

**STATEMENT OF LESLIE A. C. WELDON
DEPUTY CHIEF NATIONAL FOREST SYSTEM
U. S. FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE**

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

PUBLIC LANDS AND FORESTS SUBCOMMITTEE

MARCH 22, 2012

CONCERNING:

S. 1129, GRAZING IMPROVEMENT ACT OF 2011

The Department appreciates the opportunity to provide its views on S. 1129, the “Grazing Improvement Act of 2011”. The Forest Service enjoys a cooperative relationship with the vast majority of the over 6,800 individuals who hold permits for grazing authorizing at total of approximately 8.3 million animal unit months on over 94 million acres of National Forests and Grasslands. Grazing permittees have helped provide for the effective stewardship of our public lands for many decades. The Forest Service’s grazing program not only helps support the economies of rural communities across the west, but it also helps maintain open space on private lands. Most permittees utilize and need both public and private lands to graze livestock economically. The loss of grazing on public lands can result in the loss of grazing on private lands that may lead to the conversion of private open space to other uses such as subdivision development.

The Department understands and shares the Committee’s desire for increasing administrative efficiencies for both the Forest Service and the permittee and while the Department supports certain provisions, we cannot support S. 1129 as written. Specifically, the Department has concerns with: requirements and definitions in the use of categorical exclusions, suspension of agency decisions until appeals are resolved and use of a different appeals process than is currently being developed. The Department is willing to work with the Committee to see if these differences can be resolved.

S. 1129 would revise the permitting process for grazing in the Federal Land Policy and Management Act of 1976. Specifically, the bill would extend the duration of the permit from 10 years to 20 years. It is intended to make permanent the language used in annual appropriation riders which has required expiring permits to be renewed with existing terms and conditions if NEPA has not been completed on allotments associated with the

permit. It would establish and require the use of legislated categorical exclusions from the requirement to prepare an environmental analysis under the National Environmental Policy Act (NEPA). The categorical exclusions would be used if the decision continues the current grazing management on the allotment and if only minor modifications are needed to the permit. Consistent with the appropriations rider, the bill also would provide the Secretary with the sole discretion to determine the priority and timing for completing the environmental analysis of a grazing allotment, notwithstanding the schedule in section 504 of the Rescissions Act. Finally it would create a new process for appealing Forest Service decisions relating to grazing permits.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee. The Department supports the concept having the flexibility to issue a longer term permit where allotments are meeting Forest Plan standards. The Department also supports making the annual appropriations language permanent as long as the extension is of a limited duration until the completion of the NEPA process. While we support providing the line officer with the option to use a categorical exclusion category where the parameters of what constitutes a minor adjustment are narrowly defined, we do not support requiring use of categorical exclusions. We would appreciate the opportunity to work with the Committee on specific language regarding what constitutes minor modifications that would qualify for categorical exclusions. We have completed NEPA analyses on three-fourths of our grazing allotments and would note that whether we ultimately utilize a categorical exclusion or an environmental assessment, the upfront analysis work in determining the conditions of the range, is similar.

The Department does not support the language in S.1129 that provides for a new appeal process. The Forest Service is currently completing the revision of appeal regulations in an effort to provide for a more streamlined and efficient process (36 CFR 251, subpart C, "Appeal of Decisions Related to Occupancy and Use of National Forest System Land"). We are in the process of incorporating public comments received. We believe these regulations, which will be designated 36 CFR 214 will provide for the most appropriate and effective means to address administrative decisions. We would also like to work with the Committee to consider language which would increase the responsibility of the permittees to ensure some level of self-monitoring of allotments to assist in ensuring the long-term health of these watersheds and landscapes.

The Forest Service is also concerned that S. 1129 would require the Forest Service to suspend a decision, if a permittee appeals a grazing permit or lease decision, until the appeal is resolved. While there are situations which can wait for the conclusion of the appeals process, there are others that may require more immediate action; e.g., unauthorized use of an allotment, significant impacts to other allotments, non-payment, unacceptable resource damage, etc.

While the Department does not support the bill as written, the Department supports the intent of the bill and would like to work with the Committee on specific language and concerns as noted. We do not want to increase efficiencies at the expense of good land

stewardship. While the majority of the grazing permittees are excellent stewards in caring for the range resource, we also have examples where permittees need to take action to improve range conditions.

We welcome the opportunity to work with the Committee on the legislation to develop a bill that both increases efficiencies and protects the long-term health of our National Forests and Grasslands.

Thank you for the opportunity to appear before you today and would be happy to answer any questions you may have.

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BEFORE THE UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
MARCH 22, 2012
CONCERNING

S. 1635, the “San Juan Mountains Wilderness Act of 2011”

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today and provide the Department of Agriculture’s views regarding S. 1635, the “San Juan Mountains Wilderness Act of 2011”. I am Leslie Weldon, Deputy Chief for the National Forest System.

The Department supports S. 1635 and would like to offer minor modifications to the bill that would enhance wilderness values, clarify the special management area designation, and improve our ability to manage resources in the area. We thank Senator Udall for his collaborative approach and recognize the local involvement that has contributed to the wide support in Colorado for this bill.

The Department defers to the Department of the Interior in regard to the proposal to designate approximately 8,600 acres of Bureau of Land Management (BLM) lands as the McKenna Peak Wilderness.

S. 1635 would designate nine parcels of the Grand Mesa, Uncompahgre and Gunnison National Forests as wilderness under the National Wilderness Preservation System. These areas, totaling approximately 24,400 acres, encompass some of Colorado’s most majestic, remote landscapes with many abundant wildlife species including elk, deer, bighorn sheep, bears and a variety of birds. Several world-class trout streams are also found in the areas. These areas also provide opportunities to experience solitude and primitive recreation use for members of the public seeking areas to connect with nature.

These parcels would be additions to two existing wildernesses: Lizard Head and Mount Sneffels. In addition, S. 1635 would designate the Sheep Mountain area as a Special Management Area to be managed to maintain the area’s existing wilderness character and

potential for inclusion in the National Wilderness Preservation System. Also, S. 1635 would provide for a mineral withdrawal within a portion of Naturita Canyon.

Lizard Head Wilderness Additions

The Lizard Head Wilderness lies astride the spectacular San Miguel Mountains, 10 miles southwest of Telluride, Colorado on the Uncompahgre and San Juan National Forests. Elevations in the area range from 9,500 to over 14,000 feet. The wilderness is evenly split between the two national forests and is 41,200 acres in size.

The proposed wilderness additions include five parcels, encompassing approximately 3,150 acres of National Forest System lands adjacent to the existing wilderness. Though neither of the Forest Plans recommends these areas for wilderness designation, wilderness designation would be consistent with current management of the area. No summer motorized recreation is currently allowed and effects to winter motorized recreation will be minimal as there is very little snowmobile use of the area.

Mount Sneffels Wilderness Additions

The Mount Sneffels Wilderness comprises more than 16,500 acres on the Uncompahgre National Forest between the communities of Telluride and Ouray, Colorado. Elevations range from 9,600 to 14,150 feet at the top of Mount Sneffels.

The proposed wilderness additions include four parcels that encompass approximately 21,250 acres of National Forest System land adjacent to the existing wilderness. As with the Lizard Head Additions, even though this area was not recommended as wilderness in the Forest Plan, designation is generally aligned with forest plan direction and will have minimal effects on summer and winter recreation.

We would like to work with the subcommittee to address some technical aspects of the bill. We recommend changing the wilderness boundary near Telluride to provide for a more definitive boundary by following a cliff formation. This would exclude the commercial foot race from the wilderness and follow a more recognizable topographic feature for the wilderness boundary.

Sheep Mountain Special Management Area

S. 1635 would also designate an area of about 21,600 acres of NFS land that lies south of the town of Ophir, Colorado as a special management area. About 10,850 acres are within the Uncompahgre National Forest and about 10,750 acres are within the San Juan National Forest. This area contains some lands purchased recently with funds provided by Congress as part of the Ophir Valley Land and Water Conservation Fund project.

Elevations in the area range from 10,200 to almost 13,900 feet at the top of Vermillion Peak. The area is dense with spruce and fir trees at the lower elevations. Above timberline are high alpine valleys with numerous lakes, tarns and waterfalls beneath dramatic 13,000-foot peaks and serrated ridges. The Forest Plans identify half of the area to be managed for semi-primitive non-motorized recreation and the other half for other recreation purposes.

The Department recognizes the desire of the bill sponsors to preserve the characteristics of Sheep Mountain as a Special Management Area for potential designation as wilderness. With respect to water rights and water development, Section 4(d)(3) would prohibit new water development projects in the special management area. This provision is more restrictive than section 4(d)(4) of the Wilderness Act under which the President of the United States may exercise discretion to authorize such facilities within designated wilderness areas if they are determined to be in the public interest. We support amending this provision so that it is consistent with the discretion authorized by the Wilderness Act.

Naturita Canyon Withdrawal

S. 1635 would also provide for a withdrawal on approximately 6,600 acres of National Forest System lands within Naturita Canyon on the Uncompahgre National Forest, about five miles south of the community of Norwood, Colorado. Naturita Canyon is a relatively low-elevation river drainage (7,000 feet) with steep canyon walls that tower 1,000 feet. There are no current leases within the area proposed for withdrawal. Impacts on available oil and gas resources for this withdrawal are unknown. Further exploration information would be needed for a conclusive assessment.

This concludes my prepared statement. I would be happy to answer any questions you may have.

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**BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
PUBLIC LANDS AND FORESTS SUBCOMMITTEE**

MARCH 22, 2012

CONCERNING:

**S. 1687 THE CARSON NATIONAL FOREST BOUNDARY ADJUSTMENT ACT
OF 2011**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today and provide the Department of Agriculture's views regarding S. 1687 the "Carson National Forest Boundary Adjustment Act of 2011". I am Leslie Weldon, Deputy Chief for the National Forest System.

S. 1687 would modify the boundaries of the Carson National Forest in the State of New Mexico to include approximately 5,000 acres of private land known as "Miranda Canyon" that is adjacent to the existing National Forest boundary. The Department supports the adjustment of the boundary because it will create an opportunity for the acquisition of Miranda Canyon property as part of the Carson National Forest.

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

The Miranda Canyon Property is an expansive piece of property that ranges in elevation from 7,200 ft. to 10,800 ft. The property has various vegetative types from low elevation sagebrush and piñon - juniper to high elevation mixed conifer forest including large aspen clones. The landscape has numerous ridges and peaks that provide breathtaking

views of the Rio Grande Gorge to the west and of Wheeler Peak (highest peak in New Mexico) to the north. The property contains historical features such as the Camino Real Trail and unique geologic features such as a small volcano and Miranda granite - 1.7 billion year old rock outcrops that rival the age of rock found at the bottom of the Grand Canyon. There are also numerous meadows and riparian vegetation that provide excellent habitat for wildlife.

The proposed boundary adjustment has wide grass roots support from the local residents, the Taos County Board of Commissioners, the Village of Taos, and local Native American Tribes and Pueblos. To date, there has been no opposition voiced to adjusting the boundary of the Carson National Forest. The adjustment of the Forest boundary would open the door to potential federal acquisition of Miranda Canyon from a willing seller. The cost of acquiring the Miranda Canyon property would be approximately \$10,500,000, and amount that would be subject to the availability of appropriations. The Weimar Properties has agreed to a conservation sale to the United States through an agreement with a 3rd party non-profit organization. This agreement keeps the property from being developed or sold on the open market until funding is appropriated. The acquisition would provide additional recreation opportunities for hunting, sightseeing, camping, hiking, interpretation, and horseback riding for the public.

Thank you for the opportunity to testify in support of S. 1687. The Department supports the acquisition of the Miranda Canyon property because it would make an outstanding addition to the National Forest System.

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BEFORE THE UNITED STATES SENATE
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SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
MARCH 22, 2012
CONCERNING
S. 1774 ROCKY MOUNTAIN FRONT CONSERVATION MANAGEMENT
AREA

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today and provide the Department of Agriculture's views regarding S. 1774, the "Rocky Mountain Front Heritage Act of 2011". I am Leslie Weldon, Deputy Chief for the National Forest System.

The Department supports S. 1774 and would like to work with the Committee to define and clarify questions of scope and timing for the noxious weed management and the non-motorized recreation opportunities.

The Rocky Mountain Front area of Montana on the Lewis and Clark National Forest lies just to the south of Glacier National Park and the Blackfeet Indian Reservation. It is an area where the plains meet the great continental divide. The area is marked by spectacular scenery and lush grasslands and that is home to a broad range of Montana's fauna and flora. The west side of the area is adjacent to the 1.5 million acre Bob Marshall Wilderness Complex most of which was designated by the original 1964 Wilderness Act. The east side of the area is bordered by vast private ranchlands that have helped define Montana's western heritage.

S. 1774 would designate approximately 195,000 acres of Federal land managed by the Forest Service and approximately 13,000 acres of Federal land managed by the Bureau of Land Management as the Rocky Mountain Front Conservation Management Area (CMA). The bill would also designate additions to the National Wilderness Preservation System of approximately 50,400 acres to the Bob Marshall Wilderness and approximately 16,700 acres to the Scapegoat Wilderness; both areas would be managed by the Forest Service.

The Department defers to the Department of the Interior on the designation of lands managed by the Bureau of Land Management (BLM).

The Rocky Mountain Front Conservation Management Area would be managed to conserve, protect, and enhance its recreation, scenic, historical, cultural, fish, wildlife, roadless, and ecological values. Within the Conservation Management Area, S. 1774 would permit the use of motorized vehicles only on existing roads, motorized trails and designated areas. S. 1774 would allow for the construction of temporary roads as part of a vegetation management project in any portion of the Conservation Management Area not more than ¼ mile from designated roads. The bill also would authorize the use of motorized vehicles for administrative purposes including noxious weed eradication or grazing management. Livestock grazing would continue within the Conservation Area and Wilderness Areas where established prior to the date of enactment.

S. 1774 would require the Secretary to prepare a comprehensive management strategy for the Rocky Mountain Ranger District on the Lewis and Clark National Forest to prevent, control, and eradicate noxious weeds. The Secretary also would be required to conduct a study to improve non-motorized recreation trail opportunities.

For decades, the Forest Service has worked in partnership with landowners to protect the economic and social value of the land considered for designation as the Conservation Management Area. There are 21 Federal land grazing allotments in the CMA. The landscape also provides some of the best backcountry recreation experiences in the world. Because of the popularity of the area, Federal and private land managers have realized that there must be specific management emphasis placed on how the lands are used and protected. As more people enjoy and use this area, influxes of noxious weeds have occurred that could change the native ecosystem structure and function and seriously impact the private ranches. S. 1774 calls for measures that would direct federal agencies to work with state and private organizations to implement projects that concentrate on the prevention, control and eradication of invasive plants such as spotted knapweed (*Centaurea maculosa* Lam.) that are threatening to change the ecosystem. The Lewis and Clark National Forest routinely works with other agencies and land owners to address weed concerns. The Lewis and Clark National Forest is in the process of developing a memorandum of understanding with the U. S. Department of Agriculture Natural Resources and Conservation Service (NRCS) that will address how the agencies will work together regarding noxious weed control measures on the interface between private and Federal lands. The Department supports the intent described in the bill to address noxious weeds.

The Department also supports the National Forest System lands identified for motorized and non-motorized recreation use, including mountain biking, in the conservation areas. The provisions in S. 1774 are consistent with the current travel management plan for the Rocky Mountain Ranger District. The travel management plan was approved by the Lewis and Clark National Forest Supervisor in October of 2007 after extensive public participation.

Approximately 67,000 acres of land are identified in the forest plan for the Lewis and Clark as either recommended to Congress for wilderness designation or for further study for their potential as wilderness. The Department supports the wilderness designations included in this bill.

The Department recognizes the management of vegetation along current motorized forest roads is an important component of this bill. Public safety is an important consideration in an area that is impacted by mountain pine beetle, which has created physical risk to the roadways and possible increased fire risk due to ignitions from road users. The Beaver-Willow Road, a previously established road, crosses through the Bear-Marshall-Scapegoat-Swan inventoried roadless area. As we understand the bill, the road's location in an inventoried roadless area would not preclude timber harvest within ¼ mile of the Beaver-Willow Road.

The bill also calls for a study to identify opportunities to improve non-motorized trails in the proposed Conservation Area. The Department would like to work with the Committee to further define the scope of this part of the proposed legislation. All of the measures called for in this bill fall within the administrative authority of the Forest Service except for Wilderness designation and as stated, are consistent with current Forest Service management goals for the area. Several of the components such as comprehensive weed management strategies, treatment of vegetation and recreation opportunity studies are needs that exist throughout the Northern Region and Forest Service. The managers of the National Forest System must prioritize this work based on workforce capacity and other resources. Extending the required timeframes for the comprehensive noxious weed management strategy from 1 to 3 years and the study to address improved non-motorized trails from 2 to 3 years would allow more time for the required consultations and manage workload and resources.

Thank you for the opportunity to testify on this bill today and I will be happy to answer any questions from the Committee.

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

PUBLIC LANDS AND FORESTS SUBCOMMITTEE

MARCH 22, 2012

CONCERNING:

S. 1906 THE CABIN FEE ACT OF 2011

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today and provide the Department of Agriculture's views regarding S. 1906, the Cabin Fee Act of 2011. I am Leslie Weldon, Deputy Chief for the National Forest System. The Department appreciates the cooperative relationship between the Forest Service and the over 14,000 cabin owners, their representatives and the recreational experiences they enjoy on the National Forests.

S. 1906, which would replace Cabin User Fee Fairness Act of 2000 (CUFFA) on National Forest System (NFS) lands reserved from public domain, would revise the procedures for determining the amount an owner of a cabin on a National Forest must pay to lease the underlying federal property. There are advantages to S. 1906 from an administrative perspective. It would reduce the agency's cost of performing appraisals, and it would provide certainty for cabin owners in terms of anticipated fees. However, S. 1906 also presents challenges as currently written. The Forest Service has had constructive dialogue with the National Forest Homeowners Association and the Committee in attempting to resolve the issues we are raising in this testimony. The Forest Service welcomes the opportunity to work with Congress to create a bill that is fair to cabin owners, other users of the National Forests, and the taxpayers, and that can be administered without undue burden on the agency or cabin owners.

Before describing the challenges of this bill, it is important to consider the history of this program. In the early part of the twentieth century, the Forest Service began introducing Americans to the beauty and grandeur of their National Forests. One way to accomplish this objective was to permit individuals to build cabins for summertime occupancy within the National Forests. Cabin owners were permitted to occupy NFS land during the

summer months in exchange for a fee. In 1915, the agency began to issue permits of up to twenty years for occupancy of NFS land. At that time, there was relatively little recreational use of the National Forests. Today, the National Forests host over 175 million visitors per year. When this recreational cabin program began, there was limited interest in building and owning a remote cabin on NFS land. Today, similar land at ski resorts, near lakes, and remote mountain settings are highly prized. In the early years, fees were nominal, but since the 1950's, the Forest Service has been mandated to obtain fees approximating market value and therefore provide a fair return to the American people for the use of NFS land. Increasing fees have led to controversy and have resulted in enactment of multiple fee moratoriums and caps over the years. CUFFA was the latest attempt to achieve an equitable fee for the use of NFS land.

CUFFA prescribes parameters for the appraisal process. Fees under CUFFA are based on five percent of the appraised market value of the lot under permit. The agency began the appraisal process pursuant to CUFFA in 2007, and plans to complete the remaining appraisals and resolve the appraisal appeals by the end of 2013. Some cabin owners raised concerns and requested relief. In some instances there were dramatic increases because the old fees were based on appraisals completed ten to thirty years ago. In response, appropriations acts have included limits on fee increases.

The bill would replace CUFFA on National Forest System (NFS) lands reserved from the public domain. It would create nine payment tiers, or categories, and provide for an additional payment on the sale or transfer of the cabin. It would require the agency to place cabins in the nine categories utilizing the most recent appraisals. All appraisals are scheduled to be completed by 2013. CUFFA would remain in place for cabins on acquired NFS lands.

Here are our concerns with the bill as written:

Cabin Transfer Fees: S.1906 requires the Department to obtain payment based on a percentage of the amount of the cabin sale. The Department is concerned about the administrative challenges of obtaining accurate sale information. Also we have concerns that the U.S. Government would be receiving proceeds tied to the value of the privately owned structure. The U.S. government has no stake in the value of the structure, only the lease value of the public land. The Department is not opposed to collecting a standard fee when the permit is transferred.

Fee Amounts: Our analyses indicate that many of the proposed fees, particularly for the higher valued lots, would be less than those which would be paid under current law and which results in fees being below market value. As previously noted, fees below market value can lead to substantial profits when cabins are sold, as the sale prices will reflect the value of the locations more than the value of the cabins. To reduce the likelihood of these profits, the proposed fee schedule should be more closely tied to market value.

Judicial Review: The Department recommends that the venue for any action brought before the U.S. District Court be in the judicial district in which the cabin

is located and not where the permit holder resides. While we do not anticipate a significant number of legal challenges, the administrative costs could otherwise be a significant burden for the agency.

Different Fee Systems based on Land Status:

The bill applies to cabins on NFS lands reserved from the public domain which is the status of NFS land in much of the western U.S. However, the NFS also consists of lands acquired from other ownerships. Most of the eastern and mid-western National Forests are comprised of acquired lands. We estimate that seven to ten-percent of the estimated 14,000 cabins nationwide are located on acquired NFS lands and would be subject to a different fee system. It would be burdensome to administer two separate fee systems. To simplify the process and reduce the administrative burden, the Department recommends that the same fee system apply to all cabins on all NFS lands.

Technical Changes: Additionally, there are a number of additional technical suggestions which we would like to share with the Committee.

Several years ago, the Forest Service conducted a study that estimated that the annual cost of administering the Recreation Residence Program. In California the administration of this program was estimated to account for over fifteen percent of the total recreation budget. On the El Dorado National Forest in California, the Forest Service estimates that one third of the recreation budget is spent administering this program. While there are some 14,000 cabin owners, there are 175 million visitors to the National Forests each year. S.1906 would reduce that administrative burden by reducing appraisal needs. This would increase the availability of funding in the recreation budget for the Forest Service to provide a quality recreational experience and protect the environment for all who use the National Forests.

We welcome the opportunity to work with the Committee to complete legislation that is fair to the taxpayer, the cabin owner, and other users of the National Forests and Grasslands, and can be administered without undue burden on the agency or cabin owner. Again, we appreciate the recent forthright and productive discussions regarding these concerns. We can support this legislation if these concerns are addressed.