

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

**BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE**

MAY 25, 2011

CONCERNING

**S. 730 “SOUTHEAST ALASKA LAND ENTITLEMENT FINALIZATION
AND JOBS PROTECTION ACT”**

Mr. Chairman, Honorable Ranking Member and distinguished members of the Committee, thank you for the opportunity to speak with you today about Native land claims in Southeast Alaska. I will open my testimony by addressing the direction in which the Department of Agriculture (USDA) and the Forest Service are heading regarding economic sustainability in Southeast Alaska and how our vision for economic diversification ties into S. 730, the Southeast Alaska Native Land Entitlement Finalization and Jobs Protection Act.

The USDA recognizes and supports the timely, equitable and final distribution of land entitlement to Alaska Native Corporations, including Sealaska, under the Alaska Native Claims Settlement Act (ANCSA). The USDA understands Sealaska’s interest in acquiring lands, which have economic and cultural value. The USDA also recognizes and appreciates the improvements made as a result of work on a similar bill introduced last Congress. I wish to express our continued interest in working collaboratively with Sealaska, the Alaska Congressional delegation, this committee and other community partners to find an equitable solution that is in the public interest.

While the USDA supports a number of the goals of this legislation, we continue to have a number of concerns we wish to work through with the involved parties. This will be the focus of my testimony.

Background

When enacting ANCSA in 1971, Congress balanced the need for a fair and just settlement of Alaska Native aboriginal land claims with the need for use of the public lands in Alaska. The approach to resolve Alaska Native claims in ANCSA is unique in its reliance on the creation of Alaska Native Village and Regional Corporations, which generally receive entitlement from lands located within the original Native village withdrawal areas. Congress defined the land entitlements of both village and regional corporations, but provided for some differentiation among corporations to consider individual village or region circumstances.

One such consideration was the reduction of land entitlement to the village and regional corporations representing Alaska Natives in Southeast Alaska. The Tlingit and Haida Tribes of Southeast Alaska brought a “taking” lawsuit against the United States for land claims and the U.S. Court of Claims awarded damages to the tribes shortly before ANCSA was enacted. Recognizing this prior award, Congress reduced the entitlement of village and regional corporations in Southeast Alaska, with Sealaska receiving its entitlement only under Section 14(h) of ANCSA.

Sealaska has thus far received more than 290,000 acres of 14(h) entitlement, with approximately 63,605 acres of ANCSA entitlement yet to be conveyed, based on the Bureau of Land Management’s (BLM) estimates. Sealaska has prioritized its selections within the original withdrawal areas as required by the 2004 Acceleration Act, with approximately 138,000 acres of prioritized selections identified. The selections identified by Sealaska within the original withdrawal areas are more than sufficient to meet Sealaska’s remaining ANCSA entitlement, but were put on hold at Sealaska’s request to pursue a legislative alternative to select outside the ANCSA withdrawal area to settle their remaining entitlements.

Southeast Alaska Transition Strategy

Since testifying last before this committee, the USDA has made great strides in developing approaches to diversify and sustain the economy in Southeast Alaska. Through a coordinated interagency effort, USDA is focusing with local interests on ways to provide long-term, sustainable support for a wide array of economic opportunities for Southeast Alaska communities, including Alaska Natives around second-growth timber production, ecosystem restoration, bio-energy, ocean products and tourism and recreation. Tourism and recreation, as a whole, has been the fastest growing industry in Southeast Alaska, employing over 3,200 people and accounting for \$109 million in wages and benefits. Ocean products, including fisheries and mariculture, are providing in excess of \$234 million in wages and benefits. Furthermore, we see an ecosystem restoration job sector providing more than 100 jobs in Southeast Alaskan communities. Beyond traditional opportunities, the Forest Service and other partner USDA agencies are working to facilitate future opportunities and growth in job sectors beyond forestry and forest products.

To support the communities and people of Southeast Alaska, the Forest Service has developed a comprehensive 5-year plan focused on a suite of integrated projects including timber projects in the roaded base, pre-commercial thinning, integrated stewardship, road and watershed restoration and fish and wildlife habitat improvements, all designed to allow managers to mix and match and meet the local needs of Alaska Native villages and Southeast Alaskan communities.

Furthermore, the agency issued a contract for asset mapping to identify economic strengths, weaknesses, opportunities and threats to diversification focused on the different economic clusters identified in our contract with the Juneau Economic Development Council. The USDA agencies just completed several months of meetings with working groups comprised of key industry leaders, including participation by Sealaska representatives. The groups addressed the integration of forest restoration and broad economic development in the areas of forest, ocean, visitor and energy products. Additionally, USDA has announced and distributed more than \$55 million last year in funding to communities in Southeast Alaska for an array of projects and activities that demonstrates our commitment to Southeast Alaska. I am optimistic that the USDA

can promote new economic opportunities for Southeast communities, including Alaska Natives, beyond the traditional focus of roadless old growth timber harvests.

In this broad context, the USDA has determined its stance on S. 730 and evaluated whether it facilitates or hinders the Administration's goals for promoting job protection, creation, and economic diversification in Southeast Alaska.

Conflict on the Tongass National Forest pertaining to the harvesting of old growth in roadless areas has intensified over the last 10-15 years. The forest has faced 18 lawsuits during this period, many of which were resolved through settlements or adverse judgments, but all of which cost valuable time and taxpayer dollars. The Administration recognizes a balance must be struck between many diverse and competing needs and we need to chart a course of action that moves us away from old growth and roadless area harvests sooner rather than later. To move us away from this conflict, we must operate on three primary principles 1) provide timber for local value added products; 2) keep the conservation strategy in the Tongas Land Management Plan and environmental values intact and 3) stay clear of roadless areas.

We understand that Sealaska is interested in maintaining export of round logs, using a local workforce generally found in the rural communities of Southeast Alaska to do the harvesting and hauling. The Forest Service's primary interest is maintaining adequate supply of timber for local processing by existing mills and the jobs associated with those mills. This is a central aim of the transition strategy that the Forest Service has developed and one that is achievable if the Forest Service has access to a sufficient quantity of timber available on lands that have existing roads. The Forest Service and Sealaska have an interest in maintaining the loggers and other forestry infrastructure to support a local forest economy and both the Forest Service and Sealaska have an interest in moving away from the dependency on old growth and moving to harvesting young growth stands.

The lands identified in S.730 represent a significant part of the Forest Service's roaded land base for Southeast Alaska identified in the Tongass Land Management Plan as suitable for timber harvest. The majority of the lands identified in S.730 are close to the only remaining medium sized mill and several smaller, local mills in the Tongass National Forest. The Forest Service has determined that approximately 64-percent of the land withdrawn and available for selection in section 3(b)(1) of S. 730 is within the project area for projects listed on the Tongass' 5-year plan. Specifically, the selections would impact six projects, which represent potential profitable sales to the medium sized mill and smaller local mills in the next five years. Additionally, the Forest Service has made substantive investments in lands identified in S. 730 through environmental analysis, stand management, roads, log transfer facilities, maintenance, trails, fish habitat restoration and others activities, totaling more than \$50 million.

Approximately 6,900 acres of land identified for selection in section 3(b)(1) support an older age class of second growth forests (50 years and older, on productive soils). These lands include more than 5,000 acres on Kozciusco Island and another 1,275 acres on Kuiu. These selections cover areas that represent the Forest Service's best, first entry into commercial second growth, including projects currently listed on the Tongass' 5-year plan.

Ultimately, the transfer of these of these older second growth stands from the Forest Service to Sealaska will reduce the available timber supply for local mills and hamper the Forest Service transition to second growth in Southeast Alaska. Removing these stands also means that more old growth areas would be harvested longer, because it will take more time for the second growth stands to mature into legally harvestable ages. The Forest Service believes this will increase the potential for litigation around timber sales and thereby create significant uncertainty for the forest industry.

There are a number of ways this issue could be addressed, and USDA is willing to work with Sealaska to find a solution that meets the needs of all the affected parties and is in the public interest in Alaska.

Conservation Strategy and Old Growth Reserves (OGR)

The Tongass Land Management Plan's conservation strategy was formulated around Sealaska's selections within the original ANCSA withdrawal areas. Old growth reserves found within the land pool identified in S. 730 are central to the Tongass National Forest's conservation strategy as outlined in its land management plan. The land management plan includes a comprehensive, science-based conservation strategy to address wildlife sustainability and viability. This strategy includes a network of variable sized old growth reserves across the forest designed to provide for connectivity and maintain the composition, structure and function of the old growth ecosystem.

In 1997, the US Fish and Wildlife Service (USFWS) decided not to list Queen Charlotte goshawk and Alexander Archipelago wolf under the Endangered Species Act, based on the protective measures incorporated in the conservation strategy of the 1997 Tongass Forest Plan, primarily the network of old growth reserves and the positioning of the reserves across the landscape, and the existence of forested corridors between the reserves. The USFWS reaffirmed this finding regarding the goshawk in 2007, and the Department of the Interior asked the Forest Service to retain the Conservation Strategy in the 2008 Tongass Forest Plan Amendment (TLMP). These were among the main reasons why the 2008 TLMP Amendment kept all the major components of the conservation strategy.

Conveyance of land selections as proposed in S. 730 will decrease the effectiveness of the Tongass' conservation strategy and could hamper the plan's ability to maintain viable populations of plant and wildlife species. This could lead to the need for USFWS to reconsider its previous determinations regarding the goshawk and gray wolf. Replacing the old growth reserve areas with an equal number of acres from somewhere else within the forest does not resolve the effects on the land management plan's conservation strategy; the location and design of the old growth reserve network is critical to the success of the conservation strategy. Distribution of the reserves across the landscape and composition of the habitat within each reserve, were carefully considered. Because of the potential Endangered Species Act issues, the Forest Service is concerned that S. 730 could increase the chances for litigation, which would increase uncertainty for all parties, including Sealaska and local mills. The USDA is willing to discuss mechanisms for maintaining these old growth reserves to ensure they remain whole.

Although S. 730 provides that implementation of this legislation will not require an amendment or revision to the Tongass Land Management Plan (TLMP), this language would not prevent

issues from arising during TLMP implementation. If the significant management assumptions and strategies that formed the basis of the plan are modified through enactment of S. 730, the TLMP cannot be implemented as currently intended.

Finalizing Sealaska Entitlement

As the title of this legislation suggests, any legislated solution finalizing Sealaska's entitlement must actually resolve all of Sealaska entitlement issues upon enactment, such as remaining entitlement acres, resolve outstanding split estate issues, relinquish existing Sealaska ANCSA selections and removal of the original ANCSA withdrawal areas. This issue is significant to the Forest Service because without closure the agency cannot identify a stable land base and ensure that investments made today can be capitalized in the future.

In that context, we also have concerns about in-holdings. Selection from the land categories in section 3(b)(2) ("Sites with Traditional, Recreational, and Renewable Energy Use Value"), in section 3 (b)(3) ("Traditional and Customary Trade and Migration Routes") and in section 3(c) ("Sites with Sacred, Cultural, Traditional, or Historic Significance,") will result in a significant number of sites and routes scattered throughout the forest, creating in-holdings that cause significant management issues including access and boundary management problems. It is agency policy to avoid the creation of in-holdings. Likewise, the elimination of such in-holdings is, and has historically been, one of the agency's foremost land acquisition priorities. The Forest Service has extended considerable public resources to acquire the types of in-holdings that S 730 would create. We have concern over the 33 in-holdings created by the new land categories in S. 730. The Forest Service estimates that surveying and boundary management for new Sealaska land selections under S. 730.

Additionally, the escrow provision included in the legislation does not address the relinquishment of any rights Sealaska may have to escrow funds from lands within the original withdrawal area. In addition, S.730 is also not clear on what right Sealaska may have to claim escrow on the new parcels identified, which have previously been harvested. The USDA advocates clearly articulating the escrow account provisions to relinquish Sealaska's right to escrow within the original ANCSA identified withdrawal areas.

Alaska Land Transfer Acceleration Act

In line with the Alaska Land Transfer Acceleration Act of 2004, the USDA supports a reduced conveyance timeline. S. 730, however, only provides for selections under section 3(b)(1) and would penalize Sealaska only if it had not made its selection under section 3(c)(2) within 15 years. Sealaska has previously provided copies of maps, which identify their sites of preference. Settling on those land selections prior to passage of S. 730, could resolve one of USDA's primary concerns with S. 730.

Public access

We continue to believe S. 730 will affect the Forest Service's ability to provide for continuous public access for subsistence uses and recreation on the Tongass National Forest. The legislation provides Sealaska the right to regulate access on certain lands where the public use is incompatible with Sealaska's natural resource development, as determined by Sealaska. The

ability of the Forest Service to provide for access, subsistence activities and public and commercial recreation and tourism and will be limited by enactment of the legislation.

Special use permits: Liability and responsibility

The USDA supports Sealaska’s willingness to continue to allow outfitting and guiding permits on lands identified in section 3(b)(2) (“Sites with Traditional, Recreational, and Renewable Energy Use Value”) for the remaining term of the existing authorizations and for a subsequent 10 year renewal. However, the legislation should clearly specify that the existing Forest Service permits authorizing these uses would be revoked upon conveyance of the land, that Sealaska would allow continued use under the same terms and conditions as provided in the Forest Service permits, and that the United States would not be liable for the actions of these permittees. As it currently stands, the legislation specifically exempts Sealaska from liability, but provides for Sealaska to negotiate terms of the permit.

Environmental mitigation, incentives and credits

Section 5(b) of S.730 would expressly authorize environmental mitigation and incentives for land conveyed to Sealaska. The USDA supports these provisions, which would allow any land conveyed to be eligible for participation in carbon markets or other similar programs, incentives or markets established by the federal government.

Conclusion

In conclusion, while USDA supports the goals of this legislation, we remain concerned about the consequences of the legislation, including its ability to actually finalize the entitlement and current outstanding split estate issues and the potential for the legislation to bring to closure the question of Sealaska’s entitlement under ANCSA. More broadly, USDA is concerned about the impact of S. 730 on the supply of timber for local mills; the transition to a sustainable timber harvest regime focused on second-growth forests; and the overarching conservation strategy outlined in the Tongass Land Management Plan.

However, the Department will continue to work with Sealaska and all the parties involved resolving these concerns and finding solutions that work for everyone.

This concludes my testimony and I am happy to answer any questions you may have.

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

**BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS**

MARCH 25, 2011

**CONCERNING
S. 268, THE FOREST JOBS AND RECREATION ACT OF 2011**

Mr. Chairman, Members of the Committee, I am Harris Sherman, Under Secretary of Agriculture for Natural Resources and Environment. Thank you for the opportunity to share the Department's views on S. 268, the Forest Jobs and Recreation Act of 2011.

S. 268 directs the Secretary of Agriculture to develop and implement forest and watershed restoration projects on 70,000 acres of the Beaverhead-Deerlodge National Forest and 30,000 acres of the Kootenai National Forest within 15 years of enactment. The bill prescribes treatment methods, annual acreage targets, and standardized criteria to prioritize areas for restoration projects. It also requires consultation with an advisory committee or collaborative group for each restoration project implemented by the Secretary, and calls for a monitoring report every five years. The bill designates twenty-four wilderness areas totaling approximately 666,260 acres, six recreation areas totaling approximately 288,780 acres, and three special management areas totaling approximately 80,720 acres. Some of the designations apply to lands managed by the Bureau of Land Management and we defer to the Department of the Interior on those provisions.

We appreciate the close work of the Senator's staff with the Forest Service to refine legislation that would provide a full suite of significant benefits for the people, economy, and forests of Montana and the nation. The continuing commitment to bring diverse interests together to find solutions that provide a context for restoration, renewal, and sustainability of public landscapes is evident in the legislation being considered by this Committee today.

The Department supports the concepts embodied in this legislation, including collaboratively developed landscape scale projects, increased use of stewardship contracting, the designation of wilderness areas, and the importance of a viable forest products industry in restoring ecosystems and economies. In fact, we are currently engaged in numerous programs and activities on the National Forests of Montana and around the nation that embrace the concepts in this bill. While we support the concepts of the legislation, the Department has concerns regarding Title I which I will address later in my testimony.

The President's FY 12 budget proposal includes an \$854 million Integrated Resource Restoration (IRR) line-item. This integrated approach, similar to the landscape scale efforts envisioned in this

bill, will allow the Forest Service to apply the landscape scale concept across the entire National Forest System.

Three examples of the work we are carrying out in the spirit of this legislation, which IRR is intended to help us replicate, are underway as large-scale restoration projects on the National Forests of Montana: the East Deerlodge Stewardship project on the Beaverhead-Deerlodge, developed with a local collaborative group, which is expected to substantially increase treated acres and harvested volumes based on the President's FY12 budget request; a Region-wide Long-Term Stewardship Contract, which will accomplish a wide range of restoration priorities throughout the State; and the Southwestern Crown of the Continent project, which will treat close to 200,000 acres on the Lolo, Flathead and Helena National Forests with funding provided under the Collaborative Forest Landscape Restoration Program.

Efforts such as these have helped the agency and stakeholders gain experience in identifying the factors necessary for the success of large-scale restoration projects, and I acknowledge the Senator's incorporation of their input into this legislation. I offer our continued support for further collaboration on addressing remaining concerns to ensure that it can serve as a model for similar efforts elsewhere.

Regarding the input from the Department that the Senator has incorporated, there are three items in the new legislation for which I would like to express the Department's appreciation in particular: (1) the incorporation of the administrative review procedures in Section 103(d), which promote transparency and encourage proactive collaboration, thus resulting in better decisions and more work done on the ground; (2) the adjustments to wilderness area designations in Title II, which now more closely reflect the extensive collaboration, analysis and resulting recommendations of the Beaverhead-Deerlodge 2009 Forest Plan and other forest plans; and (3) the removal of the previous bill's prescriptions for how the agency would meet requirements of the National Environmental Policy Act (NEPA), which would have likely resulted in greater controversy and complicated the agency's approach to environmental review.

Comments on the legislation

In general, and as the Department has testified to this Subcommittee in the last Congress, we have reservations about legislating forest management direction or specific treatment levels on a site-specific basis because it could establish a precedent leading to multiple site-specific laws in the future. We also recognize the importance of collaborative efforts such as the one which helped produce this legislation. These efforts are critically important to increasing public support for needed forest management activities, particularly in light of the bark beetle crisis facing Montana and other western states. We believe these efforts can significantly advance forest restoration, reduce litigation risk for these activities, and make it easier to provide jobs and opportunities in the forest industry for rural communities.

I will now point out several specific concerns that the Department would like to work with the Committee and Senator Tester to address.

One concern is the definition of mechanical treatment in Section 102(6). The Department acknowledges the inclusion of language that allows fiber to be left on the forest floor after treatment only if an option for removal of the fiber was provided. However, while we acknowledge the importance of encouraging the development of woody biomass and other small-diameter timber

markets, requiring that an option be provided for removing the fiber creates a barrier to using certain contracting methods that may be more effective in achieving the objectives of the bill.

Another concern arises in Section 103(b). While the Department believes the acreage targets for mechanical treatments are achievable and sustainable, we are concerned about the precedent set by legislating these targets given constrained Federal resources. Further, the Department would not want to draw resources from priority work on other units of the National Forest System in order to accomplish the goals in this legislation. Finally, we do not want to create unrealistic expectations by communities and stakeholders about the quantity of treatments that the agency would accomplish.

The reporting requirements in Section 103(f) raise two concerns. First, the requirements overlook an important opportunity to evaluate whether the Act's prescriptions continue to provide optimal performance in light of potential changes in budget trends, wood markets and forest health conditions. Second, the analyses prescribed by this subsection may be duplicative of reports required by other laws and regulations.

Regarding Section 103(g), we very much appreciate the Senator's recognition of the need to maintain the agency's financial capacity to carry out critical forest management activities elsewhere in the National Forest System. We look forward to working with the Senator to further refine this subsection in order to achieve that outcome. Specifically, we are concerned that the provision as written could give rise to potential litigation about the appropriate allocation of funds among the Regions.

Finally, the Department is concerned about several prescriptions in the legislation that codify scientific assumptions and value determinations that, while consistent with our shared vision today, may come to be recognized as undesirable or ineffective as new data and circumstances arise in the future. These include the road-density standards in Sections 104(a)(4) and 104(b)(3), and the INFISH compliance requirement in Section 104(b)(1).

Regarding the land designations in Title II that pertain to lands under the jurisdiction of the Forest Service, we support the wilderness recommendations made in each Forest's land and resource management plan given the depth of analysis and public collaboration that goes into them. Therefore we are pleased that many of the bill's wilderness designations are generally consistent with those plans, and I acknowledge the Senator's work with the Forest Service to resolve many important issues that arose in this respect with the previously introduced legislation. We would like to address some remaining inconsistencies, however, particularly concerning the Mount Jefferson Wilderness designation in Section 203(a)(11).

In closing, I want to thank Senator Tester once again for his strong commitment to Montana's communities and natural resources. We want to underscore our commitment to the continuing collaboration with the Senator and his staff, the committee, and all interested stakeholders in an open, inclusive and transparent manner to provide the best land stewardship for our National Forests.

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

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

***BEFORE THE*
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
UNITED STATES SENATE
MAY 25, 2011**

CONCERNING

S. 233 “NORTH FORK WATERSHED PROTECTION ACT OF 2011,”

S. 375 “GOOD NEIGHBOR FORESTRY ACT”

Mr. Chairman, Honorable Ranking Member and members of the Committee, thank you for the opportunity to present the views of the Department of Agriculture on S. 233 to withdrawal land and mining interests from the Flathead River Watershed in Montana and S. 375 to enter into cooperative agreements with state foresters, also known as the Good Neighbor Forestry Act. I will open my testimony by addressing S. 233, followed by S. 375.

S.233: The North Fork Watershed Protection Act of 2011

S. 233 would, subject to valid existing rights, withdraw National Forest System (NFS) lands located in the North Fork and Middle Fork of Flathead River watersheds in Montana which are primarily managed as part of the Flathead National Forest from location, entry and patent under the mining laws and from disposition under the mineral and geothermal leasing laws. S. 233 would also withdraw a small amount of land in the Kootenai National Forest. Currently there are 39 existing leases or claims in the North Fork comprising 56,117 acres and 18 existing leases or claims in the Middle Fork comprising 8,595 acres. The Department supports S. 233, however, I would like to clarify that although the Department has surface management authority concerning mineral operations, the management of the federal mineral estate falls within the jurisdiction of the Secretary of the Interior. We defer to the Department of the Interior on issues related to the status of the existing claims and leases.

Background

The Forest Service administers surface resources on nearly 193 million acres of NFS lands located in forty-two states and the Commonwealth of Puerto Rico. The Forest Plan for the Flathead National Forest blends areas of multiple uses in the North Fork and Middle Fork with areas of specific or limited uses elsewhere on the Forest. Under current law, NFS lands reserved from the public domain pursuant to the Creative Act of 1891, including those in S. 233, are open to location, entry and patent under the United States Mining Laws unless those lands have subsequently been withdrawn from the application of the mining laws. This bill would withdraw

approximately 362,000 acres from the operation of the locatable and leasable mineral laws subject to valid existing rights. This includes approximately 291,000 acres on the Flathead National Forest and approximately 5,000 acres on the Kootenai National Forest in the North Fork watershed and 66,000 acres in the Middle Fork watershed on the Flathead National Forest.

The majority of North Fork and Middle Fork of the Flathead has low to moderate potential for the occurrence of locatable and leasable minerals. A portion of the Middle Fork does have an area of high potential for oil and gas occurrence. Much of the North Fork and Middle Fork was leased for oil and gas in the early 1980s. Subsequently, the Bureau of Land Management (BLM) and Forest Service were sued and BLM suspended the leases in 1985 to comply with a District Court ruling (*Conner v. Burford*, 605 F. Supp. 107 (D.Mont.1985)). Presently, there are no active locatable or leasable operations, including oil and gas, in the North Fork or Middle Fork.

Comments on S. 233

We recognize the bill would not affect the existing oil and gas leases because they would constitute valid existing rights. We also recognize the bill would not change the court's order in *Conner v. Burford* requiring the BLM and Forest Service to prepare an environmental impact statement (EIS) under the National Environmental Policy Act before authorizing any surface disturbing activities on the affected leases.

The Flathead National Forest and Flathead County rely on the close proximity of local sources of aggregate to maintain roads economically and as a source of building materials. We are pleased this bill would not preclude the removal and use of mineral materials, such as aggregate. The ability to continue using those local mineral materials would allow us to more easily maintain local roads, thus reduce erosion related impacts to streams and lakes in the North Fork and Middle Fork drainages. We appreciate Senators Baucus and Tester's strong commitment to protecting Montana's natural resources.

S. 375: Good Neighbor Forestry Act

I'll now discuss S.375, which would authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements or contracts with State foresters authorizing State foresters to provide certain forest, rangeland and watershed restoration and protection services in states west of the 100th meridian. Activities that could be undertaken using this authority include: (1) activities to treat insect infected trees; (2) activities to reduce hazardous fuels; and (3) any other activities to restore or improve forest, rangeland and watershed health, including fish and wildlife habitat. The bill would authorize the states to act as agents for the Secretary and would provide that states could subcontract for services authorized under this bill. The bill would require federal retention of decision making under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321et seq.). The authority to enter into contracts or agreements under the bill would expire on September 30, 2019.

We support Good Neighbor Authority (GNA) and believe our Nation's forests face forest health challenges, which must be addressed across diverse land ownerships. In these times of limited resources, it is important to leverage workforce and technical capacities and develop partnerships for forest restoration across all lands. We believe further study and analysis is needed to better understand the interplay of needs, state and federal contracting and labor law and regulation

before expansion of the authority is authorized. Further, it is important to recognize that all environmental safeguards, policies and laws remain in place. To that end, we look forward to continuing our work with the committee, States, and federal agencies to develop a better understanding of the issues and make suggestions to improve the bill in a manner that meets the needs of key stakeholders.

How we use the current Good Neighbor Authority:

The Forest Service has gained valuable experience using GNA in Colorado and Utah pilot programs over the past several years. In Colorado, the authority has been successfully used on 37 projects focused on fuel reduction activities, such as tree thinning, resulting in the treatment of approximately 3,900 acres on the Arapaho-Roosevelt and Pike-San Isabel National. Almost all of the projects in Colorado included some form of hazardous fuels reduction within the wildland-urban interface, including the creation of defensible space around subdivisions and private residences, the creation of shaded fuelbreaks, treatment and salvage of insect-infested trees, the creation of evacuation routes and thinning. In Utah on the Dixie National Forest the authority has enhanced, protected and restored watersheds, particularly focused on rehabilitation and recovery of a burned area. In all, we have completed 60 projects in both Colorado and Utah.

For example, in Colorado, Shadow Mountain Estates is a large subdivision (several hundred acres) that directly borders National Forest System (NFS) lands on the Arapaho National Forest in Colorado. In 2006, Shadow Mountain Estates contracted the Colorado State Forest Service (CSFS) to remove dead trees from within the neighborhood to reduce fire risk and in 2007 the subdivision requested the Forest Service to treat the adjoining public lands to enhance its fire prevention efforts. As a result of this request, the Forest Service entered into the Green Ridge Good Neighbor Agreement with the CSFS to remove hazardous fuels and create a defensible space on federal lands in this wildland urban interface.

The contract to remove the trees from both private and federal lands was prepared, advertised and administered by the CSFS, and resulted in the treatment of 135 acres of NFS land. The project was completed in June of 2008. Shadow Mountain Estates is satisfied with the result, as the treated area contributes to reduced wildfire damage risk to the neighborhood and is aesthetically pleasing.

Benefits to the land and relationships

The GNA was the subject of a Government Accounting Office report in February of 2009 (GAO-09-277). The report summarizes our experiences and makes suggestions for improving use of the authority.

The GAO report found that the GNA has facilitated cross boundary watershed restoration and hazardous fuel removal activities. The GAO report notes the Forest Service's experience that the authority has resulted in the accomplishment of more restoration and protection treatments than would have otherwise been accomplished, particularly within the wildland urban interface. On the ground experience from Colorado and Utah indicates there is increased efficiency for both state and federal agencies, because all project work is done at one time, with one contract, making implementation more consistent. Further, the authority enhances our ability to work with

private landowners through the State Forester to remove hazardous fuels on adjacent NFS lands and, perhaps most importantly, it builds greater cooperation among stakeholders.

The Forest Service will continue its review of the findings and recommendations from the GAO and continue to improve its use of the Good Neighbor Authority. The Good Neighbor Authority has produced great results in Colorado and Utah. Its further expansion to states west of the 100th meridian will help meet the department's "All Hands-All Lands" approach. The USDA believes this bill has broader applicability to all national forests, especially in dealing with mixed federal-private lands as long as we are maintaining existing environmental safeguards, polices and laws.

We look forward to working with the Committee, States and federal agencies to continue to be a good neighbor and make suggestions to improve the bill in a manner that meets the needs of key stakeholders and all national forests.

This concludes my testimony on S. 233 and S. 375. I am happy to answer any questions you may have on any of the bills.