

**STATEMENT OF CHRIS FRENCH  
DEPUTY CHIEF, NATIONAL FOREST SYSTEM  
U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

**Before the  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING**

**Regarding**

**S. 1765 – BLACKFOOT CLEARWATER STEWARDSHIP ACT**

**September 16, 2020**

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1765– the Blackfoot Clearwater Stewardship Act.

S. 1765 is a multi-faceted bill affecting the Lolo National Forest (Lolo) in Montana. The bill directs the Secretary of Agriculture to develop a landscape assessment of watershed conditions and restoration needs on the Seeley Lake Ranger District within three years of enactment. It further directs the Secretary, in collaboration with interested parties, to develop a 10-year schedule of restoration projects as soon as practicable following the assessment. Restoration projects developed pursuant to the Act may be implemented using the authorities found in the Healthy Forests Restoration Act of 2003.

Additionally, the bill establishes a 2,013-acre Otatsy Recreation Management Area in which recreational motorized and mechanized uses and temporary roads are generally prohibited, and snowmobiles would be allowed during the winter, and as determined by the Secretary. S.1765 also establishes a 3,835-acre Spread Mountain Recreation Area in which motorized use is generally prohibited, but mechanized use is allowed. It requires the Secretary to analyze, within three years of receipt, a collaboratively developed proposal to improve motorized and non-motorized recreational trail opportunities within the District, if such a proposal is submitted within five years of enactment. Finally, the bill designates an additional 79,060 acres to the National Wilderness Preservation System.

We recognize and appreciate that the bill is the product of a collaborative effort. The concepts embodied in this legislation—such as recognizing collaboratively developed landscape scale restoration and recreation proposals—are fundamentally sound. While we share Senator Tester’s respect for and commitment to collaboration, we have concerns about implementation of certain provisions. In particular, USDA would like to work with the Subcommittee and Senator Tester to ensure that implementation of the bill will not affect other Lolo priorities or affect priority work on other units in the Forest Service’s Northern Region.

Our primary concerns pertain to Title II, Section 203 which would require the Forest Service to prepare a National Environmental Policy Act analysis for any collaboratively developed proposal to improve motorized and non-motorized recreational trail opportunities within the Ranger District within three years of receipt of the proposal. This requirement could affect the Lolo's ability to plan and prioritize work for efficient use of public resources in a dynamic work environment. The Lolo intends to initiate revision of its land and resource management plan in 2023. If passed in its current form, this bill could require recreation use allocation planning for site-specific portions of the Seeley Lake Ranger District ahead of the broader plan revision process, which would forestall the Lolo's ability to broadly inform land use allocations across the forest through the plan revision process. Section 203 also may affect the Lolo's ability to respond quickly to unanticipated events. If enacted, the explicit timeframes currently contained in the bill could result in prioritizing the analysis of a collaboratively developed proposal to expand the trail system over other emergent work.

We also have concerns about implementing section 202, which establishes the Spread Mountain Recreation Area for the apparent purpose of enhancing mountain biking opportunities. The Lolo's current land and resource management plan identifies this area as recommended wilderness. This area is characterized generally by steep topography, sensitive soils, and contains sensitive fish and wildlife habitat. Trail 166 is the main access into this area. This trail is not maintained, not passable by riders on horseback, and becomes difficult to locate after the first mile. While we acknowledge the interest in expanding opportunities for mountain biking on the Lolo, we are concerned that the site designated for the Spread Mountain Recreation Area is not well-suited for this use, and that this designation could create conflicts with wildlife and other recreation uses.

Two of the three wilderness designations in Title III are consistent with the recommendations made in the existing Lolo National Forest land and resource management plan. The third designation (West Fork Clearwater) was not recommended in the management plan to be Wilderness, it was allocated to be managed to optimize recovery of the Grizzly Bear.

In closing, USDA strongly appreciates Senator Tester's commitment to Montana's natural resources and public lands. We recognize that the proposed bill is the product of a collaborative effort, and we appreciate that this legislation would provide benefits to Montana's communities and the Lolo National Forest. We look forward to working with the Committee and Senator Tester to develop modifications to the bill that could provide greater opportunities to foster healthy rural economies and accomplish the shared goals of increasing restoration and facilitating recreation on our public landscapes.

Thank you for the opportunity to provide USDA's views on this bill. This concludes my prepared statement and I would be pleased to answer any questions you may have.

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**Regarding**

**S. 1870 - MIRACLE MOUNTAIN DESIGNATION ACT**

**September 16, 2020**

Chairman Lee, Ranking Member Wyden and Members of the Subcommittee, thank you for the opportunity to discuss the “Miracle Mountain Designation Act” (S. 1870). My testimony today is in support of the proposed designation of a currently unnamed peak in Utah as “Miracle Mountain” following the events that occurred during the Bald Mountain Fire in 2018.

The Bald Mountain Fire originated in the Mt. Nebo Wilderness area on August 24, 2018. The fire was in very rough terrain with high risk to firefighters, due to snags, rolling rocks and debris. In mid-September, the Bald Mountain Fire expanded rapidly, responding to abundant dry fuels, low humidity and strong winds, and eventually merging with the Pole Creek Fire, which had started on September 6, 2018. The Bald Mountain Fire approached the communities of Payson, Elk Ridge, and Woodland Hills, where evacuations occurred, and threatened residences as well major utility infrastructure, transportation corridors, and natural and cultural resources. The Forest Service, alongside other federal, state and local partners responded to the fire with a coordinated response using numerous aircraft, crews, engines and heavy equipment, along with other emergency support personnel. The fire was fully contained on October 2, 2018, but not before burning approximately 19,000 acres, and costing an estimated \$11 million in suppression costs.

Section 2 of S1870 includes several findings which describe the 2018 Bald Mountain Fire and the threat it posed to Elk Ridge City, Utah. Section 2 also includes findings which indicate the fire halted its progression behind the currently unnamed mountain. Further, the findings indicate the mountain now holds special significance to residents of Elk Ridge City and is referred to locally as “Miracle Mountain”.

Section 3 would designate the mountain, located at 39° 59' 02N, 111° 40' 12W, in Utah as “Miracle Mountain”. Further, Section 3 requires any reference in law, map, regulation, document, record or other paper of the United States to be considered a reference to “Miracle Mountain”.

The U.S. Board on Geographic Names (BGN) is a Federal body established through executive order by President Benjamin Harrison and later under P.L. 80-22. The BGN, alongside the Secretary of Interior, share responsibility to maintain uniform geographic name usage throughout

the Federal government. As a general matter, the proposed designation meets the principles, policies and procedures related to geographic nomenclature established by the BGN. The currently unnamed peak is partially found on the border of the Uinta- Wasatch-Cache National Forest. USDA supports the proposed designation.

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**Regarding**

**S.2890 – DOUGLAS COUNTY ECONOMIC DEVELOPMENT  
AND CONSERVATION ACT**

**September 16, 2020**

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the U.S. Department of (USDA) Forest Service regarding S.2890 – Douglas County Economic Development and Conservation Act.

S. 2890 would require conveyance, disposal or congressionally directed special use permits of National Forest System lands in Douglas County, Nevada. The Department would like to work with the bill’s sponsor and the Subcommittee to address some remaining issues posed by this bill and the map.

**TITLE I—LAND CONVEYANCES AND SALES**

**Section 101: CONVEYANCE TO STATE**

This section would direct the conveyance to the State of Nevada, without consideration, all right, title, and interest of the United States, of approximately 67 acres of National Forest System (NFS) land.

USDA supports the goal of this conveyance, which achieves a demonstrated need and benefit for consolidation of Nevada State Park management. USDA, however, has concerns related to the proposed conveyance without consideration. The current authority to transfer NFS lands to a state requires payment for the fair market value of the land, which is waived in this legislation.

**Section 102: TAHOE RIM TRAIL**

This section would implement a cooperative management agreement for 13 acres constituting the “Tahoe Rim Trail North Parcel” to improve the quality of recreation access, provide additional amenities, and to conserve the natural resource values of the land.

The goals of this section have been accomplished. Over the past two years, the Forest Service has entered into a multi-party cooperative management agreement with Douglas County and Kingsbury General Improvement District to construct Tahoe Rim Trail trailhead improvements including parking areas, accessible restroom, emergency vehicle turn-around, and off-highway-vehicle unloading facilities.

### **Section 103: CONVEYANCE TO COUNTY**

This section would direct the conveyance of a parcel known as “Pine Basin” on the Carson Ranger District of the Humboldt-Toiyabe National Forest to Douglas County, Nevada. USDA generally supports conveyance of the parcel for public access and outdoor recreation purposes but has technical concerns with this provision, including the language related to the reversionary interest and its acquisition. We would like to work with the Subcommittee and bill sponsors to address these issues while still meeting the objectives of the section.

### **Section 104: SALE OF CERTAIN FEDERAL LAND**

This section designates two parcels on the Carson Ranger District of the Humboldt-Toiyabe National Forest for disposal. One of the parcels identified for disposal is approximately 24 acres adjacent to the Forest Service’s Plymouth Interagency Work Center. USDA has a number of concerns with the proposal, including the impact on the Forest Service’s current use of the area and potential impact on wildfire response and access to public recreation sites.

Should the parcel be conveyed under the bill, USDA is concerned that residential development of this area would further encroach on the Wildland-Urban Interface increasing risk to the future residents and first responders. This parcel is in an area that has been repeatedly threatened by wildfire in recent years. Further, the parcel is contiguous to the Forest Service Jacks Valley Wildlife Area and a significant public access point. Development could impact wildlife and the public’s access to recreation sites.

Additionally, USDA has invested significant public funds into the Work Center and surrounding area and has concerns about its disposal. The parcel has been identified as the location for a future expansion of the Work Center; the Forest Service completed the environmental analysis on the proposed expansion in 2010. The site also contains a “Common Use Garden” that supports research into post-fire plant restoration. Finally, the area has also been identified as the location for additional interagency barracks, a critical need given the steep increase in housing prices in the nearby community. Both the Bureau of Land Management and the Forest Service continue to have a need for these facilities, which are pending available funding. USDA would like to work with the bill sponsors to discuss further how the proposal might accommodate current uses in the area.

With respect to the second parcel proposed for disposal in this section, the Forest Service is currently pursuing disposal of this property known as the “Big Box Parcel” under its Facilities Realignment and Enhancement Act authority. We would like to work the sponsor and this Subcommittee related to the technical details regarding the disposition of proceeds for this parcel.

## **TITLE IV -- TRANSFER OF ADMINISTRATIVE JURISDICTION OVER FOREST SERVICE LAND**

### **Section 401: AUTHORITY TO TRANSFER**

This section would authorize the Secretary of Agriculture to transfer any land acquired under the Santini-Burton Act, without consideration, to the State of Nevada or Douglas County in order to

protect the environmental quality and public recreation use of the land. Land approved for transfer must either be unsuitable for Forest Service administration or necessary for public purpose. The transferred land must be managed by the State of Nevada or Douglas County. Additionally, the land may be used by the State of County for recreation and other public purposes consistent with the Recreation and Public Purposes Act of 1926.

These environmentally sensitive lands are managed by the Forest Service to maintain undeveloped open space; preserve the lands natural characteristics; and protect water quality, stream environment zones, and important wildlife habitat. There is no demonstrated need to convey these lands, and USDA has concerns related to the proposed ability for conveyance without consideration. Further, as previously noted, the current authority to transfer NFS lands to a state requires payment for the fair market value of the land, which is waived in this legislation.

#### **Section 402: SPECIAL USE PERMITS FOR RECREATION AND PUBLIC PURPOSES**

This section directs the Forest Service to issue special use permits at the request of Douglas County for lands identified on the legislative map. The Forest Service currently has authority to issue special use permits for activities appropriate for these NFS lands. This section does not exempt the Forest Service from the need to comply with all other applicable laws in consideration of applications for special use permits, such as the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act.

#### **CONCLUSION**

We would be interested in working with the sponsor and the Subcommittee to address the specific concerns noted in our testimony. That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you or the other members have for me.

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Before the  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
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Regarding  
S.3366 GOLD STAR FAMILIES PARKS PASS ACT  
September 16, 2020**

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, thank you for the opportunity to present the U.S. Department of Agriculture's (USDA) views on S.3366, the Gold Star Families Parks Pass Act, which would make the National Parks and Federal Recreational Lands pass free for Gold Star Families. The Administration supports our military, veterans, and Gold Star Families. The Department believes free access to national parks and other Federal lands should be extended to all veterans and Gold Star Families. We support this bill to respect the ultimate sacrifice of our Gold Star Families by allowing them to connect to their public lands, and we share the interest in recognizing the service and sacrifice that this bill is designed to honor.

The Federal Lands Recreation Enhancement Act (FLREA), enacted in 2004, authorizes the U.S. Forest Service (USFS), National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), the Bureau of Land Management (BLM), and the Bureau of Reclamation (BOR) to collect and retain revenue and requires that fee revenue be used to enhance the visitor experience. The bill would allow exceptions to the FLREA recreation pass requirement and may have a material financial impact on Forest Service recreation programs. The Forest Service relies on recreation fee revenue derived from the FLREA for basic operations, to prevent our recreation sites from

becoming a deferred maintenance issue, to better manage our federal lands, and to respond quickly to changes in visitation levels. We would like to work with the Committee and our partner land management agencies regarding implementation of the bill, such as verification of Gold Star Family members' eligibility at Federal recreation sites.

USDA supports the goals of this bill, to support Gold Star Families as they supported our country by selflessly sharing their loved ones for the cause of freedom. That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you or the other members have for me.

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**Regarding**

**S.3427 —MODERNIZING ACCESS TO OUR PUBLIC LANDS**

**September 16, 2020**

Chairman Lee, Ranking Member Wyden and members of the Subcommittee, thank you for inviting me to share the Department's position on S. 3427, the Modernizing Access to Our Public Land Act.

S. 3427 would direct the Department of the Interior, the Forest Service, and the U.S. Army Corps of Engineers to jointly develop and adopt interagency standards to ensure compatibility and interoperability among federal databases for the collection and dissemination of outdoor recreation data related to federal lands.

Specifically, the bill would require the Department of the Interior, the Forest Service, and the Corps of Engineers to digitize and publish geographic information system mapping data that includes:

- federal interests, including easements and rights-of-way, in private land;
- status information as to whether roads and trails are open or closed;
- the dates on which roads and trails are seasonally opened and closed;
- the types of vehicles that are allowed on each segment of roads and trails;
- the boundaries of areas where hunting or recreational shooting is regulated or closed; and
- the boundaries of any portion of a body of water that is closed to entry, is closed to watercraft, or has horsepower limitations for watercraft.

USDA supports the goal of enhancing access to National Forest System lands by providing the specified data digitally for online use by the public. The Department would like to work with the bill's sponsor and the committee to address some remaining issues posed by this bill.

Some of the information and classes of data are currently available and accessible in the Forest Service's databases, including easements and rights-of-ways, and whether and when roads and trails are open or closed to various classes of motorized vehicles. Additionally, the Sportsmen's Access to Federal Land provisions in the John D. Dingell, Jr. Conservation, Management and Recreation Act (Public Law 116-9) requires annual reporting of NFS lands temporarily or permanently closed to hunting, fishing or recreational shooting under the Act but does not require the closures to be provided in digital form for use in online mapping.

Currently, the Forest Service does not maintain information on water bodies that are closed to watercraft or have horsepower limitations.

Additionally, on water bodies where states, counties, or other governmental entities have jurisdiction over watercraft use, it would be exceedingly difficult for the Forest Service to build and keep current an accurate database of those restrictions. We recommend the bill language clarify that the agency not be required to collect and compile information on watercraft restrictions imposed by other governmental entities.

We additionally recommend the date for reporting be changed to allow upward reporting after the end of the fiscal year, so that units can prioritize keeping facilities open for public use and maintaining preparedness for emergency response such as wildfires during summer and early fall.

That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you or the Subcommittee members have for me.

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Regarding  
S. 3670 – M.H. DUTCH SALMON GREATER GILA WILD AND SCENIC RIVER ACT  
September 16, 2020**

Chairman Lee, Ranking Member Wyden and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 3670, the “M.H. Dutch Salmon Greater Gila Wild and Scenic River Act.”

This bill designates approximately 450 miles of the Gila River system in New Mexico as components of the National Wild and Scenic Rivers System and transfers 440 acres of land from the Gila National Forest to the Gila Cliff Dwellings Monument.

Designating rivers as components of the Wild and Scenic Rivers has numerous effects on use and accessibility. USDA supports designation of wild and scenic rivers if they have been analyzed and designated as suitable through the land management planning process, which includes local engagement and public input. None of the streams or rivers on the Gila National Forest are currently Congressionally designated as Wild and Scenic Rivers. As part of the current Gila National Forest Plan Revision process, a new Wild and Scenic Rivers eligibility study was conducted for the Gila National Forest. An Interdisciplinary Team carried out a transparent eligibility study informed by stakeholder and public input. A previous eligibility study was completed by the Gila National Forest in 2002, and based on this information the extent of the current study was limited to the 158 river segments that were not previously evaluated and to any of the previously studied rivers that had experienced changed circumstances that warranted a new evaluation. Currently, Gila National Forest staff are evaluating the over 27,000 comments received through the plan revision process.

The approximately 450 miles identified for designation in the legislation were not informed by the ongoing Gila National Forest plan revision process. Because the plan revision process has not been completed, it would be premature for the Administration to take a position on designations in the bill.

We want to ensure that any new designations are properly integrated into the National Wild and Scenic Rivers System with reasonable time to develop comprehensive river management plans and to establish detailed boundaries in cooperation with interested public. The short timeframe for completion of a plan in Section 3(d) of the Wild and Scenic Rivers Act is challenging to

meet. We suggest an exemption from this requirement is warranted to ensure the river management plans for any new designations align with future scheduled revisions of land and resource management plans of the applicable national forests.

Additionally, this bill proposes to transfer 440 acres of land from the Gila National Forest to the Gila Cliff Dwellings Monument. This transfer could alleviate maintenance concerns for facilities. The agency looks forward to working with the Committee to ensure multiple uses would not be affected by the proposed land transfer.

The Forest Service is committed to collaborating with Congress, Tribes and all members of the interested public during our land management planning process to identify and propose appropriate parcels of land or river segments within the National Forest System in New Mexico for potential designation as wild and scenic and to manage those parcels responsibly when designated. We look forward to working with the sponsors of this bill to address the concerns outlined above and to provide appropriate clarifications that may be useful.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

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**Before the  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING**

**Regarding**

**S. 4431 – THE EMERGENCY WILDFIRE AND PUBLIC SAFETY ACT OF 2020**

**September 16, 2020**

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to appear before you today to present the views of the U.S. Department of (USDA) Forest Service regarding S. 4431 – the Emergency Wildfire and Public Safety Act of 2020. My testimony only pertains to provisions affecting the Forest Service and National Forest System (NFS) lands.

Our nation is enduring a devastating wildfire year, one that has cut destructive swaths through states like California, Oregon, Washington, Colorado and Arizona and made more difficult by the ongoing COVID-19 pandemic. As of September 14, 2020, there have been 42,270 fires that have burned 6,712,663 acres across all jurisdictions. These fires threaten urban and rural communities, farm and rangeland, municipal water supplies and important wildlife habitat and are stark reminders of the need to partner with communities to prepare for wildfires, while also proactively creating healthy, fire-resilient conditions on NFS lands. We know the scale of our forest work must increase to meet the scale the problem. A crucial element needed to achieve more ambitious goals is the development commercial markets for forest products made from low-value trees in forests at high-risk of large wildfires. It is also important to work together with State and community partners to protect critical infrastructure and allow post-fire restoration and reforestation activities to occur in an effective and efficient manner.

To address this threat, in 2018, President Trump issued Executive Order (EO) 13855, directing active management of America’s forests and rangelands to reduce wildfire risk. The EO includes specific targets to reduce accumulated vegetation and increase active forest management. The Forest Service surpassed expectations and accomplished its highest forest management outcomes in 20-years, improving forest conditions and reducing wildfire risk on over 4 million acres through timber harvest, removing hazardous fuels like dead and downed trees, and combating disease, insect and invasive species infestations. But even with these achievements we know we must do much more.

As part of its budget request, the Department submitted to Congress a package of legislative reforms to improve forest management and reduce wildfire risk. The proposals are intended to support healthy forests and rangelands and aid in efforts to protect homes, watersheds and critical infrastructure from catastrophic wildfires. The Department supports enactment of these

proposals and recommends that they be included in S. 4431 to allow the Forest Service to expedite work on the ground to help reduce the risk of catastrophic fire.

S. 4431 is a comprehensive bill designed to increase wildfire preparedness and post-fire response through a variety of measures, including a new statutory categorical exclusion for linear fuel breaks, allowing for the export of unprocessed timber from dead and dying trees on NFS land in California, and establishing a new landscape-level program for management activities designed to improve forest conditions and reduce wildfire risk. USDA appreciates Senators Feinstein and Daines' attention to these important issues and supports the intent and goals of the bill. Through our testimony we offer several comments and observations meant to improve the language of the bill, and we would like to work with the Subcommittee and bill sponsors to address these issues.

### **Title I—Wildfire Mitigation Projects**

**Section 101** establishes a new landscape-level program for management activities designed to improve forest conditions and reduce wildfire risk. The bill requires the Secretary of Agriculture, in consultation with the Secretary of the Interior, to select three Western forest landscapes that meet certain criteria within 90 days of enactment. Governors will propose forest landscape projects (FLPs), and the Secretary of Agriculture must consult with the Secretary of Interior and Governor of the state that submitted the proposal to determine the final three project selections. Projects cannot exceed 75,000 acres and must include one or more management activities (the installation of fuel breaks, mechanical thinning, and controlled burns). Section 101 offers abbreviated environmental analyses under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) if the project meets certain conditions. Finally, the bill exempts the selection of the forest landscapes from NEPA or other applicable law, and limits where lawsuits can be filed and the length of injunctions.

USDA is committed to working at larger scales and collaboratively with our Federal, Tribal, state and local partners, as well as all members of the public in order to proactively use our resources to create resilient landscapes; these are also the goals of the program established in section 101. However, the provision duplicates a number of existing authorities. USDA also finds that the effectiveness and utility of the program will be diminished by a number of provisions that are overly prescriptive and do not allow the necessary flexibility to address local, on-the-ground conditions. We would like to work with the Subcommittee and bill sponsors to address these issues while still meeting the objectives of the section.

**Section 102** amends the Healthy Forests Restoration Act of 2003 (HFRA) (16 U.S.C. 6591 et seq.) to require the Secretaries of Agriculture and Interior, to the extent practicable, to expedite the permitting and placement of wildfire detection equipment in areas at risk of wildfire and expand the use of satellite data to assist wildfire response. USDA supports the ability to permit and place wildland fire detection equipment on NFS land, where possible, in a timely manner.

**Section 103** establishes a new statutory categorical exclusion (CE) for linear fuel breaks up to 1,000 feet in width adjacent to, and incorporating, roads, trails, transmission lines and pipelines

and that are intended to reduce the risk of wildfire on Federal land. The bill limits vegetation treatments carried out under this CE to 3,000 acres, and requires treatments to be located in the Wildland Urban Interface (WUI), or, if outside the WUI, to areas designated under section 6591a(b) of HFRA within Condition Classes 2 or 3 in Fire Regime Groups I, II, or III that contain very high wildfire hazard potential.

USDA appreciates the intent behind establishing this new CE and supports the goal of reducing hazardous fuels near roads, trails and other critical infrastructure. The language limits fuel breaks established in the CE to the WUI or areas within certain condition classes and fire regimes; if enacted, the agency would not have the ability to use this tool in lodgepole pine forest types, which encompass large landscapes in much of the West. USDA would like to work with the bill sponsors to broaden the areas on NFS land where this authority could be applied.

USDA also finds that the list of forest management activities allowed under the CE is limiting given the variety of conditions and landscapes where the tool might be used. USDA would like to work with the sponsors of the bill to discuss the possibility of focusing on intended outcomes rather than on lists of permissible activities.

**Section 104** establishes a new statutory tool that authorizes the Secretary of Agriculture to determine that an emergency situation exists (to make an emergency situation determination (ESD)) if immediate implementation of a decision is needed to provide relief from hazards threatening human health and safety, or to mitigate threats to natural resources. The section authorizes the Secretary to carry out certain emergency actions on 10,000 acres per an ESD, including the reconstruction of existing utility lines and the replacement of underground cables. It exempts an ESD from administrative review and environmental analysis under NEPA or any other applicable law; the emergency activities to respond to the ESD would be subject to a reduced responsibility for consideration of alternatives under NEPA and not be subject to the Agency's predecisional objection process. USDA is generally supportive of section 104 and would like to work with the bill sponsors to address technical concerns.

**Section 105** addresses the Ninth Circuit's adverse ruling in *Cottonwood Environmental Law Center v. United States Forest Service*, 789 F.3d 1075 (9th Cir. 2015) as it applies to the re-initiation of consultation on land management plans under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) when new information is revealed. The provision exempts the Secretaries of Agriculture and Interior from reinitiating consultation on a land management plan or resource management plan based on new information but only if that information does not meet the threshold criteria. Section 105 defines "new information" to establish the threshold criteria. While USDA concurs that a legislative solution to permanently fix the Ninth Circuit's decision is warranted, this provision raises significant issues and we would like to work with the Subcommittee and bill sponsors to address those concerns.

**Section 106** amends section 404(f)(12) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(f)(12)) to allow hazard mitigation assistance to be used for installation of fire-resistant wires and infrastructure and the undergrounding of wires. USDA does not have concerns with this section.

## **Title II—Biomass**

**Section 201** authorizes the Secretary of Energy to issue grants, loans, and loan guarantees to expand infrastructure for facilities that convert biomass from NFS and Bureau of Land Management lands in high hazard areas to heat, power or bio-based products, and to remove and transport dead/dying or low-value trees.

Over 63 million acres of NFS lands, or 32 percent of the total 193 million acres, are at high or very high hazard of large wildfires. Building markets for biomass can help increase the pace and scale of hazardous fuel reductions in forests across America by reducing the cost per acre of treatments on national forests and other lands while also creating good paying jobs in rural communities.

The Forest Service has extensive expertise building markets for biomass. This includes decades of experience helping to establish biomass facilities through our Wood Innovations Program and before that, through the agency's Woody Biomass Utilization Grants. We provide technical assistance, support for equipment purchases, and are engaged with a network of specialists for biomass energy projects. Additionally, the Forest Service offers expertise with timber harvest logistics and key connections to states and landowners for harvesting.

## **Title III—Timber Exports**

**Section 301** amends the Forest Resources Conservation and Shortage Relief Act of 1990 (Act) (16 U.S.C. 620(a)) to provide that unprocessed timber included in a hazardous fuels reduction treatment on NFS land in California may be determined to be surplus and therefore not subject to the export prohibition; the agency is required to undertake rulemaking in order to make the surplus determination.

This section also amends the Act to add an exemption from the export prohibition for unprocessed surplus timber originating from a dead or dying tree on NFS land in California if domestic mills do not take the unprocessed timber. Section 301 defines "dead" and "dying" and requires the agency to issue an annual list that establishes the species and sizes of trees that are considered to be surplus. Rulemaking will be required to issue the list after the inaugural list. The authority sunsets in 5 years.

Expanding commercial markets for wood from forests affected by large die-off events like insect and disease infestations is a critical component in the effort to create healthier, fire-resilient conditions in forested landscapes. USDA recognizes the need for an effective and timely solution to this problem, particularly in places like California, and supports the goals of this Title. However, as drafted, section 301 would create significant implementation challenges. Dead and dying trees must be removed quickly in order to maintain commercial value. A determination that each individual tree is dead or dying, and therefore surplus and exportable, is logistically unfeasible and would delay implementation. Further, the bill provides only limited relief from the rulemaking requirements for making determinations that timber is surplus and therefore exportable; the requirement to engage in annual rulemaking would further delay implementation and may result in an inability to sell the wood due to a loss of commercial value. USDA would

like to continue working with the Subcommittee and bill sponsors to achieve the Title's objectives.

#### **Title IV—Other Matters**

**Section 401** directs the Secretary of Agriculture to establish a competitive grant program for workforce development in the forestry sector, including construction work, and for K-12 education on the forestry sector. The Forest Service currently has authority to enter into cooperative agreements with public or private agencies, organizations, institutions, or persons to engage in job training and development programs. Further, the Forest Service provides workforce training and education to students through its U.S. Department of Labor authorized Job Corps Civilian Conservation Centers, and is currently expanding its trade offerings in forest conservation and wildland firefighting. USDA supports forestry education and receives numerous benefits from the forest sector workforce. We would like to work with the Subcommittee and the bill sponsors to ensure that any new authorities build on existing programs.

**Section 402** directs the Secretaries of Agriculture and Interior to establish a center to train individuals in prescribed fire and wildfire mitigation methods. The bill requires the center to be located in the Western United States and directs the Secretaries to consult with the Joint Fire Science Program to solicit and evaluate proposals for the location of the center. As an initial matter, we suggest that the National Wildfire Coordinating Group is the most appropriate group to provide input on any expansion or establishment of these type of training opportunities. While the existing National Interagency Prescribed Fire Training Center is in Tallahassee, Florida, course work and experiential learning is conducted in a wide variety of locations across the United States. In addition, there are national interagency training centers in Tucson, Arizona and McClellan, California that offer a wide variety of learning opportunities. USDA supports the goals of Section 402 and would like to work with the Subcommittee and the bill sponsors to recognize existing efforts by the agency and its partners to provide prescribed fire training.

#### **Conclusion**

Each year, based on the 10-year average, approximately 67,000 wildfires burn about 7 million acres of Federal, Tribal, state and private land and destroy approximately 4,300 structures. As of September 2, 2020, 4,053 structures have been destroyed by wildfires. While the number of structures destroyed last year was below average (1,000 structures), the previous two years were well-above average with over 25,000 structures destroyed in 2018, and over 12,000 structures destroyed in 2017. Urban development continues to encroach into wildland areas. Large wildfires also pose risk to utility infrastructure, municipal watersheds, recreation areas and important wildlife habitat. Actions, treatment and coordination are required to make communities and our national forest more resilient to large wildfires. S.4431 sets forth similar objectives and we thank Senators Feinstein and Daines for finding bipartisan solutions to very important issues. We look forward to working with the Subcommittee and sponsors of this bill to address the concerns outlined above.

Thank you for the opportunity to testify on this bill, and I welcome any questions.

**STATEMENT OF CHRIS FRENCH  
DEPUTY CHIEF, NATIONAL FOREST SYSTEM  
U.S. DEPARTMENT OF AGRICULTURE  
FOREST SERVICE**

**Before the  
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING  
Regarding  
H.R.255 —BIG BEAR LAND EXCHANGE ACT**

**September 16, 2020**

Chairman Lee, Ranking Member Wyden, and members of the Subcommittee, thank you for inviting me to share the Administration's position on H.R. 255, the Big Bear Land Exchange Act, as passed by the House.

H.R. 255 would require that no later than one year after the date that the portion of the Pacific Crest National Scenic Trail (PCT) is relocated and if San Bernardino County, California, offers to convey the non-Federal land to the United States, the Secretary shall exchange Federal land managed by the Forest Service for non-Federal land owned by the County for biomass utilization facilities, biomass recycling activities, and industrial resource recovery and recycling activities. The Act calls for the exchange of approximately 71 acres of non-federal land for 73 acres of federal land.

The U.S. Department of Agriculture (USDA or Department) supports the purpose of the Act to provide for biomass utilization facilities, biomass recycling, and industrial resource recovery and recycling activities. The removal of hazardous fuels from the San Bernardino National Forest continues to be a critical need to improve the health of the Forest and mitigate the effects of catastrophic fire. Having biomass utilization facilities in close proximity to the forest will reduce the overall costs of completing this work.

The Act requires that the land exchange shall be completed not later than one year after the required relocation of the segment of the PCT. While this land exchange would be a priority based on critical forest health needs, land exchanges under the best of circumstances take two or three years to complete. The Department would like to work with the bill sponsor to clarify the required completion date.

This bill provides for the relocation of a segment of the PCT. The Department wishes to work with the bill sponsors and Subcommittee to improve this provision. The PCT is governed by Public Law 90-543, as amended, so relocation will need to be consistent with this law. The trail is currently situated in the most optimal location based on the terrain. If relocation cannot be avoided, the Department would like to work with the bill sponsor and Subcommittee on language requiring that an appropriate study of the relocation be conducted within the requirements of current federal law and a formal Optimal Location Review be prepared by the Pacific Crest Trail Association and the Forest Service before any land exchange occurs. This process will ensure

that the PCT is moved to a location that continues or enhances the current trail experience and that the determination of the new route for the PCT is made in compliance with the National Environmental Policy Act (NEPA) and other applicable laws. The bill should also require that the County pay for all processing costs associated with the exchange, including any the necessary location and environmental studies, and logistical planning and work to relocate the PCT.

### **Conclusion**

Delivering dependable energy and providing jobs and economic benefits for rural communities while restoring ecosystems is a top priority of the USDA. The Department supports the goals of H.R. 255 and wishes to work with the sponsors and the Subcommittee to address the specific concerns noted in our testimony to accomplish our shared multiple use goals for National Forest System lands.

That concludes my testimony, Mr. Chairman. I would be happy to answer any questions you or the Subcommittee members have for me.