

S. 556, THE BIPARTISAN SPORTSMEN'S ACT OF 2015

HEARING BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED FOURTEENTH CONGRESS FIRST SESSION

MARCH 12, 2015



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S. 556, THE BIPARTISAN SPORTSMEN'S ACT OF 2015

THURSDAY, MARCH 12, 2015

U.S. SENATE COMMITTEE ON ENERGY AND NATURAL
RESOURCES
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

CHAIRMAN. The Committee will come to order this morning.

Welcome to those who have joined us on the panel. We are here to consider legislation that addresses the needs and the priorities of millions of American sportsmen and sportswomen. After falling just short in 2012 and 2014 with similar legislation, I am optimistic the third time is going to be the charm and that we will finally enact legislation on the subject in this Congress.

So let's get started.

I recently introduced S. 405, the Bipartisan Sportsmen's Act, along with my friend and colleague here on the Committee, Senator Heinrich. Thank you for your leadership on this.

I also thank the bipartisan leadership of the Sportsmen's Caucus by Senators Risch, Manchin, Fischer and Heitkamp and there are 12 additional members who have added their support to the bill.

We introduced a broad bill to show the Senate what we really seek to accomplish here. Now we are focused on moving it through the legislative process. For the first time we are going to be doing so under regular order which, I think, will also bode well for its success.

We are considering this morning S. 556 which includes the provisions of our broader bill that fall under the Energy Committee's jurisdiction plus one that falls under the jurisdiction of the Judiciary Committee. The Environment and Public Works Committee will soon hold a hearing on the provisions within its jurisdiction. Assuming that all goes well, we will move to mark ups in the near future, and then we plan to reassemble one bill for consideration by the full Senate. So that is the process which I think is only fair to outline to colleagues.

I also want to speak to the substance of the legislation and explain why it is so important to so many of us.

Sportsmen and sportswomen come from all around the country from big cities, from small towns in the north, from the south, from

here in the east and of course, most certainly in our western states. For many of us outdoor activities are just a part of our life. I grew up in a family where we went out hunting in the fall and we fished as long as there were opportunities for fishing which was hopefully most of the year. These were family traditions passed on from family to family.

I think, certainly coming from the State of Alaska where we see so many who move to our state to enjoy these outdoor opportunities whether it is for recreation or whether it is for ensuring that there's food on the table, this has been part of who we are, a definition, truly, of ourselves. Anyone who has been to Cabela's or a Bass Pro Shop or Mountain View Sports in Anchorage or any other outdoor store in Alaska knows that sportsmen and women play a vital role in our economy. That is true in terms of retail sales, salaries, wages, government revenues and it is true in all of our 50 states.

That is where our Bipartisan Sportsmen Act comes in. It builds on our previous efforts and adds several new provisions to increase access and provide new opportunities for Americans to enjoy our Federal lands.

Our bill includes a provision that I have supported for years to ensure that Bureau of Land Management and our National Forest lands remain open to hunting, fishing and other activities as a matter of law unless closed so that our sportsmen and women know they are welcome there. It also includes Senator Heinrich's Hunt Act which I suspect he will be eager to discuss in further detail.

Another important provision relates to filming on public lands. You have heard me mention at a couple hearings now the obstacles that we place on individuals who want to do nothing more than to film, to take pictures. Working to minimize the costs and the bureaucratic process that individuals and small groups must face is important.

I think we have got a good bill. We have built a strong bipartisan coalition around it, and I am hopeful that after a productive hearing we will be able to add some new co-sponsors. I know we would sure love to have as many members of this Committee sign on.

I will now turn to our Ranking Member, Senator Cantwell, for her comments this morning.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Chairman Murkowski. I appreciate you calling this important hearing and your leadership. I too look forward to hearing from our witnesses today.

As you mentioned, although similar sportsmen-related legislation has been considered on the floor in the past two Congresses, this is the first time we have discussed this package in Committee. I hope we can use this opportunity to further examine and improve on some specific provisions in the legislation.

I would like to take this opportunity to discuss the larger issue of stewardship, what that does for us, and how we can expand recreational opportunities for sportsmen on public lands.

In the State of Washington, we are fortunate to live among many of America's most iconic national parks, forests and wilderness

areas. These lands are public treasures that improve our quality of life dramatically, give us important recreational opportunities—including hunting and fishing—and strengthen our economy. Last year visitors spent a combined 33 million days on Federal lands in Washington State and in doing so spent over \$1.3 billion.

According to a recent report prepared by the Jackson Foundation, in Washington, in the State of Washington alone, outdoor recreation provides an estimated 227,000 direct jobs. That is an amazing number, and it generates over \$7 billion in wages and salaries. This is a very important part of our economy, and we should make sure that we continue to focus on it.

The best thing we can do to continue to protect open spaces and wildlife habitat for hunting, fishing, and other recreational opportunities is to ensure that the Land and Water Conservation Fund is permanently authorized and fully funded. To achieve this goal, I support language in the bill to set aside a portion of the Land and Water Conservation Fund each year to secure public access to Federal lands for hunting, fishing, and recreational uses. So if we allow the Land and Water Conservation Fund to expire, which we don't want it to do, there will not be any money for the sportsmen that we want to help through this particular legislation. The Land and Water Conservation Fund is the country's most successful law benefiting sportsmen, and it needs to be reauthorized.

In my home state, the Land and Water Conservation Fund has helped to protect and improve over 133,000 acres of State land and local park, and recreational areas, as well as help protect public lands, national parks, and forests. Earlier this year a strong bipartisan group of senators supported reauthorization and permanent funding for the Land and Water Conservation Fund in a vote on the Senate floor. I look forward to working with you on this issue as these pieces of legislation move through Congress.

This bill includes a separate land acquisition provision, the reauthorization of the Federal Land Transaction Facilitation Act. While I support the reauthorization, I am concerned the language in the bill may fundamentally alter the purpose of the act.

This law authorizes the Bureau of Land Management to sell Federal lands identified as appropriate for sale through a robust planning process. It then uses the proceeds from these sales to acquire—from willing sellers—privately owned lands within the Federal conservation areas. The BLM's authority to sell land under this law expired in 2011, and I have supported past efforts in the Committee to reauthorize it.

I am concerned, however, that instead of using the proceeds from these sales to acquire and protect public lands, this bill siphons some of those proceeds off to the Treasury for deficit reductions.

This is a policy shift from the version of the bill this Committee has previously supported, where the Federal land sale proceeds were used to acquire other important lands for future generations. As such, I hope we will amend this bill to reflect language we have previously supported in this Committee.

Once again, I want to thank you personally for your leadership on making sure that bow hunters are covered in this legislation. Thank you for giving them parity with other hunters. I very much appreciate that.

I believe a clean reauthorization of the Land and Water Conservation Fund is a subject that is going to be very important for sportsmen in general.

Along those lines, I also want to note that protecting hunting and fishing opportunities on public lands is an important priority. But we also have to make sure that we are encouraging and protecting other recreational uses on public lands. According to the Bureau of Land Management, 99.98 percent of BLM lands are open to hunting today, and almost 99 percent are open to shooting.

While the Forest Service does not have detailed land use statistics available, the vast majority of national forest lands are open to hunting, fishing, and shooting. Federal land use policies should be designated to encourage getting as many people as possible out into their national parks, forests, and public lands.

It is my understanding that both the Forest Service and BLM open lands they manage for hunting and fishing and shooting and other recreational uses unless an area is specifically closed. With that in mind it is simply worth noting that land use statistics do not indicate a policy of excess closure of Federal lands. So if we are going to legislate new management policies we must ensure that we are protecting all recreational lands.

I look forward to hearing from the witnesses this morning. Again, Madam Chair, thank you for convening us for this important topic.

CHAIRMAN. Thank you, Senator Cantwell.

I note that we have a good showing of members here this morning. If folks have opening statements they would like to include as part of the record, we would certainly encourage that.

I would like to go to our witnesses this morning, hear from them and then we will enter into a round of questions.

We will begin at this end. I will introduce all of our witnesses to the Committee, and then we will proceed.

Mr. Steve Ellis is the Deputy Director for Operations for the Bureau of Land Management. Welcome, Mr. Ellis.

Ms. Leslie Weldon is the Deputy Chief of the National Forest Service. We appreciate you being here this morning and the testimony you will provide.

Mr. Jeffrey Crane is the President of the Congressional Sportsmen's Foundation. Many of us see you around here in Washington, DC, as you speak on so many of the issues that are contained within the proposal in front of us.

At the end of the table we have Mr. Whit Fosburgh. Welcome to the Committee. He is the President and CEO of the Theodore Roosevelt Conservation Partnership. So we are pleased to have you join us as well.

With that, Mr. Ellis, if we can start with you, please.

STATEMENT OF STEVE ELLIS, DEPUTY DIRECTOR, OPERATIONS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR ACCOMPANIED BY RUSSELL WILSON, CHIEF OF REGULATIONS AND SPECIAL PARK USES, NATIONAL PARK SERVICE

Mr. ELLIS. Alright. Good morning, Chairman Murkowski, Ranking Member Cantwell and members of the Committee.

I would like to thank you for the opportunity to discuss S. 556, the Bipartisan Sportsmen's Act. I am Steve Ellis, Deputy Director for Operations for the Bureau of Land Management.

I'm accompanied this morning by Russell Wilson. Russell is back here. He's the Chief of Regulations and Special Park Uses for the National Park Service, and he will be available to answer questions that are specific to the Park Service here this morning.

I want to thank you for holding this hearing. You know, recreational use and access on the public lands are among our highest priorities. Recreational opportunities on public lands provides significant economic benefits. They promote health and fitness, engage our youth and connect Americans with their public lands.

We strongly support the goal of enhancing opportunities for recreation including hunting, fishing and target shooting on the nation's public lands.

I've submitted my written statement for the record, and I'll briefly discuss each of the bills' major sections.

Section 101, the BLM manages land, public land, according to its multiple use and sustained yield mission. Recreation is a key element of that mission, and there are countless examples of excellent fishing and hunting opportunities on the public lands. Section 101 of the bill contains several provisions to facilitate these activities on public lands, a goal the Department strongly supports. We would like to work with the sponsor on some of the provisions that seem to duplicate some of our existing authorities, so that may cause confusion with existing laws or result in unintended legal consequences.

Section 102 would establish fees to authorize access to Federal land for small commercial film crews. We welcome individuals, groups and companies who wish to film the beauty and the bounty of the nation's public lands. The Department is concerned that this section does not provide the discretion needed to manage film crew permits most efficiently and effectively. While we cannot support this section as it's currently drafted, we would like to work with the sponsors to manage commercial filming activities in a way that avoids disruption to visitor activities and damage to resources.

Section 103 amends the Equal Access to Justice Act, to establish reporting requirements for Federal agencies. We support efforts to increase the transparency of the EAJA process but we generally defer to others in this area.

Section 104 would prohibit the National Park Service from promulgating and enforcing any regulation that prohibits transporting inoperable bows and crossbows across any unit of the National Park System. Current Park Service regulations prohibit possessing a loaded weapon in a National Park System unit, but do not apply to the transport of any unloaded weapon. The Department objects to this section because it is unnecessary; however, if the committee decides to include this provision, we would recommend that it be amended to define the term "vehicle" and to require that bows and crossbows, as well as arrows, be stored in a manner that prevents their ready use.

Sections 201 and 203 concern the Land and Water Conservation Fund and FLTFA which are among our most effective tools for expanding recreational access and acquiring lands to improve man-

agement. The bill amends the Land and Water Conservation Fund to create, set aside, for public access. We strongly support the acquisition of easements, of rights-of-ways and lands to enhance recreational access, and the Administration supports full and mandatory funding of the Land and Water Conservation Fund.

The bill would also permanently reauthorize FLTFA, an expired authority under which BLM sold public lands identified for disposal and agencies used the proceeds to acquire certain higher priority lands from willing sellers. We strongly support this section and would also recommend it be modified so that all funds obtained can be directed toward acquisitions under the Act.

Section 202 would direct agencies to develop a list of priority parcels for recreational access. We'd like to thank Senator Heinrich for his work to make this section's reporting requirements feasible for the agencies. The Department supports the objectives of the section but would like to work with the sponsor on technical changes to ensure these requirements can be met with existing funding.

Finally, my testimony also mentions our legislative proposal for a BLM Foundation which would help provide additional opportunities to work with our partners and the public on recreation projects, among other things.

Thank you for the opportunity to testify, and we look forward to continuing to work with you on these important issues.

[The prepared statement of Mr. Ellis follows:]

Statement of
Steve Ellis
Deputy Director, Operations
Bureau of Land Management
U.S. Department of the Interior
Senate Energy & Natural Resources Committee
S. 556, Bipartisan Sportsmen's Act of 2015
March 12, 2015

Thank you for the opportunity to discuss the views of the Department of the Interior on S. 556, the Bipartisan Sportsmen's Act of 2015. We appreciate the Committee's attention to the important issues of hunting, fishing, and other recreational uses of public lands, and we strongly support the goal of enhancing opportunities for recreation, including hunting, fishing, and target shooting, on public lands. We support the goals of the bill, but we have outlined some concerns in this statement. We look forward to working with the Chairman and the Committee to address these issues.

Agencies in the Department of the Interior manage 19% of the Nation's land area. Providing access to quality recreation on public lands is one of the Department's primary missions as outlined in its current Strategic Plan, which commits to improving outdoor recreation access and increasing opportunities for public enjoyment of Federal lands and waters. In addition to drawing people of all ages outdoors to play, serve, learn, and work, outdoor recreation is a significant contributor to the national economy and the economies of communities that surround the lands we manage. It is important that we make recreational opportunities available in communities across the nation, to promote health and fitness, engage our youth, and inspire the next generations to conserve and protect America's precious resources. In 2012, the Outdoor Industry Association reported that recreation activities generate \$646 billion dollars in spending each year and support 6.1 million jobs. The approximately 417 million visits to DOI-managed lands in 2012 contributed an estimated \$45 billion in economic output to the surrounding economies through trip-related spending.

Because of the complexity of S. 556 and the importance of these issues to the Department, my statement will address each of the bill's provisions individually.

Recreational Fishing, Hunting, & Recreational Shooting on Federal Public Land (Sec.101)

Background

The Bureau of Land Management (BLM) is responsible for the management of 245 million acres of public land under the principles of multiple use and sustained yield. The BLM manages these public lands for a variety of uses, such as energy development, livestock grazing, recreation, and timber production, while protecting an array of natural, cultural, and historical resources. The BLM's recreation program is one of the key elements of our multiple-use mission. In the West, public lands are America's backyard, providing close-to-home outdoor recreation venues. In addition, they afford extensive backcountry recreation opportunities. The expansive landscapes and world-class recreation opportunities offered by the BLM's public lands are among America's greatest treasures.

BLM maintains high quality dispersed recreation opportunities where visitors and recreationists are free to explore and discover undeveloped places in the outdoors. There are countless outstanding examples of fishing and hunting opportunities on the public lands. The BLM-managed Gunnison Gorge National Conservation Area is designated by the State of Colorado as a Gold Medal Trout Fishery and supports excellent rainbow, brown, and cutthroat trout populations; Wyoming BLM lands provide habitat for abundant herds of trophy pronghorn and Rocky Mountain elk; and the BLM-managed Steens Mountain area in Oregon supports fantastic big game hunting opportunities for trophy mule deer. In many places across the west, the BLM's remote lands are highly regarded for the quality of the hunting experiences they offer.

Hunting activities and regulations on public lands are generally managed by State fish and wildlife agencies, and BLM-managed lands are considered open to hunting, fishing, and recreational target shooting unless they have been specifically closed by law or to protect public safety. In rare circumstances, the BLM may also close areas to balance uses of public lands pursuant to a public land-use planning process. The BLM estimates that over 99 percent of BLM-managed public lands are open to hunting, and 99 percent of BLM-managed public lands are open to recreational target shooting. The most common restricted areas are administrative sites, campgrounds and other developed facilities and in a few other areas with intensive energy, industrial or mineral operations or nearby residential or community development.

Analysis

Section 101 of S. 556 provides that Federal land-managing agencies other than the National Park Service (NPS) and U.S. Fish and Wildlife Service (USFWS) exercise their authority to support and facilitate use of and access to Federal land for hunting, fishing, and recreational shooting. This section would require the agencies to consider effects on hunting, fishing, and target shooting when developing planning documents; designate public lands as open to hunting and shooting unless they are closed for reasons authorized under the bill; and authorize designation of areas for target shooting. Finally, this section would initiate reporting requirements for any closures of lands to hunting or target shooting.

The Department strongly supports the goal of promoting recreational fishing, hunting and shooting opportunities. Some of these provisions, however, appear to be duplicative of existing policies and may interfere with existing management practices. For example, the BLM already regards public lands as open to fishing, hunting, and shooting unless it is demonstrated that the activity could result in unacceptable resource damage or create a public health and safety hazard. Any determination to permanently close public lands to certain activities is made following extensive public involvement and notification through the land use planning and NEPA processes. Temporary closures also involve public notification through the Federal Register. Additionally, when developing resource management plans or when taking any action that may affect shooting sports or access, the BLM notifies over 40 hunting and groups, as specified in the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU), expressly to help ensure that these activities and issues are fully considered.

Similarly, the bill provides that the BLM may lease lands for shooting ranges and designate specific lands for target shooting. The BLM currently has and regularly uses its authority under

the Recreation and Public Purposes Act to patent certain lands to cities, counties, and non-profit organizations for use as shooting ranges. This approach allows entities that are focused on the operation of shooting ranges and are better equipped to handle potential clean-up to properly manage these areas of concentrated use. Given the BLM's limited staff and resources, we feel strongly that the current approach is in the best interest of the shooting public and the general public.

In addition to these duplicative requirements, some of the language in the section as drafted appears to contradict the intent of the legislation or to potentially cause confusion with implementation of existing laws. For instance, the BLM is concerned that Section 101(b)(2) may be interpreted to limit the Secretary's discretion and could result in legal uncertainty that might ultimately inhibit the BLM's efforts to enhance opportunities for hunting, fishing, and shooting. Similarly, Section 101(b) (3)(ii) appears to restrict consideration of cumulative effects of certain management actions and activities on adjacent or nearby non-Federal lands, which may in some cases limit the BLM's ability to respond to issues raised in scoping and comply with other federal laws and regulations. Additionally, certain language in this section may be interpreted to allow activities in wilderness areas that are not consistent with the Wilderness Act.

The BLM supports the purposes of this section and would like the opportunity to work with the Chairman to ensure that those goals are met without unnecessary duplication or unintended legal consequences.

Annual Permit and Fee for Film Crews of 5 Persons or Fewer (Sec. 102)

Background

Under current commercial filming fee law (Public Law 106-206), the Secretary of the Interior and Secretary of Agriculture are authorized to establish a fee system for commercial filming activities on Federal lands. The Act requires a permit for all commercial filming and directs the Secretaries to collect a cost recovery fee associated with processing the permit requests and monitoring the permitted activities, and a location or rental fee to provide a fair return to the United States for the use of federal lands. The Department of the Interior regularly receives and processes requests for commercial film permits under existing law.

We welcome individuals, groups, and companies who wish to film the beauty and bounty of our nation's incredible public lands. We also understand and appreciate the interest of hunters and anglers in taking video and photos to record their own experiences and memorialize their visit to the public lands. It is important for Americans to see their public lands and – done right and under the right conditions – commercial filming is a very welcome and important use of our nation's natural areas.

Analysis

Section 102 would establish a process for assessing fees and authorize access to Federal land for small commercial film crews. This section would amend Public Law 106-206 by requiring the Secretaries of the Interior and Agriculture to allow commercial filming crews of five persons or fewer access to all areas designated for public use on lands and waters under their purview, provided each filming crew pays one, \$200 annual fee, and that the access is during public

hours. While notification would be required and the Secretary could deny access under certain circumstances, no further restrictions could be placed on such film crews, including on the cameras, vehicles or other equipment they may use on public lands.

The Department has concerns about the timeframes for permit denial established by this section of the bill. While the bill requires film crews to notify the managing agency 48 hours before filming begins, and allows the Secretary to deny access in certain circumstances, the Department is concerned that this section does not offer the Secretary the discretion needed to manage film crew permits most effectively. Though the Secretary may deny access, the section does not allow for permit restrictions specific to the circumstances of a filming event, which would limit the Department's primary mechanism for avoiding resource damage, user conflicts, or risks to public safety. Additionally, the Department feels that in most cases, a 48-hour notification is not sufficient to assess the possibility of resource damage, user conflicts, or safety risks that may be incurred.

The Department is also concerned that the bill could be interpreted to require authorization of commercial filming in wilderness areas, notwithstanding the requirements and restrictions in the Wilderness Act. Section 4(d)(6) of the Wilderness Act (P.L. 88-577) states that commercial services may be performed in wilderness areas only to the extent necessary for activities that are proper for realizing the recreational or other wilderness purposes of the areas. Under this bill, some of our most pristine lands could be open to commercial filming, regardless of these wilderness factors. Since the vast majority of public lands, including wilderness, do not have designated hours, this use could occur at any time and without consideration of potential resource impacts.

The Department also has concerns about the fee structure in this section. The effects of some language in this section are not entirely clear. This section does not specify whether the single annual permit fee would be: 1) one fee applicable for all use on federal lands; 2) a fee that must be paid by each film crew to each agency, depending on the type of land being accessed; or 3) an annual fee to be paid for each federal land unit being accessed. This section also does not make clear whether the agencies would be authorized to recover subsequent costs for further monitoring that may be necessary. We also note that in many cases, the \$200 fee may not represent a fair return to the taxpayer for uses authorized under this section. The appropriate cost recovery and location or rental fees for a given use may depend on the needs of the project, requirements for monitoring, and degree of impact to natural or cultural resources or the experience of other visitors.

The Administration appreciates the needs of the many different visitors to the public lands. These constituencies include commercial film makers and videographers, and we value their contributions in films that educate, enlighten and entertain. However, it is important that all commercial filming activities be managed to avoid disruption to visitor activities and damage to natural and cultural resources, and the Administration cannot support this section as written because it does not provide sufficient discretion for the agencies to manage film crews as a use of public lands.

Federal Action Transparency (Sec. 103)**Background**

The Equal Access to Justice Act (EAJA) provides that in certain circumstances the Federal government pay attorney fees and certain expenses incurred in successful litigation against the Federal government. The Department of the Interior is committed to transparency as it works to fulfill its broad mission. In recent years the Department has worked to better understand and address litigation risks and the associated costs of our litigation-related activities.

Analysis

We support efforts to increase the transparency of the EAJA process. We are aware that there are concerns regarding the role of the Administrative Conference of the United States in tracking expenditures pursuant to the EAJA, but defer to others on that issue. We note, however, that the specific reporting requirements under the bill would impose a substantial burden on the Department of the Interior by increasing staff time and expenses in collection, formatting, and dissemination of the requested information.

Bows in the Parks (Sec. 104)**Background**

Sec. 104 would prohibit the Director of the NPS from promulgating or enforcing any regulation that prohibits an individual from transporting inoperable bows and crossbows across any unit of the National Park System in the vehicle of an individual if the individual is not otherwise prohibited by law from possessing the bows and crossbows; the bows or crossbows that are not ready for immediate use remain inside the vehicle of the individual throughout the period during which the bows or crossbows are transported across National Park System land; and the possession of the bows and crossbows is in compliance with the law of the State in which the unit of the National Park System is located.

Analysis

NPS regulations in 36 CFR 2.4 allow for the transport of an inoperable bow in a motor vehicle and the NPS has no intentions of changing this regulation. Therefore, the Department objects to this section because it is unnecessary. However, if the committee decides to continue to include this provision, we would recommend that it be amended to define the term “vehicle” and to require that bows and crossbows, as well as arrows, be stored in a manner that prevents their ready use.

Availability of LWCF for Recreational Public Access Projects (Sec. 201)**Background**

The Land and Water Conservation Fund (LWCF) is one of the Nation’s most effective tools for expanding access for hunting and fishing, conserving critical landscapes, creating places for children to play and learn, protecting traditional uses such as working ranches and farms, acquiring inholdings to manage contiguous landscapes, and protecting sites of historic and cultural significance. In FY 2014, the Department of the Interior received roughly \$135 million in LWCF funding, which the Department used to consolidate and more effectively manage the

lands for which it is responsible, and to acquire easements and rights-of-way to enhance public access. For the BLM, nearly 100 percent of LWCF funding over the past several years has been used for projects that enhance public access for recreation.

Analysis

Section 201 of the bill amends the Land and Water Conservation Act to require not less than the greater of 1.5% or \$10,000,000 of the funds be directed toward public access. The Department supports providing acquisition of easements, rights-of-way, and fee title acquisitions for the purpose of enhancing access to public lands, and would like to note that access priorities can be and have been set administratively through the bureaus' annual LWCF prioritization process. While we strongly support these goals, we would prefer to consider creating a permanent set-aside in the context of establishing full and mandatory funding for the Land and Water Conservation Fund.

Identifying Opportunities for Recreation, Hunting, & Fishing on Federal Land (Sec. 202)

Background

Bureau of Land Management

BLM-managed public lands receive an estimated 60 million visits annually from hunters, anglers, hikers, bikers, OHV riders, climbers, boaters, and other recreationists. The BLM actively seeks to improve access to public lands and has conducted several comprehensive analyses that reported on acres of land with inadequate access. More than 90% of BLM-managed lands are accessible to the public for recreational purposes via adjacent public lands, easements, or rights-of-way. The BLM continually seeks opportunities to acquire access to public lands which are inaccessible because of private or state land ownership patterns that block reasonable access. The BLM uses input from the public obtained during the land use planning and transportation management planning processes to drive the expansion of hunting, fishing, and recreational access opportunities through the acquisition of easements, rights-of-ways, and other means. BLM field offices are also continually updating local maps and online resources with improved access information that incorporate the unique user needs of each local area. In an effort to utilize technologies that will allow the public to produce and view web maps, the BLM is also developing an interactive web-based interface for the public to access BLM maps, data, and information.

National Park Service

The NPS manages 84 million acres of land in 407 units of the National Park System across the U.S. Since 1916, the American people have entrusted the NPS with the care of their National Parks. With the help of volunteers and park partners, the NPS is proud to safeguard these special places and to share their stories with visitors across the nation. Each of these special places reflects a fundamental truth about the American experience, whether it is the natural beauty of our lands or the historic importance of the people and events that have shaped this nation. In 2014, there were 292.8 million visits to National Parks. In 2013, our parks contributed \$26.5 billion to the nation's economy, and supported 240,000 jobs nationwide.

U.S. Fish and Wildlife Service

Hunting and fishing are two priority public uses of the National Wildlife Refuge System. Over

500 national wildlife refuges and wetland management districts are open for fishing, wildlife watching, hunting, photography and other forms of recreation. Currently, 335 national wildlife refuges are open for hunting and 271 are open for fishing. As a way to improve access for all Americans, the U.S. Fish and Wildlife Service (FWS) manages over 3,500 small outdoor recreation facilities on national wildlife refuges that are accessible for hunters, anglers, and other outdoor enthusiasts. These small facilities are supported by a network of well managed roads and trails that enhance access for the public. Refuges rely upon comprehensive conservation plans to identify areas to be opened to the public and are required to undertake appropriate use and compatibility reviews before new recreation programs can be offered.

The FY 2014 Consolidated Appropriations Act (PL 113-76) directed the Department and the U.S. Forest Service to report to Congress on actions they are taking to preserve and improve access to public lands for hunting, fishing, shooting and other recreational activities, including proposed improvements for public involvement in agency decision-making and coordination with State and local governments. The Department is finalizing that report and looks forward to sharing it with the Congress in the near future, as well as using it as a basis for further discussions with the bill's sponsor and the Committee.

Analysis

Section 202 of the bill would require the BLM, NPS, FWS, and the U.S. Forest Service, to develop and maintain a list of priority parcels for which hunting, fishing, or recreational uses are allowed by law but public access is inadequate or unavailable. This section further requires the agencies to identify a general process for obtaining legal public access, and to develop a report to Congress on options providing for access. We note that the Department has existing authority to complete all of these tasks, and that we are prioritizing recreational access under existing law. The Department supports the objectives of this section, but would like to work with the sponsor on technical changes to ensure that reporting and tracking requirements can be feasibly met with existing funding and staffing.

Federal Land Transaction Facilitation Act (Sec. 203)

Background

Congress enacted FLTFA in July of 2000 as Title II of Public Law 106-248. FLTFA expired on July 25, 2011. Under FLTFA, the BLM could sell public lands identified for disposal through the land use planning process prior to July 2000, and retain the proceeds from those sales in a special account in the Treasury. The BLM and the other Federal land managing agencies were then able to use those funds to acquire, from willing sellers, inholdings within certain federally designated areas and lands that are adjacent to those areas that contain exceptional resources. Lands were able to be acquired within and/or adjacent to areas managed by the NPS, USFWS, USFS, and the BLM.

Over the life of the FLTFA, approximately 27,249 acres were sold under this authority and approximately 18,535 acres of high resource value lands were acquired. The President's fiscal year 2016 Budget includes a proposal to permanently reauthorize FLTFA. The BLM identifies lands that may be suitable for disposal through its land use planning process, which involves full public participation. Before the enactment of FLTFA, the BLM had the authority under the

Federal Land Policy and Management Act (FLPMA) to sell lands identified for disposal. The proceeds from those sales were deposited into the General Fund of the Treasury. However, because of the costs associated with those sales (including environmental and cultural clearances, appraisals, and surveys), few sales were undertaken. Since it was enacted, the BLM utilized FLTFA to sell 330 parcels previously identified for disposal totaling 27,249 acres, with a total value of approximately \$117.4 million. Over the same time period, the Federal government acquired 37 parcels totaling 18,535 acres, with a total value of approximately \$50.4 million using FLTFA funds.

Using the FLTFA proceeds, the BLM, NPS, FWS, and FS acquired significant inholdings and adjacent lands from willing sellers, consistent with the provisions of the Act. For example, in November 2009 the BLM used FLTFA funds to complete the acquisition of 4,573 acres within the BLM's Canyons of the Ancients National Monument in southwest Colorado. These inholdings encompass 25 documented cultural sites, and archaeologists expect to record an additional 700 significant finds. The acquisition also included two particularly important areas: "Jackson's Castle," which is archaeologically significant; and the "Skywatcher Site," a one-of-a-kind, 1,000-year-old solstice marker. The following are a few additional examples of important FLTFA acquisitions:

- Elk Springs Area of Critical Environmental Concern (ACEC), New Mexico/BLM – This 2,280-acre acquisition protects critical elk wintering habitat.
- Hells Canyon Wilderness, Arizona/BLM – A 640-acre parcel constituting the last inholding within the Hells Canyon Wilderness, located just 25 miles northwest of Phoenix.
- Grand Teton National Park, Wyoming/NPS – This small (1.38 acres), but critical inholding within the Park was acquired and protected from development.
- Nestucca Bay National Wildlife Refuge, Oregon/FWS – This 92-acre dairy farm on the outskirts of Pacific City, Oregon, was slated for residential development and was acquired to protect a significant portion of the world's population of the Semidi Islands Aleutian Cackling Goose.

Analysis

Section 203 of the bill would both reauthorize and enhance the original FLTFA through four major changes. First, the bill permanently reauthorizes FLTFA. Second, under the original FLTFA, only lands identified for disposal prior to July 25, 2000, were eligible to be sold. This section modifies that restriction by allowing any lands identified for disposal through the BLM's land use planning process to be sold through the FLTFA process. The Department supports this change, which recognizes the usefulness and importance of the BLM's land use planning process. Third, the original FLTFA allowed acquisitions of inholdings within, or adjacent to, certain Federal units such as BLM conservation units, National Parks, National Wildlife Refuges, and certain Forest Service units if they existed prior to July 25, 2000. This section eliminates this limitation as well, and we support this change. Finally, the legislation adds exceptions to FLTFA in recognition of specific laws that modify FLTFA with respect to some particular locations. The FLTFA does not apply to lands available for sale under the Santini-Burton Act (P.L. 96-586) and the Southern Nevada Public Land Management Act (P.L. 105-263). This legislation additionally exempts lands included in the White Pine County Conservation, Recreation, and Development Act (P.L. 109-432) and the Lincoln County Conservation,

Recreation and Development Act (P.L. 108-424). Finally, a number of provisions of the Omnibus Public Land Management Act of 2009 (P.L. 111-11) modify FLTFA at specific sites or for specific purposes. These exceptions are also captured by this legislation.

This section of the bill also provides that \$1 million per year be transferred to the Treasury from the Federal Land Disposal Account. The Department recommends deletion of this section, which would reduce the effectiveness of the FLTFA authority. The Department strongly supports Section 203.

Conclusion

Thank you for the opportunity to testify on the seven provisions included in this legislation. The Department shares the Committee's interest in enhancing recreational opportunities and access for hunting, fishing, and target shooting on public lands, and we look forward to continuing to work with you on these important issues. One opportunity for future collaboration on hunting, fishing, and other recreational uses of the public lands is the Administration's legislative proposal for a Congressionally-chartered, non-profit BLM Foundation. The Foundation would provide opportunities for interested members of the public and stakeholders to contribute financially to the programs they care most about – for instance, land acquisition, recreational access projects, and habitat improvement.

CHAIRMAN. Thank you, Mr. Ellis.
Ms. Weldon, welcome.

STATEMENT OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. WELDON. Thank you.

Madam Chairman, Ranking Member Cantwell, members of the Committee, thank you for the opportunity to present the views of the U.S. Department of Agriculture on Senate Bill 556, the Bipartisan Sportsmen's Act of 2015.

I've provided my written testimony for the record.

We deeply appreciate the interest of the bill's sponsors and of the Committee in promoting the traditions of recreational hunting, fishing and shooting on the national forests and grasslands and working with us to improve on past versions of the bill.

The Forest Service is proud to be stewards of 193 million acres of open space where Americans can go play outdoors, and we estimate supporting approximately 190,000 jobs and contributing around \$13 billion to the National Gross Domestic Product related to outdoor recreation on the national forests and grasslands.

The national forests are now and have always been open to hunting, fishing and shooting unless specifically closed for local driven reasons. Without the vast public land system we have in this country the tradition and opportunities that regular people enjoy today to hunt, fish and shoot would be greatly lessened and the future of these sports put in jeopardy.

I want to reiterate our commitment to the letter and the spirit of the memorandum of understanding we hold with the Federal Lands Hunting, Fishing and Shooting Sports Roundtable which mirror many of the components of this legislation.

I must also acknowledge the strong partnership we have with state wildlife and fish agencies which regulate the fish and game populations that we pursue.

While we wholeheartedly embrace the activities of hunting, fishing and shooting, the USDA has concerns with the consequences of the specific language in some of the provisions of the bill and we would like to work with the Committee to address them.

For example, with our vast mission to protect the health and diversity of America's forests and grasslands for current and future generations, we're cautious about any requirements that increase administrative workloads as some components of the bill would do. We continue to manage these lands for sporting and other types of recreation and consider the effects of activities on recreational use and our planning processes as we currently do which we believe is within line with the intent of this legislation.

We will also continue to pursue opportunities to improve public access where it is lacking or inadequate through active involvement of local line officers, working with local communities and land owners. With limited staff and expertise we're concerned that additional reporting requirements would divert staff away from pursuing better access on the ground.

While we continue to manage units of the National Wilderness Preservation System for hunting, fishing and shooting, we need to

guarantee that those who wish to engage in these sports can do so in a wilderness setting without encountering activities that compromise wilderness character. As such we hope to work with the Committee to ensure that language in the bill does not unintentionally alter management of these special places.

We're attuned to the concerns over commercial filming and have worked hard through public outreach and meetings with industry groups to clarify our purpose and intent for revising our directives so that they provide for this important use and balance with protection of natural resources.

Chief Tidwell recently, issued direction to the field ensuring that line and staff officers have common understanding of the agency's position regarding when permits are required and when they are not. We believe that the eventual final rule will adequately provide for a fair treatment of commercial film companies, large and small, as well as other permit holders such as outfitters and guides. We believe the final rule will be the best means for avoiding undesirable impacts on natural resources or wilderness character. At no time will a permit be required or a fee charged for families or individuals photographing the beauty of this country for their own use and enjoyment or for journalists engaging in news gathering.

We support the intent of the provisions in this legislation regarding the Land and Water Conservation Fund as well as the Federal Land Transfer Facilitation Act and encourage further permanent set aside establishing full and mandatory funding for LWCF. These are proven tools to improve public access and conservation management.

In our 2015 budget request we've sought \$5 million from LWCF to specifically improve access to the national forests.

Finally, the challenges we face continuing our legacy of conservation have never been greater as things become more complex. Facing these challenges under our current funding process for wildfire has made this more difficult. Since 1998 fire staffing has increased to 118 percent while over the same period staffing for other important programs with the national forest have decreased by 39 percent, and we really support a bipartisan solution.

With that, I am happy to answer any questions. And thanks again for allowing us to testify.

[The prepared statement of Ms. Weldon follows:]

**TESTIMONY of
LESLIE WELDON
DEPUTY CHIEF FOR NATIONAL FOREST SYSTEM
UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

**MARCH 12, 2015
CONCERNING
S.556 – Bipartisan Sportsmen’s Act of 2015**

Madam Chairman and members of the committee; thank you for the opportunity to represent the views of the United States Department of Agriculture (USDA) on S.556, the Bipartisan Sportsmen’s Act of 2015. I am Leslie Weldon, Deputy Chief for the National Forest System, USDA Forest Service.

Please let me begin by strongly emphasizing the foundational role the National Forest System serves in providing high-quality outdoor recreational opportunities for all Americans. The 193 million acres of land the Forest Service manages in the public trust are now and always have been where people across the country go to enjoy world-class hunting, fishing, and recreational shooting, as well as nearly every other variety of healthy outdoor activity. Spending by visitors engaging in recreation activities supports more jobs and economic output than any other activities on the National Forest System. In 2012, outdoor recreation on the National Forests supported approximately 190,000 jobs and contributed about \$13 billion to the Nation’s gross domestic product.

S.556 would, in summary, require the continued management of the National Forest System for hunting, fishing, and recreational shooting, require consideration of these uses in land management planning documents, require allowance of volunteers for the culling of wildlife, require access to designated wilderness for hunting, fishing, and shooting, continue provisions for the designation of shooting ranges, require reporting measures on closures or restrictions,

and require coordination with advisory committees on these actions. The bill would establish procedures for permitting commercial film crews of five or fewer persons and the use of cameras and related equipment. It also creates reporting requirements under the Equal Access to Justice Act. In Title II, the bill would mandate that a percentage of monies from the Land and Water Conservation Fund be used to acquire recreation access to federal lands, would require development and publication of a list of federal lands where access is limited or unavailable, and amend the Federal Land Transaction Facilitation Act.

Section 101 – Recreational Fishing, Hunting, and Recreational Shooting

USDA applauds the interest in promoting the tradition of hunting, fishing, and recreational shooting on the National Forests. Certain components in the legislation, however, raise specific concerns. Management of National Forests, including within designated wilderness, for the purposes of hunting, fishing, and shooting, and consideration of these uses when relevant in planning documents is already a fundamental component of existing law and policy including the Multiple Use–Sustained Yield Act and the National Forest Management Act, and will continue even without passage of this bill. National Forests are and will be open unless closed to these activities. If an agency action has effects on hunting, fishing, or recreational uses they would be evaluated under current policy and those effects disclosed. If they are not relevant to the planning effort, requiring the agency to consider them would provide minimum benefit and generate additional, unnecessary environmental documentation. Although the bill states that the bill is not intended to prioritize recreational hunting, fishing, and recreational shooting over other uses of Federal lands, USDA is concerned that the requirements in section 101 to facilitate recreational hunting, fishing, and recreational shooting could limit the agency's flexibility to balance these uses with other uses as required under the Forest Service's Multiple Use-Sustained Yield Act.

USDA also is concerned that section 101(b)(4)(A) could be understood to open units of the National Wilderness Preservation System to uses prohibited by the Wilderness Act. Section 101(b)(4)(A)(ii) would provide that the bill's requirement that lands are open to fishing,

hunting, and recreational shooting does not also authorize motorized access or the use of motorized vehicles in wilderness study areas and areas administratively classified as eligible or suitable for wilderness designation. This provision does not provide the same safeguard that motorized access for fishing, hunting and shooting will continue to be prohibited in designated wilderness. We are concerned that section 101(b)(4)(A)(ii) could be read to open wilderness areas administered by the Forest Service to temporary roads, motor vehicles, motorized equipment, motorboats, and other forms of mechanized transport in furtherance of recreational hunting, shooting, and fishing.

Further, this provision only mentions motorized vehicles but is silent on other prohibited uses under section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), such as mechanical transport, structures, and installations. As a result, this provision creates uncertainty as to whether such uses, when in furtherance of recreational hunting, shooting, and fishing, would remain prohibited under the Wilderness Act. Wilderness areas are currently managed by the Forest Service to provide opportunities for recreational use and enjoyment (including hunting and fishing) consistent with the primary responsibility of preserving the wilderness character of the area. Under section 101(b)(4)(C), local agency line officers already exercise authority to designate shooting ranges where appropriate and necessary. We note that the liability limitation in section 101(b)(4)(C) regarding these designations does not override the Federal Tort Claims Act and therefore most likely would not have any legal effect. With respect to section 101(b)(3)(B), the decision to allow culling of wildlife by volunteers or by other methods in any areas closed to hunting or fishing would be a decision best made locally, in concert with state agencies, based on local circumstances.

Given our long-standing commitment to manage National Forests as open for hunting, fishing, and shooting, where prohibitions do occur they are as a last resort to address sound public safety or natural resource concerns. These decisions are again best made by local, delegated line officers rather than agency heads, after the appropriate level of environmental analysis under NEPA and appropriate public involvement have been completed. The restatement in

section 101(b)(8) of the authority of Executive Orders 12962 and 13443 is unnecessary and may give the perception the Agency is required to give deference to these activities as special interests. Additionally, to the extent the consultation requirement applies to emergency closures, timely agency response to public safety issues could be compromised.

Section 102 – Commercial Filming

USDA agrees commercial filming is an appropriate use of National Forest System lands and should not be overly constrained. To this end, the Forest Service is currently engaged in a public process to revise its commercial filming directives to ensure sufficient protection of public resources, the freedom of individuals and groups, both large and small, to film and photograph National Forest System lands, and the protection of freedom of the press. This effort has included meeting with industry advocates and media groups, and hosting extensive public meetings in Boise, Seattle, Portland, and Washington DC during the public comment period for the proposed directives. Additionally, in concert with a Department of Interior-led effort USDA has been engaged in formation of an updated fee schedule common across land management agencies, with publication of a final rule anticipated soon. USDA believes issuance of these directives is the most appropriate way to ensure balanced protection of natural resource and wilderness values with use by commercial film crews of all sizes.

We would like to work with the committee on language addressing commercial filming to avoid unintended consequences. We are concerned that even small film crews can have a substantial impact as they may use large vehicles, trailers, generators, and other equipment to conduct their business. Issuing permits based on individual applications allows for commercial filming and provides assurance that impacts on natural resources will be avoided or minimized.

Additionally, we are concerned about new paragraph (3)(E), which provides that the Secretary may not prohibit “as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects.” Because paragraph (3)(E) applies to wilderness, this provision would allow use of

motorized equipment such as cranes for filming in wilderness, which would be inconsistent with the Wilderness Act.

Section 103 – Federal Action Transparency

The detailed data to meet reporting requirements in the Federal Action Transparency section of the bill would impose a substantial burden on the Forest Service in terms of staff time and information technology expenses in the collection, database formatting, and dissemination of this information. We do not support section 103 as the information is largely already available via the Public Access to Court Electronic Records reporting system, even though it is not in summary report format as requested in this bill.

Sections 201 and 202 – Habitat Conservation

We fully support the objectives of increasing and improving access to public lands. The development and publication of regional priority lists describing lands with limited, disputed or no legal access as required by Section 202 will require considerable staff time and would not, by itself, create greater access. Local Forest managers regularly pursue opportunities to acquire title, easement, or right-of-way to improve public access. We will continue to pursue negotiations with willing sellers, and assert public rights where access has been denied, to the extent of our capacity to do so.

The Land and Water Conservation Fund (LWCF) is a proven tool that can be used to improve recreational access to public lands. The President's FY 2016 Budget proposes to permanently authorize annual mandatory funding of the Department of Agriculture and Department of the Interior Land and Water Conservation Fund programs beginning in FY 2017. In FY 2016, we are requesting \$400 million in discretionary funding and \$500 million in mandatory funding, with all \$900 million coming from mandatory funding in FY 2017 to be shared by Agriculture and Interior. Full funding for the Land and Water Conservation Fund supports the President's agenda of improving public access and the past success and ongoing importance of the LWCF cannot be overstated. Of 40 land purchases the Forest Service completed in FY14 using LWCF,

39 provided either legal access where none previously existed or improved legal access. While we support the goals of Section 201 of this bill, we would prefer to consider creating a permanent set-aside in the context of establishing full and mandatory funding for the Land and Water Conservation Fund.

Section 203 – Federal Land Transfer Facilitation Act

USDA supports reauthorization of the Federal Land Transfer Facilitation Act (FLTFA) and recommends that all proceeds be retained and used for critical land acquisitions including those that provide access for hunting, fishing, shooting, and other recreational activities.

Sources such as LWCF and FLTFA are significant in achieving our conservation mission, especially as an ever-increasing portion of the Forest Service budget is consumed by wildland fire suppression efforts. Resolving the fire-funding issue with bipartisan legislation is a critical need and an important first step before we could adequately address and fund all the provisions in this legislation.

This concludes my remarks. Thank you again for the opportunity to comment and I am available to take your questions.

CHAIRMAN. Thank you, Ms. Weldon.
Mr. Crane, welcome.

**STATEMENT OF JEFF CRANE, PRESIDENT, CONGRESSIONAL
SPORTSMEN'S FOUNDATION**

Mr. CRANE. Good morning, Madam Chair, Senator Cantwell and members of the Committee, thank you for having me.

As the Chair introduced me, I am the President of the Congressional Sportsmen's Foundation. I've had that privilege to serve in that capacity for 10 years. So, indeed, I have spent a lot of time up here on Capitol Hill working on issues important to the sportsmen and women in the country.

Established in 1989, the Congressional Sportsmen's Foundation works with the largest, most active, bipartisan caucus on Capitol Hill, the Congressional Sportsmen's Caucus, nearly 300 members from the House and the Senate. I want to especially recognize our two current co-chairs in the Senate, Senator Jim Risch from Idaho and Senator Joe Manchin from West Virginia. Thank you, gentlemen, for leading this large caucus in the U.S. Senate.

Madam Chair and Senator Heinrich, I'd like to recognize and thank you for your leadership in introducing S. 405 and making sure that that has bipartisanship all the way along the way.

As you pointed out, there are 18 co-sponsors of this bill, equally divided between Republicans and Democrats. I think in this town we'd love to see more of that, and that's a great start. We're committed to working with you to try to encourage more of your colleagues from both sides of the aisle to join.

In the last Congress, as you again pointed out, we came very close in terms of getting this bill done, 46 bipartisan co-sponsors were on a very similar version to S. 405. And stealing a philosophy that I use as an outdoorsman, "Patience and persistence usually leads to success in the field." So I hope this is going to be our year.

I'm a lifelong conservationist like you, Madam Chair. This was taught to me by my father and my grandfather. I'm endeavoring to pass it along to my daughters. We have a lot of deer meat and ducks and geese and fish in our freezer, and that's just a great opportunity for us to share in the bounty of the harvest.

So this legislation is important to me, personally. But I think more importantly on behalf of the 40 million sportsmen and women who spend \$90 million, billion, annually on our outdoor pursuits, this is good for conservation and indeed good for America.

Conservation is critically important to hunters, anglers, boaters and shooters. The term conservation, as understood by us in this community, can be traced back to Gifford Pinchot, who was the first Chief of the U.S. Forest Service. Mr. Pinchot defined conservation as the "wise use of the Earth and its resources for the lasting good of men." I think that's a really appropriate definition.

Along with that comes the responsibility to be good stewards, as you pointed out, and be careful with the management of these resources. We are the original conservationists as sportsmen and women, and we remain dedicated to the stewardship of our conservation of natural resources.

I would like to just add for the record part of my statement, a February 26th letter, with virtually every natural fishing and hunt-

ing organization endorsing this legislation. I think it came to every member of the U.S. Senate.

[The information referred to follows:]

American Fly Fishing Trade Association * American Sportfishing Association * Archery Trade Association * Association of Fish and Wildlife Agencies * B.A.S.S. * Bear Trust International Berkley Conservation Institute * Boone and Crockett Club * Bowhunting Preservation Alliance Camp Fire Club of America * Catch-A-Dream Foundation * Coastal Conservation Association Congressional Sportsmen's Foundation * Council to Advance Hunting and the Shooting Sports Dallas Safari Club * Delta Waterfowl Foundation * Ducks Unlimited * Houston Safari Club International Game Fish Association * Izaak Walton League of America * Masters of Foxhounds Association * Mule Deer Foundation * National Marine Manufacturers Association * National Shooting Sports Foundation * National Trappers Association * National Wild Turkey Federation North American Bear Foundation * North American Grouse Partnership * Orion – The Hunter's Institute * Pheasants Forever * Pope and Young Club * Quail Forever * Quality Deer Management Association * Rocky Mountain Elk Foundation * Ruffed Grouse Society * Safari Club International * Texas Wildlife Association * Theodore Roosevelt Conservation Partnership Tread Lightly! * Trout Unlimited * U.S. Sportsmen's Alliance * Wild Sheep Foundation Wildlife Forever * Wildlife Management Institute Wildlife Mississippi

February 26, 2015

Dear Senator:

On behalf of our organizations, which represent millions of hunters, anglers and wildlife enthusiasts, we are writing to express our strong support for the *Bipartisan Sportsmen's Act of 2015* (S.405) and to seek your formal support for this historic legislation.

Recently introduced by Congressional Sportsmen's Caucus (CSC) members Senators Lisa Murkowski and Martin Heinrich along with CSC Co-Chairs Senators Jim Risch and Joe Manchin III and Vice Chairs Deb Fischer and Heidi Heitkamp, S.405 is a bipartisan package of pro-sportsmen's legislation that will expand, enhance and protect America's hunting, fishing and conservation heritage.

In order to avoid the timing challenges that stalled passage of the widely supported *Bipartisan Sportsmen's Act* last year, we are urging the Senate to pass S.405 in the first half of the 114th Congress. A strong demonstration of the far-reaching, bipartisan support for this legislation will be helpful to expeditiously securing committee and floor consideration of S.405 in a manner consistent with this timeline.

To that end, we respectfully request that you join the growing coalition of Senators, already bound by a shared commitment to enacting this historic legislation, by cosponsoring the *Bipartisan Sportsmen's Act of 2015*. To be added as a cosponsor of S. 405, please contact Chris Kearney in Senator Murkowski's Office at: christopher_kearney@energy.senate.gov or Maya Hermann in Senator Heinrich's office at: Maya_Hermann@heinrich.senate.gov.

Thank you for your consideration of this request and for your service on behalf of America's hunting, angling, shooting and conservation community.

Sincerely:

American Fly Fishing Trade Association
 American Sportfishing Association
 Archery Trade Association
 Association of Fish and Wildlife Agencies
 B.A.S.S.
 Bear Trust International
 Berkley Conservation Institute
 Boone and Crockett Club
 Bowhunting Preservation Alliance
 Camp Fire Club of America
 Catch-A-Dream Foundation
 Coastal Conservation Association
 Congressional Sportsmen's Foundation
 Council to Advance Hunting and the
 Shooting Sports
 Dallas Safari Club
 Delta Waterfowl Foundation
 Ducks Unlimited
 Houston Safari Club
 International Game Fish Association
 Izaak Walton League of America
 Masters of Foxhounds Association
 Mule Deer Foundation

National Marine Manufacturers Association
 National Shooting Sports Foundation
 National Trappers Association
 National Wild Turkey Federation
 North American Bear Foundation
 North American Grouse Partnership
 Orion – The Hunter's Institute
 Pheasants Forever
 Pope and Young Club
 Quail Forever
 Quality Deer Management Association
 Rocky Mountain Elk Foundation
 Ruffed Grouse Society
 Safari Club International
 Texas Wildlife Association
 Theodore Roosevelt Conservation
 Partnership
 Tread Lightly!
 Trout Unlimited
 U.S. Sportsmen's Alliance
 Wild Sheep Foundation
 Wildlife Forever
 Wildlife Management Institute
 Wildlife Mississippi

Quite simply, the overarching purpose of this bill is to ensure access and opportunity for hunters, shooters and anglers. According to polls, multiple polls, the main reason we lose hunters and anglers is there's not enough access to quality places to hunt and fish. With an ever increasing population in urban, suburban sprawl, it's imperative that access and opportunity are protected and even enhanced for future generations. In an effort to get our younger generations off the couch, off of behind the computer and outside, we need to make sure that there will be quality places for them to go and enjoy these traditions.

Where there is access, let's embrace it. Let's put this certainty in there that it's going to remain for generations to come.

Where there isn't, we should ask why and we should be working together to look for solutions. And I think this bill is directed, exactly, at that. After all, these are public resources, and these assets, these treasures of our American public lands, are there to be enjoyed, especially for low impact resource uses like hunting and fishing.

I thank you again, Madam Chair and members of this Committee, for your leadership on this. I would be happy to answer any questions.

Thank you.

[The prepared statement of Mr. Crane follows:]

Testimony of

**Jeff Crane
President**

Congressional Sportsmen's Foundation

Before the

**Committee on Energy & Natural Resources
United States Senate**

Regarding

S.556, the Bipartisan Sportsmen's Act of 2015

March 12, 2015

Good morning Madam Chairwoman, Senator Cantwell and members of the Committee. My name is Jeff Crane, and for the past decade I have served as the President of the Congressional Sportsmen's Foundation (CSF). Established in 1989, CSF works with the bipartisan Congressional Sportsmen's Caucus (CSC), the largest, most active caucus on Capitol Hill. With nearly 300 Members of Congress from both the House and Senate, current Senate CSC Co-Chairs are Senator Jim Risch (R-ID) and Senator Joe Manchin (D-WV), and Vice-Chairs are Senator Deb Fischer (R-NE) and Senator Heidi Heitkamp (D-ND).

Ten years ago, CSF extended the legislative network from Washington, DC to states across the country, establishing the bipartisan National Assembly of Sportsmen's Caucuses, which today is made up of 45 state legislative caucuses, and includes over 2,000 legislators. Five years ago, CSF established a bipartisan Governors Sportsmen's Caucus, which today includes 28 Governors and one Lieutenant Governor. Together, this collective force of bipartisan elected officials work to protect and advance hunting, angling, recreational shooting and trapping for the 37 million sportsmen and women who spend \$90 billion annually on our outdoor pursuits.

As a lifelong conservationist and outdoorsman, who was taught to hunt and fish by my father and grandfather, I am passing this heritage along to my three daughters. From my early days of boy scouting, where I achieved the rank of Eagle Scout, to leading safaris in Southern Africa as a professional hunting guide, my love of nature and respect for the great outdoors defines who I am as a person. When I had the opportunity to join CSF in 2002, and thereby combine this passion with my professional background in the policy arena, I knew I found my life's calling.

In my professional life in the conservation policy arena, I am the only person to sit on both the sport fishing and hunting federal advisory committees (FACA); the Sport Fishing and Boating Partnership Council and the Wildlife and Hunting Heritage Conservation Council, respectively. Originally appointed to these FACA councils during the Bush Administration, I have been subsequently reappointed to each during the Obama Administration. I am a past Chairman of the American Wildlife Conservation Partners, a board member of the Council to Advance Hunting and the Shooting Sports, a panelist on the Blue Ribbon Panel on Sustaining America's Diverse Fish & Wildlife Resources, am involved in numerous national hunting and fishing conservation groups, and am a professional member of the Boone & Crockett Club, the oldest conservation club in America, founded by Theodore Roosevelt in 1887.

Taking a moment to put things into historical perspective, the idea of conservation in America began with members of the sportsmen's community, who introduced game laws and programs to protect natural resources - leading to the creation of state and federal fish and wildlife agencies. Nearly 80 years ago, the hunting community led the charge for the passage of the Federal Aid in Wildlife Restoration Act (Pittman-Robertson Act) which redirected excise taxes on firearms and ammunition to a dedicated fund to be used specifically for conservation purposes. Further, revenue from sportsmen's licenses was also permanently linked to conservation, laying the foundation for what is now the uniquely American System of Conservation Funding, a "user pays - public benefits" program that is the financial backbone of the most successful conservation model in the world. Through time, this System has expanded and now includes the fishing and boating communities - with the passage of the Federal Aid in Sportfish Restoration Act (also known as the Dingell-Johnson Act, and the subsequent Wallop-Breaux Amendment) as

well as the archery community. The funds collected through these programs, totaling over \$16 billion, plus millions of dollars annually in license and permit fees, are the lifeblood of state fish and wildlife agencies – the primary managers of our nation’s fish and wildlife resources. These critical conservation dollars fund a variety of efforts including: enhanced fish and wildlife habitat and populations, recreational access to public and private lands, shooting ranges and boat access facilities, wetlands protection and its associated water filtration and flood retention functions, and improved soil and water conservation - all which benefit the American public.

Conservation is critically important to hunters, anglers, boaters, and shooters alike. The term ‘conservation,’ as understood by the sportsmen’s community, can be traced back to Gifford Pinchot of the U.S. Forest Service. Pinchot defined conservation as the “wise use of the Earth and its resources for the lasting good of men.” Along with the use of a resource comes the responsibility of careful resource management. America’s sportsmen and women are the original conservationists, who exemplify the laudable definition of conservation advanced by Pinchot, and remain dedicated to the stewardship of our natural resources. As part of my statement, I would like to include a February 26, 2015 letter from virtually every national hunting and fishing conservation organization supporting S. 405, the expanded Bipartisan Sportsmen’s Act, containing provisions that fall under both the jurisdiction of the Environment and Public Works Committee and this Committee.

The title, “Bipartisan Sportsmen’s Act,” is in itself indicative of the fact that conservation, hunting, recreational fishing and shooting, and our outdoor traditions are not defined by or constrained to any partisan label. We are sportsmen and women because we love and care for America’s great outdoors, regardless of political affiliation, race, religion, gender, or socio-economic standing. In a city all too often characterized by partisan rancor, S. 405 already has 18 cosponsors, equally divided between Republicans and Democrats. In the 113th Congress, a nearly identical Senate bill had 46 bipartisan cosponsors. In the House of Representatives, similar sportsmen’s packages were passed with strong bipartisan support in both the 112th and 113th Congresses. It is now time to pass the Bipartisan Sportsmen’s Act of 2015.

The overarching purpose behind this bill is quite simply to ensure access and opportunity for hunters, shooters and anglers. According to polling, the number one reason that we lose hunters and anglers is, ‘not enough access to quality places to hunt or fish.’ With an ever increasing population and urban/suburban sprawl, it is imperative that access and opportunity are protected and even enhanced for future generations. In an effort to get our younger generations off the couch and out from behind the computer, recreational access to our national treasures of public lands and waters is imperative. Where this access does currently exist, let’s entrench it and provide certainty that it will always be there. Where it doesn’t, let’s ask why, and if reasonable and feasible, let’s look at solutions to make it more accessible. After all, these are public assets owned by the American people that were established for multiple use, including low impact recreational uses like hunting and fishing.

It is also worth noting that unlike some other outdoor recreational activities, hunting and shooting, in particular, are under constant siege by well-funded, politically and legally active, extremists groups that are intent on using whatever means to put an end to the traditions we cherish. Through the use of frivolous lawsuits and judicial action, the anti-use and animal rights

extremists are using the courts instead of relying on science-based wildlife management to achieve their radical anti-hunting/fishing agenda. Legal challenges to the application of the statutory and administrative policies that guide federal land management and conservation are effectively tying the hands of the public land managers and state wildlife officials, which in turn, deny access and opportunity.

The provisions in this legislation attempt to address many of these issues and should provide certainty that our sportsmen's heritage will be protected into the future. Specifically, CSF's comments on each provision of S. 556 are:

Sec. 101 – Recreational fishing, hunting, and recreational shooting on Federal public land

CSF strongly supports Section 101 which would ensure that Bureau of Land Management (BLM) and Forest Service (FS) lands are “open to fishing, hunting and shooting until closed” by specific agency action. Specifically Section 101: (1) clarifies and gives permanency to existing practices; (2) forestalls unnecessary litigation challenges to these traditional activities by anti-hunting and fishing interests; (3) creates greater administrative efficiency and reduced agency expense; and (4) follows a successful 35 year model governing lands in Alaska.

When discretionary agency action is necessary to continue fishing and hunting, each such action is also subject to judicial challenge per the Administrative Procedure Act (APA). By prescribing that public lands are open as a matter of law, no discretionary agency action is necessary to continue these activities.

Fortunately, for now, the vast bulk of BLM and FS lands are open to hunting and recreational fishing and shooting. However, the status quo is beginning to change in the face of pressure from anti-fishing/hunting interests. This trend reared its head in the Huron-Manistee National Forest in Michigan when the U. S. Court of Appeals for the Sixth Circuit ruled that the Forest Service could not simply keep the Forest land open to hunting (as had occurred from the creation of the Forest Service unit), but had to consider closing it to protect the aesthetic sensibilities of non-hunters from hearing occasional gunshots. Part of the problem was that nothing in the Forest statutes prescribed the continuation of hunting. The sporting community expects many more comparable lawsuits unless Congress acts to forestall such litigation.

Administrative appeals using the Forest Service appeals process or the Interior Board of Land Appeals for BLM action are also likely to increase if existing law remains unchanged. Not only does each such appeal put fishing and hunting at risk but the costs to the agencies will continue to mount. Absent Congressional prescription that fishing and hunting are allowed, substantial resources and time will be committed to administrative procedures to maintain the status quo (i.e.; continued fishing and hunting on BLM and FS lands).

In 1980 Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA). ANILCA mandated that certain parks, National Preserves, Monuments, Refuges, and Wilderness Areas be open to fishing and hunting subject to administrative closures/restrictions adopted by the National Parks Service (NPS) or the US Fish and Wildlife Service (FWS). This approach has worked well for over three decades, creating a valuable model for minimizing agency costs, and protecting fishing and hunting on other public lands. All of these ANILCA lands are statutorily open to access by airplane, motorboat and

snow machine until closed or restricted by subsequent specific agency action. This simple statutory model, which can be replicated nationally, has worked well for 35 years generating only a single lawsuit in all that time.

The need to expressly provide for fishing and hunting on BLM and FS lands is also supported by the National Wildlife Refuge System Improvement Act signed into law by President Clinton in 1997. Even though many of these FWS units were open to hunting, a number of legal challenges were filed against the openings on the grounds that the law did not expressly provide for hunting on “refuges.” Just like BLM and FS lands, the older FWS statutes did not specifically provide for hunting or designate it as a legitimate activity because when enacted, there was no anti-hunting movement. A broad bipartisan coalition in Congress fixed the problem by expressly finding that hunting was a legitimate activity on refuge lands, made fishing and hunting “priority public uses” of these lands, and directed FWS to “facilitate” fishing and hunting.

Similarly, it is time for Congress to provide these same assurances to public lands administered by the BLM and FS.

Sec. 102 - Annual permit and fee for film crews of 5 persons or fewer

CSF also supports Section 102 but has two minor suggestions for improvements. The legislation directs the Secretaries of the Interior and Agriculture to require that film crews of five or fewer, who are engaged in “commercial filming,” purchase a \$200 annual permit to operate on federal lands and waterways administered by the Secretaries.

Enacted on May 26, 2000, Public Law 106-206 directed the Secretaries of the Interior and Agriculture to require a permit and establish a “reasonable fee” for commercial filming activities. Subsequently, each land management agency subject to PL 106-206 completed an individualized rulemaking tailored to compliance with its unique missions and authorities. Unfortunately, the end result was significant uncertainty and confusion among outdoor industry production and publication companies regarding which rule applied to which lands as well as to whether certain activities would be classified as journalism or commercial.

Section 102 would provide consistency and certainty for a number of companies in the sportsmen’s community who produce television shows, movies and publications about hunting, shooting, fishing and conservation.

CSF would welcome an opportunity to work with the Committee to address two minor issues. First, the vast lion’s share of filming crews made up of five or less people are creating television and print materials that promote the natural, historic and recreational values on our public lands. This increases visitation to and support for, our public lands. As an incentive to encourage more of these benefits we suggest the Committee consider removing the annual \$200 fee to obtain the permit required for film crews of five or less.

Second, we would welcome an opportunity to work with the Committee, members of the media, production companies and publishers to develop language that clearly delineates which activities are defined as being commercial production and which are journalism. This would create

certainty and remove confusion for those engaged in both commercial and non-commercial activities.

Sec. 103 – Federal action transparency

Section 103 is the result of a breakthrough on the longstanding issue of environmental litigation. Even though it is a modest provision that merely establishes a public record of the costs and circumstances of litigation against the government, its bipartisan authorship and passage last year through the House of Representatives on voice votes without dissent show that it is a strong step forward.

Though differences on this topic have previously run deep, agreement is rising to the surface, starting with the plain fact that litigation has become a regular step in the process of managing wildlife habitat on federal trust lands. Like every other step in the decision-making process, and every aspect of the science involved, litigation must be understood and interpreted so we can all be sure of the best outcomes.

The concerns with litigation are, from one point of view, that litigation too often needlessly impedes the work of conservation agencies, leaving wildlife and habitat to neglect. From another view, lawsuits are necessary in order to ensure conservation. Either way, there is a problem. Whether the problem is that agencies are vulnerable in court, or that they belong in court, we need to know why. We need to establish the basic facts, and this is the purpose of this provision.

Section 103 amends two programs: the Judgment Fund and the Equal Access to Justice Act. The former is an unlimited appropriation that, in essence, pays money that the government owes someone, for example, if the government is found liable for cash damages. The latter, the Equal Access to Justice Act, reimburses the legal fees of plaintiffs who sue the government. The details of how each program works are difficult to track because data on how much money is spent and why are practically unavailable. What scant data that exists is neither reliable nor published, according to the Government Accountability Office. Section 103 ensures these facts are systematically collected and routinely published for easy review.

Both the Judgment Fund and the Equal Access to Justice Act also apply outside of wildlife conservation in cases involving personal disputes between citizens and the government. These private-interest cases differ from the public-interest environmental lawsuits and, therefore, in respect for matters of private interest, Section 103 carefully preserves all private personal information as guarded by law or court order, while publicizing the appropriate facts about how these programs function.

Sec. 104 - Bows in the Parks

This would authorize the lawful transportation of bows and crossbows across National Park Service lands. This common sense provision would allow hunters and recreational archers to transport bows and crossbows in any unit of the National Park provided they remain in the vehicle transporting them and are stored in a manner that renders them “not ready for immediate

use.” In addition, the provision requires that possession of the bows being transported be in compliance with the state law in which the National Park unit is located.

Sportsmen may already lawfully transport firearms in vehicles across units of the National Park System. This bill extends the same protections to bow hunters and recreational archers travelling through National Parks or accessing adjacent lands through National Park lands while also removing an unnecessary restriction that currently deprives the transportation of archery equipment in National Parks.

Sec. 201 – Availability of Land and Water Conservation Fund for recreational public access projects

Federal public lands are an important destination for many Americans, including hunters and anglers. Nearly half of all hunters conduct a portion of their hunting activity on these lands. However, numerous reports verify access to Federal land is problematic in a number of areas. In fact, a 2004 report to the House Appropriations Committee concluded that more than 35 million acres of FS and BLM land have inadequate public access.

Often referred to as, ‘Making Public Lands Public,’ this provision would make available funds from within the Land and Water Conservation Fund (LWCF) to be used by the U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service, and the National Park Service to open or improve access to existing Federal lands for hunting, fishing and other recreational purposes. Not less than 1.5% of the funds appropriated annually from LWCF or a minimum of \$10 million, whichever is greater, will be made available to secure public access through easements, rights-of-way, or fee title acquisition from willing sellers.

Similar legislative language was offered during House consideration of the FY 2013 Interior appropriations bill and was adopted by voice vote. In 2010, this language passed the House in an overwhelming bipartisan vote of 404-1. Additionally, both the Forest Service and the BLM included \$2,000,000 for recreational access in the President’s budget in FY2015, which our community strongly supported.

Sec. 202 - Identifying opportunities for recreation, hunting and fishing on Federal land

As noted, public polling consistently demonstrates that access to public lands is one of the primary barriers to recruiting and retaining hunters, anglers and recreational shooters. This is particularly the case in the Western United States where far too many federal public lands are closed to access unnecessarily.

In some cases, these unnecessary barriers exist due to physical obstacles, such as when land ownership patterns result in federal public lands becoming an island surrounded by private land. In other cases, access is precluded as an unintended consequence of certain regulatory or federal management actions. There are also cases where public lands access is denied simply because federal agencies haven’t been directed to identify lands where access should occur and to find ways to create that access.

Section 202 includes a number of provisions to remove these barriers to access, including:

- 1) A requirement that federal land management agencies identify high priority lands under their jurisdiction that have a significant potential for hunting, fishing, or other recreational use but lack a reasonable public routes to access them;
- 2) A requirement that the named land management agencies develop options for creating access to priority parcels and identify the actions needed to secure access in a manner that minimizes impacts to wildlife habitat and water quality.

It should also be noted that the sponsor of Section 202 has gone to great lengths to ensure that this legislation will not result in violations of privacy or private property rights for landowners adjacent to the federal public lands in question. CSF believes that Section 202 will effectively achieve these important objectives as currently drafted.

By taking these simple, common sense actions, federal agencies will begin to untangle a complex web of barriers to federal lands access that are currently barring hunters, shooters, anglers and other taxpayers from undertaking the pastimes they love on our nation's public lands.

Sec. 203 - Federal Land Transaction Facilitation Act

The Federal Land Transaction Facilitation Act (FLTFA) is a western federal lands program that facilitates the sale of strategic federal lands of marginal value by the BLM in order to provide funding for high-priority land conservation. The program has a proven track record of simultaneously addressing the burden placed on American taxpayers that results from excess properties that provide little or no public benefit in a manner that allows land management agencies to acquire properties with exceptional wildlife, scenic and recreational values.

Supported by a diverse array of over 150 groups including, conservation organizations, outdoor industry, land trusts, historic preservation trusts, among others, FLTFA's authority expired in 2011. Between 2000 and 2011, FLTFA resulted in BLM selling 27,200 acres of low-priority lands and Federal agencies acquiring 18,100 acres of high-priority lands, which was a ratio of 3 Federal acres sold for every 2 Federal acres acquired.

CSF is supportive of Section 203.

Summary

In summary, this is a common sense, non-controversial bill, with bipartisan support, that is good for conservation and preserves our outdoor heritage. It is also good for the American economy, especially for rural communities that surround our treasure of public lands and waters. With an ever increasing population, perhaps most importantly, it provides clarity and certainty that access to our federal lands and waters will remain available for hunting, recreational shooting and fishing, and other outdoor recreational pursuits for generations to come.

We thank the sponsors of this important bill for their leadership, and pledge to work with them to get this passed by the US Senate and enacted into public law. Thank you.

CHAIRMAN. Thank you, Mr. Crane. I appreciate it.
Let's go to Mr. Fosburgh. Welcome to the Committee.

STATEMENT OF WHIT FOSBURGH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP

Mr. FOSBURGH. Thank you very much. I appreciate the invitation to be here today. My name is Whit Fosburgh. I am the President and CEO of the Theodore Roosevelt Conservation Partnership which is a coalition of more than 40 national hunting and fishing conservation organizations dedicated to guaranteeing that all Americans have quality places to hunt and fish.

First I want to thank the Chairwoman and Senator Heinrich for introducing the Bipartisan Sportsmen's Act and for bringing about this hearing today. Combined with the companion bill that's making its way through the Environment Committee, the Sportsmen's Act will make a direct and lasting contribution to hunting, fishing and conservation in America.

Approximately 40 million Americans hunt and fish every year. Together hunters and anglers spend more than \$90 billion to pursue their passions. They're a key part of the \$646 billion annual outdoor recreation economy and through excise taxes, license fees, permits and stamps, involuntary contributions and money and time, sportsmen have paid their way for more than 75 years. And as a result the American fish and wildlife management is really the envy of the world.

But Federal policy and funding are key to maintaining the North American model of fish and wildlife conservation and helping people of all walks of life get a field. Hunters and anglers need two things to practice their sports, access and opportunity. They need places to go to hunt and fish and when they get there they need healthy populations of fish and game. S. 556 is important in both regards.

Section 101 reiterates that our public lands are open for hunting, fishing and recreational shooting unless they're specifically closed and establishes a public process should it make sense to close certain areas. This is consistent with the way our public lands have been managed since the days of Theodore Roosevelt, but it provides our land managers with added clarity in this time of competing demands on our public lands.

Sections 201 and 202 directly address the issue of decreasing access to our public lands. According to various studies lack of access is one of the most often cited reasons why people stop hunting and fishing. Part of this is due to the nonstop urban/suburban sprawl where farms and forests are turned into condos and malls.

Another part of this is that fewer private landowners allow public access across their lands. The 2014 Farm Bill, and I'd give a little shout out to Senator Stabenow here, with its open fields provision was an important step providing incentives for private landowners to allow hunting and fishing and/or access on their lands.

In the West more than 70 percent of hunters hunt on public lands. Nationally about half of all hunters hunt some of their times on public lands, but even those lands are getting harder and harder to access.

In the old days you could go to ask most landowners to cross their fields to access the adjoining public lands, but as ownership patterns change such access becomes more difficult. Today it is estimated that more than 30 million acres of public lands are largely inaccessible to the public. Senator Heinrich's Hunt Act, Section 202, seeks to identify those land locked public lands and plan ways in which access to those lands might be improved.

Complementary to the Hunt Act is Section 201, making public lands public which directed a small percentage of Land and Water Conservation Fund be dedicated to projects that target public access, expanding public access, to our public lands. For more than 50 years the Land and Water Conservation Fund has been an incredibly important program for conserving habitat and providing sportsmen's access, and Section 201 would help ensure this legacy of access will continue.

I want to specifically note the work that Jeff Crane has done over the years in pushing public land, making public lands public and thank him for his persistence on this project.

I also ask the Committee that I be able to submit a copy of this report entitled, "The Land and Water Conservation Fund and America's sportsmen and women, a 50-year legacy of increased access and improved habitat."

[The information referred to follows:]



The Land and Water Conservation Fund and America's sportsmen and women

A 30-year legacy of protected areas and managed habitat



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INTRODUCTION

Ask any sportsman or woman what is important to their hunting and fishing experience and almost universally you will get one answer—access to quality places to hunt and fish. Unfettered access to publicly accessible places abundant in game and fish is what makes the American hunting and fishing experience unique.

The Land and Water Conservation Fund is one of the nation's most important tools for conserving wild and undeveloped places and the fish and wildlife they support. Established through a bipartisan act of Congress in 1964, the fund uses royalties paid by energy companies drilling for oil and gas on the Outer Continental Shelf for the purpose of safeguarding the nation's natural areas, water resources, cultural heritage and for providing recreation opportunities to all Americans—including America's 37 million hunters and anglers. The fund helps provide sportsmen's access to millions of acres of public lands.

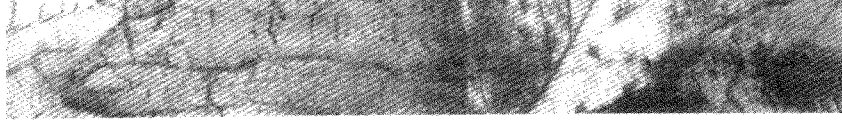
Since its inception 50 years ago, the LWCF has opened new lands for public access and helped create and strengthen quality habitat for big game species such as elk, mule deer and bighorn sheep, for waterfowl and upland game birds and for a host of fish including the iconic muskie and trout. Examples of the benefits of the LWCF to hunting and fishing resources can be found all across the United States. LWCF funds were used to acquire the 11,179-acre Devil's Canyon Ranch in Wyoming, a premier

The Land and Water Conservation Fund is one of the nation's most important tools for conserving wild and undeveloped places and the fish and wildlife they support.

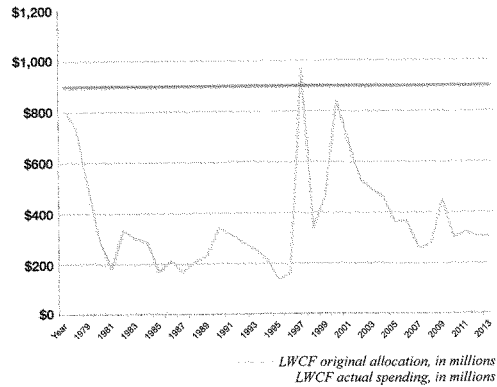
hunting area with important herds of bighorn sheep, mule deer and elk; to protect the working forests around Wisconsin's Chippewa Flowage, one of that state's most pristine lakes and best



Photo by [unreadable] for [unreadable]



LWCF Total Funding



trophy fisheries; to secure habitat in the Dakota grasslands for more than 100 breeding birds, including 12 waterfowl species—a region that has been described as America's "duck factory"; to protect the confluence of the Ohio and Tradewater Rivers in Kentucky—an action that is providing significant watershed and water quality improvement to the benefit of public hunting and fishing.

But the benefits of access to quality places to hunt and fish go far beyond simply positive experiences for sportsmen and women. These places create significant positive economic impacts that are felt both within hunting- and fishing-related businesses, such as outfitters and equipment retailers, and among locally based service industries such as hotels, restaurants and gas stations. According to a 2013 report by the Congressional Sportsmen's Foundation, the 37 million American sportsmen and women spent a combined total of approximately \$90 billion in 2011. These expenditures help create

and support hundreds of thousands of jobs at the local, state and national levels.

While the LWCF has had a significant positive impact on sporting opportunities and local economies, the fact is it can do more, and needs to. From 1978 onward, the LWCF was to be funded annually through \$900 million in annual royalties paid by energy companies. Unfortunately, the program has been fully funded only once since then. More than \$17 billion in funds that were supposed to be destined for LWCF have been diverted elsewhere to the detriment of many of the nation's wild and undeveloped places and the public sporting opportunities they could potentially provide.

In April of 2014, 103 Western sporting groups, including groups as diverse as the Wyoming Chapter of the Wild Sheep Foundation, the Montana Sportsmen Alliance, the Idaho Backcountry Hunters and Anglers and the Yuma Valley Rod and Gun Club collectively signed a letter to the chairs and ranking members of the U.S. Senate and House of Representatives appropriations committees, asking that they make full funding of the LWCF a priority. These organizations recognize, as do sporting organizations across the nation, the important role of the LWCF in securing quality hunting and fishing habitat and hunter and angler access.

This report was created by the nation's foremost hunting and fishing organizations to provide a picture of the importance of the LWCF to America's sportsmen and women. The case studies show some of the benefits of the LWCF to fish and wildlife habitat and to hunter and angler access across the country. The places and the voices of individual sportsmen and women makes clear the importance of the fund to the American sporting experience and to local communities throughout the nation. Moreover, this report makes clear the need to fully fund the LWCF so that the benefits of these wild places and productive habitats will continue for future generations of hunters and anglers.

Tenderfoot Creek in Montana's Lewis and Clark National Forest is a classic Western game and fish resource. The creek rolls down 3,200 feet of elevation through the Little Belt Mountains in central Montana. The mountains are home to elk, mule deer, moose, black bear and other wildlife. The creek itself is a spectacular cold-water fishery, hosting rainbow, brook and brown trout, as well as native westslope cutthroat trout. Tenderfoot Creek is not only a great fishing stream; it is a major spawning tributary of the "Blue Ribbon" Smith River.

From a hunter and angler perspective, the creek and forest posed significant public access challenges because it lay within a checkerboard system of ownership, a remnant of the railroad land grant era of the late 19th Century. Alternating sections of land were most recently held by private owners and the U.S. Forest Service, which made habitat management and hunter and angler access to its fish and game resources difficult. Fortunately, the private owners wanted the lands conserved for future use by the public and agreed to sell their land holdings for conservation purposes rather than selling them to be developed as vacation properties. The Land and Water Conservation fund is providing the resources to help make that happen.

"This property has been a national priority for us to acquire and transfer to the Forest Service for several years now and we are very close to finishing it. It is a tremendous elk hunting area, and with the elimination of the checkerboard ownership, habitat management for many species should improve," says Blake Henning, Vice President of Lands and Conservation with the Rocky Mountain Elk Foundation, which led the effort to purchase the land along Tenderfoot Creek.



Tenderfoot Creek: MONTANA

Once the Tenderfoot Creek land purchase is complete, not only will it strengthen fish and wildlife in the Lewis and Clark National Forest and improve hunter and angler access, it will continue to make hunting and fishing a significant economic resource in Montana—a state that in 2011 saw 335,000 hunters and anglers spend, on average, \$2,954.

"Land purchases for conservation purposes in the Tenderfoot Creek watershed help secure one of the most vital sources of cold, clean water—as well as important spawning habitat—for wild trout in the Smith River, one of Montana's most treasured fishing destinations," says Bruce Farling, executive director of Montana Trout Unlimited. "The Tenderfoot Creek land purchases accomplish exactly what LWCF was intended for: protection of crucial fish and wildlife habitat for sustaining our nation's rich outdoor traditions."

"A 50-year legacy of increased access and improved habitat."



WISCONSIN: Chippewa Flowage

The Chippewa Flowage in northwest Wisconsin is that state's third largest lake, covering 15,300 acres. Created in 1923 when the Chippewa River was dammed, it is a labyrinth of islands, points and bays with 233 miles of relatively undeveloped shoreline. The waters are home to a myriad of fish: in addition to world-record muskies, they abound in walleye, crappie, perch and bluegill. Smallmouth bass haunt the dark streams of the east; largemouth bass the weedier flats of the west. The surrounding glacial landscape of hills, valleys, and floating bogs is home to deer, black bear, beaver, bobcat and other wildlife. For an equivalent experience in wild and undeveloped lands, one would normally have to travel much farther north, to northern Minnesota or Canada.

But the Chippewa Flowage is not just a home to wildlife; it is also a working forest that supports both the timber and tourist industries. To ensure that this resource is preserved for the benefit of hunters, anglers, tourists and foresters, a public-private partnership completed a two-part purchase of an 18,179-acre easement surrounding the flowage. The second phase of the purchase of 10,082 acres was made possible, in part, by the U.S. Forest Service's Forest Legacy Program

(FLP), more than half of which was paid for from the Land Water Conservation Fund. This easement assures that the property will not be developed, will remain in private hands, and will continue to be logged in a sustainable manner. It also creates a corridor to game-filled forests farther north.

According to John Dettloff, longtime fishing guide and owner of Indian Trail Resort: "Creating this easement to allow sportsmen access to the Chippewa Flowage will greatly help ensure that the public will be able to experience the natural beauty, peace and solitude, and bountiful hunting and fishing that the flowage has long been famous for."

Land and Water Conservation Fund investments like those associated with the Chippewa Flowage will also help pay high dividends because of the economic impact of hunting and fishing in Wisconsin. In 2011 alone, hunting and fishing-related trip and equipment expenditures there reached \$2.9 billion.



The Dakota Grassland Conservation Area (DGCA) of North Dakota and South Dakota was created in 2011. Encompassing 240,000 acres of wetland and 1.7 million acres of grassland, the total boundary of the DGCA (including the Dakota Tallgrass Prairie Wildlife Management Area) is more than 29 million acres. In North Dakota this includes the 30-mile-wide strip of the "Missouri Coteau."

The hummocky surface of this rolling plain consists of abundant, glacially formed shallow ponds and closed drainages that are a virtual duck factory for the nation's central flyway, which extends from the Canadian border to the Gulf of Mexico. The "prairie potholes" of North Dakota comprise 7% of the nation's waterfowl survey area, yet yield 20% of its breeding ducks. This includes priority sport species such as mallard, northern pintail, northern shoveler, gadwall and blue-winged teal. The DGCA also provides key habitat for migrant sport species that breed farther north like green-winged teal and snow geese, and for important upland game bird species including pheasant and grouse.

Faced with a steady reduction of potholes and grasslands as a result of farming activity, the DGCA strategy of "farm the best, conserve

the rest" is based upon the participation of private landowners who want to partner in the conservation of the landscape and a vibrant rural lifestyle. The purchase of conservation easements from farmers and ranchers willing to sell has been made possible in large part by the Land Water Conservation Fund, which, to date, has allocated \$20 million toward the conservation effort. Once fully procured, these easements will ensure perpetual protection of habitat for breeding and migrating waterfowl, and upland game-bird species.

"Grassland and wetland easements secured in the Dakota Grasslands Conservation Area are a significant part of the perpetually protected habitat base that sustains duck production for duck hunters and wildlife enthusiasts across America," says Dr. Johann Walker, Director of Conservation, Ducks Unlimited (Dakotas and Montana).

Dave Nomsen of Pheasants Forever adds, "The Dakota Grasslands Conservation Area will ensure the upland hunters of tomorrow enjoy the Dakotas as they should be—full of pheasants."

"The best way to conserve is to farm the best, and conserve the rest."



OHIO: Ottawa National Wildlife Refuge

The Ottawa National Wildlife Refuge Complex (ONWRC) is located in northwestern Ohio, about 15 miles east of Toledo, on the shores of Lake Erie. Created in 1961, the ONWRC is the pristine remnant of the Great Black Swamp and consists of three primary properties: the Ottawa National Wildlife Refuge, Cedar Point National Wildlife Refuge, and West Sister Island National Wildlife Refuge. The Complex encompasses coastal wetlands, islands, grasslands and woods that are managed for the resting, nesting and wintering of waterfowl and other migratory birds.

The shoreline of the basin of western Lake Erie, designated a "nearshore terrestrial ecosystem," is home to the most diverse population of wildlife on the Great Lakes and also has the highest concentration of marshes. The bufflehead, common goldeneye, common merganser and ruddy duck are sample species of the hundreds of thousands of waterfowl that pass through each year on their fall migration, making the ONWRC a prime location for waterfowl hunting.

This valuable shoreline is, however, threatened with encroaching urbanization, agriculture, invasive species and diking. For this reason additional land acquisition is an important

and continuous process. Toward this end the Land Water Conservation Fund has contributed \$600,000 for expansion from the original 5,470 acres to the current 10,000. Without the conservation of this key ecosystem, hunting would suffer.

"Having these types of refuges along Western Lake Erie is very important to all waterfowl hunters in this region," says Joseph Robison, avid hunter and member of Waterfowl USA, Southwestern Lake Erie Chapter. "Not only does the Ottawa National Wildlife Refuge provide some good waterfowl hunting opportunities, it provides valuable wetland and wildlife habitat that Western Lake Erie is lacking. [It] provides a refuge that attracts waterfowl and holds them while also providing migrating waterfowl food in the fall and spring migrations."

As a resource, the ONWRC helps contribute rich dividends to the region: It is estimated that hunting and wildlife viewing in the Lake Erie region brings in \$1.5 billion in retail sales and creates 50,000 jobs each year.

Source: The Land and Water Conservation Fund

Missouri River: SOUTH DAKOTA

The Missouri National Recreational River (MNRR) in South Dakota runs in two sections for one hundred miles. The stream and island complexes found along these lengths of the MNRR provide quality habitat for many important fish and wildlife species.

The MNRR is a significant sport fishery for the region. "The Missouri River is a vital resource in South Dakota for both hunting and fishing, in addition to all of the other recreational uses of this system of reservoirs," says Bret Afdahl of the South Dakota chapter of Walleyes Unlimited. "Anglers from all over South Dakota, the surrounding states and beyond travel to the 'The River' to fish. While walleye is the preferred target, the infinite variety of fish is one of the things that keep people coming back."

The key to this critically important fishing and hunting resource is public access, and that's where the Land Water Conservation Fund (LWCF) has played an important role. Monies from the LWCF have been used to help build recreational facilities along the MNRR over a four-decade period and to partner with groups such as Walleyes Unlimited to enhance the angler experience.



"I look for projects where we can leverage our local tax funds with LWCF funds and partners like Walleyes Unlimited. We have been very successful with this approach and have added fishing piers to our waterfront to enhance public access to the river," says Tom Farnsworth, director of Parks and Recreation for the City of Pierre, S.D.

The economic benefit of these expenditures can be measured in the vibrant sporting-based industries that exist in communities along the river. Says Afdahl, "From an economic standpoint, the Missouri River has an almost year-round impact on the state and the communities in close proximity to the river."



Big River Corridor: KENTUCKY

The Big River Corridor is a 7,200-acre tract along the banks of the Tradewater River to its confluence with the Ohio River in western Kentucky. While a 'conservation island' in its own right, it creates a key link with the Shawnee National Forest and Cypress Creek National Wildlife Refuge in Illinois, the Land Between the Lakes National Recreation Area and Clark

River National Refuge in Kentucky. Designated as the Big River Wildlife Management Area and State Forest (BRWMA), it guarantees that this critical watershed of meadows, upland forests and bottomlands is protected from further encroachment by subdivisions, farmland and roads.

The BRWMA is also designed for recreational uses such as hunting, fishing, hiking and canoeing. In addition to sustainable lumbering, the BRWMA will be managed by

the Kentucky Department of Fish and Wildlife Resources (KDFWR) to protect the water quality of this unique area and the 25 species of rare animals that depend on it. The mouth of the Tradewater serves as a spawning ground for the paddlefish and shovelnose sturgeon.

In a state where 94% of the land is held in private hands, the BRWMA will also provide an important opportunity for hunting on public lands. Deer and wild turkey abound there. Larry Sharp, a longtime hunter in the area says, "I don't think you can hardly get out there in the spring but that you don't hear a turkey sooner rather than later." And Jason Lupardis, Kentucky wildlife biologist with the National Wild Turkey Federation, says of the BRWMA: "Turkey populations are good, but are only anticipated to get better with additional management."

Originally purchased by the Nature Conservancy, the BRWMA was repurchased by the State of Kentucky with assistance from the Land Water Conservation Fund. In enabling access to public lands for recreation, this and related projects have had an important impact on local economies. "A significant percentage of our hunters are from out of state," says Curt Devine, with the KDFWR.

The Legendary Ladder Buck

The Land and Water Conservation Fund has helped play an important role in turning the Lake Ophelia National Wildlife Refuge into a quality game resource, especially for trophy white-tailed deer, a fact that Justin Lagneau of Carencro, LA, discovered. Lagneau started hunting the refuge in 2007, and while he had seen several large bucks during that period, they were nothing compared with what happened in January of 2009.



While scouting for a place to hunt, he found an area so thick in reforested growth that he literally had to crawl through thickets for 300 yards until he found an opening that was about 75 yards wide and composed of four-foot-high grass and briars. "There were 20 or so

rubs around the opening that were shredded from the ground to my shoulders. I just knew that's where I had to be," says Lagneau.

There was only one problem. There were no trees to climb to get a good view of the opening and a ground blind would be out of the question due to a lack of visibility in the high grass and briars. But after thinking about it for a while, Lagneau came up with a strategy.

"I took my six-foot painter's ladder and slid my boat seat in the top hole. I set up about 5:45 next to a spruce tree, where I had great cover and could see the opening very well. As soon as I sat down I could hear deer running through the water behind me. When daybreak broke it got quiet."

About an hour later, Lagneau saw a black spot moving along the edge of the grass and thicket. It was the nose of a deer trying to wind him. Suddenly the deer started walking across the opening and all the 24-year-old hunter could see were the tall lines rising from the main beams on the buck's antlers.

"He made his way across the opening and I lost him. About three minutes passed and I saw a little tree shaking back and forth. I looked through my binoculars and could see a rack rubbing the tree. I picked up my gun, got ready and made a grunt sound with my mouth, and to my surprise he lifted his head with his nose straight up in the air. My only shot was a neck shot so I took it. He instantly hit the ground."

When Lagneau reached the deer, he looked down at a 250-pound 13-point white-tailed deer. "I was beyond excited," says Lagneau.

The deer has become known in the area as the legendary "ladder buck" — a testament not only to Lagneau's hunting ability and ingenuity, but also to the sporting experience that the Land and Water Conservation Fund helps provide sportsmen and women.

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LOUISIANA: Lake Ophelia Natl. Wildlife Refuge

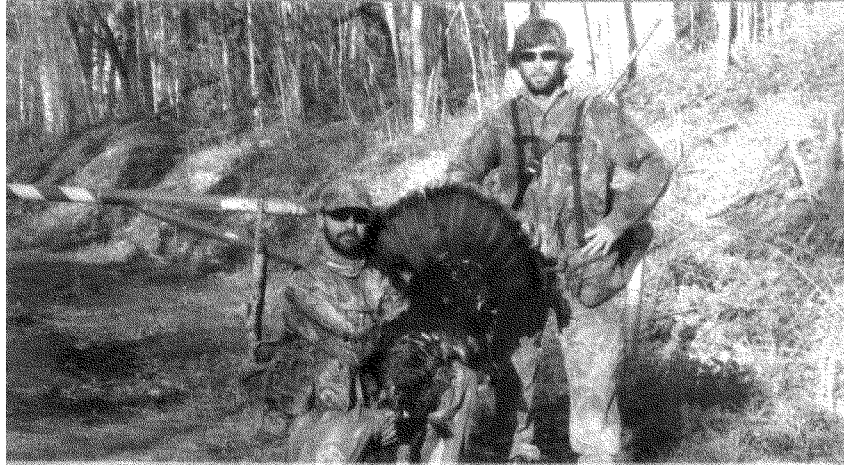
Lake Ophelia National Wildlife Refuge (LONWR) in eastern Louisiana was created in 1988 at the confluence of the Red and Mississippi Rivers. This part of the Mississippi River Valley was once a hardwood forest bottomland of 24 million acres but today less than 5 million acres remain as fragmented woodlands in a sea of agriculture. Of this, the 17,500-acre LONWR represents a mixture of habitats, including bayous, sloughs and pristine lakes (including its namesake, Lake Ophelia). And while most of the Refuge had been cleared by the 1970s, reforestation efforts have led to the rebound of native species such as oak, ash and gum. A portion of private cropland is also left unharvested and flooded for the benefit of wintering waterfowl. The Land and Water Conservation Fund has been a significant contributor to this restoration effort.

Serving the Mississippi and Central flyways, the waterfowl most commonly found in the refuge are mallard, green-winged teal, gadwall, northern pintails and wood ducks. The bottomlands abound in bobcat, alligator, mink and otter. Endangered species include the newly reintroduced Louisiana black bear and the arctic peregrine falcon.

Hunting is a key management tool for the LONWR. In addition to waterfowl, turkey and small game, it is home to trophy white-tailed deer. "Participation in hunting opportunities provided for the general public at Lake Ophelia National Wildlife Refuge has increased substantially over the years, especially for white-tailed deer," says Brett Wehrle, refuge manager. "[It] has become a renowned destination for hunters due to the amount of trophy-sized bucks that it has produced."



Photo by Jeff H. Brown, courtesy of the LONWR



Pisgah National Forest: NORTH CAROLINA

Pisgah National Forest straddles the eastern edge of the Great Smoky Mountains in western North Carolina. Comprised of the Pisgah, Grandfather and Appalachian Ranger Districts, its 500,000 acres of mile-high peaks and waterfalls is crisscrossed with white-water rivers and hiking trails. One of the "busiest forests in the country," the 192,000-acre Grandfather District alone receives six million visitors a year.

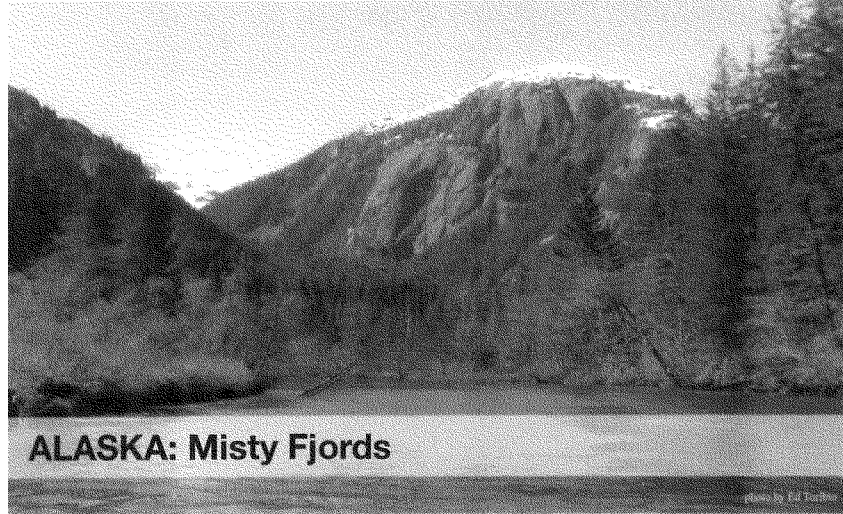
The Pisgah is a hunting and fishing paradise where white-tailed deer and wild turkey abound. "With such a tremendous resource at our hands I feel privileged to be able to work and enjoy this awesome asset. The Pisgah is well managed and is gleaming with wildlife," says Frank Askew, a local guide with Up-Close Outfitters.

A portion of the Grandfather District had been slated for housing development, but the timely purchase of 212 acres along Backbone Ridge assures that its dramatic view and wildlife corridor will be accessible to the public in perpetuity. Surrounded on three sides by public land, this purchase means that the entire length

of Backbone Ridge now lies within the national forest system, connecting scenic Blowing Rock to the east with the St John's River Valley to the west. Long a top priority with the U.S. Forest Service, this addition was made available through public-private cooperation. Originally purchased by the non-profit Conservation Fund for \$12,000 per acre, the USFS acquired it for \$5,000 per acre, using monies from the Land Water Conservation Fund.

An additional dividend to sportsmen in the purchase of the Backbone Ridge block is the conservation of the headwaters of Racket Creek, an area of pristine streams that are home to native brook trout. Davidson Creek, which is in the Pisgah District and is now sheltered from major disturbances, has proved the sporting and economic value of protecting resources such as native trout. "The Davidson River is an important resource for anglers, outfitters and fly shops. Guide services from North Carolina as well as other states such as Georgia, South Carolina, and Tennessee bring clients," says Chris Ellis, local chapter president for Trout Unlimited.

A 50-year legacy of interested parties and improved habitat 23



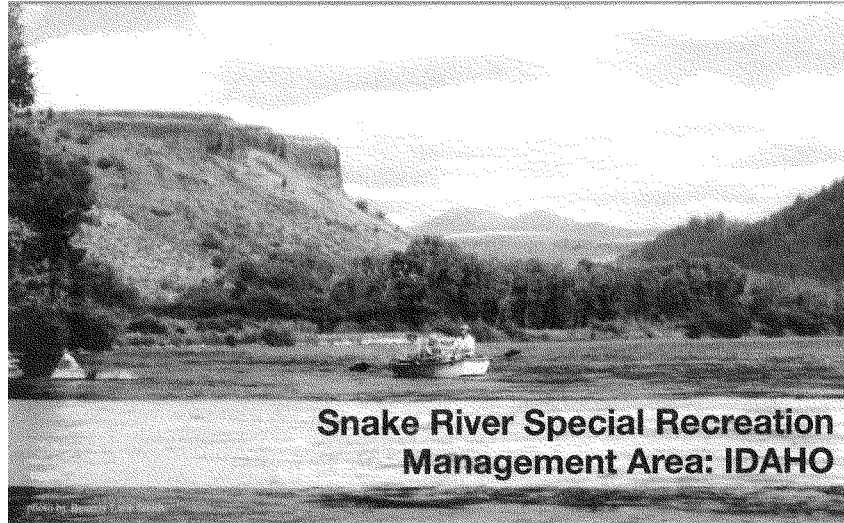
ALASKA: Misty Fjords

Located on the southern tip of the Alaska Panhandle, Misty Fjords National Monument in Alaska's Tongass National Forest is a sportsmen's paradise that has often been referred to as the "Yosemite of the North." Its remote and wild setting of fjords, sea cliffs, active glaciers, rivers and rain forests is ideal habitat for all five northeastern Pacific species of salmon, grayling, Dolly Varden, brook, rainbow, steelhead and cutthroat trout. Almost half of all king salmon spawning and rearing streams in southeast Alaska are located there. It is also home to brown bear, black bear, black-tailed deer, moose and trophy mountain goats.

This broad range of wildlife exists in part because of Misty Fjords' isolation. There are no permanent roads and it can only be accessed with a float plane or by boat. It is one of only a few locations in the United States where hunters and anglers can engage in a truly wild outdoor experience. For sportsmen and women, keeping places like Misty Fjords National Monument wild is key to assuring that there will always be unspoiled places to hunt filled with abundant fish and game.

The Land and Water Conservation Fund has been a critical tool in the effort to keep Misty Fjords a wild place. It has been used to purchase privately held lands within the national monument that are located within prime coastal brown bear habitat and have a rich history of hunting and fishing. Acquiring these private lands, which had been homesteaded in the early 1900s, will help to prevent private development that would take away from the Alaska wilderness experience and potentially affect fish and game resources. It will also help to improve the sportsman experience by assuring unfettered access to fish and game.

"Learning that the Land and Water Conservation Fund acquired some prime brown and black bear habitat in a very scenic river valley in Southeast Alaska was good news to me. Putting this land back into the public domain will provide new hunting opportunities for me to take guests in a quest to fulfill their lifelong dream of harvesting an Alaskan bear," says Ed Toribio, a longtime resident of Alaska who is a professional guide and operator of Primo Expeditions.



The Upper Snake/South Fork of the Snake River Special Recreation Management Area (SRMA) extends over 43,000 acres in southeastern Idaho. Snowmelt and springs in the Snake River corridor give rise to one of the nation's premier destination rivers, featuring outstanding fish habitat, water quality, scenic vistas and one of the West's most extensive cottonwood riparian forests. A U.S. Fish and Wildlife Service study of Idaho's ecosystems rates this area as the most valuable, biologically diverse and unique ecosystem in the state.

The Upper Snake SRMA is also a blue-ribbon sports fishery, and home to the largest population of Yellowstone cutthroat trout outside of Yellowstone Park. Listed as a species of "greatest conservation need," healthy populations of the trout persist in the stretch of the South Fork of the Snake River from Palisade Dam to its confluence with the Henry's Fork.

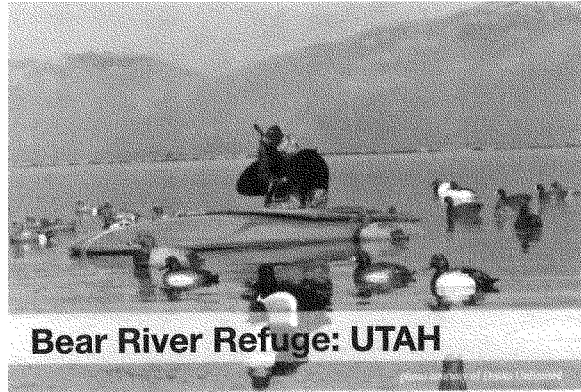
Says Rob Van Kirk, a local angler and researcher with the Henry's Fork Foundation: "... the South Fork Snake River provides one of the few remaining opportunities for anglers to catch native cutthroat trout in a large river."

The Bureau of Land Management, using Land Water Conservation Fund monies, and assisted by The Conservation Fund, The Nature Conservancy and the Teton Regional Land Trust, has acquired over 9,500 acres. An additional 10,200 acres (valued at \$17.6 million) have been protected by active conservation partners since 1991 from encroachment by residential subdivision and resort development. Through a combination of "in fee" and easement purchase, these lands include productive farms and ranches that will remain in private ownership. Undeveloped tracts are being managed for open space, wildlife and recreation.

"Stream access, water quality, fish habitat, restoration and native species are all equally imperative to maintaining stability for the natural world and our sport," says Bryan Gregson, a long-time angler, fishing guide and outdoor photographer on the Snake River system. "If we want to savor the simple ecstasies of angling for future generations, these resources must be safeguarded."

The 335,000 recreational visits to the SRMA each year pump \$20 million into the local economy.

A SRMA vision requires an integrated vision and improved habitat.



Bear River Refuge: UTAH

A true oasis in the desert, the Bear River Migratory Bird Refuge (BRMBR) is located west of Brigham City in northern Utah. It was founded in 1928 in large part to restore and protect the estuary around the mouth of the Bear River, the largest tributary to the Great Salt Lake. Located on the lake's northeast arm, the BRMBR covers 80,000 acres of marsh, open water, alkali mudflats and upland grassland. The 30 artificially created wetlands within the 5,000 acres of grasslands provide critical resting, nesting and breeding habitat for more than 200 species of migratory birds from the Central and Pacific flyways. A full 60% of the continent's cinnamon teal are bred here.

It was largely through the efforts of sportsmen and women that the BRMBR was founded. They rallied behind efforts to preserve the rapidly declining Bear River marshes by establishing the wildlife refuge. Today, efforts to protect the Bear River watershed and the marshes are a cooperative effort among sportsmen, farmers and ranchers, local citizens and government agencies. The Land and Water Conservation Fund has played a significant role in protecting the BRMBR through the purchase of wetland and riverfront property and conservation easements with willing sellers within the watershed.

For Utah's 400,000 hunters and anglers, the BRMBR offers a plethora of opportunities. Hunters take ducks, geese, tundra swan and pheasant; anglers ply the Bear River and designated canals for channel catfish or carp on a fly rod. These and other sporting opportunities provide a sizable contribution to Utah's economy—it's estimated that sportsmen and women spent more than a billion dollars in Utah in 2011.

Jeff Adams, chairman of the Willard Peak Chapter of Delta Waterfowl, hunts there with his son. "For us as waterfowl hunters and even bird watchers, the BRMBR is of unique importance as it is here that we share the outdoor traditions of our families and friends as we teach our youth the importance of marshlands, the wildlife who rely on them and the need for conservation so we can enjoy them and the harvest they provide not just today, but for future generations."

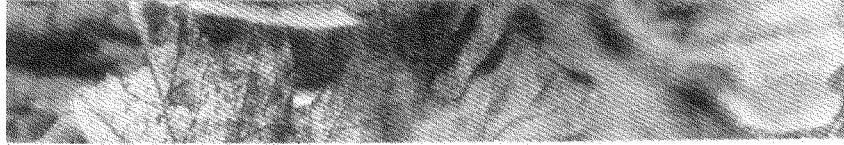
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Increasing Public Access to Public Lands

One of the most pressing issues for America's sportsmen and women is a lack of available access to existing public lands and waters. Many public lands offer potentially high-quality hunting and fishing opportunities, yet they are inaccessible to the public because private lands block access. A 2004 report to the U.S. House Appropriations Committee concluded that more than 35 million acres of Bureau of Land Management and U.S. Fish and Wildlife Service land have inadequate access.

Efforts are underway in the Congress to remedy this problem. Bipartisan bills—such as the HUNT Act and Making Public Lands Public—have been introduced requiring federal land management agencies to identify parcels of landlocked public lands with hunting, fishing or other outdoor recreation potential, and then to provide access to those parcels through easements, rights-of-way or acquisitions from willing landowners. The bills would direct up to 1.5 percent or \$10 million of the annual authorized Land and Water Conservation Fund funding to be used to secure recreational public access to publicly held federal lands.

These proposals demonstrate the potential of the Land and Water Conservation Fund to further improve access to quality hunting and fishing resources. If the fund was fully funded, federal agencies such as the Bureau of Land Management and U.S. Forest Service would have \$13.5 million a year available for easements, rights-of-way or acquisitions. That would result in a significant expansion in the ability of America's hunters and anglers to access public lands and waters.



Broken Promise, Unmet Needs

For every access and habitat success story associated with the Land and Water Conservation Fund, there are many other projects throughout the United States that are stalled due to the failure to fully fund the program.

The 10,000 acre Bangtails and Madison River Projects in Montana are on hold due to a lack of funding. Both would expand protection of crucial habitat for elk and other game species thereby increasing hunting opportunities. The 350-acre Spring Creek Watershed Project in the Black Hills of South Dakota would improve access to wildlife including turkey, deer and elk in a national forest where more than 20 percent of the visitors come specifically to hunt and fish. Unfortunately, that project is stalled as well due to limited LWCF dollars. In Edmonds, Washington, efforts to repair and rehabilitate the aging 37-year-old Edmonds Fishing Pier, which has an estimated 100,000 visitors per year—many of whom are anglers and families—are stalled because they were turned down for LWCF funding in 2012, even though the pier was originally built using dollars from the fund.

No matter the location in the United States, it is the same story. The research has been done; the benefits to sportsmen and women are clear; there is widespread public support for the acquisition or expenditure; there are willing sellers and financial partners. The only missing detail is LWCF funding.

When Congress established the LWCF in 1964, it was a bipartisan commitment to the American people, including millions of sportsmen

and women. Unfortunately, year after year that promise has been broken and the commitment has gone unmet.

When Congress established the LWCF in 1964, it was a bipartisan commitment to the American people, including millions of sportsmen and women. Unfortunately, year after year that promise has been broken and the commitment has gone unmet.

2014 is the 50th anniversary of the creation of the Land and Water Conservation Fund. It is time for the U.S. Congress to keep its promise to the American people and fully fund the program. That would not only be a fitting tribute to the bipartisan spirit that originally created the fund, it would continue and expand the important work of the fund to enhance the nation's wildlife resources and expand access for American hunters and anglers.



50 years legacy of increased access and improved habitat 14



For more information on the Land and Water Conservation Fund, go to: lwefcoalition.org

Theodore Roosevelt Conservation Partnership | 1660 L Street NW, Suite 208, Washington, D.C. 20036 | Phone: (202) 639-TRCP(8727) | Fax: (202) 639-8728

I should also note, and Senator Cantwell mentioned this, that the Land and Water Conservation Fund expires this year. At one point five percent of nothing is nothing, so we look forward to working with the Chairwoman and the Committee to make sure that LWCF is permanently reauthorized and fully funded.

The final provision I wanted to discuss is Section 203, the Federal Land Transaction Facilitation Act. Before it expired in 2011 FLTFA has strategically leveraged Federal land sales to fund about 39 Federal conservation projects across the West including various projects key to hunting and fishing. We think this needs to be reauthorized permanently and that those gains continue.

The companion bill to S. 556 in the Environment Committee has other very important provisions for fish and wildlife and we look forward to working with that Committee as well to make sure that those get passed including such things as National Fish and Wildlife Foundation reauthorization, the North American Wetlands Conservation Act, and we hope the National Fish Habitat Conservation Partnership Act.

In closing I want to thank the Committee for considering the Bipartisan Sportsmen's Act of 2015. I also want to make a plea that we continue to put politics aside for the American sportsmen outdoor enthusiasts. Conservation has, for more than a century, been bipartisan and non-partisan. As we've seen in the last two Congresses, the similarly meritorious sportsmen's act died in a desire to score political points overrode the needs of American sportsmen.

I think I speak for all 40 plus of our partner organizations when I say that we stand ready to work with you and your colleagues to make sure this doesn't happen again and to pass this critical legislation to help ensure that all Americans have quality places to hunt and fish now and for generations to come.

With that, I'm happy to answer any questions.

[The prepared statement of Mr. Fosburgh follows:]

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STATEMENT OF

WHIT FOSBURGH
PRESIDENT AND CHIEF EXECUTIVE OFFICER
THEODORE ROOSEVELT CONSERVATION PARTNERSHIP

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

“LEGISLATIVE HEARING ON S.556, THE BIPARTISAN SPORTSMEN’S ACT OF 2015”

MARCH 12, 2015

Good morning, Chairwoman Murkowski, Ranking Member Cantwell, and members of the Committee. Thank you for the opportunity to testify today. The Theodore Roosevelt Conservation Partnership is a coalition of more than 40 of the nation's leading hunting and angling conservation organizations, and our mission is simple but powerful: to guarantee all Americans a quality place to hunt and fish. The Bipartisan Sportsmen's Act of 2015 is legislation with a similar mission, and includes provisions meant to conserve quality fish and wildlife habitat and to enhance recreational access. That is why we are proud to testify in support of the bill.

America's forty million hunters and anglers generate about \$90 billion in economic activity each and every year. Millions of people earn their livelihoods by catering to sportsmen and -women, as guides, outfitters, gunsmiths, product manufacturers, lodge owners, at bait and tackle shops, gas stations, restaurants, and hotels. These are jobs that, by their very nature, cannot be exported overseas: They are American jobs which serve a great American outdoor tradition.

The outdoor recreation economy is quietly humming along as the lifeblood of rural towns all across this country and an important part of the national economy. For proof of how robust the outdoor recreation economy is, one should look back to The Great Recession, when so many American economic sectors contracted. During that recession, the outdoor recreation economy grew by 5% each year. It is not outrageous to say that the American economic recovery began in the outdoors. Today the outdoor recreation economy contributes \$646 billion in direct expenditures, provides more than 6 million jobs, and returns tens of billions of dollars in state and federal taxes.

TRCP strongly endorses Section 101 of the legislation before the committee today, to ensure that fishing, hunting, and recreational shooting are management priorities across a wide swath of federal public lands. Importantly, this provision also ensures that the planning process on these lands specifically considers the impact of land-use decisions on hunting, fishing, and recreational shooting opportunities. Travel management, energy development, and a host of other activities on federal lands definitely impact outdoor recreation, and this provision acknowledges those impacts. TRCP believes fundamentally that better planning at the landscape level on federal lands will ensure that both development and outdoor recreation can coexist.

Section 101 also emphatically states that lands managed by the US Forest Service and the Bureau of Land Management are to be considered open for hunting, fishing, and recreational shooting, unless they are specifically closed for a justifiable reason. This is consistent with current law and policy, but provides needed clarity to the agencies. The bill establishes a process by which large tracts exceeding 1,280 acres can be closed to hunting, angling, and/or recreational shooting—a process that appropriately includes notification of the public and

notification of this Committee. We also applaud the inclusion of a requirement that federal land management agencies report to this Committee every other year about the status of recreational access on America's public lands.

If Section 101 of S.556 confirms that hunting and angling should be a part of the very fabric of public land decision making, Sections 201 and 202 seek to expand public access to those lands for the purposes of outdoor recreation. Many public land parcels are surrounded by private lands, in such a way as to make public access all but impossible. Various reports completed over the years indicate that tens of millions of public acres have inadequate access, and as ownership patterns in the West change, the problem is getting worse. Section 201 of S.556, a provision often referred to as *Making Public Lands Public*, has long been championed by TRCP and its partners, and we are pleased with its inclusion in the Sportsmen's Act. Making Public Lands Public specifies that 1.5% of Land and Water Conservation Fund dollars are to be used to establish and expand recreational access to federal public lands.

Section 202 of S.556, the Hunt Unrestricted on Natural Treasures (HUNT) Act seeks to identify those landlocked public lands and to plan ways in which access to those lands might be improved. The provision wisely includes a process for public nomination of candidate access improvement projects, and the language also prioritizes access projects based on the likelihood of resolving the access restriction, and the potential expansion of recreational opportunities that would occur by solving the access issue. This ensures that limited resources are utilized on the most pressing, and potentially impactful, recreational access issues.

Together, Section 201 and 202 could be used to make millions of acres more accessible to the American public. Both include clear language protecting private property rights, including working only with willing landowners for easements and rights-of-way. Making Public Lands Public, as a standalone piece of legislation, has garnered significant bipartisan support, and its provisions have been included in the President's budget for the past several years. It is time to codify this sensible use of LWCF dollars, which will make millions of acres of public lands more accessible to the American public in statute.

TRCP is also very supportive of the inclusion of the Federal Land Transaction Facilitation Act in the legislation before the committee today. Before its expiration in 2011, FLTFA had leveraged strategic federal land sales to fund 39 priority land conservation projects across the American West, including many which expanded sportsmen's access to world-class hunting and fishing opportunities. Like Making Public Lands Public, FLTFA achieves real, on-the-ground conservation goals, without costing the American taxpayer. Dozens of sportsmen's organizations from across the country support the reauthorization of this expired federal program.

The United States is unique in all the world, in that any American, with the purchase of just a license, and in some cases a tag, can access some of the best fish and wildlife habitat on earth. Outdoor recreation is the economic boom that won't go bust, so long as reasonable investments in habitat and access continue to be made. However it has been documented that lack of access is a—if not *the*—main reason that people stop hunting and fishing. This is a worrisome statistic. When Americans stop hunting and fishing, it has a profound impact on economies at all scales: local, regional, and national. Moreover, hunters and anglers do much to fund conservation that benefits *all* Americans, and without the tens of billions of dollars sportsmen and -women contribute to federal and state tax rolls, many agencies would find their work, indeed their continued existence, in serious doubt.

Hunters and anglers pay our own way, with excise taxes, license and tag fees, and membership in a whole variety of on-the-ground conservation organizations. Hunting and angling will continue to thrive so long as the federal government continues to invest in the outdoor recreation business plan: improving access and conserving habitat. The legislation before the committee today excels on both fronts, and helps to ensure that future generations of Americans will continue to have opportunities to set off into our federal lands and seek the experiences of a lifetime.

On behalf of our more than 40 national and regional partner organizations, the Theodore Roosevelt Conservation Partnership would like to encourage the Senate to move the full Bipartisan Sportsmen's Act of 2015 forward in as expeditious a fashion as possible. Since 2012, three bipartisan sportsmen's packages have failed to reach the President's desk, due to partisan politics and gridlock. It is our hope that the bipartisan leadership of this Committee, along with the Environment and Public Works Committee and Senate leadership, will work together to swiftly move this very good package to passage on the Senate floor.

CHAIRMAN. Thank you, Mr. Fosburgh.

I certainly share your request at the end that this good legislation, again bipartisan legislation, that has been worked on for really many years now, not only make it through the Senate process but through the full legislative process and go to the President for signature. We have been waiting for far too long, and I know America's sportsmen and women would agree with us. I think this is why you have an early focus on this initiative, early in this congressional session and again, great bipartisan support with this.

I want to start with my questions kind of focused on the open unless closed provision that we have within the sportsmen's package.

Mr. Ellis and Ms. Weldon, you both reiterated that it is the policy that these Federal lands, our public lands, are open unless closed. Yet you have just heard from both Mr. Crane and Mr. Fosburgh that the primary reason we seem to be seeing a drop off in the hunting and fishing and the recreational shooting is because of lack of access. So it begs the question what is happening here?

I would like to know from both of you what procedures you actually have in place for notifying individuals or groups that use, whether it is our BLM lands or our Forest Service lands for the recreation shooting, hunting and fishing, that there are restrictions or closures that are put in place. I am trying to understand from the perspective of BLM lands, Forest Service lands, other public lands, how we engage with the public in letting them know it is open or there are restrictions on it? How does it work currently? Mr. Ellis, you can go first and then Ms. Weldon.

Mr. ELLIS. Thank you, Madam Chairman, I appreciate the question. I think Senator Cantwell picked up on a number that I had in my notes about 99 percent of the public lands being open to hunting and shooting. And so, you know, I've heard a question well, what about this one percent? You know, one percent being closed or what about this urban growth?

And so, if I look back on my career, the majority of which was spent in the field as a line officer in the field for both the BLM and the Forest Service. And, you know, people, including myself, I'm a hunter, I'm a fisherman, and I very much value these public lands for hunting and fishing.

If I look at the areas where we put closures on and I look at the themes of that, the number one issue, generally, was public safety. It was a situation where we have public lands—

CHAIRMAN. How do you notify the public of these closures? My question is what level of engagement goes on with the public to let them know that this area that you and your family have traditionally used, you can no longer use? What is the process?

We have very limited time, and I want to hear from Mr. Crane in terms of what he hears from the public about the way that you think you notify folks.

Mr. ELLIS. Alright. Okay, well typically what a line officer in the field would do if they felt that there was a need to look at an area that would be a safety or natural resource issue, they engage the local sportsmen's groups. They would engage the Federal lands hunting, fishing, shooting sports roundtable group. There's about 42 organizations represented on that. They would get a hold of the

local sporting groups in the area. Talk to them. They would involve, really, the community. And so this is not something generally that's done, you know, very quickly unless it's say, a closure for fire. I've closed areas under fire orders for the extreme fire danger, for say, exploding targets. That sometimes we have to do fairly quickly.

CHAIRMAN. Let me——

Mr. ELLIS. Otherwise we go through a public participation process and a Federal Register notice. Federal Register notice is also part of that. So we try, Madam Chairman, to be as transparent as we can in these issues.

CHAIRMAN. Okay. I want to get to Ms. Weldon and I also want to hear quickly from Mr. Crane. So, please if you can answer quickly.

Ms. WELDON. Just quickly. Similarly the need for making a change in most instances is driven by a conflict or public safety issue, with the amount of development that's occurring and changing around national forest boundaries and those sorts of things.

As Steve said, we usually do that by outreach to the entities, both the community members and the groups concerned. And I think we can do a stronger job as we get those decisions in place to make sure that we get the word out on those.

CHAIRMAN. Mr. Crane, does this work?

Mr. CRANE. Not in all of our experiences, and I can focus on two quick examples.

The Sonoran National Monument, south of Phoenix, Arizona. Their original BLM proposal was to close the entire monument which is north of half a million acres to recreational shooting. We found out about it after the proposed decision was already put forward. Fortunately the final decision hasn't been made, and we're continuing to work with the BLM and the local shooting groups down there. But the notification process, it was already a de facto recommendation by the BLM.

The second one, also in Arizona, in the Coronado National Forest, recently two canyons were also closed for recreational shooting. Again, the notification came after the recommendation was made.

So I'm not sure that I entirely agree that this consultation process is working as intended.

CHAIRMAN. My time is expired. I'll turn to Senator Cantwell.

Senator CANTWELL. Thank you, Madam Chair.

I have a couple of questions hopefully I can get in.

Mr. Fosburgh, thank you so much for your testimony and thank you for the Foundation overall and the conservation efforts. It is hard to not mention the Roosevelt Elk and what an icon it is to the Pacific Northwest. And to think about how Olympic National Park was created in part because of the Roosevelt Elk and then what an economic driver it's been for the whole Northwest. So, just your foundation alone is a good remembrance of how all this stewardship yields good benefits for all of us.

You mentioned that Section 201 in the bill is something that you support, but you were making the point that we have to get the Land and Water Conservation Fund so that we can actually support the funding in that proposal. Do you have any suggestions

about how we get that done? How we unite everyone to make that happen this year since it is expiring?

Mr. FOSBURGH. Yes, I think the vote during the Keystone process was promising, and it showed broad bipartisan support for LWCF and a permanent reauthorization.

It's, I think, a little trickier when you get to the House side, but I think there was such a broad community united behind LWCF from, you know, we have the hunting and fishing folks right here, but then the outdoor recreation community, this is very important for them as well. It's not just western. It's national in how these funds get used. So I think that if we just maintain that sort of bipartisan approach.

Let's also remember that this is money that was dedicated 50 years ago from offshore oil and gas receipts to this dedicated fund. For whatever reason it was not dedicated automatically to get out of the door at the same time, so it's never been fully funded, except for just a couple of years in its whole history. I think we're only beginning to tap the potential that that program can do.

As we see these conflicts, the sprawl encroaches, LWCF becomes more and more important. And preserving here, really, our outdoor traditions not just hunting and fishing but everything we do.

Senator CANTWELL. Thank you.

Ms. Weldon and Mr. Ellis, could you talk about this issue of how you decide whether to allow commercial filming in a wilderness area and do you evaluate it under the commercial services provision of the Wilderness Act or can you explain how the language in this bill would restrict that?

Ms. WELDON. Yes, thank you for the question, Senator Cantwell.

Under the commercial provision within the Wilderness Act we have interpreted that to apply to filming if the filming that does occur requires or is promoting or supporting wilderness as a feature in what they're doing compared with wilderness as a backdrop for something else. So with our interpretation we've been able to promote that some commercial filming could occur, has to be fully evaluated. If it fits in that context of promoting or showing the value and the importance of the wilderness concept.

Senator CANTWELL. Mr. Ellis?

Mr. ELLIS. Yes, in my experience I've had in this, primarily in Oregon and Idaho, first of all, we love people to go out in our wilderness areas and photograph the public lands. I mean, they're public lands. They're beautiful public lands. I take pictures out there myself when I go out on my horses.

When we get an application for say, commercial filming in a wilderness area such as I've had when I worked in Northeast Oregon, we really look in terms of the potential impact that may have on the wilderness values and that depends, sometimes, on the equipment that they'll have on how they want to get it in there.

I can recall one where we were able to find them a spot to film a program that was just outside of wilderness in Hell's Canyon. It was just outside the wilderness. They said this would work great, and they did.

And so, I guess, Senator, we work with people. We really do work with people to try to preserve the wilderness values and yet try to

accommodate, as much as we can, what they want to do in filming our beautiful national forests, parks and public lands.

Senator CANTWELL. Well the Senator from Idaho and I are all for promoting Hell's Canyon and having people go there.

But if you can follow this up in writing, thoughts about the specific language in this package and how it relates to the Wilderness Act, that would be great.

Thank you, Madam Chair.

CHAIRMAN. Thank you.

We will now go to Senator Cassidy.

Senator CASSIDY. Ms. Weldon, I think I followed that you were concerned the provision allowing only a \$200 fee for people to shoot films would somehow also introduce the use of motorized vehicles. Was that you or Mr. Ellis who raised that concern?

Now I'm looking here on page eight, line 21 and motorized access, nothing in the subparagraph authorizes/requires motorized access, and it lists a variety of things. It does not include film shooting, but with that, it seems to me, that either you could add if it doesn't already preclude half track bringing in a crane to do a zoom shot on Baldy. Does that make sense?

Ms. WELDON. It makes sense. I think what we were looking for there is just ensuring that the language in the—that portion was consistent in ensuring that we included designated wilderness areas along with wilderness study areas as places that we would still be preventing that motorized access.

Senator CASSIDY. So a minor inclusion—

Ms. WELDON. Yes.

Senator CASSIDY. I think, would address that for you.

Ms. WELDON. Yes, it would. Thank you.

Senator CASSIDY. Now again, you then said you were not sure that the limit of liability provision would overrule another statute in law. But on page ten, line seven, it seems fairly straight forward, limitational liability shall not subject the U.S. to any civil action, etcetera, etcetera, from personal injury or death. Why is that not strong enough to preempt another concern?

Ms. WELDON. I believe we're concerned about how there may be a conflict in understanding between what the two are doing. So we agree that there is good language in there as far as we're going, but we were thinking in terms of the tort liability that is in place for any types of activities that occur on national forest land.

Senator CASSIDY. So the liability here is specifically for shooting injury or death. Are you saying that the other provision would preempt this or the other provision would include those activities not related to shooting?

Ms. WELDON. It would include all activities, so I think it's a matter of looking at how those need to be nuance among each other. But I think it's something that we can work out.

Senator CASSIDY. Okay.

Now I came from the House side and I'd be interested in the two of your opinions in the Benishek Bill that was passed in the House. It seemed like some of the language regarding access to wilderness for hunters and anglers was a little clearer.

Mr. Ellis, you began by mentioning that you felt there needed to be some clarity. Do you have any thoughts on that?

Mr. ELLIS. Well we have a lot of hunters, hunters and fisherman, that use wilderness areas. I'm one of them. My wife and I pack our horses into wilderness areas and do both of those things. I think that any time we have an opportunity to provide access for sportsmen.

Senator CASSIDY. But the specific issue is do you think that the language in the Benishek Bill was clearer because you mentioned several occasions of a lack of clarity? And so, coming from the House and knowing folks over there, I'm a little clearer with that. Do you think that bill gives more clarity to this point? If so, is that something we should look at?

Mr. ELLIS. Well, Senator, I don't have that particular bill in front of me.

Senator CASSIDY. Okay.

Mr. ELLIS. I don't have the language of the bill. I would be happy to review that language.

Senator CASSIDY. Sounds great.

Mr. ELLIS. And get back to you. I could——

Senator CASSIDY. Now let me ask you one more thing.

I met yesterday with Senator Murkowski. She showed me a map of Alaska and how much is controlled by you two. [Laughter.]

It's just amazing. It's several states put together. So when you say that 98 percent of the land is open for hunting and fishing, heck, I figure if you're including that, all of the Alaska holdings, then frankly only 85 percent of the lower 48 would have to be included and you could still make that number.

So I guess my question, sometimes the particular is more important than the general. In my State of Louisiana, what percent of the Kisatchie National Forest would be open for hunting and fishing or if we would take someone else's state, West Virginia or New Mexico or Senator Stabenow's state?

Can you give us the specific number for each state both in terms of how much is technically open and how much in reality is open because these two gentlemen have indicated that sometimes something may be open in theory, but in reality there is no access, therefore it is effectively not open? Does that make sense? Can you give us those kind of state specifics as opposed to lumping us with Alaska, sort of statistics?

Ms. WELDON. Do you want to go, Steve?

Senator CASSIDY. You can?

Mr. ELLIS. What I have for BLM lands, there's more national forest land in your state than in say, West Virginia. I do have the numbers, the BLM surface acres that's open to hunting, recreational shooting opportunities of 2014, and I can provide these numbers for the record if you would like.

Senator CASSIDY. Yes, if you could. I think we would all be interested for the particular numbers for our state. You don't need to give the detail now, but I think we'd be all interested in that.

Mr. ELLIS. Okay.

Senator CASSIDY. Madam Chair, I yield back.

CHAIRMAN. Thank you. I think all of us would appreciate seeing those numbers in terms of access.

Senator Warren?

Senator WARREN. Thank you, Madam Chair.

Federal law allows individuals, non-profits and small businesses who sue the government and win to recover their costs in a lawsuit if they can show that the Government's legal position wasn't substantially justified. Republicans have expressed concern about environmental groups that are awarded fees under this law and they've added a provision to the Sportsmen's Act that would create a public data base so that the public could see how much these groups get. In other words Republicans want more transparency when environmental groups challenge illegal government actions and win.

But what about transparency when the Government settles claims against corporations that break the law?

Last Congress former Senator Tom Coburn and I introduced a bill called the Truth in Settlements Act which would require the Government to take these settlements with big corporations and make them public, and this bill was blocked from passage. I just want to give you one example of what that means.

The Department of Justice and the Environmental Protection Agency recently settled charges against a subsidiary of Exxon Mobil by letting them pay \$2.3 million when the company's hydraulic fracking operations polluted streams and wetlands. Our bill would have required Federal agencies to disclose some basic information about the settlement and post a copy of the agreement online, but because we haven't passed the Truth in Settlements Act yet the public can't even see a copy of the settlement.

Mr. Fosburgh, I know that the Theodore Roosevelt Conservation Partnership works to ensure that energy development is balanced with the needs of fish and wildlife. Do you think it would be useful to have more information about this particular settlement with Exxon Mobil subsidiaries when its fracking operations polluted these streams and wetlands?

Mr. FOSBURGH. I am by no means an expert at what that settlement was or the impacts, but I generally say that I think that transparency when dealing with Federal resources, be they monetary resources or aquatic resources, whatever it is, transparency is a good thing. It should be a good thing whether you're a corporation seeing what corporate settlements are. It should be a good thing seeing what private NGO settlements or fees are. So, I think transparency, in general, is a very positive thing.

Senator WARREN. Okay, good.

Let me just ask one more part to this. Often these settlement agreements allow offending companies to write off the entire penalty payment as a tax deduction or they allow offending companies to claim credits against the settlement for doing things they were going to do anyway.

So let me ask you again, Mr. Fosburgh. As you think about whether the Government cut a good deal for the American people here, do you think it would be helpful to know if this settlement is tax deductible or if it provides Exxon Mobil with credits for doing things that was already obligated to do?

Mr. FOSBURGH. I think I will leave that answer to people a lot smarter than me in terms of tax and settlements. [Laughter.]

Senator WARREN. Alright. Well, I would just like to think that maybe it is useful to have that information so that we can evaluate what these settlements are like. The Truth in Settlements Act

moved through Committee without opposition last year, and it nearly passed the Senate until it was blocked at the last minute. I am going to press forward with this bipartisan proposal again in this Congress because far too often the critical details of these settlements are hidden from the public.

Federal agencies are charged with holding companies and individuals accountable when they break the law. These investigations regularly end in settlements rather than in public trials. Republicans want to see more details about payments of attorney's fees to environmental groups and we now see a provision in the Sportsmen's Act to require that. But transparency is transparency, and I don't see any justification for highlighting what environmental lawyers get paid and at the same time hiding the details of settlements with corporations that break the law.

Thank you, Madam Chair.

CHAIRMAN. Thank you, Senator Warren.

Senator Barrasso?

Senator BARRASSO. Thank you very much, Chairman Murkowski.

First I want to take a moment to acknowledge your efforts on behalf of sportsmen all across the country, and I know that you and Senator Heinrich have worked hard to address the needs and the concerns of anglers, hunters, and outdoorsmen in this bill. The broad support from the sportsmen community and members of the Senate speaks to the quality of the legislation before us today, and I look forward to working with you and Senator Heinrich, as the primary sponsors, to advance this bill in the Senate.

Mr. Crane, your testimony touches on the connectivity between wildlife habitat management and litigation. In your view how does litigation transparency lead to better wildlife habitat management?

Mr. CRANE. Senator, I'm going to answer by qualifying my answer by saying I'm not an attorney. So this is my layman's view of this which is that all too often we're seeing more and more of the conservation and habitat management, wildlife management, decisions driven by litigation instead of by the people who are on the ground doing the work.

I think it is the belief this provision in this bill is there to try to provide transparency so that we can see and decide, you can decide, how best to ensure that we're going back to where wildlife management decisions are made by wildlife management professionals and that the resources are being managed in a way that the courts aren't deciding it, but the actual people that should be deciding it are doing it. And that's my belief is what the intention is.

Senator BARRASSO. Thank you, Mr. Crane.

Mr. Ellis, you testified that it would be a substantial burden, a burden, to report to the public how much of the public's own money is spent on lawsuits. Based on your sense of burdens I wonder how that burden of accountability compares to the burden of people that are actually paying their taxes. It is your responsibility to account for public funds less than the public's responsibility to pay their own taxes?

Mr. ELLIS. Well, Senator, I'm not an attorney either, I'm a forester. But let me—

Senator BARRASSO. Well, it's an Administration position though.

Mr. ELLIS. The staff that we would use to pull that information together is the same staff who are going to be working on many other things that I know are important to all of your states on the public lands. And so, you know, the people, for example, when we get lawsuits on plans, say in your State of Wyoming. We get lawsuits on plans in your State of Wyoming. And when we have to pull information together to address those lawsuits these are the same employees, the same employees that were working on the plan, for the most part, that are also doing that. And so the point is not one of not being transparent. The point is more of one of the most efficient use of the time for our staff in trying to, you know, get the job done on the ground.

Senator BARRASSO. Thank you.

Ms. Weldon, the Government Accountability Office published a report titled, Limited Data Available of USDA and Interior Attorney Fee Claims and Payment. The report states that most USDA and Interior agencies did not have readily available information on Attorney Fee Claims and Payments made under the Equal Access to Justice Act. The GAO report contradicts what the Forest Service is testifying that this information is largely already available. So is the Government Accountability Office wrong and you do have the information already available?

Ms. WELDON. Thank you, Senator. I want to emphasize as well that it is valuable and important that that information on fees be transparent and available to the public.

When we looked at the response with GAO we have this information in different places. We have one place where we track, within our financial system, what fees were paid. There's another part of our system that tracks the lawsuits and the outcomes for those.

So similar to what Mr. Ellis was saying, it's a matter of constructing the data base and taking the time to do it to allow us to deliver the answers that are being requested in the legislation.

So again, supporting the idea of transparency, but the work to pull that into a system that can work well is what we're wanting to be able to do well.

Senator BARRASSO. So then will you provide this Committee with all the attorney fee claims and payments made under the Equal Access to Justice Act and other, kind of, fee shifting statutes including the total amount paid, who received the payments and the statutes under which the cases were brought?

Ms. WELDON. We can do that, but it will take a substantial effort to pull it together.

Senator BARRASSO. So when can I expect to get those results?

Ms. WELDON. I'd like to get back with you on when we can provide that to you if you don't—

Senator BARRASSO. Because we would like to have it. I think all of us would like to see that information. We think that the public has a right to see that.

[The information referred to follows:]

Equal Access to Justice Act

Background

This special exhibit is included to address requirements of House Report 112-151, page 8; Conference Report 112-331, page 1046, which directed:

Equal Access to Justice Act (EAJA) Fee Payments - The Committee has learned that the Forest Service does not comprehensively track EAJA fee payments, identify the funds used to pay EAJA fees, nor routinely make this information publicly available. Accordingly, the Committee directs the Forest Service to provide to the House and Senate Committees on Appropriations and make publicly available, and with each Agency's annual budget submission thereafter, the following information: detailed reports on the amount of program funds used; the names of the fee recipients; the names of the Federal judges; the disposition of the applications (including any appeals of action taken on the applications); and the hourly rates of attorneys and expert witnesses stated in the applications that was awarded, for all EAJA fee payments awarded as a result of litigation against the Forest Service, or their respective employees. The report shall also include the information listed above for litigation relating to the Endangered Species Act and the amounts, outside of EAJA awards, paid in settlement for all litigation, regardless of the statute litigated.

Overview

The Equal Access to Justice Act was enacted in 1980 to provide individuals, small businesses and non-profit organizations with the means to ensure federal agencies make their decisions transparent and in accordance with law. Since 2009, the Forest Service has tracked the payment of both EAJA and other attorney's fees.

FY 2011 through FY 2014 Funding and Reporting

In FY 2012 the Forest Service provided EAJA information to Government Accountability Office (GAO), in response to a request, on EAJA case names and docket/court number, the name of the award recipient, the amount of program funds used and dates paid. The final EAJA report to Congress is available on the internet at the following world-wide web address.

http://www.fs.fed.us/aboutus/budget/requests/7105962_Equal%20Access%20to%20Justice%20Act_Letters%20and%20Report.pdf

Subsequent FY 2014 EAJA information is reported in Table 1 of this Special Exhibit.

The Forest Service does not track and therefore cannot report on the following information:

- the Federal judges making the awards,
- the disposition of the applications for EAJA fees (including any appeals of action taken on the applications), and
- the hourly rates of the attorneys and expert witnesses stated in the applications for which an award was made.

Table 1. Forest Service Equal Access to Justice Act Statistics for FY 2011 through FY 2014

Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
12/21/2010	CV 1:09-cv-00003-JWS, D. AK	Tongass Conservation Society, Sierra Club . v. Forrest Cole Tongass NF, USFS, USDA	Orion North Reoffler timber sale, Tongass NF	Earthjustice	12/28/2010	Forest Products	\$53,000
1/13/2011	08-01185-MHP, D. N Cal	California Resources Agency v. USDA	Inventoried Roadless Areas, CA NFs	Earthjustice	2/9/2011	Land Management Planning	250,000
3/10/2011	CV-04-127-M-DWM, D. Mont	Native Ecosystems Inc v. Tidwell	Grazing Permits, Beaverhead-Deerlodge NF	Alliance for the Wild Rockies	3/11/2011	Grazing Management	85,000
3/11/2011	08-01927 CW, D. N Cal	Citizens for Better Forestry v. USDA	National Forest Management Act	Western Environmental Law Center	3/17/2011	Land Management Planning	170,047
3/11/2011	08-01927 CW, D. N Cal	Citizens for Better Forestry v. USDA	National Forest Management Act	Earthjustice	3/17/2011	Land Management Planning	251,312
4/6/2011	10-cv-01514-JDB	Public Employees for Environmental Responsibility v. USDA, USFS		Public Employees for Environmental Responsibility	4/8/2011	Cost Pools	1,848
4/25/2011	CV 08-43-M-DWM	Forest Service Employees for Environmental Ethics v. USFS and National Marine Fisheries Service		Bechtold Law Firm PLLC	4/25/2011	Wildland Fire Suppression	95,000
5/2/2011	CV 07-1043-JB-ACT, D. NM	Wildearth Guardians v. USFS, New Mexico Cattle Growers Association	Livestock grazing, Gila NF	Wildearth Guardians	5/12/2011	Grazing Management	27,500
5/25/2011	CV 09-164-N-EJL, D. ID	The Lands Council v. Leslie Weldon Region 1, Ranotta MaNair Idaho Panhandle NF, USFS	Bussel 484, Idaho Panhandle NF	Public Interest Defense	6/9/2011	Forest Products	50,064
5/26/2011	5:08-CV-00091-TBR	Forest Service Employees for Environmental Ethics v. USFS	Continued Maintenance of Open Lands, Land Between the Lakes	Bechtold Law Firm PLLC	5/26/2011	Land Between the Lakes Management Fund	29,400
6/13/2011	09-cv-00160-DWM	Alliance for the Wild Rockies v. Paul Bradford Kootenai NF	Grizzly Vegetation and Transportation Management Project	Public Interest Defense	6/16/2011	Timber Salvage Sales	28,000
6/20/2011	05-107M (DWM)	Rock Creek Alliance v. USFS	2001 EIS	Western Mining Action Proj	6/22/2011	Minerals & Geology Management	186,500
7/25/2011	08-1067-JCC	Conservation Northwest v. Harris Sherman and D.R. Johnson Lumber Co.	EIS Survey and Manage Mitigation Measure Standards and Guidelines, 2007	Western Environmental Law Center	7/27/2011	Forest Products	155,555

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Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
			Supplement				
9/8/2011	CV F 09-392 LJO	Sequoia Forestkeeper v. USFS	Special Use Permit to Robert Sellers and Quarter Circle Five Ranch	Paul Hastings LLP	9/13/2011	Landownershi p Management	74,640
9/8/2011	CV F 09-392 LJO	Sequoia Forestkeeper v. USFS	Special Use Permit to Robert Sellers and Quarter Circle Five Ranch	Rene Voss	9/13/2011	Landownershi p Management	13,800
Subtotal FY 2011							\$1,471,666

Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
10/6/2011	10-cv-01514-JDB	Public Employees for Environmental Responsibility v. USDA, USFS		Public Employees for Environmental Responsibility	10/11/2011	Cost Pools	\$1,848
1/23/2012	09-cv-1500-SU	Hells Canyon Preservation Council v. USFS	Sled Springs Off Highway Vehicle Trail System and Road Management Plan	Hells Canyon Preservation Council	1/27/2012	Recreation, Wilderness, & Wild and Scenic Rivers	79,874
1/27/2012	10-cv-6337-TC	Cascadia Wildlands v. USFS		Daniel Kruse	1/30/2012	Forest Products	56,500
2/15/2012	2:10-cv-02830-WBS	Center for Biological Diversity v. Mike Crawley, USFS	Motor vehicle use on Bridgeport Ranger District	Center for Biological Diversity	2/16/2012	Roads	9,000
3/6/2012	CV 09-107-M	Alliance for the Wild Rockies v. Leslie Weldon, USFS	Rat Creek Salvage	Western Environmental Law Center	3/6/2012	Integrated Resource Restoration	53,000
5/29/2012	CV 07-39-M-DWM	Montana Wilderness Association v. Vicki Christiansen, USFS		Earthjustice	6/4/2012	Recreation, Wilderness, & Wild and Scenic Rivers	137,000
6/14/2012	CV 08-92-DWM	Smith Creek		Bechtold Law Firm	6/19/2012	Integrated Resource Restoration	48,489
7/5/2012	3:09-CV-03048	Wilderness Society v. US DOI	West-Wide Energy Corridors	Earthjustice	7/5/2012	Landownership Management	10,000

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Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
8/8/2012	10-CV-00026	Idaho Conservation League and The Wilderness Society v. Frank Guzman and USFS	Travel Management Plan for the Salmo-Challis NF	Earthjustice	8/10/2012	Integrated Resource Restoration	90,000
8/22/2012	11-VC-830-RCC	Defenders of Wildlife v. USFS	Hardshell Project	Defenders of Wildlife	8/28/2012	Minerals and Geology Management	10,500
9/18/2012	09-CV-131 CW	Sierra Club v. USFS	Ogden Ranger District's Motorized Travel Plan	Western Wildlife Conservancy	9/18/2012	Recreation, Wilderness, & Wild and Scenic Rivers	69,027
Subtotal FY 2012							\$565,237

Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
10/11/2012	No.10-2039-WHA	CV-10-2039	Orleans Community Fuels Reduction (OCFR) & Forest Health	Marianne Dugan	10/11/2012	Hazardous Fuels	\$30,000
1/7/2013	CV-11-125-M-DWM	Friends of the Wild SWAN	Colt Summit NEPA Litigation	Western Environmental Law	1/18/2013	Land Management Planning	40,000
2/12/2013	12-CV-286-BLW	Advocates for the West Inc		Advocates for the West Inc	2/12/2013	Wildlife & Fish Management	52,000
2/28/2013	CV-01477-GEB-CMK	Californians for Alternatives to Toxics	Paiute Cutthroat Trout Restoration	Western Environmental Law	3/1/2013	Wildlife & Fish Management	8,000
2/28/2013	CV 11-99-M-DWM	Native Ecosystems		Rebecca Smith	3/1/2013	Wildlife & Fish Management	33,279
2/28/2013	CV 11-99-M-DWM	Native Ecosystems		Tim Berchtold	3/1/2013	Wildlife & Fish Management	13,598
3/1/2013	CV-1212-CL	Oregon Natural Desert Assoc.	Environment & Natural Resources	Advocates for the West Inc	3/1/2013	Wildlife & Fish Management	137,000
5/9/2013	CV-00048-WJM	National Ski Areas Assn. Inc.	Natural Resources & Environment	Ducker Montgomery Lewis /Bess, Williams & Weese, P.C.	5/9/2013	Recreation, Wilderness, & Wild and Scenic Rivers	125,000
5/23/2013	10-CV-01797-JCC	Wilderness Watch	Glacier Peak Wilderness Arc. Green Mountain Lookout.	Wilderness Watch	5/24/2013	Facilities	70,804
5/23/2013	12-CV-01757-TC	Central Oregon LandWatch	Bend Waterpipe Deschutes NF	Central Oregon LandWatch	5/24/2013	Vegetation & Watershed Management, Wildlife & Fish Management	66,350

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Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
6/18/2013	08-CV-1460 PJH	Watersheds Project	Western Watersheds Project	Advocates for the West Inc	6/19/2013	Grazing Management	264,358
6/18/2013	08-CV-1460 PJH	Watersheds Project	Western Watersheds Project	Keher and Van Nest LLP	6/19/2013	Grazing Management	172,703
9/10/2013	09-cv-01272-WJM	WildEarth Guardians	Email sent 09/18/13 requesting FS-6500-224	WildEarth Guardians	9/18/2013	Vegetation & Watershed Management	141,886
9/11/2013	11-CV-95-BLW	Idaho Rivers United	Idaho Rivers United	Advocates for the West Inc	9/14/2013	Roads, Wildlife & Fish Management	45,500
09/19/2013	11-CV-23-PK	Hells Canyon Preservation Council	Grazing CE's Hells Canyon	Hells Canyon Preservation Council	9/17/2013	Recreation, Wilderness, & Wild and Scenic Rivers	136,500
9/24/2013	09-cv-2523-LKK-JFM	Center for Sierra Nevada Conservation	National Forest Management Act/Endangered Species Act	Bahr Law Offices, P.C.	9/25/2013	Trails	110,000
9/25/2013	10-cv-00612-EJL-REB	Western Watersheds Project	FC #7600034286 created & posted 09/25/13 - Waiting for final settlement approval amount to pay	Advocates for the West Inc	11/14/2013	Hazardous Fuels	125,000
9/5/2013	11-cv-02921-MCE-DAD	Snowlands Network, Winter Wildlands Alliance & Center for Biological Diversity	Over snow vehicle (OSV) recreation	Advocates for the West Inc	9/6/2013	Vegetation & Watershed Management	15,000
Subtotal FY 2013							\$1,586,978

Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
9/25/2013	10-cv-00612-EJL-REB	Western Watersheds Project	Western Watersheds Project	Advocates for the West Inc	11/14/2013	Hazardous Fuels Reduction	125,000
1/10/2014	3-11-CV-895-ST	Friends of the Columbia Gorge Inc	Special Management Area	Friends of the Columbia Gorge Inc	1/10/2014	Land Management Planning, & Landownershi p Management	17,855
3/14/2014	CV-12-27-M-DLC	Native Ecosystems for the Wild Rockies	Fleecer Mountains Projec	Public Interest Defense	3/19/2014	Integrated Resource Restoration	19,802
3/19/2014	CV-10-2141	Breaker-Attorney's Fees	Martin Breaker	Siegel Brill P.A Trust	3/21/2014	Landownershi p Management	155,000

Special Exhibits

FY 2016 Budget Justification

USDA Forest Service

Date Rec	Docket, Court	Case	Project Name	Vendor Name	Date Certified	Program	Amount
3/21/2014	13-CV-1827-CL	Murphy Co High Cascade Inc	Stipulation for Temporary Stay of Proceedings	American Forest Resource Council	3/24/2014	Forest Products	7,500
4/24/2014	13-CV-01157-TLN-AC	Porcupine Vegetation & Road Management Project	Porcupine Vegetation & Road Management Project	Sean Malone - Attorney at Law	5/8/2014	Forest Products	3,500
5/1/2014	12-CV-00804-AA	Goose Project-Willamette	Cascadia Wildlands and Oregon Wild	Western Environmental Law Center	5/2/2014	Forest Products	60,000
5/22/2014	PROGA	Pennsylvania Independent Oil & Gas Assoc	Pennsylvania Independent Oil & Gas Assoc	Pennsylvania Independent Oil & Gas Assoc	5/23/2014	Minerals Geology Mgt	530,000
6/5/2014	10-CV-02172-KJM-AC	Central Sierra Environmental Resource Center, The Wilderness Society, and Public Employees for Environmental Responsibility	California Association of 4-wheel Drive Clubs (Alleged violations of NEPA & APA)	Earthjustice	5/23/2014	Recreation Heritage Wilderness, & Vegetation Watershed Mgt	100,000
6/24/2014	12-CV-02416-WBS-KJN	Conservation Congress v. USFS, Tatham Project (NEPA),(ESA).	Tatham Project (NEPA)	Marianne G Dugan PC Attorney Trust	6/24/2014	Forest Products	36,500
9/12/2014	4:08-CV-00363-EJL	The Wilderness Society & Prairie Falcon Audubon, Inc. v. USFS & Magic Valley Trail Machine Assoc.		Western Environmental Law Center	9/15/2014	Roads Capital Imprv Mnce, Trails Capital Imprv Mnce, Grazing Management, Recreation Heritage Wilderness, & Integrated Resource Restoration	120,000
9/11/2014		Citizens for Healthy Communities			Funds Committed, Pending Final Judgment Information	Minerals Geology Mgt	60,000
9/26/2014	11-CV-00679-LJO-DLB	11-CV-00679-LJO-DLB		Matt Kenna, Attorney	9/26/2014	Land Management Planning	100,000
FY 2014 Subtotal							1,335,757

Senator BARRASSO. Thank you, Madam Chairman. I'm just about out of time.

CHAIRMAN. Thank you, Senator Barrasso.

Let's go to our prime co-sponsor here, Senator Heinrich. Thank you for your leadership on this.

Senator HEINRICH. Well, I want to thank you. I, like you, am optimistic. I am excited about this, and I think taking a regular order pathway and getting on this early and just the bipartisan support we have should bode well for success. So thanks for your work.

I want to thank Senator Barrasso as well, who I worked very closely with on the particulars of the Hunt Act language. I really appreciate that.

And with that I want to go to a couple of questions. I think I will start with Mr. Crane.

I wanted to say it is a fantastic bill, but obviously we can always improve things. Looking at the provisions we are considering today I want to get your take on how we might possibly beef up the sport fishing and aquatic resources perspective of the bill.

I know that Senators Cardin and Crapo had a bill last year to support and codify the National Fish Habitat Partnership Program and that Chairman Murkowski and her staff are working with those two Senators to move a fresh version of this legislation into consideration for this package.

Can you speak about why this is important to the, roughly, 40 million sport fishers in the United States and the impact that those activities have on our economy?

Mr. CRANE. Thank you, Senator.

I'm very familiar with the legislation that you're talking about. We are part of the working group that is working with the lead Senators, with Senator Murkowski's staff. We'd be very supportive of putting the National Fish Habitat Conservation Act into this legislation if it is appropriate and it will actually help support passage and the necessary 60 votes.

Anglers spend in the neighborhood of \$40 billion a year in pursuit of their sport. To have, as I said in the beginning, access and opportunity and opportunity means good habitat. It means marine habitat. It means run off. It means repairing in areas the things that are important in connecting these together as this plan would do.

Looking at this more holistically, like the North American Wetlands Conservation Act does for water fowl and the management of those resources, I think, is just something that would be good management. And we would love to work with you and continue to work with you and support this provision.

Senator HEINRICH. I appreciate your help on that and I think coming from New Mexico where we have very little water, we appreciate our ripe parinaris, our wetlands and our fish habitat even more.

Mr. Fosburgh, I want to ask you a question. You mentioned this in your opening testimony, and I was hoping you could talk a little bit about the North American model for wildlife conservation. How is it different from management in other parts of the world and what that means for the average hunter who may not be of means

and how that is different from many places we see around the globe?

Mr. FOSBURGH. Yes, we sort of take this for granted over here. But you have to really look at, sort of, you have fish and wildlife as managed in other places. I mean, it's still you go to European countries, England, and the fish and the game belong to the land of gentry—it was never, you know, it has not been for centuries a common man's sport.

Over here that's very different, and I think you really saw that back to the sort of frontier mentality. We settled America, but also folks like Theodore Roosevelt who really believed that the public lands, the hunting and fishing, were fundamental of what it meant to be an American.

When you can go of any walk of life, any means, you can go out there and get a license. You can get a tag. You can go out and pursue fish and game. You don't have to be able to afford a fancy hunt or a high fence ranch or anything like that. Anybody can do this, and I think that's why we have such great resources in this country because it incentivizes everybody, including the 40 million Americans that hunt and fish, to get out there and take care of that resource. You look at the work that Ducks Unlimited, Rocky Mountain Elk Foundation, and Turkey Federation, all those groups do. That is done because those guys can get out there. Those guys and women can get out there and participate in this sport.

But it's something that doesn't take care of itself. We have to nurture that. We have to encourage it, and it gets tougher and tougher as we get more competing demands on our people, but also on our lands.

Senator HEINRICH. Well, I want to thank you for pointing that out because it really is unique in the world. It is the envy of the world because it has been so successful. People forget there was a time when white tails were incredibly uncommon across the East, when elk were extinct in New Mexico and that is far from the case today. In fact, if anyone wants to visit New Mexico, I would remind them that permits on the game and fish website are due on the 18th of this month. So you better get your applications in.

With that, I'll stick around for the next round, Madam Chair.

CHAIRMAN. We appreciate that, and thank you for your leadership.

I also want to thank Senator Risch for his leadership as the co-chair of the Sportsmen's Caucus. Your questions, sir.

Senator RISCH. Thank you, Madam Chairman.

First of all I want to thank everyone who has worked on this. I think we have hit the sweet spot this time, Jeff. We have Senator Murkowski and I actually being the lead on this bill, Senator Manchin and I as the co-chairman of the Sportsmen's Caucus, and then also Senator Fischer and Senator Heitkamp as vice chairmen have all been very heavily involved in this year.

We think we have got a different landscape than what we have had, and I certainly want to thank everyone who worked on this, including Jeff, who has been undaunted and incredibly persistent and undeterred by the slowness with which Congress works on some of these things. Thank you for that. We appreciate your impa-

tience with the political process but that's, kind of, it is what it is sort of thing here.

In any event we think we have got this right now. It has been kicking around for a long time, and we think we are going to get that vote on the floor that we all so desperately want.

My issue has been with the fact that we are not getting the participation we should be getting from youth here in America. Every time I give a speech on this I urge people to mentor the kids and get them out, get them away from their devices and get them out in the field to hunt and fish because this is really part of our culture in America. It would be a shame to see the thing fade because—we all know that there's an anti-hunting, really anti-fishing mentality out there in some people, and if they flex their muscle it could be a tough fight. We need to engage as many people in this as we can. For people who have never experienced this it is their great loss not being able to go out in the field and do these kinds of things. So I urge everyone to get out there and mentor young people.

When I was Governor I went and had them look back at the licenses that we issued to the youth. It is not particularly encouraging to see the statistics on how that has been changing over the years, so we all need to work at that.

This bill is a bill that will help preserve that incredible tradition and culture that we have in America. I am glad to be part of it, and I am glad to be working with the people who are pressing it.

So thank you, Madam Chairman, thank all of you who have worked on this.

CHAIRMAN. Thank you, Senator Risch. This will be our time. This will be our year. Let's be optimistic about that.

Let's go to Senator Hirono.

Senator HIRONO. Thank you, Madam Chair.

Well, Hawaii has a lot of hunters and fishermen and women, so I certainly support these activities.

I would like to get a better understanding of this bill and putting it into context. I heard in testimony this morning that 30 million acres of public lands are not accessible or closed to hunting and fishing. Now I see not accessible as very different from closed. So I want to get that clarified. And that 99 percent of public lands are open.

So is this bill really focusing on that 30 million acres of public lands that are either not accessible or closed or are we just talking about just those areas that are not accessible to hunting and fishing? Could somebody clarify that for me?

Mr. CRANE. I'd be happy to try to do that. I think the distinction of the not accessible is literally inaccessible physically for somebody to get there. As you're well aware, the West in particular is a patchwork of public and private lands. And there's all too often cases where public lands are inaccessible because of this network of private in holdings. There are also times when roads are closed and things like that, but we're really talking about inaccessible because of some of these networks.

So a couple of the provisions in the bill, your colleague, Senator Heinrich's Hunt Act, looks at inventorying where these are most likely to occur, where the high value recreational access points are

maybe being blocked physically. Making public lands public with the set aside from LWCF would be dedicated funding to look at willing participants, sellers, people willing to have an easement over private property, create more access and more opportunities.

So——

Senator HIRONO. So for Mr. Ellis and Ms. Weldon then, we're all on the same page, that is, this 30 million acres of public lands that are inaccessible, not closed. Because you obviously have procedures if you are going to close off certain areas for these kinds of hunting and fishing activities.

Ms. WELDON. Yes, I would agree with that. Thank you for that question. The opportunity we have is to find ways to create that additional access to those places that are closed off, and we can do that through the LWCF program which we work in great partnership with many groups to help deliver new connections to land, new access across private land onto public land.

Senator HIRONO. So this bill would require that the agencies determine which inaccessible lands would establish priorities as to how to open these areas and also you need to have the means and resources because if there are private lands, right of ways, that you have to negotiate and purchase you would need to have that funding. Correct?

Mr. ELLIS. Senator, I might mention that this number figures on accessible lands. My experience in my career, it can really change every year. Because what I've seen in my travels is that there may be an area that we access for one time, a new landowner comes in, buys a piece of private ground below the public land, slaps a lock and a gate on it. And then our phone starts to ring at the local BLM office, the local ranger district, and we look and find maybe we never had any easements.

So that's always changing. What we do then is we try to prioritize these areas, and our public helps us do this. I know in one I had when I worked in Idaho, in Shoshone, Idaho. The sportsmen got very engaged on one of these and we worked with Blaine County in working with the landowners to get access to that area.

What I think the key thing is to work with our local communities, work with all our publics, the sportsmen and all our publics, the hunters and the non-hunters, fishermen, non-fishermen, to try to set these priorities and that's really——

Senator HIRONO. Well, I think it's important because clearly the majority of the people who enjoy our public lands are not hunters and fishermen, and so I do have a question as to with this bill and its emphasis on hunting and fishing, would that create some safety, further safety issues for the non-hunting, non-fishing public? For example, hunting also includes trapping within our public lands. Would that increase concerns about safety for the non-hunting, non-fishing public?

Ms. WELDON. I don't believe it would. Again, the activities and where they occur, it's always a question of conflict and how do we accommodate everything everywhere. So if there were places where trapping would occur that are also places where other recreation activities would be occurring then we would need to make sure and ensure it could be done safely.

Senator HIRONO. For our Federal agencies then basically the concerns that you have raised about this bill are concerns that could be addressed to allow this bill to go forward for both of you. Thank you.

Thank you, Madam Chair.

CHAIRMAN. Good to know.

Senator Portman is not back. It looks like Senator Gardner, you are up next.

Senator GARDNER. Thank you, Madam Chair, and thank you to Ranking Member Cantwell for this hearing today. Just a reminder to everybody, I think you could buy turkey licenses for the spring hunt as of yesterday in Colorado. So March 11th I think you can start buying the licenses for it.

This is a difficult hearing. Next time I suggest maybe Gore Creek for this hearing or something like that in Colorado, if we could.

I know there are a couple people in the audience here today from Colorado, so I want to welcome them. I hope I am not breaking Committee rules by doing that, Madam Chairman.

I just wanted to talk about the importance of outdoor activity recreation to Colorado, a significant economic boom to, not just Colorado, but all of our states.

According to Colorado Parks and Wildlife total statewide economic output outdoor recreation is \$34.5 billion per year, contributing \$4.9 billion in local, State, and Federal tax revenue. Colorado sportsmen and sportswomen support \$3.6 million spending per day and \$135 million in State and local taxes. So it's a great opportunity to be here to promote our great outdoors.

I wanted to talk a little bit about the Judgment Fund Transparency Act and that aspect of the Sportsmen's Act, contained in the bill's legislation, that I authored in the House of Representatives and introduced again this year with Senator Fischer from Nebraska. The Judgment Fund Transparency Act would require a public accounting of the taxpayer funds distributed to litigants who bring claims against the Federal Government.

This fund was originally created to help small businesses and veterans bring claims against our Government, but it has been used by others now. The group continuously I am concerned about those who continue to sue the Federal Government and may be trying to influence public policy outside of the legislative process. Court precedents set by such litigation could undermine public policy and policymaking, so I think it is important that we have transparency when it comes to these public funds so that we could have these details.

I will direct my question to you, Mr. Crane. It is good to see you. Do you believe this provision is important to include in the Sportsmen's Act?

Mr. CRANE. Yes, sir, Senator, I do. As I stated earlier, I think I agree with you that all too often litigation is defining management, habitat, wildlife management decisions. The agencies, clearly, are looking at tighter fiscal times and to the extent that they have to pursue all these legal challenges, I think that's taking resources away from conservation and the things that we care about. So I think it's very important to include it in there.

Senator GARDNER. Just as you stated at the end, helping conservation efforts, that would help our sportsmen and sportswomen to include this?

Mr. CRANE. 100 percent it would.

Senator GARDNER. And again, this is something to Mr. Ellis and Ms. Weldon. I do not know if you would be able to provide this today, but if you could followup, if you would, an example where a lawsuit against the Federal Government resulted in restricting hunting, angler or fishing activities on Federal lands. That would be fantastic if you could followup with some examples of that.

[The information referred to follows:]



Forest Service National Forest System Briefing Paper

October 30, 2014

Topic: Fifth Circuit vacates District Court Decision concerning hunting deer with dogs in Louisiana Sportsmen Alliance v. Vilsack (13-31260, 5th Cir; 12-2929, W.D. La.):

Issue: On October 28, 2010, the Fifth Circuit Court of Appeals vacated (rescinded) the US District Court's, Western Division Opinion which upheld the Forest Service (FS) decision to prohibit the use of dogs to hunt deer on the Kisatchie National Forest (NF). The Fifth Circuit did so based upon a finding that plaintiff, Louisiana Sportsmen Alliance, failed to properly establish organizational standing to maintain their lawsuit. The District Court has been instructed (via remand) to dismiss the case without prejudice. The prohibition of hunting deer with dogs on the Kisatchie NF remains in place.

Key Points:

- The Fifth Circuit found plaintiffs had failed to establish standing to support their claim. Standing is the ability of a party to bring a lawsuit based upon their stake in the outcome. The Court concluded, "[T]he Alliance has failed to establish that it has standing to support its claim. The Alliance never alleged any specific facts showing a concrete injury to any one of its members. Nor did the Alliance allege any specific details regarding the nature and purpose of its organization. Further, the Alliance never submitted any declarations or affidavits from any of its individual members averring that they suffered a specific harm..."
- The Fifth Circuit further stated, "The Forest Service raises a threshold issue whether this Court has jurisdiction to consider the Alliance's appeal. The district court was ill-served by the Forest Service in this regard, because the Forest Service never argued that the Alliance lacked organizational standing until this appeal."
- The prohibition of hunting deer with dogs on the Kisatchie NF remains unchanged. However, since the Fifth Circuit instructed the District Court to dismiss without prejudice, plaintiffs are free to file another Complaint.
- On November 27, 2013, The District Court ruled in favor of the government on all counts. It found the decision to prohibit dog-deer hunting was narrowly tailored to balance the need to mitigate conflicts on the Kisatchie NF between dog-deer hunters and other recreational users and private landowners within the National Forest boundary. The Court stated, "[T]he Agency's decision was supported by substantial evidence."
- The Louisiana Department of Wildlife and Fisheries revised its 2013-2014 hunting regulations to allow only still hunting of deer on the Kisatchie NF. The State does not allow the use of dogs to hunt deer on its more than one million acres of wildlife management areas. State regulations allow hunting deer with dogs in some areas if the private landowner allows it. Leashed dogs may be used to retrieve deer.

Contacts: For information contact, Greg Smith, Acting Associate Deputy Chief, National Forest System.

Senator GARDNER. In the latest hunting access report Colorado had a high but declining level of hunting participation. I know that has been brought up this morning.

The study that referenced showed Colorado public lands were generally accessible and that no more than 12 percent of Federal lands in Colorado were land locked by private land. There seems to be a misconception that public lands are land locked when in fact a lot of accessibility is truly there, but we should address this lack of awareness for alternative routes or remote access points. I think it is very important.

Section 101 of the bill would direct Federal land managers to facilitate use of an access to Federal public lands for recreational fishing, hunting and recreational shooting. Would you agree that this could lead to improved planning and require the BLM and Forest Service to include evaluations of hunting, fishing and shooting access in resource management plans, land resource management plans, travel management plans and energy development plans, further promoting the multiple use philosophy of our public lands?

Mr. Ellis, I'll start with you.

Mr. ELLIS. Okay, Senator, thank you.

Regarding Section 101 one of the concerns that I had when I looked at that section and again, 99 percent of the lands are open. And except I thought, we thought, that the language might imply that BLM must make decisions that maximize hunting, fishing and target shooting. And that, you know, those activities, as I have indicated, are very important to us, but we want to feel that that language could result in litigation if we make decisions that do not maximize hunting, fishing and shooting.

Let me give you an example. One of the things that we did, I refer to Idaho a lot because I spent a lot of my career in that state, was we put in these green strips. And it's green strips of vegetation to help stop wildfire, particularly in some of this grouse country, in Sage Grouse country. And we do that along the interstate, you know, between Mountain Home and Boise. We've done it in other areas. And we do a NEPA. Right? We do NEPA and do part of that. And those are in areas, in those chief grouse areas, those are areas if we go through NEPA and we do a decision we would not necessarily look in terms of whether that action was something to maximize hunting, fishing and shooting.

Another concern that I had when I looked at that is that when we do NEPA documents, particularly planning documents, we develop a suite of alternatives based on public scoping. And so we go out to our public, we have public hearings and we identify issues. And many times, many times, hunting, fishing or one of those issues, I think that's a good thing. And then out of those issues then we develop alternatives. As part of that we analyze those alternatives. So with this event, essentially, would do, it would say, okay, we're going to do that regardless of it came up in scoping, regardless of issues. This would be one of them.

So with so many of these lands that are open and that we want to continue to have open, I think that that is something that, based on my experience, would be ripe, very ripe for litigation. And so—

Mr. GARDNER. I do not want to cut you off, Mr. Ellis, but Mr. Crane would you like to respond?

CHAIRMAN. We are going to have to move through this very, very quickly.

Mr. CRANE. I'll make mine very short. I would just call attention to the National Wildlife Refuge Improvement Act. It has priority uses that defines hunting and fishing, statutorily and how well that is working for the Fish and Wildlife Service at the Refuge System. I don't believe that this is going to be the issue that's suggested here.

Senator GARDNER. Thank you, Madam Chair.

CHAIRMAN. Senator Stabenow?

Senator STABENOW. Well thank you, Madam Chair, and I look forward to working with you and Senator Cantwell as we move forward on this.

I want to thank, first, the panelists who worked with us on another bipartisan effort, on the Farm Bill. We hope for the same effort going forward on this. Particularly Jeff, I want to thank you for helping us put together a very aggressive conservation title. And of course, Ms. Weldon, our Forestry title as well. We very much appreciate that.

I have a question, but I wanted to mention a couple of things just to echo the Land and Water Conservation Fund, what has been mentioned already and what Senator Cantwell has said. Hopefully, Madam Chair, we can move forward with that, to reauthorize that very, very important legislation.

I also wanted to just put a plug in for the Conservation Easement Program. That is in another committee, the Tax Credit that Senator Heller and I have in Finance Committee, but it is very, very important in protecting and preserving lands that we extend that, and we would like very much to make that permanent. So, we want to work with you on that as well.

Madam Chair, with Senator Portman here I want to mention and ask that we work together and something that very much relates to this is not yet a part of the bill, but it deals with fishing. And that is the question of Asian Carp. Senator Portman and I put in legislation that has been co-sponsored by at least two other members of the Committee so far, that deals with what happens if in fact these large fish keep coming up the Mississippi and Illinois River into the Great Lakes. They can outcompete any native fish in terms of food and habitat and would basically destroy the \$7 billion fishing industry in the eight Great Lakes region.

It is critically important. I grew up North in Michigan where everything was about hunting and fishing, and I can tell you about the Great Lakes and what could happen if in fact we cannot stop these fish from coming to the Great Lakes. It would be absolutely disastrous to our fishing industry and boating industry as I know our panelists know.

Senator Risch is gone now, but I did want to put in a plug for the next generation. My son, who is an avid, competitive bass fisherman and also does ice fishing, on the coldest day of the year so far, had my grandkids out in their ice shanty fishing. So there is a next generation. I think they're crazy. It was very cold. [Laughter.] But they were out there.

But the Asian Carp, it is critically important, and there are technologies now that can be used. We have identified a spot, 40 miles south of Chicago, where if we increased certain technologies and barriers it would make a huge difference, and so I would like very much to work with you as we move forward on this.

I have a question for panelists that is not specific in the bill but relates to it and that relates to the Forest Service and what is happening in terms of our ability to manage our forest lands which are so important.

Ms. Weldon, I wanted to ask you because I am a co-sponsor of Senator Wyden and Senator Crapo's Wildfire Disaster Funding. I am very concerned about the wildfires that are happening, we have to address those. We know and we have gone from 1995 spending 16 percent of our budget on fire fighting today to 40 percent. But what is happening is important management issues now cannot be funded.

So when I look at what is happening in the Great Lakes, for instance, and I understand why dollars are being diverted to the Western states, but we are seeing more and more regular management practices that need to happen not being able to happen that would relate to restoration, management activities, that deal with game species, open spaces, other important parts of this whole discussion. I wonder if you might speak to, if we, in fact, pass the Wildfire bill would that allow funds to be freed up for restoration and management activities to protect our forests and species on our forest land?

Ms. WELDON. Yes, thank you for the question, Senator Stabenow. And again, our appreciation, greatly, for the years of work that's gone in by Congress and by many other partners to put us on a path to really address this issue we have on how we fund wildfire.

So quickly, we know we will stay in a situation where wildfires have two situations. One where we are very successful in addressing them, and the second part where we have wildfires that are larger, more impactful and more costly than we've ever seen.

And so having a solution which is proposed with this 2016 bill will put us in a place where we can direct more of our resource management funds to address those high priority places for reducing risks to communities from wildfire, restoring areas that create better habitat, better water quality and then freeing up funds that help us to be of service to citizens in the whole array of our mission, be it developing recreation, be it hosting and supporting other small businesses that come to do work on the national forest.

Senator STABENOW. Thank you.

Thank you, Madam Chair.

CHAIRMAN. Senator Portman?

Senator PORTMAN. Thank you, Madam Chair, and to you and to Senator Heinrich, congratulations on this legislation. I know it is something that you have worked long and hard on, and I know how frustrating it is not to get legislation that you have spent so much time and effort on through this crazy process here in Washington. I will be with you on this again, and I hope we can get it through the gauntlet here in the Senate and the House, and get it to the President for signature because it makes so much sense.

Senator Risch and Senator Manchin, I notice you were original co-sponsors as well, so a lot of members of this Committee are involved with this legislation.

It is really important for Ohio. We have got, as you know, lots of sportsmen and women in Ohio, hunters and fishermen and a lot of them do not have access to private land. They just do not own a farm or other land themselves. So they find this to be, really, their top issue is how to ensure access to public lands.

I want to talk about Section 105 in a second, but while Senator Stabenow is still here, let me say, the other issue that is huge in Ohio right now is the idea of these Asian Carp coming up into the Great Lakes. It is a \$7 billion fishing industry in the Great Lakes now.

By the way, the most fertile of those lakes is the one that is the smallest and most shallow, and that is Lake Erie. For both Senator Stabenow and me, of course, this is an issue that is near and dear to our hearts. I have gone fishing on Lake Erie this past summer and the summer before for Walleye and because we were involved in this effort, this legislation, I asked other fishermen that I found at the docks, you know, where are you from? It is not just an Ohio issue or a Michigan issue or even an issue related to the United States around the Great Lakes because there are people that are fishing from states all over, at least the Eastern part of the United States. They come for some of the best Walleye fishing in the world. I would argue the best Walleye fishing in the world is in Lake Erie, around Port Clinton.

They are very nervous about this because what is happening is in other instances is when carp come in, they outcompete the native species and we could ruin what is a huge economic benefit to our region and a really important recreational and commercial fishing industry in the Great Lakes. I do hope that you will work with us and with the authors of the legislation to see what we can include in this legislation even on this issue because it directly relates to sportsmen and to the ability for us to continue to have this great resource.

By the way, these fishermen, the same is true with all the hunters, you know, they pay fees. They pay taxes. They are supporting all of the conservation efforts, including on lands where, I know, they will never have access. They do not expect to have access, like our national parks and including on private land because the wildlife officers, of course, are also patrolling private land that they may not have access to but at least they deserve access to more of the public lands that, in a sense, they are paying for with the millions of dollars of taxes and fees.

Again, Senator Stabenow, thank you for your leadership on this. We have introduced legislation recently. Do you all have thoughts on Asian Carp? I do not know quite who to direct this to because none of you have a specific responsibility for this, but all of you, I am sure, have an interest in it.

Ms. WELDON. I can start. Just with this era that we find ourselves in our global economy and such, we are seeing a huge impact from invasive species. Asian Carp is a great example where we're seeing significant change in how ecosystems operate and the

affect of those on these economies that you described and experiences that people can expect.

So I would say that us working, especially with Fish and Wildlife Service, with other state agencies and with lots of partnership groups as well. When we get together and focus on these areas we can find ways for success. It's a huge issue with the Great Lakes and what could be loss from that that does require really focused attention and some innovation on how to solve it.

Senator PORTMAN. Mr. Fosburgh, do you have some thoughts because it seems like—and thank you very much, Ms. Weldon, but thanks to all of you for your work on this but on this specific issue would the members of TRCP and their 40 national, regional partner organizations I see in your testimony, would they support inclusion of some language in S. 556 that would address this concern in some way?

Mr. FOSBURGH. Yes, I think it's an incredibly important issue, and I think you've described it very articulately. I think that our community would be very supportive of seeing something like this added provided that it helped the bill. I think it would achieve final passage.

So, I think, yes, we would be very eager to work with you and Senator Stabenow and others to make sure that we get the support for this.

Senator PORTMAN. Any other comments? Mr. Crane or Mr. Ellis?

Mr. ELLIS. I'd be happy, Senator, to get back to you, have someone at the service, Fish and Wildlife Service, get back to you on this issue.

Senator PORTMAN. Mr. Crane?

Mr. CRANE. We are equally concerned of the impacts of the Asian Carp.

Senator PORTMAN. Well, again, thank you very much for your testimony today, and importantly to the Chair and Senator Heinrich for their work on this. I am going to be with you. I am on the Sportsmen's Caucus. I am the sportsman who believes strongly in providing more access to public lands. We can do it in a responsible way as this legislation does in my view, including Section 105.

So, I look forward to supporting you and getting this done.

CHAIRMAN. Senator Wyden?

Senator WYDEN. Thank you, Madam Chair.

First of all, Senator Stabenow made the key point with respect to wildfire. You cannot do a lot of hunting and fishing in the woods if they are burning up, and the reality is the wildfire system and how we fund fighting fires is broken. We short the Prevention Fund year after year then you get an inferno on your hands, and all of a sudden you borrow from the Prevention Fund to put the fire out. It just gets worse and worse and worse.

So Ms. Weldon, you all have been supportive of our bill with Senator Crapo. We appreciate that. We just need you to be very, very vocal on this.

I flew all night last Wednesday to be home in Medford for a fire briefing. It was unheard of, unheard of, that you would have fire briefings in March. I mean, nobody had that in the past. They told me in Medford they were looking at the driest season in 25 years. Then I moved on to Eugene, and they said they have had 10 per-

cent of the snow pack. So we are looking at a very dangerous fire season.

So you all have been supportive, and we appreciate it, but you are going to need to be very, very visible and vocal on this because we need to get this bill passed and make better use of scarce resources.

Let me ask a question of you, if I might, Mr. Crane.

As you know this bill, which I support, allows Americans to transport bows across National Park Service lands as long as they are not ready for immediate use. I think this idea of protecting the transport of legal hunting and camping tools is going to strike a lot of people as just plain old common sense. So Senator Enzi and I, in a bipartisan way, have tried to build on that and say that we ought to protect knife owners traveling between places where their knife is legal, and this is the important part, as long as the knife is inaccessible during the journey.

Now discussions about the transportation of bows or knives and the like are separate and different from discussions about their use and those decisions have historically been left to each state to make, but I think this idea that people who are just passing through can stow their knife in the trunk or in the glove box or a closed container, again, just strikes me as garden variety, common sense.

In principle, you do not have to say you endorse the bill or not, but in principle do you think that makes sense?

Mr. CRANE. Yes, sir, and I'm familiar with the bill and thank you for your leadership on that. As you are well aware, knives are extremely important to sportsmen and women, and we endeavor to work with you and Senator Enzi to help you pass that.

Senator WYDEN. I think I am going to quit while I am ahead.

Thank you, Madam Chair.

CHAIRMAN. Sorry, we were just discussing in a side bar here. You cannot take a knife through our public lands? I am assuming it is a size issue?

Mr. CRANE. I think the issue is more the various states and municipal statutes and not running the risk of crossing a state line or into a municipal line and carrying a knife that might be illegal in that statute, not dissimilar to firearms when you're crossing state lines. The firearms protect—

CHAIRMAN. I don't mean to demonstrate my ignorance, but I guess coming from a state that is one fifth the size of the country, we do not worry about crossing over into another state's jurisdiction there. [Laughter.]

We go into another country, but I do want to look into that with Senator Wyden.

Let's go to Senator Daines from the great State of Montana.

Senator DAINES. Madam Chair, speaking from Montana, I can tell you it is pretty tough to field dress an elk without a knife. I am just saying.

CHAIRMAN. Well, I am thinking that.

Senator DAINES. Yes.

CHAIRMAN. What are we going to do? Use our nail clippers?

Senator DAINES. Yes, I am not sure.

Thank you, Chairwoman Murkowski, for holding this hearing on the bipartisan Sportsmen's Act. It is an important bill to Montana, and I am a proud co-sponsor.

Like so many Montanans hunting, fishing and access to public lands is a way of life for us. It passed down from my grandfather, to my dad, to me, as a kid growing up. I will tell you, as a public service announcement from Montanans, remember March 16th is the deadline right now for special draw for deer and elk permits for those who are out there and may be caught up in DC politics.

I also appreciated Senator Risch's comments about children and passing this on to the next generation. One of the best parts when I have taken my kids hunting, we have four children, we love to hunt and fish, is usually they do not have cell phone coverage when we are out hunting. [Laughter.]

They have to put down their phones so they can pick up their rifles and their bows and so forth. That is one of the great parts of getting out anymore, I think, with your kids. I love that statement, that famous line that says if you take your kids hunting, some day you won't have to hunt for your kids. I think it is very, very true.

Mr. Crane, as you stated in your testimony the idea of Conservation America began with members of the sportsmen community, and I know Montana sportsmen are frustrated with their current level of access to Federal lands in Montana. They are frustrated with fringe groups who are obstructing worthwhile projects that are important to effectively managing our forests.

In fact, Montana faces a severe challenge of mismanagement of our forest lands, Federally, due to habitual litigation. In fact just two weeks ago we had Forest Service Chief Tidwell confirm that litigation, restraining orders, have a significant impact on Federal forest management. They occupy significant staff resources that could otherwise be spent on getting projects done. Yet these habitual litigants continue to get reimbursed by the Federal taxpayers through the Equal Access to Justice Act and the Judgment Fund, in particular. I am happy to see the provision related to ensuring taxpayers are given more transparency on the recipients of these funds.

Mr. Crane, can you expand on how the Bipartisan Sportsmen's Act would help address the problem of these obstructionist tactics?

Mr. CRANE. Yes, Senator, and I'll try to keep it brief. There are several provisions that I think would benefit this issue and help solve this problem.

The first one is the Equal Access to Justice Provision in there and the transparency for the lawsuits and the Judgment Fund. I think that will help to enable all of us to look at it and see where, really, the issues are and who may be, if there is a theme of folks that are going after access and forestry management.

The Making Public Lands Public deals with set aside from Land and Water Conservation funding for willing sellers to provide physical access across private properties to make more access to Federal public lands.

Then Senator Heinrich's Hunt Act requires the Federal agencies to look at and prioritize areas where there is an access, adequate access, for sportsmen and women and other outdoor recreationists

and to try to look at how we can, with that inventory, then we can look at how we might be able to solve that.

Senator DAINES. Thanks, Mr. Crane and you brought up the issue of making public lands public.

Mr. Fosburgh, in the House I introduced the Making Public Lands Public provision as a standalone bill. I am very happy to see it included in this bill before us today. I think an important part of LWCF, as Mr. Crane pointed out, is allocating dollars to ensure public access to public lands.

In Montana we have two million acres of public lands that are inaccessible to the public. I am happy to see your support of this provision. I know that the provision is a priority for several sportsmen groups back home in Montana.

Mr. Fosburgh, why is sportsmen access a worthy investment of LWCF?

Mr. FOSBURGH. Well, I think that first you have to look at the big numbers which is the \$90 billion that hunters and fishermen provide the economy every year. Those are a significant part of the whole \$646 billion outdoor recreation economy. 6.1 billion—million jobs in the broader recreation economy. And those are jobs that are never going to get exported to China. These are American jobs that we take care of our lands, take care of our fish and wildlife and give people access to those we'll have that forever.

The concern is that it just is as access gets more and more difficult you're going to see a drop off in those numbers, and that's bad for budget reasons. One is the amount of money. When Jeff and I and other folks go out and buy our licenses that we pay into that system. We pay excise taxes on guns, ammo, fishing equipment, boating equipment. We buy our permits. We buy our tags.

Senator DAINES. Sure.

Mr. FOSBURGH. We are members of various organizations, contribute our money there. So you lose that also as you lose the access to the public lands.

Senator DAINES. One followup question, Mr. Crane, on that is how does that open until closed provision, Section 101 of the bill, help ensure public lands are, in fact, managed for multiple use?

Mr. CRANE. I think that we don't have the statutory protections in the Forest Service and the BLM that we have with the Fish and Wildlife Service. I think that by providing that we, again, support this rural economy. We support the traditions of hunting and fishing, and we would like to see those protected and ensured that they're going to remain protected in future generations.

Senator DAINES. Great. Thank you.

CHAIRMAN. Thank you, Senator Daines.

The co-chair of our Sportsmen's Caucus, Senator Manchin.

Senator MANCHIN. First of all, Madam Chairman.

CHAIRMAN. Thank you for your leadership.

Senator MANCHIN. Thank you so much. I just want to thank you for your perseverance. How long have you have been working on this? A long time.

There is no reason it should not have passed three years ago. There really isn't. So we are at that point now, and I think with Senator Heinrich and Madam Chairman working closely together, this is going to get done. I am proud to be a co-chair of the Con-

gressional Sportsmen's Caucus with Senator Risch, a dear friend of mine.

The bottom line is that this is bipartisan. It's been bipartisan, and it will also be bipartisan because of the economics. It makes sense.

I can just give you from my little State of West Virginia how important it is to our culture, who we are as people and how many people depend on this for a livelihood.

Our greatest priority is to make sure the mountain state people and everybody across the nation continue to enjoy hunting and fishing and recreational shooting and have the ability to appreciate all the outdoors has to offer.

In West Virginia alone we have more than 1.6 million acres of public land open to hunting with 28 shooting ranges on these lands, and when I was Governor we expanded that. It was such a draw, and it was really a family type of an outing, a little bit of something for everybody.

We have a year-round fishing season which produces an awful lot of revenue from fishing licenses, and we have more than 20,000 miles of streams and a hundred public fishing lakes.

Let me just give you a little bit about our economics as of 2011. We saw more than 400,000 hunters in our little state who supported 12,000 jobs. 400,000 hunters supporting 12,000 jobs, \$870 million to our economy, to the economy of West Virginia and generated \$81 million in local and state taxes.

So when we are coming down to this, and I will ask all of you, who is our opposition? Where are the road blocks?

Unless we get in our own way in the political things that happen here sometimes and take a different direction, where are you getting pushed back? Where are places we can diffuse this because basically I think you have answered everything. There are some people concerning they say, listen we don't hunt, we don't fish, we just like to go out and walk in the woods and enjoy it.

There is not a hunter or fisherman that I know of that's not an environmentalist. We are out there for many, many reasons, not only their sport, but basically the enjoyment of nature.

But where is our push back coming where some people we are never going to have us wanting to go in there and hunt and use the land? I was talking to Senator Heinrich about enhancing the habitat so we could all enjoy it, whether it is viewing or whether it is hunting or just sport shooting. Jeff we will start with you. Where do you think our push back is coming in to our degree where would that push back be?

Mr. CRANE. I would defer to the folks to my right on the Federal agency side. But I think Senator, that the bill goes out of its way to ensure that while we're talking about sportsmen's access for hunters, anglers and shooters, that it, in no way, infringes on other uses of these Federal lands and it no way infringes on other access for other activities on this land.

I will say that, with you being a hunter and a shooter and an angler, there are more of the anti-use and the environmental extremists, animal rightists that are coming after us, specifically. I don't think some of the other users of the Federal public lands are under the same amount of pressure. And therefore, we're trying to

take that proactive step, I think, in this legislation to protect that kind of access going forward but it's not trying to set it at an elevated level.

So, I don't know if I can answer why there's opposition. We've been supportive of this for years as well. And then——

Senator MANCHIN. It would have to be extreme if it is.

Mr. CRANE. It is.

Senator MANCHIN. Anyone would have to be in an extreme position of not wanting us to be able to use public lands as the public should be able to use them. Ms. Weldon, do you have any comments on this?

Ms. WELDON. Well, I think there's more opportunity here than anything else. You know, the concept in the——

Senator MANCHIN. Excuse me, but have you spoken to groups that might show concern, might not support, might be——

Ms. WELDON. I haven't.

Senator MANCHIN. They have not gotten——

Ms. WELDON. Yes, for the concept and what the bill promotes, as far as this tradition of access to public land for hunters, for fishers. If it's access for them, it's access for all citizens.

And so again, not that our concerns are more around the processes we would use to achieve some of the intent of the bill. So that's the thing, I think, we——

Senator MANCHIN. And the misnomer is a lot of people do not realize that most states have different hunting seasons because of——

Ms. WELDON. Right.

Senator MANCHIN. It is not 24/7, 12 months a year, you know? So it is not like we are infringing on people who do not want to be involved in the hunting because those seasons can be avoided, if needed.

Ms. WELDON. Right.

Senator MANCHIN. Mr. Ellis, any comment on that?

Mr. ELLIS. Yes. It was mentioned over here about——sportsmen access is a worthy investment. I would say access for all our publics is really worth the investment. So in answer to your question, so where have I push back, push back.

I would agree with my colleague from the Forest Service here that on access I have not, really it's a crowd pleaser. Access to public land is a crowd pleaser.

Where I have heard some concerns at times is what type of access. So I've had some groups that say, it should be motorized access. And other groups, even within hunters themselves, that say well, non-motorized because I have found that hunters, and again, I'm one of them. I hunt big game on horseback for the most part, alright, and others do not. And so there are some that see access as well it has to be motorized right, or it's not access.

Senator MANCHIN. Right.

Mr. ELLIS. And there's other hunters and they like, as all of you know, a different type of experience out there. I think our challenge is how do we provide for all those experiences? How do we provide for the breadth of those experiences? What we're doing in the Bureau is we're doing travel management planning, and it's part of this travel management planning, the sportsmen groups have been

very engaged in this. We appreciate them being engaged in this, to try to determine where that balance is on those various types of access.

Now when somebody puts a lock on a gate, I mean that, for the most part, it's horse, you know, walking to ATV or pick up to get your fire wood or whatever.

So I think those are the areas where we've had some of the real controversy. And so——

Senator MANCHIN. I know we're not——

Mr. ELLIS. The solution is to work through them right locally with our publics and trying to identify these areas in our planning process.

Senator MANCHIN. In our planning.

I would like to ask you too, but I think my time has expired. I think I am either going to get hit with a gavel or I should be quiet at this time.

So maybe if you——

CHAIRMAN. Well, these are important questions and I appreciate them and have been giving everybody a little extra latitude because I think it is important that we get these issues out there.

The balancing of the multiple uses is a really key consideration on our public lands and oftentimes can be very, very difficult as to how we balance it.

Let's go to Senator Flake.

Senator FLAKE. Thank you, Madam Chair, and thanks for the testimony.

Senator McCain and I have been hearing from the Park Service and Arizona Game and Fish, among others, about the growing challenges of managing the bison herd in Grand Canyon National Park. By some estimate the herd now exceeds 600, and they have more or less found sanctuary within the park where hunting is not allowed.

Unlike traditional bison that we generally think of my understanding is that these are a crossbreeds buffalo and cattle, sometimes called beefalo because of their size and lack of resources they are really wreaking havoc there. The Park Service has issued a proposal that is currently under consideration to lethally and non-lethally kill the herd. I am just wondering, there have been proposals, and I will address this to Mr. Fosburgh, to allow volunteers to go in and hunt, and it would certainly decrease the cost and likely be as or more effective. Do you want to talk about that for a bit?

Mr. FOSBURGH. Yes, you know, I'm not that steeped in the actual situation in the Grand Canyon, but I think in general to the extent that you can get volunteers to get hunters out there doing this sort of stuff. It saves the Government money. It achieves the end result and it keeps people engaged and provides meat either for those hunters or for needy causes locally.

So I think that we, as a community, ought to be used more often. Obviously we'd need to be supervised and you can't have bad actors out there doing this stuff, but I think the agency certainly should have the ability to do that. And they ought to use hunters as a resource.

Senator FLAKE. This is not unprecedented. Senator Udall actually proposed doing this to help with regard to the overpopulation

of elk in the Rocky Mountain National Park. So it has been proposed and utilized elsewhere. I hope it will be considered. Any thoughts on this, Mr. Ellis?

Mr. ELLIS. If I could, Senator Flake, I'd like to pivot to Mr. Wilson of the Park Service here to address that issue.

Senator FLAKE. Alright.

Mr. WILSON. Senator, respectfully, I'm just not prepared to address that issue today, but we're very aware of that issue and if you don't mind we'll get back to you on that.

Senator FLAKE. I would appreciate that greatly.

Mr. WILSON. Thank you.

Senator FLAKE. Thank you, sir.

Senator FLAKE. Mr. Ellis, you mentioned in your testimony and again just a bit ago that 99 percent of BLM managed lands are open to hunting, recreational shooting. What impact do monument designations have on that overall percentage?

Mr. ELLIS. I have the numbers for the monument, for monuments and I believe it's 95 percent of our national monuments are open.

But here's from my experience. These special designated areas, such as national monuments, these are areas that hunters and fishermen and women, sportsmen and women like to go to many times. In most cases they have quality habitat. They have quality streams and fisheries. So these are areas that they like to go.

And so I believe that these are areas that, regardless of the designation, that we should do our best to keep them available to sportsmen and women for hunting and fishing.

Senator FLAKE. The concern is, let's take Ironwood for a minute. And Mr. Crane, if you could address that, you mentioned the Ironwood Monument designation and the restrictions that come with that. Do you want to elaborate?

Mr. CRANE. Yes, Senator. Prior to you arriving here I also brought up the case of the Sonoran and the proposed restrictions or banning, complete banning of recreation, disperse recreational shooting. I know from your state, in particular, it gets worrisome because that systematic closure starts to go around the entire population center of Phoenix, Arizona. The further somebody has to travel to hunt, to fish, or to recreationally shoot, the less inclined they're going to be to continue to do it, especially those folks that aren't as passionately committed as some of us are.

So the issue is real. The issue has got real long lasting permanence. And therefore, again, I think, the intention of this bill is to try to put the onus back on to say where are the reasons for this. And we are concerned about the situation in Arizona.

Senator FLAKE. I appreciate that, and I just want to note that we hear a lot about this. As mentioned, people want to obey the law and we need to make sure that we keep that in mind as we consider such designations.

So, thank you, Madam Chair.

CHAIRMAN. Thank you, Senator Flake.

Senator King?

Senator KING. Thank you, Madam Chair, and thank you for your leadership on this important bill. I hope this is the year that we are going to be able to put it over the goal line.

Mr. Ellis, in Maine we have had a presumption for many years that the land is open unless closed. It goes back to the colonial ordinance of 1641 when Maine was part of Massachusetts, a period we refer to as the Dark Times. [Laughter.]

But is that the presumption on the Bureau of Public Land land? Is it presumed open unless specifically closed?

Mr. ELLIS. Well, Senator, the Dark Times, I'll have to read up more on that. [Laughter.]

And they still have the state park up there, Baxter State Park?

Senator KING. Yes, sir.

Mr. ELLIS. That's still up in Maine.

Senator KING. Yes, sir.

Mr. ELLIS. I have to get up there yet. I heard it's a pretty area.

Really, you know, it depends on the use. For hunting, yes, I mean, hunting areas, as we said, 99 percent are open unless they are designated closed they are open and likewise for recreational shooting. We have areas that we have closed for recreational shooting that are still open for hunting.

Menan Buttes in Eastern Idaho is one of those areas where we have a lot of traffic. It's a very popular area. I think we had like 15,000 people up these trails in a 6-month period of time, and it was an area for shooting, for recreational shooting, target shooting.

And so, we did deal with that through a public participation process. Yet the area remains open for hunting. It's an area that the State, Idaho Fish and Game, they still are the ones that regulate that hunting and we respect that.

But with that said, the process that we use to look at these areas is our land use planning process. It's a full public participation process that when we look at this on a broad scale. If we're looking at closures, say to recreational shooting, those also are a public participation process. And I talked about that a little earlier this morning in some of the discussion.

So I guess in short, when we look at these areas and when we close these areas it's primarily for public safety. And if I look at the experiences I've had, it's primarily for public safety, sometimes there are some resource issues such as in the Sonoran National Monument where I was about three weeks ago, that Mr. Crane referred to. Down there, there were some resource issues that we dealt with. But really that's the process. That's the process that we go through.

Senator KING. Good. Thank you.

Madam Chair, I just want to, for the record, note that many of the provisions of this bill are particularly applicable in the West. The Eastern part of the United States, Maine in particular, has very little in the way of Federal public land. We have some. We have the Moose Horn Refuge, a little tiny piece of the White Mountain National Forest. On the other hand these issues, hunting and fishing, are tremendously important in our state both culturally, historically and economically, and I applaud you for it.

I know that you are working on the National Fish Habitat Preservation Program. Hopefully, is there a possibility that will be folded into this bill?

CHAIRMAN. We are continuing to work on that, and I appreciate the assistance that we have received from many in trying to find just that right space.

Senator KING. Well certainly I would like to be associated with that. I think that has been an important program in Maine, and I think it is an important one for the country.

I have to tell one funny story. When I was Governor of Maine in 1997 the Internet had just begun a few years before and I told our Inland Fisheries and Wildlife I wanted people to be able to get hunting and fishing licenses online by January 1997. At my State of the State address they say, oh yes, Governor, we'll do that. I made the address, and said you could do it. I found out later, in fact, you could, but when you sent in your application online, because we really did not know how to do these things, it turned into a fax at the Inland Fisheries and Wildlife. It then went through and you got your license.

We were the second state in the United States to be able to get hunting and fishing licenses online, and I think it was a kind of example of can do. I think we have to be thinking always and I am delighted that we got the duck stamp online last December, other ways that we can make these services and drive down the paper-work, if you will, of being able to access the out of doors for these important, important, recreational opportunities that mean so much to many of our states.

So I want to thank you for your leadership on this bill, and look forward to working on it with you. If there are other provisions that are of importance to us like the Habitat Partnership Program, I want to be sure they are included if at all possible. Thank you.

CHAIRMAN. We look forward to working with you as well. Thank you.

Let's go to the Senator from North Dakota, where they probably have a little bit of hunting and fishing and shooting going on up there.

Senator HOEVEN. Thank you, Madam Chairwoman.

We have tremendous hunting and fishing, and I enjoy it myself very much as do all our citizens and many others.

I would like to and I am pleased to be a co-sponsor on this legislation and look forward to passing it soon, I hope, with a good, strong, bipartisan vote.

Mr. Crane, I would like to start with you as President of the Congressional Sportsmen's Foundation. What is the economic impact, nationally, from hunting and fishing in a year and how much do you think we can actually increase that economic impact with this kind of legislation?

Mr. CRANE. According to the last survey it was \$90 billion collectively, nearly 40 million anglers and hunters.

And as you're well aware, there are taxes on the equipment, excise taxes that are dedicated and go back to sport fish restoration and wildlife restoration. There are permits and fees that the state wildlife agencies collect. So the economic backbone of conservation in America is supported by hunters and anglers.

Unfortunately the trend has been rather static or over a longer period of time, declining. And I think that all the aspects that we have been talking about in this room could hopefully help to

change this. I think this bill gets directly at some of those key things which are access and opportunity. Without those, we are not going to have that growth we need to keep the young people engaged and bring them out. And so I appreciate you co-sponsoring this bill.

Senator HOEVEN. So economic impact right now, \$90 billion from hunting and fishing. And you think with this expanded access that this legislation provides, we could increase that further, correct?

Mr. CRANE. Yes, sir.

Senator HOEVEN. I want to start with Mr. Fosburgh at the TR Conservation Partnership, but then go to both Mr. Ellis at BLM and Ms. Weldon at the Forest Service. With this expanded access talk about how we can do that. How do we make that happen? What do you think that your organization can contribute to making that happen? Mr. Fosburgh?

Mr. FOSBURGH. Well we are a coalition of 40 plus different organizations, all of which, I think share the goals of increasing access and making sure we have a lot of fish and wildlife when we get there.

I think that this bill, the Sportsmen's Act, is an important first step in getting there. It's not a silver bullet, and there's going to be a bunch of stuff that needs to get done to, you know, we talked about tax incentives got mentioned. That's going to be an important aspect to conserving private lands.

National things like fire funding and how we fund wildfires and having that money freed up for actual management of our national forests which will be great for fish and game. That's another part of it.

So I think that this is one step. It's not the only step, and I think that, collectively, if we work at all these things together, we can push this over the finish line because this is just too important not to do, and it benefits everybody.

Senator HOEVEN. Ms. Weldon, from the standpoint of the Forest Service, and Mr. Ellis, from the standpoint of BLM, what can you do to help implement that public access if we are able to pass this legislation?

Ms. WELDON. And an important part is the reauthorization of LWCF, you know, that is our key tool. And with the goals for this next President's budget to look at making that mandatory and having some specific set asides for access. That puts us in a place where we can work through, you know, with lots of partnerships and input from communities, the priority places that we want to continue to pursue that access by having that additional funding or staffing support to keep pursuing what we know is critical access.

Senator HOEVEN. The Land and Conservation Fund is what you are talking about?

Ms. WELDON. The Land and Water Conservation Fund, yes, LWCF.

Senator HOEVEN. Okay. Mr. Ellis?

Mr. ELLIS. I would agree with my colleague that fully funding the Land and Water Conservation Fund would be key. Again, in my career, I'm trying to think of partials that we acquired under

LWCF that did not increase public access, and I can't think of one. And so, it is very important.

Senator HOEVEN. How about public access on existing lands? What can you do there?

Mr. ELLIS. That's part of where we use groups like the Federal Lands Hunting, Fishing and Shooting Sports Roundtable, you know, the Wildlife Hunting and Heritage Council, our local groups and our other publics to work with our local line officers to try to identify and prioritize those areas. And in all the areas that we have private land and try to help them determine what should these be priority areas be for access?

We have limited funds and we have a certain amount of staffing, so what we have to do is prioritize that. I think that's important that our publics help us do that. That our sportsmen, included, identify what areas are most important to them and help us set those priorities.

Senator HOEVEN. Set priorities. Ms. Weldon? Same question. How can you help create more access on existing lands?

Ms. WELDON. There's a very large work load associated with gaining access from private to public or public to private that has so much to do with two things. One is finding those willing land-owners who will work with us to establish and sustain access. Sometimes we find that to be a challenge. But also for us to be able to have the staffing that can consistently turn its attention to pursue that. So the relationship back to how we look at where we find that funding. How might fixing our funding fire can provide some additional support for our staff to get that work done on the ground.

Senator HOEVEN. Okay, thank you. I appreciate it.

CHAIRMAN. Thank you, Senator Hoeven.

I have one final question and then I know that Senator Heinrich has one as well. I appreciate the time that you all have given us here this morning. I think there has been some good coverage on the issues that have been presented.

I am not satisfied though with what I have heard in the discussion about the filming on our public lands. I am trying to understand whether or not we've got consistent application because I think some of the frustration is that you, perhaps, have differing interpretations of what commercial might be or just what the understanding and directive is.

I believe it was you, Ms. Weldon, who responded when the question was asked by Senator Cantwell about filming on our wilderness lands. I think you also pointed out, Mr. Ellis, that access to the wilderness and to the wilderness study areas for purposes of some form of commercial filming and making sure that we don't impact, have impact, or negatively impact the wilderness values. I think you used the term, Ms. Weldon, that it is promoting the value of wilderness.

Just because we have so much wilderness in Alaska, we have more than all the other states combined, there are big spaces. And when I think about the value of wilderness, I think about how difficult it is to access some of that wilderness. I know that some of my colleagues have had the benefit of being able to do that.

I also recognize that some of my colleagues, like Senator Heinrich, who are very fit are able to climb mountains and hike back to places that other people will never be able to have access to. So the ability to be able to see it because we have had those who are able to provide that access through the visual is so important to us.

I understand the concern about making sure that we do not have impact on these wilderness values, but we have to be able to see that. Making sure that is allowed has got to be a priority as well.

I need to understand what is coming out from the Forest Service in terms of the directive. When we had Chief Tidwell before the Committee last week or the week before, he indicated that it was coming out shortly. What I was trying to get from him at that time was can you give us some indication as to what will be allowed particularly as it relates to individual and small, independent film operators. As you know in our measure, we are seeking to effectively have a diminimus number of folks that would not be required to have these permits, to pay these fees. So I am looking for some guidance from you all as to where you are going to be taking it.

Ms. WELDON. Thanks very much for that question.

Overall, we are finished with our public engagement and scoping on this directive. We received close to 5,000 comments. Based on the concerns that were raised last autumn we also added a number of public engagement sessions where we were able to speak with the people who had these direct concerns about what's the best way for us to put together a directive that is well understood, you know, is interpreted in such a way that folks would know what they would be required to do if they were involved with commercial filming.

So as it relates to small operators, in the bill, there's a proposal that for five and under there would be a flat fee of \$200, and then also that there would be requirements for checking in 48 hours ahead of time and then let the groups go and do their thing.

We agree that we can make this very efficient, but want to make sure that, as we're understanding the activities that a group of five or smaller might be doing, that they are doing those in line in such a way that ensures resource protection. Our experiences when we work with folks looking for this activity, they cooperate with us extremely well. But we want to make sure that we're not setting ourselves up to have a group go out once they've paid that fee where we can't fully assess for the impacts. That's what we wanted to do.

CHAIRMAN. Well, what are you afraid of? What are you afraid they're going to do?

Ms. WELDON. Well, for example, if he goes out with a crew of five they could come with substantial other props and gear to locations that may not be the best place to have that occur. So we want to at least be able to put them in the best position to be successful.

And the 48-hour notice piece, you know, if a group comes on a Friday it may not give us the ability, you know, by the time they get there to say that, wow, if we knew you were going there, we would have asked you to go here for the same thing, but reduce the impact to this resource or to this other activity going on. So what we're looking for is just the ability to—

CHAIRMAN. Then you are basically prescribing where you are going to go in that area to film. If again, what you are trying to

show people through the eyes of the lens is an area but you say, well, we only want to film this. That is all we are going to be able to see is what you are telling us to film.

Ms. WELDON. Well——

CHAIRMAN. So again——

Ms. WELDON. I don't think our intent is to say look this way, don't look that way. It's just to make sure we're not creating a conflict if we can avoid it. So we think there are vast opportunities for folks——

CHAIRMAN. It sounds like you are making a lot of work for yourselves.

Ms. WELDON. Well, if we want it to be something that we ensure we can continue doing by not having entities that we don't know where they cause a level of impact or damage that——

CHAIRMAN. But if you've got three or four individuals who are basically packing their gear——

Ms. WELDON. Right.

CHAIRMAN. On their back.

Ms. WELDON. And that would be an instance where we would say, go do your thing. We would be more concerned if a group were to go and they had different types of gear and equipment and went and caused an impact that we could have prevented if we knew about it.

So, not trying to add more process in, but we just want to make sure we, along with whomever is looking for that experience, can see what it means for us to take care of that resource while we're out there.

CHAIRMAN. Well, I would like you to look very critically at what we are proposing because I think it is imminently, imminently reasonable when you have five or less. Again, limitations in terms of what it is that they are bringing in.

If you are, from an agency perspective, going to say we only want you to see this over here, and we don't want you to allow——

Ms. WELDON. Yes and next——

CHAIRMAN. Access.

Ms. WELDON. Right.

CHAIRMAN. It is not like you have a big Hollywood film crew.

Ms. WELDON. Correct.

CHAIRMAN. What you have are those who are committed to the resource, who have a passion for the land, who want to share it through the lens of a camera with others who will never be able to experience that. I do not want our agencies to be viewed as the choke point.

Ms. WELDON. No, that's——

CHAIRMAN. And limit access that way.

Let me go to my colleague for his final questions.

Senator HEINRICH. I want to thank the Chair for her questions on this. I think we share a fairly similar approach on this issue. I know a number of folks who film outdoor shows in these wilderness areas and wilderness study areas.

I think the key issues are one, the tools. None of us want a big cherry boom in the middle of the Gila wilderness, and limiting that with what people can carry in terms of a tripod and handheld equipment is a very effective way at getting at that. If I am hunt-

ing in the back country and I want to take a tripod with me, I can do that.

The other piece of this that I think may be problematic is you spoke to, sort of, the intent of the content of a show or of something that is filmed. I really think we have no business being in that area. When you film in a low impact way in these places, even if you never use the word wilderness, what you are really doing is educating people about wilderness. They see this resource that is unique.

I do not think we should get in the business of saying that we will allow you to film a documentary on Aldo Leopold in McKenna Park in the Gila Wilderness, but we will not let you film a hunting show on how great the elk resource is in the Gila National Forest if you do not use the word wilderness. I think both of them are equally valuable.

I want to move to the access issue, but maybe first, just say a word or two about the national monuments, the recreational shooting and hunting. I want to give a shout out to the BLM because we have two new national monuments that are BLM-managed in the state, Rio Grande Del Norte in the North along the Rio Grande Gorge and Organ Mountains-Desert Peaks in the South. Both were community-driven efforts. Both are open to hunting and fishing, although good luck fishing in Organ Mountains-Desert Peaks.

I have certainly hunted in Organ Mountains-Desert Peaks. We have Javelina in New Mexico. We are one of the few states that have that resource, and a lot of people hunt for deer in that area as well. One of my friends, who owns a fly shop up in Rio Grande Del Norte, got an enormous bull elk last year on the monument. Part of the reason why those efforts came together and why people chose to make them Bureau of Land Management monuments was because of that support for hunting and fishing and having a little bit different approach on those issues in particular. So I urge you to keep that issue up.

Mr. Ellis, one of the things that does concern me on this access issue is that there is so much variability from district to district on how to solve these things. I have heard that from other states as well as from users in my state. We have had some great successes in New Mexico, opening up some areas that previously were inaccessible, private, or public Bureau of Land Management lands that you couldn't get to legally and full stop.

We have also seen that the prioritization of that issue and the regularization of how to deal with those issues really varies dramatically. I am wondering if the Bureau has taken any steps to, sort of, regularize that work across the system to learn what has worked and maybe apply it in the places that have been less successful?

Mr. ELLIS. Well, Senator, again what I've learned in my travels is that the relationship between the field managers, the field office manager and a local district manager in the BLM with local land owners and with the community are so key. It's a lot about relationships. So much is about successful relationships, internally and externally.

And so, you know, Director Kornze and I are going to put great emphasis when we select people for these type of positions on those

skills and being able to work with the communities, being able to work with the publics to have those traits that are so important everywhere we manage public lands.

And so communications, leadership and communications, a willingness to work with local communities, those are some of the traits that we will be looking for whether it be Mexico, Alaska—

Senator HEINRICH. Obviously, Mr. Ellis, I am running out of time, but I would say that in some places I absolutely agree with you that those relationships are key but there has been an enormous interest in solving this issue in some districts and I would say a lack of interest in others. I think getting the facts on the table as to the areas that are inaccessible and making us look at this is a data driven way which will help us solve many of these issues. Thank you.

Thank you, Madam Chair.

CHAIRMAN. Thank you, Senator Heinrich.

I look forward to working with you as we move forward on this bill.

To Mr. Ellis and Ms. Weldon, we look forward to working with your agencies. You have identified some areas that you want to work with us on, and I will take you at face value on that.

I also greatly appreciate the many coalitions that have stepped up and helped us with this. It has been a very, very broad effort and has been noted by many at the Committee today, an effort that has gone on for quite some time and we would like to see some resolution with this.

I do think that it was telling this morning that we had 15 members of the Committee stay for a long period of time. I think it clearly demonstrates the level of interest in this issue.

I think Senator Risch was the first one to remind us that when we do more to encourage our young people to experience our public lands, whether it is through hunting or fishing or recreational shooting, just getting them outside, our kids are better. Our kids are healthier, I think, when we have a greater connection to our land. Doing so in a way that is fun, doing so in a way that shows respect for the land, doing so in a way that allows a teaching and a training from father to daughter as my father taught me or mother to son, as I did my sons and who are now re-teaching me how to be a better shot, I should say. I think about those experience as some of the best times that I have had with my father have been as we were running up the slough looking for just that spot to wait for the birds to come in on that early morning or to be walking quietly through the fields with my son, not saying a word but just being together with an activity that meant so much to us. I want to make sure the access that I have had and that my sons are seeking continues for a long, long time.

We know we have some amazing public spaces, but we have to make sure that we do not get in our own way in providing access. Whether it is by way of saying well, we are worried about litigation or there have to be so many hoops that you have to jump through and the bureaucracy that is involved makes it so difficult that it deters people or that there are fees that are just simply too much.

As was pointed out earlier, we have an amazing system here in the United States with our public lands. Let's make sure that pub-

lic really means public, and that multiple use really means multiple use. This is a big challenge for you in the agencies because just as I want to be able to enjoy my snow machine, I have got my cross country skier neighbor who wants the solitude there. These are big challenges for us, but they are not irreconcilable. It is only when we stop and say it has got to be this way and we are not involving the public in it that we cannot do better.

So I look forward to working with all of you, but I am very, very serious that we are going to push. We are not only going to push hard, we are going to deliver on this sportsmen's bill. It is an issue that we have been working on for far too long. Its time, truly, has come. Our young people deserve the opportunities that so many have had, and I want to work to ensure that they continue to have that.

So thank you for the time that you have given us this morning, and look forward to working with you.

With that, we stand adjourned.

[Whereupon, at 12:27 p.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

114TH CONGRESS
1ST SESSION

S. _____

To protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Bipartisan Sportsmen’s Act of 2015”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REGULATORY REFORMS

Sec. 101. Recreational fishing, hunting, and recreational shooting on Federal public land.

Sec. 102. Annual permit and fee for film crews of 5 persons or fewer.

Sec. 103. Federal action transparency.

Sec. 104. Bows in the Parks.

TITLE II—HABITAT CONSERVATION

Sec. 201. Availability of Land and Water Conservation Fund for recreational public access projects.

Sec. 202. Identifying opportunities for recreation, hunting, and fishing on Federal land.

Sec. 203. Federal Land Transaction Facilitation Act.

TITLE I—REGULATORY REFORMS

SEC. 101. RECREATIONAL FISHING, HUNTING, AND RECREATIONAL SHOOTING ON FEDERAL PUBLIC LAND.

(a) DEFINITIONS.—In this section:

(1) FEDERAL PUBLIC LAND.—

(A) IN GENERAL.—The term “Federal public land” means any land or water that is—

(i) owned by the United States; and

(ii) managed by a Federal agency (including the Department of the Interior and the Forest Service) for purposes that include the conservation of natural resources.

(B) EXCLUSIONS.—The term “Federal public land” does not include—

(i) land or water held or managed in trust for the benefit of Indian tribes or individual Indians;

(ii) land or water managed by the Director of the National Park Service or the

3

1 Director of the United States Fish and
2 Wildlife Service;

3 (iii) fish hatcheries; or

4 (iv) conservation easements on private
5 land.

6 (2) HUNTING.—

7 (A) IN GENERAL.—The term “hunting”
8 means use of a firearm, bow, or other author-
9 ized means in the lawful—

10 (i) pursuit, shooting, capture, collec-
11 tion, trapping, or killing of wildlife; or

12 (ii) attempt to pursue, shoot, capture,
13 collect, trap, or kill wildlife.

14 (B) EXCLUSION.—The term “hunting”
15 does not include the use of skilled volunteers to
16 cull excess animals (as defined by Federal law
17 (including regulations)).

18 (3) RECREATIONAL FISHING.—The term “rec-
19 reational fishing” means—

20 (A) an activity for sport or pleasure that
21 involves the lawful—

22 (i) catching, taking, or harvesting of
23 fish; or

24 (ii) attempted catching, taking, or
25 harvesting of fish; or

1 (B) any other activity for sport or pleasure
2 that can reasonably be expected to result in the
3 lawful catching, taking, or harvesting of fish.

4 (4) RECREATIONAL SHOOTING.—The term
5 “recreational shooting” means any form of sport,
6 training, competition, or pastime, whether formal or
7 informal, that involves—

8 (A) the discharge of a rifle, handgun, or
9 shotgun; or

10 (B) the use of a bow and arrow.

11 (b) RECREATIONAL FISHING, HUNTING, AND REC-
12 REATIONAL SHOOTING.—

13 (1) IN GENERAL.—Subject to valid existing
14 rights, and in cooperation with the respective State
15 fish and wildlife agency, a Federal public land man-
16 agement official shall exercise the authority of the
17 official under existing law (including provisions re-
18 garding land use planning) to facilitate use of and
19 access to Federal public land for recreational fish-
20 ing, hunting, and recreational shooting except as
21 limited by—

22 (A) any Federal law (including regula-
23 tions) that authorizes action or withholding ac-
24 tion for reasons of national security, public
25 safety, or resource conservation;

1 (B) any other Federal law (including regu-
2 lations) that precludes recreational fishing,
3 hunting, or recreational shooting on specific
4 Federal public land units of Federal public
5 land, or water; or

6 (C) discretionary limitations on rec-
7 reational fishing, hunting, and recreational
8 shooting determined to be necessary and rea-
9 sonable, as supported by the best scientific evi-
10 dence and advanced through a transparent pub-
11 lic process.

12 (2) MANAGEMENT.—Consistent with paragraph
13 (1), the head of each Federal public land manage-
14 ment agency shall exercise the land management dis-
15 cretion of the head—

16 (A) in a manner that supports and facili-
17 tates recreational fishing, hunting, and rec-
18 reational shooting opportunities;

19 (B) to the extent authorized under applica-
20 ble State law; and

21 (C) in accordance with applicable Federal
22 law.

23 (3) PLANNING.—

24 (A) EFFECTS OF PLANS AND ACTIVI-
25 TIES.—

6

1 (i) EVALUATION OF EFFECTS ON OP-
2 PORTUNITIES TO ENGAGE IN REC-
3 REATIONAL FISHING, HUNTING, OR REC-
4 REATIONAL SHOOTING.—Federal public
5 land planning documents (including land
6 resources management plans, resource
7 management plans, travel management
8 plans, and energy development plans) shall
9 include a specific evaluation of the effects
10 of the plans on opportunities to engage in
11 recreational fishing, hunting, or rec-
12 reational shooting.

13 (ii) OTHER ACTIVITY NOT CONSID-
14 ERED.—

15 (I) IN GENERAL.—Federal public
16 land management officials shall not be
17 required to consider the existence or
18 availability of recreational fishing,
19 hunting, or recreational shooting op-
20 portunities on private or public land
21 that is located adjacent to, or in the
22 vicinity of, Federal public land for
23 purposes of—

24 (aa) planning for or deter-
25 mining which units of Federal

7

1 public land are open for rec-
2 reational fishing, hunting, or rec-
3 reational shooting; or

4 (bb) setting the levels of use
5 for recreational fishing, hunting,
6 or recreational shooting on Fed-
7 eral public land.

8 (II) ENHANCED OPPORTUNI-
9 TIES.—Federal public land manage-
10 ment officials may consider the oppor-
11 tunities described in subclause (I) if
12 the combination of those opportunities
13 would enhance the recreational fish-
14 ing, hunting, or shooting opportunities
15 available to the public.

16 (B) USE OF VOLUNTEERS.—If hunting is
17 prohibited by law, all Federal public land plan-
18 ning documents described in subparagraph
19 (A)(i) of an agency shall, after appropriate co-
20 ordination with State fish and wildlife agencies,
21 allow the participation of skilled volunteers in
22 the culling and other management of wildlife
23 populations on Federal public land unless the
24 head of the agency demonstrates, based on the
25 best scientific data available or applicable Fed-

eral law, why skilled volunteers should not be used to control overpopulation of wildlife on the land that is the subject of the planning document.

7 (A) LAND OPEN.—

(ii) **MOTORIZED ACCESS.**—Nothing in this subparagraph authorizes or requires motorized access or the use of motorized vehicles for recreational fishing, hunting, or recreational shooting purposes within

9

1 land designated as a wilderness study area
2 or administratively classified as wilderness
3 eligible or suitable.

4 (B) CLOSURE OR RESTRICTION.—Land de-
5 scribed in subparagraph (A)(i) may be subject
6 to closures or restrictions if determined by the
7 head of the agency to be necessary and reason-
8 able and supported by facts and evidence for
9 purposes including resource conservation, public
10 safety, energy or mineral production, energy
11 generation or transmission infrastructure, water
12 supply facilities, protection of other permittees,
13 protection of private property rights or inter-
14 ests, national security, or compliance with other
15 law, as determined appropriate by the Director
16 of the Bureau of Land Management or the
17 Chief of the Forest Service, as applicable.

18 (C) SHOOTING RANGES.—

19 (i) IN GENERAL.—Except as provided
20 in clause (iii), the head of each Federal
21 public land agency may use the authorities
22 of the head, in a manner consistent with
23 this section and other applicable law—

10

1 (I) to lease or permit use of land
2 under the jurisdiction of the head for
3 shooting ranges; and

4 (II) to designate specific land
5 under the jurisdiction of the head for
6 recreational shooting activities.

7 (ii) LIMITATION ON LIABILITY.—Any
8 designation under clause (i)(II) shall not
9 subject the United States to any civil ac-
10 tion or claim for monetary damages for in-
11 jury or loss of property or personal injury
12 or death caused by any recreational shoot-
13 ing activity occurring at or on the des-
14 ignated land.

15 (iii) EXCEPTION.—The head of each
16 Federal public land agency shall not lease
17 or permit use of Federal public land for
18 shooting ranges or designate land for rec-
19 reational shooting activities within a com-
20 ponent of the National Wilderness Preser-
21 vation System, land designated as a wilder-
22 ness study area or administratively classi-
23 fied as wilderness eligible or suitable, and
24 primitive or semiprimitive areas.

11

1 (5) REPORT.—Not later than October 1 of
2 every other year, beginning with the second October
3 1 after the date of enactment of this Act, the head
4 of each Federal public land agency who has author-
5 ity to manage Federal public land on which rec-
6 reational fishing, hunting, or recreational shooting
7 occurs shall submit to the Committee on Natural
8 Resources of the House of Representatives and the
9 Committee on Energy and Natural Resources of the
10 Senate a report that describes—

11 (A) any Federal public land administered
12 by the agency head that was closed to rec-
13 reational fishing, hunting, or recreational shoot-
14 ing at any time during the preceding year; and

15 (B) the reason for the closure.

16 (6) CLOSURES OR SIGNIFICANT RESTRICTIONS
17 OF 1,280 OR MORE ACRES.—

18 (A) IN GENERAL.—Other than closures es-
19 tablished or prescribed by land planning actions
20 referred to in paragraph (4)(B) or emergency
21 closures described in subparagraph (C), a per-
22 manent or temporary withdrawal, change of
23 classification, or change of management status
24 of Federal public land or water that effectively
25 closes or significantly restricts 1,280 or more

12

1 contiguous acres of Federal public land or
2 water to access or use for recreational fishing
3 or hunting or activities relating to fishing or
4 hunting shall take effect only if, before the date
5 of withdrawal or change, the head of the Fed-
6 eral public land agency that has jurisdiction
7 over the Federal public land or water—

8 (i) publishes appropriate notice of the
9 withdrawal or change, respectively;

10 (ii) demonstrates that coordination
11 has occurred with a State fish and wildlife
12 agency; and

13 (iii) submits to the Committee on
14 Natural Resources of the House of Rep-
15 resentatives and the Committee on Energy
16 and Natural Resources of the Senate writ-
17 ten notice of the withdrawal or change, re-
18 spectively.

19 (B) AGGREGATE OR CUMULATIVE EF-
20 FECTS.—If the aggregate or cumulative effect
21 of separate withdrawals or changes effectively
22 closes or significantly restricts or affects 1,280
23 or more acres of land or water, the withdrawals
24 and changes shall be treated as a single with-

1 drawal or change for purposes of subparagraph
2 (A).

3 (C) EMERGENCY CLOSURES.—

4 (i) IN GENERAL.—Nothing in this sec-
5 tion prohibits a Federal public land man-
6 agement agency from establishing or im-
7 plementing emergency closures or restric-
8 tions of the smallest practicable area of
9 Federal public land to provide for public
10 safety, resource conservation, national se-
11 curity, or other purposes authorized by
12 law.

13 (ii) TERMINATION.—An emergency
14 closure under clause (i) shall terminate
15 after a reasonable period of time unless the
16 temporary closure is converted to a perma-
17 nent closure consistent with this section.

18 (7) NO PRIORITY.—Nothing in this section re-
19 quires a Federal agency to give preference to rec-
20 reational fishing, hunting, or recreational shooting
21 over other uses of Federal public land or over land
22 or water management priorities established by other
23 Federal law.

24 (8) CONSULTATION WITH COUNCILS.—In ear-
25 rying out this section, the heads of Federal public

1 land agencies shall consult with the appropriate ad-
2 visory councils established under Executive Order
3 12962 (16 U.S.C. 1801 note; relating to recreational
4 fisheries) and Executive Order 13443 (16 U.S.C.
5 661 note; relating to facilitation of hunting heritage
6 and wildlife conservation).

7 (9) AUTHORITY OF STATES.—

8 (A) IN GENERAL.—Nothing in this section
9 interferes with, diminishes, or conflicts with the
10 authority, jurisdiction, or responsibility of any
11 State to manage, control, or regulate fish and
12 wildlife under State law (including regulations)
13 on land or water within the State, including on
14 Federal public land.

15 (B) FEDERAL LICENSES.—

16 (i) IN GENERAL.—Except as provided
17 in clause (ii), nothing in this subsection
18 authorizes the head of a Federal public
19 land agency head to require a license, fee,
20 or permit to fish, hunt, or trap on land or
21 water in a State, including on Federal pub-
22 lic land in the State.

23 (ii) MIGRATORY BIRD STAMPS.—Noth-
24 ing in this subparagraph affects any mi-
25 gratory bird stamp requirement of the Mi-

1 gratory Bird Hunting and Conservation
 2 Stamp Act (16 U.S.C. 718a et seq.).

3 **SEC. 102. ANNUAL PERMIT AND FEE FOR FILM CREWS OF**
 4 **5 PERSONS OR FEWER.**

5 (a) PURPOSE.—The purpose of this section is to pro-
 6 vide commercial film crews of 5 persons or fewer access
 7 to film in areas designated for public use during public
 8 hours on Federal land and waterways.

9 (b) NATIONAL PARK SYSTEM LAND.—Section
 10 100905 of title 54, United States Code, is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1), by striking “The
 13 Secretary” and inserting “Except as provided
 14 in paragraph (3), the Secretary”; and

15 (B) by adding at the end the following:

16 “(3) SPECIAL RULES FOR FILM CREWS OF 5
 17 PERSONS OR FEWER.—

18 “(A) DEFINITION OF FILM CREW.—In this
 19 paragraph, the term ‘film crew’ means any per-
 20 sons present on Federal land or waterways
 21 under the jurisdiction of the Secretary who are
 22 associated with the production of a film.

23 “(B) REQUIRED PERMIT AND FEE.—For
 24 any film crew of 5 persons or fewer, the Sec-
 25 retary shall require a permit and assess an an-

1 nual fee of \$200 for commercial filming activi-
2 ties or similar projects on Federal land and wa-
3 terways administered by the Secretary.

4 “(C) COMMERCIAL FILMING ACTIVITIES.—
5 A permit issued under subparagraph (B) shall
6 be valid for commercial filming activities or
7 similar projects that occur in areas designated
8 for public use during public hours on all Fed-
9 eral land and waterways administered by the
10 Secretary for a 1-year period beginning on the
11 date of issuance of the permit.

12 “(D) NO ADDITIONAL FEES.—For persons
13 holding a permit issued under this paragraph,
14 during the effective period of the permit, the
15 Secretary shall not assess any fees in addition
16 to the fee assessed under subparagraph (B).

17 “(E) USE OF CAMERAS.—The Secretary
18 shall not prohibit, as a mechanized apparatus
19 or under any other purposes, use of cameras or
20 related equipment used for the purpose of com-
21 mercial filming activities or similar projects in
22 accordance with this paragraph on Federal land
23 and waterways administered by the Secretary.

24 “(F) NOTIFICATION REQUIRED.—A film
25 crew of 5 persons or fewer subject to a permit

17

1 issued under this paragraph shall notify the ap-
2 plicable land management agency with jurisdic-
3 tion over the Federal land at least 48 hours be-
4 fore entering the Federal land.

5 “(G) DENIAL OF ACCESS.—The head of
6 the applicable land management agency may
7 deny access to a film crew under this paragraph
8 if—

9 “(i) there is a likelihood of resource
10 damage that cannot be mitigated;

11 “(ii) there would be an unreasonable
12 disruption of the use and enjoyment of the
13 site by the public;

14 “(iii) the activity poses health or safe-
15 ty risks to the public; or

16 “(iv) the filming includes the use of
17 models or props that are not part of the
18 natural or cultural resources or adminis-
19 trative facilities of the Federal land.”; and

20 (2) in the first sentence of subsection (b), by
21 striking “collect any costs” and inserting “recover
22 any costs”.

23 (c) OTHER FEDERAL LAND.—Section 1 of Public
24 Law 106–206 (16 U.S.C. 460l–6d) is amended—

25 (1) in subsection (a)—

1 (A) in paragraph (1), by striking “The
2 Secretary” and inserting “Except as provided
3 in paragraph (3), the Secretary”; and

4 (B) by adding at the end the following:

5 “(3) SPECIAL RULES FOR FILM CREWS OF 5
6 PERSONS OR FEWER.—

7 “(A) DEFINITION OF FILM CREW.—In this
8 paragraph, the term ‘film crew’ means any per-
9 sons present on Federal land or waterways
10 under the jurisdiction of the Secretary who are
11 associated with the production of a film.

12 “(B) REQUIRED PERMIT AND FEE.—For
13 any film crew of 5 persons or fewer, the Sec-
14 retary shall require a permit and assess an an-
15 nual fee of \$200 for commercial filming activi-
16 ties or similar projects on Federal land and wa-
17 terways administered by the Secretary.

18 “(C) COMMERCIAL FILMING ACTIVITIES.—
19 A permit issued under subparagraph (B) shall
20 be valid for commercial filming activities or
21 similar projects that occur in areas designated
22 for public use during public hours on all Fed-
23 eral land and waterways administered by the
24 Secretary for a 1-year period beginning on the
25 date of issuance of the permit.

1 “(D) NO ADDITIONAL FEES.—For persons
2 holding a permit issued under this paragraph,
3 during the effective period of the permit, the
4 Secretary shall not assess any fees in addition
5 to the fee assessed under subparagraph (B).

6 “(E) USE OF CAMERAS.—The Secretary
7 shall not prohibit, as a mechanized apparatus
8 or under any other purposes, use of cameras or
9 related equipment used for the purpose of com-
10 mercial filming activities or similar projects in
11 accordance with this paragraph on Federal land
12 and waterways administered by the Secretary.

13 “(F) NOTIFICATION REQUIRED.—A film
14 crew of 5 persons or fewer subject to a permit
15 issued under this paragraph shall notify the ap-
16 plicable land management agency with jurisdic-
17 tion over the Federal land at least 48 hours be-
18 fore entering the Federal land.

19 “(G) DENIAL OF ACCESS.—The head of
20 the applicable land management agency may
21 deny access to a film crew under this paragraph
22 if—

23 “(i) there is a likelihood of resource
24 damage that cannot be mitigated;

1 “(ii) there would be an unreasonable
2 disruption of the use and enjoyment of the
3 site by the public;

4 “(iii) the activity poses health or safe-
5 ty risks to the public; or

6 “(iv) the filming includes the use of
7 models or props that are not part of the
8 natural or cultural resources or adminis-
9 trative facilities of the Federal land.”; and

10 (2) in the first sentence of subsection (b)—

11 (A) by striking “collect any costs” and in-
12 serting “recover any costs”; and

13 (B) by striking “similar project” and in-
14 serting “similar projects”.

15 **SEC. 103. FEDERAL ACTION TRANSPARENCY.**

16 (a) MODIFICATION OF EQUAL ACCESS TO JUSTICE
17 PROVISIONS.—

18 (1) AGENCY PROCEEDINGS.—Section 504 of
19 title 5, United States Code, is amended—

20 (A) in subsection (c)(1), by striking “,
21 United States Code”;

22 (B) by redesignating subsection (f) as sub-
23 section (i); and

24 (C) by striking subsection (e) and inserting
25 the following:

1 “(e)(1) Not later than March 31 of the first fiscal
2 year beginning after the date of enactment of the Bipar-
3 tisan Sportsmen’s Act of 2015, and every fiscal year there-
4 after, the Chairman of the Administrative Conference of
5 the United States, after consultation with the Chief Coun-
6 sel for Advocacy of the Small Business Administration,
7 shall submit to Congress and make publicly available on-
8 line a report on the amount of fees and other expenses
9 awarded during the preceding fiscal year under this sec-
10 tion.

11 “(2) Each report under paragraph (1) shall describe
12 the number, nature, and amount of the awards, the claims
13 involved in the controversy, and any other relevant infor-
14 mation that may aid Congress in evaluating the scope and
15 impact of such awards.

16 “(3)(A) Each report under paragraph (1) shall ac-
17 count for all payments of fees and other expenses awarded
18 under this section that are made pursuant to a settlement
19 agreement, regardless of whether the settlement agree-
20 ment is sealed or otherwise subject to a nondisclosure pro-
21 vision.

22 “(B) The disclosure of fees and other expenses re-
23 quired under subparagraph (A) shall not affect any other
24 information that is subject to a nondisclosure provision in
25 a settlement agreement.

1 “(f) As soon as practicable, and in any event not later
2 than the date on which the first report under subsection
3 (e)(1) is required to be submitted, the Chairman of the
4 Administrative Conference of the United States shall cre-
5 ate and maintain online a searchable database containing,
6 with respect to each award of fees and other expenses
7 under this section made on or after the date of enactment
8 of the Bipartisan Sportsmen’s Act of 2015, the following
9 information:

10 “(1) The case name and number of the adver-
11 sary adjudication, if available, hyperlinked to the
12 case, if available.

13 “(2) The name of the agency involved in the
14 adversary adjudication.

15 “(3) A description of the claims in the adver-
16 sary adjudication.

17 “(4) The name of each party to whom the
18 award was made.

19 “(5) The amount of the award.

20 “(6) The basis for the finding that the position
21 of the agency concerned was not substantially justi-
22 fied.

23 “(g) The online searchable database described in sub-
24 section (f) may not reveal any information the disclosure
25 of which is prohibited by law or a court order.

1 “(h) The head of each agency shall provide to the
2 Chairman of the Administrative Conference of the United
3 States in a timely manner all information requested by
4 the Chairman to comply with the requirements of sub-
5 sections (e), (f), and (g).”.

6 (2) COURT CASES.—Section 2412(d) of title 28,
7 United States Code, is amended by adding at the
8 end the following:

9 “(5)(A) Not later than March 31 of the first fiscal
10 year beginning after the date of enactment of the Bipar-
11 tisan Sportsmen’s Act of 2015, and every fiscal year there-
12 after, the Chairman of the Administrative Conference of
13 the United States shall submit to Congress and make pub-
14 licly available online a report on the amount of fees and
15 other expenses awarded during the preceding fiscal year
16 pursuant to this subsection.

17 “(B) Each report under subparagraph (A) shall de-
18 scribe the number, nature, and amount of the awards, the
19 claims involved in the controversy, and any other relevant
20 information that may aid Congress in evaluating the scope
21 and impact of such awards.

22 “(C)(i) Each report under subparagraph (A) shall ac-
23 count for all payments of fees and other expenses awarded
24 under this subsection that are made pursuant to a settle-
25 ment agreement, regardless of whether the settlement

1 agreement is sealed or otherwise subject to a nondisclosure
2 provision.

3 “(ii) The disclosure of fees and other expenses re-
4 quired under clause (i) shall not affect any other informa-
5 tion that is subject to a nondisclosure provision in a settle-
6 ment agreement.

7 “(D) The Chairman of the Administrative Conference
8 of the United States shall include and clearly identify in
9 each annual report under subparagraph (A), for each case
10 in which an award of fees and other expenses is included
11 in the report—

12 “(i) any amounts paid under section 1304 of
13 title 31 for a judgment in the case;

14 “(ii) the amount of the award of fees and other
15 expenses; and

16 “(iii) the statute under which the plaintiff filed
17 suit.

18 “(6) As soon as practicable, and in any event not
19 later than the date on which the first report under para-
20 graph (5)(A) is required to be submitted, the Chairman
21 of the Administrative Conference of the United States
22 shall create and maintain online a searchable database
23 containing, with respect to each award of fees and other
24 expenses under this subsection made on or after the date

1 of enactment of the Bipartisan Sportsmen’s Act of 2015,
2 the following information:

3 “(A) The case name and number, hyperlinked
4 to the case, if available.

5 “(B) The name of the agency involved in the
6 case.

7 “(C) The name of each party to whom the
8 award was made.

9 “(D) A description of the claims in the case.

10 “(E) The amount of the award.

11 “(F) The basis for the finding that the position
12 of the agency concerned was not substantially justi-
13 fied.

14 “(7) The online searchable database described in
15 paragraph (6) may not reveal any information the disclo-
16 sure of which is prohibited by law or a court order.

17 “(8) The head of each agency (including the Attorney
18 General of the United States) shall provide to the Chair-
19 man of the Administrative Conference of the United
20 States in a timely manner all information requested by
21 the Chairman to comply with the requirements of para-
22 graphs (5), (6), and (7).”.

23 (3) TECHNICAL AND CONFORMING AMEND-
24 MENTS.—Section 2412 of title 28, United States
25 Code, is amended—

1 (A) in subsection (d)(3), by striking
2 “United States Code,”; and

3 (B) in subsection (e)—

4 (i) by striking “of section 2412 of
5 title 28, United States Code,” and insert-
6 ing “of this section”; and

7 (ii) by striking “of such title” and in-
8 serting “of this title”.

9 (b) JUDGMENT FUND TRANSPARENCY.—Section
10 1304 of title 31, United States Code, is amended by add-
11 ing at the end the following:

12 “(d) Beginning not later than the date that is 60
13 days after the date of enactment of the Bipartisan Sports-
14 men’s Act of 2015, and unless the disclosure of such infor-
15 mation is otherwise prohibited by law or a court order,
16 the Secretary of the Treasury shall make available to the
17 public on a website, as soon as practicable, but not later
18 than 30 days after the date on which a payment under
19 this section is tendered, the following information with re-
20 gard to that payment:

21 “(1) The name of the specific agency or entity
22 whose actions gave rise to the claim or judgment.

23 “(2) The name of the plaintiff or claimant.

24 “(3) The name of counsel for the plaintiff or
25 claimant.

1 “(4) The amount paid representing principal li-
2 ability, and any amounts paid representing any an-
3 cillary liability, including attorney fees, costs, and
4 interest.

5 “(5) A brief description of the facts that gave
6 rise to the claim.

7 “(6) The name of the agency that submitted
8 the claim.”.

9 **SEC. 104. BOWS IN THE PARKS.**

10 (a) DEFINITIONS.—In this section:

11 (1) DIRECTOR.—The term “Director” means
12 the Director of the National Park Service.

13 (2) NOT READY FOR IMMEDIATE USE.—The
14 term “not ready for immediate use” means—

15 (A) a bow or crossbow, the arrows of which
16 are secured or stowed in a quiver or other
17 arrow transport case; and

18 (B) with respect to a crossbow, uncocked.

19 (b) VEHICULAR TRANSPORTATION AUTHORIZED.—

20 The Director shall not promulgate or enforce any regula-
21 tion that prohibits an individual from transporting bows
22 and crossbows that are not ready for immediate use across
23 any unit of the National Park System in the vehicle of
24 the individual if—

1 (1) the individual is not otherwise prohibited by
2 law from possessing the bows and crossbows;

3 (2) the bows or crossbows that are not ready
4 for immediate use remain inside the vehicle of the
5 individual throughout the period during which the
6 bows or crossbows are transported across National
7 Park System land; and

8 (3) the possession of the bows and crossbows is
9 in compliance with the law of the State in which the
10 unit of the National Park System is located.

11 **TITLE II—HABITAT** 12 **CONSERVATION**

13 **SEC. 201. AVAILABILITY OF LAND AND WATER CONSERVA-** 14 **TION FUND FOR RECREATIONAL PUBLIC AC-** 15 **CESS PROJECTS.**

16 (a) AVAILABILITY OF FUNDS.—Section 200303 of
17 title 54, United States Code, is amended to read as fol-
18 lows:

19 **“§ 200303. Availability of funds for certain projects**

20 “Notwithstanding any other provision of this Act, the
21 Secretary and the Secretary of Agriculture shall ensure
22 that, of the amounts appropriated for the fund for each
23 fiscal year, not less than the greater of 1.5 percent of the
24 amounts or \$10,000,000 shall be made available for
25 projects that secure public access to Federal land for hunt-

1 ing, fishing, and other recreational purposes through ease-
 2 ments, rights-of-way, or fee title acquisitions from willing
 3 sellers.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) AVAILABILITY OF DEPOSITS.—Section
 6 200302(c)(3) of title 54, United States Code, is
 7 amended by striking “Notwithstanding section
 8 200303 of this title, money” and inserting “Money”.

9 (2) CONTRACTS FOR ACQUISITION OF LAND
 10 AND WATER.—Section 200308 of title 54, United
 11 States Code, is amended in the first sentence, by
 12 striking “by section 200303 of this title”.

13 (3) CONTRACTS FOR OPTIONS TO ACQUIRE
 14 LAND AND WATER IN SYSTEM.—Section 200309 of
 15 title 54, United States Code, is amended in the third
 16 sentence by striking “by section 200303 of this
 17 title”.

18 **SEC. 202. IDENTIFYING OPPORTUNITIES FOR RECREATION,**
 19 **HUNTING, AND FISHING ON FEDERAL LAND.**

20 (a) DEFINITIONS.—In this section:

21 (1) FEDERAL PUBLIC LAND MANAGEMENT
 22 AGENCY.—The term “Federal public land manage-
 23 ment agency” means any of the National Park Serv-
 24 ice, the United States Fish and Wildlife Service, the

1 Forest Service, and the Bureau of Land Manage-
2 ment.

3 (2) STATE OR REGIONAL OFFICE.—The term
4 “State or regional office” means—

5 (A) a State office of the Bureau of Land
6 Management; or

7 (B) a regional office of the National Park
8 Service, the United States Fish and Wildlife
9 Service, or the Forest Service.

10 (3) TRAVEL MANAGEMENT PLAN.—The term
11 “travel management plan” means a plan for the
12 management of travel—

13 (A) with respect to land under the jurisdic-
14 tion of the National Park Service, on park
15 roads and designated routes under section 4.10
16 of title 36, Code of Federal Regulations (or suc-
17 cessor regulations);

18 (B) with respect to land under the jurisdic-
19 tion of the United States Fish and Wildlife
20 Service, on the land under a comprehensive con-
21 servation plan prepared under section 4(e) of
22 the National Wildlife Refuge System Adminis-
23 tration Act of 1966 (16 U.S.C. 668dd(e));

24 (C) with respect to land under the jurisdic-
25 tion of the Forest Service, on National Forest

1 System land under part 212 of title 36, Code
2 of Federal Regulations (or successor regula-
3 tions); and

4 (D) with respect to land under the jurisdic-
5 tion of the Bureau of Land Management, under
6 a resource management plan developed under
7 the Federal Land Policy and Management Act
8 of 1976 (43 U.S.C. 1701 et seq.).

9 (b) PRIORITY LISTS REQUIRED.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of this Act, annually
12 during the 10-year period beginning on the date on
13 which the first priority list is completed, and every
14 5 years after the end of the 10-year period, each
15 head of each State or regional office shall prepare a
16 priority list, to be made publicly available on the
17 website of the applicable Federal public land man-
18 agement agency, which shall identify the location
19 and acreage of land under the jurisdiction of the
20 State or regional office on which the public is al-
21 lowed, under Federal or State law, to hunt, fish, or
22 use the land for other recreational purposes but—

23 (A) to which there is no public access or
24 egress; or

1 (B) to which public access or egress to the
2 legal boundaries of the land is significantly re-
3 stricted (as determined by the head of the State
4 or regional office).

5 (2) MINIMUM SIZE.—Any land identified under
6 paragraph (1) shall consist of contiguous acreage of
7 at least 640 acres.

8 (3) CONSIDERATIONS.—In preparing the pri-
9 ority list required under paragraph (1), the head of
10 the State or regional office shall consider with re-
11 spect to the land—

12 (A) whether access is absent or merely re-
13 stricted, including the extent of the restriction;

14 (B) the likelihood of resolving the absence
15 of or restriction to public access;

16 (C) the potential for recreational use;

17 (D) any information received from the
18 public or other stakeholders during the nomina-
19 tion process described in paragraph (5); and

20 (E) any other factor as determined by the
21 head of the State or regional office.

22 (4) ADJACENT LAND STATUS.—For each parcel
23 of land on the priority list, the head of the State or
24 regional office shall state whether resolving the issue
25 of public access or egress to the land would require

1 acquisition of an easement, right-of-way, or fee title
2 from—

3 (A) another Federal agency;

4 (B) a State, local, or tribal government; or

5 (C) a private landowner.

6 (5) NOMINATION PROCESS.—In preparing a pri-
7 ority list under this section, the head of the State
8 or regional office shall provide an opportunity for
9 members of the public to nominate parcels for inclu-
10 sion on the priority list.

11 (c) ACCESS OPTIONS.—With respect to land included
12 on a priority list described in subsection (b), the head of
13 the State or regional office shall develop and submit to
14 the Committees on Appropriations and Energy and Nat-
15 ural Resources of the Senate and the Committees on Ap-
16 propriations and Natural Resources of the House of Rep-
17 resentatives a report on options for providing access
18 that—

19 (1) identifies how public access and egress
20 could reasonably be provided to the legal boundaries
21 of the land in a manner that minimizes the impact
22 on wildlife habitat and water quality;

23 (2) specifies the steps recommended to secure
24 the access and egress, including acquiring an ease-
25 ment, right-of-way, or fee title from a willing owner

1 of any land that abuts the land or the need to co-
2 ordinate with State land management agencies or
3 other Federal, State, or tribal governments to allow
4 for such access and egress; and

5 (3) is consistent with the travel management
6 plan in effect on the land.

7 (d) PROTECTION OF PERSONALLY IDENTIFYING IN-
8 FORMATION.—In making the priority list and report pre-
9 pared under subsections (b) and (c) available, the head
10 of the State or regional office shall ensure that no person-
11 ally identifying information is included, such as names or
12 addresses of individuals or entities.

13 (e) WILLING OWNERS.—For purposes of providing
14 any permits to, or entering into agreements with, a State,
15 local, or tribal government or private landowner with re-
16 spect to the use of land under the jurisdiction of the gov-
17 ernment or landowner, a Federal land management agen-
18 cy shall not take into account whether the State, local,
19 or tribal government or private landowner has granted or
20 denied public access or egress to the land.

21 (f) MEANS OF PUBLIC ACCESS AND EGRESS IN-
22 CLUDED.—In considering public access and egress under
23 subsections (b) and (c), the head of the applicable Federal
24 public land management agency shall consider public ac-

1 cess and egress to the legal boundaries of the land de-
2 scribed in those subsections, including access and egress—

3 (1) by motorized or non-motorized vehicles; and

4 (2) on foot or horseback.

5 (g) EFFECT.—

6 (1) IN GENERAL.—This section shall have no
7 effect on whether a particular recreational use shall
8 be allowed on the land included in a priority list
9 under this section.

10 (2) EFFECT OF ALLOWABLE USES ON AGENCY
11 CONSIDERATION.—In preparing the priority list
12 under subsection (b), the head of the applicable
13 State or regional office shall only consider rec-
14 reational uses that are allowed on the land at the
15 time that the priority list is prepared.

16 **SEC. 203. FEDERAL LAND TRANSACTION FACILITATION**
17 **ACT.**

18 (a) IN GENERAL.—The Federal Land Transaction
19 Facilitation Act is amended—

20 (1) in section 203(2) (43 U.S.C. 2302(2)), by
21 striking “on the date of enactment of this Act was”
22 and inserting “is”;

23 (2) in section 205 (43 U.S.C. 2304)—

36

1 (A) in subsection (a), by striking “(as in
2 effect on the date of enactment of this Act)”;
3 and
4 (B) by striking subsection (d);
5 (3) in section 206 (43 U.S.C. 2305), by striking
6 subsection (f); and
7 (4) in section 207(b) (43 U.S.C. 2306(b))—
8 (A) in paragraph (1)—
9 (i) by striking “96–568” and insert-
10 ing “96–586”; and
11 (ii) by striking “; or” and inserting a
12 semicolon;
13 (B) in paragraph (2)—
14 (i) by inserting “Public Law 105–
15 263;” before “112 Stat.”; and
16 (ii) by striking the period at the end
17 and inserting a semicolon; and
18 (C) by adding at the end the following:
19 “(3) the White Pine County Conservation,
20 Recreation, and Development Act of 2006 (Public
21 Law 109–432; 120 Stat. 3028);
22 “(4) the Lincoln County Conservation, Recre-
23 ation, and Development Act of 2004 (Public Law
24 108–424; 118 Stat. 2403);

37

1 “(5) subtitle F of title I of the Omnibus Public
2 Land Management Act of 2009 (16 U.S.C. 1132
3 note; Public Law 111–11);

4 “(6) subtitle O of title I of the Omnibus Public
5 Land Management Act of 2009 (16 U.S.C. 460www
6 note, 1132 note; Public Law 111–11);

7 “(7) section 2601 of the Omnibus Public Land
8 Management Act of 2009 (Public Law 111–11; 123
9 Stat. 1108); or

10 “(8) section 2606 of the Omnibus Public Land
11 Management Act of 2009 (Public Law 111–11; 123
12 Stat. 1121).”.

13 (b) FUNDS TO THE TREASURY.—Of the amounts de-
14 posited in the Federal Land Disposal Account, there shall
15 be transferred to the Treasury \$1,000,000 for each of fis-
16 cal years 2016 through 2025.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 19 2015

The Honorable Lisa Murkowski
Chairman, Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Murkowski:

Enclosed are responses prepared by the Department of the Interior in response to questions received by the Department following the March 12, 2015, hearing before your Committee regarding S. 556, the Bipartisan Sportsmen's Act of 2015.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Salotti", is written over the typed name.

Christopher P. Salotti
Legislative Counsel
Office of Congressional
and Legislative Affairs

Enclosure

cc: The Honorable Maria Cantwell
Ranking Member

Senator Murkowski

Question 1: I appreciate your comments regarding the language and appreciate your support for what we are intending to do. That will be helpful as we go forward.

According to your testimony, BLM land use planners are specifically required under the Federal Land Hunting, Fishing, and Shooting Sports Roundtable MOU, to contact over 40 hunting and fishing interests to help ensure that hunting and fishing activities are fully considered in the development of resource management plans. How does that work in practice at the state and local level?

(a) Can you give me specific examples?

Hunting, fishing, and recreational target shooting are popular uses of the lands managed by the Bureau of Land Management (BLM), and they are core elements of our multiple use and sustained yield mandate. As a result, we welcome the participation of the hunting, fishing, and shooting communities in the development of Resource Management Plans (RMPs), and we actively conduct outreach to ensure their participation. First and foremost, our managers at all levels in our organization reach out in person to our stakeholder groups on all issues of interest, and particularly in the development of our RMPs where we provide multiple opportunities for stakeholder involvement. Our offices reach out to hunting, fishing, and shooting groups through a variety of traditional techniques – mail and email – as well as via the web and new media.

BLM Field Offices maintain current mailing and contact lists for local and state agencies, sportsmen's clubs, private businesses, non-profits, individual interested stakeholders, and other entities to help ensure that hunting, fishing, and shooting stakeholders are notified of opportunities to comment on pending RMPs so that these activities may be fully considered in the development of resource management plans and other planning efforts. Field offices further engage with over 40 national non-governmental organizations under the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding. In addition, the BLM Washington Office liaison to the Roundtable reviews Federal Register Notices that could affect hunting and shooting opportunities and participates in the review of draft resource management plans (RMPs).

(b) What procedures do you use to inform the public that an agency action regarding closures or restrictions is going to have effects on hunting, fishing and recreation?

The BLM Planning for Recreation and Visitor Services Handbook (Handbook 8320-1) specifically identifies shooting closures as land use plan-level decisions. The development or amendment of land use plans requires extensive public involvement, as explained below.

Other temporary closures or restrictions may be proposed/implemented outside of a land use planning process; however, those closure must comply with the applicable regulations, and BLM policy, including Instruction Memorandum No. 2013-035, Requirements for Processing and Approving Temporary Public Land Closure and Restriction Orders. Such temporary closures or restrictions are usually no more than 24 months, must be fully analyzed in an appropriate

National Environmental Policy Act (NEPA) document, include public involvement, and be published in the Federal Register.

Closure and restriction orders that may affect hunting access, shooting sport activities, or the discharge of firearms must also comply with the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU). This MOU requires the BLM to notify shooting organizations of the proposed actions and inform them of opportunities for public involvement consistent with BLM Instruction Memorandum 2014-131, Implementation of the Federal Lands Hunting, Fishing and Shooting Sports Roundtable MOU.

(c) In your testimony, you indicate “any determination to permanently close public lands to certain activities is made following extensive public involvement. What does extensive public involvement mean? Can you give examples?”

Permanent closures are generally established in RMPs, which are developed through a collaborative and public process. Public involvement is provided at multiple points in the planning process, including the initial identification of planning issues through public scoping, an opportunity to review and comment on a draft RMP, and an opportunity to protest the proposed RMP before a final decision is made by the BLM. In many cases, additional opportunities for public involvement occur throughout the process, such as public meetings, field tours, and ongoing discussions with BLM offices. The land use planning process occurs over several years, and managers work hard to ensure adequate opportunities for input are available for members of the public who may have varying interests, schedules, and locations.

For example, a temporary closure in the Lake Mountains of the BLM’s Salt Lake Field Office in Utah involved one of the office’s biggest urban interface areas. Over 20,000 people per year visit the area, and nearby suburban development led to concerns about public safety, wildfires, dumping, cultural resource damage, and property damage. In 2012, the field office implemented a temporary closure for target shooting on about 900 acres. The field office is addressing more intensive management of target shooting over a larger area through a land use plan amendment. The Field Manager and staff have been actively engaged with local, county, state and federal entities in creating a successful ongoing collaborative process. The office has reached out to the Federal Lands Hunting, Fishing and Shooting Sports Roundtable, congressional and state government officials, tribal leaders from six tribes, Utah County Commission, elected city officials from Eagle Mountain City and The City of Saratoga Springs, general media, cultural resources preservation organizations, private landowners adjacent to the proposed planning area, the recreating public, and BLM’s Utah Resource Advisory Council for feedback on potential management actions.

Similarly, Table Rocks Management Area in the BLM’s Butte Falls Resource Area in Oregon is cooperatively managed with The Nature Conservancy, Confederated Tribes of Grand Ronde, and Cow Creek Band of Umpqua Tribe of Indians. To facilitate the management of resources in that area, temporary target shooting restrictions were necessary to protect important cultural, historical, wildlife, and botanical resources on newly acquired and existing lands until long-term solutions could be addressed through a planning process and the establishment of supplementary rules for the area. During the development of the RMP for the area, BLM discussed hunting and

firearm issues with local representatives from the Oregon Department of Fish and Wildlife, Rocky Mountain Elk Foundation, the Roundtable, The Nature Conservancy, local homeowners, Oregon Hunters Association, and many other entities.

Question 2: How does BLM define “commercial” for the purposes of issuing a permit?

While the Department of the Interior’s regulations adopt a broad definition of commercial filming, there are exceptions which ensure that the permitting and fee requirements do not impose an unreasonable burden.

Under the regulations, commercial filming includes the “film, electronic, magnetic, digital, or other recording, of a moving image by a person, business, or other entity for a market audience with the intent of generating income. Examples include, but are not limited to, feature film, videography, television broadcast, or documentary, or other similar projects. Commercial filming activities may include the advertisement of a product or service, or the use of actors, models, sets, or props” (43 CFR §5.12). While commercial filming activities are generally required to obtain permit, most still photography is exempt from this requirement unless: (i) it uses a model, set, or prop; or, (ii) the agency determines a permit is necessary because a proposed location is in a closed area or the agency would incur costs for providing oversight. Practically, this means that a photographer shooting an engagement photo in an area otherwise open to the public without any props would not need a permit even though she was presumably getting paid. The other important exception relates to news gathering activities. They do not require a permit unless: (a) one is necessary to protect natural and cultural resources, avoid use conflicts, ensure public safety, or authorize entrance to closed areas; and, (b) getting one does not interfere with news gathering (43 CFR 5.4(a)).

The requirement that other commercial activities outside of these exceptions obtain a permit is consistent with Public Law 106-206, which directs Federal land management agencies in DOI and USDA to collect a “fair return” for the use of the lands they manage. With respect to smaller groups that are required to get a permit, the recently issued fee schedule establishes a sliding scale linked to a group’s size.

By way of illustration, in 2015 BLM’s Red Rock/Sloan Canyon Field Office approved the filming of a television series in the Red Rock National Conservation Area. The production involved 10 vehicles, 1 trailer, and 3 cameras. The BLM processed the permit in 10 days; total fees assessed were \$1,034. The BLM’s Arizona Strip Field Office processed a permit to film landscapes in the Vermilion Cliffs National Monument as part of a documentary series for the Love Nature Channel in Canada. The permit was processed in 15 days; total fees assessed were \$392. Finally, in the last month, BLM’s El Centro Field Office issued two permits – one for a music video involving a crew of 30 people, and one for a major motion picture involving a crew of 150. The former was processed in 3 days; total fees assessed were \$371. The latter was processed in 35 days; total fees assessed were \$38,525.

Question 3: Would BLM consider establishing a de minimus number of people below which a permit and fee would not be required?

As explained above, on public lands smaller operations typically pay reduced application processing and location fees. Their applications are also likely to be simpler to prepare and process because less information would be necessary for activities that are smaller in scope. It is important that all commercial filming activities, no matter the size of the operation, be managed to avoid disruption to visitor activities and damage to natural and cultural resources. Larger operations (e.g., a major motion picture shoot) routinely require a bond, an onsite filming monitor, and additional permit stipulations that would not typically be required for smaller film crews. Large productions and requests to film outside popular locations will also usually require an onsite pre-application conference with the relevant BLM personnel.

With respect to other smaller scale activities, the Department's regulations contain a number of exemptions from the permitting requirement that capture a number of *de minimis* activities. As explained above, still photography and news gathering activities generally do not require a permit except under the specific circumstances identified in the regulations (43 CFR 5.2(b)).

Senator Barrasso

Question 1: One of the primary goals of the *Bipartisan Sportsmen's Act of 2015* is to provide access and availability for citizens to visit public lands. Roads and trails are one of the principle ways the public accesses public lands. One measure of how accessible the BLM administered lands are is to understand how many miles of non-motorized and motorized trails and roads are available to the public.

a) How many miles of non-motorized and motorized trails and roads currently exist within BLM managed lands? Please break it down by each area covered by a Resource Management Plan.

The BLM does not currently have a national database that can provide a definitive answer to this question; however, we estimate that there are currently approximately 520,000 miles of roads and trails on BLM-managed lands that are available for public use. The BLM is currently conducting travel management planning at its local field offices in the highest priority areas. This process involves a thorough inventory and evaluation of the existing travel route system in an area which results in the designation of the routes that achieve the goals and objectives in the local RMP. This is a locally-based process that involves extensive public involvement on the part of the nearby communities, their elected local representatives, and other interested parties.

b) Over the past 10 years, has there been an increase or decrease in the total number of non-motorized and motorized trails and roads in the RMPs?

Management for recreational use of trails and roads is a key consideration for BLM managers, who work closely with off-highway vehicle, mountain biking, equestrian, and hiking groups to develop and maintain roads and trails for recreational use. As the BLM works to develop travel management plans for the lands under its jurisdiction, the BLM inventories and evaluates existing travel routes to identify and designate roads and trails for public use. In some cases the travel management planning process leads to a reduction in the overall number of routes that are

available for public use. This reduction occurs primarily because the existing route system in some areas was not developed as a planned system to meet recreational objectives, but arose as an ad-hoc network of routes created by the various uses of the land over many decades. In some cases the route inventory identifies duplicative routes and routes that have significant and unsustainable impacts on sensitive resources.

BLM leadership encourages local travel management planning staff to consider a wide array of options in partnership with their respective local communities when developing a travel management plan; including the option to add new routes if that is the best way to meet the goals and objectives of the RMP related to recreational use and access. The intended outcome is to have a travel and transportation network that provides necessary public and commercial access to the public lands and minimizes impacts to sensitive resources.

e) If the number of miles of trails/roads to the above questions is not available, how does the agency account for taxpayer dollars allocated for motorized and non-motorized access issues before Congress?

The BLM has, to date, completed travel management plans for approximately 25% of the lands it manages. It is anticipated that it will take many years, given the current budget environment, to complete travel management planning for all BLM-managed lands. The BLM receives no funding specifically for motorized and non-motorized access. Travel and transportation management planning is usually funded through a combination of base appropriated funding sources, which have a wide range of responsibilities beyond access and travel management. The Bureau has a national strategy to prioritize travel management over the next five years, which is intended to make the most efficient use of the limited resources available for this work.

Senator Flake

Question 1: Eighteen national monuments have been designated in Arizona, more than any other state. Please identify the nature and extent of hunting, fishing, and recreational shooting restrictions (either enacted or proposed) on the eighteen designated monuments in Arizona.

The National Park Service (NPS) manages 13 national monuments in Arizona. While the NPS does manage a number of national monuments in other states where hunting or fishing are allowed, none of the NPS national monuments in Arizona allow hunting, fishing, or recreational shooting. Nearly all of the NPS national monuments in Arizona were designated because they are significant cultural or historical sites. There are several other non-monument areas in Arizona managed by the NPS that do allow both hunting and sport fishing, including portions of Glen Canyon National Recreation Area and Lake Mead National Recreation Area.

Of the five monuments in Arizona managed by the BLM, all of them are open to hunting and fishing, and three are open to recreational target shooting.

Question 2: Is the Department working with the President to prepare a monument designation for the Grand Canyon watershed? If so, what restrictions on hunting, fishing, and recreational shooting are being considered as part of that proposal?

While there are no current plans to designate monuments in Arizona, the Department has engaged in robust consultation with national, state, local, and tribal stakeholders prior to the designation of each monument, in keeping with the President's commitment.

Question 3: As noted during the hearing, a crossbreed of cattle and buffalo commonly referred to as "beefalo" or "cattalo" has found sanctuary in the Grand Canyon National Park. The herd is estimated at approximately 600 head, and, from what I have been told, the destruction of resources and archaeological features in the Park is a concern. What is the status of the bison management plan and environmental impact statement being prepared by the Grand Canyon National Park, the BLM, USFS, and the Arizona Game and Fish Department?

Grand Canyon National Park is currently in the process of developing the alternatives for the Bison Management Plan Draft Environmental Impact Statement. The park expects to have the draft plan out for public review and comment in the winter of 2016.

Question 4: The resource destruction caused by the bison at the Grand Canyon National Park is not a new phenomenon. In fact, similar issues have arisen at Rocky Mountain National Park with elk herds. Please provide information on the costs incurred by the federal government to hire professional sharpshooters to cull such animal populations?

These decisions are made on an individual basis at each park based on park resources and public safety issues. The NPS has typically used professional sharpshooters to cull whitetail deer in parks in the eastern United States, e.g. Rock Creek Park, Catoclin Mountain Park. Professional sharpshooters were also used at Channel Island National Park to cull elk and mule deer on Santa Rosa Island. At Rocky Mountain National Park and Theodore Roosevelt National Park, skilled volunteers were utilized to cull elk. Contracts for professional sharpshooters are handled by each park individually, so the NPS cannot readily provide a national-level average or total cost associated with this tool. We would be happy to provide more information about the costs for individual park units.

Question 5: Please identify the legal impediments to using skilled volunteer hunters to assist in culling animal populations and meeting management goals. Specifically, what legal impediments are precluding the Arizona Game and Fish Department from allowing licensed volunteer hunters to assist in managing the bison population at the Grand Canyon?

The NPS has the legal authority to use skilled volunteers to cull wildlife, and has successfully used skilled volunteers to cull elk at Rocky Mountain National Park and Theodore Roosevelt National Park. This authority was challenged at Rocky Mountain National Park and was upheld in courts.

The Bison Management Plan/Environmental Impact Statement for Grand Canyon National Park will consider the full suite of tools for managing wildlife, including lethal removal, or “culling” of bison as an option for reducing bison density in the park. The use of skilled volunteers in the culling operation would be part of the analysis. If the final plan includes the use of skilled volunteers in a culling operation, the NPS would collaborate with AGFD on implementation, including the requirements and protocols for selecting volunteers, and would follow applicable federal laws and regulations with regard to disposition of carcasses. Existing laws and regulations have been used in other parks to allow for the transfer of meat to state residents and tribes.

Question 6: Does the Bureau support using skilled volunteer hunters to manage herds such as the bison at a lower cost to the federal government?

The NPS has several tools available for directly managing ungulates to meet resource management objectives including hunting (in parks where it is mandated or authorized by Congress), and culling using NPS employees, contractors, or skilled volunteers, and/or a combination of the above. Tools are selected based the type of park unit, location, resource issue, conditions at the park, funding, public input, logistics and other concerns. For these reasons, the NPS has not established one method as preferred over any of the others, but rather analyzes the full suite of tools available for each situation. The preferred action is selected through the NEPA process. One of the primary distinctions between these tools and a traditional hunting program is that these actions are predicated solely on management of a park specific resource.

Question 7: Please elaborate on the nature and extent of the private-property rights protections in section 201 and 202 of the proposed bill, and how the Department would implement the legislation to safeguard those rights?

Section 201 directs the Secretary of Interior and Secretary of Agriculture to ensure that, of the amounts appropriated for the Land and Water Conservation fund each fiscal year, not less than the greater of 1.5 percent or \$10 million be made available for projects that secure public access to Federal land for hunting, fishing, and other recreational purposes. While Section 201 does not specifically address private-property rights protections, it requires the acquisition of easements, rights-of-way and fee title from willing sellers only. To implement this legislation, the Department would only approach willing sellers of private land or interests with purchase offers.

Section 202 directs State and Regional Offices of the BLM, NPS, USFWS, and USFS to:

- Prepare annual priority lists identifying the location and acreage of land under their jurisdiction where recreation is allowed, but to which there is no access or access is significantly restricted.
- Allow the public to nominate parcels for inclusion on the priority list.
- Develop and submit a report to Congress on options for providing access to those parcels.

While Section 202 does not specifically address private-property rights protections, however, it does require the acquisition of easements, rights-of-way and fee title from willing landowners only. The section also provides for the protection of personally identifying information (PII) of

willing sellers on the priority list and report by directing the agencies to not include any PII on the lists or reports. Section 202 also protects private landowners by clarifying that agencies issuing land use permits or entering into land use agreements with, a state, local or tribal government or private landowner cannot make those permits or agreements contingent upon whether or not the landowner has granted or denied public access or egress to the land.

To implement this section, the Department would:

- Only approach willing sellers of private land or interests with purchase offers.
- Exclude PII of landowners from priority lists and reports.
- Not make the issuance of land use permits or execution of land use agreements with, a state, local or tribal government or private landowner contingent upon whether or not they have granted or denied public access or egress to the land.

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**Responses to Questions for the Record Submitted to Ms. Leslie Weldon
from Senator Lisa Murkowski**

Question 1: It seems to me that the law on commercial filming that Congress passed back in 2000 is being grossly misconstrued and applied in a way to restrict or outright deny access to public lands—these are not large movie scale kinds of operations.

These are 1, 2, or maybe 3 people with cameras or hand held video camera equipment who, as I understand it, do not disturb the landscape. In some places, they are being allowed access and in some areas they are not.

- The definition of what is commercial needs to be addressed. It needs to be clarified that these individuals or very small groups are treated the same way Michael Moore and his operation might or that of a documentary. What are the Service's plans to address the definition of commercial? What do you expect the directive to say?

Answer: The Forest Service fully understands and will address the concerns expressed in comments submitted by the commercial filming industry, journalists, and the public regarding the agency's proposed directive governing commercial filming in designated wilderness. In November 2014, Chief Tidwell issued a memorandum to agency leadership emphasizing that the Forest Service will continue to uphold the First Amendment on all National Forest System lands and will not engage in any actions that could be perceived to have a direct or chilling effect on the freedom of the press. Additionally, agency officials extended the comment period for the proposed directive and met with industry advocates and media groups and hosted extensive public meetings in Boise, Seattle, Portland, and Washington, D.C., during the extended public comment period. The agency received approximately 4,800 comments on the proposed directive and is in the process of analyzing the comments. Once that analysis is complete, the agency will consider those comments in developing a final directive that complies with applicable law, including the commercial filming statute and the Wilderness Act, and clarifies what constitutes commercial filming under applicable law.

- What will the Service do to ensure consistent application regarding wilderness areas and non-wilderness areas are consistently applied across all regions?

Answer: Chief Tidwell's memorandum provided clarification to field leadership regarding application of current permit requirements for commercial filming. Once the final directive on commercial filming is issued, agency training guides will be released to ensure consistent application of the directive.

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- Can you please explain what your directive on filming or photography in wilderness areas will, and will not allow, particularly as it relates to individuals and small independent film operations?

Answer: The Forest Service is still analyzing the more than 4,800 comments received from industry, news organizations, and the public on this issue. Once that process is complete, the agency will consider those comments in developing a final directive that complies with applicable law, including the commercial filming statute and the Wilderness Act.

- When do you expect the new fee schedule for filming and photography on your lands to be released? Will it exempt individuals?

Answer: The Forest Service supports DOI's effort to standardize land use fees for commercial filming and still photography across federal lands. However, the agency is still engaged in fully assessing public comments on the proposed directive on commercial filming in wilderness, and is committed to ensuring any action related to fees is not taken prematurely. Consequently, the Forest Service is working with DOI and evaluating whether to join with this fee schedule release at this time. No permit or permit fee is required for individuals engaged in filming for noncommercial purposes, or for individuals taking still photographs for any reason unless it involves models or props that are not part of the site's natural or cultural resources, as defined by statute. Neither the fee schedule nor the final directive will change that.

- Would you consider exempting from permitting a de minimis number of people who might engage in filming on Forest Service lands?

Answer: The final directive on commercial filming in wilderness will be consistent with applicable law, including the commercial filming statute, and will reflect the public comments we received during the initial and extended periods, including during public meetings.

Question 2: I very much appreciate you identifying concerns with the language. That will be helpful. As I am sure you know, we believe existing law is insufficient to ensure your agency has clear legal direction to maintain an open unless closed policy that is applied consistently across all regions and forests.

- What procedures do you have in place for notifying individuals and groups that utilize your lands for recreational shooting, hunting and fishing that restrictions or closures are being put in place?

Answer: The public is given notice and an opportunity to comment under NEPA on any long-term restrictions or closures on National Forest System lands pertaining to recreational shooting, hunting, or fishing. Depending on the

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circumstances, additional outreach may include meetings with local governments and interest groups, press releases, website postings, signage, and direct visitor contacts. In the case of emergency closures to protect public safety, temporary prohibitions may be instituted without notice and comment under NEPA. These temporary orders are intended to address immediate public safety issues while providing time to seek the most appropriate long-term solution.

Each order effecting a restriction or closure on National Forest System lands must describe the area to which the order applies and must be placed in the offices of the Forest Supervisor and District Ranger, or equivalent official with jurisdiction over the affected lands, and must be posted in a location and in a manner that reasonably brings the order to the attention of the public.

- What are your firearms discharge policies? How are they applied? How are they enforced?

Answer: National Forest System lands are open unless closed to discharging firearms consistent with the Multiple Use–Sustained Yield Act and the National Forest Management Act, which provide that national forests be managed for outdoor recreation and for other purposes. Forest Service Manual 2303 states that it is the agency's policy to "provide a wide range of recreation settings and opportunities, from the most primitive and wild to the highly developed," and to "provide recreation and tourism opportunities that can sustain responsible use within their environmental and social constraints."

For public safety reasons, Forest Service regulations prohibit discharging firearms — or any other implement capable of taking human life — within 150 yards of residences, campgrounds, developed recreation sites and occupied areas, across forest roads, across bodies of water, into caves, or in any way dangerous to other people.

If discharging a firearm in a particular area creates a public safety or natural resource concern, a Forest Supervisor may issue a site-specific order that prohibits discharging a firearm in the area specified in the order. As stated above, the order may be issued in the short term to address the immediate safety or resource concern while longer-term solutions are pursued, or the order may be instituted for the long term, with public notice and an opportunity to comment under NEPA, if the circumstances warrant. An example of circumstances that might require a longer-term prohibition would be an area on National Forest System lands used for recreational shooting where new or expanding private development makes discharge of firearms unsafe.

These prohibitions are enforced by Forest Service personnel who have the appropriate training and certification to serve as Law Enforcement Officers.

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- How do you ensure hunting, fishing and recreational shooting are factors in your management plans?

Answer: The National Forest Management Act and Forest Service planning regulations and directives provide that outdoor recreation, including hunting, fishing, and shooting, be considered in development of land management plans. In acknowledgement of the importance of hunting and fishing, the planning rule at 36 CFR 219.10(5) specifically requires consideration of habitat conditions for wildlife and fish commonly enjoyed and used by the public for hunting and fishing. The planning directives elaborate on this direction by providing that the Forest Service should work with the state, other relevant governmental entities, and the public to design plan components for habitat conditions and sustainable recreation opportunities involving the use and enjoyment of fish and wildlife. See FSH 1909.12, Chapter 20, sec. 23.23b.

For agency actions, NEPA, the Council on Environmental Quality's regulations, and Forest Service regulations and directives require responsible officials to determine the scope of environmental analyses, identify issues, disclose effects, and engage in public involvement. In those instances where hunting, shooting, or fishing would be affected by an agency action, the affected activity would be included in the analysis, consistent with existing law, regulation, and policy.

- What procedures do you use to inform the public and the sportsmens community that an agency action regarding closures or restrictions is going to have effects on hunting, fishing and recreation?

Answer: The procedures are described in the first and third responses above.

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**Responses to Questions for the Record Submitted to Ms. Leslie Weldon
from Senator John Barrasso**

Question 1: Ms. Weldon, last year Senator Wyden and I sent a letter to the Forest Service expressing our concern with the agency's proposed directive to regulate media in wilderness areas. Due to first amendment concerns that were being raised, we asked for the directive to be withdrawn.

What actions have taken place to resolve the First Amendment issues related to freedom of the press on the commercial filming proposal?

Answer: The Forest Service fully understands and will address the comments submitted by the commercial filming industry, journalists, and the public regarding the agency's proposed directive governing commercial filming in designated wilderness. In November 2014, Chief Tidwell issued a memorandum to agency leadership emphasizing that the Forest Service will continue to uphold the First Amendment on all National Forest System lands and will not engage in any actions that could be perceived to have a direct or chilling effect on the freedom of the press. Additionally, agency officials extended the comment period for the proposed directive and met with industry advocates and media groups and hosted extensive public meetings in Boise, Seattle, Portland, and Washington, D.C., during the public comment period. The agency received approximately 4,800 comments and is in the process of analyzing the comments. Once that analysis is complete, the agency will consider those comments in developing a final directive that complies with applicable law, including the commercial filming statute and the Wilderness Act, and that clarifies what constitutes commercial filming under applicable law.

Question 2: One of the primary goals of the *Bipartisan Sportsmen's Act of 2015* is to provide access and availability for citizens to visit public lands. Roads and trails are one of the principle ways the public accesses public lands. One measure of how accessible the National Forests are is to understand how many miles of non-motorized and motorized trails and roads are available to the public.

- How many miles of non-motorized and motorized trails and roads currently exist in the National Forest System? Please break it down by each National Forest Unit.

Answer: There are approximately 98,015 miles of non-motorized trails and 59,379 miles of motorized trails in the forest transportation system. See the attached spreadsheets, which display trail data from the time the agency began requiring end-of-year reporting of trail miles (FY2012 through FY2014).

There are approximately 371,480 miles of roads in the forest transportation system. Approximately 73% (269,569 miles) of these roads are open to public

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motor vehicle use. The remaining 27% (101,911 miles) of these roads are not open to public motor vehicle use. The attached spreadsheet provides regional road mileage subtotals. Mileage reports by national forest are lengthy and are not included as part of this response. However, mileage reports for specific national forests can be made available upon request.

Some roads in the forest transportation system that are open to public motor vehicle use may be subject to seasonal closures or restricted to certain types of vehicles. Seasonal closures and restrictions vary significantly among national forests; may be amended as the result of changing local conditions and revision of motor vehicle use decisions; and are tracked at the forest level using a variety of databases and formats. Reliable mileage summaries of seasonal closures and road restrictions are not available

- By implementing travel management plans, has there been an increase or decrease in the total number of non-motorized and motorized trails and roads?

Answer: The Forest Service does not require local units to track in the agency's national database the reasons for changes in the mileage of non-motorized and motorized trails in the forest transportation system. Therefore, the agency is not able to determine whether changes in the mileage of non-motorized and motorized trails in the forest transportation system are due to designation of trails for motor vehicle use. As stated above, the agency did not require year-end reporting of trail miles prior to FY2012. However, the agency located a 2008 report generated from the national trails database which shows 98,072 non-motorized trail miles, compared to 98,015 in FY2014 (a net reduction of 57 miles), and 56,914 miles of motorized trails in 2008, compared to 59,379 miles today (a net increase of 2,465 miles).

With promulgation of the Forest Service's Travel Management Rule in 2005, national forests began formally designating roads and trails for motor vehicle use in 2006. Since 2006, the agency decreased total road miles in the forest transportation system by approximately 8,212 miles (from 379,690 to 371,470). During this time the total mileage of roads that are open to public motor vehicle use in the forest transportation system decreased by approximately 20,522 miles (from 290,091 to 269,569). As with trail miles, the Forest Service does not require local units to track in the agency's national database the reasons for changes in the mileage of non-motorized and motorized roads or the reasons for changes in the total mileage of roads in the forest transportation system. Therefore, the agency is not able to determine whether changes in the forest transportation system are due to designation of roads for motor vehicle use. The decline in mileage of roads open to public motor vehicle use and in the total mileage of roads in the forest transportation system is most likely due to multiple factors, including an intensive effort to validate road data and reduce the agency's road maintenance backlog.

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- What has been the increase or decrease of available miles for non-motorized and motorized miles of trails/roads since 2006 for each unit of the National Forest.

Answer: Please see responses to the previous questions.

- If the number of miles of trails/roads to the above questions is not available, how does the agency account for taxpayer dollars allocated for motorized and non-motorized access issues before Congress?

Answer: The agency has information on the total mileage of roads and trails in the forest transportation system, and this is one type of information the agency employs when accounting for use of taxpayer dollars in connection with access to National Forest System lands.

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**Responses to Questions for the Record Submitted to Ms. Leslie Weldon
from Senator Jeff Flake**

Question 1: Eighteen national monuments have been designated in Arizona, more than any other state. Please identify the nature and extent of hunting, fishing, and recreational shooting restrictions (either enacted or proposed) on the eighteen designated monuments in Arizona.

Answer: The Forest Service does not have any national monuments in Arizona. The 18 monuments in question are managed by other agencies.

Question 2: Is the Forest Service working with the President to prepare a monument designation for the Grand Canyon watershed? If so, what restrictions on hunting, fishing, and recreational shooting are being considered as part of that proposal?

Answer: We have not formally received, nor have we participated in, a proposal to designate a national monument in Arizona; therefore, we cannot speculate on how or if we would participate.

Question 3: During the hearing, you testified that if Congress was to enact the Wildfire Disaster Funding Act (S.235) that it would free up funds for the Forest Service to use on, among other things, “developing recreation” and “supporting other small businesses that come to do work on the national forests.” Please elaborate on the types of recreational and small business opportunities the Forest Service would fund with the money “free[d]” up by enactment of the wildfire funding proposal.

Answer: If the Wildfire Disaster Funding Act (S. 235) was enacted according to the Administration’s proposed FY 2016 budget request, approximately \$170 million would be available for other uses. The budget proposes to use those funds on the Landscape Scale Restoration, Integrated Resource Restoration, Collaborative Forest Landscape Restoration, and Hazardous Fuels Reduction. To carry out the work in each of these programs, we depend on small businesses, primarily as contractors, to conduct restoration activities including: removing hazardous fuels (on both federal and non-federal lands); harvesting timber; restoring waterways; improving fish and wildlife habitat; and stabilizing roads. The restoration of functioning ecosystems is critical to providing a host of recreation experiences for visitors and to providing economic opportunities for businesses, such as outfitters and guides, ski areas, and other concessions that depend on healthy and accessible federal lands.

Question 4: On page 253 of the Forest Service’s FY16 Budget Justification, the Service explains that under its wildfire funding proposal “the budget cap adjustment will only be accessible for wildland fire suppression operations if a declaration has been issued by the Secretary of Agriculture that one or more of the following conditions are met...”

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However, those conditions are noticeably absent from the Wildfire Disaster Funding Act (S.235). Would the Forest Service support amending the Wildfire Disaster Funding Act to include those conditions?

Answer: Each amendment must be evaluated independently in the context of the full legislation. However, we would be happy to work with your office on this matter.

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**Responses to Questions for the Record Submitted to Ms. Leslie Weldon
from Senator Steve Daines**

Question 1:

There are several Forest Plans under revision in Montana. How will you integrate the provisions of the HUNT Act (provision that requires inventory of public lands inaccessible to the public) with the National Forest plan revision process? Primarily, by what process would the agency identify lands for those specific purposes?

Answer: While we do not envision direct incorporation of the HUNT Act provisions into the development of Land and Resources Management Plans, often the public and user groups identify or confirm for the Forest Service areas with high recreation, hunting and fishing use/potential. This also commonly occurs within our travel management planning and updates. We would use this information as focal areas to evaluate the legal access status for those areas and consider whether to identify them as priority areas under the requirements of the Act. We might also share that information with sportsman groups and other partners who have indicated a willingness to assist in acquiring legal access for the public. At the same time, we will be cautious about treatment of areas which do not have legal access.

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March 12, 2015 Hearing: S. 556, the Bipartisan Sportmen's Act of 2015**

**Responses to Questions for the Record Submitted Ms. Leslie Weldon
from Senator Ron Wyden**

Question 1: Ms. Weldon, I'd like to speak for a minute about the Land and Water Conservation Fund. I'm pleased to see the Sportsmen's Act includes a provision to ensure that a portion of LWCF is used for projects specifically designed to open the door to greater access to public lands for sportsmen and women. In Oregon, the LWCF has been a critical tool to ensuring our public lands remain open and accessible to not only hikers and campers, but to the hunters, fishers, and anglers eager to visit and utilize their favorite fishing holes or hunting spots. And LWCF isn't just vital to those who benefit from public access to these lands, it's also vital to the nation's public land-dependent communities whose economies depend on recreational tourism.

You mentioned in your testimony your support for LWCF reauthorization, and I want to just hear from you how permanent, full funding for LWCF would help the Forest Service expand and improve access for sportsmen and recreation enthusiasts and what the certainty of permanent funding would mean for future plans.

Answer: Full funding for LWCF will expand and improve access for sportsmen and recreation enthusiasts in three ways. First, LWCF funding can be used to provide access to National Forest System (NFS) parcels where there is currently no legal access or where legal action would be needed to perfect it. Second, it can be used to provide more convenient or improved legal access to areas where access may already exist. It is not uncommon for large expanses of NFS lands to be served by only one access point or by non-motorized access only. Often, private land owners control road and trail access locations or provide access points much closer to population bases. Finally, the characteristics that made many of the private parcels desirable for homesteading such as bottom land and access to water, also make them highly desirable for access to and use for hunting, fishing and other recreational purposes. In FY2014, the Forest Service completed 40 transactions utilizing LWCF appropriations. Thirty-nine of the transactions provided legal access where none previously existed or provided more convenient legal access, in terms of travel distances or roads and trails. Permanent funding will allow for a more strategic approach to acquisition projects and allow for more timely completion.

Question 2: Last year, the Forest Service issued a proposed directive for commercial filming in Wilderness, and I joined several colleagues in sending a letter to Chief Tidwell expressing our concerns that this directive could have a chilling effect on first amendment rights. Just like sportsmen want access to public lands, journalists, filmmakers, and interest groups regularly seek access to our nation's public lands to report on issues, promote tourism, or showcase America's treasures. I support filming in wilderness, whether for commercial or journalism purposes, and placing burdensome restrictions on that access is certainly concerning. At the same time, there are provisions in the Wilderness Act that restrict the use of motorized equipment to protect Wilderness

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areas. You mentioned this in your testimony, but I'm interested in diving a little deeper to hear your thoughts on how the provision in the bill before us concerning filming on public lands would interact with the restrictions on motorized equipment in the Wilderness Act.

Answer: The Wilderness Act and the Forest Service's implementing regulations prohibit the use of motorized equipment in wilderness areas. Section 102(c)(3)(E) of the proposed bill regarding commercial filming on federal lands would provide that the Forest Service may not prohibit, "as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects." Because section 102(c)(3)(E) would apply to wilderness areas, this provision may be interpreted to allow use of motorized equipment in wilderness for filming purposes, which would be inconsistent with the Wilderness Act which otherwise would restrict motorized equipment in these protected areas. For example, if a film crew of five persons or fewer desired to use a lift crane, carts, or other vehicles or mechanized equipment in a wilderness area, these uses would involve "related equipment used for the purpose of commercial filming activities." Therefore, at this time, we believe the bill would interfere with the Secretary's ability to deny a permit for those uses, even though they would be inconsistent with the Wilderness Act and could negatively affect visitor opportunities to experience wilderness character and wilderness recreation opportunities.

**U.S. Senate Committee on Energy and Natural Resources
March 12, 2015 Hearing: S. 556, the Bipartisan Sportmen's Act of 2015**

**Questions for the Record Submitted to Leslie Weldon
from Senator Bill Cassidy, MD**

Question 1:

In your testimony, you expressed concern about the impact small film crews can have on the National Forest System lands. While the language in S. 556 in section 102 (b)(1)(B) states "the Secretary shall not prohibit . . . use of cameras or related equipment used for the purpose of commercial filming activities or similar projects..." However S. 556 also says that access can be denied if there is an "unreasonable disruption of the use and enjoyment of the site by the public."

But, the Wilderness Act states that commercial services may be performed within designated wilderness areas which are proper to realize recreational or other wilderness purposes of the area and S. 556 identifies all filming activities as commercial.

Therefore, to what extent, if any, would this legislation impact the ability of a film crew to use an unmanned aircraft, also commonly known as a drone, for journalism purposes, film production, marketing and advertising or scientific research?

Answer:

The Wilderness Act states "*...there should be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport...*" Absent a permit, an unmanned aircraft system, or UAS, would thus be generally prohibited from operating or landing in a wilderness area; but otherwise are subject to regulation by the FAA. While we note that the prohibition in section 102(c)(3)(E) of the bill applies to the Secretary's authority on National Forest System lands, we defer to the U.S. Department of Transportation on whether the legislation would affect the use of UAS in airspace regulated by the FAA.

The Wilderness Act and the Forest Service's implementing regulations prohibit the use of motorized equipment in wilderness areas, except as necessary to meet minimum requirements for the administration of the area for wilderness purposes. Section 102(c)(3)(E) of the bill regarding commercial filming on federal lands would provide that the Forest Service may not prohibit, "as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects." Because section 102(c)(3)(E) would apply to wilderness areas, this provision would allow use of motorized equipment for commercial filming in wilderness, including unmanned aircraft systems (UAS), in a manner that is inconsistent with the Wilderness Act. Therefore, the Secretary's authority to deny a permit for commercial filming involving the use of a UAS on the basis that the proposed activity is inconsistent with the Wilderness Act would be restrained.

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The Forest Service is developing a directive governing commercial filming in wilderness that complies with applicable law, including the Wilderness Act. The directive addresses other provisions in the Wilderness Act besides the prohibition on mechanized and motorized use, such as the requirement to preserve wilderness character. This legislation would preclude the Forest Service from denying a permit for commercial filming in wilderness. As a consequence, the legislation would preclude the Forest Service from ensuring that commercial filming in wilderness meets all the requirements in the Wilderness Act.

National Forest System Road Mileage Summary: FY 2014

Region	Total System	Miles Stored for Future Use	Miles Open for Motorized Use (269,569 miles)	
			Operated for High Clearance Vehicles (Maintenance Level 2)	Operated for Passenger Car Vehicles (Maintenance Level 3-5)
01	50,590	17,078	20,481	13,031
02	31,760	7,486	17,999	6,275
03	46,646	11,509	30,739	4,398
04	35,818	6,922	22,820	6,076
05	46,259	6,296	31,789	8,174
06	89,996	30,939	49,597	9,460
08	38,761	12,232	16,666	9,863
09	27,869	8,002	13,182	6,686
10	3,781	1,446	1,674	661
Total	371,480	101,911	204,947	64,622

Data Source & Status: (Infra Road Mileage FY14 Year-End 9/30/2014)

National Forest System Road Mileage Summary: FY 2006

Region	Total System	Miles Stored for Future Use	Miles Open for Motorized Use (290,091 miles)	
			Operated for High Clearance Vehicles (Maintenance Level 2)	Operated for Passenger Car Vehicles (Maintenance Level 3-5)
01	51,989	19,204	19,326	13,460
02	31,505	5,864	19,171	6,470
03	51,557	9,379	37,423	4,754
04	37,034	5,980	24,130	6,924
05	46,007	6,617	30,286	9,104
06	92,410	25,813	55,349	11,248
08	37,512	8,950	18,455	10,107
09	27,930	6,732	14,168	7,030
10	3,748	1,061	1,874	813
Total	379,690	89,599	220,181	69,910

Data Source & Status: (Infra Road Mileage FY06 Year-End 9/30/2006)

USFS National Forest System Trails: FY 2014 Motorized and Non-Motorized Miles
Working/Draft Data (Infra Trails FY14 Year-End 9/30/2014)

Data Source & Status: Working/draft data for existing NFSTs pulled from Infra Trails. Agency-wide, Infra Trail data continues to undergo validation, correction and update to comply with national directives, inventory and reporting requirements.

Region	Forest	District	NFST Miles				Motorized Miles				Non-Motorized Miles			
			Total Miles	Standard/Terra Miles	Snow Miles	Water Miles	Total Miles	Standard/Terra Miles	Snow Miles	Water Miles	Total Miles	Standard/Terra Miles	Snow Miles	Water Miles
01 Total			27,996.7098	22,581.0144	5,412.7054	2.9900	12,497.1518	7,759.9707	4,737.1811	0	15,499.5580	14,821.0437	675.5243	2.9900
02 Total			18,920.8157	15,684.8058	3,236.0099	0	7,049.5887	4,624.5762	2,425.0125	0	11,871.2270	11,060.2296	810.9974	0
03 Total			10,280.1899	9,986.6353	293.5546	0	1,332.9177	1,222.6297	110.2880	0	8,947.2722	8,764.0056	183.2666	0
04 Total			29,693.8499	25,450.1299	4,239.7200	4.0000	13,607.7146	10,072.3399	3,535.3747	0	16,086.1353	15,377.7900	708.3453	4.0000
05 Total			15,890.5778	14,256.2209	1,634.3569	0	4,742.0288	3,300.3678	1,441.7610	0	11,148.5490	10,955.9531	192.5959	0
06 Total			24,859.0480	18,144.9276	6,708.1204	6.0000	9973.8253	4728.1458	5,240.1795	5.5000	14,885.2227	13,416.7818	1,467.9409	0.5000
08 Total			11,161.6726	10,848.3266	0	313.3460	1,882.4416	1,696.5506	0	185.8910	9,279.2310	9,151.7760	0	127.4550
09 Total			16,866.0912	11,357.4325	5,101.8617	406.7970	7,679.6746	3,613.4946	3,866.3800	199.8000	9,186.4166	7,743.9379	1,335.4817	206.9970
10 Total			1,456.6934	1,291.2285	165.4649	0	585.0141	486.3987	98.6154	0	871.6793	804.8298	66.8495	0
33 Total			2,8293	2,8293	0	0	0	0	0	0	2,8293	2,8293	0	0
42 Total			1,0256	1,0256	0	0	0	0	0	0	1,0256	1,0256	0	0
Unknown Total			265.6014	108.1674	157.4340	0	29.6050	29.6050	0	0	235.9964	78.5624	157.4340	0
Grand Total			157,395.1046	129,712.7438	26,949.2278	733.1330	59,379.9622	37,533.9790	21,454.7922	391.1910	98,015.1424	92,178.7648	5,494.4356	341.9420
Official Total *			157,125.6483	129,600.7215	26,794.7938	733.1330	59,350.3572	37,504.3740	21,454.7922	391.1910	97,775.2911	92,096.3475	5,337.0016	341.9420

* Excluding Regions "33", "42", and "Unknown"

Responses from Ms. Weldon to QFRs-Attachment 1 FY12-FY14 Motorized Non-motorized NFST Miles.xlsx
FY 2014

USFS National Forest System Trails: FY 2013 Motorized and Non-Motorized Miles

Working/Draft Data (Infra Trails FY13 Year-End 9/30/2013)

Data Source & Status: Working/draft data for existing NFTs pulled from Infra Trails. Agency-wide, Infra Trail data continues to undergo validation, correction and update to comply with national directives, inventory and reporting requirements.

Region	Forest	District	NFT Miles				Motorized Miles				Non-Motorized Miles			
			Total Miles	Standard/Terra Miles	Snow Miles	Water Miles	Total Miles	Standard/Terra Miles	Snow Miles	Water Miles	Total Miles	Standard/Terra Miles	Snow Miles	Water Miles
01 Total			28,156,0817	22,495,7223	5,657,3694	2,9900	12382,7546	7468,8785	4,913,8761	0	15,773,3271	15,026,8438	743,4933	2,9900
02 Total			18,951,3061	15,710,6058	3,240,7003	0	7,059,4066	4,653,0961	2,406,3105	0	11,891,8995	11,057,5097	834,3898	0
03 Total			10,309,6900	9,953,9000	355,7900	0	1395,0674	1269,6374	125,4300	0	8,914,6226	8,684,2626	230,3600	0
04 Total			29,848,0545	25,474,7542	4,369,3003	4,0000	13,764,7969	10,043,2822	3,721,5147	0	16,083,2576	15,431,4720	647,7856	4,0000
05 Total			15,861,6546	14,225,8382	1,635,8164	0	4,711,8941	3,270,1331	1,441,7610	0	11,149,7605	10,955,7051	194,0554	0
06 Total			25,072,5714	18,229,3782	6,836,8932	6,3000	9886,6942	4658,5668	5,328,1274	0	15,085,8772	13,570,8114	1,508,7658	6,3000
08 Total			11,140,7318	10,827,3858	0	313,3460	1,915,1334	1,717,4274	0	197,7060	9,225,5984	9,109,9584	0	115,6400
09 Total			16,673,1114	11,111,5808	5,154,7336	406,7970	7,635,4828	3,509,8534	3,925,8294	199,8000	9,037,6286	7,601,7274	1,228,9042	206,9970
10 Total			2,044,7184	1,887,2376	157,4808	0	584,5391	486,0860	98,4531	0	1,460,1793	1,401,1516	59,0277	0
33 Total			2,8293	2,8293	0	0	0	0	0	0	2,8293	2,8293	0	0
42 Total			1,0256	1,0256	0	0	0	0	0	0	1,0256	1,0256	0	0
Unknown Total			267,5937	125,8637	141,7300	0	47,7110	34,0110	13,7000	0	219,8827	91,8527	128,0300	0
Grand Total			158,329,3685	130,046,1215	27,549,8140	733,4330	59,483,4801	37,110,9719	21,975,0022	397,5060	98,845,8884	92,935,1496	5,574,8118	335,9270
Official Total *			158,057,9199	129,916,4029	27,408,0840	733,4330	59,435,7691	37,076,9609	21,961,3022	397,5060	98,622,1508	92,839,4420	5,446,7818	335,9270

* Excluding Regions "33", "42", and "Unknown"

Responses from Ms. Weldon to QFRs-Attachment 1 FY12-FY14 Motorized Non-motorized NFST Miles.xlsx
FY 2013

Working/Draft Data (Infra Trails FY12 Year-End 9/30/2012)

Data Source & Status: Working/draft data for existing NFSTs pulled from Intra Trails. Agency-wide, Intra Trail data continues to undergo validation, correction and update to comply with national directives, inventory and reporting requirements.

Region	District	HFST Miles					Trail Type Not Specified	Motorized Miles				Trail Type Not Specified	Totals
		Total Miles	Standard/Terra Miles	Snow Miles	Water Miles	Total Miles		Standard/Terra Miles	Snow Miles	Water Miles			
Region 1	131 Total	28,156,0802	22,470,7490	5,681,3512	2,9900	0.9900	12,414,5596	7,471,3524	4,942,2172	0	0.9900	15,741,1206	
	202 Total	18,889,9482	15,811,6498	3,078,2984	0		7,050,4726	4,777,9138	2,272,5588	0		11,889,4758	
	203 Total	10,207,8988	9,851,9888	355,9100	0		1,315,9194	1,190,4894	125,4300	0		8,881,9794	
	204 Total	29,378,3889	25,932,5477	3,941,7912	4,0000		13,240,1730	9,991,9683	3,248,2047	0		16,138,1659	
	205 Total	15,356,0356	13,719,7692	1,636,2664	0		13,240,1730	9,991,9683	3,248,2047	0		10,633,8573	
	206 Total	25,434,4364	18,554,8002	6,876,2362	3,4000		10,359,7707	5,007,0183	5,352,7524	0		15,074,6657	
	208 Total	11,170,8320	10,875,5320	295,3000	0		1,918,6893	1,729,0163	189,6640	0		9,252,1517	
	209 Total	16,822,4089	11,231,7877	5,183,6242	406,9970		7,650,6178	3,542,1042	3,908,7136	199,8000		9,171,7911	
	210 Total	1,433,8694	1,286,2621	147,7073	0		572,1420	483,4624	88,6796	0		861,8274	
	231 Total	1,0256	1,0256	0	0		0	0	0	0		1,0256	
Unknown Total	261,5924	110,4843	151,1081	0		45,5730	31,8730	13,7000	0		216,0194		
Grand Total	157,115,7394	129,449,7694	26,592,2930	712,6870	0.9900	59,290,0867	37,496,6154	21,403,0713	389,4640	0.9900	97,825,6527		
Official Total *	156,849,3484	129,335,0865	26,801,1849	712,6870	0.9900	59,244,5137	37,454,7424	21,389,3173	389,4640	0.9900	97,605,4347		

* Excluding Regions "33", "42", and "Unknown"

Standard/Terra Miles	non-Motorized Miles		Trail Type Not Specified
	Snow Miles	Water Miles	
14,999.9966	739.1340	2.9900	0
11,035.7360	805.7396	0	0
8,661.4994	230.4800	0	0
15,540.5794	593.5865	4.0000	0
10,448.3519	185.5054	0	0
13,547.7819	1,523.4838	3.4000	0
9,146.5157	0	105.6360	0
7,689.6835	1,274.9106	207.1970	0
802.7997	59.0277	0	0
3.1730	0	0	0
1.0256	0	0	0
78.6113	137.4081	0	0
91,953.1540	5,549.2757	323.2230	0
91,970.3441	5,411.8676	323.2230	0

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**Responses from Mr. Jeff Crane to Questions for the Record
Submitted by Senator Lisa Murkowski**

Question 1: What is your view of the extent to which the BLM and the Forest Service must include hunting, fishing, and shooting activities, as appropriate, in their land management planning processes?

Federal land use planning is a complex and time consuming undertaking that often has a direct impact on the ability of the public to partake in hunting, recreational fishing and recreational target shooting.

With respect to the Bureau of Land Management (BLM), planning primarily takes place under the authority provided by Congress through the Federal Land Policy and Management Act (FLPMA) at 43 U.S. Code § 1712, expanded upon further at 43 C.F.R. §1601 – 1610.8. BLM also utilizes manuals and a series of handbooks that collectively constitute agency guidance for land use planning.

The Forest Service's land use planning activities generally occur under the authority provided by the Forest and Rangeland Renewable Resources Planning Act at 16 U.S. Code § 1600 – 1614 and the Multiple-Use Sustained-Yield Act at 16 U.S. Code § 528 – 531. Similar to BLM, Forest Service planning efforts are also guided by a series of regulations, manuals and handbooks that assist planners in developing management frameworks that impact resource use for extended periods of time (15 years).

While these statutes and regulations that guide the management of USFS and BLM lands recognize that recreation, in the broad sense, as a legitimate use of the public lands under their purview, many in the sportsmen's community feel that in practice, these agencies tend to spend a disproportionate amount of time planning for non-consumptive recreational activities, sometimes at the expense of planning for historic and traditional recreational activities such as hunting, angling and recreational target shooting. This is in spite of Executive Order 13443 *Facilitation of Hunting Heritage and Wildlife Conservation* (2007), that directs federal agencies, including the Departments of the Interior and Agriculture, to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat.

Lacking clear guidance to plan specifically for the management or promotion of hunting, angling or recreational shooting in statute or regulation, it is our observation that in many cases, BLM and Forest Service have done little in the way of altering their management respective management regimes to accommodate the spirit and intentions of Executive Order 13343. Although many federal lands remain open to hunting (and recreational

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fishing and target shooting) and there is nothing precluding BLM and Forest Service from planning to proactively accommodate or promote these activities, there is no requirement – either statutory or regulatory – for these agencies to consider the impacts that land use planning processes would have on them.

Absent statutory protections for hunting, angling and recreational shooting on BLM and Forest Service lands, our community, which represents hunters, shooters and anglers, would like to see these protections put into place for generations to come. Using an old adage, ‘an ounce of prevention is worth a pound of cure’, we clearly see a trend of more and more litigation by the anti-gun, anti-use and animal rights movements, and we support the idea of statutory protections that will allow management decisions to be made based on the needs of the public rather than simply to avoid the prospect of litigation.

Question 2: What is your understanding of the current requirements for BLM and the Forest Service to notify sportsmen's groups of closures? And how formal is that process? How has it worked?

In accordance with 36 C.F.R. §261.50, the U.S. Forest Service may issue orders that close or restrict the use of the National Forest System for discharging a firearm (§261.58 (m)) or hunting or fishing (§261.58 (v)). In doing so, the Forest Service is required to describe the area to which the order applies, specify the times which the prohibitions apply (if applied only during limited times), state the prohibitions being applied, and note any exemptions to the prohibition in any order that imposes them. The Forest Service is then required to place a copy of the order in the offices of the Forest Supervisor and District Ranger who maintain jurisdiction over the area in question. The Forest Service is also required to display each prohibition imposed by an order in such locations and manner as to reasonably bring the prohibition to the attention of the public.

BLM is subject to similar regulations (43 C.F.R. §8364.1) that allow authorized employees to issue an order to close or restrict use of designated public lands. BLM closure orders are required to: identify public lands, roads, trails or waterways that are closed to entry or use; specify the uses that are restricted; specify the period of time during which the closure or restriction shall apply; and identify persons who are exempt from the closure or restriction. Similar to the Forest Service, BLM is required to post closure orders in the BLM office with jurisdiction over the area at issue. However, BLM must also post the order at places near and/or within the area to which the closure or restriction applies, in such manner and location as is reasonable to bring prohibitions to the attention of users, include a statement on the reasons for the closure and publish closure notices in the Federal Register.

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In addition to issuing closure or restriction orders, both BLM and Forest Service are also authorized to pursue closures through the land use planning processes authorized in statute and further guided by regulations adopted by the Departments of the Interior and Agriculture respectively. These land use planning processes feature public participation and comment requirements, but do not require the agencies to notify the public of specific closures aside from publishing notifications about their broader planning efforts in the *Federal Register*.

During the March 12 hearing, witnesses testifying on behalf of the Forest Service and BLM repeatedly referenced the Federal Lands Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding. The purpose of the MOU is to develop and expand a framework of cooperation among 44 sportsmen's organizations and federal agencies (including BLM and the Forest Service) at the national, regional, and local levels for planning and implementing mutually beneficial projects and activities related to hunting, fishing, and shooting sports conducted on federal lands.

Amongst other commitments, the MOU states that the Forest Service and BLM have agreed to:

- *Assist in addressing national issues and facilitate cooperative relationships between local Agency contacts and the Private Organizations to resolve issues that arise regarding hunting, fishing, and shooting sports activities on federal lands.*
- *When sites used by shooting sports enthusiasts on federal lands are unsafe or in unsuitable locations (such as where urbanization or public pressures threaten a target range or hunting or shooting areas); are in need of environmental or trash cleanup; are not meeting best management practices; or are in need of maintenance, reconstruction, or modernization, work with the Private Organizations to resolve these issues in a mutually satisfactory manner and consistent with applicable laws, regulations, and Agency policies.*
- *Assist in the identification of areas where awareness and access are perceived to be inadequate for hunting, fishing, or shooting sports opportunities, consider potential solutions to improve awareness of and access to those areas or alternative areas, and work with the Private Organizations to improve access to these areas where appropriate.*
- *Strive to keep the Private Organizations apprised on a timely basis of changes in national policies, land management plans, or other factors that would impact*

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access or opportunities for hunting, fishing, and shooting sports activities on federal lands. The Agencies will:

- *Include the Private Organizations in public involvement lists for proposed projects and land management plan revisions and amendments that would impact access or opportunities for hunting, fishing, and shooting sports activities on federal lands.*
- *Annually provide to the Private Organizations a list of existing and planned target ranges on federal lands and a list of target ranges that have been closed or modified on federal lands in the last fiscal year.*

While we appreciate BLM's and the Forest Service's willingness to enter into this agreement with members of the sportsmen's community, our observation is that the agencies have not adequately followed through on the commitments outlined above since the MOU's adoption. Furthermore, it should be noted that the MOU has no legal standing and specifically states that the agreement does not create any substantive or procedural right that is enforceable at law or equity against the United States or its officers, agents, or employees.

Although the MOU has been successful in facilitating the dialogue necessary to address a limited number of public land conflicts and issues, we have found that its provisions have done little in the way of promoting the partnership envisioned in the MOU to mutually address issues in a manner that would prevent closures from occurring and to mutually address opportunities for enhancing these activities on federal lands.. Consequently and as a result of the MOU's lack of enforceability, it is our belief that hunters, anglers and recreational shooters would stand to benefit greatly from additional statutory safeguards and requirements such as those proposed in Section 105 of S. 405 and Section 101 of S. 556.

Question 3: The bill as currently drafted makes reference to recreational fishing and shooting but does not use the term recreational in connection with hunting. Why is that?

During the early years of our nation there were few game laws or regulations in place that limited harvest. Market hunting - whereby individuals were able to make a profit from the sale of animals they shot - was rampant. As a result, the American bison was nearly extirpated from the landscape during the 19th and early 20th centuries. Similarly, deer, trumpeter swans, wood ducks, and many other species have all experienced periods in which over-hunting or market gunning led to the collapse, and near extinction in some cases, of populations throughout much of their historical range.

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The result of this period of unregulated market hunting was that many species throughout the nation were either extirpated or threatened with extinction. Eventually, game managers and hunters alike began to realize that this type of harvest was not sustainable and some form of regulation would be necessary to protect the resource and to ensure future use. This awareness led to banning the practice of market hunting and the creation of the first wildlife management agencies at the state level in the late 19th and early 20th centuries.

The resulting North American Model of Wildlife Conservation – the guiding principles of fish and wildlife management in the United States for the past century – holds a prohibition on the commerce of dead wildlife and their parts as one of its seven tenets. Consequently, hunting in the United States and throughout North America is strictly a recreational pastime and there is no commercial element to the activity. This stands in contrast to fishing where there are two distinct segments: recreational, in which individuals pursue the taking of fish species for sport; and commercial, in which individuals or commercial interests pursue aquatic species for sale through market dynamics in pursuit of financial gain.

Question 4: Is it your view that under this legislation, hunting, fishing and shooting would remain equal to other activities on public lands?

Yes. The legislation specifically states that nothing in Section 105 of S. 405 or Section 101 of S. 556 requires a Federal agency to give preference to recreational fishing, hunting, or recreational shooting over other uses of Federal public land or over land or water management priorities established by other Federal law.

Question 5: Can you give us examples of where closures have occurred or are being considered?

- BLM - Prehistoric Trackways National Monument (NM) Resource Management Plan / Final Environmental Impact Statement
 - Recreational Shooting Closure
 - http://www.blm.gov/style/medialib/blm/nm/field_offices/las_cruces/las_cruces_planning/trackways_rmp.Par.57736.File.dat/Prehistoric_Trackways_NM_Final_EIS.pdf
 - **See attached protest letter signed by the Archery Trade Association, Boone and Crockett Club, Campfire Club of America, Catch-A-Dream Foundation, Congressional Sportsmen's Foundation, Masters of Foxhounds Association, National Rifle Association, National Shooting

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Sports Foundation, North American Bear Foundation, Orion – the Hunter's Institute, Pope and Young Club, Rocky Mountain Elk Foundation, Wildlife Forever and the Wildlife Management Institute.**

- U.S. Forest Service – Arapaho and Roosevelt National Forests (CO)
 - Suggested recreational shooting closure
 - **See attached letter signed by members of the Federal Lands Hunting, Fishing and Shooting Sports Roundtable including: Boone and Crockett Club, Campfire Club of America, Catch-A-Dream Foundation, Congressional Sportsmen's Foundation, Dallas Safari Club, Delta Waterfowl Foundation, International Hunter Education Association, Masters of Foxhounds Association, National Rifle Association, National Shooting Sports Foundation, Orion - The Hunter's Institute, Pheasants Forever, Pope and Young Club, Quail Forever, Quality Deer Management Association, Theodore Roosevelt Conservation Partnership, U.S. Sportsmen's Alliance, Whitetails Unlimited, Inc., Wild Sheep Foundation, Wildlife Forever and the Wildlife Management Institute**

- U.S. Forest Service – Coconino National Forest (AZ)
 - Travel management restrictions impacting hunting
 - Proposed recreational shooting closures
 - http://a123.g.akamai.net/7/123/11558/abc123/forestservic.download.akamai.com/11558/www/nepa/69549_FSPLT3_1463838.pdf
 - **See attached letter from the Arizona Game and Fish Department expressing concerns with Coconino National Forest draft revised Land and Resource Management Plan (LRMP) and draft Environmental Impact Statement (DEIS)**

- BLM – Agua Fria National Monument (AZ)
 - Resource Management Plan completely restricted recreational shooting
 - <https://www.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=4507&dctmId=0b0003e8800dec12>
 - ** See attached letter from the Arizona Game & Fish Department expressing concern with the recreational restrictions proposed in the Resource Management Plan, dated April 5, 2006**
 - **See attached letter from the Arizona Game & Fish Department expressing concern with the recreational restrictions proposed in the Resource Management Plan, dated June 11, 2007**

- BLM – Ironwood Forest National Monument (AZ)

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- Resource Management Plan completely restricted recreational shooting
- <http://www.blm.gov/az/st/en/prog/planning/ironwood/reports.html#rod>
- **See attached protest letter from the Arizona Game and Fish Department, dated October 24, 2011**
- **See attached protest letter from the NRA dated, October 24, 2011**
- BLM – Sonoran Desert National Monument (AZ)
 - Proposed recreational shooting closures throughout the monument
 - ** See attached letter 'Possible Closure of the Sonoran Desert National Monument to Recreational Shooting' from the WHHCC, dated April 27, 2012. **
 - ** See attached letter from the WHHCC to BLM Director Bob Abbey providing recommendations for evaluating recreational shooting and maintaining access on the Sonoran Desert National Monument, dated May 14, 2012**
 - ** See attached letter from the WHHCC to BLM Deputy Director Mike Pool expressing the Council's desire to work with BLM to maintain recreational shooting opportunity on the Sonoran Desert National Monument, dated July 16, 2012**
 - ** See attached letter from the WHHCC to Interior Secretary Ken Salazar expressing the Council's appreciation for maintaining recreational shooting access in the Sonoran Desert National Monument Approved Resource Management Plan, dated November 6, 2012**
 - ** See attached letter 'Pilot Project Facilitating Recreational Shooting Access and Responsible Behaviors on the Sonoran Desert National Monument and Surrounding Public Lands' from the WHHCC to Interior Secretary Sally Jewell and Agriculture Secretary Tom Vilsack, dated August 29, 2013**

Question 6: Regarding issues with filming on public lands, I share your views on not charging fees to individuals or small groups as well as your concerns regarding the definition of "commercial." Can you give me some examples how your members would benefit from these changes?

Because of the inconsistency and uncertainty of permitting for these small film crews, developing language delineating commercial and journalism productions would make the process of obtaining a permit clearer and easier. More so, the provision should offer permit and fee exemptions for working journalists, or news-gathering persons, with press credentials who are filming on public lands for public awareness and information. Much of the time, these journalists are filming on public lands for non-profit organization materials that promote the natural, historic and recreational values on our public lands.

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By generalizing film crews of journalists who are disseminating information about the public lands, which are conserved through public dollars, with television advertising and feature film crews' work, these regulations could infringe on First Amendment rights.

Definitions of journalism should include: breaking news, b-roll films, feature news, news documentaries, long-form pieces, background, blogs, and other output that could be considered news-gathering or reporting for the purpose of public information. Permit exemptions should be given to film crews within the definition language, and consistently interpreted by federal and state agencies.

This would also benefit users of our public lands by increasing visitation and support for our public lands. By removing the permit and fee for small non-commercial film crews, it would making filming for the purpose of public information easier, and correct for issues such as: weather conditions, available fishing and hunting opportunities, and movement from area to area within a region, all which vary day to day.

Question 7: You reference ANILCA and the Refuge Act of 1997 as examples of what is working. You are not suggesting that we rewrite our bill to reflect one or both of those are you

The reference to ANILCA in my testimony is specific only to the provision that mandates "open to fishing and hunting subject to closures/restrictions". It was included in testimony with reference to the National Wildlife Refuge Improvement Act, which statutorily designates wildlife-dependent outdoor recreation, including hunting and fishing, as priority public uses of the refuge system, to demonstrate that this concept is not new, and where utilized has been largely beneficial and successful.

Question 8: How are the filming rules and procedures impacting sportsmen's activities and related filming and photography?

Because the current rules and procedures in place are inconsistent and unclear throughout the country, it can make it extremely challenging and expensive to obtain a permit for even the smallest film crews. This has halted the development of many hunting and angling small films because many of these small crews have a small filming budget, and the fees may exceed their budgets. Even if these film crews can afford the fees, obtaining a permit is challenging in itself because of the unclear and lengthy procedures at the state and local level.

In many cases, crews cannot complete their public lands filming projects because permits are so specific and time sensitive and conditions such as weather, scheduling logistics, fish and wildlife opportunities impede on the film-making.

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These barriers lead to limited public information and awareness on public lands and conservation resources that would be more abundant if permitting and regulations were simpler and clearer and if exceptions to permitting were given to the media.

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**Response from Mr. Jeff Crane to the Question for the Record
Submitted by Senator John Barrasso**

Question: The current Sportsmen's Act and previous versions of the bill include language codifying protection for individuals crossing National Park units with secured archery equipment in their vehicles. As you are aware, firearms already have a similar protection in federal law. My colleague, Senator Enzi, worked on the archery language with the Chair and others to ensure those driving through a National Park unit have the same protections as those who are lawfully transporting firearms.

Do you agree it's important for sportsmen and those traveling to recreational or competitive archery events to have this same protection?

Yes, we strongly support legislative efforts to clarify that archery equipment can be legally transported through units managed by the National Park Service (NPS).

In addition to clarifying that bows can be legally transported through NPS units while stored in vehicles, we would also suggest that the Committee consider strengthening Section 104 of S. 556 and Section 109 of S. 405 by including language that would allow archery hunters to transport uncased bows through NPS units in order to access other federal lands that are open to hunting.

As an example of how these additional provisions would benefit archery hunters, one can look to the situation in and around Dinosaur National Monument, an NPS-managed unit that is surrounded by BLM land that is both open to hunting and highly valued by hunters due to its prime elk and mule deer habitat.

With the sections of U.S. Highway 40 (Dinosaur National Monument Highway) running through Dinosaur National Monument in a remote section of the West, it is extremely difficult or impossible to access certain parcels of BLM land without setting foot on NPS-managed lands. As a result, hunters are unable to access the public resources on these parcels from the limited number of legal parking areas or campgrounds simply because they happen to be on or next to land managed by one federal agency rather than another.

For example, legal parking areas exist on BLM lands on the east side of the Dinosaur National Monument Highway at an abandoned gravel pit located at T4N R103W Sec. 14 and at a BLM road leaving the Dinosaur National Monument Highway at T4N R103W Sec. 20. The highway blocks hunter access with bow and arrow to huntable lands across the highway to the west. Other examples are at a NPS picnic area at T4N R103W Sec. 20 and at Escalante Overlook, T4N R103W Sec. 10 where legal parking exists on NPS property but it would be illegal to remove a bow and arrow from a car to cross the fence to legally huntable lands.

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**Response from Mr. Jeff Crane to the Question for the Record
Submitted by Senator Jeff Flake**

Question: During the hearing you testified that monument designations in Arizona have significantly limited hunting and recreational opportunities. Please describe the nature and extent of those restrictions?

Agua Fria National Monument

On January 11, 2001, 70,900 acres managed by the Bureau of Land Management was designated as the Agua Fria National Monument via Presidential proclamation under the authority of the Antiquities Act. The proclamation included the following language with respect to hunting:

Grazing, hunting and other similar uses will generally not be affected except where (1) the BLM, through processes required by existing law, identifies places where such uses ought to be restricted or prohibited as necessary to protect the federal lands and resources, including the objects protected by the monument designation; or (2) where the BLM land manager finds a clear threat from such a use to the federal lands and resources including the objects protected by the monument designation and the circumstances call for swift protective action. Such uses will, of course, remain subject to applicable laws and regulations, and will therefore remain subject to regulation and limitation under such provisions for reasons other than establishment of the monument.

Although there are currently no restrictions on hunting or fishing in the monument, recreational shooting on all 70,900 acres was prohibited upon BLM's announcement of a Record of Decision adopting the Agua Fria National Monument Resource Management Plan on April 22, 2010.

** See attached letter from the Arizona Game & Fish Department expressing concern with the recreational restrictions proposed in the Resource Management Plan, dated April 5, 2006**

See attached letter from the Arizona Game & Fish Department expressing concern with the recreational restrictions proposed in the Resource Management Plan, dated June 11, 2007

Ironwood Forest National Monument

On January 9, 2000, 129,000 acres were designated as the Ironwood Forest National Monument via Presidential proclamation under the authority of the Antiquities Act. The proclamation included no language referencing the continuation of hunting, recreational fishing or recreational shooting. BLM subsequently initiated the planning process intended to formulate a Resource Management Plan which would ultimately guide land and resource use in the designated area for years to come. Throughout this process, it

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became clear that BLM was intent on limiting recreational opportunity, particularly with respect to recreational shooting.

On October 24, 2011, the Arizona Game and Fish Department filed a protest with BLM expressing concerns related to the federal agency's Proposed Resource Management Plan and Final Environmental Impact Statement for the Ironwood Forest National Monument. Among the concerns expressed by the state fish and wildlife agency was that BLM failed to adequately analyze or address the potential impacts to the Game and Fish Department's statutory responsibilities. Specifically, Arizona Game and Fish stated that BLM failed to analyze the impact that closing the Ironwood Forest to recreational shooting would have on hunter recruitment or retention, as many hunters learn to shoot and hone their skills via dispersed shooting on public land.

Despite the issues raised by Arizona Game and Fish, recreational shooting on Ironwood Forest National Monument was formally prohibited upon issuance of a Record of Decision announcing the adoption of an Approved Resource Management Plan in February, 2013.

****See attached protest letter from the Arizona Game and Fish Department, dated October 24, 2011****

****See attached protest letter from the National Rifle Association, dated October 24, 2011****

Sonoran Desert National Monument

On January 17, 2001, 487,000 acres of BLM land was designated as the Sonoran Desert National Monument (SDNM) via Presidential proclamation under the authority of the Antiquities Act. The proclamation included no language referencing the continuation of hunting, recreational fishing or recreational shooting. BLM subsequently initiated the planning process intended to formulate a Resource Management Plan that would ultimately guide land and resource use in the designated area for years to come.

During this planning process, the Wildlife and Hunting Heritage Conservation Council (WHHCC), an official advisory council established under the Federal Advisory Committee Act intended to advise the Secretary of the Interior and the Secretary of Agriculture on recreational hunting and wildlife resource issues, was made aware of proposed recreational shooting closures throughout the entire footprint of the Monument. In response to the proposed closure, several members of the WHHCC joined Arizona Game and Fish Director Larry Voyles in visiting the SDNM to meet with BLM officials and gather information to evaluate the closure proposed by BLM.

Following the WHHCC's visit, Council Members noted that there are a multitude of areas in the SDNM that can accommodate both dispersed and concentrated recreational shooting while promoting safety and preservation of the Monument's resources. The Council also noted that throughout the planning process, it had become clear that BLM was more than willing to accommodate other recreational uses of the SDNM through

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infrastructure improvements and detailed planning activities to promote alternate uses of the landscape, but not for recreational shooting.

The WHHCC then followed up with several letters to BLM and Interior Department officials to offer the Council's assistance with BLM's evaluation of and planning for issues related to shooting on the SDNM.

In September, 2012, BLM issued a Record of Decision and Approved Resource Management Plan for the SDNM. Fortunately, and thanks in large part to the WHHCC's engagement with BLM, the plan did not include any recreational shooting closures for the SDNM. However, the amount of time, energy and resources necessary to secure this outcome placed a substantial burden on the sportsmen's community and it should be noted that most Federal Advisory Committees, such as the WHHCC, lack the capacity necessary to engage in recreational planning at this level on a continual basis.

****See attached letter 'Possible Closure of the Sonoran Desert National Monument to Recreational Shooting' from the WHHCC, dated April 27, 2012.****

****See attached letter from the WHHCC to BLM Director Bob Abbey providing recommendations for evaluating recreational shooting and maintaining access on the Sonoran Desert National Monument, dated May 14, 2012****

****See attached letter from the WHHCC to BLM Deputy Director Mike Pool expressing the Council's desire to work with BLM to maintain recreational shooting opportunity on the Sonoran Desert National Monument, dated July 16, 2012****

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****See attached letter 'Pilot Project Facilitating Recreational Shooting Access and Responsible Behaviors on the Sonoran Desert National Monument and Surrounding Public Lands' from the WHHCC to Interior Secretary Sally Jewell and Agriculture Secretary Tom Vilsack, dated August 29, 2013****



THE STATE OF ARIZONA
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April 5, 2006

Clay Templin
 Field Manager
 Hassayampa Field Office
 Bureau of Land Management
 21605 N. 7th Avenue
 Phoenix, AZ 85027-2099

Re: Comments: Agua Fria National Monument and Bradshaw-Harquahala Draft Resource Management Plan/Environmental Impact Statement

Dear Mr. Templin:

The Arizona Game and Fish Department (Department) reviewed the Draft Resource Management Plan/Environmental Impact Statement (RMP) for the Agua Fria-Bradshaw/Harquahala Planning Area (AFBH). The Hassayampa Field Office manages large areas of high quality fish and wildlife habitats. Managing for healthy habitats and providing the Department the opportunity to proactively manage fish and wildlife populations on lands managed by the Field Office are essential to the Department in fulfilling its public trust responsibilities to manage fish and wildlife for the benefit of current and future generations.

The Department appreciates the difficulty in developing an RMP and finds this draft to be an improvement over previous AFBH RMP administrative drafts. The Department also appreciates the ability to participate in the development of this RMP as a Cooperating Agency and has attached page-specific comments to further improve and clarify the preferred alternative. In addition, the Department believes the clarification and resolution of the following overarching concerns are imperative in providing the public a clear and comprehensive document.

There are currently 96,820 acres of congressionally designated wilderness in the planning area providing opportunities for non-motorized primitive recreation and solitude. The AFBH RMP is proposing to more than triple the number of acres to be managed for solitude, allocating 232,120 acres as Managing for Wilderness Characteristics (MWC), Outstanding Natural Areas (ONA), and Recreation Management Zones (RMZ). The definition of solitude states, "*the sights, sounds and evidence of other humans are rare or infrequent*", having the potential to significantly restrict the number of users and/or uses allowed in these areas. Without a clear and concise



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explanation of how BLM intends to manage these allocations, the Department cannot support the large areas proposed for non-motorized primitive recreation and solitude.

Furthermore, 240,380 acres in areas allocated as MWC, ONA, RMZ, and Back Country will be predominately managed for primitive or semi-primitive non-motorized recreation. An additional 145,665 acres will be intensely managed for recreation opportunities, such as OHV or equestrian. This leaves only 453,115 acres (48%) without wilderness-type recreation or intensive recreation management prescriptions in the planning area, some of which are not suitable for wildlife-dependent recreation. In the Department's experience, the majority of people pursuing wildlife-dependent recreation on public lands prefer easily accessible areas away from crowds and developed facilities. The Department believes this plan is not meeting the needs of the majority of public land users, instead providing for wilderness-type recreation on a greater scale than required. This proportion of wilderness-type allocations is greater than that preferred by Congress in the Arizona Desert Wilderness Act of 1992; therefore, the Department believes it is inappropriate to manage such a large percent of public lands for a small percent of recreational users in the absence of data showing a demand for solitude and primitive recreation that is not currently being met by existing designated wilderness.

Initially, the Department identified the Harquahala Mountains as crucial wildlife habitat, having a unique "sky island" vegetation community. The Department supported the designation of an Area of Critical Environmental Concern (ACEC) for the Harquahala Mountains to better manage these resources. The importance of the biological and cultural resources in the proposed Harquahala ACEC is reflected in the relevance and importance section of the ACEC proposal. However, the ACEC is identified as an ONA, which is to be managed primarily for recreational and educational purposes. The Department believes because the original proposal was based on biological and cultural resources, as reflected in the relevance and importance statements, the area should be identified as a Biological ACEC with management emphasis specific to those resources and not as an ONA with an emphasis on recreation. Further, the Department believes a management emphasis on recreation in this area is inconsistent with the Department's bighorn sheep management plans and is thus not in compliance with Section 202 (c)(9).

The Department is concerned with the number of inconsistencies between Chapter 2 and the impact analysis in Table 2-8 and Chapter 4. The Department identified some of these inconsistencies in the attached table labeled "Inconsistencies". These inconsistencies make it difficult to determine what the proposed management prescriptions actually are and/or result in the impact analysis being incorrect.

An area of particular concern is within the discussions of route designations. Chapter 2 (common to all alternatives section 2.7.3.8 and corresponding Transportation and Public Access sections for each alternative) states specific routes will be designated as opened, closed or limited in a formal and public evaluation process (Travel and Transportation Management Plan) occurring within five years after the RMP is finalized. However, in the Transportation and Public Access section for each Management Unit in the Bradshaw-Harquahala Planning Area (BHPA), it states, "...Unit would be allocated as a limited use area, with motorized and

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mechanized vehicle uses limited to designated routes (Map 2-16).” Map 2-16 only shows areas designated as open, closed or limited, not inventoried routes. This implies there will be no routes designated as open. We believe this statement should read “...Unit would be allocated as a limited use area (Map 2-16) with motorized vehicle uses limited to inventoried routes (Map 3- 21 to Map 3-26 as appropriate).” We believe that throughout the document (within the BHPA) when references are made to limiting vehicles to “designated” routes, the word designated should be removed and replaced with “inventoried”. It is our understanding the route designation process will occur during the Travel and Transportation Management Plan, and at this time vehicles will only be limited to *inventoried* routes within the BHPA.

In addition, as noted on the errata sheet, the designated routes in the MWCs were omitted from Map 2-86, which purports to show routes proposed to be open. The errata sheet does not include a “corrected” map; therefore, we must assume no decisions on route designations/closures are being made in this document for the BHPA. However, statements from the impact analysis (outlined in the attached table labeled “route closures”) either discuss specific route closure mileage or make vague statements referencing closures or the impacts from closures. The Department believes it is inappropriate (pre-decisional) to make statements about route closures or analyze potential impacts from route closures for the BHPA as these decisions will be made at a later date through a separate transportation planning process. We further believe if the statements about route closures are not removed from this document, these statements could result in routes being closed during the route evaluation/designation process in order to be consistent with these statements and requirements of the National Environmental Policy Act (NEPA) and not the result of a resource-based evaluation process.

The Department believes if inconsistencies between the preferred alternative and the impacts analysis, as well as the issues identified in the attachment are not clarified, this document will not be in compliance with the requirements and spirit of NEPA for impact analysis and full disclosure in a manner understandable by the public. The future management of public lands is of significant interest to the public and the State of Arizona. Therefore, the Department believes it would best serve the public interest to clarify the inconsistencies and clearly disclose which management actions are truly being proposed, along with an appropriate analysis of impacts, in a new draft document for public review.

Also of concern to the Department is the land use allocation to maintain or enhance wilderness characteristics. Management Common to All Alternatives, (Section 2.7.1.6, pg. 223) states, “*This land use allocation will be managed consistently with the direction in the referenced IM*”. The referenced Instruction Memoranda (IM) provides national guidance on considering wilderness characteristics in the land use planning process. The IM states, “*Lands with wilderness characteristics may be managed to protect and/or preserve some or all of these characteristics.*” The word “enhanced” is not used in the national IM. The Department believes there is a significant difference between managing to protect and preserve, and managing to enhance. The Desired Future Conditions (DFCs) and management prescriptions to enhance wilderness characteristics are outside of the scope of the national IM guidance and policy. Therefore, we believe managing to enhance wilderness characteristics is inconsistent

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with national policy and all references to enhancing wilderness characteristics should be removed from the document. Land use allocations would be more appropriately named "to preserve and protect existing wilderness characteristics".

Further, the Department reviewed the *Wilderness Review Arizona: Intensive Inventory of Public Lands Administered by the Bureau of Land Management* (Proposal Report, May 1980 and Decision Report, November 1980) and the *Final Environmental Impact Statement for the Proposed Wilderness for the Upper Sonoran Desert, August 1987, 8500-023*. According to these documents, the areas currently being proposed to maintain or enhance wilderness characteristics were evaluated and they did not have sufficient wilderness values to be in a Wilderness Study Area, did not have sufficient wilderness values to be evaluated for inclusion in the intensive inventory, or did not wholly or partially meet the standards established in the Wilderness Act and therefore were not proposed to be designated as wilderness. The Department believes it is inappropriate to establish DFCs and management/administrative actions to manage these areas at wilderness standards, near wilderness standards, or to enhance the existing wilderness characteristics in areas previously determined not to have outstanding wilderness values in the above-referenced documents.

On a statewide level, the Department continues to be concerned with the lack of national or state guidance and/or policy from the Department of Interior on implementing the new recreation market-based format and/or the Recreation Opportunity Spectrum (ROS), yet these concepts are being used either separately or concurrently in the same plan and across planning areas. Similarly, we are concerned with the lack of more specific guidance from the State or Washington Offices on managing areas with wilderness characteristics. Without guidance or policy that includes how decisions will be made or should be implemented, it is uncertain as to how recreation markets, ROS, and areas with wilderness characteristics will be specifically managed. Thus, we are unable to assess the impacts to fish and wildlife, their habitats, and the Department's ability to manage wildlife and wildlife-dependent recreation. We believe these uncertainties will create situations where managers can interpret decisions differently, creating inconsistencies in management and coordination, ultimately impacting the Department's mission and authorities across the state. The Department recommends careful consideration be taken when applying allocations where no overarching direction is available and that specific language be included within the plan to clarify how the associated decisions should be implemented and/or how they may affect other resources or uses. The Department further recommends the impact analysis consider the full range of implementation decisions possible in the absence of guidance and policy.

Also on a statewide level, the Department is concerned about the unavoidable complexity of an RMP that must meet objectives to manage for multiple resources and uses within the field office planning area for up to 20 years. Although the plan should ensure the resolution of any conflict within the preferred alternative, the complex nature of managing multiple resources in concert can create perceived or real conflicts between Desired Future Conditions or management prescriptions for different uses, resources, or user groups. The Department is concerned several resources and/or uses may inherently conflict, and the proactive and timely management of fish

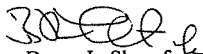
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and wildlife could suffer as a consequence. The Department and the BLM Arizona State office have decided to address this issue through the revision of the Department's and BLM's master statewide Memorandum of Understanding (MOU). This MOU, when finalized, will provide context to better enable our respective agencies to work in partnership and to make decisions in a consistent manner statewide. Additionally, the MOU will provide direction on the management of fish and wildlife, and associated habitats, based on the resource decisions housed within the RMP. However, we expect it may take time to finalize revisions and obtain necessary signatures; therefore, we request language be added to the RMP that reinforces our mutual commitment to cooperate and collaborate in the proactive management of fish and wildlife and their habitats, for all management prescriptions, and for all land designations/allocations. We believe this language should read:

"Activities conducted by the Arizona Game and Fish Department to meet Trust Responsibilities to manage wildlife are recognized by BLM as consistent with decisions proposed in this RMP. The Arizona Game and Fish Department's ability to manage wildlife on lands administered by BLM in Arizona will not be diminished or precluded during the life of the plan, based solely on singular or overlapping allocations, designations, and/or management prescriptions (such as those to manage for wilderness characteristics, visual resources, or primitive recreation). All implementation level plans and site-specific projects will continue to be evaluated through appropriate partnerships and through federal and state regulations. This RMP will reflect and support the spirit and intent of the statewide Memorandum of Understanding between BLM and AGFD."

Thank you again for the efforts by your staff in developing this RMP. The Department looks forward to continued collaboration with the Field Office in refining and implementing the RMP. To that end, we believe that it would be beneficial to meet and discuss our concerns. Please coordinate a meeting with Bill Knowles at 928-341-4047.

Sincerely,


 Duane L. Shroufe
 Director

DLS:bk

cc Bob Broscheid, Habitat Branch Chief
 Larry Voyles, Regional Supervisor, Region IV
 Rod Lucas, Regional Supervisor, Region VI
 Laura Canaca, Land and Resource Planning Coordinator

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Page Specific Comments

Section	Page	Statement	Comment
	s-xiii, Biological Resources	The most sensitive wildlife species...	The Biological Resources section should contain more emphasis on wildlife in general. At a minimum this section should include game species and the State's Special Status Species.
Executive Summary	s-xviii, Impacts on Transportation and Public Access	...route modeling developed to simulate route decisions...	We do not believe that it is appropriate to predict how many miles of routes may be closed under the various alternatives. This could be considered pre-decisional to the Transportation Plan.
1.5.2	29, column 1, paragraph 1	...sense of solitude within this planning area.	People who use public lands to escape the urban environment do so for a variety of reasons, of which solitude is one. The statement implies that solitude is the paramount reason and by extension a wilderness experience. The Department does not believe this is an accurate assessment.
1.5.2.1	29, column 1, 3rd bullet	...as well as maintaining and restoring wildlife habitats.	Statement implies that wildlife is secondary to recreation. We believe this is contrary to FLPMA and that wildlife and recreation should be considered equally.
1.5.2.1	29, column 2, 5th bullet	Sustain a diversity of recreation benefits and opportunities...	Plan does not achieve an appropriate balance related to this goal with emphasis on either wilderness or intense facility-oriented recreation.
2.6.1.6	165, column 1, paragraph 2	Evaluate non-motorized trails between Bull Tank and Baby Canyon, between Badger Springs/Agua Fria Confluence and Pueblo Pato, and in other areas if needed, to enhance resource protection by encouraging or requiring visitors to use designated routes.	This management action would severely limit hunting and other wildlife-dependent recreation if applied. The Department does not support this type of management action and suggests removing the word 'requiring' from this sentence.
2.6.1.7	165, column 1, 1 st and 2 nd bullets	Lands allocated to maintain or to enhance wilderness characteristics (37,560 acres) to Class II objectives, Remaining Back Country Recreation Management Zone and the Passage RMZ to Class II objectives (20,900 acres)	The numbers of acres for these two areas do not match acreages within the rest of the document. It looks like the acreages need to be switched.

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2.6.2.1.4	170, column 2, 1st paragraph	Develop comprehensive Travel and Transportation Management Plans...	It would be good to also state this plan will be completed within 5 years.
	180		The Morgan City Wash route (Map 2-90) has the potential to become an issue as it relates to the adjacent Hells Canyon Wilderness Characteristic designation. Although the EIS states on pg. 180, 3 rd paragraph under <i>Utility & Transportation Corridors</i> , that BLM will pursue public access, the language under <i>Management Actions for Wilderness Characteristics</i> could prevent resolution. This particular road provides the only access for a significant area that is highly recreated by Department constituents. The area wildlife manager has raised concerns with this particular situation and the potential conflicts down the road. An additional review of this particular issue may be worth recommendation.
2.6.2.2.2.9	186, column 2, 2nd paragraph	...Routes identified as reclaimed would be closed...	How are roads identified/defined as reclaimed?
2.6.2.2.2.9	186, column 2, 3 rd and 7 th paragraphs	...limit motorized vehicle use to designated routes, as shown on Map 2-84. and Designation of a route network as shown on Map 2-84...	We believe reference to this map needs to be changed to Map 3-21, which shows the inventoried routes for this area. Map 2-84 does not show the inventoried routes so the statements and references to Map 2-84 would close all inventoried routes.
2.6.2.2.3.5	192, column 1. bulleted list		Could Suggest adding a bullet for conserving wildlife.
2.6.2.2.4.1	Page 198 and 200	Harquahala and Black Butte ONA's	Based on the definitions of ACEC types on page 35 these, ONA's should be classified as Biological/Cultural ACEC's.
2.6.2.2.4.1	198, column 2, 2 nd paragraph		We do not believe this is an appropriate desired future condition for this ACEC.
2.6.2.2.4.2	201 column 1st bullet	Shift the CAP corridor to the north...	This statement is not clear, it appears to mean will expand corridor 1 mile north. If so this will put corridor in desert tortoise category 1 and 2 habitats.
2.6.2.2.4.6	202, column 2 last paragraph	Ensure...solitude	What is meant by ensuring solitude? How is this defined and how will it be implemented? This could put severe recreational restrictions on large areas of public lands. The Department believes the document should state there will be <i>opportunities</i> for solitude and primitive recreation in these areas.
2.6.2.2.4.6	203, column 1, 2 nd paragraph	Routes proposed to be designated as open are shown on Map 2-86. (This statement occurs in several others places)	All references to routes on Map 2-86 should be removed unless the map is presented with all inventoried routes . This correction needs to be made throughout the document.

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2.6.2.2.4.6	203, column 1, 3 rd paragraph	...semi-primitive non-motorized	We are concerned about the lack of guidance on this and the potential impact it could have on wildlife management and wildlife-dependent recreation.
2.7.1.4	214, column 2, 3 rd paragraph	Desert tortoise habitat would be managed according to the categories shown on Map 2-92.	Map 2-92 does not show tortoise habitat as stated.
2.7.1.4	216, column 1, 3 rd paragraph	Species that may be reintroduced, transplanted, or augmented include pronghorn; desert bighorn sheep; mule deer; desert tortoise; beavers; lowland leopard frogs; Mexican garter snakes; and native fishes like spikedeace....	Reword to state: Species that may be reintroduced, transplanted, or augmented include <i>but aren't limited to</i> : pronghorn; desert bighorn sheep; mule deer; desert tortoise; beavers; lowland leopard frogs; Mexican garter snakes; and native fishes like spikedeace,...
2.7.1.4	217, column 1 3 rd paragraph	Stream bank alteration...would be limited to 25 percent annually	This could result in nearly all of the stream banks being altered in just a few years.
2.7.1.4	220, column 1, 6 th paragraph	These types of wildlife releases are not intended to establish new populations.	The Department may want to establish new populations in order to manage wildlife. This restriction needs to be removed.
2.7.1.4	220, column 1, 6 th paragraph	Wildlife species that could be released include black bears; mountain lions; burrowing owls...	Reword to state: Wildlife species that could be released include <i>but aren't limited to</i> : black bears; mountain lions; burrowing owls...
2.7.1.5	221, column 2, bulleted list		Add rerouting routes
2.7.1.6	223, column 2, 1 st paragraph	...through non-motorized and non-mechanical means...Non-motorized conveyances...	This needs to be clarified that non-motorized and non-mechanized only pertains to human conveyances (excluding wheelchairs). Also need to specifically state that wheeled game carriers will be allowed. This would be consistent with language on page 261.
2.7.1.6	223, 2nd column 1 st paragraph	Motorized use that does not degrade resources...	This is vague, need to define resources, this document discussed biological, cultural, mineral, all FLPMA resources. DFC is in conjunction with wilderness, which is not a FLPMA resource.
2.7.1.6	223, column 2, last bullet	Maintain low interaction among users	Statement needs to be clarified/defined. This could mean many different things and could result in severe restrictions on access.
2.7.1.6	224, column 1, 1 st bullet	Reveal minimum evidence of other visitors	This needs to be reworded. Reveal is an action causing or allowing something to be observed. This statement suggests BLM will point out minimum evidence of other visitors. What constitutes minimum evidence?
2.7.1.6	224, column 1, 2 nd bullet	Provide a high probability...	We recommend changing this wording to: Provide opportunities for experiencing...
2.7.1.6	224, column 1, 2 nd	...except the minimum	Change protect to manage

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	paragraph	needed to protect resources	
2.7.1.6	224, column 1, 2nd paragraph	Motorized vehicle routes ... would be designated in the RMP...	Statement should read: ... would be designated in the Travel and Transportation Management Plan.
2.7.1.6	224, column 2, 2nd paragraph	Discretionary surface-disturbing activities...	Need to clarify this statement. Almost any activity can disturb the surface.
2.7.1.6	224, column 2, last paragraph extending to page 225	BLM will coordinate with AGFD to...	Need to change wording to: ...BLM will coordinate with AGFD to allow access for hunters with valid hunting licenses
2.7.2.7	238, column 2, Collection of Natural Resources	Collecting all natural organic and natural inorganic materials (except for trash and litter) within the monument would be prohibited except for scientific, research and other pre-approved purposes by obtaining written approval from the field office manager or the monument's manager.	Add: <i>legally harvested wildlife</i> to read: 'Collecting all natural organic and natural inorganic materials (except for <i>fish and wildlife</i> taken in accordance with state law and trash and litter) within the monument would be prohibited except for scientific, research and other pre-approved purposes by obtaining written approval from the field office manager or the monument's manager.
2.7.3.6	250, column 1, 1st sentence, column 2, 4th sentence	Close transportation routes that lead directly to significant sites.	Change to: Close or reroute transportation routes that lead directly to significant sites.
2.7.3.7	259, column 1, 2nd paragraph	The effort will then focus on...	Developing a Limits of Acceptable Change framework needs to be done in partnership with AGFD.
2.7.3.8	261, column 1, 3rd paragraph	Until route-specific designations...	We believe this would be clearer if the sentence was reworded to: ...access would be limited to currently inventoried vehicle routes.
2.7.3.8	263, column 1, last paragraph	Non-motorized activities that require SRPs...	We are not sure what this means. Would hiking or equestrian activities that require an SRP be required to stay on existing trails in all cases?
2.9.3	274, column 1, 4 th paragraph	Permit motorized cross-county use...	We recommend rewording to: ...for completing a BLM authorized task or administrative action.
2.9.3	277, column 1, 4 th paragraph	Monitor and maintain Harquahala herd at current population levels.	This wording needs to be changed to be consistent with the wording on page 264: "Burros would be removed...with the target of reaching a population of zero."
Table -8 & Chapter 4		Impacts will be similar to impacts in Alt X	Statement is frequently made in both Table 2-8 and Chapter 4. This is too imprecise for reviewing impact analysis
4.11.10	Pages 498 to 499		Does not discuss impacts to Biological resources from mining for landscape boulders.

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Inconsistencies

Location	Statement	Location	Statement
Page 264, 2.7.3.12	"Burros would be removed from the herd area (Harquahala)...with the target of reaching a population of zero."	Page 277 Wild Horses and Burros	
Page 288 Row 1 Alt E Page 435 alt E	"Managing Harquahala Mnt ONA to VRM Class I..."	203 2.6.2.2.4.7 Map 2 -76, 486	"Harquahala Mnt ONA...VRM Class II"
Page 300 Row 4 Alt E 470 Alt B and E	"Impacts...would be similar to those described under Alternative B." (Alternative B states that routes would be reduced by 82 miles.)	Chapter 2	
Page 301 Row 2 Alt E	"Impacts are expected to be similar to Alt D except less area would be allocated...96,420 acres. " (This is actually more acres than Alt D)	Page 301 Row 2 Alt D	(Alt D states there are 91,480 acres of Wilderness Characteristics Area. It also says this is more than 107,510 acres reported for Alt C.)
Page 473 Table 4-3 Page 486	(Harquahala ONA reported as 74,950 acres)	Page 198	(Harquahala ONA reported as 96,430 acres.)
Page 473 Table 4-3	(Reports total acres of ACECs within the BH Planning Area as 89,970 acres.)	Page 293 Last Row Total from text within Chapter 2	(Reports total acres of ACECs within the BH planning area as 111,450 acres.)
Page 310 row 2 Alt E	(Acres reported for VRM Class I is 116,132 and acres reported for VRM Class II is 454,868)	Page 47 table 2-2 Page 496 Alt E	(States there are 98,820 acres of VRM Class I and 488,250 acres of VRM Class II in the BH planning area alone.)
Page 331 Row 1 Alt E Page 542 Alt E	(States 104,690 acres of ONA's would be managed as VRM Class I)	Page 47 Table 2-2 Page 203	(States 98,820 acres would be managed as VRM Class I in the BH planning area and this would include designated wilderness.) (States that ONA's will be managed as

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Page 331 Row 1 Alt E Page 542 Alt E	(Reports acres of ONAs as 104,690)	Page 473 Table 4-3	VRM Class II.) [Reports acres of ONAs as 83,210 (8,260+74,950)]
Page 334 Alt E Page 548 2nd paragraph	(States that 114 miles of routes would be closed in the BH planning area.)	Chapter 2	(No routes proposed to be closed at this time in the BH planning area.)
Page 347 Row 2 Alt E	(Reports 111,450 acres of ACECs in the BH planning area.)	Page 473 Table 4-3	(Reports 89,970 acres of ACECs in the BH planning area.)
Page 377 last row alt E Page 612 Alt E	"Closing the allocation (wilderness characteristics areas) to mineral disposal and sales..."	Chapter 2	(Could not find any such statement in Chapter 2.)
Table 2-7	Not found between 2-6 and 2-8		

Route Closures

Chapter 2 states that a Travel and Transportation Management Plan will be developed for the Bradshaw-Harquahala Planning Area at a later time and does not propose to close any routes at this time (in this document). Statements in Table 2-8 and Chapter 4 say or imply that routes will be closed in the Bradshaw-Harquahala Planning Area as a result of this RMP or imply they will be closed at a later date, which would be pre-decisional to the Transportation Plan.

Page	Alt/Row	Statement
295,		...vehicular travel would be curtailed in allocations to maintain or enhance wilderness characteristics... This implies closing routes.
450 456	Alt E Alt E	...by reducing vehicle routes and cross-country travel in allocations to maintain or enhance wilderness characteristics...
300-301 471	Row 4 Alt E Alt E	Impact in BH Planning Area would be <i>similar</i> to those described under Alternative B. (Alternative B states that 82 miles of routes will be closed in the BH Planning Area.)
305 482	Row 1 Alt E Alt E	(States impacts in BH will be similar to Alt C, which states that routes will be closed.)
318	Row 1 Alt E	...intermediate level of recreational facilities and route closures.
321	Row 1 Alt E	...intermediate level of route closures.
323 526	Row 3 Alt E	Impacts of closing routes in the ACECs...
325 530	Row 2 Alt E	Closing or limiting vehicle routes...
329	Row 1 Alt E	OHV management and route closures in ACECs and lands

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541	OHV Use	allocated to maintain or enhance wilderness characteristics...
334 367 548 598 374	Alt E	...114 miles of routes would be closed ...(in BH)
548 370 371 602 373	3rd Paragraph	In BH 211 miles of routes would be closed... A total of 211 miles of routes would be closed...

**Arizona Game and Fish Department / BLM Hassayampa Field Office
Meeting Summary and Comments - June 11, 2007
Agua Fria National Monument and Bradshaw-Harquahala
Resource Management Plan/Environmental Impact Statement**

BLM Responses to Comments—July 31, 2007
See Below

Overarching/Statewide Concerns

At our meeting held on June 11, 2007, the Arizona Game and Fish Department (Department) expressed overarching concerns that apply to BLM Resource Management Plans statewide. The Department continues to be concerned with the lack of national or state guidance and/or policy from the Department of Interior on implementing the new recreation market-based format and/or the Recreation Opportunity Spectrum (ROS). These concepts are being used either separately or concurrently in the same plan and across planning areas. Similarly, the Department is concerned with the lack of more specific guidance from the State or Washington Offices on managing areas with wilderness characteristics. The Department is specifically concerned with language regarding non-mechanized and non-motorized use within the planning area and decisions using the terms solitude and primitive.

It is imperative that more specific criteria be developed to help guide decision-makers to determine whether or not a proposed action is consistent with the RMP. Without guidance, policy, and/or clarifying language it is uncertain as to how recreation markets, ROS, and areas with wilderness characteristics will be specifically managed or how decisions made within the RMP will be interpreted. We believe these uncertainties will create situations where managers can interpret decisions differently, creating inconsistencies in management and coordination, ultimately impacting the Department's mission and authorities across the state.

The Department expressed concerns with the complexity and length of the statewide documents in terms of readability and public involvement.

The Department reiterated concerns with the decision to prohibit recreational shooting on the Agua Fria National Monument.

The Department expressed concern with the prohibition of motorized big game retrieval off designated routes within the planning area.

Page Specific Comments Discussed

Section	Page	Statement	Comment
2.6.1.1	170, paragraph 3	Special Area Designations Wild & Scenic River designation of Agua Fria tributaries was moved from Alt. C to proposed action. Formally map 2-33 for Alt C now Map 2-27 for Alt. E with proposed designations for a future suitability analysis.	As written could preclude stream channel restoration work. There is a possibility that the Dept. may pursue such action in the future.
AGFD/BLM Discussion: This discussion will be more appropriate during the designation process. Coordination and comments on clarification can be incorporated at that time.			
2.6.1.4	Cultural Resources	Changed the "high use" allocation from 1570 acres to 2055.79 acres but moved the Rollie Site to moderate use.	The acreage for moderate use also dropped despite the addition of the Rollie site. There may be some calculation issues here.
AGFD/BLM Discussion: BLM continues to work on GPS acreage and issues associated. Will provide the most accurate acreage available. The discrepancy was traced to an error on Map 2-73 in the Draft RMP/EIS. On that map, the Teskey Homestead area along the Agua Fria River, southeast of Cordes Lakes, was mistakenly identified and its acres counted as a Moderate Public Use area rather than a High Public Use area. The map has been corrected in the Proposed RMP/FEIS, which contains accurate figures for the acres to be included in high, moderate, and low public use areas for cultural resources interpretation. Will consider noting this in Section 2.1.1, Summary of Changes, to explain that we are indeed reducing the amount of area that would be allocated to "high use."			
2.6.1.5	Recreation Resources	Increased Back country RMZ from 57,200 to 57,650 and decreased Front country RMZ from 12,440 to 11,900.	Why and where?
AGFD/BLM Discussion: BLM explained why and where. The Department does not foresee an issue with this change.			
		Route designations have changed. An "admin" category has been added, going from 70 closed /101 open to 94 open /52 closed and /25 admin.	The Department would like to see a detailed map with route numbers and AGFD's original comments provided by field specialists.
AGFD/BLM Discussion: The Department will get with Tom B. to look at any areas they may be of concern. Tom B. provided a map to Laura Canaca and will provide further documentation as requested. The routes proposed for administrative (limited) use would allow access needed for management and maintenance activities by the BLM, AGFD, and holders of range permits and utility rights-of-way. These routes have been changed to administrative use to protect cultural and natural resources and to maintain access from private lands to range facilities.			
	Scenic Byways		Backcountry Byway language is still found throughout document. Have those decisions been dropped?
AGFD/BLM Discussion: Yes, byway proposals have been dropped from preferred alternative. This was an oversight; BLM will remove language. References to new scenic byways have been deleted from the proposed plan.			
2.6.1.6	180, column 1, paragraph 2	Evaluate non-motorized trails between Bull Tank and Baby Canyon, between Badger Springs/Agua Fria Confluence and Pueblo Pato, and in other areas if needed, to enhance resource protection by encouraging or requiring visitors to use	This management action would severely limit hunting and other wildlife-dependent recreation if applied. The Department does not support this type of management action and suggests removing the word 'requiring' from this sentence.

		designated routes.	
AGFD/BLM Discussion: The Department's concern with this statement can be resolved by taking out 'and in other areas if needed,' and clarifying within the document that this type of restriction (i.e. requiring visitors (on foot) to us designated routes/trails) will not apply to persons engaged in hunting. BLM will look into how best to resolve this and get back to the Department. Revised the wording of the sentence and deleted the word 'requiring.'			
2.6.2.2.2.9	202, column 1, 3 rd paragraph	...Routes identified as reclaimed would be closed...	How are roads identified/defined as reclaimed?
AGFD/BLM Discussion: The Department would like clarification within this statement to ensure routes used by hunters that appear to be 'reclaimed' (such as two tracks used only during hunting season) would not automatically be closed. BLM will clarify that "Routes identified as reclaimed through the route designation process would be closed". Please refer to the definition in the Glossary. Sentence has been clarified as suggested.			
2.6.2.2.4.6	217, column 2 last paragraph	Ensure...solitude...	What is meant by ensuring solitude? How is this defined and how will it be implemented? This could put severe recreational restrictions on large areas of public lands. The Department believes the document should state there will be <i>opportunities</i> for solitude and primitive recreation in these areas.
AGFD/BLM Discussion: This was an oversight; BLM intended to remove the word 'ensure' from the document in regards to solitude. BLM will continue to revise document for consistency. Reviewed all relevant sections and revised any references to "ensuring" solitude, focusing instead on opportunities.			
2.6.2.2.4.6	217, column 2, last paragraph	Routes proposed to be designated as open are shown on Map 2-86. (This statement occurs in several others places)	All references to routes on Map 2-86 should be removed unless the map is presented with all inventoried routes . This correction needs to be made throughout the document. Please note: currently the first sentence is truncated under Management Actions and in previous versions included the subject statement.
AGFD/BLM Discussion: This was an oversight; BLM will remove this reference from the document. Corrections have been completed as suggested. Language has been added to clarify that there will be a route designation process in the future for all inventoried routes in the Bradshaw-Harquahala planning area.			
2.6.2.2.4.6	218, column 1, 1 st paragraph	...semi-primitive non-motorized	We are concerned about the lack of guidance on this and the potential impact it could have on wildlife management and wildlife-dependent recreation.
AGFD/BLM Discussion: Discussed as an overarching concern – see above.			
2.7.1.4	232, column 1 last paragraph	Stream bank alteration...would be limited to 25 percent annually	This could result in nearly all of the stream banks being altered in just a few years.
AGFD/BLM Discussion: BLM has been concerned about this language as well and is considering removing the word 'annually' to avoid confusion and severe resource damage. Note: this language is found throughout document. Response: The bank alteration measurement is conducted annually. All altered bank is measured at that time; Banks altered the previous year, which are still altered, are counted. The method does not discount alteration from previous years and also allows for banks which were altered in previous years but have stabilized and recovered, to not be included in the measurement. The U.S. Fish and Wildlife Service agreed with the BLM that this method is an adequate indicator of habitat condition as it relates to endangered fish habitat, thus it has been included in several biological opinions to this office. This standard applies only to those streams occupied by Gila topminnow, Gila chub and desert pupfish. It is included as part of the RMP proposed action and was evaluated as such in the Biological Opinion received from the Service.			
2.7.1.6	239, column 1, last paragraph	...through non-motorized and non-mechanical means...Non-motorized conveyances...	This needs to be clarified that non-motorized and non-mechanized only pertains to human conveyances (excluding wheelchairs). Also need to specifically state that wheeled game

			carriers will be allowed. This would be consistent with language on page 261.
AGFD/BLM Discussion: This was an oversight; BLM intended to remove 'non-mechanical' throughout document to promote consistency. The Department asks that BLM clarify within the document that non-motorized/non-mechanized refers to human conveyance and does not prohibit other types of equipment (i.e. mechanized equipment - watches, binoculars, etc. and motorized equipment - hand-held fence rollers, well pumps, forage plot pumps, etc.) This section has been revised as suggested to make these clarifications.			
2.7.1.6	240, column 2, last paragraph	Discretionary surface-disturbing activities...	Need to clarify this statement. Almost any activity can disturb the surface.
AGFD/BLM Discussion: The Department is concerned about how this could be interpreted. Could this mean walking on desert pavement would be prohibited if it 'disturbed the surface'? BLM can see how clarification may be necessary within the document, but does not want discretionary surface disturbing activities such as bulldozing, digging up rocks, etc. to occur. The wording has been clarified to focus on excavations and the use of motorized or mechanized equipment.			
2.7.1.6	240, column 2, next to last paragraph	...BLM will coordinate with AGFD to...	Need to change wording to: ...BLM will coordinate with AGFD to allow access for hunters with valid hunting licenses.
AGFD/BLM Discussion: BLM will change as requested to avoid inadvertently excluding small game hunters. Revised as suggested.			
Map 3-23		Use Wilderness Area and color is confusing and misleading.	The color format for BLM lands and areas proposed for Wilderness Characteristics are very similar and result in confusion. Also, reference to Wilderness Characteristic Areas on Maps that have none is confusing. Suggest reformatting colors and removing Wilderness Characteristic Areas from legends on maps without Wilderness Characteristic Area.
AGFD/BLM Discussion: BLM will look into how best to change colors/legend to avoid confusion. We will review the maps for clarity and consider making these changes, in conjunction with the primary task of correcting any errors on the maps.			

**Page Specific Comments Not Discussed
Submitted for BLM Consideration and Feedback**

2.6.2.1.4	186, column 1, paragraph 4; 223, column 2, paragraph 5	The language in the administrative actions section refers to "support of resource objectives consistent with <i>Alternative B</i> "	Does the BLM mean to state resource objectives consistent with the proposed Alternative E? If so there may be other places where the reference to Alt. B occurs. <i>Corrected.</i>
2.6.2.2.1.1	187, column 1, paragraph 2	"...long term character of the character of this corridor."	Correct sentence structure. <i>Corrected.</i>
2.6.2.2.19	194, column 1, paragraph 1.	"Until such time that final route designations are made, motorized and mechanized vehicles are restricted to currently inventoried routes."	The language used in this section needs to be added to other related sections on travel management where current language ends with "...mechanized vehicle uses limited to designated routes."; since no final routes designations have been completed. See also Section 2.6.2.2.6.8 (page 223) and 2.6.2.2.4.9 (page 218). Similar language has been added to other related sections.
2.6.2.2.2.9	201, column 2, paragraph 2	ACECs and Back Country Byways are discussed in section 2.6.2.2.2.1.	Reference to Backcountry Byways needs to be removed in all relevant locations. Note: also referenced under fire management; pg. 248, 2.7.1.10. <i>Corrected.</i>
2.6.2.2.3.5	207, 1 st column, last	Red Top Trail System within	These are subheadings, however they need to

	sentence and 208, 1 st column after Admin Actions	the RMZ and "The Box" RMZ (Map 2-91)	be reformatted to clarify this. This is a readability issue. Corrected.
2.7.1.4	231, column 2, paragraph 2	List of relevant Biological Opinions and Conference Opinions	The relevant Biological Opinion for the subject planning effort (AFNM and Bradshaw/Harquahala RMP) should be listed here also.
Response: The BOs referenced in this section are those from which all relevant Terms and Conditions and Conservation Recommendations have been included in the RMP as Desired Future Conditions, Management Actions or Administrative Actions. The BO for the AFNM and Bradshaw/Harquahala RMP concluded that all incidental take that may occur is covered by the previous BOs, which as stated above, the Terms and Conditions and Conservation Recommendations from which are included in the RMP, thus no additional take was anticipated and no Terms and Conditions were included. Reference to the December 18, 2006 BO for the AFNM and Bradshaw/Harquahala RMP [22410-05-F-0785] is made on page 642, section 5.2.6. Consultation and Coordination.			
2.7.1.6	239, 1st column last paragraph	Motorized use that does not degrade resources...	This is vague, need to define resources, this document discussed biological, cultural, mineral, all FLPMA resources. DFC is in conjunction with wilderness, which is not a FLPMA resource. Revised to focus on natural and cultural resources.
2.7.16	239, column 2, 1 st bullet	Maintain low interaction among users	Statement needs to be clarified/defined. This could mean many different things and could result in severe restrictions on access. Clarified to focus on areas away from designated travel routes.
2.7.1.6	239, column 2, last paragraph	...except the minimum needed to protect resources	Change protect to manage Deleted this portion of the paragraph.
2.7.1.10	247, column 2, paragraph 2	The FMP planning process will be updated in 2006...	Has this been completed and if so is there a document and/or map to reference? Updated.
2.7.3.5	265, column 1, 7 th paragraph; 264, column 2, 7 th paragraph	Close transportation routes that lead directly to significant sites.	Change to: Close or reroute transportation routes that lead directly to significant sites. Revised as suggested.
2.7.3.8	279, column 2, 2 nd paragraph	Non-motorized activities that require SRPs...	Unclear. Would hiking or equestrian activities that require an SRP be required to stay on existing trails in all cases? Rewritten to clarify that SRP's for equestrian or mountain biking uses could require this if needed to protect resources or for safety concerns.



THE STATE OF ARIZONA
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March 20, 2014

Sent via email to:

Coconino_national_forest_plan_revision_team@fs.fed.us

Sent via hardcopy to:

Coconino National Forest
Attention: Plan Revision
1824 South Thompson Street
Flagstaff, AZ 86001

RE: Coconino NF Forest Plan Revision and DEIS comments

Dear Earl:

The Arizona Game and Fish Department (Department) appreciates the opportunity to offer comments on the draft revised Land and Resource Management Plan (LRMP) and Environmental Impact Statement (DEIS) for the Coconino National Forest (CNF). The LRMP revision process was a significant challenge, and the Department recognizes the tremendous amount of time and effort the Forest Service (USFS) expended to address dramatic changes in the social and natural environment and the wealth of new scientific information that have emerged since the last LRMP revision. Overall, the Department considers the revised LRMP a significant step forward, with many positive elements. Among these, we would cite the shift in focus to maintenance and improvement of ecosystem health. The Department also understands challenges the Forest faced working to meet demands of a vastly increased human population with often competing interests. This letter identifies issues of particular concern to the Department and its constituents, as well as general comments on the LRMP and EIS.

General Comments

The LRMP and DEIS are massive, complex, and potentially intimidating documents, even for those experienced with land management plans. The Department received numerous comments from constituents who expressed frustration in trying to understand essentials of the LRMP including the management changes associated with each alternative, the rationale behind these changes, and how the USFS identified its proposed course of action. Given the importance of the CNF to a broad variety of users from across the U.S., the USFS needs to more effectively communicate this process and its outcomes and implications. Recent experiences with Travel Management on USFS lands, including the CNF, highlight the need for openness and transparency with the public. Further, the Department recommends a thorough editorial review to remedy inconsistent content and language, style inconsistencies, contradictory statements, and typographic/grammatical errors in the LRMP and EIS.

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The CNF is of tremendous importance for wildlife-based recreation, which is appropriately noted in the LRMP. However, the overarching tone of the LRMP and DEIS presents an unbalanced emphasis on non-consumptive uses of wildlife. For example, the documents emphasize wildlife viewing as an important recreational activity throughout the documents whereas hunting and fishing are outlined in only a few, very specific areas. *See comment table for specific recommendations.* The Department recognizes that demand for such opportunities has increased tremendously since the last LRMP revision and expends considerable resources promoting and supporting non-consumptive wildlife recreation on the CNF and across Arizona. However, traditional, wildlife-based recreation (e.g., hunting) remains the foundation for wildlife conservation in North America, is a primary recreational activity on the CNF and generates important economic benefit for northern Arizona. Hunter survey data for 2004-2013 indicate an annual average of 135,119 hunter-days spent pursuing small and big game in Game Management Units 5A, 5B, 6A, 6B, 7E, 7W, and 7. This number presents only a partial picture, as it does not include time spent scouting and by family members and other individuals who accompany hunters afield. The Department is also concerned that hunting, angling, motorized access, recreational shooting and dispersed camping are treated as independent activities, when in fact they are often occur concurrently. The final LRMP and EIS should equitably address all forms of wildlife-based recreation and their interdependence with other activities on the CNF.

With respect to the DEIS, the Department finds that information used to compare the alternatives (Topics and Indicators) is incomplete and in some cases, is not relevant to the CNF or is based on questionable assumptions. *See comments 65 and 67.* We recommend developing additional metrics that support more meaningful comparisons. The Department also feels that the DEIS analysis does not effectively address effects of the alternatives on wildlife-based recreation, associated economic activity, and the Department's ability to meet trust responsibilities for managing the state's wildlife resources. We recommend a more thorough analysis incorporating these elements.

The proposed LRMP (and other alternatives, particularly C) include new restrictions on motorized travel and dispersed camping, which are associated with recommended wilderness and changes in Recreational Opportunity Spectrum (ROS) settings outside wilderness. The process by which ROS objectives were developed for areas outside wilderness is opaque and needs to be clearly explained in the LRMP and DEIS. Under the proposed plan, 110,572 acres (6% of the forest) would be removed from motorized access. CNF visitors are already subject to restrictions on motorized access and dispersed camping that are unreasonable, difficult to interpret, and unenforceable. The Department stands firmly opposed to further, arbitrary reductions in public access on the CNF.

Access restrictions in the proposed LRMP are not clearly linked to the ongoing Travel Management Planning (TMP) process on the CNF. This has created considerable confusion for agency reviewers and affected stakeholders. The Department is also concerned about inconsistencies in the LRMP and DEIS with respect to these restrictions which are framed both as hard targets and potential actions. Travel management should be addressed through the TMP process in a manner that is open, transparent, and allows effective participation by all stakeholders. The Department also sees this LRMP revision as a valuable opportunity to begin establishing reasonable and consistent guidelines for motorized travel and dispersed recreation across all national forests in Arizona.

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Over the course of the LRMP revision process, the Department has communicated its concerns about further conversions of multiple use lands to special use designations, which can result in net losses of wildlife resources, wildlife-related recreational activities, and economic benefits. Our experience with wilderness elsewhere in Arizona has been that recommendation and designation can reduce access for wildlife-oriented recreation, affect the Department's ability to achieve big game harvest objectives through regulated hunting, and when combined with restrictions on motorized big game retrieval, may unfairly limit participation of the physically challenged. The Department has also found that management actions needed for wildlife population/habitat management are often prohibited outright in proposed or designated wilderness, or effectively precluded by complex and inefficient layers of bureaucratic process. To support the analysis of potential Wilderness Areas (PWAs) on the CNF, the Department provided the CNF with a detailed summary of management activities in each PWA that could be affected if the area was recommended or designated as wilderness. The Department also recommended considering alternative designations that would maintain wildlife values but allow needed flexibility for management. However, the proposed LRMP (Alternative B) recommends 3 new wilderness areas, Alternative C, 13 areas. Per Commission policy, the Department cannot support these recommendations as presented and recommends that the DEIS fully analyze the impacts of new wilderness, specifically in regards to wildlife-related recreation, the Department's ability to effectively manage wildlife populations, and economic benefits to local communities.

The Department appreciates that the proposed LRMP does not place new restrictions on recreational shooting on the CNF. However, the Department is particularly concerned by, and firmly opposed to, the drastic reductions in recreational shooting opportunity under Alternative C. Recreational shooting is recognized as a legitimate and important recreational opportunity that is greatly valued by the public. Significantly, and of great importance to the Department and our constituents, it provides a gateway into the shooting sports, hunting, and other outdoor recreation. Excise taxes on shooting firearms and ammunition also provide significant contributions to wildlife conservation. According to the USFWS 2011 National Survey of Hunting, Shooting, Angling and Outdoor Activities, 7.2 million people target shot nationwide, 2.9 million of whom visited organized shooting ranges. Much of the informal target shooting occurs on federal lands open for such activities. In many cases the noise generated by shooting has no greater impact than other activities occurring on USFS lands, e.g., wood cutting, OHVs, mining operations, etc. The Department considers the large scale closures to recreational shooting in Alternative C an unjustified restriction of legitimate use on public lands and a potential adverse impact to local economies and the Department's ability to meet agency mission, goals, and objectives. However, the Department understands that irresponsible actions by some illegal shooters can cause resource damage and safety concerns. The Department feels that enforcement and public education/outreach are more appropriate and effective strategies to address these issues on the CNF. We are currently working with stakeholders and public land managers elsewhere in Arizona to develop proactive approaches for managing recreational shooting. The Department would welcome the opportunity to establish a similar partnership on the CNF.

Alternative C is of particular concern. While ostensibly intended to benefit wildlife, this alternative was not developed in cooperation with the Department, which has pertinent subject matter expertise and statutory authority for managing wildlife. The Department is troubled by this apparent breach of coordination responsibilities under the National Environmental Policy

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Act, Fish and Wildlife Coordination Act, and our Memorandum of Understanding, not to mention what could be construed as an attempt by the Forest Service to provide unilateral management direction for wildlife resources. As a specific example, we would cite Alternative C's designation of "Wildlife Habitat Management Areas" and their associated featured species for management emphasis. The Department questions the Responsible Official's authority to designate Wildlife Habitat Management Areas. *See Comment 62.*

In addition to concerns described above, the Department believes Alternative C to be fundamentally flawed in the following respects:

- management direction within the alternative may not meet the purpose and need of the EIS and potentially conflicts with the USFS multiple-use mandate
- public lands should be managed for the full range of native and indigenous wildlife
- benefits to wildlife from reduced motorized travel, dispersed camping, and recreational shooting are overstated, largely speculative, and secondary to the apparent larger goal of reducing current, appropriate uses across large portions of the CNF
- management direction under this alternative is unlikely to achieve desired outcomes for wildlife
- any potential benefits to wildlife are outweighed by negative impacts to the recreating public, necessary active management of wildlife habitat, and the Department's ability to meet its mandated trust responsibilities
- reverting to management of old-growth under direction of the 1987 LRMP fails to incorporate the best available science and retains an outdated management framework.

The Department also noted several statements in the LRMP, which as written, appear to preempt Department authority for management of fish and wildlife resources (see attached). These are likewise of concern and should be corrected or removed.

Attached to this letter is a summary table containing specific comments, suggested changes to the LRMP and EIS, and other recommendations. We encourage you to give them the fullest possible consideration in preparing the final LRMP and EIS. The Department would welcome the opportunity to support an LRMP that reflects comprehensive analysis of viable alternatives and presents a solid foundation for managing wildlife resources and diverse recreational demands on the CNF.

The Department appreciates the opportunity to comment on the LRMP and DEIS. Any questions concerning this letter should be directed to Steve Rosenstock, Region II Habitat Program Manager, rosenstock@azgfd.gov; 928-214-1253.

Sincerely,



Jim DeVos
Assistant Director - Wildlife Management

attachment

Comment #	Location	Comment/Change Requested
1	LRMP: p 19-20	FW-Aq-Wat-DC Developed water sources (stocktanks, catchments, trick tanks, springs) are of critical importance to game and nongame wildlife on the Coconino National Forest (CNF), and likely to become even more so in the face of recurrent drought and potential climate change. <u>Recommendation:</u> a) Add DC indicating that <i>"Developed water sources are adequately distributed across the landscape and maintained to meet wildlife needs."</i>
2	LRMP: p 20	FW-Aq-Wat-DC #7 <i>"Watersheds that contain recharge areas for designated and eligible wild and scenic river segments retain water quality and recharge to those segments."</i> Statement is unnecessarily restrictive. <u>Recommendations:</u> a) This DC should not be limited to segments designated/eligible for Wild and Scenic status. b) The Forest Service should work with the Department and USFWS to identify ecologically sensitive watersheds.
3	LRMP: p 26	FW-Aq-Spr-DC #2 <i>"Waterflow patterns, recharge rates, and geochemistry are similar to historic levels and persist over time."</i> This may not be realistic in the face of recurring droughts and/or climate change. <u>Recommendation:</u> a) Reword appropriately.
4	LRMP: p 27-28	General Description and Background for Caves, Cliffs, and Talus Slopes <u>Recommendations:</u> a) Consider adding abandoned mines to the list of special habitats, since they also provide similar

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5	LRMP: p 29	<p>habitat resources for bats.</p> <p>b) Indicate that caves are also important as hibernacula for bats.</p> <p>c) Address other important habitat values of cliffs and talus slopes, e.g., nesting habitat for raptors and hibernacula for reptiles.</p> <p>d) Include spelunking and exploration as activities affecting caves.</p> <p>FW-BioPhys-Geo-S</p> <p><u>Recommendation:</u></p> <p>a) Define "significant" cave.</p> <p>FW-BioPhys-Geo-G</p> <p>Guidelines are needed to address potential spread of White-nose Syndrome.</p> <p><u>Recommendation:</u></p> <p>a) Include guideline from Kaibab National Forest LRMP: <i>"When entering caves or mines, decontamination procedures should be followed for preventing the spread of white-nose syndrome (WNS; Pseudogymnoascus destructans)."</i></p> <p>Vegetation</p> <p>Noxious and invasive weeds are addressed generically for all vegetation types, but only sporadically for individual vegetation types.</p> <p><u>Recommendations:</u></p> <p>a) Clarify distinction between noxious and invasive weeds, provide list(s) identifying them.</p> <p>b) Address weeds/invasives of concern in DCs for each type, or by reference to summary table.</p> <p>FW-Veg-All-DC #15</p> <p>Unclear which pollinators are of interest and what these desired conditions would be.</p> <p><u>Recommendation:</u></p> <p>a) Clarify or omit.</p>
6	LRMP: p 29	
7	LRMP: p 32-70	
8	LRMP: p 33	

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9	LRMP: p 38	FW-Veg-All-DC #13 <u>Recommendations:</u> a) Identify endemic plant communities of concern. b) This DC should also address <i>populations</i> of rare plants, which are components of other plant communities.
10	LRMP: p 33	FW-Veg-All-O #1 Lacking a definition of "restoration" this objective is vague and also likely unattainable over the life of this LRMP. <u>Recommendation:</u> a) Change to <i>"implement restoration treatments to restore pre-European ecological conditions."</i>
11	LRMP: p 44	Objectives for Grassland Types Prescribed fire is an important and cost-effective tool in early stages of woody vegetation encroachment into grasslands and for maintaining these areas after mechanical treatment. <u>Recommendation:</u> a) Add prescribed fire objective(s). FW-Veg-Grass-GB&MSG-G <i>"New stock tanks and wildlife waters should be placed in locations that reduce concentrations of grazing animals and subsequent vegetation and soil effects in open areas."</i>
12	LRMP: p 45	 It's unclear how water placement could accomplish the stated outcome. Compared to livestock, the impacts of wildlife on soils and vegetation near waters are generally lesser and highly localized. It's unclear whether the intent here is to improve animal distribution or place waters in locations less vulnerable to soil/vegetation impacts. <u>Recommendation:</u> a) Clarify appropriately.
13	LRMP: p 46	FW-Veg-Grass-All-G #2 <i>"Natural waters within a quarter of a mile of fawning habitat should be</i>

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		<p><i>maintained and available to pronghorn during the fawning season to maximize reproductive success."</i></p> <p>Developed water sources are also important to pronghorn. The Department sees the value in this but recommends coordinating with us to identify fawning areas pertinent to this guideline.</p> <p><u>Recommendation:</u></p> <p>a) Reword to include all water sources including natural and developed sources.</p>
14	LRMP: p 46	<p>Table 5</p> <p>Chaparral habitat is important to a variety of wildlife species. Proportions of seral stages listed in the table reflect a very monotypic condition that is undesirable and at odds with natural disturbance regimes. Information in this table is not consistent with stated desired conditions.</p> <p><u>Recommendation:</u></p> <p>a) Identify desired conditions consistent with natural disturbance regimes in this system, that ensure diversity at multiple scales.</p> <p>b) Ensure consistency between tables and text.</p>
15	LRMP: p 46	<p>FW-Veg-IC-DC</p> <p>DCs #1 and #3 contradict each other with respect to fire intervals (frequent vs. long-return).</p> <p><u>Recommendation:</u></p> <p>a) Correct as needed.</p>
16	LRMP: p 46	<p>Pinyon-Juniper Types</p> <p>Stringers/inclusions of ponderosa pine embedded in p-j woodlands provide important habitat for Merriam's turkey and other wildlife.</p> <p><u>Recommendation:</u></p> <p>a) Add these to vegetation type descriptions with appropriate DC. The Department also recommends protecting these ponderosa pine inclusions from high-intensity prescribed burns or wildfire.</p>

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17	LRMP: p 51	FW-Veg-PJ-All-G #4 There are circumstances where native plant materials may be unavailable or insufficient to address site-specific problems (e.g., severely degraded soils, areas dominated by highly competitive invasive noxious weeds, large-scale fires). <u>Recommendation:</u> a) Use of desirable, non-native plant materials should be allowed under these special circumstances where native plant materials are either unavailable or cost-prohibitive.
18	LRMP: p 51	FW-Veg-PJ-PJG-O Natural ignitions are unlikely to meet this objective. <u>Recommendation:</u> a) Add prescribed fire.
19	LRMP: p 53	Table 9. Desired proportion of seral stages for Ponderosa Pine Early Development stage (openings dominated by herbaceous plants) is a natural component of ponderosa pine systems and important to wildlife. Why is the desired proportion = 0? <u>Recommendation:</u> a) Use data from ERI and other recent studies to set an appropriate DC.
20	LRMP: p 54	FW-Veg-PP-DC #4 Reference to "historic" patterns could be construed to mean conditions present after extensive timber harvest and aggressive fire suppression were initiated. <u>Recommendation:</u> a) "Pre-settlement conditions" and the "historical range of natural variability" may be more appropriate benchmarks for management, with the caveat that climate change may move some ecosystems outside those domains.

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21	LRMP: p 55	FW-Veg-PP-DC #17 Opening and group sizes specified here may not capture the historic range of variability. <u>Recommendation:</u> a) Modify to allow larger openings and group sizes where indicated by on-site evidences.
22	LRMP: p 55	FW-Veg-PP-DC #18 Reference to "historic" patterns could be construed to mean conditions present after extensive timber harvest and aggressive fire suppression were initiated. <u>Recommendation:</u> "Pre-settlement conditions" and the "historical range of natural variability" may be more appropriate benchmarks for management, with the caveat that climate change may move some ecosystems outside those domains.
23	LRMP: p 56	FW-Veg-PP-O #1 - obtaining the desired within-group variability in tree size/age may require selective removal of individual trees, rather than groups. As defined in the Glossary, it's unclear whether "free-thinning" allows selective harvest to meet this objective. <u>Recommendation:</u> a) Clarify that free thinning includes selective cutting or add selective cutting to the list.
24	LRMP: p 61	FW-Veg-MC-MCFF-DC #3 Reference to "historic" patterns could be construed to mean conditions present after extensive timber harvest and aggressive fire suppression were initiated. <u>Recommendation:</u> "Pre-settlement conditions" and the "historical range of natural variability" may be more appropriate benchmarks for management, with the caveat that climate change may move some ecosystems outside those domains.
25	LRMP: p 63	FW-Veg-MC-MCFF-DC #15

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26	LRMP: p 55	<p>Group sizes specified here may not capture the historic range of variability.</p> <p><u>Recommendation:</u> a) Modify to allow larger groups where indicated by on-site evidences. FW-Veg-MC-MCFF-DC #16</p> <p>Reference to "historic" patterns could be construed to mean conditions present after extensive timber harvest and aggressive fire suppression were initiated.</p> <p><u>Recommendation:</u> "Pre-settlement conditions" and the "historical range of natural variability" may be more appropriate benchmarks for management, with the caveat that climate change may move some ecosystems outside those domains. Mixed Conifer with Aspen</p>
27	LRMP: p 63	<p>Description and DCs do not seem to completely capture aspen patches that occur as inclusions within the mixed-conifer type, from which it is desirable to remove encroaching conifers.</p> <p><u>Recommendation:</u> a) Modify appropriately. FW-Veg-MC-MCA-DC #1</p>
28	LRMP: p 63	<p>Reference to "historic" patterns could be construed to mean conditions present after extensive timber harvest and aggressive fire suppression were initiated.</p> <p><u>Recommendation:</u> "Pre-settlement conditions" and the "historical range of natural variability" may be more appropriate benchmarks for management, with the caveat that climate change may move some ecosystems outside those domains. FW-Veg-MC-MCA-DC "Where they naturally occur, all age classes of aspen and maple are present in</p>
29	LRMP: p 65	

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		<i>even-aged groups or patches.."</i> Reproduction by seed and suckering often creates uneven-aged structure, i.e., scattered individuals of varying ages under mature trees. <u>Recommendation:</u> a) Reword appropriately. FW-Veg-MC-MCA
30	LRMP: p 66	<u>Recommendation:</u> a) Add objective(s) for treatments to enhance aspen regeneration and recruitment. FW-Veg-SF-DC #2
31	LRMP: p 67	Reference to "historic" patterns could be construed to mean conditions present after extensive timber harvest and aggressive fire suppression were initiated. <u>Recommendation:</u> "Pre-settlement conditions" and the "historical range of natural variability" may be more appropriate benchmarks for management, with the caveat that climate change may move some ecosystems outside those domains. FW-WFP-DC "Sustainable populations of native and desirable nonnative plant and animal species"
32	LRMP: p 72 and elsewhere in DEIS	Elsewhere in the document, elk were incorrectly classified as "desirable nonnative" species. Unclear what other species fall into this category. Elk have occurred on the Forest through history until extirpated. Elk of today are of the same genus/species as that which were extirpated. The taxonomy of the Merriam's elk is loosely established in the literature and based on a very few partial specimens. <u>Recommendation:</u> a) Provide list of these plant and animal species.
33	LRMP: p 72 paragraph 4	General Description and Background for Wildlife, Fish, and Plants

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34	LRMP: p 72-73	<p>Desert sucker is listed as "other," and not as a sport fish in Department regulations. Headwater chub, a native sport fish, also occurs in Fossil Creek.</p> <p><u>Recommendation:</u> a) Correct as noted.</p> <p>FW-WFP-DC #1 <i>"Human-made or altered habitats may be necessary to support populations in the short term, but in the long term, species are enhanced and/or returned to natural habitat."</i></p> <p>Statement discounts reality that long-term, periodic manipulations to habitat may be necessary to achieve fish and wildlife conservation objectives and in some areas, natural processes may not achieve desired conditions over the long-term.</p> <p><u>Recommendations:</u> a) Reword DC to reflect role of management intervention to meet conservation objectives. b) Remove reference to "natural habitat."</p> <p>FW-WFP-DC #7</p>
35	LRMP: p 73	<p>Is somewhat redundant with DC #6.</p> <p><u>Recommendation:</u> a) Combine these DCs.</p> <p>FW-WFP-DC #8 <i>"Barriers to movement are located where necessary to protect native fish from nonnative species until watershed restoration allows connectivity to be restored."</i></p>
36	LRMP: p 73	<p>All fish barriers, purposefully constructed, "natural" or otherwise, have the potential to be beneficial or harmful to native fish species depending on the location of the barrier and the species composition upstream and downstream of the barrier. Some watersheds may never be fully restored, requiring barriers to remain in place. Barriers need to be evaluated to determine if they are harmful to native aquatic species prior to being eliminated.</p> <p><u>Recommendation:</u></p>

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37	LRMP: p 73	<p>a) Reword appropriately. b) The Forest Service should coordinate with the Department to evaluate any barriers prior to removal or mitigation.</p> <p>FW-WFP-DC #11 <i>"The forest is known for high quality hunting and fishing opportunities."</i></p> <p><u>Recommendation:</u> a) Replace with <i>"The forest provides abundant and high-quality opportunities for hunting, fishing, and non-consumptive wildlife-based recreation."</i></p> <p>FW-WFP-DC #11 <i>"There is more emphasis, interest, and opportunity to fish for native sport fish"</i></p> <p>Management authority for sport fish rests with the Department, not the Forest Service. The Department is committed to responsible sport fish management and native fish conservation, and is actively addressing these concerns with our federal partners through Section 7 consultation, statewide Native Fish Conservation Team, and watershed management plans.</p> <p><u>Recommendations:</u> a) Remove this statement. b) The Forest Service should address these concerns through the statewide Native Fish Conservation Team and watershed planning process.</p>
38	LRMP: p 73	<p>FW-WFP-DC #11 <i>"Nonnative sport fish and habitats are managed in locations and ways that do not pose substantial risk to native species"</i></p> <p>Management authority for sport fish rests with the Department, not the Forest Service. The Department is committed to responsible sport fish management and native fish conservation, and is actively addressing these concerns with our federal partners through Section 7 consultation, statewide Native Fish Conservation Team, and watershed management plans.</p> <p><u>Recommendations:</u> b) Remove this statement. a) The Forest Service should address these concerns through the statewide Native Fish Conservation Team and watershed planning process.</p>
39	LRMP: p 73	<p>FW-WFP-DC #11 <i>"Nonnative sport fish and habitats are managed in locations and ways that do not pose substantial risk to native species"</i></p> <p>Management authority for sport fish rests with the Department, not the Forest Service. The Department is committed to responsible sport fish management and native fish conservation, and is actively addressing these concerns with our federal partners through Section 7 consultation, statewide Native Fish Conservation Team, and watershed management plans.</p> <p><u>Recommendations:</u> b) Remove this statement. a) The Forest Service should address these concerns through the statewide Native Fish Conservation Team and watershed planning process.</p>

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40	LRMP: p 74	FW-WFP-O Recommendation: a. Add objective for 10 actions benefiting wildlife or fish other than T/E/sensitive.
41	LRMP: p 75	FW-WFP-G #8 <i>"Aquatic species should not be transferred through management activities from one 6th - code watershed, except for reintroductions or introductions of native species into suitable habitat"</i> Management authority for these species is vested by law with the Department. This guideline is ill-defined, unduly restrictive, and beyond USFS purview. The Department is committed to responsible sport fish management and native fish conservation, and is actively addressing these concerns with our federal partners through Section 7 consultation, statewide Native Fish Conservation Team, and watershed management plans. Recommendations: a. Remove this guideline. b. The Forest Service should address these concerns through the statewide Native Fish Conservation Team and watershed planning process.
42	LRMP: p 75	FW-WFP-G #11 The Department supports and appreciates inclusion of this guideline. Recommendation: a. Reference Department Guidelines for wildlife-friendly fencing.
43	LRMP: p 75	FW-WFP-G #12 Guideline is unduly broad, adds an unnecessary layer of additional compliance, and impractical to implement. E.g., areas used by bats for foraging and watering will encompass most if not the entire forest. Tree roost sites are largely unknown, except where intensive research has been done. Recommendation: a. Delete this guideline and replace with statement that applicators should follow Best Management

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44	LRMP: p 76	<p>Practices and product label guidelines.</p> <p>FW-Invas-DC #1</p> <p>List is incomplete.</p> <p><u>Recommendation:</u></p> <p>a. Provide and/or reference existing lists of invasive species of concern on the CNF.</p> <p>FW-Invas-DC #2 <i>"Desirable nonnative species such as elk, where they exist, are not having negative impacts on native species."</i></p> <p>Statement is inaccurate. Elk are native to Arizona and not considered or managed by the Department as an invasive species. Management authority for elk is vested by law with the Department.</p> <p><u>Recommendation:</u></p> <p>a. Remove this statement.</p> <p>b. LRMP must recognize that elk provide significant cultural value, consumptive and nonconsumptive recreation, intrinsic value, significant economic benefit to local communities and businesses, and generate a significant source of revenue for the Department that is used for conservation of wildlife, including nongame species.</p>
45	LRMP: p 76	<p>FW-Rds-Fac-O <i>"Naturalize or decommission 200 to 800 miles of unauthorized roads and system roads to create a more cost effective road system and to restore natural resources impacted by roads during the 10 years following plan approval"</i>.</p> <p>It is unclear to the Department what relationship this Objective has with the Coconino NF's recently-adopted Travel Management Plan (September 2011) in which the Coconino adopted a motor vehicle use map of roads, trails and areas designated for motor vehicle use to address impacts to natural and cultural resources created by increased motor vehicle use. The DEIS at 671 notes that under Alternatives B,C, and D, between "200 and 800 miles of public and administrative roads could be closed, decommissioned, or obliterated and naturalized" in areas with more primitive ROS designations; in "wildlife habitat management areas" to protect sensitive wildlife and watershed conditions, and in recommended wilderness areas and other special areas. Closure of roads to vehicular use must be done under the annual</p>
46	LRMP: p 92	<p>FW-Rds-Fac-O <i>"Naturalize or decommission 200 to 800 miles of unauthorized roads and system roads to create a more cost effective road system and to restore natural resources impacted by roads during the 10 years following plan approval"</i>.</p> <p>It is unclear to the Department what relationship this Objective has with the Coconino NF's recently-adopted Travel Management Plan (September 2011) in which the Coconino adopted a motor vehicle use map of roads, trails and areas designated for motor vehicle use to address impacts to natural and cultural resources created by increased motor vehicle use. The DEIS at 671 notes that under Alternatives B,C, and D, between "200 and 800 miles of public and administrative roads could be closed, decommissioned, or obliterated and naturalized" in areas with more primitive ROS designations; in "wildlife habitat management areas" to protect sensitive wildlife and watershed conditions, and in recommended wilderness areas and other special areas. Closure of roads to vehicular use must be done under the annual</p>

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		<p>review of the TMP. Doing so in the LRMP is disingenuous and contrary to good public policy as the cumulative impacts to forest users are not disclosed.</p> <p>While the Department concurs with the statement on page 672 of the DEIS that “[a]ny mitigation of habitat fragmentation or modifications to NFS roads would be developed through a cooperative effort of Arizona Game and Fish Department and Forest Service on a site-specific basis and would apply under all alternatives”, the DEIS text and Proposed Plan should clarify that any further proposed road closures or restricted motorized access on the Coconino NF will be conducted as a revision to the Coconino TMP, with full disclosure to, and participation by the Department and the public.</p> <p>See the Department’s Comment No. 62 below on “wildlife habitat management areas” [WHMAs].</p> <p>The Department questions the Objective of a “more cost effective” road system as justification for excluding the public from motorized access to additional areas within the Coconino NF.</p> <p>The Arizona Game and Fish Commission Policy asserts that every citizen should have access to their multiple-use lands unless there are reasons to deny access founded in sound science and affirmative analysis, and not a presumption of harm.</p> <p>As written, the Objective sets an arbitrary and possibly pre-decisional target that fails to identify to the public the analysis or justification for closure of several hundred more miles of roads.</p> <p>The LRMP and DEIS contain inconsistent information and contradictory direction. Numbers in the Objective do not match those presented in the Alternatives Comparison Table (EIS Vol 1: Table 1 #11). The stated Objective is inconsistent with the following statement in EIS Vol 2: p 671:</p> <p><i>“Under alternatives B, C, and D, the objective specifies that between 200 and 800 miles (FW-Rds-Fac-O-I) of public and administrative roads could [emphasis added] be closed, decommissioned, or obliterated and Naturalized”.</i></p>

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		<p>The Objective presents a target, whereas Alternatives Comparison Table and DEIS, identify these as "potential" changes. Furthermore, the Objective includes system roads, the Alternatives Comparison Table and EIS do not.</p> <p><u>Recommendations:</u></p> <ol style="list-style-type: none"> Remove this objective. Add an Objective from Kaibab NF LRMP: <i>"Implement decisions made under the 2005 Travel Management Rule."</i> Provide a clear explanation of road management process in the LRMP. Integrate TMP and LRMP revision efforts affecting travel management, communicate proactively to affected agencies and stakeholders. Manage travel on the CNF through the TMP process.
47	LRMP: p 103	<p>General Description for Dispersed Recreation</p> <p>Hunting and fishing are among the major dispersed recreation activities on the CNF. Department survey data report the following average annual hunter-days (does not include time spent scouting or by family members and others accompanying hunters afield) in Game Management Units 5A, 5B, 6A, 6B, 7E, 7W, and 7 for the years 2004-2013: Elk – 49,575; Small game – 45,320; Deer – 24,199; Turkey – 12,689; Javelina – 2,797; Antelope – 532, Bighorn – 8; All Species – 135,120.</p> <p>Here and elsewhere throughout the LRMP and EIS, motorized recreation, dispersed camping, hunting, and fishing are treated as separate activities, when in fact they are often linked. The majority of hunters and anglers rely on motorized travel to access areas within the forest. Hunters use motorized access to retrieve downed big game. Many also rely on dispersed camping opportunities within the CNF.</p> <p><u>Recommendations:</u></p> <ol style="list-style-type: none"> Add hunting and fishing to listed activities. Throughout the LRMP and EIS, the Forest Service should take a more comprehensive approach to these closely-linked activities and should analyze associated economic impacts to communities and wildlife conservation
48	LRMP: p 103	FW-Rec-Disp-DC Motorized Recreation #4

Comment #	Location	Comment/Change Requested
		<p>Statement needs to acknowledge importance of motorized travel for wildlife management, wildlife-associated recreation, and associated benefits. In many places on the CNF, road closures will directly affect the Department's ability to meet harvest objectives in difficult to reach areas of the forest.</p> <p><u>Recommendations:</u></p> <ul style="list-style-type: none"> a. Add hunting, angling, and big-game retrieval to list of activities. b. Add DC: <i>"Motorized access accounts for the needs of wildlife management, the economy, and interests of affected governments and private businesses of cooperation with the Arizona Game and Fish Department, County Government and representatives from a broad array of recreational and multiple use user groups."</i> c. Add DC: <i>"Road densities are developed and managed to ensure reasonable and sufficient recreational and multiple use access to accommodate a wide array of uses and users."</i>
49	LRMP: p 104	<p>FW-Rec-Disp-DC Motorized Recreation #5</p> <p>The Department has previously noted issues of inadequate signage in the Cinder Hills OHV area.</p> <p><u>Recommendation:</u></p> <ul style="list-style-type: none"> a. Add signage guideline for this area.
50	LRMP: p 105	<p>FW-Rec-Disp-DC Camping #13</p> <p>DC does not effectively address demand for dispersed camping opportunities on the CNF.</p> <p><u>Recommendation:</u></p> <ul style="list-style-type: none"> a. Modify to include: <i>"Dispersed camping and parking is allowed across the broadest possible array of forest lands to accommodate a variety of uses and experiences and avoid unsafe camping conditions in close proximity to roads."</i>
51	LRMP: p 105	<p>FW-Rec-Disp-DC Water-Based Recreation #19 <i>"Angling opportunities are available at remote sites, with a semiprimitive or primitive character and in a natural setting."</i></p> <p>Unnecessarily narrow statement. Angling occurs in a variety of settings, not just those listed here.</p>

Comment #	Location	Comment/Change Requested
52	LRMP: p 106	<p><u>Recommendation:</u> a. Broaden appropriately.</p> <p>FW-Rec-Disp-DC Wildlife-Based Recreation #21</p> <p>DC should be broadened.</p> <p><u>Recommendation:</u> a. Add language to the effect that: <i>"Motorized travel and dispersed camping opportunities provide reasonable access to big game, fishing, wildlife viewing and a quality recreational experience."</i></p> <p>FW-Rec-Disp-DC Wildlife-Based Recreation #21 <i>"Blinds, stands, cameras, and other structures brought in by the public are temporary and portable and do not have long-term effects on vegetation and wildlife."</i></p> <p>Statement is presumptive of impacts/conflicts that are not documented in the EIS. Blinds, stands, and cameras are important tools used by hunters and contribute to management of wildlife through hunting.</p> <p><u>Recommendation:</u> a. Remove this statement.</p> <p>FW-Rec-Disp-DC Wildlife-Based Recreation #21 <i>"Wildlife viewing takes place in natural areas without disturbance to wildlife."</i></p> <p>Unnecessarily narrow and awkward statement. Wildlife viewing occurs in a variety of settings from wilderness to highly-developed. Also implies either that natural areas lack disturbance, or that wildlife are not disturbed when viewed.</p> <p><u>Recommendation:</u> a. Remove this statement.</p> <p>FW-REC-Disp-S</p>
53	LRMP: p 106	
54	LRMP: p 106	
55	LRMP: p 106	

Comment #	Location	Comment/Change Requested
		<p>The Department feels that recreational users are entitled to reasonable and consistent standards for dispersed camping and parking on lands administered by the USFS and must accommodate the safety, welfare and comfort of forest users by allowing for camping and parking at reasonable distances from forest road traffic.</p> <p>Recommendations: Add standards or modify those listed to specify:</p> <ol style="list-style-type: none"> Clear and uniform signage. This should include marking of: open roads (indicated by number markers, open unless marked to the contrary), closed roads (indicated by no number markers or signed "closed"), and closed parking and camping areas (indicated by "closed" signs, open unless marked to the contrary). Allowing dispersed camping and parking within 300 feet of all open roads Allowing camping and parking is authorized at all sites showing an established history of use including those on minor access roads connected to open forest roads. <p>These standards should be applied across all national forests in Arizona.</p>
56	LRMP: p 106	<p>FW-REC-Disp-S</p> <p>Motorized retrieval is an important element of big game hunting on the CNF, in order to provide reasonable access for hunters with varying levels of ability and disability, avoid spoilage/waste of game, and meet harvest objectives.</p> <p>Recommendations: Add standards to specify:</p> <ol style="list-style-type: none"> Motorized big game retrieval (MBGR) is authorized for retrieval of bear, bison, elk, deer and pronghorn. MBGR is consistently authorized within a minimum one mile corridor on both sides of all designated roads and motorized trails. Administratively closed roads are open to use for MBGR.

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57	LRMP: p 117	<p>d. MBGR is authorized in all areas unless designated as Wilderness Area or part of a previously existing (prior to TMR) Designated Roadless Area or when conditions are such that travel would cause damage to natural and/or cultural resources.</p> <p>e. Hunters would be required to use the most direct and least ground-disturbing route in and out of the area to accomplish the retrieval.</p> <p>f. Motorized vehicles would not be permitted to cross riparian areas, streams, and rivers except at hardened crossings or crossings with existing culverts.</p> <p>These standards should be applied across all national forests in Arizona.</p> <p>Management Areas</p> <p>Area descriptions, content, and level of detail vary greatly among MAs. Some sections are missing or incomplete. Examples:</p> <ul style="list-style-type: none"> - Pine Belt MA includes most of the game species on the CNF and hunting is a very important consideration, yet hunting is not mentioned. - San Francisco Peaks MA is likewise important for big game hunting and a focal area for Department-USFS collaborative management. This is likewise missing. - Kinnickinnick Lake should be listed as an important lake in the Anderson Mesa MA - Long Valley MA is one of the most heavily visited areas on the CNF for a variety of recreational uses, yet has no section on Dispersed Recreation. <p>Recommendation:</p> <p>a. Present consistent content and level of detail for each MA, including area descriptions, recreational opportunities, focal management issues, etc.</p>
58	LRMP: p 127	<p>MA-LngVal-G "Dispersed camping within 200 feet of riparian shoreline and aquatic resources should occur only where designated sites are provided."</p> <p>Inconsistent with restrictions elsewhere on the CNF.</p> <p>Recommendation:</p> <p>a. Increase to 300' for ease of interpretation by the public and consistency with limitations elsewhere</p>

Comment #	Location	Comment/Change Requested
59	LRMP: p 141	<p>on the CNF.</p> <p>Management Approaches for Sedona Neighborhoods Management Area - Dispersed Recreation <i>"Special hunting and shooting regulations should be developed collaboratively with the AZGFD, Yavapai and Coconino County Sheriffs, and City of Sedona Police Department."</i></p> <p>The Arizona Game and Fish Commission has authority for establishing hunting regulations. The Department coordinates with USFS when developing these regulations and has used this process to address objectives of mutual interest, e.g., as done recently for elk hunts on the San Francisco Peaks Hunt Unit, where post-fire aspen regeneration is a priority. The Department welcomes opportunities to collaborate with USFS, local law enforcement, and other partners to address concerns to recreational shooting. A recently developed pilot project with the Bureau of Land Management (Sonoran Desert National Monument) may provide a template for such collaboration.</p> <p><u>Recommendation:</u> a. Reword statement to indicate: <i>"Collaborate with the Department, local law enforcement, and other stakeholders to address issues and opportunities related to recreational shooting on the CNF."</i></p>
60	DEIS Vol 1:p 13	<p>Elements Common to all Alternatives <i>"Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives;"</i></p> <p><u>Recommendation:</u> a. Reword to state: <i>"Provide for and maintain diversity of plant and animal communities and healthy fish and wildlife populations to meet overall multiple-use objectives."</i></p>
61	DEIS Vol 1:p 17	<p>Concerns tied to ecosystem health: <i>"Plan language relating to grazing management may not be sufficient to provide enough forage for ecosystem function as well as native wildlife, particularly in times of drought."</i></p> <p>Awkward/incorrect statement. Plant biomass (aka forage) reflects net primary productivity, an ecosystem output.</p> <p><u>Recommendations:</u></p>

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62	DEIS Vol 1:p 19 and Appendix F	<p>a. Clarify and reword:</p> <p>Alternative C General Overview <i>"Alternative C responds to suggestions from the public for more land to be managed in primitive and natural settings with reduced human-related disturbance for the benefit of recreation, botanical, and wildlife resources."</i></p> <p>The Department understands the desire of some stakeholders to decrease or eliminate motorized access across large portions of the CNF, in order to provide a more "primitive" recreational experience.</p> <p>In addition to recommending thirteen wilderness areas, Alternative C also recommends the designation of eight "wildlife habitat management areas" [WHMAs] to be incorporated into the Proposed Plan: Anderson Mesa, East Clear Creek, Hospital Ridge, Jack's Canyon, Knoll Lake, Limestone Pasture, Pine Grove, and Second Chance. WHMAs are designed to "provide protection for wildlife, vegetation, watersheds, and headwater environments", App. F at 966, primarily by excluding motorized access. Wildlife watching, fishing, hunting, horseback riding, mountain biking and hiking would be allowed. App. F at 967. Each WHMA is designed to protect identified species and habitat, with general guidelines, such as "no net increase in the area of motorized dispersed camping corridors", limits to roads that provide motorized access; and no public motor access at all to four of the WHMAs. "Large group recreation events" in WHMAs "should not be permitted". App. F at 967-968,</p> <p>The boundaries of these proposed WHMAs (DEIS Vol. 3, App. A, Map 3) is difficult to interpret, given the fact the WHMAs are depicted on a 10" by 5" map. No link identifying plan components associated with each WHMA is provided. The DEIS does not reflect the required analyses for ecosystem services and multiple uses for these WHMAs as set forth in National Forest System Land Management Planning rule 36 CFR 219.10, such as impacts to local economies, wildlife conservation, and hunting and fishing recreation.</p> <p>The Desired Conditions and Guidelines for these WHMAs are so vague that the Department cannot specifically identify how the plan components for each WHMA would impact its wildlife management authorities, or how public access to hunt and fish or recreate would be affected, much less frame comments specific to each WHMA. It should be noted that the Coconino NF Forest Plan Revision Team did not consult the Department or request the Department's collaborative participation in these WHMAs.</p>

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		<p>The public likewise lacks adequate notice or a concise description of these WHMAs, or adequate public notice that vehicular access to additional portions of the Coronado NF may be restricted or banned.</p> <p>The Department requests a citation to the authority of the Forest Service Responsible Official to create WHMAs. FSH 1909.12, <i>Land Management Planning Handbook</i>, Ch. 10 at 11.15 (Special Areas) does not describe WHMAs as one of the categories of Responsible Official Designated Areas.</p> <p><u>Recommendations:</u></p> <ol style="list-style-type: none"> Review the authority of the Responsible Official to create WHMAs. If such authority exists, involve the Department and the public in developing the description of the WHMAs, the Desired Conditions, and Guidelines for each WHMA.
63	DEIS Vol 1:p 24	<p>Addressing Concerns Raised in Scoping, Table 1 #2 Presence or absence of recreational shooting opportunities</p> <p>It is unclear why this metric was included, given that the EIS Vol 2: p 584 notes that:</p> <p><i>"There are often reports of recreational shooting interfering with people's desired recreation experience, but there is no data to support that this is a frequent occurrence except anecdotal information."</i></p> <p><u>Recommendation:</u></p> <ol style="list-style-type: none"> Clarify or remove this indicator.
64	DEIS Vol 1:p 20,24	<p>Addressing Concerns Raised in Scoping, Table 1</p> <p>The listed topics/indicators provide only a partial picture of important differences among the alternatives with respect to wildlife habitat and wildlife-associated recreation.</p> <p><u>Recommendation:</u></p> <ol style="list-style-type: none"> Add topics/indicators reflecting: acreages of major habitat types available for mechanical, prescribed fire and other active restoration/enhancement treatments.
65	DEIS Vol 1:p	<p>Addressing Concerns Raised in Scoping, Table 1 #2 Presence or absence of snowmobile use</p>

Comment #	Location	Comment/Change Requested
	20,24	<p>opportunities</p> <p>The CNF receives minimal recreational snowmobile use, particularly under recent (and likely future) dry winter conditions (MVUM data show a participation rate of 0% in this activity). Indicator is therefore of negligible value for comparing alternatives.</p> <p><u>Recommendation:</u></p> <p>a. Remove from table.</p>
66	DEIS Vol 1:p 25	<p>Addressing Concerns Raised in Scoping, Table 1 #3 Potential constraints to management activities from additional wilderness areas</p> <p>Wildlife Habitat Management Areas (WHMAs) would also constrain management activities. Restrictions on motorized travel and dispersed camping affect hunter access, which in turn affect the Department's ability to manage game populations. Road closures/obliteration could also affect administrative access for management-related purposes (maintenance of water developments, etc.).</p> <p><u>Recommendations:</u></p> <p>See Comment No. 62 above.</p>
67	DEIS Vol 1:pp 20, 29-30	<p>Addressing Concerns Raised in Scoping, Table 1 #9 Potential motor vehicle noise impacts to wildlife</p> <p>This indicator is vague and presumptive of cause-effect relationships that are not adequately supported or documented in the EIS. Indicator is of negligible value for comparing impacts to wildlife of the alternatives. It would be more useful to present this change in a positive framework, e.g., acres and percentage of the CNF available for motorized access.</p> <p>Table indicates that Alternative B removes an additional 110,572 acres from motorized access, presumably following reclassification to primitive and semi-primitive non-motorized ROS classes. Table also indicates that recommended wilderness in Alternative B accounts for 14,767 acres. It is unclear what the other 95,805 acres represent.</p>

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68	DEIS Vol 1:pp 31	<p><u>Recommendation:</u></p> <ol style="list-style-type: none"> Remove wildlife element of this indicator. Add indicator for acres that are available for motorized use (not in wildlife context). Explain ROS setting changes in Table and elsewhere as needed. <p>Table 1 #11 Promotion of habitat connectivity and identification/removal of barriers to wildlife movement</p> <p>Existing information (see 2013 Coconino County Wildlife Connectivity Assessment) identified major transportation corridors as primary barriers to animal movements on and adjacent to the CNF. Tertiary roads targeted for closure/obliteration constitute are of considerably lesser or negligible impact by comparison. The Connectivity Assessment report (p 23) noted that :</p> <p><i>"The recent implementation of Travel Management Rules (e.g. USDA 2012) has resulted in the closure of many of these USFS routes which may have a positive effect on wildlife connectivity within the strands of the linkage design."</i></p> <p>However, further obliteration of tertiary roads was not listed among the recommended management guidelines.</p> <p><u>Recommendation:</u></p> <ol style="list-style-type: none"> Remove from indicators. <p>Table 1 #11 Promotion of habitat connectivity and identification/removal of barriers to wildlife movement Indicator A</p> <p>Description of affected areas does not match those listed in EIS Vol 2: p 671.</p> <p><u>Recommendation:</u></p> <ol style="list-style-type: none"> Ensure consistency throughout the document. <p>Table 1 #11 Promotion of habitat connectivity and identification/removal of barriers to wildlife movement "Habitat patches that support viable populations."</p>
69	DEIS Vol 1:pp 31	
70	DEIS Vol 1:pp 31	

Comment #	Location	Comment/Change Requested
71	DEIS Vol 1:p 32 DEIS Vol 2: P 593	<p><i>Patches</i> are fine-scale elements within an animal's home range, that are used to meet particular life requisites (foraging, nesting, etc.). Patches do not support "viable populations." Viable populations occur at a variety of spatial scales.</p> <p><u>Recommendation:</u></p> <p>a. Reword DC appropriately.</p> <p>Footnote #2 "<i>Recreational shooting does not include shooting at wild game under a valid hunting permit from the Arizona Game and Fish Department.</i>"</p> <p>Legal hunting also occurs during seasons for which permits are not required.</p> <p><u>Recommendation:</u></p> <p>a. Reword to indicate "<i>recreational shooting does not include use of firearms while legally pursuing wildlife during an open season.</i>"</p>
72	DEIS Vol 1:p 33	<p>Footnote #8 "<i>Closing, decommissioning, and naturalizing roads generally results in increased wildlife habitat connectivity, benefiting wildlife that need unfragmented habitat conditions in order to successfully migrate between resources during their lifecycle</i>"</p> <p>This is a sweeping and inaccurate generalization that unduly simplifies complex relationships between roads and connectivity. The Department is unaware of information documenting the cause-and-effect relationship presented here. Barrier effects are largely a function of road design, width, crossing structures, traffic volume and timing, associated fencing, and other factors. The 2013 Coconino County Wildlife Connectivity Assessment identified major transportation corridors as the primary barriers to animal movements on and adjacent to the CNF. Tertiary roads are of considerably lesser or negligible impact by comparison. Removal of such roads was not identified as a management guideline in the 2013 report.</p> <p><u>Recommendations:</u></p> <p>a. Clarify that major transportation corridors have the greatest impacts on connectivity.</p> <p>b. Remove inappropriate generalization about impacts of tertiary roads.</p>
73	DEIS Vol 1:p 33	Recreation Opportunity Spectrum Setting

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	Table 2	Changes in ROS settings are a major element of the proposed LRMP (Alternative B). However, ROS methodology, objectives, and outcomes are not clearly explained in the LRMP or DEIS. The Department does not support changes in ROS settings that result in reduced motorized access and dispersed camping opportunities. <u>Recommendation:</u> Provide appropriate clarification in Table footnote, Description of the Alternatives, and elsewhere to provide readers the needed information for an informed review.
74	DEIS Vol 1: p 228	Table 43 The Arizona toad has been documented at several locations on the CNF. The Department can provide locations. <u>Recommendation:</u> a. Correct as needed.
75	DEIS Vol 2: p 584	Recreation Suitability <i>"Recreational shooting is not restricted in the 1987 plan except seasonally in Arizona Game and Fish Department "quiet areas,"</i> Statement is incorrect; areas are not closed to recreational shooting. <u>Recommendation:</u> a. Correct the language
76	DEIS Vol 2: p 671	Environmental Consequences: Forest Road System <i>"The ecological consequences of closing, decommissioning, and naturalizing roads generally result in increased wildlife habitat connectivity... in general though, fewer roads equates to an overall trend of a decrease in these effects."</i> This is a sweeping and inaccurate generalization that unduly simplifies complex relationships between roads and connectivity. The Department is unaware of information documenting the cause-and-effect relationship presented here. Barrier effects are largely a function of road design, width, crossing structures, traffic volume and timing, associated fencing, and other factors. The 2013 Coconino County

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77	DEIS Vol 2: p 672	<p>Wildlife Connectivity Assessment identified major transportation corridors as the primary barriers to animal movements on and adjacent to the CNF. Tertiary roads are of considerably lesser or negligible impact by comparison. Removal of such roads was not identified as a management recommendation in the 2013 report.</p> <p><u>Recommendation:</u></p> <p>a. Clarify that major transportation corridors have the greatest impacts on connectivity, remove inappropriate generalization to impacts of tertiary roads.</p> <p>Environmental Consequences: Forest Road System <i>"Throughout the Coconino NF, the Arizona Game and Fish Department offices of both Coconino and Yavapai Counties identified corridors of concentrated wildlife habitat critical to the migratory patterns of multiple species in a wildlife connectivity assessment."</i></p> <p>The Department is pleased to see this connectivity work considered in the LRMP and suggests providing more detail, e.g., species affected, location of corridors, and possible management actions to improve connectivity. The source documents should be cited. Note that migration is but one type of animal movement influenced by connectivity. The Department does not have an office in Yavapai County.</p> <p><u>Recommendation:</u></p> <p>a. Provide more specific information and appropriate citations.</p> <p>b. Correct as needed.</p>
78	DEIS Vol 2: p 672	<p>Environmental Consequences: Forest Road System <i>"Many of these corridors are primarily on Forest Service land, but boundaries were delineated regardless of landownership. Among these critical corridors, NFS roads have been deemed barriers to some of the prior mentioned migratory patterns."</i></p> <p>Statement is inaccurate. The 2013 Coconino County Wildlife Connectivity Assessment was a large-scale analysis intended for regional planning. It identified major transportation corridors as primary impediments to large-scale animal movements. Tertiary roads were not identified as barriers. Here is the pertinent excerpt from p 23 of the report:</p> <p><i>"Local paved roads also intersect one or more of the linkage strands (e.g. State Route 66) as well as a</i></p>

Comment #	Location	Comment/Change Requested
		<p>large number of tertiary roads maintained by the Coconino and Kaibab National Forests. The recent implementation of Travel Management Rules (e.g. USDA 2012) has resulted in the closure of many of these USFS routes which may have a positive effect on wildlife connectivity within the strands of the linkage design".</p> <p><u>Recommendations:</u></p> <ol style="list-style-type: none"> Remove inaccurate statement. Appropriately use and cite data from this report.
79	DEIS Vol 3:p 960	<p>Addition: "Areas managed for old growth, bear, and Mexican spotted owls should be the same."</p> <p>The Department is unaware of specific management areas for bears on the CNF.</p> <p><u>Recommendation:</u></p> <ol style="list-style-type: none"> Clarify or delete.
80	DEIS Vol 3:p 966	<p>Changes to Wildlife Habitat Management Area Direction in Proposed Plan "WHMAs emphasize maintenance and restoration of native species in natural patterns of abundance and distribution and provide management direction for long-term protection of significant wildlife habitat, including watersheds and headwater environments."</p> <p>An alternative ostensibly focused on wildlife should have been developed in coordination with the Department.</p> <p>"Restoration of native species" is not a Forest Service responsibility.</p> <p>"Natural patterns of abundance and distribution" is an ill-defined concept, in most cases unknown, and an inappropriate benchmark on lands managed for multiple-use. It is unclear how native species can be maintained and restored by merely limiting human activities; in the vast majority of cases, active management is required. Furthermore, there are essentially no areas of the CNF that retain pre-settlement vegetative conditions and as a result, until effective and large-scale forest restoration is in place, natural wildlife patterns will be difficult to obtain and maintain.</p>

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81	DEIS Vol 3:p 966	<p><u>Recommendations:</u></p> <p>a. See Comment 62 above.</p> <p>Changes to Wildlife Habitat Management Area Direction in Proposed Plan <i>"WHMA designation provides a low-disturbance wildlife habitat for native wildlife species, and it allows for improved wildlife habitat, including habitat connectivity, and protection of water quality and soil, vegetation, and water resources by further limiting motor vehicle traffic."</i></p> <p>An alternative ostensibly focused on wildlife should have been developed in coordination with the Department.</p> <p>The underlying of this alternative is that disturbances such as motorized travel, dispersed camping, and recreational shooting are primary factors reducing wildlife habitat quality and connectivity on the CNF. The Department does not agree with this perspective and considers asserted benefits to wildlife presumptive and secondary to an apparent larger goal of reducing current, appropriate uses across large portions of the CNF.</p> <p><u>Recommendations:</u></p> <p>a. Remove "wildlife" as a focal element of this alternative.</p> <p>b. Rename WMHAs to reflect their primary goals of establishing more wilderness and new "primitive areas."</p> <p>c. Acknowledge that this alternative was developed by the Forest Service and not in coordination with the Department.</p> <p>d. Acknowledge underlying assumptions and uncertainties of wildlife benefits in this alternative.</p>



THE STATE OF ARIZONA
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October 24, 2011

Director (210), Bureau of Land Management
Attn: Brenda Hudgens-Williams
P.O. Box 71383 20 M Street SE
Room 2134LM
Washington, D.C. 20024-1383

Dear Ms. Hudgens-Williams:

The Arizona Game and Fish Department (Department) protests the BLM's Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS) for the Ironwood Forest National Monument (IFNM).

Specifically, the Department protests the proposed decision to close the IFNM to firearms use and discharge. Table 2-14, *Decisions for Management Actions, Allowable Uses, and Use Allocations* number 13, page 2-63 states, for Alternative B and C (the Proposed Plan), "Prohibit the use and discharge of firearms within the IFNM, except for permitted or authorized hunting activities conducted in accordance with AGFD hunting regulations."

The Department has consistently supported the continued ability for public use and discharge of firearms on the IFNM and has consistently coordinated with the BLM Tucson Field Office (TFO) to address concerns associated with recreational shooting. A coordination outline detailing our participation and concerns as well as supporting documents are included as addenda to this letter.

In Appendix I of the PRMP, the BLM summarizes results of the IFNM Shooting Analysis. This shooting analysis appears designed to eliminate the possibility of a positive finding for the use of firearms on the monument. The BLM used Geographic Information System (GIS) analysis to eliminate all but 2.3% of the land area. Although The Department agrees that GIS analysis was a proper first step in analyzing the situation, we question the assumptions the analysis and data used to preclude areas from being suitable for firearms use. The BLM's entire analysis is biased by the underlying assumption that the only solution to the problems associated with shooting is complete closure of those areas impacted. No other scenario (such as enforcement, caliber restrictions, restricted definition of legal shooting, etc.) is evaluated. This is evidenced by the following:

The BLM first assumes that shooting must occur with the current level of impact, i.e. status quo or more intense, throughout the monument. The BLM assumes high levels of concentrated shooting throughout the monument. The Department disputes this assumption, and has

Brenda Hudgens-Williams
IFMN PRMP/FEIS Protest

suggested throughout our coordination that enforcement of existing laws and restrictions (e.g., increased law enforcement as well as caliber restrictions) would reduce impacts significantly. Specifically, we suggested at our May 5, 2009 meeting that allowing only the use of .22 rimfires would decrease the numbers of shooters by a large majority, thereby eliminating the threat of high levels of concentrated shooting assumed by the analysis.

Secondly, the Department understands the BLM used GIS layers such as category I and II desert tortoise habitat which covers a significant part of the Sonoran Desert to justify closure to all firearm use. The Department concedes high levels of concentrated shooting may have localized effects on tortoise; however we again question the assumption that the analysis results be based solely on these highest levels throughout the monument. The Department does not concur that any amount of firearm use is a threat to the tortoise, and believes this impact is mitigable with increased enforcement and implementation of less restrictive prescriptions on shooting. In addition, GIS data layers used to determine use and discharge of firearms suitability such as “high diversity of vegetation (jojoba is listed),” “raptor nesting sites *in area*,” and “cultural resources *present*” again assumes high levels of concentrated shooting and fails to consider the Department’s recommended mitigation measures of increased law enforcement and means of reducing shooter impacts without complete firearm elimination.

Finally, the analysis assumes that shooters *will* shoot monument objects and sensitive wildlife and *will* litter. Again, the Department asserts that increased law enforcement could eliminate the majority of intentional impacts, while education and other less restrictive prescriptions could eliminate the majority of all other impacts. The Department’s consistent position has been that for those acts that are already illegal, the BLM is substituting enforcement of reasonable existing law with repressive prohibition of reasonable use.

The BLM has failed to adequately address the Commission’s and Department’s significant comments in support of dispersed recreational shooting opportunities on the monument. The Department believes the Arizona State Director’s decision to ‘prohibit the use and discharge of firearms within the IFNM, except for permitted or authorized hunting activities conducted in accordance with AGFD hunting regulations’ is arbitrary and/or an abuse of discretion for the following reasons:

- It relies on analysis built on assumptions (that presence of monument objects must preclude firearms use) that are incorrect and/or fail to consider reasonable alternative solutions which would not completely prohibit firearm use, but would restrict, reduce, or mitigate impacts through enforcement of existing laws and increased regulation.
 - The BLM’s justification for closing the monument to firearms use to protect monument objects while simultaneously finding that all alternatives (including those allowing continued firearm use) adequately protect monument objects is arbitrary and capricious.
 - The BLM has failed to demonstrate that dispersed recreational shooting is in conflict with the monument proclamation, or that shooting presents risks to public safety or monument objects so significantly or immitigably that prohibition against discharge of firearms throughout the monument is necessary.
 - The BLM has failed to consider less restrictive alternatives including measures that will effectively negate the vast majority of impacts from firearm use.

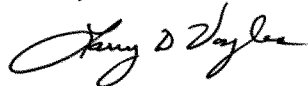
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- It is not supported by BLM's own public process results (outlined in the IFECR report) and dismisses the public's recommendation to continue to allow dispersed recreational shooting opportunities while finding alternative solutions to safety and resource damage concerns. The BLM's decision to use only those results that supported total elimination of firearm use, while dismissing the overwhelming public recommendation and findings (i.e. *"No one that we interviewed advocated elimination of shooting opportunities, even if they did not use, or particularly support the use of firearms. All recognized the Second Amendment guarantee of the right to bear arms. We also repeatedly heard from individuals across every interest group that the vast majority of recreational shooters behave responsibly, and that it is their perception that a small minority of irresponsible, unorganized shooters causes the problems with safety and vandalism that have been reported on public lands. All interviewees expressed the desire for resolution of issues rather than elimination of shooting activities"*) is arbitrary and capricious.
- It circumvents BLM's management responsibility to enforce existing laws and regulations (e.g., illegal littering and destruction of monument resources) by prohibiting the public from practicing a lawful and constitutionally protected recreational activity.
- The BLM's decision does not follow the spirit and intent of the Federal Lands Hunting, Fishing, and Shooting Sports Roundtable Memorandum of Understanding (Attachment IV) which is to "develop and expand a framework of cooperation...for planning and implementing mutually beneficial projects and activities related to hunting, fishing, and shooting sports conducted on federal lands".
- The BLM has failed to define dispersed recreational shooting within its planning documents as "any shooting that is carried out in a safe manner, does not cause resource damage, and does not result in litter."
- BLM has failed to analyze/address the potential impact to the Department's statutory responsibilities.
 - Sportsmen are essential to species protection, species management, and habitat conservation. BLM has failed to analyze and address the potential loss of hunter recruitment/retention as a result of the loss of dispersed recreational shooting opportunities. Many hunters initially learn to shoot and continue to hone their skills via dispersed target practice shooting on public lands. This opportunity often serves as a hunter catalyst /stepping stone for youth and 'research clearly indicates that active participation in hunting and fishing as an adult is directly related to active participation as a youth.' (Responsive Management. 2003. *Factors Related to Hunting and Fishing Participation among the Nation's Youth, Phase V: Final Report*. Harrisonburg, Virginia, 2003)
 - One of the top reasons for shooting is to improve hunting skills and there is a strong correlation between participation in hunting and shooting. 'A little more than 2 out of 5 people who participate in either hunting or shooting do both activities'. (Responsive Management/National Shooting Sports Foundation. 2008. *The Future of Hunting and the Shooting Sports: Research-Based Recruitment and Retention Strategies*. Produced for the U.S. Fish and Wildlife Service under Grant Agreement CT-M-6-0. Harrisonburg, VA.)

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The Department looks forward to continued coordination on these important issues. If you have any questions regarding this protest, please feel free to contact me or my staff (Josh Avey, Habitat Branch Chief, 623-236-7605) at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry D. Voyles". The signature is fluid and cursive, with the first name "Larry" being more prominent.

Larry D. Voyles
Director

LDV:jw

Enclosures

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IFNM Coordination Timeline and Comments – Attachment I

2003 - 2006

Department cosponsors Tucson Basin Shooting on Public Lands Workshop Project

Starting in 2003, The Department, along with the Coronado National Forest and BLM Tucson Field Office, sponsored the *Tucson Basin Shooting on Public Lands Workshop Project* facilitated by the U.S. Institute for Environmental Conflict Resolution (IFECR.) The result of this project was a report dated June 2006 (Attachment II). This report found that “No one that we interviewed advocated elimination of shooting opportunities, even if they did not use, or particularly support the use of firearms. All recognized the Second Amendment guarantee of the right to bear arms. We also repeatedly heard from individuals across every interest group that the vast majority of recreational shooters behave responsibly, and that it is their perception that a small minority of irresponsible, unorganized shooters causes the problems with safety and vandalism that have been reported on public lands. *All interviewees expressed the desire for resolution of issues rather than elimination of shooting activities*” [emphasis added.] In the PRMP, the BLM cited parts of the report that supported closing the IFNM to shooting, but did not reference this significant finding of the report which clearly *does not* support the closure.

March 2, 2007

BLM Tucson Field Office released the Draft Resource Management Plan and Environmental Impact Statement for the Ironwood Forest National Monument.

May 1, 2007

Arizona Game and Fish Commission sends Resolution with cover letter (Attachment III) to Arizona State Director concerning the Management of Target Shooting on the Ironwood Forest National Monument.

“in response to a draft decision to prohibit the use and discharge of firearms within the Ironwood Forest National Monument (IFNM) in the IFNM Draft Resource Management Plan and Environmental Impact Statement”, the Arizona Game and Fish Commission formally opposed recreational shooting restrictions on Public Land in Arizona through adoption of a resolution to that effect. This resolution specifically referenced the IFECR report and the Federal Lands Hunting, Fishing, and Shooting Sports Roundtable Memorandum of Understanding (Attachment IV). The Commission also asked the BLM to define dispersed recreational shooting as “any shooting that is carried out in a safe manner, does not cause resource damage, and does not result in litter.” Finally, the Commission asked the BLM to develop a law enforcement coordination plan. The BLM’s assumption that recreational shooters will cause resource damage and litter is unreasonable. Again, the BLM’s analysis assumes unregulated, intense, and concentrated shooting throughout the monument and assumes that the only solution is complete closure of impacted areas, completely failing to consider reduction of impacts that would occur if existing laws and less restrictive management prescriptions were enforced.

In response to this letter, the PRMP states that the IFECR report found that “the group did not come to agreement on any substantive decisions regarding shooting within the IFNM or elsewhere in the Tucson area, and did not provide any specific recommendations or criteria by which to evaluate areas for their suitability as shooting areas. In fact, the project report explicitly states that the group was unable to come to agreement on these points when they were discussed.” The BLM’s response is arbitrary because it conspicuously fails to consider the

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important finding of the report (see above) that “*all interviewees expressed the desire for resolution of issues rather than elimination of shooting activities.*” If the BLM finds it important that the stakeholder group could not agree on what *to do* to resolve the problem, the BLM should assign at least as much importance to the fact that the stakeholder group *did agree* on what *not to do*; namely to *not close the monument to shooting*. Also, the response does not address the requested law enforcement coordination plan. In addition, the BLM declined the Commission’s request to define dispersed recreational shooting ostensibly because “target shooting, even when carried out in a safe and legal manner, *can have damaging effects on resources*”. This assessment is overly speculative and capricious in that it can be said that *any activity*, even when carried out in a safe and legal manner *can have damaging effects on resources* (e.g., hiking, horseback riding, driving, geocaching, etc.) Although the Department concedes that safe and legal shooting *can* have damaging effects on resources, the Department also asserts that safe and legal shooting *need not* have a damaging effect on resources when managed in a way that concentration and intensity is reduced. Reduced intensity occurs on the monument away from the intensively used areas. The analysis however assumes intensive and concentrated shooting activity throughout the monument when considering impacts. The Department notes that the BLM did not say that firearm discharge, even though conducted in a safe and legal way, *cannot* be conducted without having damaging effects on resources.

May 29, 2007

Department sends formal comment letter on Draft RMP/EIS to BLM (Attachment V)

On page 3 of our letter, the Department stated that dispersed recreational shooting can be consistent with the Monument Proclamation and that we continue to support dispersed recreational shooting, referencing and including the Commission resolution.

In the PRMP/FEIS, in response to this comment, the BLM states that the Proposed Plan “is consistent with the monument designation to protect objects of scientific interest and meets the BLM mandate for multiple use. BLM has considered continued recreational shooting under Alternative A” (pg J-197) and “all four alternatives” (including those allowing continued use of firearms) comply with the Proclamation establishing the monument “including the protection of the objects of the monument, and with all other applicable laws, regulations, and policies.” BLM’s response states that recreational shooting is consistent with the purposes of the monument and that the monument should be managed in accord with its multiple use mandate. BLM’s decision to eliminate recreational shooting on the entire monument is not supported by its prior statements and is therefore an arbitrary decision.

On page 8 and 9 of our letter dated May 29, 2007 commenting on page 2-63 of the Draft RMP, we stated that: “*It is recommended that Alternative A or D be selected as the preferred alternative to allow dispersed recreational shooting within the Monument. (See attached Resolution)*”

The preferred Alternative C prohibits the use and discharge of firearms, except for hunting activities conducted in accordance with AGFD hunting regulations was proposed to negate the effects of littering, resource damage, and safety hazards. Alternative C is not enforceable without additional law enforcement on the ground. Similar restrictions on AZ State Land are also not enforceable nor effective in preventing wildcat shooting ranges. One of the most significant wildcat shooting areas within the Monument is currently on State Land where

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shooting bans are in effect. Increased enforcement of existing laws on littering, vandalism, and misuse of firearms is necessary to adequately address these concerns.

Many people learn to shoot and become hunters through recreational shooting on public lands, not by going to developed shooting ranges. Recreational shooting is an appropriate use of public lands, and the public demand for dispersed recreational shooting is more than evident."

August 13, 2007

Department meets with Tucson Field Office (TFO).

TFO informed the Department that they had met with the State Director on this issue and emphasized that no decision had been made in terms of a preferred alternative. They informed us, however, that TFO was looking into areas of the Monument that could possibly accommodate recreational shooting.

May 5, 2009

Department meets with TFO—firearm use has been decided.

TFO informed the Department that: BLM has conducted an analysis of the IFNM for the purpose of identifying areas where shooting could safely take place without major conflicts with protection of monument objects. The shooting analysis identified 2 locations where several criteria were met that would make the areas amenable to shooting activity. However, additional problems were identified under the scenario of limiting shooting to these 2 small areas within the IFNM, primarily having to do with intensive use leading to resource damage, and increased safety concerns related to confining all shooters to two small areas. As a result, the PRMP/FEIS would propose prohibiting recreational target shooting in the IFNM.

Although the Department has received informal verbal response at the two meetings documented above in writing by the BLM, no response to our comment on page 2-63 of the DEIS appears to be included in the PRMP/FEIS.

Sept 15, 2011

Department meets with TFO. TFO advises that PRMP will be released at the end of month and Department will not receive advance copy.

September 24, 2011

Proposed RMP and Final EIS for the IFNM is released to public.

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LOS ANGELES, CADAVID T. HARDY
TUCSON, AZ

October 24, 2011

Via Certified U.S. Mail, Email to Brenda_Hudgens-Williams@blm.gov

Director (210)
Attn: Brenda Hudgens-Williams
P.O. Box 71383
Washington, D.C. 20024-1383**Re: Protest of Ironwood Forest National Monument Proposed RMP
& Final EIS**

Dear Director:

On behalf of our client, the National Rifle Association (NRA), and in accordance with the governing regulations, 43 C.F.R. § 1610.5-2, we hereby submit the NRA's protest of the Bureau of Land Management's Proposed Resource Management Plan and Final Environmental Impact Report (PRMP/FEIS) for the Ironwood Forest National Monument (the "IFNM").

Interest of the NRA in Filing the Protest

This protest is being filed on behalf of the NRA by Michel & Associates, P.C., 180 E. Ocean Blvd., Suite 200, Long Beach, CA 90802. Our phone number is (562) 216-4444.

The NRA is a national organization with members who use the Monument for hunting and recreational target shooting in addition to other forms of recreation, including hiking, and enjoying nature.

Documents Previously Submitted by the NRA

Attached to this protest as Exhibit 1 is the letter sent by the NRA on May 30, 2007, commenting on the Ironwood Forest National Monument Draft Resource Management Plan and Environmental Impact Statement.

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Statement of the Issues Being Protested

The principal issue being protested is the lack of any opportunity for recreational shooting on the IFNM under Alternative C, the preferred alternative.

A secondary issue is the lack of support in the Draft Environmental Impact Statement (DEIS) for closing the IFNM to recreational shooting under Alternative C. BLM backfilled the evidentiary support for banning shooting in the PRMP/FEIS by adding Appendix I. Since this is a substantial addition to the RMP/EIS, a supplemental EIS should have been issued, and the public should have been given a chance to comment on the additional material.

Statement of the Parts of the Plan Being Protested

The NRA protests the following parts of the PRMP/FEIS:

- Chapter 2 Alternatives Analysis: prohibiting recreational target shooting in Alternative C, the preferred alternative;
- Appendix I – the “Shooting Analysis Summary.”

Statement Explaining why the State Director’s Decision is Wrong

In the PRMP/FEIS, BLM sets out four alternatives:

- Alternative A, the “no action” alternative, i.e. the status quo;
- Alternative B, the “preservation” alternative, which preserves IFNM natural resources as much as possible consistent with the law;
- Alternative D, the “access” alternative, which allows as many uses of IFNM resources as would be consistent with the law;
- Alternative C, the “preferred” alternative, which picks and chooses between the policies set out in alternatives B and D.

Recreational target shooting is allowed on the entire IFNM under Alternative A, is banned completely under Alternative B, is allowed under Alternative D on two sites only, totaling 629 acres, approximately one half of one percent of the BLM-administered public lands in the IFNM. BLM has chosen to completely ban recreational target shooting under its preferred Alternative C.

BLM’s Bias Toward Banning Recreational Shooting on the IFNM

Among the four alternatives are two “throw-away” alternatives. Alternative A, the no-action alternative, represents the status quo; the BLM will not choose it because that would effectively nullify the entire RMP/EIS process. Alternative D, which allows the maximum degree of exploitation of the IFNM’s resources, is inconsistent, at least in spirit, with the IFNM’s monument designation and won’t be chosen either. The remaining two alternatives completely ban recreational shooting on the IFNM. The way the treatment of recreational shooting is arrayed in these alternative reflects BLM’s intent, regardless of public comment, to close IFNM to recreational shooting.

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Further evidence of BLM's bias against target shooting on the IFNM is provided by the Op Ed piece that the BLM Field Manager in charge of the project wrote for one of the Tucson newspapers in 2007, arguing for a ban on recreational shooting in the IFNM.¹

Target Shooting is Arbitrarily Singled Out Among Resource-Harming Uses

The DEIS/RMP provided little rationale for why target shooting was singled out for banning in Alternative C, while other uses that harm natural resources, such as grazing and camping, were allowed. All three uses inevitably harm IFNM natural resources to some degree. For example, BLM chooses the Alternative D decision for grazing over the Alternative B decision, thereby opting to allow grazing on all public lands within the 11 allotments instead of prohibiting grazing, even though this will result in damage to rangeland resources. Why is this damage allowed, but not the damage to range resources resulting from target shooting? BLM's proposal to ban recreational shooting is arbitrary and capricious, since the PRMP/FEIS fails to explain why BLM proposes to ban shooting while allowing other activities that also harm natural resources within the IFNM.

BLM Has Not Performed Required Balancing of Harms Against Benefits of Recreational Shooting

The Federal Land Policy and management Act (FLPMA) requires BLM to manage its public lands so as to provide for outdoor recreation.² Land use plans must "use and observe the principles of multiple use and sustained yield."³ Multiple use essentially requires a balancing so that public lands "are utilized in the combination that will best meet the present and future needs of the American people."⁴ In the PRMP/FEIS, BLM has not attempted to perform the required balancing to show that the benefit to the American people of prohibiting target shooting on the IFNM outweighs the substantial benefits of target shooting on the IFNM. Appendix I contains information about the damage to natural resources caused by a small minority of irresponsible shooters. The PRMP/FEIS makes no attempt to balance these damages against the huge economic value of recreation to the region,⁵ or the recreation benefits provided, as evidenced by the intensity of target shooting on the monument.⁶

¹ See PRMP/FEIS comment 24(SR83) at p. J-201.

² 43 U.S.C. § 1701(a)(8).

³ 43 U.S.C. § 1712(c)(1).

⁴ 43 U.S.C. § 1702(c).

⁵ PRMP/FEIS § 3.5.1.3.2, pp. 3-62-63.

⁶ See, e.g. PRMP/FEIS Response 18(SR28) at p. J-133 ("Because of the intensity at which target shooting occurs on the monument, it is causing significant damage to resources.")

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PRMP/FEIS Omits Discussion of Feasible Methods of Mitigation Damage from Recreational Shooting

The PRMP/FEIS also contains no discussion of an important and feasible mitigation measure for recreational shooting's adverse effects. NEPA regulations require the EIS to discuss "the means to mitigate adverse environmental impacts."⁷ The impacts of recreational target shooting could be substantially mitigated by active management of the shooting sites by the BLM. Many of the environmentally damaging actions complained of in Appendix I, e.g. shooting at cacti and rock outcroppings, and dumping refrigerators and CRTs on the IFNM for use as targets, violate current laws; persons performing such actions could be cited. Clearly, increased enforcement of such laws would reduce recreational shooting's adverse effects. The PRMP/FEIS contains no discussion of active management of shooting areas as a mitigation measure and, in this omission, violates NEPA.

In response to this argument, BLM claims that "extensive damage is also caused by the sheer number of shooters who concentrate in certain areas of the monument, and who may be following applicable laws."⁸ There is no factual support in the PRMP/FEIS for this claim of extensive damage caused by large numbers of legal shooters concentrated in certain areas, and no documentation of the type of damage purportedly done by such shooters. For that reason, this response is inadequate.

BLM Failed to Solicit Public Comments at the First Five Meetings

It is our understanding that BLM did not take oral comments from the public at its first five meetings, but instead broke the audience up into informal groups so that they could ask questions of individual BLM staff members. Those conversations were not recorded in the public comment record. This failure to provide a forum for on-the-record public comments during the meetings violates NEPA.

Appendix I Was Not Available to the Public During the Comment Period

Appendix I, which provides BLM's analysis of the feasibility of recreational shooting on the IFNM, and the factual basis for its decision to ban or severely limit recreational shooting on the monument, was added to the RMP/EIS when the PRMP/FEIS was issued. It was not part of the original DRMP/DEIS. The DRMP/DEIS was deficient because it failed to explain the basis for banning recreational target shooting under Alternatives B and C.

Since recreation is an important use in the IFNM and target shooting is a popular and important form of recreation, as well as a form traditionally allowed on the monument, the information in Appendix I serves an important public-information purpose. Once Appendix I became available, it should have been included in a

⁷ 40 C.F.R. § 1502.16(h)

⁸ PRMP/FEIS Response to 18(SR23) at J-132.

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supplemental EIS, which would have allowed for public comments on Appendix I and on how it supports or fails to support the stances taken with respect to recreational shooting in the EIS' four alternatives. Failure to allow adequately-informed public comment on BLM's proposed ban of recreational target shooting violates NEPA.

Conclusion: NRA Requests BLM to Revise and Recirculate the PRMP/FEIS

Because of these defects in the PRMP/FEIS and in the process by which it was developed and approved, the NRA requests that the defects be remedied, and the PRMP/FEIS recirculated for further public comment.

Sincerely,
MICHEL & ASSOCIATES, P.C.



C.D. Michel
Attorneys for National Rifle Association

Exhibit 1

NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
 11250 WAPLES MILL ROAD
 FAIRFAX, VIRGINIA 22030



May 30, 2007

Mr. Mark Lambert
 Planning and Environmental Coordinator
 Bureau of Land Management
 Tucson Field Office
 12661 East Broadway Boulevard
 Tucson, AZ 85748-7200

Dear Mr. Lambert:

The National Rifle Association (NRA) appreciates the opportunity to comment on the draft resource management plan (DRMP) for the Ironwood Forest National Monument (IFNM), the availability of which was announced in the Federal Register March 2, 2007. Our comments are singularly focused on the future of recreational shooting in Ironwood.

The DRMP sets out four management alternatives, two of which would allow dispersed recreational shooting throughout IFNM and the other two would completely close IFNM to dispersed recreational shooting. The manner in which these alternatives have been arrayed clearly reflects BLM's intent, regardless of public comment, to close IFNM to recreational shooting. As a result, BLM has failed to provide a responsive and responsible management approach to providing for an activity that has long been a historic use of these public lands.

Clearly, BLM is not going to select Alternative A, the no-action alternative. It reflects the status quo and is used as a basis of comparison in order to understand how IFNM will change under each of the other alternatives. Alternative D is the least restrictive, emphasizing continued human uses. However, the manner in which it treats recreational shooting makes it an unrealistic alternative in light of the management mandates that accompanied the designation of these public lands as a national monument. In our estimation, Alternative A and Alternative D are simply throw-away alternatives. The remaining two alternatives, including BLM's preferred Alternative C, close all 128,000 acres of IFNM to recreational shooting.

The DRMP recognized a variety of legitimate recreational uses that were being made of the area, including shooting. BLM explained that Alternative C strikes a balance between long-term conservation and allowing uses that have traditionally taken place on IFNM, but ironically closes it to one of the most historic and popular public uses, recreational shooting.

In the DRMP, there is no middle ground for recreational shooting. IFNM is either opened

everywhere or closed everywhere to recreational shooting. BLM has made no attempt to accommodate recreational shooting within IFNM in any management alternative is deserving of serious consideration. The DRMP by the way it is structured is a pre-decisional document with respect to its treatment of recreational shooting. That decision was underscored by Field Manager Patrick Madigan in an opinion letter he wrote for the *Arizona Daily Star* that clearly was designed to manipulate public opinion to oppose recreational shooting in IFNM. He described the closure of IFNM as "an appropriate management choice." The DRMP should be revised to include in a new preferred alternative identification of areas within IFNM where dispersed recreational shooting can take place. As we have from the beginning of the planning process for IFNM, the NRA would be pleased to assist BLM in identifying sites that would provide safe shooting venues and identifying ways in which safe and responsible recreational shooting can be fostered.

National monument designation did not prohibit recreational shooting in IFNM, yet BLM treats the designation as if it did. In fact, you have commented that one of the reasons BLM is considering a prohibition of target shooting within IFNM "is because of the greater level of protection that BLM must provide for a National Monument." The NRA is in agreement that public land resources need to be protected from destruction or degradation and irrespective of the designation that the public land carries. These resources must be protected in order that present and future generations have them to enjoy.

However, BLM uses the actions of irresponsible shooters as the reasons to close IFNM to all recreational shooters. But the real reason for the closure is that BLM is unwilling or incapable of providing the necessary management oversight so that shooting can take place in a safe and responsible manner. In justifying closure of IFNM, a BLM spokesperson said that the agency's desire is to promote a safe environment for all visitors. Recreational shooters would also like to have a safe environment as visitors to their public lands. However, no environment can be safe for any visitor unless BLM chooses to become pro-active in its management of the public's lands entrusted to it. BLM has simply chosen not to step up to the plate when it comes to managing recreational shooting. It is choosing to take the easy way out by letting the responsible recreational shooters suffer the consequences because of the irresponsible who are allowed to conduct their activities in an unsafe manner and who abuse the land and its resources because there is no authoritative presence and no management structure.

It appeared some years ago, that BLM struck off with the objective of improving recreational shooting on public lands and finding ways to resolve problems associated with it. Our understanding is that the process began four years ago when the BLM contracted the US Institute for Conflict Resolution to address recreational shooting in the Tucson Basin. Meetings were held, sportsmen were invited to participate, working groups were established, and a website was created. BLM acknowledged at these meetings that "shooting is a legitimate use of the public lands." It would appear that since that time and the release of the DRMP, a strong anti-gun, anti-shooting bias crept into the planning process and overshadowed early efforts to address recreational shooting as a "legitimate use of the public lands."

As you know, Arizona is largely a public lands state. There are very limited areas where

recreational shooting can take place other than on BLM lands. You have acknowledged how popular recreational shooting is by stating that "While the monument is located in a somewhat rural area, its proximity to Tucson and other growing communities makes it attractive to an increasing number of shooters, to the point where the resources may not be able to support the activity." So rather than finding ways to accommodate a historic use of these lands, a use that is growing in popularity with few places available on private land, BLM proposes to close IFNM. This approach simply exacerbates the problem of finding places to shoot and it will concentrate large numbers of shooters in smaller areas, increasing the problems that BLM has given as its reasons for closing 128,000 acres to recreational shooting.

Who should actually be blamed for "resource destruction caused by unregulated shooting" as Mr. Madigan characterized the situation. "Unregulated" shooting can also be called "unmanaged" shooting and this "unmanagement" is the fault of BLM. Responsible shooters, like any other recreational user of BLM lands, cannot be expected to take on the management responsibilities of the agency.

There are resources to support recreational shooting. It is a matter of whether BLM wishes to tap into those resources. One such resource is private sector partnerships. Nearly a decade ago, in the face of increasing loss of access and opportunity on public lands for target shooting, national hunting and wildlife conservation organizations formed a partnership with BLM and other federal land management agencies called the Public Lands Shooting Sports Roundtable. The objective of the Roundtable was to protect the future of the shooting sports on public lands by working together to resolve the kinds of issues that BLM cites as its reasons for closing IFNM to recreational shooting.

The NRA offered assistance to BLM representatives to the Roundtable and to IFNM but it was never accepted. Instead, BLM chose to engage in a public facilitated process to look at recreational shooting. However, as Patrick Madigan stated in his opinion letter, the process did not result in any clear decisions for IFNM, but did reveal that other public lands could be available as alternative sites for shooting. Mr. Madigan also stated that "I am convinced we can find a better location for shooting activity outside of the monument boundaries, one that will protect the public and the monument's important natural resources." You have also commented that there is BLM land outside of IFNM where recreational shooting would be allowed. To our knowledge, no such lands have not been identified.

There has been no study to determine if such lands would meet the needs of the recreational shooters who will be displaced from IFNM, as well as the needs of the public coming into the sport. If these areas are so well known, why were they not addressed in the DRMP? Even if these areas were made available, what guarantee is there that they will not fall victim to the same ills that have beset the shooting areas in IFNM and, at some point in the future, suffer the same fate? Problems do not go away and neither do irresponsible people by moving them from one location to another. It is time for BLM to actively manage recreational shooting and it can begin in IFNM.

As noted above, most people living in western states are dependent upon access to public land to enjoy the benefits of recreational shooting, to practice safety and marksmanship skills, and to introduce their family members to the shooting sports. It has been NRA's experience that when public land is closed to recreational shooting, no alternative sites are opened, meaning a net loss in recreational opportunities.

Hunters are also affected by the closure, even though the notice states that it does not apply to hunting. Hunting is more than the act of hunting game. Hunting is also about the preparations that lead up to opening season; that is, being a safe and humane hunter. Closing access to public lands for target shooting has an adverse effect on hunting in that the opportunity to hunt safely and enjoyably is restricted to the seasoned hunter, to those who belong to private gun clubs, and those who live elsewhere in the state or country. Hunters are not separate and distinct from target shooters. Hunters also need a place to practice, and to sight in their hunting guns.

As one final note, the Notice that appeared in the Federal Register stated that "Oral comments will be accepted and recorded at public meetings held during the 90-day review and comment period." It is our understanding, that BLM did not take oral comments from the public at its first five meetings, but instead broke the audience up into informal groups so that they could ask questions of individual BLM staff members. Those conversations were not recorded for the public comment record. Why did BLM not follow the procedure it stated in the Federal Register Notice? In the end, it resulted in a sixth meeting was allowed for oral comment on the record.

In summary, the NRA urges BLM to withdraw the DRMP in order to revise its preferred Alternative C to include the designation of areas within IFNM for dispersed recreational shooting. The NRA has the technical expertise to assist the BLM in resolving recreational use conflicts in a manner that promotes continued use of public lands for the traditional public land users, protects the natural and cultural resources of the land, accommodates other users of the public land, and protects private property.

Sincerely,



Susan Recce

Director

Conservation, Wildlife and Natural Resources
National Rifle Association

CLOSURE OF 625 SQUARE MILES OF FOREST LAND TO RECREATIONAL SHOOTING

July 28, 2014

Tom Tidwell, Chief
U.S. Forest Service
1400 Independence Avenue, SW
Washington, D.C. 20250

Dear Chief Tidwell:

The undersigned national sportsmen's conservation, hunting and shooting sports organizations are writing to express great concern over the U.S. Forest Service's (USFS) announced proposal (attached article) to close 625 square miles of forest land along Colorado's Front Range to recreational shooting. Shooting would be allowed only on approved shooting ranges.

Our organizations are signatories to the recently renewed Federal Lands Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU). Forty-three national organizations, including ours, and four Federal agencies, including the USFS, signed the document. In the Statement of Mutual Interests and Benefits, the MOU recognizes that:

The Parties have common interests, including providing public access to federal lands and enhancing opportunities on federal lands to fish, hunt, and engage in shooting sports activities in a safe and environmentally sound manner for the purposes of promoting marksmanship, public safety, hunter education, competition, lawful hunting, and public demonstrations.

According to the news article, only those serving on an in-state ad-hoc group were privy to discussions leading up to this proposal and had an opportunity to provide input outside of public comment meetings. To the contrary, our organizations that represent millions of hunters and shooters across the country, many of whom will be affected by this proposal, and who have partnered with the USFS in the MOU were not consulted, let alone given advanced warning that the USFS was contemplating such a proposal.

This is not an isolated incident where the USFS has failed to work with its MOU partners on matters associated with recreational shooting, particularly where the agency is planning to close shooting ranges or forest lands to recreational shooting. The USFS has no transparent, understandable process by which these closures are being made and our organizations are highly skeptical that this 625-square mile closure is necessary. It would appear that the USFS is using the "wildland-urban interface", a planning tool used to address wildfire prevention, mitigation and response (not to evaluate public land recreational activity), as a pretext for driving informal recreational shooting off national forest lands.

This proposal seems to be following the pattern of closures that has occurred on the four southern national forests in California: the Angeles, Cleveland, Los Padres, and San Bernardino

National Forests. These forests span hundreds of thousands of acres from the Cleveland with 460,000 acres (720 square miles) to the Los Padres with over 1.6 million acres of public lands. The USFS has systemically closed each of these forests to recreational shooting except in designated areas.

Through the MOU Roundtable, our organizations support the identification on Federal lands of areas that are particularly suitable for more concentrated target shooting. But we do not support the identification or designation of such areas as a pathway to close off all forest lands to informal, dispersed shooting. This is the path this proposal appears to be taking.

By relegating shooters to a few designated sites or ranges (Angeles has only two concessionaire operated shooting areas), makes shooting a vulnerable activity because any number of situations could result in an area or range being closed including non renewal of use permits; attempts by local counties to superimpose their own ordinances; lengthy, costly and protected permit renewal processes; and lack of concessionaires to operate ranges. Once an area or range is closed our experience is that it remains closed.

We also have concerns that facilities to accommodate recreational shooting will not be constructed and opened prior to forest lands being closed to recreational shooting. There are a number of examples where shooting facilities have been closed without providing a replacement facility, such as the closure of the Tucson Rod and Gun Club range in the Coronado National Forest and the Rampart Shooting Range in the Pike National Forest.

While we support the concept of directing shooters toward areas that can safely support the activity and advocate for the development of new shooting ranges on national forests and other public lands, to our knowledge the proposal floated by the USFS does not include any tangible plan to take these steps, nor have we seen any concrete plan to replace the lost public shooting opportunities that would occur if the proposal moves forward. Consequently, we cannot support large-scale recreational shooting closures until there is evidence that the process of identifying dispersed shooting areas or constructing ranges is legitimately underway. Without these changes, we feel that the large-scale closures identified in the proposal will simply result in high volumes of shooters being pushed into other areas, thus creating crowding and other problems elsewhere.

As partners with the USFS in the MOU, one of our many objectives is to “Participate in Agency land management planning efforts to identify suitable areas for hunting, fishing, and shooting sports activities on federal lands and areas where access for those activities is inadequate on federal lands.” (#6 under the heading: The Private Organizations Agree To :). This proposal for the Front Range forest lands is the type of land management planning effort that through the MOU we expected to be engaged in, as the USFS has engaged other interests in Colorado through their participation on the ad hoc committee.

The undersigned organizations encourage the Forest Service to continue working with the Colorado Division of Parks and Wildlife and affected counties to identify alternative courses of action that address legitimate safety concerns on a site-specific basis while also maintaining public access to dispersed shooting opportunities across the Front Range. Furthermore, members of the MOU Roundtable stand willing and ready to assist with this process.

We believe the release of this proposal is premature because it has not been developed with the involvement of those stakeholders who will be directly affected by this plan, including our organizations who are partners with the USFS through the MOU.

Sincerely,

Boone and Crockett Club
Campfire Club of America
Catch-A-Dream Foundation
Congressional Sportsmen's Foundation
Dallas Safari Club
Delta Waterfowl Foundation
International Hunter Education Association
Masters of Foxhounds Association
National Rifle Association
National Shooting Sports Foundation
Orion, The Hunter's Institute
Pheasants Forever
Pope and Young Club
Quail Forever
Quality Deer Management Association
Theodore Roosevelt Conservation Partnership
U.S. Sportsmen's Alliance
Whitetails Unlimited, Inc.
Wild Sheep Foundation
Wildlife Forever
Wildlife Management Institute

Cc: Regional Forester Daniel J. Jiron
Rocky Mountain Region

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DAVID T. HARDY
TUCSON, AZ

January 28, 2015

Via FedEx Overnight Delivery, Email to protest@blm.gov

Director (210)
Attn: Protest Coordinator
20 M Street SE, Room 2134LM
Washington, D.C. 20003

**Re: Protest of Prehistoric Trackways National Monument Proposed
Regional Management Plan & Final Environmental Impact
Statement**

Dear Director:

On behalf of the below-referenced non-governmental organizations (the "NGOs"), and in accordance with the governing regulations, 43 C.F.R. § 1610-5-2, we hereby submit the NGOs' protest of the Bureau of the Land Management's Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS) for the Prehistoric Trackways National Monument (the "PTNM").

Interest of the NGOs in Filing the Protest

This protest is being filed on behalf of the NGOs listed below by Michel & Associates, P.C., 180 E. Ocean Blvd., Suite 200, Long Beach, CA 90802. The phone number for Michel & Associates is (562) 216-4444.

Archery Trade Association
Boone and Crockett Club
Campfire Club of America
Catch-A-Dream Foundation
Congressional Sportsmen's Foundation
Masters of Foxhounds Association
National Rifle Association
National Shooting Sports Foundation
North American Bear Foundation
Orion, The Hunter's Institute

180 EAST OCEAN BOULEVARD • SUITE 200 • LONG BEACH • CALIFORNIA • 90802
TEL: 562-216-4444 FAX: 562-216-4445

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Pope and Young Club
Rocky Mountain Elk Foundation
Wildlife Forever
Wildlife Management Institute

The NGOs support the traditional and historic use of the PTNM for recreational target shooting in addition to other forms of recreation on Federal public lands.

Documents Previously Submitted by the NGOs

Attached to this protest as Exhibit 1 is the comment letter submitted by the NGOs on May 31, 2013 regarding the Draft RMP/EIS for the Prehistoric Trackways National Monument.

Statement of Issues Being Protested

The issue being protested is the categorical prohibition of recreational target shooting within the PTNM under the PRMP/FEIS.

Statement of the Parts of the Plan Being Protested

The NGOs protest the following portions of the PRMP/FEIS:

- Chapter 2 Alternatives Analysis: prohibiting recreational target shooting in Alternative C, the preferred alternative, and analysis of industry standards for predictable projectile safety areas in Alternative A
- Appendix G - "Safety Zones for Recreational Shooting Analysis"

Statement Explaining why the State Director's Decision is Wrong

In the PRMP/FEIS, the BLM sets out four alternatives:

- Alternative A, or the "No Action Alternative"
- Alternative B, which purportedly represents a relatively "passive" approach in which "human interventions with the resources are minimal and natural processes would continue at the current rate"
- Alternative C, which purportedly represents a "moderate public use and resource management method of the Monument"
- Alternative D, which purportedly represents "a maximum use approach to management of the Monument and the widest range of public uses of the resources while still following the constraints of the designating Legislation"

There are no prohibitions on recreational target shooting in Alternatives A and B. Alternatives C and D contain a categorical prohibition on recreational target shooting. The BLM has chosen to completely ban recreational target shooting under its preferred Alternative C.

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BLM's Bias Toward Banning Recreational Shooting at the PTNM

Among the four alternatives considered by the BLM, two alternatives proposed included no restrictions on target shooting within the PTNM and two alternatives, including the alternative adopted by the BLM, proposed a categorical ban on target shooting. This all-or-nothing approach suggests an intention on the part of the BLM to close the PTNM to recreational shooting, regardless of public comment. Although the BLM did consider a proposal to allow target shooting within 356 acres near the southern boundary of the PTNM (PRMP/FEIS Section 2.2.2.2), that proposal was "not analyzed in detail" (Section 2.2.2). The BLM's dismissal of this proposal as "not feasible" due to baldly-asserted difficulties in enforcing the boundary of the area in which target shooting would be permitted is further evidence of the BLM's prejudicial treatment of recreational target shooting at the PTNM.

Moreover, the overall presentation of the alternatives considered by the BLM suggests that the prohibition of target shooting was a foregone conclusion on the part of the BLM. Although Alternative B is described as a "more restrictive approach to the use of the [PTNM] that emphasizes resource protection[.]" that alternative has no prohibition on recreational target shooting whatsoever. (PRMP/FEIS at p. ES-4.) In contrast, Alternative C, which purports to take a balanced approach to resource preservation, and Alternative D, which is described as the "maximum use approach[.]" both contain a categorical prohibition on recreational target shooting. The only apparent explanation for excluding target shooting from the alternatives that purport to allow greater recreational use of the PTNM while allowing it in the most restrictive alternative is that the BLM was intent on ensuring that its preferred alternative contained a prohibition of recreational target shooting.

Target Shooting is Arbitrarily Singled Out Among Recreational Uses

Despite the fact that among recreational activities recreational target shooting has one of the lowest accidental injury and death rates, the PRMP/FEIS holds recreational target shooting to a more burdensome standard than other recreational activities.

The PRMP/FEIS provides little rationale for singling out target shooting for a categorical ban, when other uses, such as extreme off-roading and "rock crawling" by off-highway vehicles ("OHVs"), mountain biking, horseback riding, picnicking, camping, hunting, and sightseeing would still be permitted under the plan. In response to the NGOs' concern, the BLM indicated that "[t]he PTNM was designated primarily to protect significant paleontological resources while continuing to support recreation that supports or does not damage paleontological resources." (PRMP/FEIS at p. H-92.) To that end, the BLM notes that "[m]otorized trail systems, as well as non-motorized trail systems, provide access for continuing education, interpretation, and research associated with fossil resources." (*Id.*)

The authorizing statute for the PTNM requires the BLM to manage the PTNM in a manner that "conserve[s], protect[s], and enhance[s]" the "paleontological, scientific, educational, scenic, and recreational resources and values" of the Monument. (Omnibus Public Lands Management Act, Section 2013.) It does not value certain recreational activities over others. To the extent that the trail systems are necessary to provide access for activities related to "education, interpretation, and research associated with fossil resources," the continued presence of recreational activities such as "rock crawling" by OHVs, hunting, hiking, dispersed camping, or mountain biking for purposes other than

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accessing the PTNM's paleontological resources does nothing to support that goal. Limiting visitor activities to those that are related to educational, as opposed to recreational, pursuits would achieve the goal of promoting research associated with fossil resources with a lower impact on paleontological resources. These recreational off-roading activities, therefore, should have been evaluated by the BLM in precisely the same manner as continued recreational target shooting, i.e., as activities that do not expressly support paleontological resources. The BLM's proposal to ban recreational target shooting yet continue to allow other recreational activities without applying the same level of scrutiny to those activities is arbitrary and capricious.

Beyond the fact that recreational target shooting is evaluated under more-burdensome standard of resource impact than other recreational activities, the PRMP/EIS fails to balance the needs of recreational target shooters against the needs of other recreational users. Noting that the PTNM includes "32 miles of designated off-highway vehicle (OHV) trails[,] the PRMP/EIS applies a 0.5 mile buffer around the recreational routes. (PRMP/EIS at p. 4-17.) This buffer alone leaves only one-percent of the PTNM for consideration for recreational target shooting. As the authorizing statute for the PTNM does not favor one recreational activity over another, the BLM should have considered the feasibility of management alternatives that could accommodate target shooting use by limiting other managed uses of the PTNM in specified areas.

The PRMP/EIS's permissive treatment of camping in comparison to recreational target shooting further suggests a bias on the part of the BLM against the possibility of continued recreational target shooting at the PTNM. Notably, the PRMP/EIS acknowledges the potential of damages to paleontological resources caused by camping at the PTNM in that it states that "[i]n order to deter resource damage, the BLM would sign sensitive areas as 'no camping,' reduce evidence of inappropriate camping and educate visitors to use Leave No Trace principles."¹ (PRMP/EIS at p. 2-14.) Moreover, in cases where camping does demonstrate damage to PTNM resources, the BLM has agreed to create a "more developed campground" in order to mitigate those impacts. (*Id.*) The BLM is willing not only to continue to allow camping after a demonstrated impact on paleontological resources, but also to expend resources in order to allow such continued recreational use. In contrast, the BLM would not even evaluate the feasibility of providing recreational target shooters access to the area on the southern boundary of the PTNM outside the BLM's buffer zone, even without any demonstrated impact on resources.

The PRMP/EIS Fails to Take Affirmative Steps to Preserve Recreational Target Shooting

Again, the authorizing statute for the PTNM requires the BLM to manage the PTNM in a manner that "conserve[s], protect[s], and enhance[s]" the "paleontological, scientific, educational, scenic, and recreational resources and values" of the Monument. (Omnibus Public Lands Management Act, Section 2013.) The PRMP/EIS makes no effort to take affirmative steps to preserve recreational target shooting at the PTNM.

¹It should be noted that five years ago the recreational target shooting community launched with the BLM the "Respected Access is Open Access" outdoor ethics campaign in order to minimize the impact of recreational target shooting on Federal lands.

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For example, the PRMP/FEIS dismisses, without detailed analysis, the possibility of allowing target shooting in the southern area of the PTNM that lies outside areas affected by a safety buffer. (PRMP/FEIS at Section 2.2.2.2 (pages 2-4).) The BLM asserts that allowing target shooting in this area would be infeasible because there are no access roads on this side of the PTNM and the boundaries of this area are not distinct and would need to be marked by signs. But the BLM fails to consider even the most obvious of potential solutions to this conundrum, such as building an access road to the intended recreational shooting area and limiting target shooting to the south side of that access road.

Further, the PRMP/FEIS does not consider designating areas, either inside or outside the buffer zone, and including a minimum amount of infrastructure to allay safety concerns. For example, the provision of backstops and target holders could provide a safe shooting venue that would resolve much of the BLM's concerns over user conflicts, but the PRMP/FEIS does not give any consideration to such actions. In response to the NGOs' concerns raised at the Draft RMP stage, the BLM indicated that providing backstops and target holders for target shooting would not achieve its management objective conserving, protecting, and enhancing fossil resources. (PRMP/FEIS at p. H-92.) But it would also not hinder this objective any more than continuing allow other recreational activities, such as "rock crawling" by off-road vehicles hinders this objective. Moreover, as noted above, the PTNM's enacting statute directs the BLM to protect recreational activities, including recreational target shooting, at the Monument.

Similarly, the PRMP/FEIS attempts to justify a categorical ban on recreational target shooting by noting that such a prohibition would "eliminate the litter left by target shooters[.]" increase the safety of visitors and BLM staff, and reduce the possibility of conflicts with other users of the PTNM. (PRMP/FEIS at p. 4-23.) But these problems could all be reduced without the BLM's resorting to the extreme measure of a categorical ban on recreational target shooting. As it does with camping, hiking, and OHV use, the BLM should manage recreational target shooting to reduce its impacts on the environment and other users. The BLM's failure to consider doing so is indicative of its unwillingness to treat recreational target shooting as a legitimate recreational activity on the PTNM.

The PRMP/FEIS Contains Insufficient Evidence for the Soundness of its Buffer Zones

In order to support the closing of the PTNM to recreational target shooting, the BLM applies industry tables on travel distances of bullets to create a 0.5 mile buffer from target shooting around OHV trails or paleontological resources. The BLM provides no evidence that such a buffer is supported by law, regulation, agency policy, or sound science. Arbitrarily imposing such a buffer, irrespective of circumstances, would set a dangerous precedent for future RMPs and potentially have a crippling effect on the availability of recreational target shooting locations throughout federal lands.

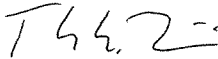
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Conclusion: The NGOs Requests that the BLM Revise and Recirculate the PRMP/FEIS

Because of these defects in the PRMP/FEIS, the NGOs request that the defects be remedied and the PRMP/FEIS be recirculated for further public comment.

Sincerely,

Michel & Associates, P.C.

A handwritten signature in black ink, appearing to read 'T. Maciejewski'.

Thomas E. Maciejewski

TEM/cs

Exhibit 1



Fwd: Temporary Closure of Prehistoric Trackways National Monument to target shooting

Phillips, Thomas <tp@blm.gov> Wed, Nov 6, 2013 at 11:27 AM
To: Renee Cozzetta <rc@blm.gov>

Forwarded message

From: Renee, Susan <rs@blm.gov>
Date: Fri, May 31, 2013 at 3:20 PM
Subject: RE: Temporary Closure of Prehistoric Trackways National Monument to target shooting
To: Phillips, David <dphill@blm.gov>
Cc: Bill Chisholm <bchish@blm.gov>, Tom Phillips <tp@blm.gov>

Attached are the comments as revised with the addition of the Association of Fish and Wildlife Agencies.
Thanks,
Susan

From: Wallace, David [mailto:dwallace@blm.gov]
Sent: Friday, May 31, 2013 12:47 PM
Subject: Temporary Closure of Prehistoric Trackways National Monument to target shooting
Cc: Bill Chisholm; Tom Phillips

Susan,

As we discussed on the teleconference, please find the Environmental Assessment for the temporary target shooting closure to the PTNM prepared to the RMP decision. Given the similarity in analysis between the PTNM RMP and the Temporary closure EA, I would assume that you comments would be very similar, as well. However, this is another opportunity for you and the other NGOs to provide feedback. Thanks for your efforts and have a great weekend.

—
Dave Wallace
Assistant District Manager/Multiple Resources
Las Cruces District Office
1800 Marquessa Street

U.S. DEPARTMENT OF THE INTERIOR

1. The BLM identifies shooting as a popular recreational activity in the Prehistoric Tracks National Monument (PTNM) and yet the preferred alternative closes the entire monument to recreational shooting.

2. The RMP is an "all or nothing" approach for recreational shooting. Under Alternatives A and B, there are "no restrictions on the discharge of firearms" and under Alternatives C and D "target shooting is prohibited." The BLM does not consider the possibility of a "middle ground" where recreational shooting is legally, reasonably, and safely allowed in some areas of the monument, but the RMP provides no other option except closure. There is no middle ground where certain currently used sites by shooters would remain opened.

3. The BLM accommodates GNV users, particularly those engaged in extreme off-roading and rock crawling, with a "middle ground" approach that would allow for recreational shooting to accommodate a traditional and equally popular recreational activity like recreational shooting.

4. The BLM has created a method to "scientifically" support closing the PTNM to shooting by applying industry tables on travel distance of bullets to create a 1/2 mile buffer around paleontological resources. The BLM's application conveniently concludes that "there are no areas in the monument that are more than 1/2 mile from areas of high public use where recreational shooting could take place safely."

The BLM does not state that this standard of applying a buffer is supported by law or agency regulation or policy. It sets a dangerous precedent for future BLMs by implying that shooting is prohibited in areas where there are no GNV tracks or paleontological resources, irrespective of unique or even common circumstances.

Implying that it is impossible to safely and responsibly shoot within 1/2 mile of existing trails would significantly impact shooting opportunities not only on the PTNM, but throughout federal lands managed by BLM and other agencies. It is also unclear whether this standard is being applied to the PTNM or to the entire BLM. If the standard is applied to the entire BLM, then within the projected ammunition capabilities listed in Appendix G from a trail is a candidate for closure.

5. The RMP did not consider designating some areas for shooting which could include a minimum amount of infrastructure to provide a safe shooting venue (backstops, target holders) that would be used by the public. The RMP did not consider the potential for recreational shooting can be combined with the 1/2 mile of designated GNV trails in the PTNM.

The opening statute for the PTNM states that the Secretary shall manage the monument in a manner that conserves protects and enhances the resources, including recreational resources, and shall not establish public lands by shooting in the PTNM. The RMP states that the area is known and used frequently for target shooting and that the RMP is not intended to restrict recreational target shooting practice. The BLM acknowledges that shooting is an important recreational activity and that the recreational resources of the PTNM provide a value that would be conserved, protected and

45-1 Alternatives were developed for target shooting based on a safety analysis. The results of the analysis, described in detail in Appendix G and Map 4-1, illustrate that public safety is at risk from target shooting throughout the Monument, with the exception of one small inaccessible location at the southern edge.

45-2 The PTNM was designated primarily to protect significant paleontological resources while continuing to support recreation that also supports or does not damage paleontological resources. Motorized trail systems, as well as non-motorized trail systems, provide access for continuing education, interpretation, and research associated with the fossil resources. The PTNM designation does not direct the BLM to provide opportunities for target shooting.

45-3 The conclusions of the shooting analysis are unique to the unusual terrain associated with the PTNM. The Draft RMP clearly describes the dissected nature of the canyons and ridges and the safety risks associated with that particular landscape. The safety analysis was performed after several "near misses" where target shooting has taken place concurrent with school field trips. The safety analysis confirmed what the BLM has experienced in the field—that the terrain conditions in the PTNM are unsuitable for safely furthering the legislative goals of research, education and interpretation.

45-4 The BLM would like to emphasize that within the 5.5 million acres the Las Cruces District manages, the Prehistoric Tracks constitutes just 0.1 percent of the whole. In this southwestern landscape, the 5,000 acres of the PTNM is dwarfed by the remaining lands available. The PTNM has offered a convenient, accessible spot for local target shooters. The Proposed RMP/EIS discusses the availability of other similar sites within a 10-mile radius of the Monument, in Chapter 4, Impacts of Recreation and Visitor Services on Recreation and Visitor Services Alternative C.

The BLM must manage the PTNM in a manner that "conserves, protects, and enhances" fossil resources and other uses that also conserve, protect, and enhance fossil resources. Providing backstops and target holders for target shooting would not achieve this management objective (See Final RMP/EIS, Chapter 2, Paleontological Resources Goals and Objectives).

The BLM has initiated dialogue with local shooting clubs and the New Mexico Department of Game and Fish to explore the possibility of providing recreational target shooting sites outside the boundary of PTNM, but in the vicinity.

enhanced. Conversely, the BLM's preferred alternative proposes to completely cove the PNMN to this legitimate and traditional activity. This is at odds with Congress's declared intent to preserve and conserve recreational resources and values within the PNMN's identified boundaries. Further, enhancing recreational shedding by building backstops and installing target holders would be consistent with the legislative intent of the designating Act.

There is no consideration in the RHP for setting aside an area of current OHV use for recreational shooting. The RHP could suggest, as it did for recreational snowbirds, that there are open a million acres outside of the NMA for OHV users who might be displaced because of accommodation to shooters. The point here is not to create an argument with OHV users, but rather to underscore how seemingly easy it is to write off one class of recreation user by suggesting that millions of acres remain open outside the planning area for that use.

Recreational shooting, when recognized as a popular recreational activity in the NMA, is evidently not recognized by the BLM as a legitimate and traditional activity in the planned area, and thus must avoid to OHV users.

The Federal Lands Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU) sponsored by the BLM, FWS, and USFS in 2006 provides a partnership with national, wildlife conservation and hunting sport organizations to address issues and opportunities associated with hunting, fishing and recreational shooting on Federal Lands. The Roundtable, in partnership with Trout Unlimited, Inc., launched an education outreach campaign, *Respected Access is Open Access*, to address issues of debris, vandalism, and other negative behaviors. While these issues are identified as a reason to close the MTA to shooting, there is no indication that the BLM ever reached out to the local chapters or organizations or to its MOU partners to assist in resolving problems.

In most every instance, the BLM pasteurizing area or tending these areas is surrounded by public land that remains open to shooters. But, there is no discussion of whether this land has any impact on the deer population. The question is whether the deer population is being reduced, how far displaced shooters will have to travel, and whether the displaced shooters will create new impact by concentrating use in those other areas. The reality is that concentrated recreational shooting, by definition, is site specific and cannot be picked up and placed just anywhere on the millions of acres that BLM manages.

The BAMP includes several inflammatory statements about secondhand shopping that could be interpreted as setting the stage for the B&M to follow, but strongly suggest public policy is just as important as the B&M itself. One notable example is the opening section's Appendix, which lists monuments, to shoppers. One notable example is the opening section's Appendix, which lists monuments, to shoppers. One notable example is the opening section's Appendix, which lists monuments, to shoppers. One notable example is the opening section's Appendix, which lists monuments, to shoppers.

The BLM through its RAMP is holding recreational shooting to a different standard than other recreational activities in spite of the fact that shooting has one of the lowest accidental injury and death rates of all recreational activities. The BLM encourages hunters to use the same safety standards and hunting techniques as they would use in the field. The BLM encourages hunters to use the same safety standards and hunting techniques as they would use in the field. The BLM encourages hunters to use the same safety standards and hunting techniques as they would use in the field.

45-5 Chapter 4, Impacts to Recreation and Visitor Services from Travel and Transportation Alternative A, has been updated to reflect the availability of off-highway vehicle routes and challenging terrain outside of the PTNM boundary.

4-5-6 The *Proposed RMP/EIS* includes a stronger discussion of target shooting in Chapter 4, Recreation and Visitor Services Impacts to the Alternatives. Since the publication of the Draft RMP/EIS, BLM has conducted further outreach to shooting sports organizations relating to the proposed closure to target shooting. This outreach is described in Section 5.4

445-7 The *Draft RMP/EIS* describes other target shooting opportunities in Section 4.4.3.3.

10 The BLM justifies monument closure by stating that "Prohibiting target shooting would eliminate trash and litter left by target shooters, reduce the opportunity for user conflicts and increase visitor safety and enjoyment." The BLM also states that "Prohibiting target shooting would create a safer environment for researchers, visitors, and BLM staff and volunteers."

The problems that the BLM identifies fall squarely at the feet of the BLM for not managing recreational shooting as it opens. One user, competing, hiking and other pursuits, as a legitimate recreational activity, is being prohibited. The BLM is not managing the land as a public resource on any public land and draw its conclusion that the lands should be closed. And as noted in #7, the BLM evidences no effort to work with shooters and local, state, or national organizations to resolve issues.

11 In comparing the BLM for the PTM to its attempt to have been the BLM for the proposed Grand MA and the Sonoran Desert NMA where an effort on the part of the BLM was made to continue opportunities for an activity that has had a legitimate and historic use of the land. The opportunities for recreational shooting under these BLMs are illusory.

12 The undersigned organizations appreciate the opportunity to comment on the BLM and are open to the possibility of working with the BLM to find a way to continue the activity on public lands and work together to promote and enhance safe and responsible recreational shooting on our federal public lands.

Archery Trade Association
Association of Fish and Wildlife Agents
Beacon and Conquest Club
Campfire Club of America
Catch A Dream Foundation
College and Outdoorsmen's Foundation
Columbia River Salmon Club
Masters of Fishbonds Association
Mule Deer Foundation
National Rifle Association
National Shooting Sports Foundation
Northwest Wildlife Association
Orion, The Hunter's Institute
Pope and Young Club
Quality Deer Management Association
Rocky Mountain Elk Foundation
Rocky Mountain Society
Treadwell Research Conservation Partnership
Wildlife Forever
Wildlife Management Institute

45-8 Please see response to Comment 45-2.

*Wildlife and Hunting Heritage
Conservation Council*

April 27, 2012

Mr. Robert Abbey, Director
Bureau of Land Management
1849 C Street NW
Washington, D.C. 20240

Re: Possible Closure of the Sonoran Desert National Monument to Recreational Shooting

Director Abbey:

Thank you for meeting with me and members of the Council's Recruitment and Retention Subcommittee on February 10th to discuss the potential closure of the Sonoran Desert National Monument to recreational shooting. BLM staff followed up with a detailed presentation on the Sonoran for the full Council during its meeting the following week.

The Council is troubled about the impact of irresponsible outdoor recreational activities to natural resources of the Sonoran Desert National Monument such as saguaro cactus, irreplaceable cultural resources such as petroglyphs, as well as threats to human safety. However, the Council is concerned that the total closure of the monument's one-half million acres to recreational shooters represents an unwarranted action against a single user group.

A Council ad hoc group including Jeff Crane, Robert Model, and Steve Sanetti conducted a site visit to the Sonoran Desert National Monument on April 10th to view the property first-hand and collect information about the challenges surrounding management of the monument. BLM state director Ray Suazo and numerous field staff hosted the site visit and helped craft a very informative and valuable trip. The full Council will receive a report from this ad hoc group on a May 11th teleconference, and will discuss alternatives to a total closure of the Sonoran Desert National Monument. I urge you to consider the Council's recommendations prior to publishing the proposed plan.

Sincerely,



John Tomke, Chair
Wildlife and Hunting Heritage Conservation Council

Cc: Secretary Ken Salazar, Department of the Interior

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*Wildlife and Hunting Heritage
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August 29, 2013

The Honorable Sally Jewell, Secretary
Department of the Interior
1849 C Street NW
Washington, D.C. 20240

The Honorable Tom Vilsack, Secretary
Department of Agriculture
1400 Independence Avenue
Washington, D.C. 20250

Re: Pilot Project Facilitating Recreational Shooting Access and Responsible Behaviors on the Sonoran Desert National Monument and Surrounding Public Lands

Dear Secretary Jewell and Secretary Vilsack,

I am writing on behalf of the Wildlife and Hunting Heritage Conservation Council (Council) to make you aware of a pilot project initiated at the request of the Council to facilitate responsible recreational shooting on the Sonoran Desert National Monument (SDNM) and surrounding public lands. These public lands interface with the rapidly growing Phoenix metro area and are lands primarily managed by the Bureau of Land Management (BLM) and U.S. Forest Service.

A little more than a year ago, members of the Council first met with Bob Abbey, then BLM Director, to discuss recreational shooting on BLM managed lands. The meeting was sparked by a trend of public lands closures to recreational shooting which is a traditional and popular outdoor recreational activity on that provides significant benefits for state fish and wildlife agencies. The SDNM came to the attention of the Council around this same time because the BLM was proposing to completely close the SDNM to recreational shooting.

The outcome of our meeting was an agreement to work collaboratively to protect recreational shooting opportunities and access by developing recommendations to promote safe and responsible shooting that would reduce or eliminate shooter-related issues. Subsequently, in June 2012, the BLM announced its decision to take "no-action" to close the SDNM to recreational shooting. To this end, the Council and representatives from the BLM, Forest Service and Arizona's Game and Fish Department (AGFD) agreed to establish a pilot project centered around the Sonoran landscape adjacent to the Phoenix metropolitan area.

Our community began working closely with Tread Lightly!, a member of the Federal Lands Hunting, Fishing and Shooting Sport Roundtable to help facilitate the development of the pilot project's plan between these federal and state agencies. We are now pleased to report that Tread Lightly! has helped the BLM's Arizona State Office, AGFD, and Forest Service's Region 3 develop a plan and implementation strategies to establish a model public/private partnership in Arizona with potential to serve a much broader role across the west.

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Dubbed the “Partnership in Shared and Respected Access,” the plan’s goals and strategies are complimentary to existing efforts such as: The America’s Great Outdoors initiative; the Federal Interagency Council on Outdoor Recreation’s effort to improve interagency coordination and collaboration in pursuit of sustainable business models for outdoor recreation; BLM’s concept of shared stewardship, and; state fish and wildlife agencies’ highest priority – safeguarding our outdoor heritage through retention and recruitment of new hunters, anglers, boaters and recreational shooters.

The BLM and Forest Service play a vital role by providing seed funding for this pilot project. Organizations represented on the Council and throughout the sporting community stand ready to partner with the agencies to help pro-actively manage recreational shooting on America’s public lands especially by heightening individuals’ sense of good stewardship and ownership of our natural resources. With adequate funding support, this pilot project will integrate diverse community interests in fostering the responsible use of public lands, especially recreational shooting in a safe and sound manner.

Respectfully, we ask both Secretaries to encourage the Director of the BLM and Chief of the Forest Service to keep this pilot project as a priority action and continue their leadership role in building this model public/private partnership; including the facilitation or acquisition of financial resources to carry this action out.

Sincerely,

A handwritten signature in cursive script that reads "John Tomke". The signature is written in dark ink and is positioned above the printed name and title.

John Tomke, Chair
Wildlife and Hunting Heritage Conservation Council

Cc:
Tom Tidwell, Chief, U.S. Forest Service
Neil Kornze, Acting Director, BLM

*Wildlife and Hunting Heritage
Conservation Council*

July 16, 2012

Mr. Mike Pool, Deputy Director
Bureau of Land Management
1849 C Street NW
Washington, D.C. 20240

Dear Deputy Director Pool:

I'm writing on behalf of the Wildlife and Hunting Heritage Conservation Council to reaffirm our commitment in working with BLM to ensure that recreational shooting opportunities on the Sonoran Desert National Monument (Monument) remain safe, accessible and consistent with conservation of the Monument's cultural and natural objects. We recognize that BLM developed and considered a range of alternatives to manage the Monument and its resources and believe BLM did well in choosing the alternative that best balances the conservation of the Monument's unique features and resources with the outdoor recreational opportunities it affords the public.

In our May 14 letter to Director Abbey, the Council offered a framework to manage recreational shooting on the Monument or any BLM lands, and its assistance to help identify a pilot project. We are happy to see in the Monument Resource Management Plan's preferred alternative an acceptance of our offer (page 2-180):

"The BLM will collaborate with the Wildlife and Hunting Heritage Conservation Council, other interested stakeholders, and the public to consider management of recreational target shooting in the future."

We also note BLM's reference to use the Tread Lightly program to encourage responsible behavior on the part of recreational shooters. Tread Lightly made a presentation about their Respected Access program to the Council at our June meeting and confirmed that they are ready to assist BLM in encouraging responsible behavior on its lands.

We recognize that publication of the Monument's final Resource Management Plan will be just the "end of the beginning" and the hard work of implementing the plan has yet to come. The Council stands ready to assist BLM in that work.

Sincerely,



John Tomke, Chair
Wildlife and Hunting Heritage Conservation Council

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*Wildlife and Hunting Heritage
Conservation Council*

May 14, 2012

Mr. Robert Abbey, Director
Bureau of Land Management
1849 C Street NW
Washington, D.C. 20240

Dear Director Abbey:

In response to the possible closure of the Sonoran Desert National Monument (SDNM) to recreational shooting, a group of the Wildlife and Hunting Heritage Conservation Council (Council) members visited the SDNM on April 10, 2012. Members of that sub-group included Jeff Crane, Bob Model, Steve Sanetti, John Tomke (Chair), and Joshua Winchell (Designated Federal Officer). We were joined by Larry Voyles, the Director of Arizona Game and Fish Department, who represented the Association of Fish and Wildlife Agencies. Our team was ably hosted by Ray Suazo, Arizona State BLM Director and several members of BLM staff, including Emily Garber, June Shoemaker, Rich Hanson, and Melinda Mahoney. The Council members sincerely appreciated the willingness of BLM staff to engage with the members of the Council.

Following the tour, Council members also met with representatives of the Public Lands Foundation and Tread Lightly! who offered valuable input. The comments provided in this letter are the result of the site visit, the subsequent meeting, and a review of relevant background materials.

When then Secretary Bruce Babbitt recommended BLM keep management of the SDNM it was understood that these special landscapes would remain open to the traditional recreational activities that had taken place for decades. Recreational shooting is one of those traditional activities. Dispersed recreational shooting is a valued recreational activity unto itself and is also a gateway into more formal shooting sports and hunting. Recreational shooting is a critical element in the process of becoming a hunter and shooting sports enthusiast, and given the importance of hunting and recreational shooting in the funding of wildlife conservation in America it is imperative that we do all we can to further recruitment and retention of hunters and recreational shooters.

We recognize that BLM has a vital mandate to protect the objects of the SDNM and we agree that you must take that responsibility seriously. Like you, we abhor irresponsible behavior on public lands whether it involves recreational shooters, off-highway vehicle (OHV) users, hikers, or those who practice illegal dumping. Unethical behavior, however, is not limited to recreational shooters. As a Council, we stand ready to assist in providing recommendations to reduce illegal and irresponsible activity on BLM lands.

The impact of a total closure of the SDNM to recreational shooters would have been exacerbated by recent actions by other governmental organizations. The U.S. Forest

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Service has recently closed 800,000 acres of the Tonto National Forest. Two new county parks have been created, both of which are closed to recreational shooting. A closure of SDNM would have added another 480,000 acres to that tally. These actions beg all these agencies, along with Arizona Game and Fish, to set clear objectives for how much land they wish to maintain for dispersed recreational shooting near the rapidly growing Phoenix metro area.

Research conducted by Responsive Management indicates that shooters are willing to drive 30-45 minutes to participate in their sport but sixty minutes presents a clear barrier. Of the **1,809,559 acres** of public land within a 30 mile ring around Phoenix, less than 10% of that is open to recreational shooting (see map, enclosed). Only 38,473 acres of the lands that remain open are BLM managed lands. With more than four million residents in the Greater Phoenix area, there is a need for better coordination amongst all public land managers.

Finally, BLM staff during the site visit raised an issue about recreational shooting and potential liability issues. We heard that backstop berms for concentrated recreational shooting areas could not be created on the SDNM because of liability concerns and BLM policy. Yet BLM staff referred to ongoing infrastructure improvements for OHV usage. However, the safety and litigation history for OHV users is *significantly* more active than that for recreational shooters. During the site visit, BLM staff acknowledged they were unaware of safety incidents associated with shooting or harm to desert tortoises as a result of recreational shooting.

On our visit we were shown areas that seemed well suited to concentrated recreational shooting on BLM lands both on and off the monument itself. Recognizing the challenges that BLM faces at the SDNM, we offer some recommendations. This program should be based upon a process that considers the following:

1. Access to a site from a road.
2. Ability to clean up and keep sites clean (i.e. can a dumpster be brought in on a volunteer cleanup day?).
3. Presence of cultural sites and special habitats.
4. Proximity of other recreational activities or uses.
5. Improvements that could make a site suitable for recreational shooting.
6. Level of shooter use of the sites and projected use during the life of the RMP.

BLM staff raised a small number of concerns about recreational shooting on public lands, concerns we believe can easily be addressed:

1. Perceived liability that BLM says prevents them from identifying/designating shooting sites.
2. Unwritten policy of not allowing improvements such as berms to be made to shooting sites.
3. Resistance of BLM to modify other recreational activities (like rerouting a hiking trail), if it would make a site suitable for target shooting.

If a sound process is developed for decision making regarding recreational shooting on BLM lands, *it can be used on other monuments or any other public lands.*

Under such a process some of the most sensitive areas would be closed to recreational shooting, with other areas remaining open to dispersed recreational shooting. The process would also identify areas suitable for concentrated recreational shooting. The Council offers to help BLM develop programs to identify and secure volunteer groups to serve as "site stewards" for those areas. Tread Lightly!, for example, has a long history of facilitating partnerships with the hunting and recreational shooting community including development of the "Respected Access is Open Access" outdoor ethics education campaign. This campaign uses messages tailored to recreational shooting that can be made available to monument staff for posting and distribution. It is the objective of the Council to play an active role in engaging the shooting community to assist BLM in the management of recreational shooting on these Sonoran Desert lands.

We suggest evaluations of the impacts on the natural objects in all of these SDNM areas at three year intervals. The Arizona Game and Fish Department are likely partners to assist in evaluating impacts on species like the desert tortoise. A comprehensive assessment at the end of the pilot program could lead to further refinements of the program.

We stand ready to meet with you and Secretary Salazar to help develop a pilot program for the Sonoran Desert National Monument that protects that treasured landscape as well as the peoples' ability to enjoy it.

Sincerely,

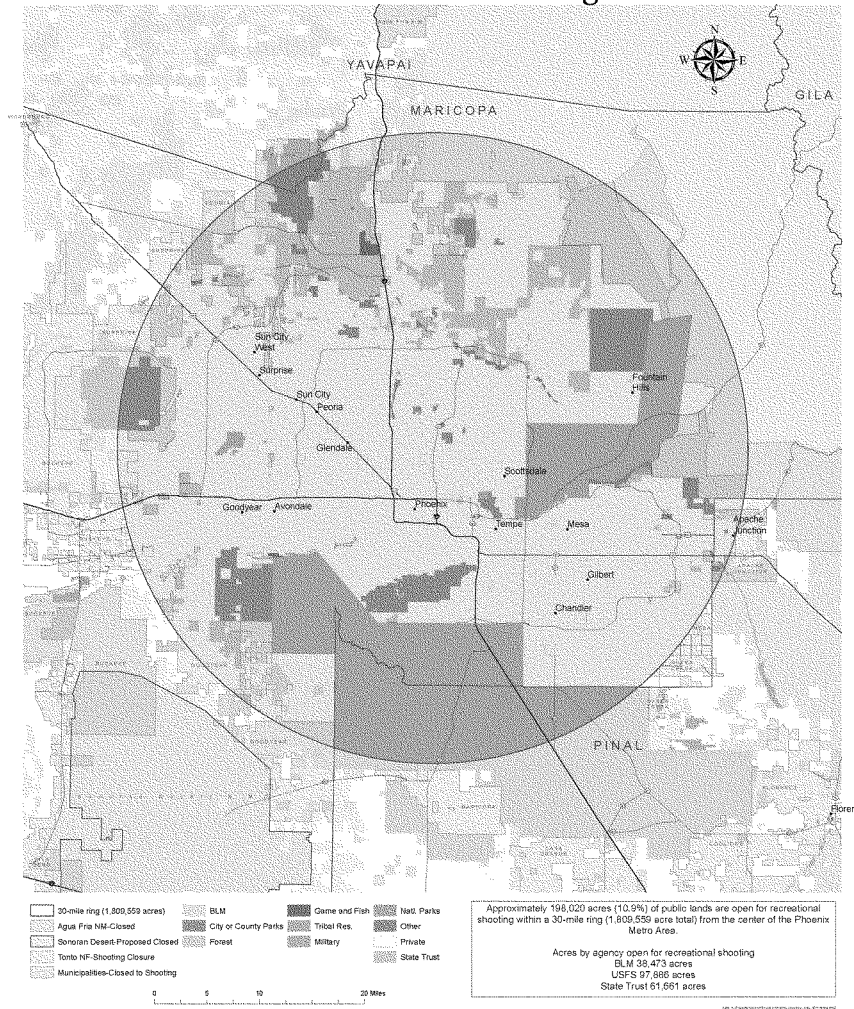
A handwritten signature in black ink that reads "John Tomke". The signature is written in a cursive, flowing style.

John Tomke, Chair
Wildlife and Hunting Heritage Conservation Council

Enclosure: Recreational Shooting Map

Cc: Secretary Ken Salazar, Department of the Interior

Lands Closed to Recreational Shooting-Phoenix Metro



*Wildlife and Hunting Heritage
Conservation Council*

November 6, 2012

The Honorable Ken Salazar, Secretary
Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Secretary Salazar:

The release of the Sonoran Desert National Monument Record of Decision and Approved Resource Management Plan (RMP) provides the opportunity for the Wildlife and Hunting Heritage Conservation Council (Council) to formally express its appreciation to the Bureau of Land Management (BLM) for its decision to keep areas of the Monument open to recreational shooting.

We have read the list of Administrative Actions that the BLM is planning to undertake for recreational activities in the Monument, including recreational shooting. We are pleased that one of those actions is BLM's commitment to *collaborate with the Wildlife and Hunting Heritage Conservation Council, other interested stakeholders, and the public to implement management of recreational shooting in the future.* The Council looks forward to that future collaboration.

The hunting and shooting sports interests that we represent have expertise in this field, as well as ties to individuals, clubs and organizations that can assist the BLM in meeting its objectives of providing recreation use and access in a manner compatible with protecting the Monument's values and objectives. As stated in the Council's letter of May 14th and in the BLM's response of July 3rd, the Council will take an active role in engaging the shooting community to volunteer as site stewards for shooting areas.

Also under the Administrative Actions are listed seven restrictions or prohibitions associated with recreational shooting. The BLM states that these may be included in a future supplementary rule to promote safe and responsible shooting. Most of these appear to be reasonable and supportable requests of the public land users, and the Council would appreciate being consulted on the draft contents of the supplemental rule before it is released for public review and comment.

The Council is pleased that the Arizona Game and Fish Department (Department), in its June 28th letter addressed to you (attached), pledged continued and collaborative partnership with the BLM in the development of the supplemental rule, activity level planning, and implementation efforts for recreational shooting. The Department has a long history of working collaboratively with the BLM and the other Federal land management agencies in Arizona, and has experience and expertise in managing dispersed recreation as well as more concentrated recreational use. The Council looks forward to working with the Department through its fellow Council member, Jon Gassett of the Association of Fish and Wildlife Agencies.

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The BLM's letter of July 3rd also references the Council's commitment to work with Tread Lightly! in the promotion of outdoor ethics education. With that said, we note that one of the Administrative Actions is to *develop educational materials and signage to inform the public about how to conduct target shooting activities in ways that avoid impacts on natural resources and monument objects*. However, the Administrative Actions speak only to "Leave No Trace" principles, whereas the BLM's standard operating procedures for recreation call for encouraging "Tread Lightly" and "Leave No Trace" travel and camping techniques.

The Council encourages the BLM to include Tread Lightly! in its Administrative Actions plan. In concert with national hunting and shooting sports organizations, Tread Lightly! developed and launched the "Respected Access is Open Access" campaign through which brochures, PSAs and other materials have been developed to encourage safe and responsible shooting. The campaign was launched three years ago and has since been tailored to include other recreational activities such as camping and OHV use. Thus it would seem there would be no need to develop additional educational materials to meet the BLM's objective of *informing the public about how to conduct target shooting activities in ways that avoid impacts on natural resources and monument objects*. It would remain, then, for the BLM to post appropriate signage and widely distribute these educational materials.

In closing, the Council appreciates BLM's recognition via the RMP of the importance to our community of recreational shooting as a historic, legitimate and popular public activity on public lands, including national monuments. We support the general approach that the BLM has outlined in its Administrative Actions to balance the needs of the hunter and shooter with places to shoot on public lands and the safety of visitors and protection of public land values.

Sincerely,

A handwritten signature in black ink that reads "John Tomke". The signature is written in a cursive, flowing style.

John Tomke, Chair
Wildlife and Hunting Heritage Conservation Council

Cc:
Mike Pool, Director (acting) Bureau of Land Management

Attachment



COPY
THE STATE OF ARIZONA
GAME AND FISH DEPARTMENT

5000 W. CAREFREE HIGHWAY
 PHOENIX, AZ 85086-5000
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June 28, 2012

Mr. Mike Pool
 Acting Director
 Bureau of Land Management
 1849 C Street, NW
 Washington D.C. 20240

RE: Recreational Shooting - Lower Sonoran and Sonoran Desert National Monument Proposed Resource Management Plan and Final Environmental Impact Statement

Dear Director Pool:

The Arizona Game and Fish Department (Department) fully supports the Bureau of Land Management's (BLM) proposed alternative (Alternative E) regarding 'Recreational Target Shooting Areas' in the Lower Sonoran and Sonoran Desert National Monument (SDNM) Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS). The Federal Land Policy and Management Act of 1976 (FLPMA) establishes a multiple-use mission for public lands under the jurisdiction of Bureau of Land Management. Recreational target shooting is a traditional recreational use of BLM lands, and we are encouraged that the Bureau has endorsed its multiple-use mission by embracing dispersed recreational shooting in its RMP.

Recreational shooting is recognized as a legitimate and important recreational resource valued by the public. Dispersed recreational shooting on BLM public lands provides an important opportunity (especially for urban youth) to get outdoors and develop a personal connection with nature. Dispersed recreational shooting continues to provide a safe and informal gateway to formal shooting sports and hunting. The Department recognizes hunters as not only supporters of the multiple-use mission, but supporters and principal funders of wildlife conservation. Further, the importance of hunting and recreational shooting as a gateway to hunting is recognized in the 2006 Executive Order 13443 (EO), "Facilitation of Hunting Heritage and Wildlife Conservation." This EO called for the development of a "Recreational Hunting and Wildlife Resource Conservation Plan" and a 10-year implementation plan. One of the resulting implementation plan recommendations is to: "Increase structured hunting programs and recreational shooting opportunities as a means of achieving a net increase in federal land hunting."

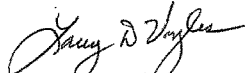
The Department understands and respects BLM's mandate to avoid and minimize impacts to Monument objects and protect the public's safety. We recognize the need to proactively manage recreational activities, including dispersed recreational shooting, on SDNM. For these reasons,

Director Abbey
Recreational Shooting Support – SDNM/LS RMP

the Department wishes to continue our collaborative partnership with BLM in the development of the supplemental rule, activity level planning and implementation efforts for recreational shooting described in the Resource Management Plan.

Once again, the Department fully supports the BLM's decision to continue to allow responsible, dispersed recreational shooting on the Lower Sonoran and SDNM. We look forward to working with the BLM to encourage shooters to practice the best management practices outlined in Appendix H in the RMP for safe dispersed recreational shooting.

Sincerely,



Larry D. Voyles

Director

Cc: Ray Suazo, Arizona State Director BLM

**U.S. Senate Committee on Energy and Natural Resources
March 12, 2015 Hearing: S. 556, the Bipartisan Sportmen's Act of 2015**

**Responses from Mr. Whit Fosburgh to Questions for the Record
Submitted by Senator Lisa Murkowski**

Question 1: What value do you see in the BLM and Forest Service largely codifying practices with respect to hunting and fishing on public lands?

Response: For more than a century, virtually all of the Forest Service and BLM estates have been open to hunting and fishing. But this has been the result of policy more than law, and lawsuits, changes in agency leadership and priorities, and competing demands on public lands can threaten recreational access over the long-term. S.556 establishes in law that BLM and Forest Service acres are open unless specifically closed, and establishes a procedure for such closure. This will provide important guidance to our land managers.

Hunting and fishing are low-impact in terms of their footprint on the landscape, and even in terms of the demands those activities place on land managers, but they are high-impact when it comes to their economic contributions. As tens of billions of dollars of American economic activity depends on public lands access, it makes sense that the law provides certainty for this important outdoor recreational sector.

Question 2: Is it your view that under this legislation, hunting, fishing and shooting would remain equal to other activities on public lands?

Response: That is our understanding of the legislation, particularly when one considers Section 101, subsection 7 of the legislation, which states clearly that "Nothing in this section requires a Federal agency to give preference to recreational fishing, hunting, or recreational shooting over other uses of Federal public land..." This legislation provides equal footing for hunting, fishing, and recreational shooting amidst the many other uses of federal public lands.

**U.S. Senate Committee on Energy and Natural Resources
March 12, 2015 Hearing: S. 556, the Bipartisan Sportmen's Act of 2015**

**Response from Mr. Whit Fosburg to the Question for the Record
Submitted by Senator John Barrasso**

Question: Mr. Fosburgh, in your testimony you emphasize the need to enhance recreational access for hunters, anglers, and sportsmen. I agree with the high priority you place on access for all Americans. Your testimony addresses the various access related provisions in this bill and reminds the committee that “the outdoor recreation economy contributes \$646 billion in direct expenditures.” Previously the committee has received testimony that approximately \$257 billion or nearly 40% of the total \$646 billion in economic impact is derived from motorized recreation. More and more people such as veterans, baby boomers and those with other physical limitations are turning to motorized vehicles to access public lands.

In your view, how does this bill provide for enhanced motorized and non-motorized access for hunters, anglers, and sportsmen of all physical abilities?

Response: Thank you for the question. Motorized recreation is an important part of the recreation economy, whether it's an RV at the Forest Service campground, a hunter using an ATV to access his or her stand, or a boater off to chase saltwater fish. The access provisions in S.556 should benefit all recreational users, be they on foot, bike, horse, boat, or motorized vehicle. The bill establishes in law the importance of sportsmen's access, and provides both a planning mechanism and a funding mechanism for enhancing that access. S.556 does not pick favorites; it benefits everyone. Decisions about methods of access on any individual federal land unit are made during the land management planning process; those processes are not affected by S.556, except that it clarifies the importance of access in the planning process.

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**Responses from Mr. Whit Fosburgh to Questions for the Record
Submitted by Senator Jeff Flake**

Question 1: As noted during the hearing, in June 2014, the Theodore Roosevelt Conservation Partnership sent a letter to the Grand Canyon National Park supporting the use of “skilled public volunteers” to help cull the over population of bison at Grand Canyon National Park. In the letter, the group notes that opening up opportunities to these volunteers “would cost less than hiring professional hunters....” Please describe your organization’s experience with trying to advance policies that would help the Park Service achieve animal management goals at a reduced cost to taxpayers. What are the legal impediments that your organization has run into when trying to advance those policies?

Response: The Theodore Roosevelt Conservation Partnership primarily works on broad federal policy issues and therefore we do not have direct experience in individual park decisions on using volunteers to help with animal management issues. That said, the National Park Service has a long history of indifference or even hostility to hunting and hunters. Part of this comes from the fact that most parks do not allow hunting. But even in parks where hunting is allowed (like Big Cypress National Preserve in Florida), the agency has proven challenging for the hunting community.

By using hunters to help cull the over population of bison at Grand Canyon National Park, we have a chance to help change that dynamic within the agency. Obviously, using volunteer hunters would cost less than hiring professional hunters. Moreover, bison permits are highly coveted in Arizona—some hunters have accumulated more than 34 bonus points and have yet to be drawn. The cost of a buffalo tag in Arizona ranges from \$363 for a resident who purchases a yearling tag to \$5,415 for a non-resident who purchases a bull tag. Under normal circumstances this money goes to the Arizona Game and Fish Department to support wildlife management activities in Arizona. So, not only would using hunters as opposed to “skilled professional volunteers” avoid the need for NPS to hire professional hunters, it also would generate money for wildlife management in the state.

Question 2: In your testimony, you note that the provisions of Sections 201 and 202 regarding access to public lands “include clear language protecting private property rights....” Please elaborate on the nature and extent of those protections.

Response: Both sections 201 and sections 202 make clear in multiple instances, that in both the planning and the funding stages of enhancing access to public lands that agreements apply only to “willing sellers” and there is absolutely no authorization of the use of eminent domain or seizure in the legislation.

Section 202 (b)(3)(b) also requires the consideration of “the likelihood of resolving the absence of or restriction to public access” which would seem to preclude all but willing sellers. Section 202(c)(2) directs the federal agencies to report to Congress on how

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access-limited areas could be made more accessible, including “acquiring an easement, right-of-way, or fee title from a willing owner...” Section 202 (d) also prohibits any personal identification information of landowners from being included in access plans.

Statement for the Record from Senator Steve Daines (MT)
Legislative Hearing on S. 556, the Bipartisan Sportsmen's Act
Thursday, March 12, 2015

- Thank you Chairwoman Murkowski for holding this hearing on S. 405, the *Bipartisan Sportsmen's Act*. This is an important bill to Montana and I am proud to be a cosponsor. As a fifth generation Montanan and a lifelong sportsman, I know firsthand the importance of Montana's outdoor heritage to our state's economy and our way of life. It's important that we work together to ensure this legacy is protected for our kids and grandkids. However, too often federal government is barred from effectively managing federal lands, threatening wildlife habitat and the very favorite places where Montanans love to recreate. In fact at least 4.99 million acres out of the 17 million acres of National Forest lands in Montana are at risk to insect and diseases, or 30% of the total. Valuable hunting grounds, Montanans' access to favorite recreation opportunities on federal lands, and vulnerable species habitat are at risk for catastrophic wildfire. Moreover, reports have indicated nearly 2 million acres of public lands in Montana are inaccessible to the public.
- As Mr. Crane states in his testimony, "the idea of conservation in America began with members of the sportsmen's community"—Montana sportsmen are frustrated that their current level of access to federal lands in Montana and frustrated with fringe groups obstructing worthwhile projects important to effectively managing our forests.
- The very way of life for sportsmen in Montana is threatened—and S. 405 will help fix some of the challenges.
- Another sportsmen priority that is not addressed in this bill but that I would like to mention is the threat from the Administration to impose burdensome requirements on lawful owners of firearms and antiques containing African elephant ivory. I hope to address this problem this Congress.

Testimony for Public Hearing
Committee on Energy & Natural Resources
March 12, 2015

On behalf of Rebecca Humphries, Chief Conservation Officer, The National Wild Turkey Federation
770 Augusta Road
Edgefield, SC 29824-0530

S. 405 - The Bipartisan Sportsmen's Act of 2015

Madam Chairwoman Murkowski, Ranking Member Cantwell, and esteemed members of the committee, The National Wild Turkey Federation (NWTF) applauds your efforts for the introduction of the Sportsmen's Act of 2015 and is appreciative of Chairwoman Murkowski moving so swiftly on a hearing to advance the bill benefiting America's community of sportsmen.

The NWTF is thrilled that this bipartisan legislation has been introduced early in the 114th Congress. We are dedicated to working with the members of this committee to pass this important legislation and will continue to work with our partners and members of Congress in the House on similar legislation.

We have been working with Congress and our partner conservation organizations for several years to pass legislation included in the Sportsmen's Act of 2015. The legislation is consistent with key objectives in the NWTF's Save the Habitat. Save the Hunt. initiative.

The Save the Habitat. Save the Hunt. initiative is a charge that mobilizes science, fundraising and devoted volunteers to give the NWTF more energy and purpose than ever. Through this national initiative, NWTF has committed to raising \$1.2 billion to conserve or enhance more than 4 million acres of essential upland wildlife habitat, create 1.5 million hunters and open access to 500,000 acres for hunting, shooting and outdoor enjoyment. Without hunters, there will be no wildlife or habitat. The NWTF is determined to Save the Habitat. Save the Hunt.

When the NWTF was founded in 1973, there were approximately 1.5 million wild turkeys in North America. After 40 years of dedicated work, that number hit a historic high of almost 7 million turkeys. In recent years, however, national turkey populations have been declining – just one of the challenges the hunting community faces today. We are at a critical juncture in the future of wildlife habitat conservation and the preservation of our hunting heritage. The NWTF is ready for the challenge and will be a leader for the next 40 years, standing as one team with one mission. Your continued support is essential.

Hunting and habitat go hand-in-hand. We can't have quality hunting without quality wildlife habitat. And the past has proven we won't have sustainable wildlife habitat unless hunters are involved. Hunters pay for 80 percent of the budgets for state wildlife agencies, which drive the research and work to restore essential habitat for game and nongame species.

The bill includes 14 provisions, several similar to those within the Bipartisan Sportsmen's Act of 2014. Among the provisions are requirements for the Bureau of Land Management and the U.S. Forest Service to keep their lands open to hunting, fishing and recreational shooting. The Bill also requires the agencies to facilitate the use of and access to federal public lands and waters, and would set aside funding to improve recreational access to federal lands.

Other key provisions of the legislation that NWTF strongly supports include:

Making Public Lands Public – Using LWCF funds to secure access for sportsmen to public lands that are currently either landlocked or otherwise significantly restricted.

HUNT Act - Directs all federal public land management agencies to identify and develop plans to provide access to federal lands where hunting and fishing are permitted but access is non-existent or significantly restricted.

Hunting, Fishing and Recreational Shooting Protection – Clarifies that ammunition, ammunition components and fishing equipment are exempt from regulation by the EPA under the Toxic Substances Control Act.

Target Practice and Marksmanship Training Support Act – This section makes more funds available to state fish and wildlife agencies for developing shooting ranges.

North American Wetlands Conservation Act Reauthorization (NAWCA) – Reauthorizes this vital matching grant program which for the last 20 years has conserved over 20 million acres of wetland and associated upland habitats across North America benefiting migratory birds and other wildlife.

The Bipartisan Sportsmen's Act of 2015 is an excellent step forward. Sportsmen and women come from all parts of the country and outdoor activities are part of our lives and a vital part of the economy in all 50 states. Along with the Theodore Roosevelt Conservation Partners, Congressional Sportsmen Foundation, and other partners, the National Wild Turkey Federation seeks to protect hunting and habitats around the country. We urge your continued support to insure important funding sources are available for conservation, and to increase access to public land for hunters and other sportsmen nationwide.

Thank you for your time and your consideration.

Sincerely,

Rebecca A.Humphries
Chief Conservation Officer
The National Wild Turkey Federation



Steve Moyer
Vice President of Government Affairs

March 11, 2015

The Honorable Lisa Murkowski
Chair, Energy and Natural Resources Committee
United States Senate
Washington, DC 20510

The Honorable Maria Cantwell
Ranking Member, Energy and Natural Resources Committee
United States Senate
Washington, DC 20510

Dear Senators Murkowski and Cantwell:

On behalf of Trout Unlimited and its 150,000 members, I am writing to support S. 556, the Bipartisan Sportsmen's Act of 2015. Please include this letter in the record of the hearing that you are holding on the bill on March 12th. The Bipartisan Sportsmen's Act includes valuable provisions to conserve fish and wildlife habitat and expand public access for hunters and anglers. We deeply appreciate the strong leadership that you, Senator Heinrich, and the bills bipartisan co-sponsors, have demonstrated on sportsmen's conservation issues.

The bill includes the reauthorization of the Federal Land Transaction Facilitation Act, a key land protection tool that conserves fish and wildlife habitat in a cost-effective manner. We also appreciate the bill's provisions that will expand public access to hunting and fishing opportunities. Especially noteworthy is the provision that will allow use of Land and Water Conservation Fund (LWCF) monies for public access projects. This is a great innovation to a bedrock conservation program.

Thank your consideration of the Bipartisan Sportsmen's Act. We look forward to its swift and successful passage.

Sincerely

Steve Moyer
Vice President for Government Affairs
Trout Unlimited

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STATEMENT ON S. 556, THE BIPARTISAN SPORTSMEN'S ACT

March 12, 2015

Senator Lisa Murkowski, Chairman
Senate Energy and Natural Resources Committee
304 Dirksen Senate Building
Washington, DC 20510

Senator Maria Cantwell, Ranking Member
311 Hart Senate Building
Washington, DC 20510

Dear Senators Murkowski and Cantwell,

Wilderness Watch is writing to express our opposition to one section of the Bipartisan Sportsmen's Act, S. 556. Wilderness Watch is a national nonprofit wilderness conservation organization focused on the protection of the designated units of the National Wilderness Preservation System.

The specific provision is section 102, dealing with commercial filming in Wilderness. This section would effectively amend the Wilderness Act and harm Wildernesses all across the country.

For the past several years, commercial filming interests such as TV/cable hunting and fishing shows have attempted to open up designated Wildernesses to commercial filming. Section 102 of S. 556 would for the first time since the Wilderness Act passed open up all units of the National Wilderness Preservation System to commercial filming.

We believe that this unprecedented action would have significant, negative consequences for designated Wildernesses across the nation, and put Wilderness on a slippery slope for further commercialization. Not only as it relates to commercial filming, but because it could also lead to other commercial interests seeking exceptions to the Wilderness Act. We ask that this section either be removed, or clarified to exempt units of the National Wilderness Preservation System from its provisions.

The 1964 Wilderness Act prohibits commercial enterprise, including commercial filming, in designated Wildernesses. The prohibition against commercial enterprise (and permanent roads) is the strongest protection in the Act subject only to "existing

private rights.” Section 4(c) of the Wilderness Act wisely prohibits commercial enterprise in Wildernesses (“Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act....”). The Wilderness Act provides only two exceptions to this complete ban on commercial enterprise: 1) commercial livestock grazing (Sec. 4[d][4]), and 2) commercial services for recreation purposes, such as outfitters and guides (Sec. 4[d][5]).

Supporters of the Wilderness Act in 1964 very grudgingly agreed to these exceptions, and both exceptions have created significant challenges for wilderness managers and wilderness protection since that time (not to overlook the positive benefits that come from outfitters and guides). Former Forest Service Chief Jack Ward Thomas once remarked that the two groups with most out-sized influence over public lands, especially Wilderness, were livestock grazers and outfitters, due to their economic and political influence. No doubt the commercial filming industry and its celebrity status would join these other commercial interests in gaining untoward clout over Wilderness stewardship.

For the past 50 years, the federal wilderness-administering agencies like the U.S. Forest Service have followed the Wilderness Act’s requirements and have prohibited commercial filming in Wilderness. (This ban has not prohibited news gathering nor infringed on individuals’ First Amendment rights, despite the recent misinformed outcry over the Forest Service’s proposed filming policy.) As was repeatedly pointed out at the recent celebrations marking the 50th anniversary of the Wilderness Act, the National Wilderness Preservation System faces significant challenges as it is, and the ability of the federal agencies to meet their wilderness stewardship challenges is seriously deficient. It makes no sense to add yet another challenge, and to further diminish the protective provisions of the Wilderness Act.

Thank you for the opportunity to present this statement.

Sincerely,



Kevin Proescholdt
Conservation Director
Wilderness Watch
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