

**Statement
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**Before the
Subcommittee on National Parks, Forests and Public Lands
House Natural Resources Committee
U.S. House of Representatives**

September 9, 2011

H.R. _____, the Cabin Fee Act of 2011

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views on H.R. _____, the Cabin Fee Act of 2011. Our testimony today is based upon a discussion draft of this bill, as the bill has not yet been introduced. As we previously testified on April 22, 2010, the Department appreciates the over 14,000 cabin owners across the country and the recreational experiences they enjoy on National Forest System (NFS) lands.

While the Department does not support the legislation as currently written, we would like to work with the Committee to address areas of concern identified in this testimony in order to capture some of the advantages that are incorporated in this draft legislation.

Before describing the challenges of this bill, it is important to consider the history of this program. In the early part of the twentieth century, the Forest Service began introducing Americans to the beauty and grandeur of their National Forests. One way to accomplish this objective was to permit individuals to build cabins for summertime occupancy within the National Forests. Cabin owners were permitted to occupy NFS land during the summer months in exchange for a fee. In 1915, the agency began to issue permits for up to twenty years for occupancy of NFS land. At that time, there was relatively little recreational use of the National Forests.

Today, the National Forests host over 171 million visitors per year. When this recreational cabin program began, there was limited interest in building and owning a remote cabin on NFS land. Today, similar land at ski resorts, near lakes, and remote mountain settings are highly prized, selling for prices beyond the means of many Americans. In the early years, permit fees were nominal, but since the 1950s, the Forest Service has been mandated to obtain fees approximating market value for the use of NFS land. Increasing fees have led to controversy and have resulted in enactment of multiple fee moratoriums and caps over the years.

Cabin User Fee Fairness Act of 2000 (CUFFA) was the latest attempt to achieve an equitable fee for the use of National Forest System land. CUFFA prescribes the parameters the agency must follow in conducting appraisals and establishing fees, which are based on five percent of the appraised market value of the lot under permit. The agency began the appraisal process pursuant to CUFFA in 2007, and will be continuing that effort through 2012. As cabin owners received notice of the new fees, some have experienced dramatic increases because the old fees were based on appraisals completed ten to thirty years in the past. In response, Congress included appropriations language for FY2010 which limited fee increases to no more than 25% of the fee paid in calendar year 2009.

There are a number of examples of families who have had cabins for generations, but are having difficulty paying the new fees. However, there are also examples where low annual fees in the past have led to significant financial gains when cabin owners have sold their cabins for considerably more than the value of the structure, essentially benefiting from a lower than market value for their use of public land. When this occurs, cabin owners are, in effect, selling the location of their cabin, which is owned by the American people. Some cabins have sold at a premium price, only to be torn down by the new owner and replaced with a new structure.

This bill would replace the current fee structure under CUFFA on recreation residence cabins on National Forest System lands reserved from the public domain. This bill under section 3(b)(2), will create nine payment tiers or categories and provide for an additional payment under section 4 on the sale or transfer of the cabin as referenced in the transfer fees. We agree with the concept of the payment tiers; however, we recommend that the fees be based on market value. If the payment tiers are based on market value, the transfer fee section could be eliminated. This bill does not return a fee based upon market value, especially those in the ninth tier.

H.R. _____ would revise the procedures for determining the amount an owner of a cabin on the National Forests must pay to lease the underlying public property. Our projections indicate that enactment of H.R. _____ in its current form would result in fee revenues significantly below the fee revenues expected to be generated under current law, with some cabin owners potentially being subject to fees below the market value of their property.

The Department understands the financial burdens that some current cabin owners may face as a result of CUFFA. The Department welcomes the opportunity to work with Congress to create a bill that takes into account the needs of cabin owners, other users of the National Forests, and the taxpayer, and that can be administered without undue burden on the agency or cabin owners.

Here are our concerns with the bill as written:

Section 3, Fee Amount: Our analyses indicate that many of the proposed fees would be less than those under current law which results in fees being below market value for many of the lots. As previously noted, fees below market value can lead to windfall profits as recognized by the market when cabins are sold, as the sale prices will reflect the value of the locations as much or more than the value of the cabins, especially at the higher end values. When the buyer of a cabin knows he or she will be paying market value for the location, prices tend to reflect only the value of the structure being conveyed. To reduce the likelihood of windfall profits, the proposed fee schedule should be based on market value or a percentage thereof. In addition, to reduce the

administrative burden of billing or reimbursing fees due to changes in the fee estimate, the appraisals should be updated as scheduled and in place prior to implementation of any new fee legislation. The basis for establishing the fee amounts for the individual Tier levels should be based on first and second level appraisals and other indicators of market value. The assignment by the Agency of individual Tier levels for the cabin holders should be administrative in nature.

Section 3 (d) (1) Effect of Destruction, Substantial Damage, or Loss of Access: This section deals primarily with the management of the cabins and prescribes a course of action due to destruction, substantial damage, or loss of access. With the exception of the loss of access, this section of the bill will cause additional administration burden, costs, and is unnecessary as it pertains to the structures (cabin, outbuilding, etc...) occupying the lot.

Section 4, Cabin Transfer Fees: H.R. _____ would require the Department to verify the price at which these private cabins are sold and subsequently obtain a payment from the seller based on a percentage of the sale. The Department recommends that Section 4 of this bill as it is currently drafted be deleted. The fundamental purpose of the Recreation Residence program is to provide the land for the cabins and USDA should not be involved in the disposition or assessment of the structures that occupy the land.

Need to study cabin lots that may have lost their National Forest character: Over time, occupancy of some “summer” cabins has evolved into four-season use, particularly those located on the periphery of the National Forests. While year-round use remains contrary to agency policy, administration of these cabins can become more complex as owners desire typical public services found in residential subdivisions; such as electric, phone, cable, and sewer. In addition, their proximity and similarity to neighboring private subdivisions, suggests that some of these lots may have lost their National Forest character. The Department would like the opportunity to study this issue more carefully and to consider options to more effectively manage these areas.

Technical Changes: Additionally, there are a number of additional technical suggestions which we would like to work with the Committee to address.

We acknowledge that there are advantages to this bill from an administrative perspective. For example, it would reduce the agency’s appraisal costs. For cabin owners, enactment of H.R. _____ would provide certainty in terms of future fees. Again, we welcome the opportunity to work with the Committee to develop legislation that is also fair to taxpayers and other users of the National Forests and Grasslands, and can be administered without undue burden on the agency or cabin owners.

This concludes my statement and I would be happy to answer any questions you may have. We would like to reserve the right to submit additional comments about the bill once it is introduced.

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H.R. 1444, a bill “To require that hunting activities be a land use in all management plans for Federal land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture to the extent that such use is not clearly incompatible with the purposes for which the Federal land is managed, and for other purposes”.

Mr. Chairman and Members of the Subcommittee, I am Joel Holtrop, Deputy Chief for the U.S. Forest Service. Thank you for the opportunity to appear before you to provide the views of the U.S. Department of Agriculture (USDA) Forest Service on H.R. 1444.

First, I would like to emphasize that the Forest Service has been a very strong supporter of hunting and fishing on the nation’s National Forests and Grasslands since the agency was created in 1905. The Forest Service supports these activities by providing opportunities to enjoy hunting and fishing over much of the National Forest System (NFS) land throughout the country. Furthermore, The America’s Great Outdoors Initiative (AGO), established by President Obama in 2010, supports these same activities by reconnecting Americans to our nation’s land, water and wildlife. We very much appreciate the outstanding contributions we receive from our partners, including States and hunting and fishing organizations that support the conservation of fish and wildlife and their habitats on our federal public lands. Their steadfast support through partnership projects and volunteer work on federal public lands, as well as, their willingness to support state management of fish and wildlife though fishing and hunting fees are widely recognized as a significant factor in the success of fish and wildlife management in North America.

H.R. 1444 is intended to ensure continued hunting and fishing opportunities on federal public lands, including the 193 million acres of NFS lands on 155 National Forests and 20 Grasslands administered by the U.S. Forest Service. Specifically, as it pertains to the Forest Service, H.R. 1444 would require the agency, when developing or approving a management plan or an amendment to a management plan, to ensure that hunting activities are allowed as a use of NFS lands to the extent that such use is not clearly incompatible with the purposes for which the Federal land is managed. In addition, the legislation would provide that fees charged related to hunting activities on NFS land are to be retained to offset costs directly related to management of hunting on NFS land and that the fees are to be limited to what the Secretary reasonably

estimates to be necessary to offset costs directly related to management of hunting on the NFS land upon which hunting activities related to the fee are conducted.

The Department does not support this legislation which is unnecessary and would not enhance or improve existing hunting and fishing on National Forests and Grasslands.

The Multiple-Use Sustained-Yield Act is an important statute that guides management of our NFS lands. Hunting and fishing activities are very important components of the Forest Service multiple-use mission. Although many other recreational activities are also popular on our National Forests and Grasslands, hunting and fishing remain very important to thousands of the Nation's sportsman and sportswomen. The latest National Visitor Use Monitoring (NVUM) data collected over the past 10 years shows that on an annual basis more than 13,022,068 visitors to NFS land participated in hunting as their main activity, and another 14,050,126 visitors fished as their main activity. This use represents 7.6% and 8.2% (respectively) of all annual recreation visitations to all NFS land.

Much of the NFS land has been, and continues to be, open to hunting and fishing. However, Forest Service officials may authorize very localized closures on NFS lands under special circumstances, usually to protect public health and safety, such as areas in the vicinity of buildings and campgrounds. For example, shooting is prohibited in areas near residences, buildings and campgrounds.

As part of the land management planning process, the Forest Service analyzes opportunities for hunting and fishing as recreational activities. Within the planning process, the decision to allow or limit various recreation activities is complex. Conflicts between user groups can be a legitimate reason to limit or allow various recreation activities. In the rare instances where hunting or fishing is restricted, the rationale for such a decision is clearly described.

Section 1(c)(2)(B) of H.R. 1444 provides that "a fee charged by any entity related to hunting activities on Federal land that is in excess of that needed to recoup costs of management of the Federal land shall be deemed to be a restriction on hunting." Additionally, section 1(d) of the bill would authorize the Forest Service to retain fees for hunting activities on NFS lands to offset the costs of managing hunting on NFS lands and would limit the amount of fees that may be collected by the Forest Service. The Forest Service does not charge fees to hunt or fish on NFS lands. Fees are charged by States and by outfitter and guides, neither of which is collected by the Forest Service.

In summary, the Forest Service has a long history and active policy and practice of strongly supporting hunting and fishing opportunities on the public's National Forests and Grasslands. Much of the NFS lands are available for these recreational activities. The intent of this bill is already achieved through existing laws and agency policy, and enactment would neither enhance nor improve existing hunting or fishing opportunities on our National Forests and Grasslands.

Mr. Chairman and Members of the Subcommittee this concludes my testimony. I will be happy to answer any of your questions.

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H.R. 2834, to recognize the heritage of recreational fishing, hunting, and shooting on federal public lands and ensure continued opportunities for these activities.

Mr. Chairman and Members of the Subcommittee, I am Joel Holtrop, Deputy Chief for the U.S. Forest Service. Thank you for the opportunity to appear before you to provide the views of the U.S. Department of Agriculture (USDA) Forest Service on H.R. 2834.

First, I would like to emphasize that the Forest Service has been a very strong supporter of fishing, hunting and shooting activities on National Forests and Grasslands since the agency was created in 1905. Not only does the Forest Service support these activities, the Forest Service provides opportunities to enjoy hunting and fishing and recreational shooting over much of the NFS land throughout the country.

H.R. 2834 is intended to ensure continued recreational fishing, hunting and shooting opportunities on federal public lands, including the 193 million acres of National Forest System (NFS) lands on the 155 National Forests and 20 Grasslands administered by the U.S. Forest Service. The Department opposes H.R. 2834 which is unnecessary and would not enhance or improve existing fishing, hunting and shooting opportunities on National Forests and Grasslands. Additionally, we are concerned that certain provisions in the legislation would be in conflict with existing statutes and agency policy, establish unnecessary analysis and reporting requirements, require consultation with Executive Order advisory councils that already occur, and establish annual Congressional notification and approval processes for closures of National Forests and Grasslands determined by local land managers to be necessary to protect public health and safety. And finally, this act contains provisions that would undermine the Wilderness Act of 1964. H.R. 2834 was only formally introduced three days before this hearing, the Department has not had sufficient time to conduct an in-depth analysis of the legislation as introduced. Our testimony today is based upon a discussion draft of the bill. We would like to reserve the right to submit additional comments about the introduced bill.

The Forest Service coordinates with other federal agencies, states, non-profit organizations and community groups in efforts to provide fishing, hunting and shooting opportunities as well as a wide-spectrum of other recreational opportunities. The agency has relationships with the recreational fishing, hunting, and shooting communities such as the Shooting Sports Roundtable,

Association of Fish and Wildlife Agencies, and the Wildlife Hunting Heritage Conservation Council and we keep them informed about pending federal actions through planning and environmental process requirements. We very much appreciate the outstanding contributions from States and hunting and fishing organizations that support the conservation of fish and wildlife and their habitats on our public lands. Their steadfast support through partnership projects and volunteer work on public lands, as well as their willingness to support state management of fish and wildlife through fishing and hunting fees, are widely recognized as a significant factor in the success of fish and wildlife management in North America.

Although many other recreational activities are also popular on our National Forests and Grasslands, fishing, hunting and shooting sports remain very important to thousands of hunters and fishermen. The latest National Visitor Use Monitoring (NVUM) data shows that the U.S. Forest Service National Forests had 13,022,068 visitors that participated in hunting as their main activity, and 14,050,126 visitors that fished as their main activity. This represents 7.6% and 8.2% (respectively) of all annual recreation visitations to all National Forests.

Definitions – Section 3

Hunting, recreational fishing, and recreational shooting are defined very broadly to include these activities when authorized under special use permit, i.e. when hunting and fishing are authorized as outfitting and guiding, or when a shooting range is authorized as a facility.

Planning – Section 4(c)

The Forest Service analyzes opportunities for hunting, fishing and shooting as recreational activities in the Land Management Planning process. Section 4 (c)(1)(A) would add analysis requirements to various public land planning documents that would potentially add costs and time to federal decision making. Also, in regards to forest planning, the decision to allow or limit various recreation activities is complex. For example, it should be recognized that conflicts between uses can be a legitimate reason to limit or allow various recreation activities. These choices are best made in local planning efforts.

The Forest Service opposes the statement in section 4(c)(1)(B) of H.R. 2834 that any decisions made and actions taken on these or any other activities described in this H.R. 2834 shall not be deemed major Federal actions. Exempting these activities from current National Environmental Policy Act (NEPA) regulations and the attendant environmental review processes would impair the Forest Service's ability to accurately assess the likely impacts of our decisions to manage NFS lands. Properly developed NEPA reviews are a critical tool for public involvement and they improve decision-making by allowing the responsible official to evaluate ways to resolve resource use conflicts and address issues that the public raises. The Forest Service defers to the DOI regarding the implications of this section on the National Wildlife Refuge System.

Further, Section 4(c) (1) (B), of H.R. 2834 specifically prohibits the analysis of hunting, fishing, or shooting opportunities that occurs on adjacent public or private lands. Contrary to H.R. 2834, the Forest Service believes it is both prudent and important to consider cumulative effects for proposed actions on NFS lands during the decision making process, including consideration of activities that occur or can be expected to occur on private lands or other public lands adjacent to NFS lands. Additionally, cumulative effects analyses help avoid duplication of activities (such as shooting ranges that are on other lands nearby) and the resulting increased impacts.

Conversely, Section 4 (c) (1) (A) would require more specific evaluations of the effects of other plans for the use of NFS lands (such as travel management, conservation, land resource management) on opportunities to engage in recreational fishing, hunting or shooting. Hunting and fishing activities currently are and should continue to be considered when developing these plans and accompanying NEPA analyses, rather than establishing a new process. The additional evaluation process required by this bill is unnecessary.

Public Notification – Section 4(d)(1).

Almost all of the National Forest System (NFS) land managed by the Forest Service has been, and continues to be, open to fishing, hunting and shooting. These are all valued recreational opportunities that the agency provides under our broad multiple-use mandate. However, Forest Service officials may authorize very localized closures on NFS lands under special circumstances, usually to protect public health and safety, such as areas in the vicinity of buildings and campgrounds. Due to the bill's requirement for issuance of a public notice prior to implementation of closures or restrictions, emergency closures for public safety would not be allowed. This is not in the best interest of all forest users and adjacent communities. In addition to severely curtailing our ability to provide for public safety, advanced public notice on closures or restrictions on NFS lands such as individual closures or as a compilation of closures on an annual basis, would affect our ability to appropriately manage non-emergency situations that warrant closures, including habitat management and conservation for threatened and endangered species and areas recently burned by wildfire.

Leasing –Section 4(d) (2)

The bill would allow for leasing of NFS lands for shooting ranges (Section 4 (d) (2)). Currently, the Forest Service allows for shooting ranges through special use permits issued pursuant to the Term Permit Act. Utilizing special use permits adequately allows for shooting ranges, leasing is not a needed tool. The Forest Service allows for dispersed shooting opportunities (equivalent to “informal” shooting opportunities) on NFS lands without a special use permit or a lease.

Wilderness – Section 4(e)

The language in this bill regarding wilderness (Section 4 (e)) would supersede the Wilderness Act of 1964. Wilderness should be managed to provide opportunities for recreational use and enjoyment and understanding of the area as wilderness, consistent with the primary responsibility of preserving the wilderness character of the area. Hunting and fishing related opportunities are currently managed by the Forest Service to be consistent with preserving wilderness character.

Reporting – Section 4(f)

Section 4 (f) would add annual reporting requirements adding unnecessary costs to gather, maintain, and report data on the agencies business costs, including those associated with the Paperwork Reduction Act. The Shooting Sports Roundtable Memorandum of Understanding (signed by 40 federal, state and non-government partners) includes reporting on a number of hunting/shooting items of interest. Reporting on NFS closures can be accommodated through this very productive and effective partnership.

Preference – Section 4(h)

Section 4(h) states that no preference is given to shooting, hunting and fishing over other activities. However, other provisions in H.R. 2834 are clearly designed to limit the agency's discretionary authority related to those activities. For example, section 4 (a) states that the Agency must facilitate use of, and access to, federal lands for fishing, sport hunting, and recreational shooting. Section 4 (b) (1) states that lands must be managed in a manner that supports and facilitates recreational fishing, hunting, and shooting opportunities. Section 4 (c) (1) requires that federal land planning documents evaluate effects on opportunities to engage in recreational fishing, hunting, or shooting. All of these requirements appear to favor these three activities at the expense of other activities on NFS lands. As an agency with multiple-use management responsibilities, the Forest Service is committed to providing fishing and hunting related activities as well as a spectrum of other uses where they can be conducted safely while minimizing conflicts among user groups and without environmental damage.

Consultation – Section 4(i)

Section 4 (i) directs the agencies to consult with respective advisory councils as established in Executive Order 12962 (Recreational Fisheries, June 1995) and Executive Order (EO) 13443 (Facilitation of Hunting Heritage and Wildlife Conservation, August 2007) as amended. This direction is unnecessary, as the Forest Service is actively involved in carrying out EO 12962, actively participates in the National Recreational Fisheries Coordination Council, is actively involved in carrying out EO 13443, and is an "ex officio" member of the Wildlife Hunting Heritage Conservation Council, the Federal Advisory Committee established pursuant to EO 13443.

In summary, the Forest Service has a long history and active policy and practice of strongly supporting hunting, fishing and shooting recreational opportunities on the public's National Forests and Grasslands. Almost all of the NFS lands are available for these recreational activities. The intent of this bill is already achieved through existing Statute and agency policy. We do not believe this legislation is necessary. This legislation does not enhance or improve existing fishing, hunting and shooting opportunities on our National Forests and Grasslands. We are concerned that some language would be in conflict with existing legislation and agency policy, establish unnecessary analysis and reporting requirements, require consultation with Executive Order advisory councils that already occurs, and establish annual Congressional notification and approval for necessary closures exceeding a total of 640 acres across the entire National Forest System.

Mr. Chairman and Members of the Subcommittee this concludes my testimony. I will be happy to answer any of your questions.