

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

**BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**

**MARCH 12, 2015  
CONCERNING  
S.556 – Bipartisan Sportsmen’s Act of 2015**

Madam Chairman and members of the committee; thank you for the opportunity to represent the views of the United States Department of Agriculture (USDA) on S.556, the Bipartisan Sportsmen’s Act of 2015. I am Leslie Weldon, Deputy Chief for the National Forest System, USDA Forest Service.

Please let me begin by strongly emphasizing the foundational role the National Forest System serves in providing high-quality outdoor recreational opportunities for all Americans. The 193 million acres of land the Forest Service manages in the public trust are now and always have been where people across the country go to enjoy world-class hunting, fishing, and recreational shooting, as well as nearly every other variety of healthy outdoor activity. Spending by visitors engaging in recreation activities supports more jobs and economic output than any other activities on the National Forest System. In 2012, outdoor recreation on the National Forests supported approximately 190,000 jobs and contributed about \$13 billion to the Nation’s gross domestic product.

S.556 would, in summary, require the continued management of the National Forest System for hunting, fishing, and recreational shooting, require consideration of these uses in land management planning documents, require allowance of volunteers for the culling of wildlife, require access to designated wilderness for hunting, fishing, and shooting, continue provisions for the designation of shooting ranges, require reporting measures on closures or restrictions,

and require coordination with advisory committees on these actions. The bill would establish procedures for permitting commercial film crews of five or fewer persons and the use of cameras and related equipment. It also creates reporting requirements under the Equal Access to Justice Act. In Title II, the bill would mandate that a percentage of monies from the Land and Water Conservation Fund be used to acquire recreation access to federal lands, would require development and publication of a list of federal lands where access is limited or unavailable, and amend the Federal Land Transaction Facilitation Act.

### Section 101 – Recreational Fishing, Hunting, and Recreational Shooting

USDA applauds the interest in promoting the tradition of hunting, fishing, and recreational shooting on the National Forests. Certain components in the legislation, however, raise specific concerns. Management of National Forests, including within designated wilderness, for the purposes of hunting, fishing, and shooting, and consideration of these uses when relevant in planning documents is already a fundamental component of existing law and policy including the Multiple Use–Sustained Yield Act and the National Forest Management Act, and will continue even without passage of this bill. National Forests are and will be open unless closed to these activities. If an agency action has effects on hunting, fishing, or recreational uses they would be evaluated under current policy and those effects disclosed. If they are not relevant to the planning effort, requiring the agency to consider them would provide minimum benefit and generate additional, unnecessary environmental documentation. Although the bill states that the bill is not intended to prioritize recreational hunting, fishing, and recreational shooting over other uses of Federal lands, USDA is concerned that the requirements in section 101 to facilitate recreational hunting, fishing, and recreational shooting could limit the agency's flexibility to balance these uses with other uses as required under the Forest Service's Multiple Use-Sustained Yield Act.

USDA also is concerned that section 101(b)(4)(A) could be understood to open units of the National Wilderness Preservation System to uses prohibited by the Wilderness Act . Section 101(b)(4)(A)(ii) would provide that the bill's requirement that lands are open to fishing,

hunting, and recreational shooting does not also authorize motorized access or the use of motorized vehicles in wilderness study areas and areas administratively classified as eligible or suitable for wilderness designation. This provision does not provide the same safeguard that motorized access for fishing, hunting and shooting will continue to be prohibited in designated wilderness. We are concerned that section 101(b)(4)(A)(ii) could be read to open wilderness areas administered by the Forest Service to temporary roads, motor vehicles, motorized equipment, motorboats, and other forms of mechanized transport in furtherance of recreational hunting, shooting, and fishing.

Further, this provision only mentions motorized vehicles but is silent on other prohibited uses under section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), such as mechanical transport, structures, and installations. As a result, this provision creates uncertainty as to whether such uses, when in furtherance of recreational hunting, shooting, and fishing, would remain prohibited under the Wilderness Act. Wilderness areas are currently managed by the Forest Service to provide opportunities for recreational use and enjoyment (including hunting and fishing) consistent with the primary responsibility of preserving the wilderness character of the area. Under section 101(b)(4)(C), local agency line officers already exercise authority to designate shooting ranges where appropriate and necessary. We note that the liability limitation in section 101(b)(4)(C) regarding these designations does not override the Federal Tort Claims Act and therefore most likely would not have any legal effect. With respect to section 101(b)(3)(B), the decision to allow culling of wildlife by volunteers or by other methods in any areas closed to hunting or fishing would be a decision best made locally, in concert with state agencies, based on local circumstances.

Given our long-standing commitment to manage National Forests as open for hunting, fishing, and shooting, where prohibitions do occur they are as a last resort to address sound public safety or natural resource concerns. These decisions are again best made by local, delegated line officers rather than agency heads, after the appropriate level of environmental analysis under NEPA and appropriate public involvement have been completed. The restatement in

section 101(b)(8) of the authority of Executive Orders 12962 and 13443 is unnecessary and may give the perception the Agency is required to give deference to these activities as special interests. Additionally, to the extent the consultation requirement applies to emergency closures, timely agency response to public safety issues could be compromised.

#### Section 102 – Commercial Filming

USDA agrees commercial filming is an appropriate use of National Forest System lands and should not be overly constrained. To this end, the Forest Service is currently engaged in a public process to revise its commercial filming directives to ensure sufficient protection of public resources, the freedom of individuals and groups, both large and small, to film and photograph National Forest System lands, and the protection of freedom of the press. This effort has included meeting with industry advocates and media groups, and hosting extensive public meetings in Boise, Seattle, Portland, and Washington DC during the public comment period for the proposed directives. Additionally, in concert with a Department of Interior-led effort USDA has been engaged in formation of an updated fee schedule common across land management agencies, with publication of a final rule anticipated soon. USDA believes issuance of these directives is the most appropriate way to ensure balanced protection of natural resource and wilderness values with use by commercial film crews of all sizes.

We would like to work with the committee on language addressing commercial filming to avoid unintended consequences. We are concerned that even small film crews can have a substantial impact as they may use large vehicles, trailers, generators, and other equipment to conduct their business. Issuing permits based on individual applications allows for commercial filming and provides assurance that impacts on natural resources will be avoided or minimized.

Additionally, we are concerned about new paragraph (3)(E), which provides that the Secretary may not prohibit “as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects.” Because paragraph (3)(E) applies to wilderness, this provision would allow use of

motorized equipment such as cranes for filming in wilderness, which would be inconsistent with the Wilderness Act.

#### Section 103 – Federal Action Transparency

The detailed data to meet reporting requirements in the Federal Action Transparency section of the bill would impose a substantial burden on the Forest Service in terms of staff time and information technology expenses in the collection, database formatting, and dissemination of this information. We do not support section 103 as the information is largely already available via the Public Access to Court Electronic Records reporting system, even though it is not in summary report format as requested in this bill.

#### Sections 201 and 202 – Habitat Conservation

We fully support the objectives of increasing and improving access to public lands. The development and publication of regional priority lists describing lands with limited, disputed or no legal access as required by Section 202 will require considerable staff time and would not, by itself, create greater access. Local Forest managers regularly pursue opportunities to acquire title, easement, or right-of-way to improve public access. We will continue to pursue negotiations with willing sellers, and assert public rights where access has been denied, to the extent of our capacity to do so.

The Land and Water Conservation Fund (LWCF) is a proven tool that can be used to improve recreational access to public lands. The President's FY 2016 Budget proposes to permanently authorize annual mandatory funding of the Department of Agriculture and Department of the Interior Land and Water Conservation Fund programs beginning in FY 2017. In FY 2016, we are requesting \$400 million in discretionary funding and \$500 million in mandatory funding, with all \$900 million coming from mandatory funding in FY 2017 to be shared by Agriculture and Interior. Full funding for the Land and Water Conservation Fund supports the President's agenda of improving public access and the past success and ongoing importance of the LWCF cannot be overstated. Of 40 land purchases the Forest Service completed in FY14 using LWCF,

39 provided either legal access where none previously existed or improved legal access. While we support the goals of Section 201 of this bill, we would prefer to consider creating a permanent set-aside in the context of establishing full and mandatory funding for the Land and Water Conservation Fund.

#### Section 203 – Federal Land Transfer Facilitation Act

USDA supports reauthorization of the Federal Land Transfer Facilitation Act (FLTFA) and recommends that all proceeds be retained and used for critical land acquisitions including those that provide access for hunting, fishing, shooting, and other recreational activities.

Sources such as LWCF and FLTFA are significant in achieving our conservation mission, especially as an ever-increasing portion of the Forest Service budget is consumed by wildland fire suppression efforts. Resolving the fire-funding issue with bipartisan legislation is a critical need and an important first step before we could adequately address and fund all the provisions in this legislation.

This concludes my remarks. Thank you again for the opportunity to comment and I am available to take your questions.