

Statement of
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Before the
Subcommittee on Forests and Forest Health
Committee on Resources
United States House of Representatives

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Concerning
H. R. 3603 – Central Idaho Economic Development and Recreation Act;
H.R. 3817 – Valle Vadal Protection Act of 2005;
H. R. 4084 – Marina Special Use Collections
H. R. 1090 – Designation of the “Jim Weaver Loop Trail,” Willamette National Forest

Mr. Chairman and members of the Subcommittee:

I appreciate the opportunity to appear before you to today to provide the Department's view on the four bills.

H.R. 3603 - Central Idaho Economic Development and Recreation Act

H.R. 3603 is intended to promote economic development and recreational use of National Forest System lands and other public lands in central Idaho Sawtooth National Recreation Area (SNRA) and the Salmon – Challis National Forest. We support the intent of the legislation to balance long-term conservation, expressed in the wilderness designation, with the needs to provide rural economic development opportunities and assistance in central Idaho.

We recognize the bill sponsor has conducted a considerable amount of outreach and has worked collaboratively with an array of communities of interests in the development of H.R. 3603. In addition, we understand that the sponsor may be considering modifications that could address some of the concerns we have with the bill as introduced. Our comments today are based in part on the preliminary maps that we have been provided, and the Department would like the opportunity to review final maps cited in the legislation to ensure that they accurately identify the National Forest System lands designated for wilderness, parcels identified for conveyance, motorized roads and trails, and the management area boundary. In addition to the specific bill sections outlined below, we would like the opportunity to address minor technical changes as well.

In general we are concerned about the extent of appropriation authorizations throughout the bill (sections 109, 112, 114, 301, 302, 304, and 403), the conveyance of National Forest System lands without compensation to the taxpayer, the conveyance without consideration of lands purchased through the Land and Water Conservation Fund, and permittee compensation for grazing allotment. The bill authorizes approximately \$20 million in appropriations without identifying any source for these funds or proposed offsets. We are concerned about our ability to absorb these costs within our current programs to implement the bill and are concerned about how these costs may affect the ability to carry out other planned priorities of these affected programs now and into the future. We are also concerned the proposed land conveyances and permittee compensation aspects of the bill will establish a disadvantageous precedent. The administration has concerns with several provisions that are inconsistent with the President's budget.

I will limit my remarks to the provisions of the bill related to the lands and activities managed by the Forest Service and will defer to the Department of the Interior on provisions relating to the lands managed by the Bureau of Land Management.

TITLE I - Central Idaho Economic Development and Recreation Promotion

This title would direct the Forest Service to convey certain lands without consideration within the Sawtooth National Recreation Area (SNRA). In general, the Department does not support the conveyance of Federal lands without consideration.

For 31 years, the Federal government has made a strategic investment of almost \$65 million in the SNRA for land and scenic easement acquisition to protect its resource values. Conveyance of these lands within the SNRA is at odds with our investment, the public interest, and the purposes for which the SNRA was established under P.L. 92-400.

Section 101 would direct the conveyance of 86 acres, including a road encompassing about 15 acres, to Custer County. The Department does not support this conveyance. This conveyance could disrupt the continuity of recreation access and use for which the SNRA was established and could compromise areas acquired to protect natural, scenic, historic, and fish and wildlife values. Lands conveyed in this area would also affect the Stanley Basin Allotment by reducing suitable grazing acres.

Section 102 would direct the conveyance of three parcels totaling 3.47 acres to Blaine County. The Department does not support this conveyance. The 2-acre Smiley Creek parcel and the 0.47 acre parcel are in the immediate foreground of the Sawtooth Scenic Byway and were purchased with Land and Water Conservation Fund appropriations in 1977. The conveyance of these parcels would have visual impacts for the SNRA and create administrative and management burdens on the agency. In addition, a bus turnaround intended for the Eagle Creek Road parcel, located on the Ketchum Ranger District, could be authorized without the need to convey the parcel.

Section 103 would direct the conveyance of approximately 8 acres in parcel A and another approximately 68 acres in parcel C to the City of Stanley. The Department would not oppose conveyance of parcel A with consideration equal to market value established through an appraisal that conforms to appropriate standards. Although parcel A was purchased with Land and Water Conservation Fund appropriations, its location—within the City of Stanley—warrants conveyance at market value. To protect the public investment of these dollars for conservation purposes, we recommend conveying this land at market value, with receipts derived from the conveyance being deposited in the Sisk Act funds. The Department does not support the conveyance of parcel C as described. Parcel C is adjacent to the Ponderosa Scenic Byway and is important elk and other wildlife habitat. The conveyance of this land, as currently described, would disrupt the continuity of recreation access and use for which the SNRA was established and could compromise areas necessary to protect natural, scenic, historic, and fish and wildlife values.

It should also be noted the bill requires the Secretary to bear the cost to survey and develop legal descriptions for the parcels conveyed under sections 101, 102, and 103. The Department does not support these provisions. All costs related to the transfers, including surveys and National Environmental Policy Act (NEPA) and compliance with other applicable environmental laws, should be borne by the benefiting entity rather than the federal government.

Along with each conveyance, there are extensive restrictions and limitations on the use in the legislation, many of which coincide with current limitations within SNRA. However, this title sets up future conflict amongst the local government, the Forest Service and the private landowners who acquire the conveyed property. The bill rightly positions the county or City to enforce the land use restrictions, could place the Secretary in a position of having to determine that the deed restrictions are not being met. We recommend dropping this reversion provision.

Section 108 would direct the Secretary of Agriculture to design, construct, and maintain a paved trail between the City of Stanley, Idaho and Red Fish Lake. The Department is not opposed to this section if an offset is provided, but would recommend several modifications to improve its implementation including the use of the existing Forest Service 30-foot easement across private lands to accommodate this direction.

Section 110 would direct the Secretaries of Agriculture and the Interior to grant 10-year permit extensions for guides and outfitters within the wilderness area and the Boulder-White Cloud Management Area established by the bill. The agency already has authority to issue 10-year permits. We would prefer to renew or issue new permits under our established authority.

Section 111 would require the Secretary of Agriculture to complete and submit to Congress a Red Trees Phase II Study evaluating approaches to identify forest health projects that would mitigate major fire risks on lands included in the SNRA. Any proceeds derived from these projects in excess of costs incurred to administer the project, would be available to carry out conservation projects in the Boulder-White Cloud Management Area. The Department does not oppose this section. However, the Forest Service is currently analyzing the SNRA for similar purposes through its "Sawtooth Valley Landscape Assessment." We would like to work with the committee and bill sponsor on amendments to this section and to ensure the direction in section 111 is not duplicative of the existing Agency analysis.

As was stated previously in our testimony, the Department has concerns with the amount of appropriations authorized by the bill. In addition, section 112 would authorize funds to make direct grants to Custer County, Idaho to support sustainable economic development and to the State of Idaho and for acquisition of Bayhorse Campground. The Department does not support this section. We believe other rural and economic development funds are suitable to this purpose.

Section 113 would direct the Secretary of Agriculture to construct a new road and bridge on National Forest land to ensure the continuation of public access to Bowery National Forest Guard Station. The estimated construction costs are approximately \$950,000. The Department supports continued access to the Bowery site, but it opposes this section and would prefer to provide access by using the Forest Service's existing fee strip.

TITLE II – Central Idaho Wilderness Areas

This title would add additional areas in central Idaho to the National Wilderness Preservation System – 96,700 acres in the Sawtooth and Challis National Forests to be known as the “Ernest Hemingway - Boulder Wilderness,” 73,100 acres in the Sawtooth and Challis National Forests to be known as the “White Clouds Wilderness,” and approximately 131,700 acres in the Challis National Forest and Challis District of the Bureau of Land Management to be known as “Jerry Peak Wilderness.” The Secretaries of Agriculture and the Interior would collaborate to develop a Comprehensive Wilderness Management Plan for the designated wilderness areas.

The Department supports the wilderness designations as proposed with some minor modifications. We would like to work with the committee and bill sponsor to modify the boundaries to better align with natural landscape features and to reduce the potential for conflicts between motorized and non-motorized users. We have concern with some management provisions in sections 204, 205, 207, 208 and 209. These provisions could be interpreted as authorizing non-conforming uses. The applicable provisions in the Wilderness Act of 1964 are adequate for administering the areas designated as wilderness by this title. We also would like to work with the committee and bill sponsor to clarify language on adjacent management, wildfire management, wildlife management, Native American culture and religious uses, and military overflights.

Section 202(e)(1) would require the construction of two trailheads. The construction of new trailhead facilities is not desirable given current public use and cost. The existing Big Boulder trailhead is currently shared between motorized and non-motorized forest visitors with little or no conflict and is appropriately sized given its current use. The Wickiup Trail is a primitive low-maintenance trail, and we prefer to keep the trail at this experience level.

Section 202(e)(2) would authorize the establishment of primitive, non-paved wheelchair accessible trails into wilderness. The proposed interim directive that would require compliance with the Forest Service Trail Accessibility Guidelines strives to make new or altered trails accessible while maintaining the natural setting. We think this direction is adequate to maximize accessibility while protecting wilderness values.

Section 206 is intended to protect the wilderness values of the areas designated as wilderness by title II by means other than a federally reserved water right. While the Department does not oppose the definitions regarding water rights, we would like to work with the Committee and bill sponsors to clarify the relationship between subsections (c) is pertaining to statutory construction and (d) requiring the Secretary to adhere to procedural and substantive requirements of described Idaho Water Law. Also, the Forest Service has recently concluded a settlement with the State of Idaho and other parties over federal reserved water rights for the Salmon Wild and Scenic River (SW&SR). The SW&SR is located downstream of most of the proposed conveyances in title I. As part of the SW&SR settlement, the parties agreed to certain subordinations to water rights for future uses. Land conveyances under H.R. 3603 may have the potential to create water withdrawals from the Salmon River in amounts greater than those anticipated during negotiations. The land conveyances may result, over time, in reduced instream flows and degraded water quality, with the potential to adversely affect the protections afforded fish and recreation reached through this agreement. We would like to work with the Committee and bill sponsors to insure the subordinations for future waters rights are maintained.

TITLE III – Boulder-White Cloud Management Area

This title would establish a “Boulder-White Cloud Management Area” for certain lands not designated as wilderness under title II, and provides for management for roads, timber harvest, trails, and land acquisition and designation of motorized trail access. The Department supports the designation of the management area since the area would continue to be managed in accordance with existing management plans of the individual units that it overlays – the SNRA and Sawtooth, and Salmon-Challis National Forests.

The Department is concerned about the extent of specific direction regarding road and trail use, closure, and management, such as section 303 which authorize specific roads and trails to be closed to both motorized and non-motorized uses with limited options for future modifications. We would prefer to manage motorized and non-motorized opportunities through the existing September 1, 2003 Travel Management Plan, making adjustments based on user demand and resource conditions as needed.

Section 302 prohibits the use of condemnation within the area. This direction would create an inconsistency within the SNRA. Without the ability to enforce SNRA standards through condemnation proceedings, the likelihood of non-conforming uses may increase, to the detriment of SNRA values. We recommend that the section be amended to retain this tool within the SNRA.

TITLE IV – Waiver of Grazing Permits

This title would provide economic options for livestock permittees through a voluntary grazing permit waiver program. The Department is opposed to this title of the bill. We have serious concerns about the policy and proposed system for compensating permittees for the use of these allotments. Grazing on National Forest System land has been determined by the courts to be a privilege, not a right. The Department does not believe grazing privileges should be compensated since Forest Service regulations allow for a grazing permit to be canceled, modified, or suspended, in whole or part, where lands grazed under the permit are to be devoted to another public purpose including disposal. This fundamental change in national policy and federal law would be a costly precedent that we do not support.

Also, livestock grazing is a legitimate use of National Forest System lands. We believe that continued access for grazing in this area is compatible with resource management for vital and healthy ecosystems and important to help ensure that these lands remain working landscapes and as open space. We recommend retaining the opportunity to reallocate these allotments for future livestock grazing.

H.R. 3817 – Valle Vidal Protection Act of 2005

The bill withdraws from all forms of mineral entry 101,794 acres of the Carson National Forest known as the Valle Vidal Unit. Specifically, the withdrawal includes the following:

- All forms of entry, appropriations, and disposal under the public land laws;
- Location, entry, and patent under the mining laws; and
- Operation of the mineral leasing and geothermal leasing laws and mineral materials laws.

In 1982, the Forest Service received the 101,794 acres of Valle Vidal through donation. Due to the timing of the donation, the Carson National Forest Land and Resource Management Plan (Forest Plan 1986) was not amended to include management direction for the Valle Vidal. In June 2002, the Carson National Forest received an expression of interest to lease 40,000 acres of the eastern portion of the Valle Vidal by El Paso Energy for coalbed methane development. To reach a determination as to whether or not the area should be administratively available for leasing, the Forest Service is required to update its forest management plan, complete an environmental impact statement and then conduct a full leasing analysis.

The Carson National Forest initiated the Forest Plan amendment process in June 2005 with a publication of a Notice of Intent to prepare an environmental impact statement (EIS) in the Federal Register. Over 55,000 comments were received. The Forest is currently analyzing these comments for significant issues. A draft EIS is planned for completion in late spring 2006, and a final EIS is planned for completion in late fall 2006 with the anticipated completion date for the Forest Plan amendment in the winter of 2006/07.

Following adoption of the Forest Plan amendment, the Forest Service will determine whether to make lands available for oil and gas leasing. An Environmental Impact Statement (EIS) will also be completed as part of the leasing analysis process. This determination is anticipated to be made in the fall of 2008.

The Department supports the deliberative and open public environmental analysis process as outlined above, and recommends that the area not be withdrawn from the operation of mineral materials laws. We believe that working with the public and various communities of interest will ensure all resources within the Valle Vidal are adequately analyzed, issues are addressed, and impacts are disclosed prior to determining what, if any, lands may be made available for mineral entry.

H.R. 1090 – Designation of “Jim Weaver Loop Trail,” Willamette National Forest

This bill would designate a Forest Service Trail at Waldo Lake in the Willamette National Forest as a national recreation trail under the National Trails System Act in honor of Jim Weaver, a former Member of the House of Representatives. This new “Jim Weaver Loop Trail” would replace an existing 19.6-mile trail known as “trail 3590” or informally as the “Waldo Lake Loop.”

The Department supports the bill. We would like to offer two technical corrections to the bill.

H.R. 4084 - Retention of Forest Service Marina Permit Fees

H.R. 4084 would authorize the Secretary of Agriculture to retain special use permit fees that are collected in conjunction with the establishment and operation of marinas that operate on National Forest System lands.

The bill amends the Act of March 4, 1915, which is authority for permitting occupancy and use of National Forest System lands. Fees collected under this bill for marinas would be deposited into an existing special account in the Treasury established for the Secretary for recreation management purposes. The Secretary could expend funds from this account for a variety of recreation services, and operating, maintenance and enhancement costs for facilities related to visitor enjoyment and access. Receipts could also be expended for costs associated with the issuance of marina permits but could not be used for biological monitoring of listed or candidate species of the Endangered Species Act of 1973.

The bill further directs that not less than 80 percent of the permit fees collected at a specific unit of the National Forest System be expended for that unit. The provisions in the bill allow up to 20% of the funds collected to be made available to other units of the National Forest System.

Prior to the enactment of the Federal Lands Recreation Enhancement Act (REA), the Forest Service collected and retained special use permit fees from marina operations located on the Shasta-Trinity National Forest. After REA was enacted the Forest Service reviewed all programs for compliance with REA and determined that the fee retention for long-term permits marina permits was not authorized under the new Act.

This legislation would allow the Forest Service to retain special use permit fees for the Shasta-Trinity National Forest marina permits and all other marina permits operating on National Forest System lands. Annual marina special use permit receipts are estimated to be approximately \$1.2 million.

The Department could support H.R. 4084 if amended with agreed upon savings that fully offset the cost of the bill in FY 2006 and beyond.

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