

**STATEMENT OF
HARRIS SHERMAN
UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT
UNITED STATES DEPARTMENT OF AGRICULTURE**

**BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS**

**CONCERNING
DISCUSSION DRAFT FOR THE NATIONAL FOREST COUNTY, REVENUE AND
JOBS ACT OF 2011**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the Administration's views regarding the Discussion Draft for the National Forest County Revenue, Schools and Jobs Act of 2011.

The Discussion Draft proposes to establish a trust to provide counties with a dependable source of revenue to support public education and public roads, and to require the Secretary of Agriculture, as trustee, to carry out trust projects to generate sufficient receipts to meet an annual revenue requirement on each unit of the National Forest System (NFS). This annual revenue requirement would be calculated as a predetermined percentage, to be established by the legislation for all NFS units nationwide, of each unit's average annual gross receipts between 1980 and 2000, and create a statutory right for a county to sue the Secretary for breach of fiduciary duty if the annual revenue requirement is not met. The draft would also incentivize Forest Service employees to exceed a minimum sale level of timber, to be calculated as a nationally predetermined percentage of the annual average of certain volumes of timber harvested from each unit between 1980 and 2000. In addition, the draft would provide different procedures for environmental analysis and administrative review of trust projects that would effectively waive compliance under several existing laws including the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Endangered Species Act (ESA), and the administrative review process under the Appeals Reform Act (ARA). The draft would also preclude judicial review for all projects undertaken under the authority of the proposed bill.

Historically, public education and roads in eligible states containing NFS lands have been partially supported by federal payments, under the authority of the Act of May 23, 1908 (P.L. 60-136) and other laws, equal to 25% of receipts generated by NFS units within their boundaries from the proceeds of timber sales, grazing permits, recreation permits and fees, and other activities. After receipts fell from historical highs in the 1980s and early 1990s, the Secure Rural Schools and Community Self-Determination Act of 2000, (Secure Rural Schools Act, or SRS) was enacted to provide temporary funding to help rural communities make the transition through stark changes in our natural resource economy, particularly in forest-dependent communities of

the West. The last payment under the current SRS authority, as amended and reauthorized in 2008, is for the current fiscal year, which ends on September 30.

We understand the predicament this creates for rural communities, and recognize how important federal payments have been in supporting public schools and roads in counties all across the country, particularly in rural areas. That is why the President's 2012 Budget includes a proposal to reauthorize the Secure Rural School Act for five more years.

In presenting an alternative means of addressing this predicament, the proposal contained in the Discussion Draft calls for substantial consideration and debate—not only for the importance of the topics it addresses, but also for the essential questions it suggests about the management of public land in our Nation. For that reason in particular, the time between our receipt of your invitation to testify about this draft and the date of today's hearing was not sufficient to fully analyze the proposal. We must therefore request to reserve the right to submit additional comments after a bill is introduced. In the meantime, however, the Administration will take this opportunity today to point out several serious concerns that this proposal raises.

First, while we appreciate the need to consider ways in which compliance with environmental analysis may be expedited in appropriate circumstances, we are opposed to the environmental reporting proposed in this draft because it does not provide for meaningful analysis or public input. Even though (and partly because) the proposal would preclude trust projects from judicial review, these changes would invite more, not less, controversy over timber sales on NFS lands, and potentially undermine or cause a chilling effect on the positive collaboration that has substantially improved how the National Forests are managed.

We are also concerned that the obligation to meet any predetermined rate of revenue generation, let alone one based on a relatively short time period when circumstances supported peak timber production, ignores the temporal and geographic variability of landscape and economic conditions, thereby exposing the Federal government to liability for circumstances beyond its control. This obligation could also have a potentially significant adverse impact on the federal deficit, depending on the percentage set for the definition of annual revenue requirement.

Finally, and perhaps most troubling, this proposal creates a false expectation that we can return to the peak timber production levels of decades past. However, the market conditions that supported those levels simply no longer exist, regardless of who manages the land. The fact that receipts from Forest Service timber sales have fallen from almost \$1.2 billion in 1990 to just under \$100 million in 2009 is not only a result of the decreased volume of timber harvested and sold by the agency, but also the value of the timber, the costs of producing it, and the market for forest products in general. The decrease in the value of timber harvested on NFS lands over this period, from \$113.10/MBF (thousand board feet) to \$48.60/MBF, is to a considerable degree the result of a broader decline in timber prices associated with the slumping housing market, changing import/export dynamics, increased transportation costs, and other market factors. Obligations to meet unrealistically high expectations for revenue could create difficult multiple-use dilemmas compelling managers to pursue commodities with the highest possible returns at the expense of other important objectives.

Meanwhile, it is important to note that the draft's emphasis and unrealistic expectations regarding timber receipts overlooks the value of other receipts and broader revenue generation by the National Forests overall. NFS lands are estimated to be producing over \$1 billion in receipts to the U.S. Treasury in 2011. For the national economy, NFS lands directly contributed an estimated \$19 billion to GDP in 2005, less than a quarter of which came from timber harvest; recreation provided the largest contribution, at 43.8%. On many National Forests throughout the West, revenues deriving from timber represent an even smaller proportion of economic activity.

The Administration recognizes the important role of the timber industry in maintaining rural communities, particularly in light of the urgent forest restoration needs many areas face in light of the expanding beetle epidemic and the ongoing needs to reduce the risk of uncharacteristic wildfire effects—especially in the wildland-urban interface. That's why the Forest Service is investing considerable effort in ways to maximize the effectiveness of our collaborative management procedures: in streamlining our implementation of NEPA to anticipate the needs of large landscapes and watersheds; in maximizing the use of special authorities such as pre-decisional administrative review and stewardship contracting; and in exploring ways to make more efficient use of scarce budgets through the Integrated Resource Restoration budget line item. Collaborative efforts such as these must be fostered and broadened if local communities are to reap increasing benefits from their National Forests.

While we recognize the ongoing reliance of rural counties on sharing receipts from NFS land, we also recognize the need to manage the federal budget thoughtfully and deliberately for deficit reduction, and would like to work with the Congress to develop a proposal that addresses both rural needs and deficit concerns.

But it is just as important to recognize that the National Forests, in their 100 year-plus history, are valued by Americans throughout the Nation, not only for their wood, mineral, and grazing resources, but also for outdoor recreation, as a place to recharge, for wildlife habitat in a rapidly developing world, as a place to enjoy historic, scenic, and cultural treasures, and for clean water to millions of downstream users. These dynamic values serve the urban public as well as the rural, the national interest as well as interest of individual states. We would like to work with the Congress on a solution that honors all of our Nation's interests over the long term.

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

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CONCERNING

H.R. 2852, THE ACTION PLAN FOR PUBLIC LANDS AND EDUCATION ACT OF 2011

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the Administration's views regarding H.R. 2852, the Action Plan for Public Lands and Education Act of 2011. The Administration strongly opposes HR 2852.

H.R. 2852 authorizes land grants to 13 western states for establishment of a permanent fund to support public education in each respective state. The amount of land to be granted shall equal five percent of the acres of federally owned land with the state, and shall be selected by each state from lands administered by the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) within their borders in such manner as each state's legislature may provide. Most National Forest System (NFS) lands would be available for selection, except for those specifically designated as Wilderness Areas, Wilderness Study Areas, National Historic Sites, National Monuments, or National Natural Landmarks. The selection and transfer processes would not be considered to be a major Federal action for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969. Mineral, oil and gas rights associated with the selected lands would also become property of the state, except where federal leases are currently in effect, in which case the rights would transfer to the state upon expiration of the federal lease.

Historically, public education in eligible states containing NFS lands has been partially supported by federal payments, under the authority of the Act of 1908 and other laws, equal to 25% of receipts generated by NFS units within their boundaries from the proceeds of timber sales, grazing permits, recreation permits and fees, and other activities. After receipts fell from historical highs in the 1980s and early 1990s, the Secure Rural Schools and Community Self-Determination Act of 2000, (Secure Rural Schools Act, or SRS) was enacted to provide temporary funding to help rural communities make the transition through stark changes in our natural resource economy, particularly in forest-dependent communities of the West. The current SRS authority, as amended and reauthorized in 2008, expires at the end of this month.

We understand the predicament this creates for rural communities, and recognize how important federal payments have been in supporting public schools in counties all across the country, particularly in rural areas. That is why the President's 2012 Budget includes a proposal to reauthorize the Secure Rural School Act for five more years.

However, as an alternative means of addressing this predicament, we believe that H.R. 2852 is counterproductive and contrary to public land management objectives. Therefore, the

Administration strongly opposes the bill. Its proposed transfer of NFS land to States could result in weakened environmental protections and a diminution of the multiple-use mandate that currently guides the management of these lands, while the legislation's failure to address many key uncertainties concerning access, liability, and other issues invites controversy and litigation. We are also opposed to waiving the National Environmental Policy Act which provides for meaningful analysis and public input that helps defuse public controversy develop the positive collaboration that has substantially improved how the National Forests are managed. Additionally, given the presumption that States are likely to select the lands that generate the greatest amount of revenue, the loss of income to the Treasury would increase the federal deficit, which the Administration and Congress are working so hard to reduce.

But our greatest concern about this legislation is more fundamental in nature. The notion that land held in trust for the Nation as a whole should be disposed of for the sole benefit of the residents of an individual state runs contrary to the principle that these lands are important to all Americans.

While we recognize the immediate reliance of rural counties on sharing receipts from NFS land, we also recognize the need to manage the federal budget thoughtfully and deliberately for deficit reduction, and would like to work with the Congress to develop a proposal that addresses both rural needs and deficit concerns.

But it is just as important to recognize that the National Forests, in their 100 year-plus history, are valued by Americans throughout the Nation, not only for their wood, mineral, and grazing resources, but also for outdoor recreation, as a place to recharge, for wildlife habitat in a rapidly developing world, as a place to enjoy historic, scenic, and cultural treasures, and for clean water to millions of downstream users. These dynamic values serve the urban public as well as the rural, the national interest as well as interest of individual states. We would like to work with the Congress on a solution that honors all of our Nation's interests over the long term.

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