

**TESTIMONY of  
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UNITED STATES DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

**BEFORE THE  
UNITED STATES SENATE  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING**

**October 25, 2023**

**Concerning**

- S. 297, To amend the Federal Land Policy and Management Act of 1976 to authorize certain construction activities on public lands, and for other purposes**
  - S. 1348, “Wyoming Public Lands Initiative Act of 2023”**
  - S. 1719, “FIRESHEDS Act”**
  - S.1764, “Western Wildfire Support Act of 2023”**
- S. 1889, “Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act”**
  - S. 2132, “Catastrophic Wildfire Prevention Act of 2023”**
  - S. 2151, “Utah Wildfire Research Institute Act of 2023”**
  - S. 2581, “Secure Rural Schools Reauthorization Act of 2023”**
  - S. 2855, “Close the Gap Act”**
  - S. 2867, “Promoting Effective Forest Management Act of 2023”**
- S. 2991, “America’s Revegetation and Carbon Sequestration Act of 2023”**
  - S. 3033, “Pecos Watershed Protection Act”**
- S. 3044, To redesignate the Mount Evans Wilderness as the “Mount Blue Sky Wilderness”, and for other purposes**
- S. 3045, To provide for the transfer of administrative jurisdiction over certain Federal land in the State of California, and for other purposes**
- S. 3046, To make permanent the authority to collect Shasta-Trinity National Forest marina fees**
  - S. 3062, “Small-diameter Timber and Underutilized Material Act of 2023”**

Chair Cortez-Masto, Ranking Member Lee, and Members of the Committee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) on several bills that include provisions related to the USDA Forest Service.

**S. 297, To amend the Federal Land Policy and Management Act of 1976 to authorize certain construction activities on public lands, and for other purposes.**

S. 297 amends Title VI of the Federal Land Policy and Management Act of 1976 requiring the USDA to develop a pilot program to establish and operate tree nurseries on National Forest

System land. If enacted, the pilot program will use funds from the Infrastructure Investment and Jobs Act (IIJA) and will locate nurseries in four of the eleven contiguous Western States; and one State, including the State of Vermont, that is not one of the eleven contiguous Western States. The pilot allows for establishing a tree nursery on Federal land as well as develop the necessary infrastructure to support that nursery and to address Federal and regional conservation tree planting needs. The bill would allow for the purchase of necessary equipment and for constructing the necessary facilities on Federal land to store material and equipment, enter into cooperative agreements with non-Federal entities to use trees produced in nurseries established under the pilot, and to conduct the necessary research on grazing and forest management on Federal land.

In July of last year, the Administration announced a strategy for addressing a reforestation backlog of roughly four million acres on national forests over the next decade. With new resources made available through the IIJA, combined with support from state, local, and Tribal governments as well as other partners, the Forest Service aims to reduce the backlog over the next ten years and invest in infrastructure, such as modernizing existing Forest Service nurseries, to keep up with increasing needs. The Forest Service has invested more than \$100 million in reforestation this year – more than three times the investment in in years prior due to the Repairing Existing Public Land by Adding Necessary Trees (REPLANT) Act made possible by the IIJA. The reforestation strategy will serve as a framework to understand reforestation needs, develop shared priorities with partners, expand reforestation and nursery capacity and ensure the trees planted grow to support healthy resilient forests.

USDA supports the goals of S. 297 to explore ways to increase nursery production and looks forward to working with the Committee and bill sponsors on technical changes to the bill to address the nation’s replanting backlog.

### **S. 1348, “Wyoming Public Lands Initiative Act of 2023”**

S. 1348, the Wyoming Public Lands Initiative Act of 2023, would designate 1,189 acres of National Forest System lands on the Medicine Bow-Routt National Forest as the Black Cat Special Management Area (SMA) in Carbon County, Wyoming. The designation in Section 3(c) of the bill would prohibit construction of new roads and commercial timber harvesting, limit motor vehicle use, withdraw the area from mineral and geothermal leasing, and allow directional drilling only from outside the area.

Section 3(c) of the bill would allow ongoing active management of vegetation to address wildland/urban interface needs in the Black Cat SMA. The Forest Service would welcome the opportunity to meet with Committee staff to clarify legislative intent regarding management of National Forest System trail 495, which is designated for motor vehicle use. It appears subsection c.4.b of this provision would require the agency to reclassify currently allowed seasonal motor vehicle and mechanized uses of the trail. USDA has concerns with the bill and defers to the Department of the Interior for their views on the bill as it affects the public lands under their jurisdiction.

### **S. 1719, “FIRESHEDS Act”**

The FIRESHEDS Act would amend the Healthy Forests Restoration Act of 2003 to establish emergency fire-shed management areas.

This Act would, upon the request of a governor of a State, require the Secretary to designate a landscape scale fire-shed in the state, within 90 days. The establishment of the fire-shed would be an activity exempt from the National Environmental Policy Act. The Act also sets forth criteria for designating fire-shed management areas under an agreement. USDA is concerned that these criteria are unnecessarily restrictive and may limit the ability to designate fire-sheds where they are needed. USDA is also concerned that this process could substitute a specific state or governors’ interests concerning an area for the current science-based approach to fire management and fire-shed designation, overriding existing land management objectives. It could also create a scenario where states could designate all areas as fire-sheds, in an effort to determine management or attract funding, reducing the effectiveness of the tool.

The Act would also require the Secretary and governor to jointly develop a fire-shed assessment for each designated fire-shed. Fire-shed assessments would identify community risk and management projects for reducing threats to public health and safety. Implementation would occur through a memorandum of understanding (MOU) between the Secretary and other federal, state, private, and other organizations. USDA is concerned that Tribes were not included in the list of collaborators that can sign the MOU with the Secretary. The Act also requires that management activities in designated fire-sheds be proposed by a Resource Advisory Committee. USDA has concerns about these additional procedural and process requirements, including that restoration and protection work could be delayed or slowed.

This Act also establishes a broad Categorical Exclusion (CE) for fire-shed management projects. USDA, in coordination with the White House Council on Environmental Quality, would like to work with the sponsor to better understand concerns about the applicability of NEPA in hazardous fuels treatments and fire preparedness to ensure any new tools will be effective in facilitating our work.

USDA is committed to working with States, Tribes, fire associations, non-government organizations, and other federal agencies at the landscape level to prioritize fuels reduction treatments and forest restoration projects that are the right size and in the right location to protect life, property, critical infrastructure, and natural resources.

The Forest Service’s Wildfire Crisis Strategy, launched in 2022, combines a historic down payment of Congressional funding with years of scientific research and planning into a national effort to dramatically increase the scale and pace of forest health treatments. As part of this effort, the agency identified the 250 highest-risk fire-sheds in the West. Our work in these areas is mitigating wildfire risk to roughly 550 communities, 1,800 watersheds, and 2,500 miles of powerlines. Working with States has been critical to our efforts. We have entered into 32 Shared Stewardship Agreements covering 50 states to address urgent forest management challenges, and

many have established landscape-scale firesheds which are jointly assessed by the Regional Forester and the Governor. We also have 395 active Good Neighbor Agreements with States in 38 states and 19 Good Neighbor Agreements with Tribes in 8 states. The Forest Service also has over fifty CEs under NEPA available to carry out work, in addition to other administrative flexibilities.

We appreciate every effort that Congress is making to advance the Wildfire Crisis Strategy; however, we have significant concerns about additional procedural and process requirements involved in this bill. We cannot support this bill as written and would be glad to discuss our concerns further with the Committee.

### **S.1764 “Western Wildfire Support Act of 2023”**

#### TITLE I— PREPARATION

Sec. 101. FIREFIGHTING ACCOUNTS – This section establishes a separate Firefighting Operations account for the U.S. Department of Agriculture (USDA) with separate subaccounts for ground-based firefighting operations and for aircraft use in firefighting operations. For USDA, the authorization of appropriation for FY 2024 for ground-based firefighting operations is up to \$3 billion and the authorization of appropriations for FY 2024 for aircraft use in firefighting operations is up to \$500 million. The legislation would require the Forest Service to submit monthly accounting reports.

The Forest Service currently receives appropriations for firefighting operations in the Wildland Fire Management and Wildfire Suppression Operations Reserve Fund accounts, which allow for flexibility in funding necessary actions throughout the fire year. The creation of an additional subaccount would constrain flexibility in adjusting the program throughout the year. The bill could benefit from additional clarity on whether the authorization of appropriations for aircraft use in firefighting operations would be for \$500m for each department (USDA and the Department of the Interior) or \$500m to be shared between both departments.

Sec. 102. REIMBURSEMENT FOR WILDFIRES CAUSED BY MILITARY TRAINING – This section requires the Secretary of Defense to reimburse a State or Federal agency for the reasonable costs for services provided in connection with fire suppression. USDA defers to the Department of Defense on this section of the bill.

Sec. 103. STRATEGIC WILDLAND FIRE MANAGEMENT PLANNING – This section requires the creation of spatial fire management plans that incorporate risk, strategic plans, operational factors, and post-fire activities. The section also sets out requirements for fire ecology and fire management to be considered in the revision of land management plans and the involvement of specialized personnel to participate in the land management planning.

The Forest Service has already implemented spatial fire planning as part of its deployment of the interagency Wildland Fire Decision Support System (WFDSS) and the Interagency Fuels Treatment Decision Support System (IFTDSS). Unlike traditional planning approaches that

result in a static plan with a limited shelf-life, spatial fire planning establishes a system of information in map-form suitable for rapid display and analysis to support decision makers with the best available information each time they either evaluate options during wildfire response in WFDSS or analyze fuel treatment options in IFTDSS. When new information becomes available, existing maps can be updated and new maps incorporated to provide decision makers better information. Forest Service supports continued efforts to advance and improve our spatial planning and we are working with the DOI Office of Wildland Fire to use Wildfire Prevention Spatial Assessment and Planning Strategies (WPSAPS) software to create a spatial plan for wildfire prevention activities. We would like to work with the Committee on technical suggestions related to this section to reflect the full suite of our on-going spatial planning work and to ensure this program complements and enhances existing programs within USDA and Department of the Interior.

Sec. 104. ACCOUNTS TO ASSIST COMMUNITIES IN PLANNING AND PREPARING FOR WILDFIRES – This section establishes Community-Supported Land-Use Planning Assistance accounts for USDA and DOI with an authorization of appropriation of up to \$200 million per year for community-supported land-use planning assistance. The bill could benefit from additional clarity on whether the \$200 million authorized would be for each account or to be shared between both.

The Forest Service has established cooperative agreements with a variety of partners and state forestry agencies that support community wildfire protections programs. We would like to work with the Committee on technical assistance related to this section to ensure the establishment of this program complements and enhances existing programs across the Federal government.

Sec. 105. COMMUNITY SUPPORT DURING DISASTER RESPONSE – This section requires the establishment of a program to train and certify citizens to volunteer during a wildland fire incident, excluding direct suppression actions. Local fire departments serve in this capacity currently. USDA supports the engagement and education of volunteers to support wildland fire operations and would like to work with the Committee on technical assistance related to this section to ensure the goals of this provision are implemented correctly.

## TITLE II— WILDFIRE DETECTION AND SUPPRESSION SUPPORT

Sec. 201. WILDFIRE DETECTION EQUIPMENT – This section encourages expedited placement and permitting of wildfire detection equipment and expanding the use of satellite data. USDA supports this section.

Sec. 202. GRANT PROGRAM FOR SLIP-ON TANK UNITS – This section establishes a program to award cost-share grants to a State or unit of local government to acquire slip-on tank and pump units for a surge capacity of resources for fire suppression. We would recommend the program authorized in this section be extended to Tribes.

Clarification on whether this is meant for the Forest Service or the Department of the Interior is needed. The Forest Service has existing programs that provide funding to state and volunteer fire departments. This section would provide funding for all fire departments for slip-on tank and

pump units. USDA would like to work with the Committee to better understand the intent of this section and looks forward to working with the Committee and bill sponsors on technical assistance to accomplish the goals of this section.

Sec. 203. ASSISTANCE TO STATES FOR OPERATION OF AIR TANKERS – This section allows for funding to be provided to States to operate single-engine airtankers for only initial attack. Department of the Interior contracts for single engine airtankers (SEATs) for both the Forest Service and the Department of the Interior. USDA defers to the Department of Interior on this section.

Sec. 204. RESEARCH AND DEVELOPMENT OF UNMANNED AIRCRAFT SYSTEM FIRE APPLICATIONS – This section authorizes the Department of the Interior, through the Joint Fire Science Program, to work with covered unmanned aircraft test ranges to carry out research and development of unmanned aircraft system fire applications.

This section is directed at the Department of Interior and does not have a direct role for the Forest Service. However, the Forest Service shares oversight of, and receives funding for, the Joint Fire Science Program as well as has full oversight for the National Technology Development Centers, which have been instrumental in supporting the testing and evaluation of Unmanned Aerial Systems for wildfire fire applications. We would be interested in learning more about the intended use of covered unmanned aircraft test ranges and working with the Committee, bill sponsors and the Department of the Interior on ways to step up the adoption of unmanned aircraft system technology, which holds tremendous potential to improve our fire management capabilities.

Sec. 205. STUDY ON EFFECTS OF DRONE INCURSIONS ON WILDFIRE SUPPRESSION – This section requires the Department of the Interior, in consultation with USDA, to produce a report of the effects of drone incursions, over the past five years, on wildfire suppression on federal lands and to evaluate the feasibility and effectiveness of various actions to prevent drone incursions. USDA does not have enforcement capability to prevent drone incursions.

Sec. 206. STUDY ON WILDFIRE DETECTION EQUIPMENT AND INTEGRATION OF ARTIFICIAL INTELLIGENCE TECHNOLOGIES – This section requires USDA and Department of the Interior to produce a study, within two years, on the effectiveness and limitations of the deployment and application of each wildfire detection equipment technology, and the integration of artificial intelligence with real-time imagery and weather data. USDA supports the use of technology in wildland fire and does not have concerns with this provision.

### TITLE III— POST-FIRE RECOVERY SUPPORT

Sec. 301. FUNDING FOR ONLINE GUIDES FOR POST-FIRE ASSISTANCE – This section amends Section 201(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and allows the Federal Emergency Management Agency to enter into a cooperative agreement to provide funding to a State agency to establish and operate a website to provide information relating to post-fire recovery funding and resources to a community or an individual impacted by

wildland fire. USDA defers to the Federal Emergency Management Agency on this section of the bill.

Sec. 302. LONG-TERM BURNED AREA RECOVERY ACCOUNT – This section establishes a Long-Term Burned Area Recovery (BAR) account for USDA with an authorization of appropriation of up to \$100 million per year for rehabilitation projects that prioritize downstream effects on water resources and public safety. The Infrastructure Investment and Jobs Act established five years of funding for long-term burned area recovery. This legislation would create a much-needed permanent BAR program that would allow the Forest Service to address post-fire needs more effectively and consistently.

As the scale and severity of the wildfires has increased, costs for addressing the growing post-fire recovery and restoration needs continue to grow and currently far outpaces the Forest Service’s available resources.

Timely and effective restoration of lands is critical for restoring ecosystem sustainability and protecting public safety. Without dedicated resources to address post-fire recovery needs, the impacts of these wildfires will continue to be felt long after they are contained. Vital ecosystem functions may be depleted or reduced. Drinking water and public safety may be at risk due to increased flooding and erosion. Critical habitat may be lost for sensitive, threatened, or endangered species, key pollinators, and important game species.

USDA supports dedicated funding for post-fire recovery, which will help us implement essential recovery actions on and off National Forest System lands, restore resilient native ecosystems, and protect public safety following wildfires.

Sec. 303. PRIZE FOR WILDFIRE-RELATED INVASIVE SPECIES REDUCTION - This section amends Section 7001(d) of the John D. Dingell, Jr. Conservation, Management, and Recreation Act and establishes the Theodore Roosevelt Genius Prize for Management of Wildfire-Related Invasive Species. The Department of the Interior will administer the prize competition. USDA defers to the Department of the Interior on this section.

USDA supports the intent of this bill and looks forward to working with the Committee and bill sponsors on technical assistance to accomplish the goals of the bill.

### **S. 1889, “Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act”**

S. 1889 would amend the Alaska Native Claims Settlement Act of 1971 (ANCSA) to authorize Alaska Native residents of five Southeast Alaska communities (Haines, Ketchikan, Petersburg, Tenakee, and Wrangell) to form urban corporations. The legislation directs conveyance of specifically identified surface estate lands within the Tongass National Forest in the amount of 23,040 acres to each corporation, totaling approximately 115,202 acres. The bill directs conveyance of subsurface estate of these parcels to the Sealaska Regional Native Corporation.

The proposed conveyance of 23,040 acres to each new corporation conforms with the acreage provided to the ten Southeast Alaska communities that were recognized and determined to be eligible under ANCSA. Unlike ANCSA, S.1889 does not require that the selected acres include the township in which all or part of the community is located, nor that it be contiguous and in reasonably compact tracts. The selected NFS lands are in 61 named parcels, including some that are split into distinct parts or include adjacent islands. The parcels range in size from 17 to 9,092 acres and are located across seven Forest Service Ranger Districts. All parcels contain old growth and cumulatively approximately 80,000 acres, or 69% of the proposed conveyance, are considered productive old growth. Nearly all the parcels contain inventoried roadless acres and 52% of the cumulative acres proposed for conveyance are roadless.

### *Background*

The Alaska Native Claims Settlement Act effected a final settlement of the aboriginal claims in Alaska through payment of \$962.5 million and conveyances of more than 44 million acres of Federal land. There was a distinction made in ANCSA between the villages in the southeast and those located elsewhere. Prior to the passage of ANCSA, Alaska Natives in the southeast received payments from the United States pursuant to court cases in the 1950s and late 1960s, for the taking of their aboriginal lands. Because Alaska Natives in the Sealaska region benefitted from an additional cash settlement under ANCSA, the eligible communities received less acreage than their counterparts elsewhere in Alaska. Congress named the villages in the southeast that were to be recognized in ANCSA. The communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell – the five communities addressed in S.1889 – were not among those listed.

Alaska Natives living in the five communities applied to receive benefits under ANCSA and were subsequently determined to be ineligible. Three of the five appealed their status and were denied. Notwithstanding the determination of ineligibility of some communities for corporate status under ANCSA at the time, Alaska Natives in these five communities were enrolled as at-large shareholders in the Sealaska Corporation. The enrolled members of the five communities comprise more than 20 percent of the enrolled membership of the Sealaska Corporation.

### *Analysis of Identified Conveyance of public lands from the Tongass National Forest lands*

Due to the high value of these lands for multiple uses on the National Forest, the Forest Service has concerns that the currently proposed conveyance of lands will affect the ability of the Forest Service to implement the stated goals of the Tongass National Forest Land and Resource Management Plan across program areas, including meeting current timber harvest goals and the transition to young growth timber harvest. Many of the parcels identified for conveyance are in areas where subsistence hunting and fishing occurs. Because the lands conveyed under this Bill would no longer be “public lands” and thus would no longer fall under the Federal Subsistence Regulations, subsistence hunting and fishing would no longer be managed by the federal government under the Federal Subsistence Management Program, which Congress established in Title VIII of the Alaska National Interest Lands Conservation Act. Thus, these lands would provide subsistence opportunities to a narrower community of users.



## *Summary*

USDA recognizes the special relationship that Alaska Natives have to the lands of southeast Alaska, which are the homelands of the Tlingit, Haida, and Tsimshian people. We acknowledge important customary, traditional, and current uses of the Tongass National Forest and the contributions of the land and resources to the social and economic well-being of the region's communities. Through joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters (SO 3403), USDA recognizes that it is the policy of the United States to restore Tribal homelands to Tribal ownership and to promote Tribal stewardship and Tribal self-government. In keeping with the joint Secretarial Order, the Forest Service is entering into co-stewardship agreements with Tribes in Alaska and across the United States. We look forward to discussing with the Subcommittee and sponsor of the bill the legislation's impact on the Tongass National Forest's program of work as well as opportunities to promote Tribal and/or indigenous stewardship of our federal lands and waters, consistent with the Joint Secretarial Order.

### **S. 2132, "Catastrophic Wildfire Prevention Act of 2023"**

This bill requires the Forest Service to work collaboratively with State and local forest management agencies to establish a pilot program to identify, research, and establish a pre-fire-suppression stand density index for certain areas of the National Forest System (NFS); evaluate how closely each pre-fire-suppression stand density index reflects current forest conditions and current published resource management objectives established by the Forest Service; and select at least eight areas of the NFS to use a pre-fire suppression stand density index as a benchmark for forest treatments.

The bill requires the Forest Service to conduct these treatments and update applicable land and resource management plans to include objectives and benchmarks, in accordance with that pre-fire-suppression stand density index, no later than two years after enactment of this Act. In selecting areas for inclusion in the pilot program and conducting treatments, priority will be given to certain areas, including the wildland-urban interface, community watersheds, critical habitat, and other areas.

The USDA would like to work with the bill sponsor to adjust the terminology in the bill, such as the definition of "pre-fire-suppression stand density index," and revisit the scale of the work within the bill. In addition, we encourage the revision of land management plans to be an optional action rather than a requirement. We also recommend clarifying meaning of the word "southwest" to avoid confusion on locations within the NFS. We also recommend including Tribes as part of the pilot program.

The USDA is generally supportive of efforts to increase forest health and resiliency. While we support several of the goals of the bill, we would like to work with the Committee and bill sponsors to address the agency concerns.

### **S. 2151, "Utah Wildfire Research Institute Act of 2023"**

S. 2151 would provide for the establishment of a new Southwest Ecological Restoration Institute (SWERI) in the State of Utah. These university based SWERIs provide a collaborative approach to scientific inquiry, creating evidence based and locally relevant information aimed at reducing the risk of wildfires and restoring forest health in the Interior West.

The Interior West has experienced significant challenges in adapting forest and range systems to climate change. The most dramatic shift in the last decade has been increasing temperature and drought. There is a need across the southern states in the Interior West to increase dissemination of knowledge about current and future changes in environmental conditions to guide business decisions, increase the rate of adoption of climate adaptation practices, and to create a mechanism to learn as we trial new techniques to ensure forest and range sustainability under rapidly changing conditions. There is also a need to create closer collaboration with Agency activities and capacity, to reduce redundancy of services, and to better leverage current capacity with USDA Climate Hubs.

While the USDA supports the goal of working closely with state universities to address the challenges facing the Interior West, especially with wildfire, we would like to work with the Committee and bill sponsors to make additional improvements to the underlying authority for the Southwest Ecosystem Restoration Institutes to facilitate closer engagement with Forest Service Research Stations and to implement lessons learned over the past 18 years and through new collaborative research ventures, such as the Climate Hubs.

### **S. 2581, “Secure Rural Schools Reauthorization Act of 2023”**

S. 2581, “Secure Rural Schools Reauthorization Act of 2023” extends all authorities under the Secure Rural Schools and Community Self-Determination Act of 2000, as amended, by 3 years. Under S. 2581, payments to states and counties would be extended through fiscal year 2026, the authority to initiate projects would be extended through September 2028, and the authority to expend project funds would be extended through September 2029.

In Fiscal Year ‘23 alone, the Secure Rural Schools (SRS) program was responsible for over \$228 million in direct payments to the 664 counties and an additional \$23.6 million to Resource Advisory Committees. Extending these authorities by 3 years would allow Counties to modify their elections between 1908 25% payments and SRS in 2025. This allows Counties to make choices that are best for them.

An active Resource Advisory Committee (RAC) with 9-15 members is required to obligate Secure Rural Schools (SRS) Title II funds. Section 3 of S. 2581 would replace all current national and regional pilot programs for Resource Advisory Committee appointments with just one pilot program. The proposed pilot program is nearly identical to the current regional pilot program but expands the authority nationwide. In addition, the bill would extend the pilot authority through Oct 1, 2028. As was the case with the Regional Pilot, Regional Foresters would have the authority to appoint RAC members under the expanded and extended pilot program in S. 2581.

The Forest Service has found the Regional Pilot to be beneficial. Under the Regional Pilot program, we have seen success in recruiting members effectively, maintaining RAC quorums, and speeding up approval times. In addition, we have seen more RAC meetings and project approvals, which means spending more of the funds and implementing more projects. The Forest Service anticipates similar results nationwide for the pilot under S. 2581.

USDA looks forward to working with Congress on S. 2581 and would be happy to provide technical assistance to ensure effective implementation.

### **S. 2855, “Close the Gap Act”**

S. 2855 aims to modernize and streamline the permitting process for broadband infrastructure on federal lands, including lands within the National Forest System (NFS) administered by the Forest Service. The bill would (1) require federal land management agencies to issue new regulations to streamline the application process for authorizing communications facilities on federal lands; (2) amend the FAST Act to require agencies to use the Permitting Dashboard to track communications projects, of any amount; (3) require federal land management agencies to establish a new categorical exclusion for public safety projects involving existing communications facilities; (4) exempt the issuance of a communications use authorization for the occupancy and use of a previously disturbed right-of-way from the National Environmental Policy Act of 1969 and the National Historic Preservation Act; (5) require federal land management agencies to establish a uniform online portal to accept an electronic SF-299 application form; (6) authorize federal agencies to collect and retain cost recovery fees; and (7) establish a federal land management agency working group to coordinate and expedite the review of applications for communications use authorizations.

USDA recognizes the important role of its agencies in providing broadband services to the American people, including authorizing use and occupancy of NFS lands for critical infrastructure that provides communications services to rural and urban communities.

In 2006, the Forest Service issued a final rule authorizing the agency to charge fees for processing special use applications, including applications for communications uses, and for monitoring compliance with special use authorizations, including communications use authorizations. In 2020, the Forest Service issued a final rule and updated agency directives further implementing the MOBILE NOW Act, which requires the agency to process communications use applications within 270 days of receipt, and implementing portions of the Agriculture Improvement Act of 2018 (2018 Farm Bill) to streamline the agency’s procedures for processing communications use applications. The Forest Service also amended its National Environmental Policy Act regulations to establish and revise categorical exclusions that make more efficient environmental analysis for communications use applications.

In 2021, the Forest Service published a proposed rule to implement the requirement in the 2018 Farm Bill to charge a programmatic administrative fee to cover the costs of administering the agency’s communications use program. This fee is in addition to land use fees and cost recovery

fees for communications uses authorized by existing law. The FY 24 Budget proposes \$2 million to be deposited in the special account established by the 2018 Farm Bill to cover costs incurred by the agency in administering its communications use program. The final rule is expected to be published in December 2023.

Additionally, the Forest Service has focused on increasing its staffing capacity at all levels of the agency to undertake the additional administration and environmental reviews associated with broadband projects.

While some of this bill aligns with current Forest Service efforts to increase efficiencies, USDA generally opposes blanket exemptions from environmental and cultural reviews of future applications. USDA has concerns with provisions in the bill that duplicate or potentially conflict with existing authorities but believes that ongoing efforts will provide the needed improvements in environmental reviews. USDA would welcome the opportunity to work with the Committee and bill sponsors to address these concerns.

### **S. 2867, “Promoting Effective Forest Management Act of 2023”**

S. 2867 proposes several changes and updates to Forest Service policies and regulations with the intent of providing more effective management. Title I of the bill requires the Forest Service to determine annual averages of acres treated mechanically, commercially, and pre-commercially for Fiscal Years (FY) 2017 to 2021. The bill then sets annual targets above this average baseline, so that by FY 2028, the target would be four times this average. The bill proposes more detailed annual accomplishment reporting for a variety of activities, while reducing the need to report to Congress hazardous fuels accomplishments funded by the Infrastructure Investment and Jobs Act if an acre requires multiple treatments before the acre is effectively mitigated. While the intent of these provisions, to increase the pace and scale of the Agency’s treatments and improve accountability and accomplishment reporting, aligns with the Agency’s current goals and efforts, the USDA would like to work with the Committee and bill sponsors to address multiple concerns with the language in these sections.

Title II of the bill would direct the Comptroller General to report estimates of the time required to issue revised land management plans if Forest Service plans were developed and revised under timelines used by the National Park System. Title II would also direct the agency to adhere to existing regulatory definitions of “old growth forest”, if any, and establish procedures for revisions of such definition(s); as well as providing a statutory definition of “mature forest” and directing that the Agency shall only carry out timber harvests in mature forests, with specified exceptions. It would also establish a wetland and riparian restoration pilot project and recognizes livestock grazing as a wildfire mitigation tool. Title II provides intervenor status to local governments for qualified projects in a civil action. USDA would like to work with the Committee and bill sponsors to better understand the intent of these sections and develop updated language that is better suited and in line with Forest Service laws and policies.

Title III of this bill appears designed to support the Agency’s workforce. Section 301 proposes training for the timber harvest workforce. While USDA generally supports workforce training and proposals for the modernization of machinery, we have some concerns, particularly with the

proposal to use timber receipts to fund training and wages. This would require additional examination and potential changes to associated legislation that dictates appropriate use of timber receipts. Section 302 requires USDA establish regulations to ensure a Federal wildland firefighter would not forfeit previously made contributions or eligibility for firefighter retirement when the wildland firefighter has a voluntary break in service of not more than nine months. This will require additional review as it would amend current Federal employee retirement policy and rules that currently apply government-wide for a variety of mission critical occupations. In the Forest Service, we have had employees who have been significantly and negatively been impacted by this break-in-service provision. The USDA supports the objectives of the workforce reform provisions included in Title III but would like to work with the sponsor on how best to target support to the wildland firefighter workforce without creating new benefit inequities across the broader federal workforce.

Title IV of the bill mandates the use of specific streamlined authorities for environmental review. The list provided in the bill is only available for projects with specific purposes or scenarios and these authorities do not apply across the entire National Forest System. Additionally, the Agency needs to retain the flexibility to choose the right National Environmental Policy Act (NEPA) authority for each proposed action across the national forests, rather than mandating the use of specific authorities.

The bill aims to reduce employee relocation and increase employment development and opportunities. While we understand the intention of this section, we have some concerns with the wording and impacts to employees. The bill proposes to repeal the requirement for the Federal Land Assistance, Management, and Enhancement (FLAME) Act reporting, which the Agency supports. This reporting requirement, just like the FLAME Act itself, has been functionally supplanted by the 'Fire Fix' included Public Law 115-141.

The USDA is working to increase our capacity, efficiencies, and effectiveness to support our goal of treating more acres for a variety of resource needs. While we support several of the goals of the Promoting Effective Forest Management Act, we would like to work with the Committee and bill sponsors to address the multiple concerns with the bill's language.

## **S. 2991, "America's Revegetation and Carbon Sequestration Act of 2023"**

### TITLE I – REVEGETATION

Title I includes provisions to increase revegetation on both public and private lands. Provisions relating to both the Secretaries of Interior and Agriculture include:

- Direction to revise applicable regulations, within two years, to require the consideration and assessment of resiliency and adaptation factors in developing strategies and efforts for revegetation, including selecting species for planting.
- Direction to jointly develop or expand an existing objective revegetation assessment tool for each Forest Service region that uses a point system or rating scale to establish baseline information and reforestation needs on federal land and to determine reforestation needs for both post-event and post-harvest. The Secretaries may also enter into a partnership with a non-Federal entity, including Indian Tribes, with data or

expertise in Federal reforestation to assess the opportunity to restore forest or rangeland cover across non-Federal land in the United States or to share existing data.

- Requirement to publish a report within 18 months detailing the number of federal and nonfederal acres in need of revegetation.
- Direction to establish an interagency revegetation task force for each Forest Service region composed of federal and non-federal members, including Indian Tribes, to coordinate and carry out revegetation activities. Each task force will develop a 10-year comprehensive revegetation strategy and implementation plan that includes revegetating not less than 25 percent of the land identified as needing revegetation and achieving any additional goals or targets established by the task force. Each task force shall give priority to burned areas and any other destabilized lands that pose heightened risks to homes, roads, and public water supplies if not revegetated; areas at high risk of establishing invasive species; mined land; floodplains and riparian areas; and land with regionally significant carbon sequestration potential. In addition, for activities recommended to be carried out on non-Federal land, the task force will identify ways to address revegetation needs voluntarily by working with States, landowners, Indian Tribes, and other interested persons, and ensure that revegetation efforts will not adversely impact existing markets for timber and other forest materials produced from private working forests, among other tasks, including conducting an inventory of nursery and seed capacity within each Forest Service region and determining how capacity would need to be increased to meet the plan.
- Allow for agencies to enter into a contract or cooperative agreement for re-establishing vegetation on Federal land for up to 10 years.
- Establish an eight-year pilot program, managed through the Secretary of the Interior, for the revegetation of abandoned mine lands on federal lands and to offer financial assistance to States and Tribes to establish native vegetation on eligible mined land located on State land, Tribal land, or land held in Trust for an Indian Tribe, as long as financial assistance is not provided to a person or entity with an ongoing legal obligation to revegetate the land.

Section 103 of this title formally authorizes the Forest Service's experimental forest and range network, which includes over 84 long-term research sites representing most of the vegetation types in the United States, including in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. Most of these sites were established in the late 1920s through the 1960s. Many are nationally and internationally significant due to their long-term data record and large-scale forest management studies, field-based interaction with land managers, and student training. This section also directs the agency to establish a network of experimental forests and rangelands that shall include each of the forest cover types that occur in the United States, forest cover types found in the State of Hawaii, and an experimental forest that contains forest cover types found in the territories of the United States. Within this network, the agency shall conduct research on seedling establishment, site suitability, and tree planting designs to inform and assist efforts undertaken in the United States to establish stands of trees that are resilient in future climate conditions and improve models of carbon responses to land management practices.

Section 105 of this title directs the Secretary of Labor to develop a career and technical education and training program focused on tree planting or tree maintenance and offer the program as part of the Job Corps program. Section 105 also directs the Secretary of Energy to establish a

program to award grants to States, Indian Tribes, local governments, nonprofit organizations, and retail power providers to conduct tree planting projects, giving priority to tree planting projects that would provide the largest potential reduction in residential energy consumption. USDA defers to these two agencies on this section of the bill.

Section 107 of this title provides the Forest Service with authority to provide technical assistance to other countries on tree planting activities and to enter into partnerships to restore vegetation and sequester carbon through revegetation.

USDA would like to work with the Committee on technical suggestions related to this section. The Forest Service would also like to work with the Committee on technical assistance related to the current experimental forests and rangelands. While some of the Agency's experimental forests are located on non-Federal land, the bill focuses only on those located within the National Forest System and specifies their value in climate resiliency research. USDA would like to work with the Committee on this section of the title, especially as it relates to our current authorities, the range of sites represented in the network, and our partnerships, infrastructure, and capacity.

## TITLE II – CARBON SEQUESTRATION THROUGH FOREST MANAGEMENT AND INNOVATION

Section 201 of Title II addresses the accrual of carbon credits for work performed on National Forest System lands, including provisions authorizing the National Forest Foundation to receive and distribute funds from carbon credits for hazardous fuels reduction projects on National Forest System lands.

Section 202 also includes a provision directing the agency to identify units of the National Forest System that the Secretary determines to be at high or very high risk of experiencing a stand-replacing disturbance during the 10-year period following the date of enactment of this Act and establish a team to develop a model land and resource management plan amendment, establishing plan content for future site-specific project-level decisions if a stand-replacing disturbance occurs.

Section 203 requires the establishment of a pilot program under the Commissioner of the Food and Drug Administration to grant a nationwide food use authorization of biochar as a feed additive for cattle and directs the U.S. Geological Survey to develop and publish a national commercialization plan for the production, sale, and use of biochar as a soil amendment for plant growth improvement, including for commercial, agricultural, and residential use. USDA defers to these two agencies on these sections of the bill.

Section 204 directs the Secretary of Agriculture and the Secretary of the Interior to jointly develop and implement an action plan to map, treat, and control invasive grass in coordination with State and local governmental entities. The Action plan will establish goals, implementation actions, and targets, including acres to be treated annually. This section permits the Secretaries to accept non-Federal funds to implement this provision and allows the Secretaries to spend up to \$30,000,000 of any funding made available for invasive species control to implement this section.

USDA supports planning in carbon-focused projects and understands the strong interest from a variety of our partners in demonstrating the carbon and climate benefits of sound forest management, including post-wildfire reforestation. The agency recently investigated this question internally and is focused on developing policy around rigorous carbon claims, starting with tree planting projects. USDA is prepared to work with the Committee as we learn from our work with partners to develop technical assistance that supports a variety of projects that promote partners' interest and have a positive benefit for carbon sequestration on the national forests.

Section 202 requires development of a model amendment for Land Management Plans to provide direction for project-level actions following stand-replacing events, which would then be applied to pilot national forests. Many Land Management Plans do not need to be amended in order to adequately allow for project-level actions following stand-replacing events. Section 202 would create an unnecessary workload. We also note that forest conditions differ considerably across national forests. As a result, Land Management Plans vary in how they address post-disturbance activities, making a one-size-fits-all amendment difficult to draft and then adopt.

USDA supports increasing treatment and control of invasive grasses. However, we would like to work with the Committee to ensure plans are not duplicative or competing. USDA worked with partners to develop and implement the Western Invasive Weed Management Strategic Action Plan and the requirements in the bill would duplicate the planning and actions that were identified in that action plan.

USDA would like to work with the Committee on technical suggestions related to this title.

### TITLE III – MASS TIMBER

Title III contains provisions related to the use of mass timber in both federal and non-federal buildings. This title includes provisions directing the Secretary of Agriculture to:

- Work through the Director of the Forest Products Laboratory to establish a mass timber science and education program, including working closely with colleges and universities in administering the program. The purposes of the program are as follows: provide practical research that is responsive to the needs of architects, developers and the forest products industry, including assessments of carbon impacts and fire safety; engage and listen to clients then develop strategic lines of new research responsive to their needs; solicit proposals from scientists who compete for funding through a rigorous peer-reviewed process; disseminate research findings using a suite of communication tools; and develop and facilitate voluntary adoption of a curriculum for building structures using mass timber.
- Submit a mass timber plan to relevant Congressional committees that includes an assessment of the current state of knowledge about mass timber and tall wood buildings, an integrated approach to improve knowledge sharing, an approach for project monitoring and evaluation, and an approach for setting research priorities.
- Establish a stakeholder advisory group of technical experts that will meet at least annually to consider immediate and long-term science and information transfer needs and assist the secretary in drafting the mass timber plan.



- Provide technical assistance to the Secretary of Transportation and States relating to the use of wood bridges.
- Coordinate technical assistance with other Federal agencies and non-federal partners to improve the management and efficiency of constructing mass timber buildings and infrastructure.

This title also includes provisions directing the Secretaries of Interior and Agriculture to:

- Develop and maintain a database of mass timber buildings owned or leased by the Federal Government that are occupied primarily by employees of the Secretaries. The Secretary of Agriculture, acting through the Director of the Forest Products Laboratory, shall conduct an assessment of each mass timber building included in the database, which includes collecting data on embodied carbon.
- Prepare a plan to increase the quantity of carbon stored in buildings owned or leased by the federal government and occupied primarily by employees of the Secretaries. The plan, to the maximum extent practicable, should be material neutral.
- No later than September 30, 2027, procure facilities, buildings or structures, including not fewer than 100 single-occupancy restrooms, using domestic mass timber, unless they are not reasonably available or necessary, fail to meet reasonable performance standards, or are available only at unreasonable prices.

USDA supports adoption of mass timber in construction however we would like to work with the Committee through technical assistance to ensure effective coordination within Forest Service programs and across Federal agencies to ensure that the wide range of Forest Service expertise can be applied to these important issues.

#### TITLE IV – RESEARCH

Title IV contains provisions regarding research and climate-resilient forests. This title includes provisions directing the Secretary of Agriculture to:

- Publish a report that demonstrates Forest Service efforts to measure a consistent historical series of field plots using advanced technology, and to use advanced geospatial technologies to improve area and volume estimates.
- Consider use of remote sensing technologies and other technologies to develop more accurate and efficient methods to reduce costs to facilitate the measuring and monitoring of forest carbon in the United States.
- Consider accelerating or increasing the frequency of current inventories and data collection activities to ensure consistent nationwide estimates of forest carbon pools that can reflect short-term changes from disturbances.
- Expand research relating to the use of wood to facilitate the establishment of new markets for material produced from forest management projects that typically has little or no commercial value; to increase economic viability of manufacturing these products and including structural testing of hardwood species for use in mass timber.
- Establish an intragovernmental revolving fund to maintain adequate buffer reserves for a project implementing a covered activity (as defined by section 201 of this bill) to cover unforeseen losses in carbon stocks and address nonpermanence, and transfer amounts into and out of the revolving fund to serve as a buffer pool for covered activities.

- Seek to expand the services provided by the Western Wildland Environmental Threat Assessment Center and Eastern Forest Environmental Threat Assessment Center such that they become centers of excellence to inform large-scale climate-resilient forest management. In addition, the Secretary shall share the syntheses, models and application tools developed by these centers with the USDA Climate Hubs, and the Climate Adaptation Science Centers.

Additionally, section 401 directs the Secretary of Energy, in coordination with the Secretary of Agriculture, to develop more accurate and efficient methods and technologies to measure carbon stored in woody biomass energy feedstocks and building materials; publish estimates of the amount and average lifespan of carbon stored in different wood biomass energy feedstock and building materials; and publish an estimate of the total amount of carbon stored in short-lived forest products, building materials and other long-lived wood products. USDA defers to the Department of Energy on this section.

USDA supports additional research and technical transfer supporting climate-resilient forests and robust forest product markets and would like to work with the Committee on technical assistance related to this research title. More specifically, we would like to explore additional options for meeting the intent of the Forest Inventory and Analysis program-related provisions while maintaining our ability to implement our work effectively. As referenced earlier in the testimony, USDA is prepared to work with the Committee as we learn from our work with partners to develop technical assistance related to section 404 of this title.

### **S. 3033, “Pecos Watershed Protection Act”**

This bill withdraws identified federal land in the Pecos River watershed in New Mexico from entry, appropriation, or disposal under the public land laws, location, entry, and patent under the mining laws, and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials. The area proposed for withdrawal includes approximately 163,000 acres of National Forest System land and approximately 1,600 acres of Department of the Interior Bureau of Land Management land. . This proposed withdrawal constitutes 66 percent of the 253,343 acres of watershed depicted outside of the Pecos Wilderness, Santa Fe National Forest.

The proposed withdrawal would be subject to valid existing rights, meaning mining and associated activities can continue within the withdrawn area as long as valid rights were established at or before the withdrawal and remain valid.

This bill also designates a wilderness area to be known as the “Thompson Peak Wilderness Area”. The designation largely aligns with the Final 2022 Santa Fe National Forest Land Management Plan Forest Plan.

The Forest Service acknowledges the deep Tribal connection to this land. We are committed to collaborating with Congress, Tribes, acequias, local communities, and watershed partners who value the Pecos Canyon watershed to balance our multiple-use mission and bolster resilient landscapes and watersheds. The Forest Service's commitment is evidenced by ongoing Tribal

consultation and site visits to enhance communication, foster collaboration, and share local knowledge.

USDA supports S. 3033. The bill will enshrine conservation strategies and policies that preserve public, private, and Tribal areas into law.

**S. 3044, To redesignate the Mount Evans Wilderness as the “Mount Blue Sky Wilderness”, and for other purposes**

USDA supports S. 3044, to redesignate the Mount Evans Wilderness as the “Mount Blue Sky Wilderness.” On September 15, 2023, the U.S. Board on Geographic Names (BGN) voted on a proposal to change Mount Evans to Mount Blue Sky. The BGN is a federal body, composed of representatives from multiple federal agencies, whose purpose is to maintain uniform geographic name usage throughout the Federal Government. Any person or organization, public or private, may make inquiries or request the BGN to render formal decisions on proposed new names, proposed name changes, or names that are in conflict. Proponents for the proposal to change Mount Evans to Mount Blue Sky included members of the public as well as Tribal governments. The BGN and Colorado Geographic Naming Advisory Board accepted, reviewed, and considered all proposals, ultimately making a recommendation to rename the feature to “Mount Blue Sky” with support from the Clear Creek County Commissioners, Governor Jared Polis, non-profit organizations, and several interested Tribal governments. A further change to name of the Mount Evans wilderness area requires an act of Congress. Given that Mount Evans Wilderness no longer includes a feature named Mount Evans, we recommend the name of the wilderness area be changed in keeping with the recent decision of the BGN to change Mount Evans to Mount Blue Sky.

**S. 3045, To provide for the transfer of administrative jurisdiction over certain Federal land in the State of California, and for other purposes.**

This bill would transfer administrative jurisdiction of approximately 160 acres of USDA Forest Service land to the Department of the Interior, to be managed as part of Yosemite National Park, in accordance with laws applicable to the National Park System. This bill would also transfer approximately 170 acres of National Park System lands to the Forest Service to be managed as part of the Stanislaus National Forest in accordance with laws applicable to the National Forest System. This land transfer would provide for contiguous land management for both the Stanislaus National Forest and Yosemite National Park.

If this bill is enacted, the Forest Service and National Park Service shall each identify and provide notice of any known sites containing hazardous substances. Each agency shall remain responsible for any cleanup of hazardous substances on the Federal land identified in this notice as containing hazardous substances. This bill will not affect any valid existing rights or any existing withdrawal, right-of-way, easement, lease, license, or permit on the land to which administrative jurisdiction is transferred. Each agency shall be responsible for administering the interests or authorizations in accordance with applicable law.

USDA supports S. 3045, To provide for the transfer of administrative jurisdiction over certain Federal land in the State of California, and for other purposes.

### **S. 3046, To make permanent the authority to collect Shasta-Trinity National Forest marina fees**

The USDA supports S. 3046, “To make permanent the authority to collect Shasta-Trinity National Forest marina fees.” This bill would create a permanent authority to retain and use fees collected from Shasta-Trinity National Forest marinas to fund the Shasta-Trinity National Recreation Area. That authority was first included in the 2008 Interior Appropriations Act (section 422) and has been subsequently reauthorized over the years to present day. Section 422 provides that the retained funds may be used for the specified purposes under the Federal Lands and Recreation Enhancement Act and for the direct costs associated with issuance of the marina permit.

Funds have been used to: meet critical health and safety standards; address portions of the maintenance backlog; provide for innovative projects (including high quality interpretive and environmental education programs); install and maintain over 300 underwater obstacle markers and 100 safety-related floating directional signs; establish and maintain the National Recreation Area Boating Safety Program; implement and administer the program’s Marina Standards; maintain a floating toilet program; and construct accessible facilities to provide greater access for persons with disabilities. The goal of these projects is to meet the objectives of the National Recreation Area and provide recreation opportunities on site.

The Forest Service has requested extension of this provision with General Provision language in their annual budgets.

### **S. 3062, Small-diameter Timber and Underutilized Material Act of 2023**

The Small-diameter Timber and Underutilized Material Act of 2023 would require the Forest Service to designate as a free-use area as any fire hazard area in the National Forest System that contains small-diameter tree. The bill would define the term “small-diameter tree” as a tree, or portion thereof, as determined by the Secretary of Agriculture, that has a diameter at breast height (DBH) of not greater than eight inches and a fire hazard area as an area that has a very high wildfire hazard risk on federal land and is located west of the 100<sup>th</sup> meridian.

The bill would place limitations on the Agency’s ability to charge fees for small-diameter tree removal in free use areas, unless the fee is deemed appropriate by the Forest Service and discloses this determination to the public. The bill also would preclude the Agency from requiring a volume determination or conducting a timber sale appraisal in these areas. In fire hazard areas, the bill seeks to minimize physical marking of a small-diameter tree for removal in favor of designating tree removal by written description.

Removal of small-diameter trees to mitigate fire risk in fire-prone areas and for other purposes, e.g., if they have become hazard trees, is already successfully implemented on a small scale on NFS lands under current Agency regulation and policy. This work supports the Agency’s goals to reduce fuels in high-risk areas and dispose of material that has little to no commercial value. This bill would expand this authority in areas where markets do not exist for small-diameter trees or for the volume

of trees requiring removal. USDA supports the intent of the bill and would like to work with the committee and bill sponsor to address additional improvements to the legislation that would assist in implementation.