

**Statement
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**Before the
Subcommittee on National Parks, Forests and Public Lands
House Natural Resources Committee
U.S. House of Representatives**

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H.R. _____, the Cabin Fee Act of 2011

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 on H.R. _____, the Cabin Fee Act of 2011. Our testimony today is based upon a discussion draft of this bill, as the bill has not yet been introduced. As we previously testified on April 22, 2010, the Department appreciates the over 14,000 cabin owners across the country and the recreational experiences they enjoy on National Forest System (NFS) lands.

While the Department does not support the legislation as currently written, we would like to work with the Committee to address areas of concern identified in this testimony in order to capture some of the advantages that are incorporated in this draft legislation.

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 for 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 171 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, selling for prices beyond the means of many Americans. In the early years, permit fees were nominal, but since the 1950s, the Forest Service has been mandated to obtain fees approximating market value 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.

Cabin User Fee Fairness Act of 2000 (CUFFA) was the latest attempt to achieve an equitable fee for the use of National Forest System land. CUFFA prescribes the parameters the agency must follow in conducting appraisals and establishing fees, which 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 will be continuing that effort through 2012. As cabin owners received notice of the new fees, some have experienced dramatic increases because the old fees were based on appraisals completed ten to thirty years in the past. In response, Congress included appropriations language for FY2010 which limited fee increases to no more than 25% of the fee paid in calendar year 2009.

There are a number of examples of families who have had cabins for generations, but are having difficulty paying the new fees. However, there are also examples where low annual fees in the past have led to significant financial gains when cabin owners have sold their cabins for considerably more than the value of the structure, essentially benefiting from a lower than market value for their use of public land. When this occurs, cabin owners are, in effect, selling the location of their cabin, which is owned by the American people. Some cabins have sold at a premium price, only to be torn down by the new owner and replaced with a new structure.

This bill would replace the current fee structure under CUFFA on recreation residence cabins on National Forest System lands reserved from the public domain. This bill under section 3(b)(2), will create nine payment tiers or categories and provide for an additional payment under section 4 on the sale or transfer of the cabin as referenced in the transfer fees. We agree with the concept of the payment tiers; however, we recommend that the fees be based on market value. If the payment tiers are based on market value, the transfer fee section could be eliminated. This bill does not return a fee based upon market value, especially those in the ninth tier.

H.R. _____ would revise the procedures for determining the amount an owner of a cabin on the National Forests must pay to lease the underlying public property. Our projections indicate that enactment of H.R. _____ in its current form would result in fee revenues significantly below the fee revenues expected to be generated under current law, with some cabin owners potentially being subject to fees below the market value of their property.

The Department understands the financial burdens that some current cabin owners may face as a result of CUFFA. The Department welcomes the opportunity to work with Congress to create a bill that takes into account the needs of cabin owners, other users of the National Forests, and the taxpayer, and that can be administered without undue burden on the agency or cabin owners.

Here are our concerns with the bill as written:

Section 3, Fee Amount: Our analyses indicate that many of the proposed fees would be less than those under current law which results in fees being below market value for many of the lots. As previously noted, fees below market value can lead to windfall profits as recognized by the market when cabins are sold, as the sale prices will reflect the value of the locations as much or more than the value of the cabins, especially at the higher end values. When the buyer of a cabin knows he or she will be paying market value for the location, prices tend to reflect only the value of the structure being conveyed. To reduce the likelihood of windfall profits, the proposed fee schedule should be based on market value or a percentage thereof. In addition, to reduce the

administrative burden of billing or reimbursing fees due to changes in the fee estimate, the appraisals should be updated as scheduled and in place prior to implementation of any new fee legislation. The basis for establishing the fee amounts for the individual Tier levels should be based on first and second level appraisals and other indicators of market value. The assignment by the Agency of individual Tier levels for the cabin holders should be administrative in nature.

Section 3 (d) (1) Effect of Destruction, Substantial Damage, or Loss of Access: This section deals primarily with the management of the cabins and prescribes a course of action due to destruction, substantial damage, or loss of access. With the exception of the loss of access, this section of the bill will cause additional administration burden, costs, and is unnecessary as it pertains to the structures (cabin, outbuilding, etc...) occupying the lot.

Section 4, Cabin Transfer Fees: H.R. _____ would require the Department to verify the price at which these private cabins are sold and subsequently obtain a payment from the seller based on a percentage of the sale. The Department recommends that Section 4 of this bill as it is currently drafted be deleted. The fundamental purpose of the Recreation Residence program is to provide the land for the cabins and USDA should not be involved in the disposition or assessment of the structures that occupy the land.

Need to study cabin lots that may have lost their National Forest character: Over time, occupancy of some “summer” cabins has evolved into four-season use, particularly those located on the periphery of the National Forests. While year-round use remains contrary to agency policy, administration of these cabins can become more complex as owners desire typical public services found in residential subdivisions; such as electric, phone, cable, and sewer. In addition, their proximity and similarity to neighboring private subdivisions, suggests that some of these lots may have lost their National Forest character. The Department would like the opportunity to study this issue more carefully and to consider options to more effectively manage these areas.

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

We acknowledge that there are advantages to this bill from an administrative perspective. For example, it would reduce the agency’s appraisal costs. For cabin owners, enactment of H.R. _____ would provide certainty in terms of future fees. Again, we welcome the opportunity to work with the Committee to develop legislation that is also fair to taxpayers and other users of the National Forests and Grasslands, and can be administered without undue burden on the agency or cabin owners.

This concludes my statement and I would be happy to answer any questions you may have. We would like to reserve the right to submit additional comments about the bill once it is introduced.