Alaska.

The proposed legislation references the 2022 Chugach Region Land Study and Report (CLS), which was required by the Dingell Act and submitted to Congress by the Department of the Interior in December 2022. USDA worked in coordination with DOI and in consultation with the Chugach Alaska Corporation to produce the Study and identify sufficient acres of accessible and economically viable Federal land that can be offered in exchange for CAC land identified by CAC as available for exchange. There was no public involvement, or involvement by other regional stakeholders, in the identification of public lands as part of the Chugach Land Study.

As proposed, the legislation identifies a substantial amount of federal lands for exchange that were not identified by the Agencies in the 2022 Report and Study. In the Study and Report, the Departments of the Interior and Agriculture identified approximately 26,930 acres of accessible and economically viable federal land, of which nearly 25,000 acres are on the Chugach National Forest. However based on preliminary valuations, the Report concluded that the much smaller number of acres identified by the Agencies was expected to meet or exceed the value of CAC lands in an equal value land exchange.

The 2022 Chugach Region Land Study and Report included recommendations that any land exchange, if directed, should require (1) full public participation, (2) that any exchange be on the basis of equal value as determined by appraisal, (3) that CAC cover specific administrative costs associated with the exchange, and (4) that the U.S. be afforded the right to reserve interests in the land to protect public access and other resources (*see* CLS Executive Summary pg. 32 of 32). Further, the Chugach Land Study included recommendations to address CAC’s concerns, including federal purchase of the subsurface or mineral estate; Congressional establishment of a

property account; or conducting an exchange when more lands become available after the State's top-filed lands are released (*see* CLS Executive Summary pgs. 27-31). In addition, significant processing time and costs associated with performing administrative navigability determinations and 300-foot offset surveys could delay the one-year requirement to complete the exchange.

USDA has concerns about the direction to exchange lands from the Chugach National Forest that were not identified by the Forest Service. The Administration is willing to work with the sponsors to align the legislation with conclusions and recommendations of the Study and Report.

#### **S. 4457, "Southern Nevada Economic Development and Conservation Act"**

S. 4457 includes a number of provisions related to the conservation and transfer of lands in Nevada, including the designation of additional lands as components of the National Wilderness Preservation System.

USDA recently learned that S. 4457, the Southern Nevada Economic Development and Conservation Act, as introduced, proposes a wilderness designation and may have other implications for the Forest Service. We look forward to working with the committee and bill sponsor as the bill moves forward.

#### **S. 4424, "National Prescribed Fire Act"**

The objective of the bill is to substantially increase the number of acres of prescribed burning across all lands, especially in the western states. Many sections of the bill build upon existing USDA Forest Service programs. The bill proposes a broad range of actions and incentives over a ten-year period that would promote and increase the use of prescribed fire on Federal, State, and private lands. By increasing the use of prescribed fire, we may foster critical forest ecosystem restoration and curtail some of the devastation to communities and natural resources from extreme wildfire behavior. We appreciate Congress' interest in this topic and would like to work with the Subcommittee and bill sponsors to address sections that may be revised in order to achieve the bill's intended purpose.

---

Last year, the Forest Service released the "National Prescribed Fire Mobilization Strategy." This mobilization strategy includes recommendations to align prescribed fire implementation, support and coordination agency-wide to help us increase the pace and scale of our efforts, especially in the West, including expanding our Prescribed Fire Training to the West. Importantly, the Forest Service is committed to keeping our communities and firefighters safe as fire seasons grow longer and more severe. The dedication, bravery, and professional integrity of our firefighters and support personnel is second to none. The cornerstone of the Administration's solution for wildland firefighter workforce reform is a permanent increase in pay. The Administration proposes authorization of a special base rate salary table that will permanently increase pay for Federal wildland firefighters and provide incident standby pay for all wildland fire incident responders.

## **TITLE I—USE OF FUNDS**

**Sec. 101. PRESCRIBED FIRE ACCOUNTS** – This section establishes a new Prescribed Fire Account for both USDA’s Forest Service and DOI that is separate from the existing Hazardous Fuels appropriation. The new Prescribed Fire Account for the USDA is authorized to receive an appropriation of up to \$300 million and could be used to increase the total amount of prescribed burning done on both Federal and non-Federal lands. With this new account, the intent would be to prioritize prescribed burning on large contiguous areas that cross jurisdictional boundaries and address the wildfire risk to communities and essential infrastructure. We would welcome an opportunity to further discuss with the Committee where this new account would be situated within the Forest Service budget.

USDA is committed to collaboratively working at larger scales with our Federal, Tribal, State, and local government partners, as well as all members of the public to collectively and proactively use our resources to create resilient landscapes. These are also the goals of the Prescribed Fire Account established in Section 101. However, the provision duplicates the existing Hazardous Fuels program. We would like to work with the Subcommittee and bill sponsors to address this issue while still meeting the objectives of the section.

**Sec. 102. POLICIES AND PRACTICES** – This section states the USDA and DOI shall conduct prescribed fires on Federal land such that the total number and combined size of all prescribed fires on Federal land is 10 percent greater than the total number and combined size of all prescribed fires on Federal land in the preceding fiscal year. USDA agrees there is a need to increase the amount of prescribed burning and ensure that prescribed burns are completed on the highest priority areas. However, factors such as favorable weather conditions, smoke, staffing, and current wildfire response are prohibitive to attaining the requirements in this section. USDA would like to work with the Subcommittee on other means to meet the intent of this Section by meaningfully increasing the intended outcomes of prescribed burning on Federal land.

**Sec. 103. COLLABORATIVE PRESCRIBED FIRE PROGRAM** – This section establishes a collaborative prescribed fire program within DOI without a clear role for USDA. USDA would like to ensure the establishment of this program complements and enhances existing programs within USDA *and* DOI. We would value working with the Subcommittee to better understand how this can be accomplished.

## **TITLE II—FACILITATING IMPLEMENTATION AND OUTREACH**

**Sec. 201. COOPERATIVE AGREEMENTS AND CONTRACTS** – This section enables Federal agencies to enter into cooperative agreements and contracts with States, Tribes, and local entities to conduct prescribed burning on Federal lands. USDA supports strong collaborations with State, Tribes, and local entities and appreciates any efforts to create capacity to achieve wildfire resilience. However, the provisions in this section may duplicate and contradict existing USDA authorities and non-Federal financial assistance transactions, thereby resulting in potential interpretation challenges. We commit to working with the Subcommittee to address these concerns.

**Sec. 202. HUMAN RESOURCES** – This section provides additional authority to hire personnel into permanent or permanent seasonal positions as prescribed fire practitioners,

including veterans, underrepresented employees, the conversion of temporary employees to permanent positions, and employment of formerly incarcerated individuals. This section also describes additional training for prescribed fire practitioners, provides flexibility to cover the costs of certain overtime pay, and provides other pay entitlements. USDA looks forward to further discussions with the Committee regarding the best approach for funding this work. The section also grants indemnity to Federal employees conducting prescribed burning. Other provisions within this section warrant further consideration and we look forward to working with the Subcommittee and bill sponsors to consider adjustments to our firefighting workforce into the future.

**Sec. 203. LIABILITY OF CERTIFIED PRESCRIBED FIRE MANAGERS** – This section encourages States to establish a covered law. USDA supports working with Governors on this important issue.

**Sec. 204. PRESCRIBED FIRE CLAIMS FUND STUDY** – This section requires agencies, in coordination with the Office of Management and Budget, to complete a study of the feasibility, design, and effectiveness of a national prescribed fire claims fund (or similar mechanism) to increase the pace and scale of prescribed fire across all lands by multiple users and for multiple objectives. This study must be completed within one year of enactment. The USDA is supportive of working with DOI and Office of Management and Budget to complete this study. Establishing

**Sec. 205. ENVIRONMENTAL REVIEW** – This section would provide significant support for smoke management issues the Agency has identified, specifically how to manage smoke from prescribed fire and balance air quality and land management objectives. This section recognizes the key challenge of managing smoke while increasing prescribed fire activities to reduce the risk of wildfire on NFS and adjacent lands. The goal is to manage smoke from prescribed fire and balance air quality and land management objectives. This section also recognizes existing challenges in managing smoke from current levels of prescribed fire as well as issues imposed by the Clean Air Act and subsequent regulations. The Agency has been working extensively with the U.S. Environmental Protection Agency, the Centers for Disease Control and Prevention and DOI to address the balancing of air quality and land management objectives as part of the Wildland Fire and Air Quality Memorandum of Understanding signed by our Secretary in November of 2023. At this time, we believe the provisions of the Exceptional Event Rule and processes for prescribed fire demonstrations should allow for the needed increased use of prescribed fire. That said, the current prescribed fire Exceptional Event Demonstration process has yet to be utilized and could be legally challenged.

**Sec. 206. PRESCRIBED FIRE EDUCATION PROGRAM** – This section is an expansion of public information under the “Burner Bob” program. USDA supports the expansion of this important program.

### **TITLE III—REPORTING**

The agency is supportive of a transparent system in reporting our hazardous fuels treatments across all boundaries. This will allow for a cross-boundary approach to planning efforts and an improved understanding of our wildfire risk reduction efforts.

## **Conclusion**

USDA agrees that more prescribed fire can help mitigate the risk of unplanned wildfire and looks forward to working with the Subcommittee and bill sponsors to identify tools that help accomplish this goal.

### **S. 4449, “River Democracy Act”**

S. 4449, the “River Democracy Act”, would add over 3,200 miles of rivers and streams to the National Wild and Scenic Rivers System. This statement today pertains only to the designations that would be administered or co-administered by the Secretary of Agriculture and provisions applying to the Forest Service. We defer to DOI on portions of the bill pertaining solely to DOI.

Initial Agency estimates identify over 2,300 miles proposed for designation in *The River Democracy Act* as flowing through NFS lands. This would represent a nearly 44 percent increase to the 5,210 miles of the National Wild and Scenic Rivers System currently administered or co-administered by the Forest Service. USDA supports wild and scenic river designations and recognizes the importance of protecting and enhancing identified river values for the benefit and enjoyment of present and future generations. Wild and Scenic Rivers provide clean drinking water, conservation of traditional Tribal resources and cultural sites, habitat for critical fish and wildlife species and abundant recreation opportunities and associated economic value to communities. We continue to support the goals of this bill and recognize the outstandingly remarkable values associated with many of the covered segments proposed for designation. However, we also have concerns about the agency’s limited workforce capacity and resources available to implement the planning and management requirements associated with the new designations. A 2021 analysis of segments in the bill found that most of the estimated 2,300 miles flowing through NFS lands have not yet been evaluated by the Agency for their eligibility and suitability as candidates for the National Wild and Scenic Rivers System.

USDA would like to ensure that any new designations are properly integrated into the National Wild and Scenic Rivers System with enough time to develop comprehensive river management plans (CRMPs) and to establish detailed river corridor boundaries in cooperation with Tribes, State and local governments, and interested stakeholders.

The timeframes identified under Section 3(b) and 3(d) of the Wild and Scenic Rivers Act for completing detailed boundaries and CRMPs can be challenging to meet. We appreciate that the bill sponsors have included language in Section 4(a) of this bill to provide enhanced flexibility on the timeframes associated with completing CRMPs for the proposed additional designations. However, the one-year timeline for publishing an implementation plan for each covered segment is ambitious and will require significant staff time given the scale of the proposed additions. We would like to continue to work with the subcommittee and bill sponsors to develop a feasible approach to support timely completion of CRMP and boundary requirements.

**S. 4456, To amend the Granger-Thye Act to modify the maximum term for certain special use permits for housing.**

---

S. 4456 would amend section 7 of the Granger-Thye Act, 16 U.S.C. 580d, to extend the term for special use permits for housing from a term not to exceed 30 years to a term not to exceed 100 years. Section 7 of the Granger-Thye Act currently authorizes the agency to issue permits for the use and occupancy of federally owned improvements on NFS lands. All or part of the land use fee for the permit may be offset by the cost of renovation, reconditioning, improvement, and maintenance paid for by the permit holder. This authority is typically used to issue permits for existing federally owned facilities that have commercial utility, such as campgrounds, resorts, and communications facilities.

The Forest Service is continuing to analyze whether the expanded authority provided by this bill could be viable for housing. Housing typically requires a lease granting an interest in real property, rather than a permit. Moreover, section 7 of the Granger-Thye Act does not authorize reconstruction of existing facilities, and existing federally owned housing on NFS lands would need significant reconstruction to be commercially viable. As a result, the Forest Service has not typically used this permitting authority for employee housing or any other type of housing.

The Forest Service, like many other federal agencies, faces many challenges associated with the housing crisis. The agency is using authorities, such as Section 8623 of the 2018 Farm Bill, to find creative solutions for employee and non-employee housing. Further improvements to Section 8623, such as extending the lease term up to 100 years, are pending in Congress as part of Farm Bill reauthorization.

USDA appreciates the bill sponsors' support for providing additional tools towards addressing this issue. We look forward to further discussion with the committee and bill sponsors regarding the use of the authority under section 7 of the Granger-Thye Act and potential new authorities that would help address Forest Service employee housing.

**S. 4451, "Review and Evaluation of Strategies for Equal Reservations for Visitor Experiences Federal Land Act"**

S. 4451, the "Review and Evaluation of Strategies for Equal Reservations for Visitor Experiences Federal Land Act" or the "RESERVE Federal Land Act," would require the Secretaries of the Interior, Agriculture, and the Army to enter into an agreement with the National Academy of Sciences to conduct a study of reservation systems for recreation activities on Federal land. The National Academy of Sciences would be required to conduct a comprehensive review of the history of reservation systems, including Recreation.gov, answer a series of research questions detailed in the bill, and report back to Congress within 18 months from the date of enactment of the bill.

The first outdoor recreation reservation system for Federal lands, the National Recreation Reservation Service (NRRS), was established in 1995 to facilitate visitor use and enjoyment of Federal lands and waters throughout the United States while enhancing the ability of Federal land management agencies to manage these resources. The NRRS was implemented by an

interagency agreement among four Federal land management agencies, the USDA Forest Service, National Park Service, U.S. Army Corps of Engineers, and Bureau of Land Management. The NRRS evolved into the Recreation One Stop Program and the online outdoor recreation reservation portal known today as Recreation.gov.

As the online reservation platform grew to meet the demands of visitors to Federal lands, more Federal agencies joined Recreation.gov, recognizing its benefits and capabilities for managing visitation and providing a valuable public service. Today, the Recreation One Stop Program and Recreation.gov serve 14 Federal agencies, nine of which offer reservations and five of which share data through the Federal Recreation Information Data Base. The USDA Forest Service administers the contract for Recreation.gov on behalf of all the participating Federal agencies.

The core principle of the Recreation.gov contract is customer service. The contract provides for continuous service improvement based on visitor and participating Federal agency feedback, trends, and expectations. The Office of Management and Budget has recognized Recreation.gov as one of 38 high-impact service providers due to the scale and critical importance of the services it provides to the public.

USDA supports the RESERVE Federal Land Act. The study conducted under the bill would benefit the Federal agencies participating in Recreation.gov and the Recreation One Stop Program. A better understanding of the demographics of Recreation.gov users would enhance the ability of the participating Federal agencies to provide reservation services that are equitable, inclusive, and accessible. USDA believes this study would promote transparency and informed decision-making by the participating Federal agencies that would benefit the reservation system and the public.

### **Conclusion**

We look forward to working with the Chair and Committee and recommend that the Committee seek DOI input on provisions of the bill under its jurisdiction.