

**STATEMENT OF
GREGORY SMITH
ACTING DEPUTY CHIEF OF STAFF
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON
NATIONAL PARKS, FORESTS AND PUBLIC LANDS
DECEMBER 2, 2011
CONCERNING**

H.R. 1237, to provide for a land exchange with the Trinity Public Utilities District of Trinity County, California, involving the transfer of land to the Bureau of Land Management and the Six Rivers National Forest in exchange for National Forest System land in the Shasta-Trinity National Forest, and for other purposes.

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 H.R. 1237. The bill would provide for a land exchange with the Trinity Public Utilities District (TPUD) of Trinity County, California, involving the transfer of land to the Department of the Interior, Bureau of Land Management (BLM) and the Six Rivers National Forest in exchange for National Forest System land in the Shasta-Trinity National Forest, and for other purposes.

H.R. 1237 directs the Secretary of Agriculture to convey to the TPUD certain parcels of National Forest System (NFS) land comprising approximately 100 acres in the Shasta-Trinity National Forest near the Weaverville Airport in Trinity County, in exchange for approximately 150 acres of private land, known as the Van Duzen parcel, within the boundaries of the Six Rivers National Forest. Additionally, to equalize the exchange, the TPUD also would convey approximately 47 acres, known as the Sky Ranch parcel, to the Bureau of Land Management.

While supportive of the TPUD's desire to facilitate access to the Weaverville Airport, the Department does not support HR. 1237 because the land to be conveyed to the Secretary of Agriculture does not possess any recreation or natural resources values that would contribute to the management of the NFS. The consolidation resulting from this Federal acquisition will not produce measurable forest management benefits as there are other private parcels interspersed in the general area. In addition, the Van Duzen parcel is directly adjacent to a private parcel that is currently operated as a waste transfer station. There is no provision in the legislation to ensure that any hazardous conditions associated with these lands or other activities could be identified and remediated if discovered before the United States would acquire the Van Duzen parcel.

The Department would like to work with TPUD and the committee to identify parcels located within the boundaries of the Shasta-Trinity National Forest that would provide for the needs of the TPUD as well as the needs of the Shasta-Trinity National Forest.

For example, the Mt Eddy parcels located near the summit of Mt. Eddy, the highest point in Trinity County, the highest point in the Klamath Ranges, and the ninth most prominent peak in the State of California more appropriately meet the needs of the Shasta-Trinity National Forest. The summit of Mt. Eddy offers one of the most scenic views in northern California, looking east to Mt. Shasta, west to the Trinity Alps and north across Shasta Valley to Oregon. Several high elevation alpine lakes and numerous alpine meadows are included with this proposed acquisition. The Mt. Eddy parcels have a number of unique geologic features and opportunities for study and public education. The possibility of acquisition presents an opportunity to preserve the high quality visual character of this area, protect critical wildlife and plant habitat by consolidating ecosystems, protect critical watersheds and provide outstanding recreation opportunities.

Currently, the Mt. Eddy parcels create ownership fragmentation within the boundary of the Shasta-Trinity National Forest. There is a highly motivated and willing seller and a partner, the Trust for Public Land (TPL) that is working with the seller to secure this property until funding is available. These parcels have been identified in the Shasta-Trinity National Forest Land and Resource Management Plan as a high priority to acquire, and would provide the opportunity to increase the efficiency and effectiveness of natural resource management efforts and enhance recreation experiences by consolidating lands within the forest boundary.

In addition to the land acquisition, the Department also recommends a provision in the legislation for the reservation of easements for all roads and trails across the 100-acre parcel of NFS lands to be conveyed that the Secretary considers necessary or desirable to provide for administrative purposes and to ensure public access to adjacent NFS lands.

The BLM has advised the Forest Service that they would welcome the approximately 47 acres of Trinity County property as it would promote public access to the Trinity Wild and Scenic River (WSR) for recreation purposes, and restoration of riparian habitat along the WSR corridor. The parcel, known as the Sky Ranch parcel, lies between State Highway 299 and BLM-managed land on the Trinity Wild and Scenic River. This area has been identified for acquisition in the Redding Resource Management Plan.

Although the Department does not support H.R. 1237 as written, we are willing to work with the bill sponsors, the TPUD, the TPL, and the Committee, in hopes of assisting the TPUD in meeting its needs, as well as the needs of the Shasta-Trinity National Forest to improve recreation opportunities and provide further protection of valuable natural resources.

I am happy to answer any questions you might have.

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H.R. 2947, a bill to provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota.

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views regarding H.R. 2947, a bill to provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota.

H.R. 2947 would direct the Secretary of Agriculture to release, without consideration, and through deed, the conditions imposed on the use of approximately 25.51 acres of land on Devil Track Lake within the Superior National Forest. The parcel was conveyed to the State of Minnesota in 1950 on the conditions that it be used for the establishment of a public airport in Cook County, Minnesota (the County). The bill would release the reversionary interest held by the United States pursuant to the original conveyance in 1950, which states that if the land is no longer used for a public airport, it will revert back to the United States.

The Department supports H.R. 2947. The land parcel is currently included in the County's Airport Layout Plan (ALP) and is actively being used as a seaplane base. Cook County Highway 8 (Devil Track Road) crosses the parcel and provides public access to the airport as well as to National Forest System land. The road requires maintenance and improvement for public safety purposes due to increased traffic in the area. Because of State law relating to contract maintenance, the County currently cannot perform significant maintenance on this portion of the County road without clear title to the land. In the interest of working with our County partner, we support the release of the deed restrictions and reversionary interest in this case to resolve the County's technical contract issue so that maintenance can be performed on the portion of Devil Track Road that crosses the 25.51 acre land parcel to improve public safety.

We understand that the County plans to continue use of the land parcel in its ALP for use as a seaplane base. Therefore, we believe that if the bill is enacted, future use of the land parcel and management of the area surrounding the parcel would not change.

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H.R. 1038, to Authorize the Conveyance of Two Small Parcels of land within the boundaries of the Coconino National Forest containing private improvements that were developed based upon the reliance of the landowners in an erroneous survey conducted in May 1960

Mr. Chairman Bishop and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's view on H.R. 1038, a bill designed to correct an erroneous, private survey on the Coconino National Forest in Arizona. I am Gregory Smith, Acting Deputy Chief of Staff of the United States Forest Service. The Department supports this bill.

In 1960-61, privately contracted surveyors surveyed two sections of land in what is now known as the Mountaineer Subdivision, which largely abuts the Coconino National Forest. Both surveys were found to be inaccurate when the Bureau of Land Management conducted a survey in 2007. The BLM survey correctly re-established the boundary of the National Forest System lands.

Because of the erroneous private surveys, approximately 19 parcels totaling 2.67 acres of National Forest System land now have structures built on them. Although the Forest Service has authority under the Small Tracts Act (Public Law 97-465) to sell this land to the homeowners, H.R. 1038 would more quickly and efficiently resolve the issue with all property owners at the same time.

Section 1(c) of the bill would provide for consideration in a fixed amount of \$20,000. To ensure that appropriate compensation for the land to be conveyed is recovered on behalf of the American taxpayer, an appraisal should be done consistent with Federal appraisal standards and the homeowner would pay the appraised value. The bill should also provide that the homeowner should bear other administrative costs associated with the conveyance.

I would be happy to answer any questions you may have.

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H.R. 2157, to facilitate a land exchange involving certain National Forest System lands in the Inyo National Forest, and for other purposes.

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views regarding H.R. 2157, a bill to facilitate a land exchange involving certain National Forest System lands in the Inyo National Forest, and for other purposes.

H.R. 2157 would allow the Secretary of Agriculture, in a proposed land exchange involving the conveyance of certain National Forest System land located within the boundaries of the Inyo National Forest, to accept for acquisition certain non-Federal lands in California lying outside the boundaries of the Inyo National Forest, if the Secretary determines that the acquisition of the non-Federal lands is desirable for National Forest System purposes. In addition, H.R. 2157 would allow the Secretary of Agriculture to accept a cash equalization payment in excess of 25 percent, which shall be deposited into the account in the Treasury of the United States, as established by the Sisk Act, to be made available to the Secretary for acquisition of land for addition to the National Forest System.

The Department supports H.R. 2157 as it will facilitate the land exchange process by authorizing a cash equalization payment in excess of 25 percent, while not exempting the land exchange from all requirements and regulations of a land-for-land exchange, including provisions of the National Environmental Policy Act (NEPA).

Mammoth Mountain Lodge Redevelopment LLC, commonly known as Mammoth Mountain Ski Area (MMSA), wishes to acquire 20 acres of National Forest System land in the Main Lodge area, currently managed as part of a Ski Area Term Special Use Permit, so it can redevelop aging lodging facilities, increase capacity, and develop employee housing and whole and fractional ownership condominiums. These latter plans are inconsistent with its Ski Area Term Special Use Permit.

MMSA, with the assistance of Western Lands Group, has acquired or optioned 11 non-Federal parcels suitable for acquisition in the Inyo, Stanislaus, Plumas, and Eldorado National Forests for the proposed exchange. These parcels were selected by the respective National Forests based on

priorities identified in their Forest's Land Acquisition Plans. At the request of the Inyo National Forest, MMSA optioned two Los Angeles Department of Water and Power (LADWP) parcels that are leased by the Forest Service as administrative sites. The southern parcel houses the Interagency Visitor Center near Lone Pine, California. The northern parcel is adjacent to the White Mountain Ranger Station in Bishop, California, and serves as a storage area for construction materials, recreation supplies and larger maintenance trucks. Legislation is needed to acquire the LADWP parcels because they are located outside the declared boundary of the Inyo National Forest.

In addition, because of the expected high value of the Federal parcel, estimated to range from \$10 - \$20 million, the value of the Federal and non-Federal lands are not equal, so legislation is needed to authorize the Forest Service to accept cash equalization in excess of the limit of 25 percent of the value of the Federal land as provided in the Federal Land Policy and Management Act (FLPMA). The Department recommends, however, the legislation be modified to clarify that funds deposited in the Sisk Act account be made available to the Secretary without further appropriation to acquire land in the State of California as additions to the National Forest System.

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H.R. 3452, Wasatch Range Recreation Enhancement Act

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views regarding H.R. 3452, the Wasatch Range Recreation Enhancement Act.

Section 3(a) of H.R. 3452 would direct the Secretary of Agriculture to sell, at market value, approximately 30 acres of National Forest System (NFS) land in the Uinta-Wasatch-Cache National Forest in Salt Lake County, Utah. The purpose of the sale is to permit the construction of a ski-lift, gondola or tramway to serve as a public access transportation interconnection between Solitude Mountain Resort and the Canyons Ski Resort in the Wasatch Mountains. Solitude Mountain Resort is built on NFS land and operates under a 40-year special use permit. The transportation alternative is called the "SkiLink."

The land sale would be subject to compliance with the National Environmental Policy Act (NEPA) and other applicable laws. However, once conveyed, the owner could make any use of the land and would not be subject to any restrictions on use. Proponents cite a report asserting that the SkiLink will cut down on ski-season vehicle traffic between the two resorts by as much as 18,000 vehicles. The Forest Service has been unable to view the report on the SkiLink proposal and its conclusions are in dispute among local interested parties.

While we appreciate the desire of the bill's proponents to reduce traffic between the two resorts, the Department does not support HR. 3452. The SkiLink would pass through an inventoried roadless area. Selling the parcel will create a private inholding in the National Forest between two resorts, one of which is built on public land, which is inconsistent with efforts to consolidate ownership within forest boundaries. Furthermore, watershed protection and other considerations, such as the visual resources for the area would be diminished.

Section 3(c) of the bill would require an appraisal to be completed no later than six months after enactment of the Act. Six months is not enough time to complete an appraisal to Federal standards. Even when expedited, appraisals take 12 to 18 months. Section 3(d) provides for the return of the sold land to the Forest Service if the land has not been used for a period of 10 years or longer. Section 3(d) would provide the Secretary with the option to revert the land back to the

United States if the land is not used for the purpose of the conveyance. Reversionary interest in conveyed land puts the agency in the position of policing the use of private land. At a minimum, any reversion should be at the discretion of the Secretary and not automatically triggered after 10 years.

Section 3 (e) of the bill would direct the Secretary to complete all actions that may be required under various laws, including NEPA. However, since the legislation requires the Secretary to convey the land by sale, the extent to which NEPA would apply is unclear. NEPA only applies to those matters over which the agency exercises discretion. NEPA may apply, for example, if the Forest Service has discretion to determine the precise area to be conveyed or to establish terms and conditions for use of the property.

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S. 684, to provide for the conveyance of certain parcels of land to the Town of Alta, Utah

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. 684, to provide for the conveyance of certain parcels of land to the town of Alta, Utah. S. 684 would direct the Secretary of Agriculture to convey, without consideration, certain parcels of National Forest System (NFS) land comprising approximately two acres located in the Uinta-Wasatch-Cache National Forest to the Town of Alta, Utah, for public purposes. While supportive of the Town's desire to consolidate its municipal resources, the Department does not support S. 684.

The Forest Service can convey the parcel under current authorities through the Townsite Act of July 31, 1958 (16 U.S.C. 478a). The Townsite Act authorizes communities to acquire up to 640 acres of NFS land in order to serve community objectives, and requires payment to the United States of the market value of the federal land. Similarly, the lands could be made available by exchange for equal value consideration.

It is long standing policy that the United States receive market value for the sale, exchange, or use of NFS land. This policy is well established in law, including the Independent Offices Appropriation Act (31 U.S.C. 9701), section 102(9) of the Federal Land Policy and Management Act (43 U.S.C. 1701), as well as numerous land exchange authorities. Based on recent land sales in the Alta area, we estimate the value of the lands proposed to be conveyed under S. 684 to be approximately \$500,000 per acre.

Finally, S. 684 would require the Town of Alta to cover the Federal land survey costs associated with the proposed conveyance. It also should provide that the Town should bear other administrative costs associated with the conveyance.

Although the Department does not support S. 684 as written, we are willing to work with the bill sponsors, the Town of Alta, and the Committee, in hopes of assisting the Town in achieving its desired consolidation of municipal resources.

This concludes my statement and I would be happy to answer any questions you might have.