

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

**Before the  
UNITED STATES SENATE  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS, AND MINING  
June 7, 2022**

**Concerning**

- S. 1750, “Wyoming Public Lands Initiative Act of 2021”**
- S. 3709, “Black Hills Forest Protection and Jobs Preservation Act of 2022”**
- S. 3129, “M.H. Dutch Salmon Greater Gila Wild and Scenic River Act”**
- S. 2708, “Land Grant-Mercedes Traditional Use Recognition and Consultation Act”**
- S. 3046, “Root and Stem Project Authorization Act of 2021”**
- S. 2254, “Montana Headwaters Legacy Act”**
- S. 1264, “Resiliency for Ranching and Natural Conservation Health Act”**
- S. 1412, “Carson City Public Land Correction Act”**
- S. 3997, “Land Between the Lakes Recreation and Heritage Act”**
- S. 4062, “Helping Open Underutilized Space to Ensure Shelter Act of 2022”**
- S. 4080, “Berryessa Snow Mountain National Monument Expansion Act”**
- S. 3269 - Unrecognized Southeast AK Native Communities Recognition and Compensation Act**
- S. 387, “Grand Canyon Protection Act”**
- S. 2980 - Wildlife/Livestock Conflict Resolution Act**

Chair Cortez Masto, Ranking Member Lee, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the views of the U.S. Department of Agriculture on several bills that includes provisions related to the USDA Forest Service.

**S. 1750, Wyoming Public Lands Initiative Act of 2021**

S. 1750, the Wyoming Public Lands Initiative Act of 2021, would designate 1,189 acres of National Forest System lands on the Medicine Bow-Routt National Forest as the Black Cat Special Management Area (SMA) in Carbon County, Wyoming. The designation in Section 3(c) of the bill would prohibit construction of new roads and commercial timber harvesting, limit motor vehicle use, withdraw the area from mineral and geothermal leasing, and allow directional drilling only from outside the area.

Section 3(c) of the bill would allow ongoing active management of vegetation to address wildland/urban interface needs in the Black Cat SMA. The Forest Service would welcome the

opportunity to meet with Committee staff to clarify legislative intent regarding management of National Forest System trail 495, which is designated for motor vehicle use. It appears subsection c.4.b of this provision would require the agency to reclassify currently allowed seasonal motor vehicle and mechanized uses of the trail. USDA has concerns with the bill and defers to the Department of Interior for their views on the bill as it affects the public lands under their jurisdiction.

### **S. 3709, Black Hills Forest Protection and Jobs Preservation Act of 2022**

S. 3709, the “Black Hills Forest Protection and Jobs Preservation Act of 2022,” would direct the Forest Service to issue one or more decisions using expedited authorities for compliance with the National Environmental Policy Act, including sections 603 and 605 of the Healthy Forests Restoration Act and a determination of NEPA adequacy to carry out vegetation management projects on land in the Black Hills National Forest. The bill would also direct \$40,000,000 of funding made available by section 40803(c)(11) of the Infrastructure Investment and Jobs Act (IIJA) for fiscal years 2022 to 2026 to carry out projects on the Bighorn National Forest, the Custer Gallatin National Forest, and the Black Hills National Forest that will result in timber production. S. 3709 would also authorize use of the IIJA statutory categorical exclusion and emergency action authority to the extent practicable.

The Forest Service is committed to taking full advantage of available efficiencies to implement vegetation management work on the National Forests as we meet our responsibilities under NEPA. On April 25th, 2022, Chief Moore issued an agency wide letter outlining his expectation that we would conduct project planning and environmental analysis using the most responsibly expedient process available. An excerpt of his letter reads:

*“This means defaulting to HFRA authorities first, where applicable; using CEs wherever appropriate, consistent with rigorous extraordinary circumstances analyses; and using post-disturbance event tools such as the Emergency Situation Determination at 36 CFR 218.21. As soon as available, I also expect use of the BIL Section 40807 Emergency Actions authority to proactively treat emergency conditions before the consequences of those conditions manifest into catastrophic and unacceptable loss of resource values, property, economic activity, and human life.”*

The Forest Service understands and shares Congress’ clear and urgent message that the statutory tools enacted over the past twenty years are essential to our success in mission delivery, and we are proceeding; however, we do not support the additional direction as outlined in this bill.

Our agency is committed to managing responsible and sustainable timber programs on the National Forest System that support our critical partners in the forest products industry. In the case of the Custer Gallatin National Forest this work will be guided by a recently revised forest plan, released in January of this year. The Black Hills National Forest plan revision process is now underway, while the Bighorn National Forest Plan was last revised in 2005.

The Forest Service recognizes that any current and potential future changes in timber outputs from these Forests will have significant ramifications for our industry partners. Therefore, the agency is fully committed to a robust and transparent understanding of current forest conditions, maximizing sustainable harvest levels, and exploring all potentially viable avenues to support industry in these landscapes. We know we cannot achieve our goals in land stewardship and sustainable use of renewable resources without robust industry capacity. Following up on a commitment made by Chief Moore, we initiated an independent review of the timber program on the Black Hills National Forest to ensure we are exploring all avenues to support milling capacity. Initial findings of this review are anticipated in June 2022. Therefore, it would be premature for the Forest Service to commit support for a specific funding level through the Bipartisan Infrastructure Law (BIL) such as identified in S. 3709. Meanwhile we have also been partnering with industry to explore opportunities to transport logs by rail from areas with potentially limited markets to the Black Hills to support local mills. We are in early stages of piloting this program now.

### **S. 3129, 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.

The Gila National Forest recently went through the Forest Plan Revision process, which included a process of evaluation of rivers eligible for Wild and Scenic designation. This process was done through a stringent interdisciplinary process with public input to determine river-related outstanding remarkable values. We recognize the importance of protecting and enhancing identified river values for the benefit and enjoyment of present and future generations and we would like to work with the Subcommittee and bill sponsors to clarify some technical concerns associated with the proposed designations and their classifications, as there are some river segments within the proposed legislation that were not identified in this Draft Forest Management Plan's public process.

Proposed language in the bill gives the Secretary authorization to build barriers with certain constraints. We would like to work with the committee to revise this section to ensure that the language would not unintentionally preclude or negatively affect restoration and preservation projects for native fish species.

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

This bill proposes to transfer 440 acres of land from the Gila National Forest to the Gila Cliff Dwellings Monument. The agency supports the proposed land transfer and looks forward to working with the Committee to ensure multiple uses would not be affected. 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.

USDA supports the goals and intent of the bill as well as those specific designations that comport with the eligibility and preliminary classification findings informed by the Draft Forest Management Plan's public process. We would like to work with the Subcommittee and bill sponsors to resolve some of the above concerns associated with the current bill language and to engage further with us in development of the Draft Forest Plan.

### **S. 2708, Land Grant-Mercedes Traditional Use Recognition and Consultation Act**

The lands in northern New Mexico that became part of the NFS, managed by the Forest Service, have a rich and unique history dating back hundreds of years. The natural resources on the forests have been, and continue to be, fundamental to the interconnected economic, social, and cultural vitality of the state, which is home to federally recognized tribes and pueblos, land grant communities, acequia associations, traditional Hispanic communities, and contemporary residents. The people of northern New Mexico, their culture and traditions, and their knowledge of the land must be recognized and treated as unique resources.

The Forest Service recognizes it has an obligation to provide for multiple use and sustained yield across the forest, to comply with applicable laws in managing NFS lands, and to provide service to all publics. The Forest Service also recognizes the significance of addressing the unique and important historic and cultural setting of northern New Mexico.

S. 2708, the "Land Grant-Mercedes Traditional Use Recognition and Consultation Act," would provide for consultation between USDA and the governing bodies of land grant-mercedes when developing written guidance as required by the bill. Notably, S. 2708 applies only to specific communities exclusive to the southwestern United States, many of which are surrounded by and rely on federal lands managed by the Forest Service. The word "Consultation" as it pertains to federal agencies has a specific meaning when relating to federally recognized Indian Tribes. Tribal Consultation, or Consultation, is generally a government-to-government consultation that involves the direct, timely, and interactive process of receiving input from Indian Tribes regarding proposed actions or policies that have Tribal implications. While the Forest Service strives for better collaboration and cooperation with our traditional communities, the term Consultation, as used with respect to federally recognized tribes, cannot be applied to this work with land grant-mercedes.

The Forest Service would like to highlight its efforts in working with traditional communities. Land grant-mercedes are recognized as cooperators in the forest planning process. For the past

several years, the northern New Mexico national forests have held quarterly meetings with all interested land grant heirs. Draft forest plans for the Cibola, Carson, and Santa Fe National Forests each dedicated specific attention to Northern New Mexico Traditional Communities and Uses. This is a direct reflection of efforts by the Forest Service to collaborate with land grant-mercedes during the land management planning process. These plans will serve as an enduring commitment by the Forest Service to the communities of Northern New Mexico. Additionally, the Forest Service has a designated Government Liaison that works with the New Mexico Land Grant Council to ensure a consistent point of contact.

The Forest Service is committed to collaboration and transparency that address the unique needs of our local communities, however our obligation to federally recognized Tribes as sovereign nations and our requirement for Tribal Consultation cannot be misconstrued. The USDA supports S. 2708; however, we would like to work with the bill sponsors and Subcommittee to differentiate this work from our relationship with federally recognized tribes and land grant communities.

### **S. 3046, Root and Stem Project Authorization Act of 2021**

S. 3046 amends the Healthy Forests Restoration Act of 2003 (HFRA) (16 U.S.C. 6591c) to allow the Secretaries of Agriculture and Interior to enter into 10-year contracts or agreements with eligible entities to design, analyze, and implement “Root and Stem projects” through a collaborative process on federal lands. S. 3046 directs Root and Stem projects shall be subject to judicial review in the same manner as HFRA authorized hazardous fuel reduction projects, except that it provides for a 120-day statute of limitations and special instructions concerning injunctive relief. USDA is generally supportive of increasing capacity to accomplish our work and would like to work with the Subcommittee and bill sponsors to address technical concerns related to timing and intersection with existing laws.

### **S. 2254, Montana Headwaters Legacy Act**

S. 2254 would designate 21 rivers as Wild and Scenic Rivers across the Custer Gallatin, Helena-Lewis and Clark, and Beaverhead-Deerlodge National Forests. The Beaverhead-Deerlodge completed revision of its land management plan in 2009. The Custer Gallatin and Helena-Lewis and Clark National Forests recently completed land management plan revisions with robust public and Tribal engagement. This included a systematic study of rivers across the Forests to evaluate river eligibility for Wild and Scenic River designation per the requirements of the 2012 Planning Rule.

Two of the rivers proposed for designation and their associated classifications in S. 2554 are aligned with the Helena-Lewis and Clark National Forest’s recent land management plan eligibility determinations. However, four of the rivers or river segments in the bill were not found eligible during the Custer Gallatin and Beaverhead-Deerlodge river studies. In addition, not all the river classifications in the bill align with those identified in the Custer Gallatin’s revised plan. While we recognize the importance of protecting and enhancing identified river values for the benefit and enjoyment of present and future generations, we would like to work

with the Subcommittee and bill sponsors to clarify some technical concerns associated with the proposed designations and their classifications.

USDA would also like to ensure new designations are properly integrated into the National Wild and Scenic Rivers System with enough time to develop comprehensive river management plans (CRMPs) and to establish detailed boundaries in cooperation with Tribes, State, and local governments, and interested stakeholders. The timeframes for completing detailed boundaries and CRMPs, identified under Sections 3(b) and 3(d) of the Wild and Scenic Rivers Act, can be challenging to meet, especially for the number of river segments included in the bill. Therefore, we would like to work with the Subcommittee and bill sponsors to identify ways to allow additional time for completion of CRMP and boundary requirements.

### **S. 1264, Resiliency for Ranching and Natural Conservation Health Act**

S. 1264 amends the Federal Land Policy and Management Acts of 1976, commonly known as FLPMA, in several places. Our understanding is that Title IV of FLPMA only applies to grazing on lands within National Forests within the 16 contiguous Western States. We would like Congress's clarification on whether the opportunities outlined in S. 1264 apply to all National Forest System (NFS) lands or solely national forests in the 16 contiguous Western States.

S. 1264 would allow for temporary use of vacant grazing allotments for holders of grazing permits or leases during extreme natural events and disasters, such as drought, wildfire, infestation, or blight. The Department supports the use of vacant grazing allotments during extreme natural events and disasters, and the Forest Service currently makes vacant allotments available for permittees whose allotments are impacted by unforeseen natural disasters. We have some suggestions to provide additional management flexibility in keeping with the intent of the bill. We also suggest clarifying whether the temporary use of grazing allotments is intended for no more than 2 or 3 grazing seasons. The Department supports greater flexibility and discretion for the agency to work with grazing permittees.

S. 1264 also establishes the "Range Betterment Account" and adds new purposes to the Land and Water Conservation Fund (LWCF) for rangeland improvement projects and reimbursing landowners to provide recreational access on their lands. While we support the need for additional funding to carry out rangeland improvement projects and to improve public access, we do not support using the LWCF to provide that funding. This would be a substantial change in the purposes of LWCF, which was authorized in 1964 to acquire lands and waters and promote recreational access. We work continuously to increase recreational access by acquiring lands for permanent recreation, using rights-of-ways, building trails, and investing in recreation infrastructure. Using LWCF funding for range improvement projects and reimbursing landowners for recreational access would significantly reduce our ability to meet the original intent of the LWCF, namely, to permanently expand recreational access through land acquisition. If a new "Range Betterment Account" were to be established, we would suggest using a different name to avoid confusion with the existing 'Range Betterment Fund.'

S. 1264 establishes a "rebuttable presumption" that use of categorical exclusion would apply to the renewal of a grazing permit or lease and to the temporary use of vacant grazing allotments. We would like to work with the Committee to clarify the intent regarding NEPA

compliance when authorizing the temporary use of vacant allotments. Lastly, the Forest Service has concerns regarding the provision allowing the use of categorical exclusions for the renewal of grazing permits and leases as it does not provide for adequate environmental review and reduces the important public involvement provided by NEPA.

### **S. 1412 - Carson City Public Land Correction Act**

S. 1412 would require the Secretary of Agriculture to convey 0.45 acres of federal land without consideration to Carson City, Nevada, to construct a road known as Stewart Street Extension through the Humboldt-Toiyabe National Forest, Carson Ranger District Administrative Site (Carson Ranger Station). Conveyance of this parcel would impair the agency's ability to provide for the safety, security, and operational needs of our employees so they can carry out the mission of the Forest Service. The proposed Stewart Street Extension would divide the Carson Ranger Station thereby reducing parking and storage space for a range of vehicles and equipment, including wildland fire engines and crew vehicles, as well as tree-planting, hazardous fuels reduction, snow removal, road maintenance and recreation management equipment and supplies. Dividing the Carson Ranger Station would also reduce office space available to the district and create safety concerns for district personnel due to traffic pattern and volume. In consideration of these impacts, the USDA has concerns with this proposal and would like to work with the Subcommittee, bill sponsors, and the city of Carson City, Nevada to better understand the need for this conveyance without consideration with the hope that a mutually agreeable resolution may be found. The USDA defers to the Department of the Interior for their views on how the bill affects the public lands under their jurisdiction.

### **S. 3997, Land Between the Lakes Recreation and Heritage Act**

USDA recognizes the significance of the Land Between the Lakes Protection Act and the uniqueness of this treasured piece of public land within the National Forest System. We share the commitment of this Subcommittee to ensure the Land Between the Lakes National Recreation Area is a safe and enjoyable place for visitors to recreate.

S. 3997 directs the Secretary to administer the Land Between the Lakes National Recreation Area as a separate unit of the National Forest System. USDA has managed Land Between the Lakes as a separate unit of the National Forest System since the Land Between the Lakes Protection Act was passed in 1998. USDA supports the amended text that will allow the USDA Forest Service to continue administering Land Between the Lakes as its own unit within the National Forest System.

This legislation proposes several changes to the Land Between the Lakes Protection Act, including changes to the membership and function of the Land Between the Lakes Advisory Board. All Forest Service advisory boards are subject to the Federal Advisory Committee Act, and some of the amendments might conflict with that statute. Additionally, the proposed language would impact multi-year land management plans, funding, and annual planning. USDA

would like to work with the Subcommittee and bill sponsors to ensure these changes do not disrupt existing programs, projects, and service to the public.

S. 3997 would allow the Secretary to charge reasonable recreation fees, as determined by the Land Between the Lakes Advisory Board, for admission to and the use of designated sites, or for activities, within the Land Between the Lakes Recreation Area. The Forest Service has recreation fee authority under the Federal Lands Recreation Enhancement Act. The bill appears to shift this existing recreation fee authority to the Land Between the Lakes Advisory Board. The Forest Service would like to retain its recreation fee authority for the Land Between the Lakes Recreation Area, and we look forward to working with the Subcommittee and bill sponsors on clarifying this language.

One of the unique aspects of Land Between the Lakes is the Land Between the Lakes Management Fund. Funds authorized for retention in the Management Fund under S.337 can be used for new work or deferred maintenance. While this is helpful, the restriction on use of these funds for salaries or expenses will limit its impact. These limitations on expenditures would make it difficult for the Forest Service to perform the new work and deferred maintenance authorized by the amendment.

S. 3997 encourages the Secretary of Agriculture to execute memoranda of understanding with State or local governmental entities, including law enforcement, as appropriate, to clarify jurisdictional matters, such as road management, policing, and other functions that are typically performed by the State or local governmental entities on non-Federal land. USDA supports this amendment. The Forest Service's Law Enforcement and Investigations staff are actively engaging with local governmental and law enforcement entities to develop memoranda of understanding and cooperative law enforcement agreements.

There are approximately 270 documented cemeteries at Land Between the Lakes that remain available to residents and relatives. S. 3997 provides access to certain cemetery plots for qualified residents, relatives, and cemetery associations. USDA supports amendments to existing legislation that would increase access to cemetery plots at Land Between the Lakes. However, the amendments as written could cause complications, including: a situation where one person could cause others to incur expenses without their knowledge; the need to construct roads; and unlimited expansion, which could cause adjacent multi-use land to be degraded over time. USDA would like to work with the Subcommittee and bill sponsors to clarify concerns over the cemetery plot provision in the bill.

S. 3997 directs the Secretary of Agriculture to identify and manage the historical resources of the Land Between the Lakes Recreation Area in accordance with the requirements of division A, subtitle III, of title 54 of the United States Code (formerly known as the National Historic Preservation Act) and in coordination with qualified residents or relatives. S. 3997 also directs the Secretary to consider requests by qualified residents or relatives to use and maintain areas of cultural importance, and to work cooperatively with qualified residents or relatives in the management of historical resources.

USDA agrees all sites in the Land Between the Lakes National Recreation Area need to be evaluated for historical significance. However, the Department is concerned about the language as written, as it would have significant budgetary impacts and does not address the parameters for revitalizing the historical resources. The Forest Service has received multiple notifications regarding historical buildings at Land Between the Lakes Recreation Area that are not structurally safe and are in such poor condition that revitalization would require millions of taxpayer dollars. The agency would like to work with the Subcommittee and bill sponsors to establish parameters for identifying and managing the historical resources at Land Between the Lakes.

The Forest Service appreciates the increase in authorized funding for Land Between the Lakes. However, shifting this funding from the agency's existing budget would create significant hurdles for other National Forest System lands in the 13 Southern Region states and Puerto Rico.

USDA would like to work with the Subcommittee and bill sponsors to address these concerns to make future management of the Land Between the Lakes National Recreation Area more efficient and feasible.

#### **S. 4062, Helping Open Underutilized Space to Ensure Shelter Act of 2022**

S. 4062 "Helping Open Underutilized Space to Ensure Shelter Act of 2022" would amend the Federal Land Policy and Management Act of 1976 (FLPMA) to authorize the sale of certain Federal land to States and units of local government to address housing shortages. A State or unit of local government may nominate for consideration for conveyance by the Secretary to the State or unit of local government one or more tracts of public lands within the boundary of the State or unit of local government for the purpose of providing housing in the State or unit of local government.

The USDA understands and supports the need for affordable housing nationwide and recognizes the role of Federal agencies in helping meet that need, particularly in areas of the wildland-urban interface. As currently drafted, the bill has several areas of concern for the USDA Forest Service and may not accomplish the intended goal of increased housing as well as existing authorities already can.

We would like to work with the bill sponsors and Subcommittee to clarify several areas of concern: the bill modifies FLPMA, yet there are no savings provisions to ensure the current law remains intact; and the bill requires Forest Service validation of Governor's approval for projects submitted by a unit of local government, inserting a federal agency into negotiations involving State matters. As written, the bill would allow unrestricted abdication of Congressionally designated National Forest System (NFS) lands for use for housing projects with no limitation on the total acreage of lands that may be acquired; the bill has presumed approval for any project submitted under this authority; the prioritization of using NFS land for affordable housing above all other uses is in direct conflict with the Multiple-Use Sustained-Yield Act of 1960; and land

conveyed under this authority would be sold at a fraction of market value with the funds prioritized to meet the needs of the Department of Interior's National Park Service.

This bill also requires a 180-day timeline for implementation and imposes a 15-year "stewardship period" where Forest Service personnel would observe and administer activities on land legally conveyed to ensure the use of that land was in accordance with this bill. This "stewardship period" would require significant increases in staff capacity. As written, the bill language undermines the ability of the Forest Service to work collaboratively with our state and local partners in ways that ensure the best possible use of our public lands.

The USDA opposes S. 4062 as written and would like the opportunity to work with the bill sponsors and subcommittee to address these concerns.

### **S. 4080 - Berryessa Snow Mountain National Monument Expansion Act**

S. 4080, the "Berryessa Snow Mountain National Monument Expansion Act" would expand the boundary of the Berryessa Snow Mountain National Monument to include the Walker Ridge (Molok Luyuk) Addition, which is approximately 3,925 acres of Federal land administered by the U.S. Department of the Interior's Bureau of Land Management (BLM) in Lake County, California. The Secretary of the Interior would administer the Walker Ridge (Molok Luyuk) Addition as part of the expanded Berryessa Snow Mountain National Monument.

S. 4080 would require the Secretary of Agriculture and Secretary of the Interior to jointly develop a comprehensive Monument management plan within one year of enactment of this Act. In developing the Monument management plan, the Secretary of Agriculture and Secretary of Interior will consult with affected federally recognized Indian Tribes.

The proposed Walker Ridge (Molok Luyuk) Addition would be managed by the Department of the Interior (DOI). As such, USDA defers comments on inclusion of these lands into the Berryessa Snow Mountain National Monument to the Secretary of the Interior.

The Mendocino National Forest has completed its administrative requirements for their Land Management Plan pertaining to protection of objects of interest identified in the executive proclamation of the Berryessa Snow Mountain National Monument. Because the proposed Walker Ridge (Molok Luyuk) Addition is solely on BLM-managed lands, the Forest Service would likely remain administratively complete in its tasks.

However, if additional work is needed to update the joint Monument management plan, the USDA would like to work with the bill sponsors and the Subcommittee to extend the timeframe from one year to three years to develop or update the joint USDA/DOI comprehensive Monument management plan and consult with affected Indian Tribes. Since 2018, 98 percent of the Mendocino National Forest has burned. The Forest is focusing staff resources on fire recovery, hazard abatement, fuels treatments and ecosystem recovery of the forest and the Monument.

The USDA is committed to the management and protection of the dramatic geology, remarkable biological diversity, rich cultural history, and plentiful recreation opportunities in the Berryessa Snow Mountain National Monument. The USDA is also committed to our partnerships with DOI and BLM, affected Indian Tribes, and local communities in managing this unique resource. To accomplish the intent of this Act and ensure we have a comprehensive and updated Monument management plan with Tribal consultation, USDA would like to work with the bill sponsors and the Subcommittee to address the specific concern noted in our testimony regarding extending the timeline to update this plan.

### **S. 3269 - Unrecognized Southeast AK Native Communities Recognition and Compensation Act**

S.3269 would amend the Alaska Native Claims Settlement Act of 1971 (ANCSA) to authorize Alaska Native residents of five Southeast Alaska communities (Haines, Ketchikan, Petersburg, Tenakee, and Wrangell) to form urban corporations. The legislation directs conveyance of specifically identified surface estate lands within the Tongass National Forest in the amount of 23,040 acres to each corporation, totaling approximately 115,202 acres. The bill directs conveyance of subsurface estate of these parcels to the Sealaska Regional Native Corporation.

#### *Analysis of Identified Conveyance in the Tongass National Forest*

S.3269 identifies a total of 115,202 acres of National Forest System (NFS) lands for conveyance. Each new corporation would receive 23,040 acres. The proposed conveyance of 23,040 acres to each new corporation conforms with the acreage provided to the ten Southeast Alaska communities that were recognized and determined to be eligible under ANCSA. Unlike ANCSA, S.3269 does not require that the acres include the township in which all or part of the Native village is located, nor that it be contiguous and in reasonably compact tracts. If the intent of the bill is to facilitate proximity and access by the Alaska Native communities addressed in S.3269 to the lands proposed for transfer, the Forest Service welcomes a discussion with the bill's authors about the identification of parcels that are contiguous and closer to the Native village governments.

The selected NFS lands are in 59 named parcels, including some that are split into distinct parts or include adjacent islands. The parcels range in size from 12 to 9,092 acres and are located across seven Forest Service Ranger Districts. Due to the high value of these lands for multiple uses on the National Forest, the Forest Service anticipates that the selections would change expected outcomes of the 2016 Forest Plan broadly across program areas.

#### *Effect on Forest Service Management of the Tongass National Forest*

A majority of the parcels identified in the legislation are located along accessible shorelines and in protected coves that have significant use by residents and visitors. Southeast Alaska is largely a group of islands with few roads. Shorelines that can be accessed by boat or plane are some of the most heavily used areas in the region. While the legislation provides for the land once conveyed to a private interest to remain open for non-commercial uses including hunting, fishing, and recreation, access is not guaranteed and may be subject to potential restrictions.

Many of the parcels identified for conveyance are located in areas where subsistence hunting and fishing occurs. Subsistence would no longer be managed by the federal government under the Federal Subsistence Management Program, which Congress established in the Alaska National Interest Lands Conservation Act. Subsistence management under this program is limited to federal public lands.

USDA anticipates the proposed conveyance of the lands will affect the Tongass National Forest's delivery of its recreation program to residents and visitors. Based on an initial review of the mapped selections, the Forest Service has identified that the following are located within the boundaries of the parcels: 5 developed recreation sites (3 camping sites, 1 picnic site, 1 shelter), 3.5 miles of hiking trail, 26.5 miles of designated Off Highway Vehicle trails, and an estimated 9 marine access facilities. While there are no public use cabins within the boundaries of the selections, the conveyance would create five isolated National Forest System land parcels, ranging in size between 4-20 acres around 5 public use cabins. Additionally, 1 Forest Service administrative cabin (Anita Bay) is located within a parcel. The agency's initial review also identified an estimated 38 outfitter and guide businesses authorized under special use permit to operate on NFS lands identified within parcels.

USDA anticipates the proposed conveyance will affect the Tongass National Forest's transition to predominantly young growth as directed in the 2016 Forest Plan and consistent with the Southeast Alaska Sustainability Strategy. Just over half of the proposed parcels contain young-growth acres. The Tongass National Forest estimates one-third of the parcels contain young growth stands that, if conveyed, would have a moderate to high impact on the transition. Ten of the selected parcels contain Pacific Northwest Research Station study sites including sites associated with the Tongass-wide Young Growth Study (TWYGS). TWYGS is a longitudinal study addressing key questions related to the effects of silvicultural treatments on young-growth development, forest production, and habitat. The loss of study sites through land conveyance would impact the ongoing 20-year research-management collaboration which provides much of the foundational scientific information for managing young growth forests in Alaska for multiple benefits. The loss of these study sites along with several other issues outlined above cause USDA to have concerns with the legislation. We would like to work with the committee and bill sponsors to address these concerns as we jointly pursue fulfilling our important responsibilities to Alaska Native communities.

USDA recognizes the special relationship that Alaska Natives have to the lands of southeast Alaska, which are the homelands of the Tlingit, Haida, and Tsimshian people. We acknowledge important customary, traditional, and current uses of the Tongass National Forest and the contributions of the land and resources to the social and economic well-being of the region's communities. Through a joint Secretarial Order 3403, USDA recognizes that it is the policy of the United States to restore Tribal homelands to Tribal ownership and to promote Tribal stewardship and Tribal self-government. We look forward to discussing with the Subcommittee and sponsor of the bill the legislation's impact on the Tongass National Forest's program of work as well as opportunities to promote Tribal and/or indigenous stewardship of our federal lands and waters, consistent with the Joint Secretarial Order.

### **S. 387, Grand Canyon Protection Act**

S. 387, the “Grand Canyon Protection Act” withdraws 1,006,545 acres of federal lands in Arizona, including any land or interest in land acquired by the United States after enactment of this bill, from

- entry, appropriation, and disposal under the public land laws;
- location, entry, and patent under the mining laws; and
- operation of the mineral leasing and geothermal leasing laws and mineral materials laws.

This area is already under an administrative mineral withdrawal which currently must be renewed every 20 years. As we understand it, this legislation would make the current administrative mineral withdrawal permanent.

S. 387 also states the Government Accountability Office shall conduct a study of uranium stockpiles in the United States that are available to meet future national security requirements.

Of the 1,006,545 acres of federal lands, 355,874 acres are USDA Forest Service lands. USDA defers to the Department of Interior for their views on the bill as it affects the public lands under their jurisdiction. The Pinyon Plain Mine (formerly Canyon Mine, renamed in fall 2020) occupies 17 acres on the Kaibab National Forest. Pinyon Plain Mine is a uranium mine 6 miles southeast of the Town of Tusayan.

Significant infrastructure at the site includes a headframe, evaporation pond, hoist, and shaft. Operations such as water pumping, maintenance, and management of facilities continue at the site. The Kaibab National Forests role in operations at the mine is to 1) ensure compliance with the existing Plan of Operations and federal decision in the environmental review documentation, 2) provide accurate and timely information about operations to interested and concerned parties, 3) work with other agencies as needed to inform monitoring of the withdrawal, and 4) ensure surface reclamation is conducted in alignment with regulations and bonding once mining operations are completed.

USDA supports the bill but does not believe the bill provisions will have an impact on current mining operations on the Kaibab National Forest because they would be subject to existing valid mineral rights.

### **S. 2980 - Wildlife/Livestock Conflict Resolution Act**

S. 2980 would allow for the donation of up to 10 leases or permits authorizing grazing on National Forest System land in the state of New Mexico per fiscal year. This legislation would require the Secretary to permanently retire these donated permits and leases, ensuring an end to grazing on the land covered by the permit or lease unless the land is also covered by another valid grazing permit or lease that has not been donated.

Currently, Forest Service grazing permittees may choose to waive their grazing permit back to the Forest Service at any time. Grazing permits do not confer any property rights related to the grazing allotments; they simply authorize the permittee to occupy and use the land for livestock

grazing purposes. Currently, a permittee's choice to waive their permit back to the Forest Service does not trigger allotment closure.

To date, the decision to close a grazing allotment is made by the Forest Service through the NEPA process. The same would hold true for common allotments; a permanent reduction in head months on a common allotment would require the NEPA process. Informed Agency decisions determine what grazing permits might be made available and/or what types of management activities may take place.

The Forest Service considers the objectives of land management plans and site-specific resource management opportunities such as targeted grazing. The Forest Service could benefit from flexibility to make sound natural resource management decisions while ensuring that management tools, such as livestock grazing, remain available to facilitate sound natural resource management across National Forest System lands including grazing allotments.

Considering severe drought across much of the West, USDA welcomes the opportunity to work with the sponsors and stakeholders to ensure the allotments take into consideration the local conditions. We support the sponsor's efforts to advance locally led, voluntary conservation efforts on public lands, including a public process to retire grazing allotments that are voluntarily relinquished. We welcome the opportunity to work with the committee and bill sponsor to clarify the legislation regarding the agency's decision-making authority related to retiring grazing permits on the National Forest System.

That concludes my testimony. Thank you for the opportunity to testify. I would be happy to answer any questions the Subcommittee may have for me.