

**Statement
of
Elizabeth Estill
Deputy Chief, Programs, Legislation, & Communications
Forest Service
United States Department of Agriculture
Before the
Subcommittee on Forests and Forest Health
And the
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
United States House of Representatives
June 19, 2003
Concerning:**

**H.R. 511 – the Mount Naomi Wilderness Boundary Adjustment Act
H.R. 708 - Mendocino National Forest Land Exchange
H.R. 1038 – the Public Lands Fire Regulations Enforcement Act of 2003
H.R. 1651 - the Sierra National Forest Land Exchange Act of 2003, and
H.R. 2416 - the Paleontological Resources Preservation Act**

Thank you for the opportunity to appear before you today. I am Elizabeth Estill, Deputy Chief for Programs, Legislation, and Communications, USDA Forest Service.

I would like to present the Department's views on H.R. 511– the Mount Naomi Wilderness Boundary Adjustment Act, H.R. 708 – Mendocino National Forest Land Exchange, H.R. 1038 – the Public Lands Fire Regulations Enforcement Act of 2003, H.R. 1651 - the Sierra National Forest Land Exchange Act of 2003, and H.R. 2416 - the Paleontological Resources Preservation Act.

H.R. 511 - Mount Naomi Wilderness Boundary Adjustment Act

The Department supports H.R. 511, a bill that would adjust the boundary of the Mount Naomi Wilderness in the Wasatch-Cache National Forest in Utah. We believe the boundary adjustment will add to a higher level of wilderness values, including solitude, scenery, and pristine qualities.

The boundary adjustment would exclude approximately 31 acres of land currently part of the Mount Naomi Wilderness and would add, in accordance with valid existing rights, 31 acres to the wilderness area. The bill also requires the Secretary to manage the 31 additional acres pursuant to the Utah Wilderness Act of 1984 (Public Law 98-428).

This adjustment would provide for the alignment of the Bonneville Shoreline trail, a multi-county recreational trail designed predominately for heavy non-motorized use and which does not conform to the criteria of a wilderness trail. The boundary adjustment would also eliminate the need for a power line easement within the wilderness area, another non-conforming use.

H.R. 708 – Mendocino National Forest Land Exchange

HR 708 authorizes the direct sale of two parcels comprising 120.9 acres of National Forest System lands on the Mendocino NF in California to the Faraway Ranch. Various improvements and facilities have been constructed on these lands and they have lost much of their National Forest character. This bill provides Faraway Ranch the opportunity to acquire these lands associated with their improvements and activities and allows the Forest Service to utilize the receipts to acquire replacement lands elsewhere in California.

At the time of conveyance, Faraway Ranch will make full payment of the fair market value as determined by an appraisal that conforms to the Federal appraisal standards and is acceptable to the Secretary as well as cover all direct costs associated with completing this transaction. The Department supports this bill because it will improve management efficiency for the forest while recognizing the value of the public's assets.

H.R. 1038 – the Public Lands Fire Regulations Enforcement Act of 2003

We commend Mr. Tancredo and the co-sponsors of H.R. 1038 for their timely efforts through this bill to decrease the number of destructive and costly human-caused wildfires. Our records show that there were 73,457 wildfires in the United States last year, of which over 62,000 were human-caused. Out of

7 million acres burned last year, human-caused fires were responsible for slightly more than 3 million acres.

We support the goal of H.R. 1038, but would like to work with the Subcommittee on some modifications that we believe would improve the bill. We would like to thank the Subcommittee for seeking new and innovative approaches to reduce human-caused fires on federal lands and raising the public's awareness of the laws and consequences of violating them.

We understand the Department of Justice will be providing the Committee a letter that will describe a number of technical and substantive issues that will need to be addressed for this bill to accomplish its goal.

We support the intent and emphasis that H.R. 1038 embodies concerning fire-related violations. We suggest that the Subcommittee consult with the Department of Justice and Administrative Office of the US Courts to further assess the effects this bill may have on prosecutorial resources within the Department and the courts.

We appreciate the interest of the sponsor and the Subcommittee in addressing the fire penalties issue and your willingness to work with us to address the many law enforcement challenges we face. We welcome your continued assistance and would be happy to work with the Subcommittee to achieve improved fire prevention and federal law enforcement and prosecution.

H.R. 1651 Sierra National Forest Land Exchange Act of 2003

H.R. 1651 authorizes the exchange of 160 acres of Federal land on the Sierra National Forest in California with 80 acres of non-Federal land within one year. A portion of the federal parcel is subject to an existing federal hydropower license. The Department supports H.R. 1651 as introduced. The bill will provide for the exchange of a private in-holding for two isolated parcels of federal land, thus improving management efficiency for the Sierra National Forest.

The bill specifies the value of the Federal land to be \$250,000 and the value of the non-Federal land to be \$200,000. H.R. 1651 gives the Secretary the authority to accept a cash equalization payment in excess of 25 percent of the value of the Federal land. These funds shall be available for the acquisition of lands and interests in lands for the National Forest System in the State of California. The

conveyance is subject to a condition that the recipient of the Federal land will agree to convey the land, within a time period agreed to by the Secretary and the recipient, to the Sequoia Council of the Boy Scouts of America. The conveyance will also be made subject to valid existing rights and this or a similar provision needed to insure the continued operation of the FERC license held by Southern California Edison.

We understand that one or more amendments to this bill may be under consideration by the sponsor. We would like to work with the Subcommittee to provide our comments on any proposed changes in the bill.

As H.R. 708, the Mendocino National Forest Land Exchange and H.R. 1651 illustrate, the Department has a number of facilities and appurtenant administrative land excess to agency needs. The FY 2004 Budget contains a proposal for the establishment of a Facilities Acquisition and Enhancement Fund that would enable the Secretary to sell such units and to utilize proceeds from those sales for the acquisition or development of land and improvements for administrative purposes. Funds collected under this authority would address backlogs and administrative consolidations while improving efficiencies. The Department will submit proposed legislation to establish this Fund in the upcoming weeks.

H.R. 2416 - the Paleontological Resources Preservation Act

H.R. 2416, the Paleontological Resources Preservation Act recognizes that paleontological resources, especially vertebrate fossils, are heritage resources which provide opportunities for the public to learn more about ancient ecosystems and the development of life. The Forest Service, as steward of these heritage resources is committed to their protection while providing opportunities for research, education, and recreation. The Department supports the purpose of this bill, but would like to work with the Subcommittee on some aspects.

H.R. 2416 directs the Secretary of the Interior and the Secretary of Agriculture to manage and protect paleontological resources using scientific principles. The bill recognizes the non-renewable nature of fossils and defines paleontological resources as fossilized remains preserved in or on the Earth's crust. This distinguishes these resources from archeological resources, covered under the Archaeological Resources Protection Act (ARPA); cultural items, covered under the National Historic Preservation

Act and the Native American Graves Protection and Repatriation Act (NAGPRA); and mineral resources.

An important aspect of this bill is its formal recognition that casual collection of invertebrate and plant fossils for recreational non-commercial use is a valid public activity on National Forest System lands unless there is an overriding land-use designation. If enacted, the bill would establish collection provisions for paleontological resources including permitting requirements for scientific and educational purposes as well as recreational collection of rocks and minerals for personal use. Currently, there is a complex mix of laws, regulations and guidelines that have created significant jurisprudential challenges. We support penalties that are consistent with recent amendments to the federal sentencing guidelines of the U.S. Sentencing Commission for increased penalties for cultural heritage resources.

H.R. 2416 also provides that the proceeds arising from civil and criminal penalties established under the bill may be available for payment to those who provided information in investigations that lead to the civil violations or criminal convictions for which the penalties were assessed. However, the current reward language in Section 11 provides a maximum reward amount that we believe will be ineffective in most cases. We believe that the appropriate reward amount to be offered or paid for assistance in investigations is best determined by the agency and prosecutor based on the significance of the case and assistance provided or needed.

In addition to the recommendations just mentioned we would like to work with the Subcommittee to make several minor technical improvements.

This concludes my testimony and I would be happy to answer your questions.