

STATEMENT OF
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FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE
COMMITTEE ON NATURAL RESOURCES,
SUBCOMMITTEE ON PUBLIC LANDS AND ENVIRONMENTAL REGULATION
UNITED STATES HOUSE OF REPRESENTATIVES
APRIL 18, 2013

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding H.R. 657, the “Grazing Improvement Act,” H.R. 696, the “Lyon County Economic Development and Conservation Act,” and H.R. 993, the “Fruit Heights Land Conveyance Act.”

H.R. 657 “Grazing Improvement Act”

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 H.R. 657 as written. The Department specifically has concerns with requirements and definitions in the use of categorical exclusions. The Department also recognizes that the Forest Service and the Bureau of Land Management operate under different authorities, such as the Rescissions Act of 1995, which determines how the Forest Service is to apply NEPA for grazing allotments. As a result, various provisions in H.R. 657 affect the agencies differently. We therefore defer to the Department of Interior on those provisions that don’t directly affect the Forest Service, or the impacts of those provisions on Department of the Interior programs.

The Forest Service enjoys a cooperative relationship with the vast majority of the over 6,800 individuals who hold permits for grazing, permitting approximately 8.2 million animal unit months on nearly 94 million acres of National Forests and Grasslands. Grazing permittees have helped provide for the effective stewardship of our public lands for many decades. While the vast majority of the grazing permittees are excellent stewards in caring for range resources, there are some areas where permittees need to take action to improve range conditions. The Forest Service is working with many permittees to make such improvements.

In addition, 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.

H.R. 657 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. The bill also would make permanent the language used in annual

appropriation riders which has required expiring permits to be renewed with existing terms and conditions if the National Environmental Policy Act (NEPA) has not been completed on allotments associated with the permit. It further would expand the appropriation riders language to include transferred or waived permits or leases.

The bill would establish and require the use of categorical exclusions (CE) and prohibit the agencies from preparing an environmental assessment or environmental impact statement under NEPA. CEs, which require no public notice, would apply if a decision continues the current grazing management on an allotment; monitoring has indicated that the current grazing management has met or is satisfactorily moving towards meeting land use management plan objectives; or the decision is consistent with the policy of the Department regarding extraordinary circumstances. 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. 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.

H.R. 657 also exempts crossing and trailing authorizations as well as the transfer of grazing preference from NEPA. We defer to the Department of the Interior on these provisions.

H.R. 657 would require that grazing permits be issued for a term of 20 years rather than the current 10-year term. Permits may be issued for a shorter term on land that is pending disposal or will be devoted to a public purpose, or where it is in the best interest of sound land management on those allotments that have not had initial NEPA.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee. The Department can support the concept of having the flexibility to issue a longer term permit where current management is continued and the allotments are being monitored to assure they are meeting Forest Plan standards. The Department believes that the Secretary rightfully should have the sole discretion to determine the priority and timing for completing environmental analyses of grazing allotments, as is always the case under NEPA. We do not, however, support being limited to only using CEs in certain instances for grazing permits. We have completed NEPA analyses on three-fourths of our grazing allotments. We have been able to move forward with our renewed, reissued and transferred grazing permit program. Our analyses, with or without a CE, have been helpful in determining range conditions, a matter of great concern to all permittees and the Forest Service.

We look forward to continuing to work with the committee and sponsors of this bill.

H.R. 696 "Lyon County Economic Development and Conservation Act"

Section 2 of the bill pertains to public lands managed by the Bureau of Land Management. This testimony will address Sections 3 and 4 in my comments as they pertain to the management of the Toiyabe National Forest.

Section 3 of H.R. 696 would add the Wovoka Wilderness to the National Wilderness Preservation System. These 47,449 acres are the largest remaining tract of wild country in Lyon County Nevada, encompassing the southern portion of the Pine Grove Hills south of Yerington Nevada. The core of this proposed wilderness is the Forest Service South Pine Grove Hill Inventoried Roadless Area. The Forest Service categorized this roadless area as having a high capacity for wilderness during its Forest Plan Revision wilderness evaluation in 2006.

Designation of the Wovoka Wilderness would preserve sage-grouse habitat, protect prehistoric cultural resources, ensure the availability of primitive recreational resources, and maintain high air and water quality in the area, while ensuring the conservation of ecologically diverse and important habitats. Further, the bill encourages the collaboration between the Department and the Lyon County Commission on local wildfire and forest management planning. The Department supports these worthy goals and would support H.R. 696, if the bill is amended to address the following concerns.

H.R. 696 would provide for several standard provisions for the management of wilderness area within the National Wilderness Preservation System. However, it introduces several new provisions that raise concerns.

Section 3(c)(2) would require that the wilderness boundary be placed 150 feet from the centerline of adjacent roads when they border the boundary. While this is generally a good policy, we are concerned that the term “roads” is open to interpretation. We would prefer the use of the term “forest roads” or “public roads” which reflects those roads designated by the Forest Service during our travel planning process or by other jurisdictions. This will avoid any confusion about the intent of the provision during creation of the legal description.

The Department objects to Section 3(d)(7), relating to water rights. Specifically, Section 3(d)(7)(E)(ii)(I) would prohibit the Forest Service from developing for its own purposes any water resource facility other than a wildlife guzzler. Additionally, Section 3(d)(7)(E)(ii)(II) would require the Forest Service to approve applications for the development of water resource facilities for livestock purposes within the Bald Mountain grazing allotment submitted by Bald Mountain grazing allotment permittees within 10 years of designation of the wilderness. The President’s discretion under the Wilderness Act to review and approve any potential water development structure or facility that is deemed in the national interest should not be limited by these provisions.

Section 3(e), relating to wildlife management, also presents concerns. Section 3(e)(3) would give the State authority to use helicopters and other aircraft for specified wildlife management purposes without specific permission from the Forest Service. Section 3(e)(4) would constrict the Forest Service’s authority to restrict hunting or fishing, and section 3(e)(5) would perpetuate in perpetuity the application of a 1984 Memorandum of Understanding between the Forest Service and the State to State wildlife management activities in this wilderness area.

The Department objects to Section 3(f) Wildlife Water Development Projects, which would require the Secretary to authorize structures and facilities for wildlife water development where

the Secretary determines that the development will enhance wilderness values by providing more naturally distributed wildlife populations and the visual impacts of the structures and facilities can be visually minimized. This language, while it provides some flexibility, still removes Secretarial discretion to consider the impact of wildlife water developments on other wilderness values. The Department already has the discretion to consider the placement of wildlife water developments consistent with the Wilderness Act and House Report 101-405. This section is an unnecessary abridgement of the Secretary's discretion.

Section 4 of the bill would withdraw an area of National Forest from (1) entry, appropriation, or disposal under public land laws, (2) location, entry and patent under the mining laws, and (3) operation of the mineral laws, geothermal leasing laws and mineral materials laws. The use of motorized and mechanical vehicles within the withdrawn area would be limited.

The Department would like to work with the committee and the sponsor of the bill to ensure all valid existing rights may continue in the future.

HR 993 "Fruit Heights Land Conveyance Act"

H.R. 993 would require the Secretary of Agriculture to convey without consideration approximately 101 acres of land from the Uinta-Wasatch-Cache National Forest to Fruit Heights City, Utah for public purposes. While supportive of the City's desire to expand for public purposes, the Department does not support H.R. 993.

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 National Forest System 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 National Forest System 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.

The parcel to be conveyed was purchased by the United States in 2002 using appropriated Land and Water Conservation Act funds appropriated for the purpose of securing an important North-South route for the Bonneville Shoreline Trail and to protect valuable winter range for mule deer. The land was acquired from a willing seller at market value for \$3,244,000 with the assistance of the Trust for Public Land.

The parcel was conveyed to the United States subject to valid existing rights, and the conveyance of the parcel by the United States and subsequent development by the City would be subject to the same rights. Specifically, the mineral estate is owned by a third party and there are easements for power lines, two buried irrigation pipelines, and access easements for multiple private homes.

Under H.R. 993, the conveyance would also be conditioned upon the City using the conveyed land for public purposes. If the land is ever used for anything other than public purposes, the land would revert to the United States at the election of the Secretary. Public purposes are not defined and could cover a vast array of land uses including municipal waste treatment facilities and industrial parks. This lack of public purpose definition could cause future management conflicts with adjacent National Forest System land.

Although the Department does not support HR. 993, we are willing to work with the Bill sponsors, Fruit Heights City, and the Committee, to explore alternatives to this conveyance without consideration to achieve the goals of the City.

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