

Statement of Kim Thorsen
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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. 975 – The Trail Responsibility and Accountability for the
Improvement of Lands Act of 2005
and

H.R. 599 – The Federal Lands Restoration, Enhancement, Public Education, and Information Resources Act of 2005

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today. My name is Kim Thorsen and I am the Assistant Director for the Office of Law Enforcement and Security at the Department of the Interior. I am here to present the Department's views on H.R. 975, the "Trail Responsibility and Accountability for the Improvement of Lands Act of 2005," and H.R. 599, the "Federal lands Restoration, Enhancement, Public Education, and Information Resources Act of 2005".

As discussed further below, the Department agrees that our land management bureaus should have consistent enforcement authority, and we strongly support the goal of H.R. 975. The investigative and enforcement simplicity offered through the option of applying a Class A or Class B misdemeanor, as proposed in H.R. 975, is an attractive tool for law enforcement personnel.

Among other things, H.R. 975 is intended to amend the existing enforcement authorities of the National Park Service (Park Service), the Bureau of Land Management (BLM), and the U.S. Fish and Wildlife Service (Fish and Wildlife Service), as well as the U.S. Forest Service, to make consistent the ability of these bureaus to charge misdemeanor offenses for violations of bureau rules and regulations. The bill would also provide for a fine of not less than \$500.00 for the reckless violation of fire regulations by individuals on BLM, Park Service, or Forest Service lands.

The Department agrees that consistent enforcement authority serves important and useful interests. Currently, for example, BLM and the Park Service operate under different rules for criminal penalties for violations of rules regulating the use of fire by visitors and others on their respective lands. For the Park Service, these violations are classified as Class B misdemeanors, which may result in a fine of up to \$5,000 or up to six months in prison. Class B violations are strict liability in nature, which means that intent need not be proved. However, under the current enforcement provisions of the Federal Land Policy and Management Act, BLM penalties for violations of land use regulations are set as Class A misdemeanors for all "knowing and willful" violations; BLM does not currently have authority to charge for a Class B misdemeanor. Therefore, similar violations of rules regulating the use of fire by visitors and others on public lands are Class A misdemeanors for the BLM, which may result in a fine of up to \$100,000 or imprisonment for up to one year and requires a demonstration that the party knowingly violated the law.

The changes advanced by this legislation will also further the economy of law enforcement resources. Under Class A misdemeanor violations, a defendant has a right to a jury trial, which frequently results in dismissed cases as prosecutors are deterred from proving a "knowing" intent and judges, who already have large dockets, are less likely to take on lengthy and expensive jury cases. In contrast, under a Class B misdemeanor offense, a citation can be used as the charging instrument, and defendants can be tried directly by a Magistrate Judge. The ability to apply a lower-level penalty, as provided in H.R. 975, for violations that are not committed in a "knowing" manner will also simplify investigative and enforcement tasks that officers must currently undertake compared to those required when prosecuting Class A misdemeanor offenses.

I would like to add that, as a result of the events of September 11, 2001, the Bureau of Reclamation was provided law enforcement authority with the passage of Public Law 107-69 by the Congress. To ensure consistency across the Department of the Interior's law enforcement programs, we would like to explore with the Subcommittee the possibility of including similar changes to the Reclamation Recreation Management Act of 1992 in H.R. 975.

Finally, section 3 of H.R. 975 provides penalties for the reckless violation of fire regulations on BLM, Park Service, and Forest Service lands. We support the goals of these changes, and would like to discuss with the Subcommittee the possibility of including the Fish and Wildlife Service and Bureau of Indian Affairs within their scope.

The Department also supports the goals of H.R. 599, which calls for the use of fines collected by the affected agencies for the limited purposes of improvement, protection, or rehabilitation work on public lands made necessary by the actions which led to the fine, as well as to increase public awareness of regulations and other requirements regarding use of the public lands. The provisions are limited in nature and require that excess funds be transferred to the Crime Victims Fund and not be retained by the agency. The bill would allow the Secretaries of the Interior and Agriculture to use fines from violations of laws and regulations applicable to public lands for restoration and informational activities without further appropriations. In general, collections that result from the Government's exercise of its sovereign power, such as fines and penalties, should be deposited in the General Fund of the Treasury. While the Department does not have an exact figure, we do not believe the PAYGO effect of this bill is extensive. The Administration recommends the availability of proceeds be subject to appropriations.

Again, Mr. Chairman, I want to thank you and the Members of this Subcommittee for your continued interest in our law enforcement issues. We at the Department look forward to continuing positive dialogue to improve our federal law enforcement capabilities. This concludes my statement and I am happy to answer any questions that you might have.