

**STATEMENT
Of
GREGORY C. SMITH, DIRECTOR OF LANDS, FOREST SERVICE
UNITED STATES DEPARTMENT of AGRICULTURE**

**BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
NATIONAL PARKS SUBCOMMITTEE**

**And
PUBLIC LANDS AND FORESTS SUBCOMMITTEE
SEPTEMBER 29, 2010**

CONCERNING:

***H. R. 1858 TO ADJUST THE BOUNDARY AND CONVEY APPROXIMATELY 7 ACRES
OF THE ROOSEVELT NATIONAL FOREST***

S. 3822 CARSON NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 2010

S. 3283 THE MOUNT ANDREA LAWRENCE DESIGNATION ACT OF 2010

Mr. Chairman and Members of the Subcommittee, I am Gregory C. Smith, Director of Lands for the US Forest Service. Thank you for the opportunity to appear before you to provide the Department of Agriculture (USDA)'s view on three of the bills that you are considering today.

***H. R. 1858 TO ADJUST THE BOUNDARY AND CONVEY APPROXIMATELY 7
ACRES OF THE ROOSEVELT NATIONAL FOREST***

H. R. 1858 directs the Secretary of Agriculture to use the authority provided by the Small Tracts Act (STA) to convey, without consideration, all right, title, and interest of the United States to a parcel of real property in the Roosevelt National Forest in order to resolve private encroachments on the National Forest System Lands.

In 2003, during the course of a Bureau of Land Management survey of the area where the Crystal Lakes Subdivision is located, 20 private encroachments onto National Forest System (NFS) lands were discovered due to an erroneous private land survey in 1975 for the 9th Filing, Crystal Lakes Subdivision. The encroachments vary in size from approximately 0.02 acres to 1.63 acres. Of the 20 encroachments, only four lots with improvements qualify for resolution under the Small Tracts Act. The other 16 encroachments do not qualify for resolution under the Small Tracts Act. To qualify for the Small Tracts Act the foundation of a building or residence must be encroaching. Moveable improvements such as fences and sheds do not qualify for relief under the STA. The Forest Service has encouraged the four landowners, where appropriate, to work with us to remedy the situation under the Small Tracts Act authority.

The Department cannot support the bill in its current form. It would waive the Small Tracts Act requirement for the four adjoining private landowners to pay market value for the encroached upon National Forest System (NFS) land proposed for conveyance to them. H. R. 1858 would direct the use of the Small Tracts Act to the remaining 16 encroachments that do not qualify for resolution under the Small Tracts Act. It is long-standing policy that the taxpayers of the United States should receive market value for the sale, exchange, or use of their NFS lands. The STA requires market value consideration for lands. H. R. 1858 would convey the disputed property without the United States taxpayers receiving market value.

The Crystal Lakes Subdivision is a private in holding within the Roosevelt National Forest encompassing approximately 240 acres. The developer who owns and subdivided this land contracted for a private land survey in 1975. In surveying the land, the private surveyor erroneously located a section line corner which is the cause of the current problem. Years later, the Bureau of Land Management identified the error when doing a dependent resurvey of the area. The result of this private survey error is that approximately 7.23 acres of National Forest System land was incorrectly included within the subdivision. The error affects the titles and boundaries to 20 subdivided parcels.

H. R. 1858 would have the Federal Government resolve the survey error by conveying the encumbered federal land to the affected lot owners, in effect ratifying the error of the private surveyor. The bill would allow lot owners to pay no consideration for the conveyance, and the United States Government would have to cover the administrative costs (which may in fact be considerably more than the 7.23 acres is worth). H. R. 1858 would require the identification and survey of separate legal descriptions for upwards of 20 separate conveyances.

In addition, Section 1. (e) of H. R. 1858 requires the cancellation of a portion of unobligated balance in the Federal Lands Recreation Enhancement Act (FLREA), reducing and cancelling this account by \$200,000 to address the lost revenue to the United States taxpayers. The Department does not support this use of FLREA funds, because this use is in direct conflict with the direction provided by Congress in FLREA. FLREA states that recreation fees “shall be used only for— **(A)** repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety; **(B)** interpretation, visitor information, visitor service, visitor needs assessments, and signs; **(C)** habitat restoration directly related to wildlife-dependent recreation that is limited to hunting, fishing, wildlife observation, or photography; **(D)** law enforcement related to public use and recreation; **(E)** direct operating or capital costs associated with the recreation fee program; and **(F)** a fee management agreement.”

We would be happy to continue to work with the landowners, the Subcommittee, and the bill’s sponsors to resolve this issue in a manner that addresses the concern of current home owners and protects the interests of US taxpayers.

S. 3822 CARSON NATIONAL FOREST BOUNDARY ADJUSTMENT ACT OF 2010

S. 3822 would modify the boundaries of the Carson National Forest, New Mexico to include a parcel of real property consisting of approximately 5,000 acres that is adjacent to the existing boundary within Miranda Canyon.

The Department supports the adjustment of the Carson National Forest boundary in the State of New Mexico to include approximately 5,000 acres of private land known as “Miranda Canyon,” which would create an opportunity for the possible acquisition of Miranda Canyon property as part of the Carson National Forest.

The Miranda Canyon Property is currently owned by Weimer Properties and is located approximately four miles south of Taos, New Mexico. Weimer Properties spent several years proposing to develop a subdivision and to acquire approval from the Taos County Board of Commissioners. Approval of the subdivision was not granted and the Taos County Board of Commissioners requested the New Mexico Congressional delegation consider placing this land under the stewardship of the US Forest Service.

The Miranda Canyon Property is an expansive piece of property that ranges in elevation from approximately 7,200 ft. to approximately 10,800 ft. The property has various vegetation zones from low elevation sagebrush and pinon 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 acquisition would provide additional recreational opportunities for hunting, sightseeing, camping, hiking, interpretation and horseback riding for the public. The proposed boundary adjustment has wide grass roots support from the local residents, Taos County Board of Commissioners, 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 potential federal acquisition of Miranda Canyon. We estimate the acquisition costs to be \$15 to \$16 million, which would be subject to the availability of appropriations. The landowner of the Miranda Canyon property has agreed to a conservation sale to the United States. At present, there is a fully executed 4 year phased purchase agreement in place between the landowner and a 3rd party non-profit organization. This agreement keeps the property from being developed or sold on the open market while the appraisal is finalized and reviewed by all parties. If the acquisition of the Miranda Canyon property were to occur this would make an outstanding addition to the National Forest System.

S. 3283 THE MOUNT ANDREA LAWRENCE DESIGNATION ACT OF 2010

This legislation directs the designation of an unnamed 12,240 foot peak, located on the boundary between Ansel Adams Wilderness Area and Yosemite National Park approximately six tenths miles (0.6) northeast of Donahue Peak, as “Mt. Andrea Lawrence.” The management of the proposed Mt. Andrea Lawrence is shared between the Inyo National Forest and Yosemite

National Park. We have consulted with the U. S. Department of the Interior – National Park Service in the preparation of this statement.

Ms. Lawrence was a successful Olympic athlete and a committed public servant, having served 16-years on the Mono County Board of Supervisors and founded the Andrea Lawrence Institute for Mountains and Rivers. She was a strong supporter of the work of the Inyo National Forest and Yosemite National Park. She worked tirelessly to protect the health and vitality of the environment and economies in the Eastern Sierra and the Sierra Nevada Region as a whole. Ms. Lawrence passed away at the age of 76 on March 31, 2009.

The Department has no objection to the enactment of S. 3283 and notes that it would have no adverse impact to the management of the Inyo National Forest, or the Ansel Adams Wilderness. However, the Board on Geographic Names was created by Congress in 1947 to establish and maintain uniform geographic name usage throughout the Federal Government. It is Board policy not to consider names that commemorate living persons. In addition, a person must be deceased at least 5-years before a commemorative proposal will be considered. In accordance with the Board's interpretation of Wilderness Act of 1964, the Board on Geographic Names discourages naming features in congressionally designated wilderness areas unless an overriding need can be demonstrated. Although the Administration does not have any objections to the enactment of S. 3283, maintaining consistency with the longstanding policies of the Board on Geographic Names is recommended.

The Department recognizes the contributions of Ms. Lawrence to both the United States and California, and concurs with the principles embodied in the legislation. Should the legislation be enacted, the Forest Service would work to ensure that our visitor information maps reflect the new designation, and understand that the National Park Service would do the same when their maps, signs, and other informational materials are replaced or updated.