H.R.__, "CABIN FEE ACT OF 2011"; H.R. 2834, "RECREATIONAL FISHING AND HUNTING HERITAGE AND OPPORTUNITIES ACT"; & H.R. 1444, TO REQUIRE HUNTING ACTIVITIES BE A LAND USE IN ALL MANAGEMENT PLANS FOR FEDERAL LAND UNLESS IT IS CLEARLY INCOMPATIBLE WITH THE PURPOSES FOR WHICH THE FEDERAL LAND IS MANAGED

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

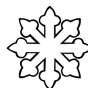
ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

Friday, September 9, 2011

Serial No. 112-57

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
or
Committee address: http://naturalresources.house.gov

U.S. GOVERNMENT PRINTING OFFICE

68-266 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON NATURAL RESOURCES

DOC HASTINGS, WA, *Chairman*
EDWARD J. MARKEY, MA, *Ranking Democrat Member*

Don Young, AK
John J. Duncan, Jr., TN
Louie Gohmert, TX
Rob Bishop, UT
Doug Lamborn, CO
Robert J. Wittman, VA
Paul C. Broun, GA
John Fleming, LA
Mike Coffman, CO
Tom McClintock, CA
Glenn Thompson, PA
Jeff Denham, CA
Dan Benishek, MI
David Rivera, FL
Jeff Duncan, SC
Scott R. Tipton, CO
Paul A. Gosar, AZ
Raúl R. Labrador, ID
Kristi L. Noem, SD
Steve Southerland II, FL
Bill Flores, TX
Andy Harris, MD
Jeffrey M. Landry, LA
Charles J. "Chuck" Fleischmann, TN
Jon Runyan, NJ
Bill Johnson, OH

Dale E. Kildee, MI
Peter A. DeFazio, OR
Eni F.H. Faleomavaega, AS
Frank Pallone, Jr., NJ
Grace F. Napolitano, CA
Rush D. Holt, NJ
Raúl M. Grijalva, AZ
Madeleine Z. Bordallo, GU
Jim Costa, CA
Dan Boren, OK
Gregorio Kilili Camacho Sablan, CNMI
Martin Heinrich, NM
Ben Ray Luján, NM
John P. Sarbanes, MD
Betty Sutton, OH
Niki Tsongas, MA
Pedro R. Pierluisi, PR
John Garamendi, CA
Colleen W. Hanabusa, HI
Vacancy

Todd Young, *Chief of Staff*
Lisa Pittman, *Chief Counsel*
Jeffrey Duncan, *Democrat Staff Director*
David Watkins, *Democrat Chief Counsel*

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

ROB BISHOP, UT, *Chairman*
RAÚL M. GRIJALVA, AZ, *Ranking Democrat Member*

Don Young, AK
John J. Duncan, Jr., TN
Doug Lamborn, CO
Paul C. Broun, GA
Mike Coffman, CO
Tom McClintock, CA
David Rivera, FL
Scott R. Tipton, CO
Raúl R. Labrador, ID
Kristi L. Noem, SD
Bill Johnson, OH
Doc Hastings, WA, *ex officio*

Dale E. Kildee, MI
Peter A. DeFazio, OR
Rush D. Holt, NJ
Martin Heinrich, NM
John P. Sarbanes, MD
Betty Sutton, OH
Niki Tsongas, MA
John Garamendi, CA
Edward J. Markey, MA, *ex officio*

CONTENTS

	Page
Hearing held on Friday, September 9, 2011	1
Statement of Members:	
Broun, Hon. Paul C., a Representative in Congress from the State of Georgia	1
Prepared statement of	2
Costa, Hon. Jim, a Representative in Congress from the State of California, Oral statement of	24
Grijalva, Hon. Raúl M., a Representative in Congress from the State of Arizona	4
Prepared statement of	5
Hastings, Hon. Doc, a Representative in Congress from the State of Washington	2
Prepared statement of	3
Statement of Witnesses:	
Bailey, Pete, Former Director, National Forest Homeowners and the C2 Coalition	13
Prepared statement on Draft Bill	15
Holtrop, Joel, Deputy Chief, National Forest System, U.S. Forest Service, U.S. Department of Agriculture	6
Prepared statement on H.R. 1444	7
Prepared statement on H.R. 2834	9
Prepared statement on Draft Bill	11
Horn, William P., Director of Federal Affairs, U.S. Sportsmen's Alliance	31
Prepared statement on H.R. 2834	32
Ratcliffe, Bob, Deputy Assistant Director, Renewable Resources and Planning, Bureau of Land Management, U.S. Department of the Interior	25
Prepared statement on H.R. 2834 and H.R. 1444	27
Recce, Susan, Director, Conservation, Wildlife, and Natural Resources, National Rifle Association	39
Prepared statement on H.R. 2834	40
Simpson, Melissa, Director of Government Affairs, Safari Club International	35
Prepared statement on Draft Bill and H.R. 1444	36
"List of Anti-hunting Regulatory and Administrative Actions over the last 12 months"	37
Additional materials supplied:	
Wilderness Society, Letter submitted for the record on H.R. 2834	52

LEGISLATIVE HEARING ON DRAFT BILL H.R. __, TO MODIFY THE FOREST SERVICE RECREATION RESIDENCE PROGRAM BY IMPLEMENTING A SIMPLE, EQUITABLE, AND PREDICTABLE PROCEDURE FOR DETERMINING CABIN USER FEES, AND FOR OTHER PURPOSES. "CABIN FEE ACT OF 2011"; H.R. 2834, TO RECOGNIZE THE HERITAGE OF RECREATIONAL FISHING, HUNTING, AND SHOOTING ON FEDERAL PUBLIC LANDS AND ENSURE CONTINUED OPPORTUNITIES FOR THESE ACTIVITIES. "RECREATIONAL FISHING AND HUNTING HERITAGE AND OPPORTUNITIES ACT"; & H.R. 1444, 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.

Friday, September 9, 2011
U.S. House of Representatives
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:03 a.m. in Room 1334, Longworth House Office Building, The Honorable Paul C. Broun [Chairman of the Subcommittee] presiding.

Present: Representatives Broun, Hastings, McClintock, Benishek, Grijalva and Costa.

Mr. BROUN. The hearing will come to order. The Subcommittee on National Parks, Forests and Public Lands is meeting today to hear testimony on three bills that fall within our jurisdiction. Under the rules opening statements are limited to the Chairman and Ranking Member. However, I ask unanimous consent to include any other Members' opening statements in the hearing record if submitted to the Clerk by close of business today. Hearing no objections, so ordered.

STATEMENT OF THE HONORABLE PAUL C. BROUN, A REPRESENTATIVE FROM THE STATE OF GEORGIA

Mr. BROUN. I want to thank our colleagues and the other witnesses who have agreed to testify today. On the agenda are three bills designed to promote and protect wholesome outdoor family recreation on public lands.

Our first bill is the Cabin Fee Act of 2011. This is an urgently needed bill to save the popular, nearly century-old program under which 14,000 American families have been able to build cabins for non-commercial family use in our national forests. Our second and

third bills, H.R. 1444 and H.R. 2834, are needed to provide clear and specific statutory language that will protect sportsmen, fish and wildlife agencies, Federal land managing agencies, and the taxpayers from lawsuits and administrative gridlock.

Congress has spoken many times on the issue of hunting on our multiple-use public lands, and has come down on the side of allowing sporting activities to take place under state laws. Despite what I think is clear Congressional intent, some zealous, but I believe very misguided, groups have continued to mount challenges to hunting by seeking to exploit any ambiguity in the laws to tie up the agencies in administrative delays or to try to find an anti-hunting judge.

It is past time for Congress to settle the issue once and for all, and I am proud to be the author of one of the bills that we will take up today.

[The prepared statement of Mr. Broun follows:]

Statement of The Honorable Paul C. Broun, a Representative in Congress from the State of Georgia, on H.R. 1444

I would like to thank Chairman Hastings and Chairman Bishop for allowing this hearing today on H.R. 1444, a bill I introduced that would require that hunting activities be considered as a land use in all management plans for federal land, to the extent that it is not clearly incompatible with the purposes for which the federal land is managed.

I am an avid hunter and outdoorsman. In fact, I am life member #17 of Safari Club International and began coming to D.C. as a volunteer advocate for them. I am also proud to call myself a life member of The National Rifle Association. These are just a few of the numerous sporting associations of which I am a Life Member. In fact, a full-body-mounted African lion and Kodiak bear are just a few of my prized trophies that visitors see when they come to my Washington office.

Hunting is already permitted on most Bureau of Land Management and U.S. Fish and Wildlife Service lands. It has provided a positive force in habitat conservation, support for wildlife restoration, and contributed billions of dollars in benefits to state and regional economies throughout the nation.

I look forward to finding ways to expand hunting on our vast federal lands, and I believe that H.R. 1444 can play an important role in achieving that goal.

Mr. BROUN. I will now turn to the Ranking Member for his opening remarks.

Mr. GRIJALVA. Thank you, Mr. Chairman, and with your indulgence, the Full Committee Chairman has a comment and I would defer my time at this point, then pick it up after. Sir.

Mr. BROUN. Thank you, Mr. Grijalva. I now recognize the Full Committee Chairman, Doc Hastings.

STATEMENT OF THE HONORABLE DOC HASTINGS, A REPRESENTATIVE FROM THE STATE OF WASHINGTON

Mr. HASTINGS. Thank you, Mr. Chairman, and thank the Ranking Member, I hope that is the pattern.

[Laughter.]

Mr. HASTINGS. Thank you again for holding this hearing on today's bills, including the Cabin Fee Act legislation. The goal of this bill is to create a simple, straightforward, and predictable fee schedule for the cabin owners nationwide as well as taxpayers and the Forest Service. It will replace the current complex and unfair payment system by assigning the cabins to tiers based on appraised value. The fees would rise with inflation but would

otherwise remain fixed so families would no longer face sudden unexpected jumps to unaffordable levels.

Last year a similar measure I introduced passed the House Natural Resources Committee, but due to the expiration of time in the last Congress was not considered on the House Floor. This year's legislation improved upon last year's bills in two significant ways.

First, it modifies the fee schedule to include additional tiers that will keep the fees reasonable while also ensuring sufficient revenue to implement the program. Our Congressional Budget Office has yet to provide its score for the bill, and turmoil in the real estate market has created uncertainties in the data used to score it. I remain optimistic that the bill will be revenue neutral with the new fee schedule.

Second, this bill expands the coverage to include private cabins located in all national forests, not just those derived from public lands. Many private cabins on Forest Service lands are simple, rustic structures hand-built by the grandparents or relatives of the current owners early in the last century, and passed down from generation to generation. The overwhelming majority of these cabins are modest family retreats. During these tight economic times, the intent of this bill is to keep the fees affordable for people such as teachers, factory workers, and retirees and not just millionaires, which is what will happen if we don't address the problem now.

The current system has resulted in unrealistic arbitrary fee hikes that are completely unaffordable for average families. For example, last year the Seattle Times reported that Lake Wenatchee cabin owners—Lake Wenatchee is in my district—received notice that their fees would increase by more than 1,000 percent, from $1,400 to $17,000 a year. Skyrocketing fees almost make these part-time homes unmarketable, leaving families who are unable to pay the high fees also unable to sell their cabins.

Having family-owned cabins encourages wholesome outdoor recreation which is an important use of our vast public land system, and I think that is particularly so when so many of us today are increasingly distracted by all the electronic products that are on the markets. By encouraging a broad and diverse range of activities in our national forests, we foster the kind of sound stewardship that allows us to more fully obtain the many benefits that these lands can contribute.

So, thank you again Mr. Chairman for the courtesy of allowing me to be here, and thank you for scheduling this hearing. I look forward to hearing from the witnesses on this bill today. I yield back.

[The prepared statement of Mr. Hastings follows:]

Statement of The Honorable Doc Hastings, Chairman, Committee on Natural Resources, on H.R. __, The Cabin Fee Act of 2011

Thank you Mr. Chairman for holding this hearing on today's bills, including the Cabin Fee Act legislation.

The goal of this bill is to create a simple, straightforward and predictable fee schedule that benefits cabin owners nationwide, as well as taxpayers and the Forest Service. It would replace the current complex and unfair payment system by assigning cabins to tiers based on appraised value.

The fees would rise with inflation, but would otherwise remain fixed so families would no longer face sudden, unexpected jumps to unaffordable levels.

Last year, a similar measure I introduced passed the House Natural Resources Committee, but due to expiration of time of the last Congress, was not considered on the House floor.

This year's legislation improves upon last year's bill in two significant ways.

First, it modifies the fee schedule to include additional tiers that will keep the fees reasonable while also ensuring sufficient revenue to implement the program.

While the Congressional Budget Office has not yet provided its score for the bill, and turmoil in the real estate market has created uncertainties in the data used to score it, I remain optimistic the bill will be "revenue neutral" with the new fee schedule.

Second, this bill text expands coverage to include private cabins located in all National Forests, not just those derived from public lands.

Many private cabins on Forest Service land are simple, rustic structures hand-built by the grandparents or relatives of the current owners early in the last century and passed down from generation to generation. The overwhelming majority of these cabins are modest family retreats.

During these tight economic times, the intent of this bill is to keep the fees affordable for people such as teachers, factory workers and retirees, not just millionaires—which is what will happen if we don't address the problem now.

The current system has resulted in unrealistic, arbitrary fee hikes that are completely unaffordable for average families. For example, last year, the *Seattle Times* reported that Lake Wenatchee cabin owners received notice that their fees would increase more than one thousand percent, from $1,400 to more than $17,000 this year.

Skyrocketing fees also make these part-time homes unmarketable, leaving families who are unable to pay the high fees, also unable to sell their cabins.

Having family-owned cabins encourages wholesome outdoor recreation which is an important use of our vast system of public lands—particularly today when many youth are increasingly distracted by Ipods, video games and computer screens.

By encouraging a broad and diverse range of activities in our National Forests, we foster the kind of sound stewardship that allows us more fully to obtain the many benefits these lands can contribute.

Thank you, again, for scheduling this hearing and I look forward to hearing from the witnesses.

Mr. BROUN. Thank you, Mr. Chairman, I appreciate your statement. It is a good bill, and I hope we can see Congress pass it because we need to protect the ability to do that.

I now recognize Mr. Grijalva for his statement.

STATEMENT OF THE HONORABLE RAÚL M. GRIJALVA, A REPRESENTATIVE FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Mr. Chairman, and as Chairman of this Subcommittee in the last Congress, I was pleased to hold hearing on the Chairman's Cabin Fee legislation, and to work with him to get the bill favorably reported from this Committee. I share the Chairman's concern regarding the proposed fee increases and look forward to continuing to work cooperatively on a solution that might mitigate those increases without negatively impacting the Federal budget.

Regarding the other two measures on today's agenda, hunting, fishing, trapping and other recreational activities that depend on robust wildlife populations that have flourished on Federal lands mostly because Congress has stayed out of the way. Most Federal land is open to hunting and fishing and Federal regulation is minimal with states managing most of the aspects of these activities. As a result, hunting and fishing are enormously popular on Federal land and support a multi-million dollar industry, employing tens of thousands of people in outfitting, guiding, and equipment manufacturing.

An example, roughly eight percent of the visitors to national forests between 2005 and 2009 listed hunting as their primary activity. That is more than 13 million people in each of those years.

If the threat to these exist, it is not from biased Federal land managers or animal rights activists, the real threat to hunting and fishing and other wildlife-dependent activities comes from Congress in the form of misguided budget priorities and shortsighted land management policies that could destroy habitat and reduce wildlife populations.

On the funding front, proposals to slash budgets for Federal land management agencies threaten efforts to address backlogs of maintenance on roads, trails, campgrounds, and other facilities used by hunters, anglers, and other visitors. Proposals to virtually eliminate funding for the Land and Water Conservation Fund would destroy plans to acquire and preserve valuable habitat.

As urban development swallows more and more open space, defunding the land and water conservation fund, as Republicans in Congress have proposed to do, would deprive the Federal Government of the one tool we could use to preserve opportunities for hunting and fishing.

On the policy front, attacks on the National Environmental Policy Act, along with attempts to weaken management of wilderness, threaten to further limit opportunities to hunt. NEPA provides a tool for assessing the potential impacts of Federal land management decisions, including potential impacts on hunting, fishing, and other recreational activities. Truncating or abandoning the NEPA process to allow unrestricted energy development, for example, makes it more likely that harmful impacts, including those to hunting and fishing, will not be considered or even evaluated.

Finally, attacks on wilderness are attacks on hunting. If all areas of Federal land are open to roads, off-road vehicles, oil and gas production, and timber cutting, there will be nowhere left for wildlife populations to flourish, as a result nowhere left to hunt.

Despite the critical role wilderness plays in supporting wildlife populations, less than three percent of the continental United States is designated wilderness and opportunities to preserve new wilderness grow more scarce by the day. Congress is already failing to adequately manage and invest in wildlife populations on Federal land. The two bills before us today claim to be pro-hunting and fishing, but contain provisions that would only make a bad situation worse. Further attacks on NEPA, on wilderness, and on funding for land acquisitions are not the answer.

We appreciate the witnesses being here today and we look forward to their thoughts on these proposals and the legislation before us. With that, Mr. Chairman, I yield back.

[The prepared statement of Mr. Grijalva follows:]

Statement of The Honorable Raúl Grijalva, Ranking Member, Subcommittee on National Parks, Forests and Public Lands

Mr. Chairman, in 2000, Congress passed the Secure Rural Schools Act to provide rural counties with a stable source of funding for schools and roads. This stable funding provided the certainty these communities needed to make important investments in transportation and education.

Unfortunately, the 109th Congress, under Republican leadership, allowed the program to expire.

It took a new Democratic majority to reauthorize the Secure Rural Schools program in the 110th Congress by pursuing legislation that was measured and bipartisan.

I am concerned that history is about to repeat itself. The Discussion Draft that is the subject of today's hearing is not measured, it is not bipartisan and it represents a significant step back toward the old days when funding for local school kids was directly tied to cutting down our forests.

This approach will not work, but more important, it will not gain enough support to pass and thus it will not lead to the continuation of the program. We stand ready to work with the Majority on a more effective proposal.

The second bill, H.R. 2852, would require the American people to give away 24 million acres of the public land that they own to State governments. The bill is apparently based on the allegation that federal land ownership harms states and localities.

This claim overlooks the wide variety of federal programs which provide direct revenue to states—including Payment In Lieu of Taxes, IMPACT Aid, Secure Rural Schools and many others.

Further, this claim ignores the significant *indirect* benefits to states from federal lands, such as travel and tourism dollars and the role these lands play in improving the quality of life and standard of living in communities across the West.

Our public lands are the backbone of the outdoor recreation economy, which generates over $730 billion in economic activity, 6.5 million jobs, and $88 billion in annual state and federal tax revenue.

Funding for public schools is a complicated and difficult problem facing communities across the country. H.R. 2852 is not an appropriate or workable solution to these challenges.

I thank the witnesses for joining us today and look forward to their thoughts on these proposals.

Mr. BROUN. Thank you. Our witnesses today on the Cabin Fee Act are Joel Holtrop, Chief Deputy of the Forest Service and Peter Bailey of the National Forest Homeowners Association. Gentlemen, please take your seats and do it quickly. We are really tight on time. We are going to have votes scheduled at 10:35 to 10:50 a.m., somewhere in that neighborhood, so if you would please observe our five-minute rule. I appreciate you all being here, and Mr. Holtrop, we will begin with you. You are recognized for five minutes.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. HOLTROP. Thank you. And just for clarification, would you like my oral statement on all three bills at this time?

Mr. BROUN. Yes, that would be fine. Great, go ahead, please, sir.

Mr. HOLTROP. 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 three bills. I would like to start my testimony with the Cabin Fee Act of 2011.

As we have previously testified, the Department appreciates the over 14,000 cabin owners across the country and the recreational experiences they enjoy on National Forest System 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 the written testimony in order to capture the advantages that are incorporated in this legislation.

The Cabin User Fee Fairness Act of 2000, or CUFFA, was the latest attempt passed by Congress to achieve an equitable fee for the use of National Forest System land. As cabin owners received

notice of the new fees, some experienced dramatic increases because the old fees were based on appraisals completed 10 to 30 years in the past. Many of the proposed fees in this new legislation would be less than those under the current law, which results in fees being below market value for many of the lots.

This bill would create nine payment tiers or categories and provides for an additional payment on the sale or transfer of the cabin. We do not agree with the concept of the transfer fee as it would inappropriately involve the Department in the disposition of the structures themselves. We do agree with the concept of the payment tiers. However, we recommend that the fees be based on market value.

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.

The Department understands the financial burdens that some cabin owners may face as a result of CUFFA, and we welcome the opportunity to work with Congress to create a bill that takes into account the needs of cabin owners, other National Forest System users, the American taxpayers, and that can be administered efficiently.

Regarding H.R. 1444 and 2834, I would like to emphasize that the Forest Service has been a very strong supporter of hunting and fishing on the national forests and grasslands since the agency was created in 1905. It has been, and continues to be, a large part of our heritage. The Forest Service supports these activities by providing opportunities to enjoy hunting and fishing on the National Forest System lands throughout the country. Furthermore, the America's Great Outdoors Initiative supports these same activities by reconnecting Americans to our nation's land, water, and wildlife.

However, the Department does not support these bills. The intent is already achieved through existing laws and agency policy. An enactment would neither enhance nor improve existing hunting or fishing opportunities on our national forests and grasslands.

Particularly regarding H.R. 2834, we are additionally 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 occurs, and establish administratively costly annual Congressional notification processes. And finally, this bill contains provisions that would seriously undermine the Wilderness Act of 1964.

This concludes my statement and I will answer any questions that you have.

[The prepared statements of Mr. Holtrop follows:]

Statement of Joel Holtrop, Deputy Chief, National Forest System, U.S. Forest Service, U.S. Department of Agriculture, on 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.

Statement of Joel Holtrop, Deputy Chief, National Forest System, U.S. Forest Service, U.S. Department of Agriculture, on 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 though 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. 2834that any decisions made and actions taken on these or any other activities described in this H.R. 2834shall 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 bills 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.

Statement of Joel Holtrop, Deputy Chief, National Forest System, U.S. Forest Service, U.S. Department of Agriculture, on 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.

Mr. BROUN. Thank you, Mr. Holtrop. Mr. Bailey, you are recognized for five minutes. If you would like to comment on all three, that is fine, too.

STATEMENT OF PETE BAILEY, FORMER DIRECTOR, NATIONAL FOREST HOMEOWNERS

Mr. BAILEY. Good morning, Mr. Chairman and Members of the Committee, and I want to thank you, Mr. Hastings, for your strong support of this bill.

As you know, it is a very similar bill to the Cabin Fee Act of 2010 that you introduced in the 111th Congress along with 27 bipartisan cosponsors. H.R. 4888 was favorably reported by the Natural Resources Committee last September. At last year's hearing before this Committee, long-time cabin owners of modest means with families who have loved and maintained their cabins for generations expressed their deep concern that the cabin stewardship is being jeopardized by high fees.

The current use of fee simple land appraisals to set fees as mandated by the Cabin Users Fee Fairness Act, or CUFFA, fails to determine actual market value because of the highly restricted nature of our use is not valued in the CUFFA appraisal process. Interdependent equity interests where the permittee owns the cabin and the government owns the land are difficult and subjected to separate. The Cabin Fee Act acknowledges these interdependent interests and offers needed reform.

The Act recognizes that cabin owners contribute value to the land and location at their expense. Cabin owners maintain their lots, remove dangerous trees and non-native vegetation while many often organize fire safety efforts and often provide utility infra-

structure, including power, water systems, sewer, and septic systems.

We believe nearly 35 percent of cabin owners will reach their affordability break point under CUFFA. When these folks try to sell and can't because of above market value fees, we estimate roughly 15 percent of the cabins will have to be torn down or removed at the owner's expense, causing a 30 percent drop in U.S. Treasury fee revenue with corresponding loss of local tax revenue and other forest stewardship benefits.

This Act provides for a reasonable user fee index annually that helps maintain cabin value and does not destroy the ability to sell the cabin. Instead of fees ranging from $125 to an astonishing $76,000 annually, under CUFFA user fees will range from $500 to $4,500 per year where the highest fee is nine times the lowest, not 100 times the lowest.

Permitted lots will be assigned to one of nine fee tiers based on the rank order of current appraised values when CUFFA is completed. The lower eight percent of appraised values are assigned to the $500 tier, the highest four percent are assigned to the $4,500 tier. The total revenue projected is $30 million.

A transfer fee intended to capture the location value of a cabin site is paid when the value is actually realized at the time of sale of the cabin, thus reducing questioned windfall profits.

This new fee structure compares favorably to the broader market of similar private and public cabin lease programs. A comprehensive survey examined the market for cabins and programs similar to the Recreation Residents Program and further validates the use of public forest lands for recreation purposes. The 11,000 cabins reviewed had use fees that varied with permit and lease terms, of course, and location differences, but the average user fee was less than $1,000, which is less than half of the average fee under the Cabin Fee Act, showing that the proposed fee structure provides a fair return to the U.S. Government and is based on sound market principles.

The 2011 Cabin Fee Act improves last year's bill in three ways. Chairman Hastings has outlined a few of those. The latest Forest Service cabin appraisal data shows that less revenue will be generated under CUFFA than had previously been projected, so it is possible to adjust the fee tier percentages and still generate the same amount of revenue projected under CUFFA.

Second, during the three-year transition period from CUFFA to Cabin Fee Act fees some cabin owners might have paid higher or lower fees under CUFFA than under the Cabin Fee Act. These differences would have received credits or debits for future Cabin Fee Act fees. The 2011 Cabin Fee Act drops that complex procedure and simply provides that such transition fee increases cannot exceed 25 percent per year.

And third, last year's bill applied only to cabins on national forests derived from the public domain. The 2011 Cabin Fee Act dropped that limitation and the legislation now applies to all cabins on all national forests.

Mr. Chairman, the Cabin Fee Act of 2011 will preserve a cherished program that has been a major source of outdoor recreation for thousands of American families for nearly a century while con-

tinuing to provide a fair return to the Treasury. It is a market-based approach that correctly balances the interests and needs of cabin owners with the public interest by obtaining a fair market return on these public lands. We urge that it be enacted into law, and thank you.

[The prepared statement of Mr. Bailey follows:]

Statement of Pete Bailey, National Forest Homeowners and the C2 Coalition, Regarding the Cabin Fee Act of 2011

Introduction

Good morning, Mr. Chairman and Members of the Committee.

I am Pete Bailey from Tacoma, Washington, and I am pleased to present this statement of the National Forest Homeowners and the C2 Coalition of Cabin Owner Organizations in support of the Cabin Fee Act of 2011. There are more than 14,000 cabin owners who have permits for recreation residences on the national forests and who have a vital interest in the legislation now being considered. I have had my cabin since October, 2000, on Lake Quinault in the Olympic National Forest.

We are especially appreciative to you, Mr. Chairman, for your support of this bill. As you know, it is very similar to the Cabin Fee Act of 2010 (H.R. 4888) that you introduced in the 111th Congress more than a year ago, along with 27 bi-partisan cosponsors. That bill was favorably reported by the Natural Resources Committee on September 16, 2010, but did not receive a floor vote. Senator Tester introduced S. 3929 as a companion bill in the Senate.

At the House hearing last year, testimony and written statements were submitted that included strong and touching statements from long-time cabin owners of modest means whose families for generations have tenaciously maintained their cabins through hardships and challenges but who are now concerned that their cabin stewardship is being jeopardized by sharply rising fees.

The 2011 Cabin Fee Act is very similar to the bill approved by this committee last year and this statement will later briefly compare the two bills. Suffice it to say for now that this year's Cabin Fee Act does not differ in any significant respect from last year's bill and is even more strongly supported by cabin owners.

Problems with CUFFA

Since the passage of the Organic Act in 1915, the Recreation Residence Program has been a valid use of National Forest lands, but it is now being threatened by the fee setting process mandated by the Cabin User Fee Fairness Act of 2000, commonly referred to as CUFFA. (Note: We will adopt the more commonly used terms "cabin program" and "cabin owners" instead of the more technically correct "recreation residence program" and "recreation residences.") Use of fee simple land appraisals to set value has not worked for more than 40 years due to interdependent equity interests whereby the permittee owns the cabin while the government owns the land. Both location and the cabin structure influence market rents and sale prices. Separating these two influences is difficult and subjective. The Cabin Fee Act, which is supported by most cabin owners, acknowledges the real nature of a Program with interdependent interests and offers a new and badly needed system. The Act will simplify and improve the fee-setting process. It will encourage better relationships between the Forest Service and permittees and will reduce agency administrative workload and expenses.

The Act institutes a fair and reasonable annual User Fee that recognizes the influence of cabin location by establishing a Transfer Fee upon sale. The Act provides fair compensation to the U.S taxpayer, while recognizing that cabin owners convey value to the land and location at their expense. Cabin owners must maintain the site and often remove dangerous trees and non-native vegetation, organize FireSafe efforts and often provide and pay for utility infrastructure including power, water systems, septic and sewer systems that become attached to the land and benefit all users of the forests.

Survey data compiled by the National Forest Homeowners indicate that almost 35% of cabin owners will reach their affordability breakpoint in the current CUFFA appraisal cycle. Excessively high fees will be disincentives to potential buyers and, as a result, we estimate roughly 15% of cabins (2,100) will have to be torn down or removed at the expense of the owners. This will cause U.S. Treasury revenue to decline approximately 30% from the total potential fee revenue under CUFFA, while local governments and communities will also suffer tax revenue losses. The loss of cabins will also reduce volunteer labor, forest stewardship and infrastructure support contributed by cabin owners.

The Cabin Fee Act of 2011

The Act establishes an affordable User Fee, indexed annually, that will help to maintain cabin value and not destroy the ability to sell the cabin if the current owner cannot or decides not to pay the fee. Instead of fees ranging from $125 to an astonishing $76,000 annually under CUFFA, annual User Fees will range from $500 to $4500 per year. Nine fee tiers will replace the current CUFFA fee structure. The User Fee tiers were determined by balancing the rights and privileges that all permit holders share, regardless of location, while acknowledging that location does influence the value of the permitted use. This balance of common rights with differences for location yields a fee structure where the highest fee is nine times the lowest fee. This contrasts with fees under CUFFA where the highest fees are more than 100 times greater than the lowest fees.

The Cabin Fee Act requires the assignment of each permitted lot to one of nine fee tiers, based on the rank order of current appraised values. The lowest 8% of appraised lot values are assigned to the $500 tier. The highest 4% are assigned to the $4,500 tier. Following this process, User Fee revenue is projected to be about $30M when fully implemented. User Fees are adjusted annually by a rolling average of the IPD–GDP index. This broadly-used Department of Commerce index provides for a reasonable, straightforward method for increasing fees annually, while ensuring that user fees keep pace with the market.

The Transfer Fee is intended to capture the value influence of the National Forest location of these cabins and is paid when that value influence is actually realized at the time of sale. The Transfer Fee addresses the possibility of questionable "windfall" profits alleged by some. The Transfer Fee has two components. First, a flat fee of $1,000 is collected for all cabin sales and transfers. Second, if the sale price exceeds $250,000, an additional 5% is collected on the sale price exceeding $250,000 up to $500,000 and an additional 10% on sale amounts exceeding $500,000.

Cabin marketability is not encumbered, because cabin owners will have full knowledge of the indexed annual User Fee and both a seller and buyer can factor the Transfer Fee into their negotiations at the time of sale. Moreover, the Act provides long-term annual revenues to the U.S. Treasury comparable to CUFFA, particularly after consideration of cost savings by the elimination of expensive appraisals and revenue lost from abandoned cabins that will occur if CUFFA stands unchanged.

With the elimination of the appraisal process under CUFFA, the Forest Service will save approximately $1 million annually. The complexity and expense of the appraisal process will be replaced with a cost effective fee system and greatly simplified program administration.

We can compare this fee structure to the broader market of public and private cabin lease programs. A comprehensive market survey by the National Forest Homeowners reviewed over 11,000 cabins in programs similar in character to the Forest Service Recreation Residence Program. This survey examined the market for similar cabin programs and further validated the use of public forest lands for recreation residence purposes. While user fees ranged widely due to variations in permit and lease terms and location considerations, the average user fee was less than $1,000. This is less than half the average fee of $2,075 under the Cabin Fee Act. We offer this as clear evidence that the proposed fee structure provides a fair return to the U.S. Government and is based on sound market principles.

With predictable and affordable fees under the Cabin Fee Act, we expect all 14,150 current permits to remain active the Forest Service Program will stay within reach of the typical American family. By contrast, while CUFFA is expected to provide similar total revenue over time, we project that unaffordable high fees and uncertainty will result in a decline in the number of permit holders under CUFFA to less than 12,000 over the next decade, thus reducing family participation in the Program. This same pattern of permit loss is likely to be repeated in future appraisal cycles under CUFFA, further eroding the Recreation Residence Program.

A great strength of the Cabin Fee Act is its simplicity. The simple and straightforward fee structure provides long-term predictability and affordability for the cabin program plus significant administrative time and cost savings to the Forest Service. These cost savings allow for the redeployment of Forest Service resources away from managing appraisals, re-appraisals and permit fee appeals to a more productive delivery of programs and public services. The Cabin Fee Act provides a true win-win-win outcome for the cabin owner, for the U.S. Forest Service and for U.S. taxpayers.

In summary, the Cabin Fee Act of 2011 ensures the long-term viability of the Recreation Residence Program and produces cabin permit fees that will:

1. be affordable and determined by the true "cabin market;".
2. be simple, understandable and predictable;

3. be revenue neutral by maintaining current revenues and fair return to U.S. taxpayers;
4. be implemented more efficiently, saving time and money for the Forest Service;
5. recognize the complexities of interdependent cabin ownership interests;
6. recognize the locational value of the cabin as sold, fixing fees according to actual benefits received;
7. protect the future ability to sell cabins.

Comparison of 2010 and 2011 Cabin Fee Acts

There are three differences between the 2010 Cabin Fee Act and this year's bill.

(1) Reduced Tier Fee Structure. The latest cabin appraisals completed by the Forest Service and reported in May, 2011, show that less revenue will be generated under CUFFA than had previously been projected. As a result, it is possible to reduce the tiered fees that would have been set under the 2010 Cabin Fee Act and still generate the same amount of revenue that can be projected under CUFFA.

(2) Cap on Fee Increases. Under the 2010 Cabin Fee Act it was possible that during the two or three year transition period from CUFFA to the Cabin Fee Act some cabin owners would have had to pay higher fees than CUFFA alone would have required. These increased fees would have been offset by later credits (or debits) against Cabin Fee Act fees once that legislation was finally and fully implemented. The 2011 Cabin Fee Act drops that complex offset procedure and simply provides that such transition fee increases cannot exceed 25% per annum.

(3) Including All Cabins on All Forests. The 2010 Cabin Fee Act would have applied only to cabins on those national forests that were taken from the public domain. The 2011 Cabin Fee Act drops that limitation and the legislation now applies to all cabins on all national forests.

These are positive improvements in the bill that make it more equitable for more cabin owners and more acceptable to all cabin owners.

Conclusion

We appreciate the opportunity to present this testimony on behalf of the National Forest Homeowners, the C2 Cabin Coalition and nearly 14,000 cabin owners throughout the nation. We believe the cabin program is not only an invaluable source of multi-generational family outdoor recreation but that it makes a significant contribution to the health of the national forests and the economic vitality of local gateway communities. Unfortunately, as a result of the appraisal based fee system imposed by CUFFA, many cabin owners are facing a dramatic escalation in their fees, threatening this historic program and jeopardizing its many contributions.

The Cabin Fee Act of 2011 will preserve the program as we have known it for nearly a century while continuing to provide a fair return to the Treasury. It is an equitable approach that properly balances the interests and needs of cabin owners with the public interest in obtaining a fair return on these public lands.

Mr. BROUN. Thank you, Mr. Bailey. We will now go to questions. I have just been informed that we are going to have votes probably in about five minutes. We will try to get through a few questions here before we will adjourn temporarily to go vote and then we will come back and re-adjourn and finish this hearing. The Chair recognizes himself for five minutes.

Mr. Holtrop, particularly given our current deficit situation, does the Administration support the provisions of this bill that provide benefits and savings and administrative costs for the Recreation Residents Program? It seems from your testimony that opposition to the bill is based solely on the possibility of cabin owners reaping windfall profits from cabin sales instead of simply wanting to be able to continue enjoying their cabins.

Mr. HOLTROP. We do support the efficiencies and I think my testimony also points out that one of the advantages of this piece of legislation is less of a reliance on a continuing recurring appraisal

process, and that has efficiencies and cost-effective benefits for us, and my testimony does recognize that and we appreciate that about this piece of legislation.

I think the opposition is more over some of the more technical aspects such as the transfer fee which, from our perspective, inappropriately involves us in valuation—in dealing with the value of the cabin itself. If there is a profit that the owner of the cabin gets from that possibility, we don't believe we should be a part of that at all. We are solely interested in management of, and correct valuation of, the land.

Mr. BROUN. Very good. Mr. Bailey, are objections to the current cabin free structure from National Forest Homeowners based more on the fact that it will force them to relinquish cabins many have enjoyed for generations, or on the fact that it might prevent them from turning a profit on their cabin?

Mr. BAILEY. The real issue is that the CUFFA appraisal process is based upon land values, when what we are facing is the use of the land because we do not own the land. By applying the appraisal process, approximately 15 percent of the cabin owners this year are going to be above—their fees are going to be above market value. Now while a few very wealthy people exist in the program, the vast majority of cabin owners are of modest means and cannot afford a fee that might exceed $10,000, $15,000, or $20,000. Those folks, when they can't afford the fee and try to sell, will find that the market also rejects those fees as unreasonable, and they will then be forced to remove their cabins from the national forest land. So, that is the real driving force behind the motivation of the Cabin Fee Act.

Mr. BROUN. Thank you, Mr. Bailey. Just for expediency, we will go next to Mr. Grijalva for questions.

Mr. GRIJALVA. Thank you, Mr. Chairman, and one quick question if I may, Mr. Bailey.

It is true, as has been stated, that the families that own these cabins run the gambit from what we can describe as wealthy to many others that are not. I am assuming that is correct.

Mr. BAILEY. Yes, that is very true. I think that characterization——

Mr. GRIJALVA. OK, and given that range of income levels are you concerned at all that rearranging the tiers for cabin fees to avoid large increases for some of the most valuable cabins could result in the less wealthy cabin owners having to pay more? So, how do we assure, because you are going to want to score the same, that the fees generated now, or identify an offset, if that is not going to happen? So, how can we assure that an equitable distribution is occurring if we are capping the top rate?

Mr. BAILEY. Good question. Fair question. Right now some of the lowest fees are well under $500. In fact, the lowest fee nationally occurs somewhere in Washington and Oregon where it is $125 a year, and the Forest Service has indicated to us that to administer the program costs at least $500, perhaps $700 per year per cabin, and the National Forest Homeowners and the Coalition of Cabin Organizations believes that a minimum fee needs to at least cover the cost of administration of the program, and that is a fair consideration overall. So, at the very low end we realize that some of

those fees must go up, and we believe that is a reasonable consideration.

Mr. GRIJALVA. But we understand, I think, as we work through this that we can go no less than what is being collected now or we need to have an offset or something else has to be restructured. You are aware of that part of it.

Mr. BAILEY. Yes.

Mr. GRIJALVA. OK. I yield back, Mr. Chairman.

Mr. BROUN. I have a unanimous consent request that Mr. Benishek and Mr. Costa participate in the hearing since they are not members of the Subcommittee. Hearing none, so ordered.

Now the Chair recognizes Doc Hastings for questions for five minutes.

Mr. HASTINGS. Thank you. I just have one question and it has been addressed by your question, Mr. Chairman, to Chief Holtrop.

I recall your testimony or the testimony of the Service last year was on the revenue neutrality that Mr. Bailey said ought to be part of the mix, and I totally agree with that, and the trick is how you figure the tiers to get that revenue neutrality. Yet your testimony today, and maybe I am missing something here because your testimony seemed to be a bit in conflict with what the Chairman asked you about the windfall profit and somebody making a profit.

So, just tell me what your main concern is, I guess, on your testimony today compared to the testimony from last year about the revenue neutrality.

Mr. HOLTROP. Thank you for the question. I think if I could I will say maybe two main concerns. One is there are a variety of technical aspects of the bill that——

Mr. HASTINGS. I understand, set those aside.

Mr. HOLTROP. So setting those aside——

Mr. HASTINGS. Set those aside because those are normal things that happen and I understand that.

Mr. HOLTROP. So, let us talk about the windfall profit aspect of my testimony. If there is a windfall profit that occurs because the land has been undervalued, I don't believe I am doing my job or we are doing the job that we are held responsible for of making sure that we are managing the land for the entirety of the American taxpayer and all the people who own that land.

If the windfall profit occurs because there has been an increase in value of the cabin itself, that should be the owner of the cabin's value, not the American people's because the cabin is owned by the cabin owner, the land is owned by the American people.

So, my testimony, and I believe it is consistent with what my testimony last year was as well, is largely generated by our interest in making sure that we fairly value the land, and that we not be a part of the valuation and those aspects of actually managing the value of the cabins themselves.

Mr. HASTINGS. OK. We need to work our way through this, but it is interesting to hear the government talk about the value of the land when we hear so many times the public owns the land. I mean, clearly the difference in the value is going to be if a cabin is sold for a higher level which would move that into a different category. So, it just struck me, I guess, when I heard your testimony this time and last time that there was a difference.

I think the key thing we need to work out is the revenue neutrality. I totally agree with that. Mr. Bailey said that in his testimony, because going back to what the Chairman said in his opening remarks on all three bills, these are public lands that were designed for multiple use, and cabins on public land have been around for nearly 100 years for goodness sakes, and generations of family like that experience that they have every summer and so forth. We need to respect all of that because this is multiple-use land.

So, I want a clarification. I thank you for your answer. I am not sure I fully understand it but nevertheless I understand that you did raise the issue.

Mr. HOLTROP. And if I may, I also want to express appreciation of the program itself, an appreciation of the improvements of this legislation compared to last year, and our commitment to continue to work with you to reach the solution we both want to have happen.

Mr. HASTINGS. Thank you. I yield back.

Mr. BROUN. Thank you, Mr. Hastings. Mr. McClintock will be recognized next. We have probably got about five more minutes in the clock on votes. Do you have questions and want to make them quick, or do you want to come back? All right, we will recess and resume the hearing. I apologize to the witnesses for having to do this, but I am sure you all recognize that is the way these votes go, but we will reconvene just five minutes after the last vote.

[Recess.]

Mr. BROUN. Reconvene the Committee. Appreciate you all's patience and standing by. I apologize that we had to interrupt things, but we will try to get through this as quickly as possible.

Now Mr. McClintock from California is recognized for five minutes.

Mr. MCCLINTOCK. Thank you, Mr. Chairman.

Mr. Holtrop, I wanted to begin with a comment that you made assuring us that the U.S. Forest Service was strongly supportive of hunting and fishing on our national forests. I can assure you, sir, from a flood of complaints that have reached my office that that is not the practice of the Forest Service. In fact, I met with a group of hunters not more than four weeks ago who complained about a whole host of actions by the Forest Service, all evincing a design to expel them from the national forests. Road closures, requirements that forbid them from parking more than one car length from a road edge, which makes it impossible for them to retrieve game. One group had camped in the same spot two weeks running and were told that they were now forever banned from that particular forest. What you just said is so completely contrary to the reports I am hearing from my constituents. I have to conclude, with all due respect, that you are either being deliberately disingenuous in that statement or you are badly disconnected from reality.

Mr. HOLTROP. Well, I don't believe either of those are the case, but I would be happy to work with you to look into some of the concerns you have expressed.

Mr. MCCLINTOCK. I wonder, how many hunting groups from my region have you met with?

Mr. HOLTROP. I am not sure how to answer that. I have met with many hunting groups that have national constituencies. I have met with state fish and game——

Mr. MCCLINTOCK. Well, I will tell you the folks in my district in the northeastern corner of California are mad. They feel that they have been badly abused by the Forest Service and they feel that they have been made completely unwelcome in their own national forest.

Mr. HOLTROP. Well, I am sorry they are feeling that way, and again I would be happy to——

Mr. MCCLINTOCK. Well, again, I think they have strong reason to feel that way, and when you come here before this Committee and blithely assure us that you want to do everything you can to open the forests to these activities I have to tell you your practice is entirely contrary, and that does not give you a great deal of credibility in my eyes when you come before this Committee.

Mr. HOLTROP. Again, my statement was based on the fact that the National Forest System is open to hunting and fishing.

Mr. MCCLINTOCK. Let me move——

Mr. HOLTROP. And I am aware there is access.

Mr. MCCLINTOCK. And I am telling you the folks that you are referring to are telling me that the national forests are being closed to their use. That is what is actually happening.

Getting to the cabin rates, I would like to know, how many cabin sites have been re-leased at the higher rates that are being imposed by the Forest Service?

Mr. HOLTROP. If you are referring to the appraisals that we are doing under the Cabin User Fee Fairness Act of 2000, the majority—well, I am not sure I have the answer. I will be able to get you the answer to that. I am aware that there are a lot of appraisals yet to be done in the State of California, but most of the appraisals——

Mr. MCCLINTOCK. What I am trying to get at is how many of these cabins, once the rate is increased that are then abandoned by the cabin owner because the rate is too high for them to pay, are you finding other people to lease those cabins? How many are going unleased because I am hearing quite a few?

Mr. HOLTROP. I don't have a figure along that line.

Mr. MCCLINTOCK. Mr. Bailey, do you have any insight on this?

Mr. BAILEY. The permit process and the determination of fees functions separately, sir, and the permit was issued for all cabins across the country about three-four years ago, and it was a long process.

Mr. MCCLINTOCK. What I am trying to find is, are these appraisals in an actual market rate or are these appraisals deliberately well above a market rate with the intention of simply forcing the public off the public lands?

Mr. BAILEY. Well, I certainly don't understand the intention, but there are many, many examples across the country where the rates that the cabin owners are facing are well above the market to the point where they not only can't afford it, but when the fee is fully instituted and we are in the middle of that process——

Mr. MCCLINTOCK. Those cabins will not be re-leased out.

Mr. BAILEY. That is correct.

Mr. McCLINTOCK. So not only are we not getting the higher rate we are getting no rate, we are losing the rate that had been paid because we deliberately put it above the market rate. There is only one purpose for that, and it is not to raise revenues. It is to force people off the public lands.

Mr. BAILEY. That is inherent in this appraisal process that there are fees that are going to do that.

Mr. McCLINTOCK. I will tell you, in 16 months or so I believe there is going to be a new administration, and there is going to have to be a top-to-bottom housecleaning at the Forest Service and a top to bottom re-alignment of the attitudes in that agency which has turned so completely radically away from Gifford Pinchot's vision of a Forest Service that welcomed the public to the public's lands.

Mr. BROUN. Thank you, Mr. McClintock. Dr. Benishek, you are recognized for five minutes for questions.

Mr. BENISHEK. Thank you, Mr. Chairman, for holding today's hearing and for your leadership on this Committee. I appreciate the opportunity to be here today.

I am speaking more about the Recreational Fishing and Hunting Heritage Opportunity Act that I introduced. It is very personal and important to me. In northern Michigan, hunting and fishing is more than just a sport or a hobby, it is a way of life. It is something I share with my children and I hope to share with my grandchildren. I introduced this bill so that they and future sportsmen and women are guaranteed access to Federal lands, and I appreciate you all participating today.

I tend to agree actually with Mr. McClintock about the effect. You know, you say that you welcome hunting and fishing on the Federal forests. I live in the Ottawa National Forest. I have a hunting camp there, and the actual practices of the Forest Service don't seem to jive with what you are saying, and I am hoping that this piece of legislation will at least perhaps change the on-the-ground attitude of the forest management because I know the access to many of the roads are blocked off by berms, and you can't drive four-wheelers on certain roads anymore, and it just seems that there is an attitude of not being able to use the Federal forests at all, and we have hunting, fishing.

We would like to be able to cut the Federal forests. I mean, that is another issue facing us that is really problematic; getting efficient use of the resources in our Federal forests have been increasingly difficult and bad for employment in my district because, frankly, it takes eight to ten years to get a cut done apparently. Every time the Forest Service sells land they lose money, or sells timber they lose money. That doesn't make any sense to me because of the prolonged process.

Are there any things on your end that you can do to help me believe that you have hunting, fishing, and multi-use of our forests on your agenda?

Mr. HOLTROP. Well, I think there are a lot of reasons for you to be able to believe that. First of all, if the concern isn't a land allocation issue, do we allow hunting on the National Forest System? The answer is yes, we allow hunting on the National Forest Sys-

tem. The exceptions are minimal such as in recreational areas like campgrounds or——

Mr. BENISHEK. Of course, but I mean allowing access to the forest is becoming more and more of a problem.

Mr. HOLTROP. So, it is a concern is if it is an access issue or how to provide access, there are a great number of issues that need to continue to be resolved on that.

Mr. BENISHEK. But it is my opinion that the hunting and fishing activities take a lesser precedent, I mean a lesser standing in the multiple-use mission of the forest.

Mr. HOLTROP. I don't feel that way, but I do understand that there are members of the hunting and fishing community who have expressed concerns about that, but I believe what we are continuing to strive for is a correct balance of the management of road and trail systems in a multitude of uses on the National Forest System lands, but hunting and fishing is a proud part of the heritage of the Forest Service and continues to be, and we will continue to encourage that activity, those activities on the National Forest System lands.

Mr. BENISHEK. Well, I am just hoping that this piece of legislation will help codify then into law because to me it doesn't seem like it is adequately protected under the legislation that exists at this time. You know, I understand the difficulty working in a bureaucracy like the Federal Government agencies, but I am very frustrated by my interaction with the Forest Service on a personal level, and I just want you to understand my position here.

Thank you. I yield back the remainder of my time.

Mr. BROUN. Thank you, Doctor. I know Mr. Costa had some questions but seeing that he is not here yet what we will do is we will just move on. I thank this panel. We will move to the next one.

Mr. Bailey, I see that Mr. Jeff Anderson, the President of the National Forest Homeowners Association is here today. Thank you, Mr. Anderson, for all your hard work on this issue, and your hard work on behalf of cabin owners, so thank you very much, appreciate your being here.

Mr. Holtrop, if you would continue to stay, and Mr. Bailey, you can be excused, and we will ask the next panel to take their seats, please.

As the next panel is taking their seats, Dr. Benishek is the sponsor of Recreational Fishing and Hunting Heritage and Opportunities Act, and I understand he has a statement to make on that, and I have a statement also on my bill. I think my bill is the most important bill that Congress is going to face this year because it is my bill, but anyway.

Mr. BENISHEK. Were you recognizing me now, Mr. Broun? Is that what you said?

Mr. BROUN. Well, let us get them seated. Dr. Benishek, I will recognize you now. You are recognized for five minutes.

Mr. BENISHEK. I just wanted to say I would rather have you speak because I don't have much more to add than my previous statement here with the question, and you know, if you would rather just go on with your statement or the witnesses, that would be fine with me.

Mr. BROUN. All right, I will recognize myself for five minutes then.

Mr. BROUN. I would like to thank Chairman Hastings and Chairman Bishop for allowing this hearing today on H.R. 1444, a bill that I introduced that would require that hunting activities be considered as a land use in all management plans for Federal land, to the extent that it is not clearly incompatible with the purposes for which the Federal land is managed.

I am an avid hunter and an outdoorsman. In fact, I started my political activism as the government affairs vice president for Safari Club International, and I am a life member number 17 for SCI. I began coming to Washington as a volunteer advocate for Safari Club. I am also a member, life member of the National Rifle Association, Gunners of America, National Wild Turkey Federation, Rocky Mountain Elk Foundation, Wild Sheep Foundation, et cetera, et cetera, so I am a life member of multiple conservation and hunting organizations. In fact, if someone comes to my office they will see a full-bodied mounted African lion as well as a Kodiak brown bear. They are just a few of my trophies that are in my office and that I invite visitors to come and see when they come to Washington and come to my office.

Hunting is already permitted on most of BLM and Fish and Wildlife Service lands. It has provided a positive force in habitat conservation, support for wildlife restoration and contributed billions of dollars and benefits to state and regional economies throughout the nation. I look forward to finding ways to expand hunting on our vast Federal lands and I believe that H.R. 1444 can play an important role in achieving that goal.

Now I would like to hear from the panel. I think Mr. Holtrop already commented, and let me see, Mr. Costa has just joined us. Welcome back. If you would like to ask a question on the cabin bill, we would be glad to go to that or you can ask as we come to questions on this panel. It is your preference.

Mr. COSTA. With the pleasure of the Chairman, I would just like to make a brief statement as related to the cabin issue. These other two issues are not issues that I am directly involved with.

Mr. BROUN. Without objection.

STATEMENT OF THE HONORABLE JIM COSTA, A REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. COSTA. Thank you, Mr. Chairman, and the Ranking Member. I have been involved with Congressman Hastings on the cabin fees issue now for almost four years, and I, like a number of my other Californians, represent a number of the 14,000-plus cabin owners that are primarily in the West that are impacted by these fees. I appreciate Congressman Hastings' efforts to reach an agreement and a resolution to this issue. There are some questions, I think, that were raised earlier in the hearing and I thank the Chair for giving the opportunity to shed some additional light on that as we try to work through this. Obviously this has been a long festering issue.

I was somewhat perplexed by the gentleman from the Forest Service who talked about the value of the land when the land is owned by the United States, the Forest Service, because I have rec-

reational areas that I have spent many years with in which you can have a very basic cabin and you can have a very nice cabin, but the value of the cabin doesn't, I think, impact the land per se because it is a lease and that lease, it is no longer the 99-year lease that used to exist in the past.

So, I will work with you, Mr. Chairman, and Congressman Hastings, as we work to a resolution because the 14,000-plus cabin owners throughout the West that have been good stewards, good stewards of these areas in which, as you know, in many cases they have been passed from generation to generation, are what is wonderful about having the opportunity to protect and be good stewards of our forests and to allow families to enjoy those parts of the lands that are all part of our heritage.

So, I thank you for your efforts. I thank you for allowing me to make a comment. The cabin owners that are represented here today have been working on this issue long and hard for awhile and hopefully this year we will bring a resolution to this matter. Thank you.

Mr. BROUN. Thank you, Mr. Costa. In fact, I agree with you. Hopefully we will bring a very positive resolution to this issue.

Joining us on the panel is Mr. Bob Ratcliffe, the Deputy Assistant Director of BLM; Former Assistant Secretary William Horn representing the U.S. Sportsmen's Alliance; Melissa Simpson of Safari Club International; and Susan Recce with the National Rifle Association. Like all our witnesses your written testimony will appear in full in the hearing record so I ask that you keep your oral testimony to five minutes. When you begin to speak a green light will show up there in front of you. After four minutes the yellow light will come on, and you should begin to conclude your statement. At five minutes the red light appears, and if you would please very quickly conclude your statement.

Mr. Holtrop, you have already made your statement previously. Do want to make any additional comments at this time? Very good. Mr. Ratcliffe, your statement, please. You are recognized for five minutes.

STATEMENT OF BOB RATCLIFFE, DEPUTY ASSISTANT DIRECTOR, RENEWABLE RESOURCES AND PLANNING, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. RATCLIFFE. Thank you. Thank you for the opportunity to testify on behalf of the Department of the Interior on H.R. 2834, and H.R. 1444. I am Bob Ratcliffe, Bureau of Land Management's Deputy Assistant Director for Renewable Resources and Planning.

It is a particular pleasure to be here today to discuss public land outdoor recreational issues. As a former outfitter, guide and public land recreation manager in some of the West's most spectacular landscapes, outdoor recreation has been a lifetime passion of mine not only in my career but also in my personal and family life. In addition, I have had the opportunity to work extensively with the Shooting Sports Roundtable over the last decade on proactive efforts to promote and facilitate hunting and shooting on Federal lands.

I am here to provide the departmental views on these bills and to answer questions related to the BLM. With me are Bert Frost, Associate Director of Natural Resource Stewardship and Science at the National Park Service, and Jeff Rupert, Acting Deputy Assistant Director for the National Wildlife Refuge System at the Fish and Wildlife Service who will answer questions specific to national parks or Fish and Wildlife Service lands.

For generations, American hunters and anglers have been at the forefront of conservation of our nation's wildlife resources. Hunting, fishing, shooting are often life-long recreational activities. They build an appreciation and understanding of our lands, water, and wildlife. The Department strongly supports promoting these opportunities. Activities of several Department agencies strongly promote recreational fishing, hunting, and shooting opportunities on Federal lands.

The Fish and Wildlife Service actively supports hunting and fishing program on the majority of its 553 units. Hunting and fishing are given priority as two of the big six wildlife-dependent activities. When appropriate and compatible, hunting and fishing are given priority as recreational uses on refuges.

The National Park Service allows hunting in all of its regions except for the National Capital Region. Roughly 70 percent of Service lands are available for hunting. Fishing is allowed in nearly all Park Service units either by Federal statute or by special regulation. Outstanding opportunities for recreational hunting and fishing are also found on the 245 million acres of public lands managed by the BLM, including gold metal trout fisheries in Colorado, and trophy prong horn mule deer and Rocky Mountain elk in Wyoming to name just a few.

Across the West the BLM's remote lands are highly regarded for the quality of hunting experiences they offer and we estimate that over 95 percent of BLM lands are open to hunting. The vast majority of BLM lands are also open to recreational shooting. In Arizona, for example, less than two percent of BLM-managed lands are closed to recreational shooting. In Nevada, it is less than one-half of one percent. Sometimes it is necessary to close an area to target shooting. For example, in Southern California with an urban population of more than 25 million people the BLM has prohibited recreational shooting in a handful of heavily used off-highway vehicle areas. It is just not good sense to try to manage thousands of vehicles racing over dunes and target shooting in the same place at the same time.

The Department is concerned that provisions of these bills seem to duplicate or overlap with existing management authorities and policies. Much of the Department's public lands are already open to fishing and hunting and shooting unless there is a conflict with public safety or otherwise prohibited by local jurisdictions or other state or Federal laws and regulations. Fishing and hunting and shooting are already addressed in the agency management plans and our priorities where the public has made them a priority through the National Environmental Policy Act's public involvement process.

H.R. 1444 would apply a one-size-fits-all standard requiring hunting to be uniquely considered in all land management plan-

ning regardless of local priorities. The Department strongly opposes the provisions of H.R. 2834 which undermine the Wilderness Act. For example, the bill could be interpreted to allow motorized activities or developments in wilderness, which is clearly contrary to Congressional intent, judicial precedent, and agency management of wilderness for over 40 years.

The Department also strongly opposes provisions in H.R. 2834 which exclude management decisions from public review and comment opportunities of NEPA and the Federal Land Management Policy Act. This bill would disconnect the public from their right to be involved in these Federal agency decisions.

While the Department has concerns with these bills, we look forward to continuing our work with Congress and stakeholders in promoting and facilitating recreational fishing, hunting, and shooting opportunities on the Federal lands. Thank you for this opportunity to testify and I will be available for any questions.

[The prepared statement of Mr. Ratcliffe follows:]

Statement of Bob Ratcliffe, Deputy Assistant Director, Renewable Resources and Planning, Bureau of Land Management, U.S. Department of the Interior, on H.R. 2834 and H.R. 1444

Introduction

Thank you for the opportunity to discuss the Department of the Interior's (Department) views on two bills pertaining to recreational fishing, hunting and shooting on federal public lands: H.R. 2834, the Recreational Fishing and Hunting Heritage and Opportunities Act, and H.R. 1444, which concerns hunting and land management planning.

As H.R. 2834 was only formally introduced on September 2, 2011, and the text of the introduced bill only became available yesterday, September 8th, 2011, one day 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 Department strongly supports the goal of promoting recreational fishing, hunting and shooting opportunities. These important recreational opportunities abound on public lands and are valued by millions of Americans who hunt and fish on DOI-administered parks, refuges and public lands. The Department also recognizes the economic and community benefits associated with hunting and fishing and fully considers these opportunities when developing our land planning and management.

However, the Department strongly opposes provisions of the bills which exclude management decisions from the National Environmental Policy Act (NEPA)—the cornerstone law guiding environmental protection and public involvement in federal actions—and provisions which undermine the Wilderness Act of 1964. The Department also has concerns with the provisions in the bills which seem to duplicate, overlap, or potentially interfere with existing management authorities and policies.

The Department would welcome the opportunity to work with the Committee to promote highly important and traditional outdoor recreation activities—including hunting, fishing and recreational shooting where authorized– on lands administered by Department agencies.

Background

American hunters and anglers, concerned about the future of wildlife and the outdoor tradition, have made invaluable contributions to the conservation of the nation's wildlife resources since the late 19th century. This tradition continues today, with hunters and anglers remaining at the forefront of American conservation. Hunting and fishing, and shooting are often life-long recreational activities and they build appreciation and promote understanding of the lands, water and its wildlife.

The America's Great Outdoors Initiative (AGO), established by President Obama in 2010, supports these same goals by reconnecting Americans to our nation's land, water and wildlife. During the recent summer listening sessions on AGO, support for hunting and fishing access and opportunities on public lands and waters was a common theme. The goals of the Wildlife and Hunting Heritage Conservation Coun-

cil (WHHCC), an official advisory group established under the Federal Advisory Committee Act (FACA), are complementary: promote and preserve America's hunting heritage for future generations by advising the Federal government on policies that benefit hunting, wildlife and encourage partnerships. Activities of Department land management agencies reflect these goals.

Fish and Wildlife Service

The U.S. Fish and Wildlife Service (FWS) administers the National Wildlife Refuge System (Refuge System), which is comprised of 553 refuges and 38 Wetland Management Districts (WMDs) and more than 150 million acres of land and water across the country. Hunting programs are actively supported in the majority of these refuges, and the Service also strongly supports hunting and fishing activities through many of its other programs and expenditures. In accordance with the National Wildlife Refuge Administration Act, as amended by the National Wildlife Refuge Improvement Act of 1997, hunting and fishing are given priority as two of the "big six" wildlife-dependent recreational activities in the statute. Each individual National Wildlife Refuge is established with a primary purpose or purposes related to conservation, management, and in some cases restoration of fish, wildlife, and plant resources and their habitats. The management of each refuge gives priority consideration to appropriate recreational uses of the refuge that are deemed compatible with the primary conservation purposes of the refuge, and the overall purpose of the Refuge System. Given hunters and anglers special relationship with our National Wildlife Refuges, hunting and fishing are already given priority among uses. When appropriate and compatible, hunting and fishing opportunities are allowed and often facilitated on refuge lands. Currently, approximately 375 of the 591 refuges and WMDs of the Refuge System have hunting programs and approximately 355 have fishing programs. Recreational shooting is not deemed a wildlife-dependent use of a refuge, and is therefore not a priority use within the Refuge System.

National Park Service

The National Park Service (NPS) administers the National Park System, which is comprised of 395 units on more than 84 million acres across the country. The NPS Organic Act of 1916 established the mission of the National Park Service to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. Of the 84 million acres of NPS lands, 29 million are in the lower 48 states and 55 million are in Alaska. Hunting is allowed in all regions of the National Park Service except the National Capital Region. Roughly 70 percent of NPS lands are already available for hunting (8.3 million in the lower 48 states, which is 29% of NPS lands in the lower 48 states and 50.3 million in Alaska, which is 91% of NPS lands in Alaska).

NPS allows recreational fishing when it is authorized or not specifically prohibited by federal law, provided that it has been determined to be an appropriate use per the 2006 National Park Service Management Policies. Hunting, trapping or any other method of harvesting wildlife by the public is allowed where it is specifically mandated by federal law or where it has been authorized on a discretionary basis under federal law and special regulations. Hunting is authorized in 62 of the 395 national park units, while fishing is allowed in nearly all applicable NPS units, in accordance with non-conflicting state regulations and federal restrictions. Trapping is allowed in 16 units. Units of the National Park System where there is no hunting or trapping are some of the only federally managed areas in the U.S. that may provide a system relatively unaltered by humans that, because of the lack of alteration, are useful as control areas for scientific studies. These areas also provide opportunities for non-consumptive recreation by members of the public and significant opportunities to see wildlife in their native habitats.

Bureau of Land Management

The Bureau of Land Management (BLM) is responsible for the protection of resources and multiple-use management of our Nation's 245 million acres of public land. The BLM manages the public land for a variety of uses, such as energy development, livestock grazing, recreation and timber harvesting, 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, these lands constitute 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 has strived to maintain high quality dispersed recreation opportunities where visitors and recreationists are free to explore and discover undeveloped places in the out-

doors. There are countless outstanding examples of fishing and hunting opportunities on the public lands. For example, the Gunnison River 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. The BLM estimates that over 95 percent of BLM-managed public lands are open to hunting. The BLM restricts hunting and shooting in 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. When lands are closed to hunting and shooting, those restrictions are typically implemented to comply with state and local public safety laws and ordinances or private property considerations. For example, in Arizona where the BLM manages more than 12 million acres of public lands, less than 1.3% of BLM public lands have recreational target shooting restrictions and only a few administrative sites and developed areas are closed to hunting.

Any consideration of closures or restrictions is completed through the management planning process that includes extensive public input. This is an open process through which BLM's proposals for managing particular resources are made known to the public before action is taken. The BLM responds to substantive comments received from the public and stakeholders, on the proposal, during the NEPA public review process.

H.R. 2834

H.R. 2834 would require federal land managers to facilitate access to public lands and waters for fishing, hunting and shooting except for reasons of national security, public safety or resource conservation. Under the bill, the effects of a Federal action on opportunities to engage in recreational fishing, hunting and shooting must be analyzed in all planning documents. The bill also prevents any action taken under this legislation to be considered a "major Federal action" which would preclude any analysis and the public review process under NEPA. Provisions of the bill also substantially affect the Wilderness Act of 1964. The bill allows lands managed by the BLM and the Forest Service to be leased for shooting ranges and limits liability. Finally, the bill would require public notice, coordination and a report to Congress for all closures or fishing, hunting and shooting restrictions on tracts of land greater than 640 contiguous acres.

The Department has serious concerns with several of the provisions of H.R. 2834.

The bill's provisions (Sections 4a and 4b) which aim to provide greater access to Federal public lands for recreational hunting, fishing and shooting appear to be duplicative of existing authorities and policies, and are therefore unnecessary. For example, the BLM regards public lands as open to fishing, hunting and shooting because these activities are currently allowed without restriction unless it is demonstrated that the activity could result in unacceptable resource damage or create a public health and safety hazard or is incompatible with the purposes for which certain special areas have been designated. Any determination to close public lands to certain activities is made following extensive public involvement and notification through management planning NEPA processes and public notices. Further, through BLM, land use planners are not only required to notify the general public but are specifically required to contact over 40 hunting and fishing interest non-government organizations, 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 in resource management plan development.

The bill contains provisions (Section (4) (c)) which restrict consideration of effects of certain management actions and activities on adjacent or nearby non-Federal lands. This is inconsistent with both the BLM's planning policy, which is based on the Federal Land Policy and Management Act (FLPMA), and NEPA; and with cumulative impacts analyses the NPS uses in its planning efforts. Furthermore, section 4(c)(1)(B) exempts all actions taken under the legislation, as well as all National Wildlife Refuge System activities from the National Environmental Policy Act (NEPA) regulations and the attendant environmental review processes. Such an exemption would impair the ability to accurately assess the likely impacts of decisions to manage federal lands under the Department's jurisdiction. Properly developed NEPA reviews are a critical tool for public involvement and they improve decision-

making by allowing the officials to evaluate ways to resolve resource use conflicts and address issues that the public raises. These restrictions will limit the agencies' ability to make well-informed land management decisions. The Department strongly opposes these provisions.

Section 4(c)(1)(C) states that recreational fishing, hunting, or shooting that occurs on adjacent or nearby public or private lands shall not be considered in determining which Federal public lands shall be open for these activities. However, it is prudent and important to consider the cumulative effects of proposed actions on public lands during the decision making process. In the NEPA planning process, there could be impact topics that require consideration of nearby or adjacent lands in the analysis.

Section 4(d) of the bill authorizes the BLM to lease its lands for shooting ranges and to designate specific lands for recreational shooting activities. This section of the bill is unnecessary because the BLM has in the past and currently can transfer title of lands to other public entities including state and counties, for their management as public shooting ranges under the Recreation and Public Purposes Lease Act. The BLM can also implement non-reversionary leases with other entities for public use as shooting ranges. The bill also provides limitations on liability related to activities at the shooting ranges. The Department of the Interior defers to the Department of Justice on the bill's limitation on liability related to activities occurring at shooting ranges.

The Department strongly opposes and recommends deletion of Section 4 (e) of the bill, which appears to have the unintended consequences of undermining the principles of the Wilderness Act of 1964. Specifically, the bill could be interpreted to allow motorized and commercial activities in wilderness, which are clearly contrary to Congressional intent, 45 years of wilderness management, and judicial precedent.

H.R. 1444

H.R. 1444 requires that hunting activities (defined as hunting, trapping, netting and fishing) be a land use in all management plans for lands administered by Department agencies. The bill provides that hunting shall be allowed as a land use unless clearly not compatible with the purposes for which lands are managed, with any closures or restrictions clearly spelled out in management plans. It is unclear to which management plans the bill is referring, or if it requires agencies to develop specific hunting management plans.

Applying a one-size-fits-all approach for the automatic allowance of hunting on public lands precludes full public engagement and involvement in the land use planning process, which is critical when determining which significant issues will be addressed in the land management plan.

The bill's provisions duplicate, and in some cases contradict, existing authorities. The BLM, for example, already allows unrestricted hunting on BLM-managed lands unless it has been determined to be specifically incompatible with the purposes for which the lands are managed. Hunting and fishing programs are commonplace in the Refuge System administered by the FWS, and occur in most, if not all, refuges where such programs are found to be compatible with the conservation purpose of each refuge and the overall Refuge System. Similarly, hunting and fishing are currently permitted in many NPS units with an appropriate land base. However, the National Park System includes units created for a variety of purposes in a variety of settings. Hunting may not only contradict existing NPS enabling legislation and other authorities, it also may be incompatible with state or local ordinances.

For the FWS and NPS, this bill reverses the long held standard that an activity needs to be found compatible before it can be allowed. It places the burden on land managing agencies to show why hunting and fishing activities should not take place unless it is clearly incompatible with the purposes for which the federal land is managed or for which it was established. Agencies would need to develop this analysis for all public lands.

The bill also considers fees collected by any entity, over and above the costs associated with managing lands administered by Department agencies for hunting, a restriction on hunting. These fee provisions are unclear and require clarification. For example, while the BLM charges fees to commercial recreation providers, including hunting outfitters and guides, the agency does not charge fees to individuals wishing to fish, hunt or shoot on BLM-managed public lands. Although fees collected at many FWS-administered refuges help to defray costs or improve public facilities for hunting, they do not fully cover the costs. Fees are kept low to ensure more hunters have access. The fee provisions of the bill are unclear and have the potential to introduce confusion into fee programs related to hunting and fishing in the Refuge System, including the Federal Duck Stamp program.

Conclusion

The Department looks forward to continuing its work with the Congress and stakeholders in promoting and facilitating recreational fishing, hunting and shooting opportunities on lands administered by Department agencies. Thank you for the opportunity to present testimony on these two bills. I would be glad to answer any questions you may have.

Mr. BROUN. Thank you, Mr. Ratcliffe. Mr. Horn, you have long experience both as a public land manager and as a citizen conservationist. I look forward to hearing what you have to say today, sir.

Mr. HORN. Thank you.

Mr. BROUN. You are recognized for five minutes.

STATEMENT OF WILLIAM HORN, DIRECTOR OF FEDERAL AFFAIRS, U.S. SPORTSMEN'S ALLIANCE

Mr. HORN. Thank you, Mr. Chairman.

For the record, my name is Bill Horn, representing the U.S. Sportsmen's Alliance, and thanks to the Subcommittee for the opportunity to appear today in support of H.R. 2834. We would like to start by commending Representative Benishek and the bipartisan cosponsors of the bill which establishes clearly that fishing, hunting, and recreational shooting are important activities that have a key place on national forest and BLM public lands. Expressed legislative recognition that these activities are legitimate and valuable would help fend off the growing attacks from animal rights radicals and others who appear committed to running anglers and hunters off our public lands.

Now, unfortunately, existing law lacks this needed expressed recognition. Neither the 1960 Multiple-Use Sustained Yield Act, which governs forests, nor the 1976 Federal Land Policy Management Act governing BLM lands makes specific references to angling and hunting or continuation of those activities.

We are convinced that continued failure to recognize the importance of these activities on forest and BLM lands in law and provide for the continuation of such uses sets the stage for activist judges to rule in favor of some animal rights plaintiff somewhere and ban or restrict angling and hunting on these lands. I think that would be an untenable situation.

What we are struck by is that this situation we face today is very similar to that that this Committee dealt with in 1996 and 1997 when it produced the 1997 Refuge Improvement Act that passed the house by a 403 to one vote before signed into law by President Clinton. Earlier, Wildlife Refuge Administration statutes had not expressly provided for hunting or fishing as the notion that these activities could be barred on the refuge system was simply incomprehensible. No one thought that they needed to make those types of references when those initial statutes were passed in the fifties and sixties. By the mid-1990s, however, there had been a string of animal rights lawsuits to bar hunting on refuge lands, and Congress saw the need to codify that hunting and fishing were legitimate activities on refuges and that hunting and fishing merited statutory designation as priority public uses on public lands. That bill was passed to almost overwhelming acclaim, signed by the

President in the fall of 1997, and shortly thereafter virtually all of the anti-hunting refuge lawsuits stopped dead in their tracks.

We think comparable treatment is necessary for BLM and Forest Service lands. There has been nothing but good come out of the 1997 Refuge Act and we think something similar needs to be done for 440 million acres of other public lands.

Now, USSA has been urging Congress to pass this legislation, comparable legislation since 1998. Part of it is that we have seen these problems grow and intervening years have taught us that there are problems, that we have seen decisions like the Sixth Circuit's Meister case involving the Huron-Manistee Forest exposed how quickly hunting can be restricted or barred on forest units. Hostile animal rights groups continues to grow and uses its ever-swelling war chest to harass hunters and anglers, and an increasingly urban nation disconnected from America's outdoor heritage either doesn't care or joins in that hostility. Continued silence in the law regarding the legitimacy and contributory roles of fishing and hunting on our public lands will ultimately cause us to lose those rights and activities on these lands.

Now, other specific provisions protect recent fishing and hunting by reversing recent Ninth Circuit Court of Appeals rulings that upset 40 years of legal status quo involving statutes like the Wilderness Act. For many years the agencies interpreted the provisions of that Act to allow a variety of activities when deemed to be necessary. The activists disagree with some of those necessity determinations involving wildlife conservation and recreational access projects, and the Ninth Circuit agreed and has made satisfying the necessity test much, much more difficult for recreation fish and wildlife management.

We think that it is only a matter of time before again some plaintiffs run off to court, take that new elevated necessity standard and use that to erect new barriers and new obstacles to hunting and fishing on wilderness. So in that sense we would urge Congress to pass 2834, which includes corrective provisions that restores the legal status quo regarding the Wilderness Act that existed from 1964 through 2004.

Thank you again for the opportunity to appear on behalf of the Recreational Fishing and Hunting Heritage and Opportunities Act. We look forward to working with this Committee to assure prompt favorable action on this very important and necessary bill. Thank you.

[The prepared statement of Mr. Horn follows:]

Statement of William P. Horn, U.S. Sportsmen's Alliance, on H.R. 2834— Recreational Fishing and Hunting Heritage and Opportunities Act

Mr. Chairman: My name is William P. Horn representing the U.S. Sportsmen's Alliance (USSA). Thank you for the opportunity to appear today and support enactment of H.R. 2834. USSA was organized in 1977 for the purposes of protecting the American heritage to hunt, fish, and trap and supporting wildlife conservation and professional wildlife management. It pursues these objectives at the federal, state, and local level on behalf of its over 1.5 million members and affiliates.

We commend the bipartisan sponsors of the Recreational Fishing and Hunting Heritage and Opportunities Act and strongly recommend its prompt enactment by the Congress. The bill clearly establishes that fishing, hunting, and recreational shooting are important traditional activities that have a key place on our National Forests, administered by the U.S. Forest Service, and public lands administered by the Bureau of Land Management (BLM). Express legislative recognition that these

activities are legitimate and valuable will help fend off the growing attacks from animal rights radicals and others committed to running anglers and hunters off our public lands. Clear statutory support will also signal, and direct, the land management agencies to exercise their discretion in a manner that facilitates these traditional activities.

Existing law lacks this recognition and clarity. For example, only part of the 1960 Multiple-Use Sustained Yield Act, which governs Forests, references "outdoor recreation" and "wildlife and fish purposes." That general language has been insufficient to protect hunting and fishing: it has not stopped the Forest Service from proposing planning regulations that give fishing and hunting (and conservation) short shrift nor has it prevented federal courts from ordering the same agency to consider banning hunting because the sound of gunfire might upset the tender sensibilities of a bird watcher. Similarly, the 1976 Federal Land Policy and Management Act (FLPMA) (which is the "organic act" for BLM public lands) makes no specific references to fishing or hunting. We are persuaded that continued failure to expressly recognize the importance of these activities on Forest and BLM lands, and provide for continuation of such uses, sets the stage for an activist judge in San Francisco, New York City, or D.C. to rule in favor of some animal rights plaintiff and ban angling or hunting on these public lands.

This situation is similar to the circumstances that produced the 1997 Refuge Improvement Act (which passed the House with only one dissenting vote and was signed into law by President Clinton). Earlier refuge administration statutes passed in the 1950's and 60's had not specifically provided for hunting or fishing; the authors of those bills—hunters all—saw no need as there was no animal rights movement and no clamor then to close hunting on Teddy Roosevelt's wildlife system. The notion that hunting could be barred on the Refuge system was simply incomprehensible. By the mid-90's, however, there had been a string of anti-hunting lawsuits to bar hunting on refuge lands. Even though President Clinton issued an executive order recognizing the value of continued hunting on the Refuge system, Congress saw the need to codify such recognition in statute stating clearly that hunting and fishing were legitimate activities on refuge lands, the managing agency had a duty to facilitate these activities, and fishing and hunting merited designation as priority public uses in the law. After the bill was signed by President Clinton, virtually all of the anti-hunting lawsuits stopped.

President Bush in 2008 issued a similar hunting executive order (EO) for public lands. Just as the Clinton EO was insufficient to guard hunting on refuges, the Bush EO is not enough to protect hunting and fishing on Forest and BLM lands. Accordingly, we urge this Committee, and Congress, to provide needed statutory protection for Forest and BLM lands by enacting H.R. 2834.

USSA has been urging Congress to pass comparable legislation since 1998. Initially we were told there was no need and previous versions of this bill were dismissed as "solutions in search of a problem." The intervening years have taught of the sporting community that there is a problem. Decisions like the 6th Circuit's *Meister* case exposed how quickly hunting can be lost. Activists have mounted efforts to preempt state management and bar bear hunting on public lands. Clever lawsuits seek to misuse federal environmental laws to restrict or ban fishing and hunting on federally administered lands. The hostile animal rights movement has grown and uses its ever swelling war chest to harass hunters and anglers. And an increasingly urban nation—wholly disconnected from America's outdoor heritage—either doesn't care or joins in the hostility. Continued silence in the law regarding the legitimacy and contributory roles of fishing and hunting on Forest and BLM lands will ultimately cause the loss of these activities on over 400 million acres of our public lands.

This silence must be corrected and H.R. 2834 does precisely that. It plainly recognizes fishing, hunting and shooting as legitimate and important activities on Forest and BLM lands. It directs the agencies to exercise their discretion, consistent with the other applicable law, to facilitate fishing, hunting (and trapping as a hunting activity) and shooting. This duty extends to the preparation of land planning documents required by the National Forest Management Act and FLPMA. No one will be able to argue to an agency or a court, with a straight face, that fishing and hunting have no place on these public lands following enactment of this bill.

One of the clever ploys to indirectly attack these activities has been to treat continuation of fishing and hunting as a "new" decision or action requiring completion of a full blown environmental impact statement (EIS). Antis then file suit contending the EIS was inadequate and that the decision to "open" an area to fishing or hunting must be suspended until the EIS is made adequate. H.R. 2834 provides a simple solution: Forest and BLM lands are considered "open" to fishing and hunting so no new EIS or other document needs to precede continuation of these tradi-

tional activities. The Forest Service and BLM remain free to impose those restrictions and closures that they determine are necessary (if supported by facts and evidence) but an "open until closed" regime will be far more efficient, save millions of dollars of administrative expense, and insulate fishing and hunting from unwarranted indirect attacks.

USSA strongly applauds other features of the bill that facilitate wildlife conservation, ensure fishing and hunting opportunities, and help the agencies direct finite personnel and dollar resources to on-the-ground conservation rather than more planning documents. In 2003, antis sued to stop hunting on 60 wildlife refuge units arguing that even though the Fish and Wildlife Service had done EIS's or environmental assessments (EA's) authorizing hunting on each unit, FWS had not (the antis claimed) done a sufficient "cumulative effects analysis" on the overall effects of hunting on the entire Refuge system. We intervened in the case with Ducks Unlimited, NRA, and SCI and argued—along with FWS—that deer hunting on the Bond Swamp unit in GA, woodcock hunting in the Canaan Valley, WV refuge, and duck hunting on ND units for example had such limited and unconnected effects that a "cumulative effects" review made no sense. Moreover, Congress in the 1997 Refuge Improvement Act made it clear that unit-by-unit Comprehensive Conservation Plans (CCP's), dovetailed with EIS or EA documents, would be sufficient to approve the priority public uses of fishing and hunting. A D.C. judge disagreed, ordered FWS to prepare the cumulative effects analysis, and FWS spent years and countless hours of personnel time and money engaging in this superfluous paper exercise—using precious dollars that would have been better spent on actual wildlife conservation and refuge management. And last week FWS had to pay anti-hunting plaintiffs over $100,000 in attorney's fees for this case—more money diverted from conservation. Section 4(c)(1)(B) of H.R. 2834 reiterates the intent of the 1997 Act that FWS need not prepare unnecessary, costly cumulative effects analyses to continue to open refuge units to fishing and hunting and ensures that anti-hunting plaintiffs cannot capitalize on the D.C. court ruling to collect even more fees for their lawyers.

Section 4(e) of the bill also restores the status quo regarding the 1964 Wilderness Act that existed between 1964 and 2005. For example, some refuge units are overlaid with Wilderness designations. The 1964 Act—section 4(a) to be precise—specifies that Wilderness purposes "are hereby declared to be within and supplemental to" the purposes of the underlying land unit. In the case of refuges, that plainly means a unit is Wildlife Refuge first and a Wilderness second. In case of a conflict, the wildlife conservation purpose and mission of the Refuge system would be primary and Wilderness purposes secondary. That was the state of the law until recent 9th Circuit rulings in the Kofa Refuge case. Kofa was established by President Franklin Roosevelt with the primary purpose of conserving desert bighorn sheep. Over the years, FWS, the Arizona Department of Game and Fish and conservationists learned that water supplies are the primary factor limiting sheep populations. To enhance the bighorn population and provide greater genetic diversity to assure long term survival, the parties constructed during the 1980's small water catchment basins in Kofa to retain precious rain water and keep it from simply sinking into the sand. These small unobtrusive basins became important oases for the sheep (and other wildlife) and the population prospered.

Wilderness activists were upset that some of these small basins were situated in parts of Kofa designated as Wilderness by Congress in 1990 (after the basins had been built). Last year two 9th Circuit judges disregarded the Wilderness Act "supplemental purposes" language, held that Kofa is Wilderness first and Refuge second, and ordered FWS that the water basins had to go unless the agency could demonstrate that the basins were "necessary" to fulfill Wilderness purposes. These legal conclusions are simply wrong, must be corrected by Congress and section 4(e) does just that.

The 1964 Act also allows a variety of activities in Wilderness areas when "necessary" to assist wilderness purposes. For decades, agencies like BLM and the Forest Service interpreted this to allow a variety of outdoor recreational activities including horseback trips. But activists disagreed and sued arguing that horseback trips were not "necessary." The 9th Circuit agreed and has made the "necessary" finding much more difficult for both recreation and conservation actions (e.g., Kofa, Tustemena Lake case). USSA believes it is only a matter of time before antis go to court to argue that neither fishing nor hunting is "necessary" in Wilderness areas. We have every reason to believe that hostile Forest Service or BLM political personnel, or the 9th Circuit, will buy this bogus argument and impose new restrictions on anglers and hunters in Wilderness areas. Rather than wait—and worry—we urge Congress to stop this nonsense and enact corrective legislation like H.R. 2834.

Thank you again for the opportunity to appear on behalf of the Recreational Fishing and Hunting Heritage and Opportunities Act. USSA is committed to working with the Committee to assure prompt favorable action on this important legislation.

Mr. BROUN. Thank you, Secretary Horn. I want to add a little thing. We have seen the warning that you bring to us as playing out a different issue, but Lake Lanier that supplies water for Atlanta, Georgia in Gwinnett County, Georgia, doesn't have statutorily in its water use that humans can utilize that water for consumption, and we have seen a Federal judge come and rule that Atlanta and Gwinnett County cannot take water out of the lake where it has been going on since that lake was first impounded, so I think it is extremely necessary to have this statutorily placed so that Federal judges and other can't do that, so I thank you for your testimony.

Now Ms. Simpson, I think the Safari Club is the voice of wisdom on conservation and hunting issues, particularly since I was so strongly involved with the Safari Club as you very well know. You are recognized for five minutes, looking forward to what you have to say.

STATEMENT OF MELISSA SIMPSON, DIRECTOR OF GOVERNMENT AFFAIRS, SAFARI CLUB INTERNATIONAL

Ms. SIMPSON. Thank you, Mr. Chairman, and Members of the Committee. I appreciate the opportunity to appear before you today to share the views of 100,000 Safari Club International members and its affiliates, all of whom support H.R. 1444 and H.R. 2834.

My name is Melissa Simpson. I am Director of Government Affairs for Safari Club International here in Washington, D.C.

SCI's missions are the conservation of wildlife, protecting of hunting, and education of the public concerning hunting and its use as a conservation tool. SCI believes that Federal lands should be managed under the principles of multiple use to maximize habitat for wildlife and protect our outdoor heritage. We believe the opportunity to hunt and fish on Federal lands should be a priority for every land and resource and management plan.

H.R. 1444 and H.R. 2834 would require Federal agencies to ensure that abundant hunting and fishing opportunities are provided for. Some organizations have stated that this legislation is unnecessary. Meanwhile. litigious anti-hunting groups have misused well-meaning environmental laws to stop hunting and fishing anywhere possible.

In addition, the continual stream of regulations from the Administration that discourage participation in outdoor recreation appears to be a coordinated front to our hunting heritage.

In the last two years the Forest Service, the Bureau of Land Management and the Fish and Wildlife Service have introduced anti-hunting policies. Secretary Vilsack's memorandum on roadless areas, the Forest Service planning rule, Secretary Salazar's wild lands order, the BLM's shooting range policy, and the Fish and Wildlife Service vision document are all examples of where multiple-use management is being curtailed to the detriment of wildlife and access for sportsmen is being denied.

Since the beginning of the last century, sportsmen have voluntarily contributed to conservation through license fees and excise taxes to ensure that wildlife would be around for future generations. Now we need your help. If Congress does not expressly designate hunting and fishing as priority uses of our Federal lands it is only a matter of time before we lose these opportunities that have been central to the North American model of wildlife conservation.

We need Congress to pass H.R. 1444, H.R. 2834, and the handful of other pro-sportsmen bills that have been introduced in the 112th Congress to help protect our outdoor heritage.

Mr. Chairman, I would also like to highlight the Jobs Frontier Report released by the Western Caucus this week. SCI calls upon Congress and the Administration to please give full consideration to the report's conservation and wildlife provisions. They include the legislation being considered by the Subcommittee today in addition to H.R. 1581, the Wilderness and Roadless Area Release Act.

Thank you for this opportunity. I would be happy to answer any questions.

[The prepared statement of Ms. Simpson follows:]

Statement of Melissa Simpson, Director of Government Affairs, Safari Club International, on H.R. 1444, "Recreational Fishing and Hunting Heritage Opportunities Act" and the "Cabin Fee Act of 2011"

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to share my views, the views of Safari Club International, and the sportsmen's community, all of whom support H.R. 1444 and H.R. 2834.

My name is Melissa Simpson. I serve as the Director of Government Affairs for Safari Club International (SCI). SCI's missions are the conservation of wildlife, protection of hunting, and education of the public concerning hunting and its use as a conservation tool. SCI works both nationally and globally to protect hunting opportunities and strengthen the link between hunting and wildlife conservation.

Safari Club International believes that U.S. Federal lands should be managed under the principles of multiple-use. Outdoor recreation, including hunting and fishing, have been and should continue to be a primary use of U.S. Federal lands. The opportunity to hunt and fish on Federal lands should be a priority for every land and resource management plan. H.R. 1444 and H.R. 2834 would require Federal agencies to ensure abundant hunting and fishing opportunities are provided for unless hunting and fishing are determined to be incompatible with a specific unit of land.

Mr. Chairman, in the past some organizations have stated that this legislation is unnecessary. This could not be further from the truth, hunting is under attack. Litigious anti-hunting organizations have misused well-meaning environmental laws to stop hunting and fishing anywhere possible. These organizations are aggressively seeking to undermine hunting opportunities on America's Federal lands. An attempt to end hunting in the National Wildlife Refuge System was recently defeated, but even now anti-hunting organizations are at work to eliminate hunting on our National Forests and BLM lands. If Congress does not expressly designate hunting and fishing as priority uses of our federal lands it is only a matter of time before we lose these opportunities that have been central to the North American Model of Conservation.

In August of 2000, America's leading wildlife conservation organizations met to identify how best to work collaboratively to help chart the course for the future of wildlife conservation in the United States. These organizations formed the American Wildlife Conservation Partners (AWCP), a consortium of over 40 organizations representing over 4 million hunters at the time. The impetus for this historic meeting was the urgent recognition that habitats on federal forests and rangelands were deteriorating; declines in hunter participation was putting America's hunting heritage at risk, and along with it, the tradition of America's game management; public conflict and polarization over wildlife issues were increasing; and finally, the stewardship of federal lands was hampered by conflicting laws and regulations guiding the management of these lands. AWCP subsequently presented "Wildlife for the 21st

Century" policy recommendations to President George W. Bush in both his terms and to President Barack Obama in 2009.

In the decade that AWCP has engaged the Administration, sportsmen have tirelessly worked to resolve the same ongoing issues with the federal land management agencies. During the Bush Administration, I served as a liaison to the sportsmen's community through high level positions at the Department of the Interior and US Department of Agriculture, focusing on facilitating relationships between the Bureau of Land Management and the US Forest Service with the sportsmen's community to better integrate sportsmen's issues into agency decision making, specifically focusing on access to public lands.

In 2005, I organized a conference between Interior and AWCP to advance their policy recommendations. Policy sessions with high-level Administration officials, the Interior Secretary, Interior Counsel and AWCP executives led to the recognition that the hunting community needed a more direct conduit to engage the Administration. Consequently, the Secretaries of the Interior and Agriculture established the Sporting Conservation Council (SCC); a federal advisory committee specifically for members of the hunting community to advise on access, conservation funding, habitat management, and hunter recruitment and retention. The SCC recommendations resulted in President Bush's Executive Order #13443: Facilitation of Hunting Heritage and Wildlife Conservation, which called for a White House Conference on North American Wildlife Policy and a ten year Recreational Hunting and Wildlife Conservation Plan. The ten year plan was referenced by the Obama Administration in the charter for the current sportsmen's federal advisory committee, the Wildlife Hunting Heritage Conservation Council.

In 2006, 40 hunting, fishing and wildlife organizations and three federal agencies signed the Federal Lands Hunting, Fishing, and Shooting Sports Roundtable Memorandum of Understanding with the purpose of "implementing mutually beneficial projects and activities." The chief of the US Forest Service has repeatedly reminded field staff of the importance of hunting and sport shooting on national forest lands through directives. Lastly, the Sport Fishing and Boating Partnership Council was established to benefit recreational fishing. Despite all these efforts and the supposed commitment of the present Administration to hunting and fishing opportunities, the reality is that the policies and regulation currently being proposed actually undermine the efforts of the past ten years.

While sportsmen and women began with high hopes for the Administration, it has become increasingly clear that these hopes were based on paper promises. The continual stream of regulations that discourage participation in outdoor recreation has come from many different agencies and appears to be a coordinated affront to our hunting heritage. In the last two years, anti-hunting regulations have come from most of the public land agencies including the Forest Service, the Bureau of Land Management, and the Fish and Wildlife Service. Nor has the current Administration made progress in implementing the ten year Recreational Hunting and Wildlife Conservation Plan.

Mr. Chairman, at the beginning of the last century sportsmen saw the problems that over-utilization can do to wildlife. Hunters and anglers asked to contribute to conservation through license fees and excise taxes to ensure that wildlife would be around for future generations. Over the last century sportsmen and women have upheld our end of the bargain and provided billions of dollars to conserve wildlife including over 75% of all funding for state conservation agencies. Now we need your help. We need Congress to pass H.R. 1444, H.R 2834 and the handful of other pro-sportsmen bills that members have been introduced in the 112th Congress and help protect our outdoor heritage.

Thank you for the opportunity and I would be happy to answer any questions that the Committee might have.

List of Anti-hunting Regulatory and Administrative Actions over the last 12 months

U.S. Fish and Wildlife Service Vision Document

A second draft of the refuge vision document was recently published by the Fish and Wildlife Service (FWS). The document is to provide direction for National Wildlife Refuges for the next generation. The newest version of the vision document again neglects hunting and recreation while greatly expanding the FWS's mission to include controversial climate change adaptation. The Hunting Advisory Council created by the Administration (Wildlife and Hunting Heritage Conservation Council) has recommended changes to the vision document after the first draft was released, and even their recommendations are ignored in the second draft.

Forest Service Planning Rule

The Forest Service released the Draft Planning Rule on February 10, 2011 (76 FR 8480). When it is finalized (Fall 2011) this Rule will affect every land management plan on the 193 million acres of the National Forest. SCI and many other hunting and conservation groups filed comments expressing fundamental concerns with the rule.

- The Draft Planning Rule makes negligible mention of hunting and offers little in the way of express protections for hunting, potentially inviting the courts to resolve questions over the role that hunting will play on National Forests in the future.
- The definition of the phrase "sustainable recreation" makes no specific mention of hunting. In addition, the definition is troublesome because it restricts "sustainable recreation" to opportunities, uses and access that are ecologically, economically and socially sustainable, without providing a definition of what qualifies as "socially sustainable."

Secretary Vilsack's Memorandum

Secretary Vilsack has issued memorandum for the last three years that reserve all decisions over road construction, or timber removal to the Secretary's office. (Secretarial Orders 10420–154,10420–155,10420–156) These orders take the power of land management away from local decision makers and concentrate that power in Washington, D.C. By removing these powers from local land managers, the Secretary's office is greatly limiting the ability of local land manager to thin forests to reduce the chances of catastrophic wildfire, mitigate insect infestation, and manage forest habitat for the benefit of wildlife.

BLM Shooting Range Policy

Earlier this year the BLM issued a draft shooting range policy. This policy fails to acknowledge the traditional and historic use of public lands for recreational shooting. Even worse the policy maintains the BLM's current policy of not operating shooting ranges or issuing new leases for shooting ranges because of the "potential liability related to lead contamination of the environment." This is a false concern because, as the BLM is fully aware, the EPA has developed guidance for management of spent lead ammunition at shooting ranges. SCI believe that this policy sends a negative message to land managers about the role that recreational shooting should have on BLM land.

Wild Lands Order

In December 2010 Secretary Salazar issued Secretarial Order 3310, containing the controversial Wild Lands policy, without any public input. This policy would have allowed the BLM to circumvent Congressional authority over designating wilderness by allowing the BLM to use the public resource management planning process to designate certain lands with wilderness characteristics as "Wild Lands." Sportsmen and the Association of State Fish and Wildlife Agencies (representing the 50 state fish and wildlife agencies) opposed this order because it would undermine states' authority by creating unnecessary barriers to fish and wildlife management and related recreation on public lands. The Secretary reversed this Order only after Congress acted to remove funding for this policy.

FWS Importation Problems

Importation of hunting trophies into the United States has become more difficult over the past few years. SCI members have been subject to an increasing frequency of seizures of hunting trophies that are being imported into the United States by the Fish and Wildlife Service. These seizures seem to be the result of minor paperwork problems and seizure or forfeiture of expensive wildlife trophies is an outsized penalty for minor paperwork errors, especially when many of these errors are caused by wildlife officials in developing countries.

Additionally, the administration was unwilling to support a beneficial definition of "hunting trophies" at the last Conference of the Parties of the Convention on International Trade of Endangered Species (CITES) in 2010 that would have helped reduce the seizure problem.

Mr. BROUN. Thank you, Ms. Simpson, appreciate your hard work for SCI and for hunters around the country. God bless you. I really appreciate your work.

Ms. Recce, thank you again for being here. I know you have been very hard at work for many years on these issues. You are now recognized for five minutes. Look forward to your testimony.

STATEMENT OF SUSAN RECCE, DIRECTOR, DIVISION OF CONSERVATION, WILDLIFE, AND NATURAL RESOURCES, NATIONAL RIFLE ASSOCIATION

Ms. RECCE. Thank you, Mr. Chairman. I appreciate the invitation to testify.

The National Rifle Association strongly supports H.R. 2834 and commends the sponsors for its introduction. The bill contains a number of important objectives. It recognizes the rightful place of hunting, fishing, and recreational shooting on Federal lands, and ensures that these historic and traditional public uses are embedded in land management plans. It supports Executive Order 13-443 that directs Federal agencies to facilitate the expansion and enhancement of hunting. It removes barriers to providing safe and responsible use of Federal lands and restores Congressional intent in laws that court rulings have misconstrued and which will certainly bring harm to hunting, fishing, and other recreation.

The Forest Service and the BLM manage their lands as open unless closed, but that policy holds hidden pitfalls. It doesn't encourage proactive management of recreation. It doesn't prevent sudden and arbitrary closures, and it doesn't require reasonable access to these open lands.

H.R. 2834 provides the security we need for the future of our historic and traditional uses. The bill takes guidance from the 1997 Refuge System Improvement Act which protects hunting and fishing on refuge lands and requires land managers to proactively provide for these public uses. The passage of the Act was in part a response by litigation from animal rights activists who were attacking hunters and anglers, the very people who help create the refuge system and fund it for the last seven decades. Passage of H.R. 2834 will ensure the protection of these public lands public usage is accorded to national forests and BLM lands.

The bill also reverses a recent court ruling in a case brought by the same activists whose sole mission was to grind to a halt the Fish and Wildlife Service's ability to open refuges to hunting and fishing. The bill affirms the test of compatibility enshrined in the Improvement Act and provides sufficient assurance that these programs will not have adverse environmental impacts.

Because land management plans set the stage for and drive decisions made about and use, it is paramount that hunting, fishing, and shooting are addressed in these plans. If they aren't, they can cease to exist.

The bill also prevents land closures without public notice, comment and supported by sound science. This takes bias and personal agenda out of the equation. The bill also requires that all land management plans include evaluation of the effects that management alternatives have on our traditional uses. All too often it is impossible to determine how these decisions will affect us.

Americans need places to target practice and sight in their hunting rifles. In much of the West the only places for informal shooting are found on Federal lands managed by the Forest Service and the

BLM. Planners need to be able to identify and designate areas that are suitable for safe shooting, but the agency's claim they can't do it because it imposes an undue liability against the government. This is prejudicial and discriminatory treatment of a recreational activity that has a record of one of the safest activities on Federal lands. The bill permits the agencies to designate safe shooting areas without incurring liability.

The bill also safeguards the interest of the states by protecting them from being burdened with the responsibility of providing public use when recreationalists are displaced from Federal lands by irresponsible management decisions, and it reverses a Sixth Circuit Court ruling that has enormous implications for hunting, fishing, and for that matter all recreation on forest lands across the country.

Another provision of the bill addresses BLM's recent decision to no longer lease land to build a shooting range. The BLM changed its policy because of concern that leased land returned to the agency would require environmental clean up, but EPA's guidance from management of spent lead ammunition has been in place since 2003, and it is designed to obviate the need for environmental clean up if a shooting range closes. The concern from BLM is simply a smoke screen.

And last, the BLM supports language ensuring that the designation of Forest Service and BLM wilderness, wilderness study areas, primitive and semi-primitive areas cannot be used to preclude hunting, fishing, and shooting, and I add that it does not open up wilderness areas to mechanized or motorized uses. And the bill restores its status quo regarding recreational and sound wildlife management practices in wilderness areas by overturning a Ninth Circuit Court ruling. The court's imposition of an necessity test gives Federal land managers and future animal rights litigators the tool to distort the Wilderness Act for the purpose of closing these lands to hunters and anglers and wildlife management.

Thank you for the opportunity to testify.

[The prepared statement of Ms. Recce follows:]

Statement of Susan Recce, Director, Conservation, Wildlife and Natural Resources, National Rifle Association, on H.R. 2834 "Recreational Fishing and Hunting Heritage and Opportunities Act"

Mr. Chairman, the National Rifle Association (NRA) appreciates the invitation to testify today on legislation that is critical to securing the future of our hunting, fishing, and recreational shooting heritage on Federal public lands. We commend the sponsors of H.R. 2834, the "Recreational Fishing and Hunting Heritage and Opportunities Act," for its introduction and pledge our support for and assistance in its passage through Congress.

H.R. 2834 accomplishes six important objectives and they are the following:

- First, it recognizes the rightful place of hunting, fishing and recreational shooting on Federal public lands.
- Second, it ensures that these historic and traditional public uses are responsibly provided for in land management plans as are other popular recreational activities like hiking and camping.
- Third, it applies this policy across the board in our Federal land systems.
- Fourth, it supports Executive Order 13443 titled "Facilitation of Hunting Heritage and Wildlife Conservation" that directs the relevant Federal agencies to "facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat."
- Fifth, it removes barriers to providing safe and responsible public use of Federal lands.

- Sixth, it restores Congressional intent in laws that court rulings have misconstrued and which will cause deleterious effects on hunting and other recreational pursuits, as well as on sound wildlife management practices.

The NRA has long been involved in issues related to sportsmen's access to our Federal public lands. We have participated in numerous symposia, research studies, and surveys focused on barriers to access and opportunities to hunt and target shoot. Beginning in 1996, the NRA has chaired a Roundtable with representatives of Federal land management agencies and national hunting, wildlife conservation, and shooting sports organizations. The Roundtable was created by a Memorandum of Understanding (MOU) that seeks to resolve issues and enhance opportunities related to hunting and recreational shooting. The current MOU titled "The Federal Lands Hunting, Fishing and Shooting Sports Roundtable" is signed by the Forest Service, Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), and 40 national hunting, fishing and shooting sports organizations. Fifteen years of experience has clearly defined what is achievable by working with our Federal agency partners and what can only be achieved through legislation, specifically through passage of H.R. 2834.

The Forest Service and the BLM will state, in truth, that lands they manage are "open unless closed" to recreational activities meaning that millions of acres are opened to nearly unfettered recreational pursuit. But that policy holds hidden pitfalls. It does not encourage proactive management of recreation, it does not prevent sudden and arbitrary closures of public land to recreation, and it does not require that reasonable access to these open lands be provided. The land is simply open until at such time by administrative fiat it is closed. This policy provides no security for the future of our historic and traditional uses of Federal public lands.

Years of working with the Federal agencies have demonstrated that even with directives sent from an agency head to the field recognizing the legitimate and historic use of Federal public lands for sportsmen's activities, the agencies are so decentralized that field managers are left to their own discretion as to whether headquarter memoranda are adhered to, or for that matter, whether they are read or remembered. H.R. 2834 provides the security we need. It directs that Federal land managers will support and facilitate the use of and access to Federal lands and waters for hunting, fishing, and recreational shooting.

This provision of H.R. 2834 is not only in the best interests of sportsmen and women, but it is in the best interests of America's economy. The most recent economic report on hunting on Federal lands is the 2007 report conducted by Southwick and Associates and the American Sportfishing Association. The report found that hunting on just national forest lands alone annually generated $894 million in expenditures from 2000 to 2003. The report's executive summary noted that as these expenditures are spent and re-spent by businesses, additional economic effects are created for state and national economies. The money hunters spent supported over 21,000 full and part-time jobs across the country, and increased Federal income tax receipts by $111 million.

One objective of the above mentioned MOU is to work in partnership with the Federal agencies to resolve issues in a manner that prevents closures. There are some land managers who have worked with sportsmen's organizations in the spirit of the MOU partnership. However, when faced with a management challenge, the land manager's response is more often to close the area. Under H.R. 2834, Federal land that is being utilized for hunting, fishing, and recreational shooting cannot be closed without public notice and comment and supported by sound science. This removes biases and personal agendas from the Federal management of legitimate and traditional public uses.

H.R. 2834 takes guidance from Congress' passage of the 1997 National Wildlife Refuge System Improvement Act which elevated hunting, fishing and other wildlife dependent recreation above all other public uses and made them priority public uses of the Refuge System. The language of the Act was a direct result of litigation by animal rights activists who endlessly attempted to shut down the Refuge System to hunters and anglers, the very segment of our society who created the Refuge System and who has helped fund it for the past seven decades. Although H.R. 2834 does not elevate hunting, fishing, or recreational shooting above other uses of non-refuge lands, it will ensure that these activities are anchored in law for national forests and grasslands and for public lands managed by the BLM. Where H.R. 2834 and the Refuge Improvement Act converge is in requiring land managers to be proactive in providing for these public uses.

Because land management plans set the stage for and drive decisions made about land use, it is paramount that hunting, fishing and recreational shooting are addressed in these plans. If they are not provided for in land management plans, they can easily cease to exist. As a case in point, there was a shooting range that the

BLM considered unsafe so the agency requested the expertise of the NRA. NRA provided the expert who concluded that the range was located in a bad site and improvements were not possible to enhance safety. But the expert identified several suitable sites for relocation of the range. The BLM's response was that it could not entertain a new site because the recently adopted management plan for the area did not address recreational shooting—so such a relocation decision could not be made. With the closure of the range, the entire area was closed to recreational shooting. This is not atypical of the apathy and disregard for the needs and interests of local sportsmen and a breach of the goodwill as embodied in the MOU that occurs at the field level. The MOU is designed to forge partnerships, not adversarial relationships.

All too often management plans are silent about the impacts of proposed management options on these public uses, making it impossible to assess how they will be treated. For example, both the Forest Service and the BLM have been developing Travel Management Plans that designate routes and trails for motorized vehicle use. Some plans make an exception for the use of a vehicle to retrieve legally downed big game some distance off a designated route. Other plans make no exception. It is completely arbitrary at the local level as to how hunting access will be treated, particularly for older and disabled hunters. H.R. 2834 requires that all land management planning documents include evaluations of the effects that management alternatives have on opportunities to engage in hunting, fishing, and recreational shooting.

H.R. 2834 directs Federal land managers to support and facilitate the use and access to public lands and waters for hunting, fishing and recreational shooting through the land management planning process. Land managers will not address public uses unless the subject is brought up by the public during the initial stages of planning. However, even if it is, there is no guarantee how these public uses will be addressed in a plan. As an example, an area of BLM land undergoing a new land use plan had some 20 areas where informal recreational shooting took place. Concern for the future of that traditional use of the area was expressed by sportsmen in the initial planning stage. When the draft plan was released, the agency's selected management option was to close the entire area to recreational shooting. So even if hunting, fishing and recreational shooting have traditionally been conducted on a unit of Federal land and it is raised as a subject to address in a management plan, there is no guarantee that it will be fairly and responsibly treated. H.R. 2834 is the only way that sportsmen can be guaranteed their rightful place on their Federal public lands for now and into the future.

Americans need places to target practice. In much of the West, the only places for informal shooting are found on Federal lands managed by the Forest Service and the BLM. Such places are important to introduce family members and friends to the safe and responsible use of firearms and to the enjoyment and challenge of sport shooting. But these places are also important to hunting because it is here where hunters can sight in their hunting rifles and where youth can get basic training before taking a hunter education course. Gone are the days when much of this land would be termed remote. All too often informal shooting sites are being threatened by encroaching development and conflict with other recreationists, exacerbated by anti-gun bias within the agencies. This is why it is critical that recreational shooting be addressed in land management plans.

Planners need to be able to identify and designate areas that are suitable for safe shooting and to ensure that such suitable sites are not made unsuitable because a trail or campground was built in or through the area. But both the Forest Service and the BLM claim that they are unable to designate such areas because it imposes an undue liability against the United States. This response has no anchor in written policy that I can find. Nor does it explain why recreational shooting is being singled out as a liability. The agencies will tell you that recreational shooting has a record of being one of the safest activities on Federal public lands. Accidental injuries and death involving shooters or other recreationists pale in comparison to activities like off highway vehicle use, white water rafting, and horseback riding. But because the agencies have refused to address this prejudicial and discriminatory treatment of recreational shooting, H.R. 2834 removes this roadblock to safe shooting by permitting the agencies to designate areas for recreational shooting without incurring liability for so doing.

H.R. 2834 puts into law the "open unless closed" policy of the Forest Service and the BLM and establishes a transparent public process when the agency head intends to close an area or restrict its use by hunters, anglers and recreational shooters. Before the action can be taken, the public must be notified, the agency must show that it is necessary and reasonable and supported by facts and evidence, or mandated by other law. The NRA is also very supportive of the bill's parallel re-

quirement that when an agency's action will have the effect of closing or significantly restricting hunting, fishing or recreational shooting on 640 or more contiguous acres (or an aggregate of acres affected), Congress and the public must first be notified and coordination must take place with the state fish and wildlife agency. There is an important reason to have state involvement because Federal land closures and restrictions transfer the management responsibility to the state to provide for the needs of the displaced recreating public.

H.R. 2834 safeguards the interests of the states in providing access and opportunities for hunting, fishing, and recreational shooting by protecting states from being burdened with the Federal agencies' responsibilities for providing for these public uses as well. This is necessary step that Congress needs to take as a result of a 6th Circuit Court ruling in a lawsuit brought against the management plan for the Huron-Manistee National Forest (MI). The court said that the Forest Service's Planning Rule required it to take into account recreational activities, hunting in this case, that are "duplicated" on adjacent state or other Federal lands in determining whether the Huron-Manistee should remain open to hunting. This ruling poses threats to hunting, fishing, and recreational shooting and, for that matter, all recreational activities on forest lands across the country. It suggests that the states and Federal sister agencies are to find ways of accommodating recreationists that are forced off of forest lands because of this ruling. The new draft Forest Planning Rule does not correct this problem.

The draft Forest Service Planning Rule is another excellent example of why administrative policies and rules cannot provide a secure future for our historic and traditional public uses and why H.R. 2834 is needed. The first public look at the Rule was an outline that barely mentioned recreation as an element, let alone an important element, of national forest management. The recreation community was assured that this would be rectified in the draft Rule itself. The draft Rule, which was released for review and public comment earlier this year, addresses recreation in the context of whether it is economically, socially and environmentally sustainable. Recreation is not defined and there is no explanation of what parameters the sustainability of any recreational activity will be measured against. These are real threats that need real solutions and the only real solution is passage of H.R. 2834. Just as the National Wildlife Refuge System Improvement Act dispensed with threats against hunting and fishing, so too has the time come to build into law security for these pursuits on Federal lands managed by the Forest Service and the BLM.

Another provision of H.R. 2834 allows Federal agencies to lease land for shooting ranges. By way of background, the BLM also has a long-standing policy of not building or managing shooting ranges. This means that some 170 million acres of BLM land just in the lower 48 states are closed to any infrastructure for recreational shooting, including basic improvements like berms, target holders and shooting benches, even if the improvements would enhance shooting safety. It is impossible to understand how trails can be built or campsites can be provided for, but yet simple, cost-effective improvements for shooting are not allowed by policy. I would like to see language inserted in the bill directing the BLM to provide for such improvements when those improvements would enhance the safety of a shooting area and reduce potential conflicts with other public land users.

The bill's language, however, responds to a recent policy adopted by the BLM instructing field managers not to lease lands for shooting ranges. The BLM stated that this change in policy was due to concern over environmental liability, specifically concern that leased land returned to BLM management will contain spent lead ammunition requiring the agency to engage in an environmental cleanup. The BLM knows very well that in 2003 the EPA issued guidance for the management of spent lead ammunition at shooting ranges. The guidance is titled "Best Management Practices for Lead at Outdoor Shooting Ranges." The guidance is designed to obviate the need for environmental cleanup if and when a shooting range closes. This concern over environmental liability is simply a smoke screen which the BLM is happy to hide behind.

BLM's response is that land leasing is unnecessary because it has the authority to patent land under the Recreation and Public Purposes Act to a state or local entity for the purpose of building a shooting range for the community. However, BLM does not reveal the exceedingly long and costly process involved. Land has to be identified for disposal in a land management plan, the agencyhas to have the interest and funding to pursue a patent request, and there are numerous and costly environmental studies that must be conducted. One such example is the transfer of BLM land to the Arizona Game and Fish Department which took on the responsibility of building and managing a shooting range to replace one on BLM land that had been closed. It has taken 14 years to complete the process of just transferring

the land. No spade of dirt has yet been turned and local sportsmen continue to wait for a place to go shooting. This policy needs to be reversed. Both of BLM's policies, on allowing infrastructure to be built and on leasing lands, are clear examples of discriminatory and prejudicial treatment of a legitimate and traditional activity that ultimately shifts the management responsibility to the Forest Service and the states.

Turning to other sections of the bill, the NRA supports language ensuring that the designation of Federal land as wilderness, wilderness study areas, primitive and semi-primitive areas under the management of the Forest Service and the BLM cannot be used to preclude hunting, fishing and recreational shooting. And H.R. 2834 restores the status quo regarding recreation and sound wildlife management practices in wilderness areas by overturning a 9th Circuit Court ruling that disallowed the restoration of water catchments for the survival and enhancement of desert bighorn sheep in the wilderness portion of the Kofa National Wildlife Refuge, a refuge established to protect and enhance this species. The Court ruled that the Refuge had not exhausted all other means to protect the sheep and so could not show that these water catchments were necessary. The Court's imposition of a "necessity" test gives Federal land managers and future anti-hunting litigators the tool to distort the Wilderness Act for the purpose of closing these lands to hunters and anglers and wildlife management. H.R. 2834 also makes an important statement that the primary purpose for which a unit of Federal land was established guides its management and that a wilderness overlay cannot materially interfere or hinder that guidance.

And lastly, the NRA supports language in H.R. 2834 that reinforces Congressional intent in the National Wildlife Refuge Improvement Act which requires hunting and fishing programs to be compatible with the purposes for which the specific refuge was established and with the mission and purposes of the National Wildlife Refuge System. Litigation by anti-hunting organizations and a subsequent court ruling resulted in an additional layer of analysis being imposed upon the agency. This additional layer of review is unnecessary and costly to the FWS which is already struggling with huge backlogs in operation and maintenance needs within the Refuge System.

The compatibility test provides sufficient assurance that hunting and fishing programs will not have adverse environmental impacts. That was proven a number of years ago in a different lawsuit filed against the Service over refuge hunting and fishing programs. A thorough and exhaustive review was conducted of the hundreds of programs with the result that an adjustment was made to one hunting program and one fishing program had to be closed. There was no evidence then and none now that suggests taxpayers' dollars are well served by pointless layers of analyses behind the test of compatibility. The only desire of the plaintiffs was to find some other means of grinding to a halt the FWS' ability to open refuges to hunting and fishing and enhancing existing programs.

In conclusion, the NRA wholeheartedly supports H.R. 2834 because it legislatively recognizes the legitimate and traditional activities of hunting, fishing and recreational shooting on Federal public lands. It safeguards these activities from prejudicial and discriminatory treatment. It requires the Federal land manager to be proactive in managing these activities through the land management planning process. It makes administrative decisions that close or significantly restrict these activities to be anchored in a transparent public process and removes administrative and judicial roadblocks that obstruct sound and responsible management of recreation and wildlife resources.

Thank you, again, for the opportunity to testify on H.R. 2834

Mr. BROUN. Thank you, Ms. Recce. Appreciate you all's testimony. Now we will turn to questioning. I will recognize myself for five minutes.

Mr. Horn, you heard the representatives from the Administration's testimony. You also heard Mr. McClintock's questioning, I am sure, previously, and I would like to give you an opportunity to make a comment. Do you have any comments about the testimony from the Forest Service or the BLM?

Mr. HORN. Well, I think it is safe to say we are disappointed by the overt opposition. As I said, I talked about the 1997 Refuge Act, and I can recall when we had hearings on that proposed bill in

1996 the then administration was adamantly opposed to the then Refuge Administration Act. Secretary Babbitt sat right here and threatened veto of the bill that was signed into law by President Clinton a year and a half later.

I think that the statutory recognition of fishing and hunting in the Refuge Act has proven to be a great success from an agency perspective and from the perspective of the angling and hunting and conservation community, and what we are trying to do here is to essentially enshrine in law these expressed references to the legitimate role that these activities have on the two major public land systems so that they can point to provisions in the law to defend continuation of these activities. It worked in the refuge system. As a matter of fact, Mr. Ratcliffe talked about the 1997 Act in his statement. It worked there. We see no reason why comparable legislation like 2834 cannot work in regard to the Forest Service and BLM lands.

Mr. BROUN. Thank you, Mr. Horn.

Mr. Ratcliffe, has hunting harmed, damaged, destroyed any of the refuges that you know of?

Mr. RATCLIFFE. I would defer that question to——

Mr. BROUN. Turn on your microphone, please.

Mr. RATCLIFFE.—Jeff Rupert from the Fish and Wildlife Service.

Mr. RUPERT. Yes, sir. My name is Jeff Rupert, and I work with U.S. Fish and Wildlife Service, National Wildlife Refuge System.

Your question, has hunting activities harmed refuges in an way, shape or for, from a Fish and Wildlife perspective, you know, the Refuge Administration Act, which governs the refuge system and provides the mandate for us that effectively promotes hunting on refuges, we administer hunt activities based on a compatibility standard that looks at potential impacts or effects prior to creating or administering the hunt. And no, we haven't seen—we haven't seen negative impacts that I am aware of.

Mr. BROUN. Well, thank you. I appreciate that testimony. And the contributions of the hunter conservation and fishermen conservation is basically the true conservationists in this country in my opinion are the hunters, the fishermen, the farmers and the foresters because they really take care of the land, they put money where their mouth is, and that is the reason that these activities are absolutely critical in the management of the Federal lands.

Secretary Horn, what effect would it have on NEPA, these bills?

Mr. HORN. The only provision in H.R. 2834 that has any impact on NEPA is to, again, restore the legal status quo that existed up until just a couple of years ago involving determinations that the refuge system makes regarding hunting and fishing. The 1997 Refuge Act provides that each unit in the refuge system has to have a comprehensive conservation plan, a CCP, which is the counterpart to plans that both the Forest Service and the BLM have for their respective units.

In those CCPs Fish and Wildlife conducts NEPA compliance in the form of an environmental assessment or an environmental impact statement to make the compatibility statements that Mr. Rupert referenced.

A few years ago, again one of the animal rights groups, brought a lawsuit against the Fish and Wildlife Service challenging a deci-

sion to allow hunting on 60 refuge units, arguing that even though the Service had done the CCPs and had done all the NEPA documents they hadn't done a sufficient cumulative effects analysis of the impact on the hunting on the entire refuge system. And the Service told the court, District judge here in D.C., how do we equate the impact of hunting deer on the Bon Swamp Refuge in Macon, Georgia, with shooting woodcock in Canaan Valley in West Virginia, or hunting moose on the Kenai Refuge in Alaska, those are such disconnected activities that trying to put together a cumulative effects analysis is probably a superfluous exercise and intellectually challenging to boot.

Nonetheless, the D.C. Court said, no, you guy have to do this cumulative effects analysis, and Fish and Wildlife Service spent four years, thousands and thousands of dollars, thousands of personnel hours to put together this cumulative effects analysis that was ultimately upheld by the Judge.

One of the provisions in 2834 says, no, the CCP process spelled out in the 1997 Act and the completion of EISs and EAs in conjunction with the CCPs fully satisfy NEPA, and there is no need to spend useless dollars doing this useless cumulative effects analysis on a system-wide basis. Our attitude is this provision [a] restores the status quo that Congress thought it was putting into place in 1997; and [b] we wish all those dollars that had been spent on that useless exercise, as well as a payment of $116,000 of legal fees to the lawyers for the animal rights group, should have been spent on refuge conservation where we had a hearing in another committee here in May about the budget shortfalls afflicting refuge management.

So, that is the only provision in this bill that impacts NEPA.

Mr. BROUN. Thank you, Mr. Horn. My time is way past due. I now recognize the Ranking Member for five minutes plus if you would like it, sir.

Mr. GRIJALVA. Thank you. Mr. Holtrop and Mr. Ratcliffe, you know, quickly if you could answer some of these. Just repeat the number of acres or percentage of Federal land under your respective agency's management that are open to hunting and fishing.

Mr. RATCLIFFE. For the BLM we estimate 95 percent of our lands are open.

Mr. GRIJALVA. OK.

Mr. HOLTROP. I don't know if I have that precise a figure. I would have said something more than that on the National Forest System. The only exceptions might be recreation sites. I would guess something in that five or four percent of the area not open to hunting.

Mr. GRIJALVA. And Mr. Rupert, would you chime in on what percentage?

Mr. RUPERT. I don't know the exact percentage figure; somewhere around 375 refuges are open to hunting.

Mr. GRIJALVA. With those figures in mind, I keep searching to what the problem that Congress is being asked to solve here is. Are we turning away hunters and anglers from our public lands or are we not? Given the percentages, I guess we are not.

Mr. Rupert, H.R. 1444 appears to prohibit the charging of any fees for anything other than cost recovery for hunting. What impact

might this provision have on the Duck Stamp Program which under current law allows revenue to be used for land acquisition?

Mr. RUPERT. Yes, sir, thank you.

Unclear. As you state, the duck stamp is required for hunters who are hunting migratory waterfowl. The proceeds from duck stamp sales are in turn used to acquire additional land with waterfowl habitat to be included in the National Wildlife Refuge System, and it is unclear what impact the fee provision may have on that. We would be very interested in having further discussions with the Committee——

Mr. GRIJALVA. OK.

Mr. RUPERT.—to ensure that there are not any unintended consequences.

Mr. GRIJALVA. Again, Mr. Rupert, 2834 contains a broad, I believe from my reading, a broad NEPA waiver for activities under the Refuge System Act. Could you discuss the impact of those waivers on the operations to the refuge?

Mr. RUPERT. Again, from Fish and Wildlife Service perspective, you know, we feel that—you know, again, the Refuge Administration Act, which governs these activities and the planning and the administration of these activities in the refuge system, you know, it does effectively promote hunting and fishing on refuges.

Where it is compatible and where it is one of those primary wildlife-dependent recreational uses, we find it compatible. We believe that it is appropriate that the Refuge Administration Act gives that first priority to wildlife management and conservation——

Mr. GRIJALVA. As Mr. Horn indicated that the NEPA waiver is narrow, is it as narrow has he says, is it broad? It covers all of Section 4 of the Refuge System Act and that appears to be broad to me.

Mr. RUPERT. The current approach for us to conduct NEPA say, for example, new or expanded hunts, includes cumulative impact analysis. Under our current approach we conduct that cumulative impact analysis, and at this point we believe we have a process in place that allows us to effectively meet that mandate.

Mr. GRIJALVA. I believe that narrow/broadness issue particularly includes Section 4. I think as the legislation moves forward I think that really does need to be clearly defined. I don't believe it is narrow because it includes the whole section. It broadens it in a huge way, and that is problematic.

Mr. Ratcliffe, Section 4 of H.R. 2834 appears to redefine the terms of Wilderness Act in such a way that would require the establishment of roads and the use of motorized vehicles in designated wilderness to facilitate hunting. Can you describe what impact that might have on wilderness areas, and would that change that fundamentally?

Mr. RATCLIFFE. The Department is very concerned about the wording in that provision of the act, the bill, because we feel that it opens the door to the potential for increased motorized activities and other human developments inside wilderness which, of course, is a slippery slope, I think, when it comes to the management and the integrity of the Wilderness Act.

Mr. GRIJALVA. Thank you. Thank you, Mr. Chairman. The rest of the questions for—you know, we are talking a lot about exempt-

ing oil and gas in this Committee, or timber production from NEPA. We don't know what impact that would have on habitat or hunting. And if hunting is also exempt from NEPA, does that really help the situation? I think we need to answer these questions as this legislation moves forward. I appreciate your indulgence, and I yield back, sir.

Mr. BROUN. Thank you, Mr. Grijalva. Now the Chair will recognize Mr. McClintock for five minutes.

Mr. MCCLINTOCK. Thank you, Mr. Chairman. I would like to hear from Ms. Simpson and Ms. Recce. Do your members believe that the BLM and the U.S. Forest Service are encouraging and welcoming hunting and fishing on the 95 percent of the public lands we have just been told are open for that purpose?

Ms. RECCE. I would definitely say that our members who target shoot, and he used public lands particularly in the West, which is the only place to shoot, find that they are being dislocated; that there are shooting areas closed. Shooting ranges that have been built have been closed, and there has not been really a proactive effort on the part of the—in this case the Forest Service—to rectify those situations.

Mr. MCCLINTOCK. What is your beef? We have just been told that 95 percent of these lands are open for that purpose?

Ms. RECCE. Well, they can be open. It is getting to them. So how far do you go back in to engage in the recreational activity?

Mr. MCCLINTOCK. Well, can't you drive in? Aren't there roads?

Ms. RECCE. Well, many of these places there are not roads and——

Mr. MCCLINTOCK. There were roads once though, weren't there, but they are closing them?

Ms. RECCE. Well, they are doing that, and I think that access is one issue. I think the opportunities that had existed are closing, and a lot of it is because I don't think there is proactive planning for these activities to protect them into the future.

Mr. MCCLINTOCK. Ms. Simpson, are your members being welcomed and encouraged to participate in hunting and fishing activities on the public lands by these agencies?

Ms. SIMPSON. I think that the SCI members would maintain that the issue for our organization is more to the habitat management, an active management that is not occurring on the public lands, and active management, as the scientists have told us, has a direct relationship on healthy animals.

Mr. MCCLINTOCK. Well, what is the impact of hunting and fishing activities by the road closures under the travel management plans?

Ms. SIMPSON. Well, obviously——

Mr. MCCLINTOCK. They are radical in my area, I mean. They are closing down most of the roads, most of the access to the public lands in my region.

Ms. SIMPSON. Access is number one priority.

Mr. MCCLINTOCK. I am wondering if you are deer hunting and you kill a deer, how are you supposed to get it out if you can't get your vehicle there?

Ms. RECCE. I am very familiar with the travel management plans and share the pain of your constituents. It is catch as catch can at

the local level as to whether travel management plans they allow big game retrieval off of designated routes, and it really is whatever the local land manager decides to do.

Mr. MCCLINTOCK. Our hunters have been told they can't take their vehicles even one car's length off the few roads that are remaining.

Ms. RECCE. This is probably true, and that is why we support this bill because right now there is no consistency across the board in how decisions are done that would affect hunters and anglers, and there really is no consideration given to what effect these decisions have, and that is why we support another provision of the bill that addresses that.

Mr. MCCLINTOCK. What about the increasingly Draconian restrictions on camping? Are you hearing from your members on that because I got an ear full about a month ago?

Ms. RECCE. I cannot answer that because the constituency hasn't spoken to that. I don't know.

Ms. SIMPSON. We haven't heard necessarily about camping, but I think the bigger point by both of our organizations that are here supporting this legislation is that there is such an inconsistency at the local level, and despite White House conferences and executive orders and internal memoranda and Federal advisory committees, et cetera, that has been established to have communication it just isn't happening.

Mr. MCCLINTOCK. So you are welcome to hunt on the public lands, but you are not allowed to get there and you are not allowed to stay there if you do get there.

Ms. SIMPSON. That is what we are hearing.

Mr. MCCLINTOCK. That is what I am hearing, too. There is a radical leftist ideology that the public should be forced out of all rural areas and be restricted instead to dense urban cores. The rest of these vast tracks of land are to be restored to their pristine prehistoric condition. The only problem I have discovered with that is that most people don't like to live in dense urban corridors, and in order to restore the planet to its pristine prehistoric condition we have to restore the human population to its pristine prehistoric condition which is not going to end well.

Are you seeing that ideology leak into the policies of this Administration?

Ms. RECCE. I think that I will say that in the documents we have seen, the Forest Service planning rule, the Fish and Wildlife Service vision document, that a lot of the attention is paid on wildlife management and natural resource management, which is a good thing, but it is coming at the expense of, you know, the traditional public land users, the hunters, the anglers, the shooters. That is what I have seen is an imbalance.

Mr. MCCLINTOCK. I think Gifford Pinchot summed that up very nicely when he said that the vision for the U.S. Forest Service was to manage the forests to achieve the greatest benefit for the greatest number in the long run, and this group has gotten so radically away from that initial vision. It is a difference between night and day. Thank you.

Mr. BROUN. Thank you. Now the Chair will recognize Doc Benishek for five minutes.

Mr. BENISHEK. I would like to thank the additional members for being here today. I appreciate your testimony.

Mr. Horn, we have had some testimony on the effects that the bill has on the Wilderness Act and how it is going to allow access by motor vehicles and all that, and in my reading of the bill I don't see that. What is your interpretation of that?

Mr. HORN. Mr. Chairman, Representative, I think that that is a red herring. I don't think that is the intent. Without delving too deeply and taking up the Committee's time on the lawsuits, the Wilderness Act provisions in our understanding have been drafted to essentially restore agency discretion, and the state of the law that existed regarding 1964 Wilderness Act for the first 40 years of its existence. That statute has provisions that talk about wilderness purposes being supplemental to the purposes of the underlying refuge or forest status. There are provisions in the law that allowed the agencies to make certain necessity determinations to allow a variety of recreation and fish and wildlife conservation activities. Those things were fairly well implemented for a long period of time until the Ninth Circuit kicked things off the track by changing the law by judicial fiat and it started with a case in Alaska involving the refuge system where a long-established fishery's enhancement program on Tustumena Lake was declared to be in violation of the Wilderness Act and terminated overturning the professional judgment of the Fish and Wildlife Service.

Then there was the High Sierra case in which the Forest Service permitted horseback trips, we are not talking motorized, horseback trips into part of the Sierra wilderness, and the Ninth Circuit said, no, it did not have to defer to professional judgment of the Forest Service, and it said that the Forest Service hadn't demonstrated that these horseback trips were really necessary for wilderness management.

Then just recently the Ninth Circuit did it again overturning another decision of the Fish and Wildlife Service involving desert big horn sheep conservation in the Kofa Refuge saying, no, this is a wilderness area first, and a refuge second. It doesn't matter that the plan approved by the Service helped the wildlife wilderness trumped it.

The provision in my book reverses that decision, restores the discretion that these two agencies had for the first 40 years of the Wilderness Act; tells the Ninth Circuit, no, judges do not substitute their judgment for that of the professional land managers, and puts the law back to the way it was. It does not deal with motorized vehicle access. That is a red herring. And if it is not a red herring, our organization is more than willing to tweak the language to make that red herring go away.

Mr. BENISHEK. Thank you. Last night we heard a lot about jobs and jobs plans. One thing we don't talk about too often is that hunting and fishing, particularly on Federal lands, are job creators. Ms. Simpson, can you comment on the jobs created by making Federal lands guaranteed to be open to hunting and fishing?

Ms. SIMPSON. First of all, the active management that is required to have healthy habitats is something that is a job creator right there. Whether or not it is coming from the timber industry

or oil and gas isn't the point. The point is we need healthy habitats, OK?

So, as I referred to earlier, H.R. 1581 is a wonderful example of a way to get active management back into our Federal lands. The hunting and fishing aspect on Federal lands access there is of vital importance. The gateway communities that benefit from the hotels, the motels, the restaurants, all of the equipment that is purchased on the way into town and out of town is all beneficial to job creation.

Mr. BENISHEK. Thank you. Let me ask Mr. Ratcliffe a question. Do you explicitly include hunting and fishing in your management plans?

Mr. RATCLIFFE. Management plans are developed based on the issues of a particular area in which the plan oversees. And so if the issue comes up, whether it is any recreational activity, then we are obliged to address it in the plans, and therefore where it is an issue where the public identifies it and wishes it to be addressed we treat it equally among all recreation activities.

Our multiple-use management mandate requires us to treat all uses equally, and if you start setting one as a priority over another——

Mr. BENISHEK. I understand that, but I just wanted to know if explicitly in the plan there was something about hunting and fishing.

Mr. RATCLIFFE. Yes, we have many plans that address hunting and fishing.

Mr. BENISHEK. All right. Well, I see my time is up. Thank you.

Mr. BROUN. Thank you, Doctor.

Just want to say in closing that not only do I appreciate you all being here, but I think both of these bills are extremely important. My bill requires hunting to be a part of a management plan statutorily so that it is not an elective process, and it has to be considered, and then your bill, which is extremely necessary also, actually puts into place statutorily that hunting and fishing is a land use, and so I think both bills are so extremely important. I look forward as these two bills go forward, hopefully we can get them passed into law in this Congress.

I appreciate your introducing the bill and I look forward to seeing how this Committee as well as the Full Committee takes all three of these bills into consideration. I thank you all for participating in this hearing today. But I really appreciate you all being here. I apologize for the interruption and it is well into lunchtime.

Before we adjourn the hearing I ask unanimous consent that the statement by William Meadows of the Wilderness Society be included in the record. Hearing no objection, so ordered.

[The prepared statement of William Meadows follows:]

September 9, 2011

The Honorable Rob Bishop, Chairman
House Subcommittee on National Parks, Forests, and Public Lands
1324 Longworth House Office Building
United States House of Representatives
Washington, DC 20215

The Honorable Raul Grijalva, Ranking Member
House Subcommittee on National Parks, Forests, and Public Lands
1329 Longworth House Office Building
United States House of Representatives
Washington, DC 20215

Dear Chairman Bishop and Ranking Member Grijalva:

On behalf of The Wilderness Society I am writing to express our views on H.R. 2834, the "Recreational Fishing and Hunting Heritage and Opportunities Act," and request that this letter be incorporated into the Subcommittee's hearing record of September 9, 2011.

Overview of the Bill

The express purpose of H.R. 2834 is to facilitate opportunities for hunting and fishing on federal public lands (Sec. 2(8)), a laudable objective. Federal public lands are defined as all federally owned lands that are managed by the Department of the Interior and the USDA Forest Service (Sec. 3(a)). The bill would direct federal land managers generally to exercise their authorities under current law to "facilitate use of and access to Federal public lands and waters for fishing, sport hunting, and recreational shooting," within certain limits (Sec. 4(a)). Plans for federal lands would be required to evaluate the plans' effects on hunting, fishing, and shooting opportunities (Sec. 4(c)). The bill declares that federal lands managed by the Bureau of Land Management and the Forest Service are open to hunting, fishing, and shooting unless closed by the agency, and it authorizes those two agencies to lease or designate lands for shooting (Sec. 4(d)). The bill requires the agencies to report annually on areas that are closed to hunting, fishing, or shooting, and it imposes additional reporting requirements on any agency closure or other action that "significantly restricts" such activities on one square mile or more land (Sec. 4(f)). The bill does not affect the closure of national parks or national monuments administered by the National Park Service to hunting and shooting (Sec. 4(g)) or give preferential treatment of fishing, hunting, and shooting over other uses or management priorities (Sec. 4(h)). The bill also disclaims any effect on state control over fish and wildlife (Sec. 4(j)). In addition, as discussed in detail below, the bill contains two provisions in Section

4(c) that appeared to be aimed specifically at limiting the protective management of the Wilderness Act by effectively exempting motorized use in the name of providing hunting opportunities, and also by more broadly prohibiting implementation of Wilderness Act requirements that would interfere with the original statutory purposes of the lands. Finally, the bill eliminates environmental review mandated by the National Environmental Policy Act (NEPA) and denies the public its right, guaranteed by NEPA, to participate in certain decisions affecting public lands (Sec. 4(c)(1)(B)).

Wilderness Act Management Provisions

Section 4(e) of H.R. 2834 – titled "Necessity in Wilderness Areas" – is highly objectionable because it could eviscerate the most fundamental protections that the Wilderness Act of 1964 provides for the National Wilderness Preservation System.

To understand the potential impact of H.R. 2834 on management of Wilderness Areas, some background is needed. Under the Wilderness Act, wildlife and fish management in wilderness areas, including regulation of hunting and fishing, is generally regulated by the states (except on National Park Service lands) (16 U.S.C. 1133(d)(7)). In order to ensure protection of the designated Wilderness Areas, Section 4(c) of the Wilderness Act generally prohibits the use of motor vehicles, motorized equipment, and motorboats and other forms of mechanical transport (16 U.S.C. 1133(c)). The Act provides for exceptions to these prohibitions "as necessary to meet minimum requirements for the administration of the area for the purpose of this Act" (id.). Federal land managers typically employ a "minimum tools analysis" on a case-by-case basis to determine whether an exception (such as using chainsaws to clear fallen trees from a trail) is necessary.

H.R. 2834 would fundamentally undercut the Wilderness Act in two ways. First, the bill mandates that "the provision of opportunities for hunting, fishing and recreational shooting ... *shall constitute* measures necessary to meet the minimum requirements for the administration of the wilderness areas" (Sec. 4(e)(1), emphasis added). In other words, any activity that provides opportunities to hunt, fish, or shoot would automatically be granted an exception to the Wilderness Act's prohibitions on the use of motorized vehicles and equipment. **The practical effect could be to open all designated wilderness areas to all-terrain vehicles, snowmobiles, motorbikes, motorboats, chainsaws, and other motorized vehicles and equipment if they are used for hunting, fishing, or shooting.** Building structures, towers, and temporary roads could also be permitted under Section 4(e)(1).

Second – and potentially even more damaging – the draft bill declares that "any requirements imposed by [the Wilderness Act] shall be implemented only insofar as they facilitate or enhance the original or primary purpose or purposes for which the Federal public lands or Federal public land unit was established and do not materially interfere with or hinder such purpose or purposes" (Sec. 4(e)(2)). This sweeping limitation on the Wilderness Act's requirements is not limited in the draft bill to requirements affecting hunting, fishing, and shooting; therefore, it presumably covers all other land use activities

as well, including logging, oil and gas drilling, road construction, buildings, mining, and commercial development. Since one of the original purposes of the national forests (as provided by the Organic Administration Act of 1897, 16 U.S.C. 475) is "to furnish a continuous supply of timber for the use and necessities of citizens of the United States," **H.R. 2834 could effectively lift the Wilderness Act's prohibition on logging road construction and timber cutting in all national forest Wilderness Areas.** Similarly, according to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732), a primary purpose for the public lands administered by the Bureau of Land Management is to produce minerals and timber as well as provide for other multiple uses. Thus, **H.R. 2834 would also open up all BLM Wilderness Areas to incompatible commodity development.**

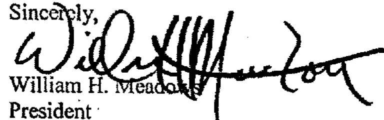
NEPA Exemption

In addition to eviscerating protections provided by the Wilderness Act, Section 4(c)(1)(B) of the bill completely undermines the National Environmental Policy Act (NEPA) – one of our bedrock environmental laws. Section 4(c)(1)(B) waives environmental review, eliminates public disclosure, and denies the public their right to participate in decisions affecting federal public lands by legislatively declaring that "no action taken under [the] Act… shall be considered a major Federal action significantly affecting the quality of the human environment." We see no reason for this broad exemption from NEPA, particularly since other provisions of the bill, for example Sec. 4(a), provide for federal land managers to make decisions under the Act in the context of federal land use planning processes, which are subject to NEPA.

In conclusion, while H.R. 2834 contains many provisions that are consistent with current federal land conservation laws and principles, the provisions in Sections 4(e) and 4(c)(1)(B) constitute unwarranted attacks on both the Wilderness Act and NEPA, thereby threatening the integrity of the National Wilderness Preservation System. Hunting, fishing and shooting activities are already occurring and very popular in designated Wilderness Areas, in large part because of the pristine habitat and quality hunting and fishing opportunities they provide. Inviting uses that would destroy the habitat and primitive backcountry experience of Wilderness is both unnecessary and misguided and certainly do not well-serve hunters and anglers who value the experience of hunting and fishing in our country's magnificent Wilderness Areas.

We therefore strongly urge the committee to remove Sec. 4(e) and Sec. 4(c)(1)(B) from H.R. 2834.

Sincerely,



William H. Meadows
President

Mr. BROUN. Thank you all so much. If there is no further business, without objection the Subcommittee stands adjourned.

[Whereupon, at 12:49 p.m., the Subcommittee was adjourned.]

○