

Statement of James M. Peña

Associate Deputy Chief, National Forest System

Forest Service

United States Department of Agriculture

Before the United States Senate

Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests and Mining

April 25, 2013

Concerning

S.28 the “Y” Mountain Access Enhancement Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.28, the “Y” Mountain Access Enhancement Act.

S.28, the “Y” Mountain Access Enhancement Act, would direct the Secretary to convey to Brigham Young University (BYU) all right, title, and interest of the United States to two parcels comprising approximately 89 acres of National Forest System land in the Uinta-Wasatch-Cache National Forest in the State of Utah, as shown on the accompanying map. The southern parcel is a split estate, so the United States would only convey what it owns (the surface estate). The United States does not own the underlying mineral estate.

The Department does not object to the conveyance of the two parcels, but would like to work with the Subcommittee and the sponsor to address public access at the trailhead. The trailhead and beginning portion of the “Y Mountain Trail” are located on land owned by the University. These parcels are adjacent to it. Historically, the public has been permitted access to the trailhead and trail. Section 2(c) of the bill seeks to provide the same reasonable public access for the trail that historically has been allowed. To accomplish this objective, the Department recommends

that section 2(c) be revised to provide for the reservation by the Secretary of an easement for public access for the portion of Forest Service Trail #2062 that would be conveyed to the University. In addition, there is no legal public access to the trail and trailhead located on BYU owned property. Therefore, to ensure legal public access, the Department suggests the Committee consider an amendment to allow the Secretary to obtain an easement from BYU for the trailhead parking lot and the portion of trail that traverses across BYU property.

The bill provides for the conveyance of this land for consideration in the amount equal to the fair market value of the land. The bill also requires the proceeds from the sale shall be deposited in the general fund of the Treasury to reduce the Federal debt. The Department recommends utilizing Public Law 90-171, commonly known as the "Sisk Act" (16. U.S.C. 484a), which would allow for the deposit of proceeds received for a conveyance into the fund established under the Sisk Act for the acquisition of land or interests in land within the State of Utah.

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.159 the Lyon County Economic Development and Conservation Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.159, the Lyon County Economic Development and Conservation Act.

Section 2 of the bill pertains to public lands managed by the Bureau of Land Management. This testimony will address Sections 3 and 4 in my comments as they pertain to the management of the Toiyabe National Forest.

Section 3 of S.159 would add the Wovoka Wilderness to the National Wilderness Preservation System. These 47,449 acres are the largest remaining tract of wild country in Lyon County Nevada, encompassing the southern portion of the Pine Grove Hills south of Yerington Nevada. The core of this proposed wilderness is the Forest Service South Pine Grove Hill Inventoried Roadless Area. The Forest Service categorized this roadless area as having a high capacity for wilderness during its Forest Plan Revision wilderness evaluation in 2006.

Designation of the Wovoka Wilderness would preserve sage-grouse habitat, protect prehistoric cultural resources, ensure the availability of primitive recreational resources, and maintain high air and water quality in the area, while ensuring the conservation of ecologically diverse and important habitats. Further, the bill encourages the collaboration between the Department and the Lyon County Commission on local wildfire and forest management planning. The Department supports these worthy goals and would support S.159, if the bill is amended to address the following concerns.

S.159 would provide for several standard provisions for the management of wilderness area within the National Wilderness Preservation System. However, it introduces several new provisions that raise concerns.

Section 3(c)(2) would require that the wilderness boundary be placed 150 feet from the centerline of adjacent roads when they border the boundary. While this is generally a good policy, we are concerned that the term “roads” is open to interpretation. We would prefer the use of the term “forest roads” or “public roads” which reflects those roads designated by the Forest Service during our travel planning process or by other jurisdictions. This will avoid any confusion about the intent of the provision during creation of the legal description.

The Department objects to Section 3(d)(7), relating to water rights. Specifically, Section 3(d)(7)(E)(ii)(I) would prohibit the Forest Service from developing for its own purposes any water resource facility other than a wildlife guzzler. Additionally, Section 3(d)(7)(E)(ii)(II) would require the Forest Service to approve applications for the development of water resource facilities for livestock purposes within the Bald Mountain grazing allotment submitted by Bald Mountain grazing allotment permittees within 10 years of designation of the wilderness. The President’s discretion under the Wilderness Act to review and approve any potential water development structure or facility that is deemed in the national interest should not be limited by these provisions.

Section 3(e), relating to wildlife management, also presents concerns. Section 3(e)(3) would give the State authority to use helicopters and other aircraft for specified wildlife management purposes without specific permission from the Forest Service. Section 3(e)(4) would constrict the Forest Service’s authority to restrict hunting or fishing, and section 3(e)(5) would perpetuate

in perpetuity the application of a 1984 Memorandum of Understanding between the Forest Service and the State to State wildlife management activities in this wilderness area.

The Department objects to Section 3(f) Wildlife Water Development Projects, which would require the Secretary to authorize structures and facilities for wildlife water development where the Secretary determines that the development will enhance wilderness values by providing more naturally distributed wildlife populations and the visual impacts of the structures and facilities can be visually minimized. This language, while it provides some flexibility, still removes Secretarial discretion to consider the impact of wildlife water developments on other wilderness values. The Department already has the discretion to consider the placement of wildlife water developments consistent with the Wilderness Act and House Report 101-405. This section is an unnecessary abridgement of the Secretary's discretion.

Section 4 of the bill would withdraw an area of National Forest from (1) entry, appropriation, or disposal under public land laws, (2) location, entry and patent under the mining laws, and (3) operation of the mineral laws, geothermal leasing laws and mineral materials laws. The use of motorized and mechanical vehicles within the withdrawn area would be limited.

The Department would like to work with the committee and the sponsor of the bill to ensure all valid existing rights may continue in the future.

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.255 the North Fork Watershed Protection Act of 2013

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.255, the North Fork Watershed Protection Act of 2013.

S.255 would, subject to valid existing rights, withdraw National Forest System (NFS) lands located in the North Fork and Middle Fork of Flathead River watersheds in Montana which are primarily managed as part of the Flathead National Forest from location, entry and patent under the mining laws and from disposition under the mineral and geothermal leasing laws. S.255 would also withdrawal a small amount of land in the Kootenai National Forest. Currently there are 39 existing leases or claims in the North Fork comprising 56,117 acres and 18 existing leases or claims in the Middle Fork comprising 8,595 acres. The Department supports S. 255, however, I would like to clarify that although the Department has surface management authority concerning mineral operations, the management of the federal mineral estate falls within the jurisdiction of the Secretary of the Interior. We defer to the Department of the Interior on issues related to the status of the existing claims and leases.

The Forest Service administers surface resources on nearly 193 million acres of NFS lands located in forty-two states and the Commonwealth of Puerto Rico. The Forest Plan for the Flathead National Forest blends areas of multiple uses in the North Fork and Middle Fork with areas of specific or limited uses elsewhere on the Forest. Under current law, NFS lands reserved from the public domain pursuant to the Creative Act of 1891, including those in S. 255, are open to location, entry and patent under the United States Mining Laws unless those lands have subsequently been withdrawn from the application of the mining laws. This bill would withdraw approximately 362,000 acres from the operation of the locatable and leasable mineral laws subject to valid existing rights. This includes approximately 291,000 acres on the Flathead National Forest and approximately 5,000 acres on the Kootenai National Forest in the North Fork watershed and 66,000 acres in the Middle Fork watershed on the Flathead National Forest.

The majority of North Fork and Middle Fork of the Flathead has low to moderate potential for the occurrence of locatable and leasable minerals. A portion of the Middle Fork does have an area of high potential for oil and gas occurrence. Much of the North Fork and Middle Fork was leased for oil and gas in the early 1980s. Subsequently, the Bureau of Land Management (BLM) and Forest Service were sued and BLM suspended the leases in 1985 to comply with a District Court ruling (*Conner v. Burford*, 605 F. Supp. 107 (D.Mont.1985)). Presently, there are no active locatable or leasable operations, including oil and gas, in the North Fork or Middle Fork.

We recognize the bill would not affect the existing oil and gas leases because they would constitute valid existing rights. We also recognize the bill would not change the court's order in *Conner v. Burford* requiring the BLM and Forest Service to prepare an environmental impact statement (EIS) under the National Environmental Policy Act before authorizing any surface disturbing activities on the affected leases.

The Flathead National Forest and Flathead County rely on the close proximity of local sources of aggregate to maintain roads economically and as a source of building materials. We are pleased this bill would not preclude the removal and use of mineral materials, such as aggregate. The ability to continue using those local mineral materials would allow us to more easily maintain local roads, thus reduce erosion related impacts to streams and lakes in the North Fork and Middle Fork drainages.

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.258 the Grazing Improvement Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.258 the Grazing Improvement Act. The Department supports this bill. We believe that this bill would increase efficiencies, but not at the expense of good land stewardship.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee and while the Department supports certain provisions, we cannot support S.258 as written. The Department specifically has concerns with requirements and definitions in the use of categorical exclusions. The Department also recognizes that the Forest Service and the Bureau of Land Management operate under different authorities, such as the Rescissions Act of 1995, which determines how the Forest Service is to apply NEPA for grazing allotments. As a result, various provisions in S.258 affect the agencies differently. We therefore defer to the Department of Interior on those provisions that don't directly affect the Forest Service, or the impacts of those provisions on Department of the Interior programs.

The Forest Service enjoys a cooperative relationship with the vast majority of the over 6,800 individuals who hold permits for grazing, permitting approximately 8.2 million animal unit months on nearly 94 million acres of National Forests and Grasslands. Grazing permittees have helped provide for the effective stewardship of our public lands for many decades. While the vast majority of the grazing permittees are excellent stewards in caring for range resources, there are some areas where permittees need to take action to improve range conditions. The Forest Service is working with many permittees to make such improvements.

In addition, the Forest Service's grazing program not only helps support the economies of rural communities across the west, but it also helps maintain open space on private lands. Most permittees utilize and need both public and private lands to graze livestock economically. The loss of grazing on public lands can result in the loss of grazing on private lands that may lead to the conversion of private open space to other uses such as subdivision development.

S.258 would revise the permitting process for grazing in the Federal Land Policy and Management Act of 1976. Specifically, the bill would extend the duration of the permit from 10 years to 20 years. The bill also would make permanent the language used in annual appropriation riders which has required expiring permits to be renewed with existing terms and conditions if the National Environmental Policy Act (NEPA) has not been completed on allotments associated with the permit. It further would expand the appropriation riders language to include transferred or waived permits or leases.

The bill would establish and require the use of categorical exclusions (CE) and prohibit the agencies from preparing an environmental assessment or environmental impact statement under NEPA. CEs, which require no public notice, would apply if a decision continues the current grazing management on an allotment; monitoring has indicated that the current grazing management has met or is satisfactorily moving towards meeting land use management plan objectives; or the decision is consistent with the policy of the Department regarding extraordinary circumstances. While we support providing the line officer with the option to use a categorical exclusion category where the parameters of what constitutes a minor adjustment are narrowly defined, we do not support requiring use of categorical exclusions. The bill also would provide the Secretary with the sole discretion to determine the priority and timing for completing

the environmental analysis of a grazing allotment, notwithstanding the schedule in section 504 of the Rescissions Act.

S.258 also exempts crossing and trailing authorizations as well as the transfer of grazing preference from NEPA. We defer to the Department of the Interior on these provisions.

S.258 would require that grazing permits be issued for a term of 20 years rather than the current 10-year term. Permits may be issued for a shorter term on land that is pending disposal or will be devoted to a public purpose, or where it is in the best interest of sound land management on those allotments that have not had initial NEPA.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee. The Department can support the concept of having the flexibility to issue a longer term permit where current management is continued and the allotments are being monitored to assure they are meeting Forest Plan standards. The Department believes that the Secretary rightfully should have the sole discretion to determine the priority and timing for completing environmental analyses of grazing allotments, as is always the case under NEPA. We do not, however, support being limited to only using CEs in certain instances for grazing permits. We have completed NEPA analyses on three-fourths of our grazing allotments. We have been able to move forward with our renewed, reissued and transferred grazing permit program. Our analyses, with or without a CE, have been helpful in determining range conditions, a matter of great concern to all permittees and the Forest Service. We look forward to continuing to work with the committee and sponsors of this bill

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.312 the Carson National Forest Boundary Adjustment Act of 2013

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.312, the Carson National Forest Boundary Adjustment Act of 2013.

S.312 would modify the boundaries of the Carson National Forest in the State of New Mexico to include approximately 5,000 acres of private land known as “Miranda Canyon” that is adjacent to the existing National Forest boundary. The Department supports the adjustment of the boundary because it will create an opportunity for the acquisition of Miranda Canyon property as part of the Carson National Forest.

The Trust for Public Land currently owns most of the Miranda Canyon Property and will purchase the rest from Weimer Properties by the end of the year. It is located approximately four miles south of Taos, New Mexico. Weimer Properties spent several years proposing to develop a subdivision and seeking to acquire approval from the Taos County Board of Commissioners. Approval of the subdivision was not granted and the Taos County Commissioners requested the

New Mexico Congressional delegation consider placing this land under the stewardship of the U.S. Forest Service.

The Miranda Canyon Property is an expansive piece of property that ranges in elevation from 7,200 ft. to 10,800 ft. The property has various vegetative types from low elevation sagebrush and piñon - juniper to high elevation mixed conifer forest including large aspen clones. The landscape has numerous ridges and peaks that provide breathtaking views of the Rio Grande Gorge to the west and of Wheeler Peak (highest peak in New Mexico) to the north. The property contains historical features such as the Camino Real Trail and unique geologic features such as a small volcano and Miranda granite - 1.7 billion year old rock outcrops that rival the age of rock found at the bottom of the Grand Canyon. There are also numerous meadows and riparian vegetation that provide excellent habitat for wildlife.

The proposed boundary adjustment has wide grass roots support from the local residents, the Taos County Board of Commissioners, the Village of Taos, and local Native American Tribes and Pueblos. To date, there has been no opposition voiced to adjusting the boundary of the Carson National Forest. The adjustment of the Forest boundary would open the door to the potential federal acquisition of Miranda Canyon from a willing seller. The cost of acquiring the Miranda Canyon property would be approximately \$10,500,000, subject to the availability of appropriations. The properties are in the process of a conservation sale to the United States through an agreement with the Trust for Public Lands, a 3rd party non-profit organization. This agreement keeps the property from being developed or sold on the open market until funding is appropriated. The acquisition would provide additional recreation opportunities for hunting, sightseeing, camping, hiking, interpretation, and horseback riding for the public.

Thank you for the opportunity to testify in support of S.312. The Department supports the acquisition of the Miranda Canyon property because it would make an outstanding addition to the National Forest System.

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.327 the Good Neighbor Forestry Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.327, the Good Neighbor Forestry Act.

S.327 would authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements or contracts with State foresters authorizing State foresters to provide certain forest, rangeland and watershed restoration and protection services in states west of the 100th meridian.

Activities that could be undertaken using this authority include: (1) activities to treat insect infected trees; (2) activities to reduce hazardous fuels; and (3) any other activities to restore or improve forest, rangeland and watershed health, including fish and wildlife habitat. The bill would authorize the states to act as agents for the Secretary and would provide that states could subcontract for services authorized under this bill. The bill would require federal retention of decision making under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321et seq.). The authority to enter into contracts or agreements under the bill would expire on September 30, 2019.

We support Good Neighbor Authority (GNA), but would like to work with the Committee to make some minor technical corrections. We know our Nation's forests face forest health challenges, which must be addressed across diverse land ownerships. In these times of limited resources, it is important to leverage workforce and technical capacities and develop partnerships for forest restoration across all lands. To that end, we look forward to continuing our work with the committee and states.

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.340, the “Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act”

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today to provide the Department of Agriculture’s views on S.340, the “Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.” S.340 would allow the Sealaska Corporation, a Regional Corporation established under the Alaska Native Claims Settlement Act of 1971 (ANCSA), to obtain its remaining land entitlement under ANCSA from portions of the Tongass National Forest outside of the withdrawal areas to which Sealaska’s selections are currently restricted by law.

The Department of Agriculture supports the objectives of finalizing Sealaska’s remaining ANCSA entitlement, and completing conveyance of it. Over the last two years, the Forest Service has worked diligently with USDA, the Department of the Interior, Sealaska, the Alaska delegation, members and staff of the Committee, and others to develop a solution that works for everyone. S.340 represents a major step forward in that effort. We look forward to continuing the close working relationship to resolve the few issues that remain.

Under S.340, if the Sealaska board of directors approves the conveyances contemplated by the bill within 90 days of its enactment, the Secretary of the Interior would convey to Sealaska 18 parcels of Federal land on the Tongass National Forest totaling 69,585 acres within 60 days. Sealaska would also be allowed to apply within two years to the Secretary of the Interior for 76 cemetery sites and historical places; conveyance would be limited to a total of 490 acres. If any of these sites were rejected, Sealaska could apply for additional cemetery sites. These conveyances totaling 70,075 acres of Federal land would be the full and final satisfaction of Sealaska's remaining land entitlement under ANCSA.

The biggest remaining issue deals with the potential effects of the bill on the transition to young growth forest management in Southeast Alaska, and ways to offset those effects. USDA is making extensive efforts to transition the Tongass timber program, and the timber industry in Southeast Alaska, away from a reliance on old-growth timber towards a reliance primarily on the harvest of young growth stands. We believe this transition is essential to the long-term social and economic sustainability of the industry, and of the local economies of the communities in Southeast Alaska.

Under S.340, many of the oldest second-growth stands on the Tongass would be conveyed to Sealaska. That would accelerate Sealaska's young growth program, but substantially delay the development of the Forest Service's young growth program on the Tongass unless additional steps are taken. The steps recommended by the Administration relate to the "Culmination of Mean Annual Increment," or CMAI. This is a provision of the National Forest Management Act which, in lay terms, generally limits the harvest of young growth forest stands until they have reached their maximum rate of growth. In order for the Tongass to continue its transition to harvesting young growth without any delay caused by the transfer of lands to Sealaska, the Administration recommends that a limited amount of young growth timber on the Tongass be expressly exempted from CMAI. This exemption is not precedent-setting; it would apply only to the Tongass National Forest, due to the unique situation presented by this legislation. The existing CMAI provision contained in the NFMA would not be amended. We recognize that forest industry wants to ensure that the transition to young growth timber is done in a way that sustains the industry. We share that goal and believe that a limited CMAI exemption in this

legislation will benefit the industry, local communities, and the Tongass. The successful resolution of this issue would remove the primary obstacle to moving forward with this bill.

There are several other minor amendments still being discussed. We hope to continue working with Sealaska and the Committee on these issues to ensure the final bill can be swiftly and efficiently implemented.

In conclusion, we have come a long way toward developing a solution that works for all parties. Particularly the department wants to recognize Sen. Barrasso and her staff, for their willingness to work in good faith toward agreements wherever possible. With a little more time and effort, the department believes that result can be achieved.

This concludes my testimony and I would be happy to answer any questions you may have.

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Concerning

S.341 the San Juan Mountains Wilderness Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.341, the San Juan Mountains Wilderness Act.

The Department supports S.341 and would like to offer minor modifications to the bill that would enhance wilderness values, clarify the special management area designation, and improve our ability to manage resources in the area. We thank Senator Udall for his collaborative approach and appreciate the local involvement that has contributed to the wide support in Colorado for this bill.

The Department defers to the Department of the Interior in regard to the proposal to designate approximately 8,600 acres of Bureau of Land Management (BLM) lands as the McKenna Peak Wilderness.

S.341 would designate nine parcels of the Grand Mesa, Uncompahgre and Gunnison National Forests as wilderness under the National Wilderness Preservation System. These areas, totaling approximately 24,400 acres, encompass some of Colorado's most majestic, remote landscapes

with many abundant wildlife species including elk, deer, bighorn sheep, bears and a variety of birds. Several world-class trout streams are also found in the areas. These areas also provide opportunities to experience solitude and primitive recreation use for members of the public seeking areas to connect with nature.

These parcels would be additions to two existing wildernesses: Lizard Head and Mount Sneffels. In addition, S.341 would designate the Sheep Mountain area as a Special Management Area to be managed to maintain the area's existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Also, S.341 would provide for a mineral withdrawal within a portion of Naturita Canyon.

Lizard Head Wilderness Additions

The Lizard Head Wilderness lies astride the spectacular San Miguel Mountains, 10 miles southwest of Telluride, Colorado on the Uncompahgre and San Juan National Forests. Elevations in the area range from 9,500 to over 14,000 feet. The wilderness is evenly split between the two national forests and is 41,200 acres in size.

The proposed wilderness additions include five parcels, encompassing approximately 3,150 acres of National Forest System lands adjacent to the existing wilderness. Though neither of the Forest Plans recommends these areas for wilderness designation, wilderness designation would be consistent with current management of the area. No summer motorized recreation is currently allowed and effects to winter motorized recreation will be minimal as there is very little snowmobile use of the area.

Mount Sneffels Wilderness Additions

The Mount Sneffels Wilderness comprises more than 16,500 acres on the Uncompahgre National Forest between the communities of Telluride and Ouray, Colorado. Elevations range from 9,600 to 14,150 feet at the top of Mount Sneffels.

The proposed wilderness additions include four parcels that encompass approximately 21,250 acres of National Forest System land adjacent to the existing wilderness. As with the Lizard Head Additions, even though this area was not recommended as wilderness in the Forest Plan,

designation is generally aligned with forest plan direction and will have minimal effects on summer and winter recreation.

We would like to work with the subcommittee to address some technical aspects of the bill. We recommend changing the wilderness boundary near Telluride to provide for a more definitive boundary by following a cliff formation, following a more recognizable topographic feature for the wilderness boundary.

Sheep Mountain Special Management Area

S.341 would also designate an area of about 21,600 acres of NFS land that lies south of the town of Ophir, Colorado as a special management area. About 10,850 acres are within the Uncompahgre National Forest and about 10,750 acres are within the San Juan National Forest. This area contains some lands purchased recently with funds provided by Congress as part of the Ophir Valley Land and Water Conservation Fund project.

Elevations in the area range from 10,200 to almost 13,900 feet at the top of Vermillion Peak. The area is dense with spruce and fir trees at the lower elevations. Above timberline are high alpine valleys with numerous lakes, tarns and waterfalls beneath dramatic 13,000-foot peaks and serrated ridges. The Forest Plans identify half of the area to be managed for semi-primitive non-motorized recreation and the other half for other recreation purposes.

The Department recognizes the desire of the bill sponsors to preserve the characteristics of Sheep Mountain as a Special Management Area for potential designation as wilderness. With respect to water rights and water development, Section 4(d)(3) would prohibit new water development projects in the special management area. This provision is more restrictive than section 4(d)(4) of the Wilderness Act under which the President of the United States may exercise discretion to authorize such facilities within designated wilderness areas if they are determined to be in the public interest. We support amending this provision so that it is consistent with the discretion authorized by the Wilderness Act.

Naturita Canyon Withdrawal

S.341 would also provide for a withdrawal on approximately 6,600 acres of National Forest System lands within Naturita Canyon on the Uncompahgre National Forest. This is an area

important to local residents and is about five miles south of the community of Norwood, Colorado. Naturita Canyon is a relatively low-elevation river drainage (7,000 feet) with steep canyon walls that tower 1,000 feet. There are no current leases within the area proposed for withdrawal. Impacts on available oil and gas resources for this withdrawal are unknown. Further exploration information would be needed for a conclusive assessment.

This concludes my testimony and I would be happy to answer any questions that you may have.

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Concerning

S.353 the Oregon Treasures Act of 2013

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.353, the Oregon Treasures Act of 2013.

S. 353 would affect National Forest System (NFS) lands by transferring administrative jurisdiction over a parcel of land currently administered by the Bureau of Land Management (BLM) to the Forest Service, and by making changes to two existing wild and scenic rivers designations.

Section 2 of the bill provides for land exchanges between BLM and private parties. We defer to BLM for its position on those exchanges. One of the exchanges, identified in the bill as the Young Life Exchange, would involve the conveyance of two parcels of NFS land, comprising approximately 690 acres. The Department has no objection to either of the parcels being exchanged out of federal ownership if BLM determines that the land exchange will provide a public benefit.

Transfer of Administrative Jurisdiction

Section 2(b)(7) of the bill would transfer administrative jurisdiction of certain BLM lands that lie within, or are adjacent to, the Ochoco National Forest to the Forest Service. The Department supports the transfer of jurisdiction over these lands to the Forest Service. This mutually beneficial transfer will make management of the federal lands more efficient.

Wild and Scenic River Designations

Section 4(b) officially changes the name of “Squaw Creek” to “Whychus Creek” to better reflect local usage and current geographic nomenclature standards. This section also updates the location description in the existing designation in section 3(a)(102) of the Wild and Scenic Rivers Act to incorporate several other name changes.

Section 5 of the bill amends the existing designation in Section 3(a)(69) of the Wild and Scenic Rivers Act to change the starting and ending points of the three main segments of the Chetco River. These changes will extend the wild segment an additional 2 miles from Boulder Creek to Mislatah Creek so that the segment extends from the headwaters to Mislatah Creek for a total segment length of 27.5 miles; reduce the scenic segment 1/2 mile so that it begins at Mislatah Creek and ends at Eagle Creek for a total segment length of 7.5 miles; and reduce the recreational segment 1.5 miles so that it begins at Eagle Creek while leaving its end at the Siskiyou National Forest border unchanged, for a total segment length of 9.5 miles. The total length of the Chetco Wild and Scenic River would remain 44.5 miles.

In addition, Section 5 would effectuate a mineral withdrawal of the Federal land within the boundary of the segments of the Chetco River designated as a wild and scenic river. Under the Wild and Scenic Rivers Act, only Federal lands within segments designated as wild are subject to a mineral withdrawal.

The Department is supportive of these technical changes as they provide a more appropriate naming convention in the first case, and better reflect management classifications and direction for the Chetco River in the second case. The Chetco River is a jewel of the south coast of Oregon and should be protected from impacts that could change its river values and current conditions, including tremendous anadromous fish runs.

This concludes our testimony and I would be happy to answer any questions that you may have.

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Concerning

S.360 the Public Lands Service Corps Act of 2013

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.360, the Public Lands Service Corps Act of 2013.

S.360 is a welcome amendment to the Public Lands Corps Act of 1993. The Nation's forests and grasslands are unique and special ecosystems that the Forest Service manages to meet the needs of present and future generations. These lands yield abundant sustainable goods and ecosystem services for the American people. The National Forest System lands are perfect places for the Public Lands Service Corps participants to learn and practice an array of conservation, restoration, preservation, interpretation and cultural resource activities, and take advantage of outstanding and unique educational opportunities. In states in every region, the Forest Service has benefited greatly from the services of Conservation Corps on National Forest System lands.

The Department strongly supports S.360. This bill would strengthen and facilitate the use of the Public Land Service Corps (PLSC) program, helping to fulfill the vision that Secretary Vilsack has for engaging young people across America to serve their community and their country. It is also consistent with and will help the Administration to meet the goals of the President's

America's Great Outdoors Initiative, which called for catalyzing the establishment of a 21st century Conservation Service Corps (21CSC) to engage young people in public lands service work.

In January 2013, leaders of eight federal departments and agencies signed an agreement setting up a national council to guide implementation of the Administration's 21st Century Conservation Service Corps (21CSC), a national collaborative effort between federal and non-federal partners to put America's youth and returning veterans to work protecting, restoring and enhancing America's great outdoors. By signing the Memorandum of Understanding, the Secretaries of Agriculture, Interior, Commerce, and Labor, as well as the EPA Administrator, Chair of the President's Council on Environmental Quality, CEO of the Corporation for National and Community Service and Assistant Secretary for the Army (Civil Works) established the National Council for the 21CSC, implementing the first recommendation of the America's Great Outdoors Initiative introduced by President Obama in 2010.

Building on the legacy of President Roosevelt's Civilian Conservation Corps during the Great Depression in the 1930s, the 21CSC will bring agencies and partners together to help build and train a workforce that fully represents the diversity of America while creating the next generation of environmental stewards and improving the condition of our public lands.

The 21CSC focuses on helping young people – including diverse low-income, underserved and at-risk youth, as well as returning veterans – gain valuable training and work experience while accomplishing needed conservation and restoration work on public lands, waterways and cultural heritage sites. The National Council works across the federal government to support the 21CSC by enhancing partnerships with existing youth corps programs that utilize PLC around the nation; stimulating existing and new public-private partnerships; and aligning the investment of current federal government resources.

S. 360 would help both the Forest Service and our sister agencies in the Department of the Interior and the Department of Commerce offer expanded opportunities for our youth to engage in the care of America's Great Outdoors. Additionally, the PLC program helps the Department implement critical cost-effective conservation projects that have direct positive impacts for the agency and the public.

In recent years, the Forest Service has greatly expanded partnerships with local, state, and urban based conservation Corps programs and our Job Corps Center portfolio. Under S.360, we will be able to increase partnerships with Corps programs and expand opportunities for Job Corps graduates in the Green Careers program.

In 2012, our partnerships with the Students Conservation Association, The Corps Network, and multiple youth, conservation and veterans Corps in every region resulted in nearly 9,500 youth and young adults serving on public lands. The expanded authority provided by S.360 will improve the Act by providing increased flexibility to use interns and Conservation Corps teams. It will also help ensure that underserved populations are able to participate by defining minimum match requirements while also providing flexibility with the match requirement.

The emphasis on experiential training and education will help promote the value of public service in addition to contributing to the accomplishment of much needed work. S.360 will expand our usage of the PLSC in a variety of program areas by providing additional resources and mechanisms to engage young people in a range of developmental opportunities. This authority will further assist in providing even more outdoor opportunities that will nurture the next generation of public land stewards.

The broader definition of natural, cultural and historic resource work under the amendment benefits the Nation's forests and grasslands by authorizing a wider variety of different types of youth engagement. The expanded authority to engage Native Americans through the Indian Youth Service Corps and resources assistants and consulting interns will contribute to our goals of creating a more diverse workforce as we seek to fill positions in an aging workforce. These new and expanded authorities will ultimately promote public understanding and appreciation of the mission and work of the federal land, coastal and ocean management agencies.

We appreciate the flexibility of the expanded authority in section 205, which would authorize the use of residential facilities. Our history of program delivery through Forest Service Job Corps Civilian Conservation Centers has allowed us to reach more than six million youth since the program was established in 1964. The U.S. Forest Service operates residential Civilian Conservation Centers through an interagency agreement with the Department of Labor Job Corps program. The 2009 Omnibus appropriations Act authorized the Forest Service to operate six

additional Job Corps Centers formerly run by the Bureau of Reclamation. The now 28 Job Corps Civilian Conservation Centers have the capacity to house, educate and train 6,200 enrollees between the ages of 16 and 24. Our extensive experience operating residential facilities successfully has resulted in the establishment of many best practices and in-depth operational knowledge about residential conservation centers.

The Job Corps Civilian Conservation Centers not only help cultivate and develop emerging leaders within the Forest Service, but also provide a pipeline of entry-level workers. Each year the Forest Service hires dozens of Job Corps graduates that have participated in forestry and conservation programs. Through Job Corps, the Forest Service is building a skilled and diverse workforce capable of advancing the agency's mission.

With our partners, we can confidently leverage resources and expand our ability to develop a well-trained and responsible workforce in natural and cultural resources. Youth will participate in community service, restoration and stewardship projects; leadership and civic engagement programs; recreation; and team building and independent living skills training.

The Forest Service is uniquely positioned to manage residential conservation centers on the National Forests and Grasslands. This initiative could become an important component of the emerging youth outdoors initiative. It will also provide us with a unique opportunity to develop and implement innovative programming that will engage more urban youth and people that have been previously underserved.

There are a number of implementation issues that should be considered in establishing new residential conservation centers. These include the costs of operating and maintaining the facilities, potential liability issues, and questions about the impact on contract and labor laws. We would like to work with the Committee on addressing these types of issues. The Department of Labor also is reviewing S. 360 to ensure child labor protections apply for participating youth, and will address any concerns it has directly with the Subcommittee.

S.360 would increase the opportunity for Public Lands Service Corps members to leverage their education and work experience in obtaining permanent full-time employment with Federal agencies. While we strongly support S.360, we offer a few amendments to the bill that are outlined below:

1) Hiring preference

The Administration recommends changing eligibility for former PLSC for noncompetitive hiring status from two years to one year. This change would make eligibility status consistent with other Government-wide, non-competitive appointment authorities based on service outside of the Federal government.

2) Cost sharing for nonprofit organizations contributing to expenses of resource assistants and consulting interns:

Under current law in the case of resource assistants, and under S.360 in the case of consulting interns, sponsoring organizations are required to cost-share 25 percent of the expenses of providing and supporting these individuals from “private sources of funding.” The Administration recommends giving agencies the ability to reduce the non-Federal contribution to no less than 10 percent, if the Secretary determines it is necessary to enable a greater range of organizations, such as smaller, community-based organizations that draw from low-income and rural populations, to participate in the PLSC program. This would make the cost-share provisions for resource assistants and consulting interns parallel to the provisions under the bill for other PLSC participants.

3) Department-wide authorities

The Administration recommends technical amendments to clarify that PLSC activities will be carried out on public lands as enumerated in the law. “Eligible service lands” may be interpreted to include non-Federal lands.

4) Agreements with Partners on Training and Employing Corps Members

The Administration recommends striking the provision in S.360 that would allow PLSC members to receive federally funded stipends and other PLSC benefits while working directly for non-Federal third parties. The need for this language is unclear, since agencies already have flexibility in how they coordinate work with cooperating associations, educational institutes, friends groups, or similar nonprofit partnership organizations. Yet, the language could raise unanticipated concerns over accountability, liability, and conflicts of interest. For example, this language could allow an individual to receive a federally funded stipend under a PLSC

agreement, and then perform work for a different non-federal group (such as a cooperating association) that is subject to agency oversight under different agreements. This language could blur the lines of responsibility that have been established in response to IG concerns over the management of cooperating associations and friends groups.

5) Participants/ Terms

The Administration recommends striking the provision in S. 360 that would limit the terms of service of Corps participants. This would retain the authority provided for in current law which provides for administrative flexibility in determining the appropriate length of service for Corps participants.

6) Authorization of Appropriations

The Administration recommends amending S. 360 to eliminate the \$12 million authorization ceiling for the program under existing law. This would allow for an increased funding for the program in the future, as the three Departments increase their use of the Public Lands Service Corps.

The Forest Service has offices already in place to help coordinate the Public Lands Service Corps through its National Job Corps Civilian Conservation Centers program and the Office of Recreation, Heritage and Volunteer Resources Volunteers (RHVR) and Service program. The Forest Service RHVR Volunteers and Service program could likely be the coordinating office for Public Lands Service Corps in the Forest Service.

The Forest Service is fully committed to the advancement of young people through a variety of conservation projects, training, and service learning and conservation education. Along with the Bureau of Land Management, we can provide participants with an understanding of the agency's history and training on multiple-use and sustained-yield management of natural, cultural, historic, archaeological, recreational and scenic resources. Our mission, "To sustain the health, diversity and productivity of the Nation's forests and grasslands to meet the needs of present and future generations," can only be achieved by educating future generations and training the future public and private land managers. In turn, they will promote the value of public service and continue the conservation legacy of natural resource management for the United States.

The America's Great Outdoors initiative has generated a national dialogue on how to reconnect Americans with the outdoors. The AGO report released February 2011 includes a major emphasis on youth and career pathways. The very first goal in the report is "develop quality conservation jobs and service opportunities that protect and restore America's natural and cultural resources".

The Department and the Forest Service, together with our sister Departments and agencies, are working together to: establish a 21CSC; improve federal capacity for recruiting, training and managing volunteers and volunteer programs to create a new generation of citizen stewards; and improve career pathways and to review barriers to jobs in natural resource conservation and historic and cultural preservation. The proposed amendments to the Public Lands Service Corps Act will support these efforts to fully implement the President's America's Great Outdoors initiative. We look forward to working with the committee on this bill.

This concludes my testimony and I would be happy to answer any questions that you may have.

Statement of James M. Peña

Associate Deputy Chief, National Forest System

Forest Service

United States Department of Agriculture

Before the United States Senate

Committee on Energy and Natural Resources

Subcommittee on Public Lands, Forests and Mining

April 25, 2013

Concerning

S.447 the Black Hills Cemetery Act

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.447 the Black Hills Cemetery Act.

S. 447, the Black Hills Cemeteries Act, would require the Secretary to convey, without consideration, nine parcels of National Forest System Land containing cemeteries located on National Forest System land in the Black Hills National Forest to local entities. The conveyance of these nine cemeteries is consistent with the Land and Resource Management Plan for the Black Hills National Forest. The Department does not object to making the Federal land available for use as cemeteries, but it does not support conveyance of National Forest System lands without consideration. It is long standing policy that the United States receive market value for the sale, exchange, or use of National Forest System land. This policy is well established in law, including the Independent Offices Appropriation Act (31 U.S.C. 9701), section 102(9) of FLPMA, as well as numerous land exchange authorities.

In addition, we would the committee to consider a provision that would require the recipient of each parcel cover the cost for heritage recordation and evaluation of significance for the National

Register in addition to covering the land survey costs. The Forest Service would prepare the land survey instructions for the recipient's land surveyor.

This concludes our testimony and I would be happy to answer any questions that you may have.

Statement of James M. Peña

Associate Deputy Chief, National Forest System

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April 25, 2013

Concerning

S.736, the Alaska Subsistence Protection Act of 2013

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S.736, the Alaska Subsistence Structure Protection Act of 2013.

The bill would provide relief to rural Alaskan cabin users who depend on the Tongass National Forest for subsistence fishing, hunting and gathering by capping the fee that may be charged for the special use permits authorizing the use of the cabins.

The Department does not oppose S. 736, but would appreciate the opportunity to work with Committee staff on technical changes to the bill. These changes would better clarify which permits would be eligible for the reduced fees.

We also note that the Forest Service has existing authority to implement the changes in fees required by the bill, so legislation on this topic may not be necessary.

This concludes our testimony and I would be happy to answer any questions that you may have.