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H.R. 2334, ROCKY MOUNTAIN NATIONAL PARK WILDERNESS AND INDIAN PEAKS WILDERNESS EXPANSION; H.R. 2632, SABINOSO WILDERNESS ACT OF 2007; H.R. 3287, TUMACACORI HIGHLANDS WILDERNESS ACT OF 2007; H.R. 3513, COPPER SALMON WILDERNESS ACT; AND H.R. 3682, CALIFORNIA DESERT AND MOUNTAIN HERITAGE ACT.

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 TENTH CONGRESS

FIRST SESSION

Tuesday, November 13, 2007

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LEGISLATIVE HEARING ON H.R. 2334, TO DESIGNATE AS WILDERNESS CERTAIN LAND WITHIN THE ROCKY MOUNTAIN NATIONAL PARK AND TO ADJUST THE BOUNDARIES OF THE INDIAN PEAKS WILDERNESS AND THE ARAPAHO NATIONAL RECREATION AREA OF THE ARAPAHO NATIONAL FOREST IN THE STATE OF COLORADO. (ROCKY MOUNTAIN NATIONAL PARK WILDERNESS AND INDIAN PEAKS WILDERNESS EXPANSION ACT); H.R. 2632, TO ESTABLISH THE SABINOSO WILDERNESS AREA IN SAN MIGUEL COUNTY, NEW MEXICO. (SABINOSO WILDERNESS ACT OF 2007); H.R. 3287, TO EXPAND THE PAJARITA WILDERNESS AND DESIGNATE THE TUMACACORI HIGHLAND WILDERNESS IN CORONADO NATIONAL FOREST, ARIZONA. (TUMACACORI HIGHLANDS WILDERNESS ACT OF 2007); H.R. 3513, TO AMEND THE OREGON WILDERNESS ACT OF 1984 TO DESIGNATE THE COPPER SALMON WILDERNESS AND TO AMEND THE WILD AND SCENIC RIVERS ACT TO DESIGNATE SEGMENTS OF THE NORTH AND SOUTH FORKS OF THE ELK RIVER IN THE STATE OF OREGON AS WILD OR SCENIC RIVERS. (COPPER SALMON WILDERNESS ACT); AND H.R. 3682, TO DESIGNATE CERTAIN FEDERAL LANDS IN RIVERSIDE COUNTY, CALIFORNIA, AS WILDERNESS, TO DESIGNATE CERTAIN RIVER SEGMENTS IN RIVERSIDE COUNTY AS A WILD, SCENIC, OR RECREATIONAL RIVER, TO ADJUST THE BOUNDARY OF THE SANTA ROSA AND SAN JACINTO MOUNTAINS NATIONAL MONUMENT. (CALIFORNIA DESERT AND MOUNTAIN HERITAGE ACT).

Tuesday, November 13, 2007
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 2:05 p.m., in Room 1324, Longworth House Office Building, Hon. Raúl Grijalva [Chairman of the Subcommittee] presiding.

Present: Representatives Grijalva, Holt, Mark Udall, Bishop, and Capps.

Also Present: Representative Tom Udall.

STATEMENT OF THE HON. RAÚL GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you. Let me call the Subcommittee to order.

Today we will be receiving testimony on five wilderness bills. I would like to thank all of our witnesses for being here today, and I look forward to receiving the testimony.

While input from agencies which manage our Federal lands is critical and important, the Wilderness Act is clear: Congress retains sole authority to designate wilderness. In practice, this means that a successful wilderness bill will be a consensus proposal taking into account input from all relevant stakeholders. Each of the measures before us today, I believe, is such a proposal.

Let me start off by talking about the legislation I have introduced, H.R. 3287, the Tumacacori Highlands Wilderness Act.

It is fitting that we are here discussing this measure while sitting in the Morris K. Udall Hearing Room. H.R. 3287 would expand the existing Pajarita Wilderness, which Congress designated in 1984 under the leadership of one of America's greatest conservation leaders and the former Chairman of this Committee, Mo Udall.

H.R. 3287 would also designate about 70,000 acres of Tumacacori Highlands Wilderness. This proposal will make a major contribution to the conservation of the natural wonders of my home state, Arizona. That benefit would be for all our citizens, those that are alive today and the generations that will come. These desert peaks and canyons are key parts of the world-renowned Sky Island bioregion, a biological hot spot where the southern margin of habitats for many species from the Rocky Mountains west overlaps the northern extent of habitats for many tropical species better known in Mexico. This area is home to subtropical species that are found nowhere else in the United States and offers secluded habitat vital to jaguars, which are now repopulating this portion of their former range.

Boundaries proposed in H.R. 3287 have been adjusted to ensure road access to the wilderness for recreation. The legislation has received support from local sportsmen who seek a true wilderness hunting experience, including support from back country hunters and handlers.

This legislation also receives support from local elected officials, the faith community, conservation groups, the hiking community, scientists and local businesses.

Today we are joined by a local business supporter, Carol Cullen, of the Tubac Chamber of Commerce. Land designated as wilderness in H.R. 3287 are in close proximity to the U.S.-Mexico border. The Arizona borderlands comprise some of the most biologically rich and fascinating ecosystems in existence. Because of the proximity to the border, H.R. 3287 recognizes a need to continue drug interdiction and border enforcement operations in the proposed wilderness area.

As a final point regarding my legislation, let me thank my fellow Arizonans, Carol Cullen and Matt Skroch, for joining us here today.

Today, we will also be hearing several other wilderness measures:

H.R. 2632, sponsored by our former committee colleague, Representative Tom Udall, which would designate approximately 20,000 acres of BLM land in New Mexico. This area has been managed as a wilderness study area for decades.

H.R. 3513, introduced by our Subcommittee colleague, Representative Peter DeFazio, would designate approximately 13,700 acres of the Rogue River-Siskiyou National Forest as wilderness and designates segments of the Elk River as wild and scenic.

H.R. 3682 was introduced by one of the co-chairs of the National Landscape Conservation System Caucus, Representative Mary Bono. The bill would designate 191,000 acres of wilderness and 31 miles of wild and scenic rivers in Riverside County, California. The bill would also add nearly 8,400 acres to the Santa Rosa and San Jacinto Mountains National Monument. Ms. Bono and other members of the California delegation have spent years on this consensus-driven effort and work diligently to ensure that the boundaries of the wilderness area address concerns about fire and public access.

And last, but certainly not least, is Representative Mark Udall's H.R. 2334, which would designate 249,339 acres of wilderness, including 94 percent of Rocky Mountain National Park. This bill would also add 1,000 acres to the existing Indian Peaks Wilderness area, which lies along the southern border of the park in Arapaho National Forest. I know the National Park Service has some concerns about some unusual liability language in the bill, and I will be interested to hear what the witnesses have to say about it.

With that, let me turn to our Ranking Member, Mr. Bishop, for any opening comments he may have.

[The prepared statement of Chairman Grijalva follows:]

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

The Subcommittee will come to order. Today we will be receiving testimony on five wilderness bills. I would like to thank all of our witnesses for being here today and I look forward to receiving their testimony.

While input from the agencies which manage our federal lands is important, the Wilderness Act is clear—Congress retains sole authority to designate wilderness. In practice, this means that a successful wilderness bill will be a consensus proposal, taking into account input from all relevant stakeholders. Each of the measures before us today is such a proposal.

Let me start off by talking about the bill I have introduced, H.R. 3287, the Tumacacori Highlands Wilderness Act. It is fitting that we are discussing this measure while sitting in the Morris K. Udall hearing room. H.R. 3287 would expand the existing Pajarita Wilderness, which Congress designated in 1984 under the leadership of one of America's greatest conservation leaders and a former Chairman of this Committee, Mo Udall.

H.R. 3287 would also designate about 70,000 acres as the Tumacacori Highlands Wilderness. This proposal will make a major contribution to the conservation of the natural wonders of Arizona, to the benefit of all of our citizens—those alive today and generations to come.

These desert peaks and canyons are key parts of the world-renowned Sky Island bioregion, a biological "hotspot" where the southern margin of habitats for many species from the Rocky Mountain West overlaps the northern extent of habitats for many tropical species better known in Mexico. The area is home to subtropical species that are found nowhere else in the United States, and offers secluded habitat vital to jaguars, which are now repopulating this portion of their former range.

The boundaries proposed in H.R. 3287 have been adjusted to ensure road access to the wilderness for recreation. The legislation has received support from local sportsmen who seek true wilderness hunting—including support from the Backcountry Hunters and Anglers.

This legislation has also received support from local elected officials, the faith community, conservation groups, the hiking community, scientists, and local businesses. Today we are joined by a local business supporter, Carol Cullen of the Tubac Chamber of Commerce.

The lands designated as wilderness in H.R. 3287 are in close proximity to the U.S.-Mexico border. The Arizona borderlands comprise some of the most biologically rich and fascinating ecosystems in existence. Because of the proximity to the border, H.R. 3287 recognizes the need to continue drug interdiction and border enforcement operations in the proposed wilderness areas.

As a final point regarding my legislation, let me thank my fellow Arizonans, Carol Cullen and Matt Skroch for joining us today.

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I'd now like to turn to Ranking Member Bishop for any opening statement he may have.

STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. Thank you. This will be extremely brief because we have a lot of people who want to talk and a long hearing ahead of us today. I will, though, say that the five bills that have come before us today in this packet all have some elements of controversy, obviously some bills much more than others, and they have

generated a lot of discussion in groups who would like to testify before Congress.

Mr. Chairman, I will at some point this week send you a personal request that we hold additional hearings on these five bills, some of them more than others simply because of the volume of interest that they have been generated from.

And with that, I will conclude my opening remarks.

Mr. GRIJALVA. Thank you, Mr. Bishop. And let me begin with our congressional colleagues for their testimony. Let me begin with Senator Ken Salazar for any opening comments.

Welcome, sir, and you are on.

STATEMENT OF HON. KEN SALAZAR, A UNITED STATES SENATOR FROM THE STATE OF COLORADO

Senator SALAZAR. Thank you very much, Mr. Chairman Grijalva. It is an honor and a privilege to be here before your committee over on the House side. I want to thank you for holding a hearing today to consider H.R. 2334, the Rocky Mountain National Wilderness Area Act.

Senator SALAZAR. I want also to take a moment and just say how much I thank my colleagues. I appreciate Senator Wayne Allard and his leadership on this issue, as well as Representative Udall and the long work that he has spent putting this important legislation together.

I want to thank the mayor of Estes Park, William Pinkham, who is here, and Dennis Harmon from the Water Supply and Storage Company in Fort Collins. They have traveled long distances because of the importance of this issue to testify here in front of your committee.

The bill before you is the product of a long, long journey. It is a product of broad bipartisan work among the Colorado delegation to protect one of our most prized landscapes, the Rocky Mountain National Park.

The bill is almost identical to a bill that Congressman Udall and I introduced last year, which then received a ringing endorsement from the Park Service. Earlier this year we held a similar hearing in the Senate Energy and Natural Resources Committee on which I serve; and Senator Allard and I testified there on behalf of this legislation. I am very proud of the support that this legislation has both within Colorado and with the local—and around the Nation. The bill is a win-win for economic development and conservation. It accommodates the needs of a broad range of interests.

I will leave the details of the bill for my full testimony. And for the record I would just offer the following. I would like to share with you the words of one of the founders of Rocky Mountain National Park, Enos Mills, one of our Nation's most committed naturalists. His love for the Rockies began in 1884, when at the age of 14 he scaled Longs Peak. Then he said, and I quote, "In years to come, when I am asleep beneath the pines, thousands of families will find rest and hope in this park," end of quote.

He was right. Thanks to the excellent work of his leadership and thousands of other people who have been involved, including the employees of the park over the past 90 years, the 3.2 million visitors that come to Rocky Mountain National Park each year experi-

ence the same wildlands and spectacular vistas that our ancestors enjoyed.

Mr. Chairman, our job of protecting the wild character of Rocky Mountain National Park is not complete until we get this legislation through. Only then will the wild character of the park be truly protected.

I once again, Mr. Chairman, want to thank you and the distinguished members of this committee. And I want to point out the great work that Senator Allard and Congressman Mark Udall have done on this legislation, which truly encapsulates a crown jewel not only of Colorado, but a crown jewel of the Nation. Thank you Mr. Chairman.

Mr. GRIJALVA. Thank you very much, Senator.

[The prepared statement of Senator Salazar follows:]

Statement of The Honorable Ken Salazar, a U.S. Senator from the State of Colorado

Thank you, Chairman Grijalva and Ranking Member Bishop, for holding this hearing today to consider H.R. 2334, the Rocky Mountain National Park Wilderness Area Act. I appreciate the opportunity to testify and thank my colleagues, Representative Udall, Representative Musgrave, and Senator Allard for their support for this bill.

I also want to William Pinkham, mayor of Estes Park, and Dennis Harmon, from the Water Supply and Storage Company in Fort Collins, Colorado, for being here. They have traveled long distances to testify.

Congress established Rocky Mountain National Park on January 26, 1915 on the vision of a man named Enos Mills, one of our nation's most committed naturalists, whose love for the wild Rockies began in 1884 when, at age 14, he scaled Long's Peak.

"In years to come when I am asleep beneath the pines," Mills once said, "thousands of families will find rest and hope in this park." He was right. Thanks to the excellent work of the Park Service and its employees over the past 90 years, the 3.2 million visitors that come to Rocky Mountain each year experience the same wild lands and spectacular vistas that our ancestors enjoyed.

Our job of protecting the wild character of Rocky Mountain National Park is not complete, however. In 1974 President Nixon recommended that Congress designate 239,835 acres within the Park as wilderness, but Congress has failed to act to designate on his recommendation.

Today, though, thanks to the tireless efforts of the local communities and the dedicated protectors of the Park, we come before the committee with a broadly supported bill that is deserving of passage.

H.R. 2334, and the Senate version that Sen. Allard and I introduced, S.1380, add 249,339 acres—nearly 95% of Rocky Mountain National Park—to the Wilderness Preservation System.

H.R. 2334 is almost identical to a bill Representative Udall and I introduced last year, and which received a ringing endorsement from the Park Service. H.R. 2334 does not affect private land owners, existing development, or water rights. The boundaries for the wilderness area exclude water projects, roads, and existing development. The bill allows for a bicycle trail along the western edge of the Park, provided that construction of the trail is consistent with the Park's mission. It also makes a small increase in the size of the nearby Indian Peaks Wilderness Area.

The only modification to this bill from last year is a provision that will clarify how the Grand River Ditch is to be operated and maintained in the Park. The Grand River Ditch has been in existence since 1891, almost 25 years before the creation of Rocky Mountain National Park. The ditch diverts Colorado River basin water over the Continental Divide and the Never Summer Range to farmers along the Front Range.

The language we have added would make the liability standard under which the ditch operates consistent with the standard that applies to other water users under Colorado law. This revised standard only applies, however, if the ditch is operated in accordance with an updated operations and maintenance plan approved by the Park Service. It is a sensible provision.

As one who feels that it is critical that local communities participate in and support these efforts, I am proud that this bill has the endorsement of local commu-

nities and organizations including Larimer County, Grand Lake, Grand County, the Town of Estes Park, Winter Park, the Town of Grand Lake, and the League of Women Voters. I am proud that our bill is a win-win for economic development and conservation, and accommodates the needs of a broad range of interests.

Again, thank you for allowing me to testify today. We held a similar hearing in the Senate Energy and Natural Resources Committee, of which I am a member, earlier this year. I am hopeful that we will be able to pass this bill promptly, so that we can get it to the President's desk for his signature.

Thank you, Mr. Chairman.

Mr. GRIJALVA. And we turn to your colleague, Senator Allard, for his comments regarding the legislation.

And thank you for taking the time to be here, sir.

STATEMENT OF HON. WAYNE ALLARD, A UNITED STATES SENATOR FROM THE STATE OF COLORADO

Senator ALLARD. Mr. Chairman, thank you. And I want to thank also Ranking Member Bishop for the opportunity to be here before you today and to testify as the committee considers the Rocky Mountain National Park Wilderness area.

It is a pleasure for me to come before this committee. It brings back many fond memories when I served on the Natural Resources Committee here when I served in the U.S. House. The history of a Colorado Congressman serving on this committee dates way, way back.

Rocky Mountain National Park, that we are going to discuss today, was one of the favorites of, at that time when it was created, President Teddy Roosevelt. And the resources from this park end up affecting States all the way down to the Gulf of Mexico and States all the way over to the Pacific Ocean. They are the top of the heap. They are on the Continental Divide. And there are a number—as you might imagine, a number of very pristine areas in the park that we all want to protect. There is also some infrastructure within the park that is vital to the survival of those communities that live on those, and States that live on those river drainage areas that go all the way down to the Gulf of Mexico, as well as to the Pacific Ocean.

This legislation is a result of more than a year of negotiation between Members of the Colorado delegation. It is a carefully crafted bill involving thousands of hours of work with citizens, local elected officials and the environmental community.

One of the most famous Members of Congress we had serving Colorado was Wayne Aspinall, who worked very closely with then-Congressman Udall from Arizona. And I find myself surrounded by Udalls here today. I have a Udall on my left and a Udall on my right. I don't have any way to turn but you, Mr. Chairman, so we are here to turn to you for some support on this legislation.

As a fifth generation Coloradan and somebody who grew up in the shadow of Rocky Mountain National Park, it is an honor to have worked on this bill with both Congressman Udall, as well as Congresswoman Musgrave, and particularly with my colleague from the Senate, Senator Salazar. We both have a very strong appreciation for the natural resources of Colorado. We don't want to lose what has made Colorado a destination for tourists and what Coloradans are proud of, and that is our vistas.

Colorado and its congressional delegation have long played an important role in development of wilderness in our Nation. It dates back again to the original Wilderness Act. Congressman Wayne Aspinall, who represented Colorado's Fourth Congressional District and chaired the Committee on Interior and Insular Affairs, played a pivotal role in creating the Nation's wilderness system with the 1964 Wilderness Act.

From the inception of the Wilderness Act through the continued development of wilderness in Colorado, one thing has remained the same: a commitment to working together to find compromise in solutions that work for everyone. The principles of compromise have held true from the Colorado National Forest Wilderness Act of 1980 to the Spanish Peaks Wilderness Act in 2000.

It is now true with the Rocky Mountain National Park Wilderness Act of 2007. This is reflected by the broad support this bill enjoys. Everyone from water users to the environmental community support this bill.

There is one exception to this nearly universal support. I understand that the administration has expressed concern about the water protection language we included protecting the Grand River Ditch. I understand these concerns are based on the idea that it is an atypical section for a wilderness designation.

During my extensive tenure in both Houses of Congress, I have been a part of numerous wilderness designations, and the one and only common factor with these wilderness designations is that none of them were typical. When I worked to designate the Spanish Peaks Wilderness, we had to cherry-stem the Bull's-Eye Mine Road. A cherry-stemmed road in a wilderness area is not typical, but in this case it was necessary for its creation.

In regard to a wilderness designation for Rocky Mountain National Park, I can say unequivocally that without the protections for the Grand River Ditch there can be no designation. In a time when agriculture wells are being threatened just east of the park in Weld and Morgan Counties, the protection of water is more important than ever. The 40,000 acre-feet, or over 13 billion gallons, of water that flow through the Grand River Ditch are important to both rural Colorado and urban areas outside of Denver that depend on the water to meet municipal needs.

The protection of this water infrastructure is a key component of this compromised legislation. If we do not recognize and protect the water provided by the Grand Ditch. This bill cannot move forward. Protecting this water is vital to preserving the area's agricultural heritage and its future, as well as green acres and preserved habitat outside of Rocky Mountain National Park.

I am extremely pleased that this bill, as written, will protect wilderness and respect water rights and private property rights. The Rocky Mountain National Park Wilderness Act will ensure that Americans now and in the future have the ability to enjoy the park.

Thank you, Mr. Chairman and members of the committee, for your consideration of the Rocky Mountain National Park Wilderness Act.

Mr. GRIJALVA. Thank you very much, Senator.

[The prepared statement of Senator Allard follows:]

Statement of The Honorable Wayne Allard, a U.S. Senator from the State of Colorado

Thank you Chairman Grijalva and Rankin Member Bishop, for allowing me the opportunity to appear before you today, and for the committee's consideration of the Rocky Mountain National Park Wilderness Act.

I am pleased to come before the Committee today to discuss legislation that will designate Rocky Mountain National Park as Wilderness.

This legislation is the result of more than a year of negotiations between members of the Colorado Delegation. It is a carefully crafted bill involving thousands of hours of work with citizens, local elected officials and the environmental community.

This legislation will provide further protection for an area that was formed millions of years ago when massive glaciers carved an impressive landscape. The Rocky Mountain National Park Wilderness Act will ensure that it remains unchanged in years to come.

As a fifth generation Coloradan, and someone who grew up in the shadow of Rocky Mountain National Park, it is an honor to have worked on this bill with Congressman Udall and Congresswoman Musgrave.

Colorado and its Congressional representatives have long played an important role in the development of Wilderness in our Nation.

This dates back to the original Wilderness Act. Congressman Wayne Aspinall, who represented Colorado's 4th Congressional district and chaired the Committee on Interior and Insular Affairs, played a pivotal role in creating the nation's wilderness system with the 1964 Wilderness Act.

From the inception of the original Wilderness Act through the continued development of Wilderness in Colorado one thing has remained the same: a commitment to working together to find compromise and solutions that work for everyone.

The principle of compromise has held true from the Colorado National Forest Wilderness Act of 1980 to the Spanish Peaks Wilderness Act in 2000, and it is now true with the Rocky Mountain National Park Wilderness Act of 2007.

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When I worked to designate the Spanish Peaks Wilderness we had to cherry stem the Bulls Eye Mine Road. A cherry stemmed road in a wilderness area is not typical but in this case it was necessary to its creation.

In regard to a Wilderness designation for Rock Mountain National Park I can say unequivocally that without the protections for the Grand River Ditch there can be no designation.

In a time when agricultural wells are being threatened just east of the Park in Weld and Morgan Counties, the protection of water is more important than ever.

The 40,000 acre feet or over 13 billion gallons of water that flow through the Grand River Ditch are important to both rural Colorado and urban areas outside of Denver that depend on this water to meet municipal needs.

The protection of this water infrastructure is a key component of this compromise legislation. If we do not recognize and protect the water provided by the Grand Ditch this bill cannot move forward.

Protecting this water is vital to preserving this area's agricultural heritage and its future as well as green acres and preserved habitat outside of Rocky Mountain National Park.

I am extremely pleased that this bill as written will protect wilderness and respect water rights.

The Rocky Mountain National Park Wilderness Act will ensure that Americans, now and in the future, have the ability to enjoy the Park. Thank you Mr. Chairman, and members of the Committee, for your consideration of the Rocky Mountain National Park Wilderness Act.

Mr. GRIJALVA. Let me now invite our colleague from the committee, Mr. Mark Udall, for any comments he might have on the legislation.

STATEMENT OF THE HON. MARK UDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. MARK UDALL. Thank you, Mr. Chairman. I think we have such a distinguished panel here in front of us today that I would like to hear, as we have from the two Senators from our state, also from Congressman Udall from New Mexico, as well as from my favorite member of the panel, Congresswoman Bono, from California. She has an important initiative that she wants to bring to the committee's attention as well.

But if I could, Mr. Chairman, add that this work has gone on for many, many years. As the committee has heard, it is broadly supported across the State, and we are eager to cross the "T" when it comes to the Grand River Ditch situation that Senator Allard outlined and move forward as soon as we possibly can to make this a reality.

And the process will keep faith with Enos Mills, the great Enos Mills who set an example for all of us.

Thank you to the Senators for being here today.

Thank you, Mr. Chairman.

Mr. GRIJALVA. Thank you, Mr. Udall.

Mr. GRIJALVA. Let me now ask Representative Mary Bono for H.R. 3682. Thank you and your comments.

Senator ALLARD. Mr. Chairman, if I might ask permission. Senator Salazar and I have some meetings over on the Senate side. May we be excused, please?

Mr. GRIJALVA. Yes. Thank you.

Senator ALLARD. Thank you.

STATEMENT OF THE HON. MARY BONO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. BONO. Good afternoon, Chairman Grijalva, Ranking Member Bishop, and members of the Subcommittee. I would like to thank you for the opportunity to testify on H.R. 3682, the California Desert and Mountain Heritage Act.

Mrs. BONO. I introduced similar legislation in the 109th Congress, and it is my hope that today's hearing will convey the hard work we have undertaken in refining and improving this bill. In simple terms, known very well by the Subcommittee, H.R. 3682 designates new and expands existing wilderness, along with four wild and scenic rivers.

Additionally, the bill includes a small expansion of the Santa Rosa and San Jacinto Mountains National Monument. This unique monument, which was created by legislation I introduced in 2000. Stands 7 years later as a framework by which I have approached this new effort.

One highly visited area of my district exists today in protected status due to the involvement of a gentleman who I was very proud to call a friend and fellow long-term resident of the Coachella Valley. President Gerald R. Ford, who lived his latter years a short drive away from what is now Joshua Tree National Park, recognized the value of these lands by signing into law a bill creating nearly 430,000 acres of wilderness within the park.

Looking beyond the park, there are other proposed wilderness lands in the eastern half of my district. These areas are an impres-

sive example of our continually changing landscape as the San Andreas Fault quite literally cuts through the region, creating unique peaks and views of the nearby Salton Sea. When examining these areas, I took a close look at ensuring that by creating wilderness, we would not be taking away from another valuable resource offered by some of these lands; and that is renewable energy. Embodied within H.R. 3682 are lands with some very refined boundaries; these are necessary so that we do not tie the hands of those companies actively seeking the expanded use of renewable energy sources ranging from solar to wind and even geothermal.

The western half of my congressional district brings with it a different landscape, one that is dominated by the unique rock formations of Beauty Mountain and transitioning to groves of oak and fir trees in the South Fork San Jacinto River Canyon area. These forests are part of an ecosystem that is also covered in chaparral making the region highly prone to devastating fires. As we saw just a few weeks ago when one combines a chaparral that is dry and dense with the Santa Ana winds, the fires spread with incredible pace, evidenced in the half million acres recently lost throughout Southern California.

With Riverside County's existing drought designation, it is clear to me that we are fortunate to have avoided another event on the scale of the Esperanza fire in my district last year, one that took the lives of five brave U.S. Forest Service firefighters. Because of the difficult circumstances facing the Forest Service supervisors in this area, I built into my legislation what I see as a unique but necessary approach. It will hopefully empower the local decision-makers, protect vital funding for fuels management and allow for the tools needed to keep the area safe. The input provided by my local Fire Safe Council was crucial as home owners in communities like Idyllwild, Pine Cove and others know firsthand the importance of sound fuels management.

The past year that I have spent working to engage our local communities on issues of trail use, mountain biking, renewable energy needs and very real fire concerns has created a continually evolving piece of legislation. I have significantly altered maps to exclude thousands of acres near private lands, pulled back from areas that could be used as fuel breaks by the Forest Service and changed areas to ensure vehicle, mountain bike and private property owner access.

This Subcommittee understands well just what sort of detail efforts can go into talking to residents about these wilderness proposals. My efforts in this vein will continue and have already resulted in support of the nearby county supervisors, State legislators and municipal governments. These locals have spent years of their own time putting together the Coachella Valley Multi-Species Habitat Conservation Plan, and its Federal effort is consistent with this important proposal.

Mr. Chairman, I would like to enter into the record some of these letters of support, if possible.

Mr. GRIJALVA. Without objection.

[NOTE: Letters submitted for the record have been retained in the Committee's official files.]

Mrs. BONO. Thank you.

Again, I learned in 2000, with a monument designation, that the only way to enact these Federal changes is through the continual collaboration with constituents, and I have used the past year to undertake that challenge. The result is a bill of which I think the country's third fastest growing county can be very proud. We are working to embrace ways in which our population can grow across the desert floor and countryside in a thoughtful, environmentally sound manner.

With this said, Chairman Grijalva and Ranking Member Bishop, I know my time is running short, but I think President Ford said it well in his own words when he stated, and I quote, "I believe that the wilderness system serves a basic need of all Americans, even those who may never visit a wilderness area, the preservation of a vital element of our heritage," end quote.

Thank you again, Mr. Chairman and Ranking Member Bishop, for providing me this time to testify on this legislation. I yield back the balance of my time.

Mr. GRIJALVA. Thank you very much.

Mr. GRIJALVA. Let me turn to the gentleman from the Land of Enchantment, our colleague, Mr. Tom Udall.

Sir.

STATEMENT OF THE HON. TOM UDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Mr. TOM UDALL. Thank you very much, Chairman Grijalva and Ranking Member Bishop. And I want to thank you also for having on the subsequent panel a good friend of mine, Arturo Sandoval, a conservation activist and somebody that will really tell you about the on-the-ground support. I look forward to remaining here and hearing his testimony.

It is an honor to come before you today to testify on my bill, H.R. 2632, the Sabinoso Wilderness Act of 2007.

Mr. TOM UDALL. New Mexico is filled with extraordinary landscapes. As a representative of this beautiful State, it is my obligation to work to conserve the scenic and historic areas for future generations. One of New Mexico's special places is the region in and around the Sabinoso Wilderness Study Area. Last year, I had the opportunity to explore this unique area on horseback while traveling through deep canyons covered with indigenous trees, such a pinyon, juniper, cottonwood, willow and ponderosa pine it was evident that Sabinoso is an exceptional setting that deserves to be protected and accessible to all. That is why I introduced the legislation to designate this wilderness, the lands in and near the Sabinoso Wilderness Study Area. The proposed wilderness comprises approximately 20,000 acres and is situated in San Miguel County, 40 miles east of Las Vegas, New Mexico, and 25 miles northwest of Conchas Dam State Park.

Roaming the canyons last year, I was struck by the ecological, scenic and recreational values of the area. Sabinoso overlays a thick section of colorful sedimentary rocks typical of desert rock formations throughout the West. The area's scenic and densely vegetated landscape is also home to a rich diversity of wildlife such as Red-Tailed Hawks, Western Scrub-Jays, Broad-Tailed Hummingbirds, mule deer, bobcats and gray foxes. All of these natural

resources will provide outstanding opportunities to hike, hunt, horseback ride, take photographs and simply experience the unspoiled lands of our ancestors.

For many decades, this beautiful piece of land has been inaccessible to the general public. In concert with our efforts to designate the area, the New Mexico Department of Game and Fish Open Gate Access Program has been working to secure public access to the Sabinoso area.

Mr. Chairman, I would like to submit for the record a letter from the Department of Fish and Game, dated November 8, 2007, stating that they will—quote, "will have an agreement in place by the end of the 2007 calendar year opening up access to the area for this coming spring."

Mr. GRIJALVA. Without objection.

[NOTE: Letters submitted for the record have been retained in the Committee's official files.]

Mr. TOM UDALL. Opening Sabinoso and protecting it as a wilderness will also create important new economic development opportunities for the surrounding communities.

Finally, New Mexico State House Memorial 53, which calls on the New Mexico congressional delegation to support the establishment of the Sabinoso Wilderness Area, was introduced by State Representative Thomas Garcia during the 2007 session and passed unanimously by a vote of 66 to 0.

I would also like to submit this resolution, Mr. Chairman, for the record.

Mr. GRIJALVA. Without objection.

[NOTE: The resolution submitted for the record has been retained in the Committee's official files.]

Mr. TOM UDALL. Chairman Grijalva and Ranking Member Bishop, I urge you to favorably recommend this bill to the full committee, designating the Sabinoso Wilderness Area will enable people from generations to come to experience the unspoiled natural and unique beauty of the Southwest. Thank you both.

Mr. GRIJALVA. Thank you.

Mr. GRIJALVA. And let me thank our colleagues very much for their testimony and for what I believe to be very important and necessary initiatives, legislative initiatives.

Thank you. I have no questions for our colleagues.

Mr. Bishop.

Mr. BISHOP. Maybe one, just for both of you, I created a wilderness area in Utah on some area that may be questionable as far as its designated qualities for that wilderness. But one of the things that we did before we did that was to talk to every individual private property holder in that particular area.

For both of you there are some significant private property holdings. I would simply like to ask you both, have you contacted all of the private property inholders and have they been included? First of all, have you contacted them all, and are they in support of this—forget the other last one. Just, have you contacted them?

Mrs. BONO. I appreciate the question very much.

I think it would be overstating to say every single landowner that we have talked to. But in the course of the one year we have reached out to any interested party, as many people as we possibly

could; and we have certainly done a lot of press on this issue to make sure that people who are concerned would come forward and address their issues with us. And I think we have done a great job of that.

I think, further, the national monument we created in 2000 is a great example of including local voices in this legislation. So I can say with great confidence that we have reached out to anybody who has been interested at all. But if it is 100 percent, of course, I don't think any of us could ever claim that.

Mr. TOM UDALL. Thank you, Ranking Member Bishop.

And I know, let me say at the outset, that you have been a great champion for property rights and private property. And I think I learned a lot from you in the course of serving with you on this committee, and I think that is a very important question you ask.

First of all, I would say we are in the process of doing this in terms of my office and my staff. But I believe that every property owner that is involved in this has many times over had contact from the Federal Government. As you know, these wilderness study areas were designated over 20 years ago. And in designating wilderness study, word went out very widely. The BLM was in the process of working with local landholders and went through a very extensive public process. They heard from them, they acted in accordance with what they heard.

And what we have before us today, the Sabinoso Wilderness Study Area, has been vetted through a public process; it has been a very vigorous public process. And I think that it is important to note that there has been, as far as the public arena, very little objection to what is going on.

As you recognize from my testimony, the State Game and Fish, which is planning to get access to this particular area by the end of this year, has been working with a specific private owner in order to gain access; and that private owner was so enthusiastic about the idea of giving the private access that they are now on the eve of signing an actual agreement.

So I think you make an important point. We always need to involve the private property folks that are in and around a wilderness study area like this. And I commit myself to continue to do that in the vein that you ask that question.

Thank you very much.

Mr. BISHOP. I appreciate both of your efforts in that regard.

I know what I was trying to do was much less ambitious in the area than you are proposing, so it was easier to contact them. I do realize also that a lot of the property owners were not necessarily living in the area, so even though this was the big issue in the State of Utah, some of them had no concept about it. We even found out that one property owner was dead and had not left anyone in his will to be executors of his claim on that particular land.

A simple question, just for the number, do each of you know how many people we are talking about who have private property holdings in your area?

Mr. TOM UDALL. We are talking, for the Sabinoso Wilderness, about 10 ranchers, I believe, that have private property in or near the area.

Mr. BISHOP. Wow. You are less than I had. OK.

Mr. TOM UDALL. And as I said earlier, Ranking Member Bishop, I believe that they were included in the extensive public process that went into creating these wilderness study areas throughout the West and in New Mexico.

Mrs. BONO. And also I am informed by my able staffer, Chris Foster, a couple hundred people, including many of those who are actually Koreans, people who live in Korea, who have investment property within Joshua Tree.

Mr. BISHOP. OK. Thank you.

Mr. GRIJALVA. Mr. Udall, any questions? A comment?

Mr. MARK UDALL. Mr. Chairman I don't have any questions at this time.

Mr. GRIJALVA. Again, thank you, and I appreciate your testimony. And you are invited to be up at the dais with us as we continue this discussion. Thank you.

Mr. GRIJALVA. Let me at this point invite the other panel up please. Thank you. Let me welcome our witnesses again, and begin with Deputy Chief Holtrop, National Forest System, U.S. Forest Service.

Sir.

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

Mr. HOLTROP. Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to provide our views on the bills before you today. The Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act would remove acreage from the Arapaho National Recreation Area in the Arapaho Roosevelt National Forest and designate the land as an addition to the existing Indian Peaks Wilderness. The Department of Agriculture supports the addition to the Indian Peaks Wilderness.

The Tumacacori Highlands Wilderness Act of 2007 would designate new wilderness areas on the Coronado National Forest in Arizona by expanding the Pajarita Wilderness, approximately 5,500 acres, and designating some additional 70,000 acres as a Tumacacori Highlands Wilderness.

The administration supports the designation of wilderness for areas that are consistent with the characteristic of wilderness. An initial assessment indicates that much of the area proposed in this bill has outstanding potential for wilderness designation. However, the administration is concerned about conflicting demands in portions of the proposed wilderness associated with access, resource management and border security that would compromise the wilderness characteristics of these portions. We would like to work with the bills' sponsors and the Subcommittee to seek agreement on these concerns.

About 5 miles of the current Pajarita Wilderness and some 5 miles of the proposed Tumacacori Highlands Wilderness are contiguous with the Mexican border. This area is currently experiencing unprecedented pressure from various illegal activities. The Forest Service and Border Patrol coordinate with all other Federal, State, tribal and local land management and law enforcement agencies.

The Departments of Homeland Security, Interior and Agriculture have entered into a memorandum of understanding for cooperative national security and counterterrorism efforts along the United States borders. We will continue to use the management tools that have the least impact on natural resources to fulfill our agency responsibilities.

We are concerned that further restrictions on the use of these tools as a result of wilderness designation could hinder our law enforcement and resource management effectiveness, and thus, the administration believes that portions of the proposed Tumacacori Highlands Wilderness are not suitable for wilderness designation at this time. We recommend that areas where motorized use is necessary for range permittees and for hunting, undeveloped recreation and forest administration be omitted from wilderness designation.

The travel management planning process currently being conducted by the Coronado National Forest is being coordinated with public involvement for the revision of the Coronado National Forest Land Management Plan. The administration would prefer to engage the public through these planning processes.

Mr. HOLTROP. The Copper Salmon Wilderness Act would designate approximately 13,700 acres of the Rogue River-Siskiyou National Forest as wilderness and designate segments of the north and south forks of the Elk River as additions to the existing Elk Wild and Scenic River.

The Department supports this bill, but requests some important adjustments to the wilderness boundary. These adjustments would provide for better separation of motorized use from the wilderness, allow for road maintenance activities within road clearing limits such as ditch cleaning and culvert and bridge maintenance, as well as to accommodate treatments of plantations that would improve forest health and habitat diversity while increasing firefighter safety.

The California Desert and Mountain Heritage Act would create two new wildernesses on the San Bernardino Forest, add additional acreage on the existing designated wilderness on the Cleveland and San Bernardino National Forests and designate stretches of four rivers on the San Bernardino National Forest as components of the National Wild and Scenic Rivers System. It would also expand the boundaries of the Santa Rosa and San Jacinto National Mountains Monument.

The Department of Agriculture supports H.R. 3682, if amended. We note there are differences between the proposed wilderness designations in the bill and the wilderness recommendations made in the 2006 forest plan revisions for southern California national forests. During that public involvement process, most of the wilderness areas proposed in this bill did not meet criteria for wilderness suitability because of current or potential uses that would conflict with wilderness designation such as reduction of hazardous fuels.

We do not oppose the addition of four rivers to the National Wild and Scenic Rivers System, based on general support by the communities of interest, inconsistency of the designation with the management of the national forest system lands within the river corridors.

We fully support that portion of the expansion of the Santa Rosa and San Jacinto Mountains National Monument under national forest management. I would like to take this opportunity to thank Congresswoman Bono and her staff for their work with the Forest Service and area citizens in crafting this bill and for making some changes to the proposal based on local input. In the short time that our staff had to prepare for this hearing, it was difficult to communicate directly with the southern California national forests, who have been responding to the recent wildfires regarding specific concerns. We look forward to continuing to work with the bill's sponsor and the Subcommittee to address issues raised at today's hearing.

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

Mr. GRIJALVA. Thank you, sir.

[The prepared statement of Mr. Holtrop follows:]

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

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to provide the Department's view on the Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act, the Tumacacori Highlands Wilderness Act of 2007, the Copper Salmon Wilderness Act, and the California Desert and Mountain Heritage Act. I will address each of these individually.

H.R. 2334, Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act

Section 6 of H.R. 2332 would remove acreage from the Arapaho National Recreation Area in the Arapaho-Roosevelt National Forest and designate the land as an addition to the existing Indian Peaks Wilderness Area. The Department of Agriculture supports the addition to the Indian Peaks Wilderness.

We defer to the Department of the Interior regarding those portions of the bill affecting lands administered by the National Park Service.

H.R. 3287, Tumacacori Highlands Wilderness Act of 2007

This bill would designate new wilderness areas on the Coronado National Forest in Arizona by expanding the Pajarita Wilderness approximately 5,500 acres (for a total of about 13,300 acres) and designating some additional 70,000 acres as the Tumacacori Highlands Wilderness.

The Administration supports the designation of wilderness for areas that are consistent with the characteristics of wilderness described in the Wilderness Act of 1964—areas dominated by the forces of nature, with primeval character and natural conditions that contrast with developed lands and offer outstanding opportunities for solitude or primitive and unconfined recreation. An initial assessment indicates that much of the area proposed in this bill has outstanding potential for wilderness designation. However, the Administration is concerned about conflicting demands in portions of the proposed wilderness associated with access, resource management, and border security that would compromise the wilderness characteristics of these portions. In addition, the Administration would prefer to engage the public through a public planning process to help determine which areas of the Coronado National Forest merit recommendation for wilderness designation. We would like to work with the bill's sponsors and the Subcommittee to seek agreement on these concerns.

The lands that would be designated wilderness by H.R. 3287 are located approximately 25 miles south of Tucson, Arizona and extend to the U.S. border with Mexico. The Tumacacori Mountains dominate the landscape, rising to about 5,800 feet above sea level and are covered with forested vegetation. These "sky islands" have steep slopes that are cut by intermittent drainages lined with lush riparian vegetation, which drain to a desert floor covered with Sonoran desert vegetation. The area provides habitat for five endangered species and four threatened species, including habitat for jaguars, which have been spotted several times in the vicinity.

There are at least eight active range allotments and associated range improvements within the proposed areas that require occasional maintenance, including earthen tanks, water wells, water catchments, gates, and fences. The area provides trophy deer hunting and other undeveloped recreational opportunities. There are

few roads, and the Forest Service lacks legal rights-of-way on several roads that could otherwise provide public access to the area.

Fifty-four miles of the Coronado National Forest are contiguous with the Mexican border, including approximately 5 miles of the current Pajarita Wilderness, and some 5 miles of the proposed Tumacacori Highlands Wilderness. This area is currently experiencing unprecedented pressure from various illegal activities.

Initiatives by the U.S. Border Patrol (Border Patrol) in Arizona to control areas of the border on either side of the Coronado National Forest has funneled growing amounts of illegal vehicle and foot traffic through the valleys and mountains of the Forest. The Border Patrol's Tucson Sector, which encompasses most of the Coronado National Forest, has the highest incidence of cross-border violators in the nation. In Fiscal Year 2007, the Border Patrol apprehended 35,706 undocumented aliens and engaged with 581 illegal vehicle entries in the Coronado National Forest. In addition, 196,794 pounds of marijuana were seized while being transported through the Forest.

The damaging effects of thousands of undocumented aliens crossing this area of the border are significant and include:

- Damage to natural and cultural resources resulting from many miles of illegal roads and trails, fouling of water sources, and deposits of large amounts of trash, human waste, and abandoned vehicles. Tons of litter and human waste are left behind, which are difficult to remove in designated wilderness where removal by horses or mules is required.
- Federal facilities and property of livestock permittees, miners and other authorized users of the forest are heavily impacted by cross-border violators, who sometimes cut fences, damage roads, break down or leave gates open, damage water supplies and forage, steal or damage equipment, and disrupt livestock grazing and irrigation schedules.
- Numerous wildfires resulting from arson and abandoned warming, cooking, and signal fires have destroyed valuable natural and cultural resources, and put firefighters and forest visitors at risk.
- Exploitation of undocumented aliens by smugglers brings with it an increase in other criminal activities and violence. Criminal activity is a threat to members of the public trying to use their public lands, and to employees who manage these lands and provide services to the public.

The Forest Service and Border Patrol coordinate with all other federal, state, tribal and local land management and law enforcement agencies through the Borderland Management Task Force (BMTF). The Border Patrol has also established a special public lands liaison position to work closely with public land management and law enforcement personnel. In the spring of 2006, the Departments of Homeland Security, Interior, and Agriculture signed a memorandum of understanding (MOU) for cooperative national security and counterterrorism efforts along the United States' borders.

The MOU provides guidance to coordinate border enforcement operations, including minimizing or preventing impacts to natural and cultural resources. Along the U.S.-Mexico border, a sixty-foot wide strip designated in 1907 referred to as the "Roosevelt Reservation" is reserved primarily for border enforcement purposes. Where the Forest Service has primary jurisdiction, the MOU outlines procedures for working in designated wilderness or wilderness study areas. For example, U.S. Customs and Border Patrol agents may patrol on foot or horseback, and operate motor vehicles on roads or areas that are already authorized for those uses by the public or administratively. Motorized use in wilderness areas is permitted in emergency situations to pursue suspects or in an emergency situation that involves human life, health, or safety. Written agreement is required for additional access to areas not previously designated for off-road use, further requiring that the lowest impact mode of travel and operational set-up be used to accomplish the mission. The MOU also outlines procedures for approving and installing detection infrastructure within wilderness areas, using the "minimum tool" analysis to determine transit modes.

We will continue to use, and to encourage the Border Patrol to use, the management tools that have the least impact on natural resources to fulfill our agency responsibilities. Currently, both agencies use motorized vehicles and aircraft, as well as improvements such as communications towers in the area proposed for wilderness by H.R. 3287. We are concerned that further restrictions on use of these tools as a result of wilderness designation could hinder our law enforcement effectiveness.

In addition to the MOU, the Forest Service and Border Patrol recently developed a strategic plan to implement border security operations on the Coronado National Forest. The strategic plan addresses the flow of illegal aliens and narcotic smugglers and emphasizes a first line of defense at the border 24 hours a day, 7 days a week to stop violators before they enter the Coronado National Forest. However, the

area's rugged terrain, and, to some extent, wilderness management requirements increases the complexity of border security operations. For example, the strategic plan calls for reestablishment of the historic "Screwworm" pack trail on the Coronado National Forest along the border within existing and proposed wilderness to open it up for motorized patrol on all terrain vehicles.

Due to the intensive illegal activity and the need for enforcement action and resource management along the border, the Administration believes that portions of the proposed Tumacacori Highlands Wilderness are not suitable for wilderness designation at this time.

The Department of Agriculture is concerned with the extensive use of "cherry stems" to exclude designated roads or travelways from this wilderness designation. Our understanding is that these routes are intended to provide motorized access for permittees and for public access. However, in our view, it is important to maintain the integrity of wilderness by designating only those areas which are, as stated in the Wilderness Act and in Forest Service policy, "dominated by the forces of nature". Allowing for continued motorized use miles into a designated wilderness, even along undesignated corridors, can lead to motorized incursions from the roadways, noise, and other intrusions. We recommend that areas where motorized use is necessary for range permittees and for hunting, undeveloped recreation, and forest administration be omitted from wilderness designation.

Another important issue of concern involves road access. Although maps indicate a number of roads lead from Interstate 19 on the east and Arivaca Road on the west to the proposed wilderness areas, the Forest Service lacks legal rights-of-way for public use of many of these roads. In addition, the designation of the Tumacacori Highlands Wilderness at the northwest border of National Forest System lands would preclude any legal motorized access to this section of the Forest. Over the next few years the Coronado National Forest will engage the public and coordinate with state, county, and tribal governments to identify and designate roads, trails and areas that are open to motor vehicle use through the Travel Management Planning process. This analysis, with public involvement, will also identify roads that should be decommissioned, including, potentially, several Forest Roads in the proposed wilderness areas that are no longer in use. It will also address the need for new routes along the northwest border of the proposed Tumacacori Highlands Wilderness to link existing roads and provide legal access within the Forest boundary.

The Travel Management Planning process is being coordinated with public involvement for the revision of the Coronado National Forest Land Management Plan, scheduled for completion in 2009. Public workshops have been held in local communities, including one held last week in Rio Rico, Arizona, to engage the public in describing their future resource goals for the Coronado National Forest. Part of the process is to complete a Wilderness Needs Assessment, which analyzes all Forest lands to determine which areas meet the criteria for wilderness recommendation. The Administration would prefer to engage the public through this planning process to help determine which areas of the Coronado National Forest merit recommendation for wilderness designation.

In summary, the Administration believes that much of the area proposed for wilderness designation by H.R. 3287 merits consideration for wilderness recommendation using criteria established by the Wilderness Act. However, we have concerns that other areas, primarily at the edges of the proposed wilderness are either not consistent with wilderness criteria, or present difficult management situations that may change at a future time. In addition, we prefer to engage in the public planning process as a means of recommending wilderness for designation. We would like to work with the bill's sponsors and the Subcommittee to discuss areas of agreement and concern.

H.R. 3513, Copper Salmon Wilderness Act

H.R. 3513 would designate approximately 13,700 acres of the Rogue River-Siskiyou National Forest as wilderness and designate segments of the North and South Forks of the Elk River as additions to the existing Elk Wild and Scenic River.

The Department supports this bill, but requests some important adjustments to the wilderness boundary. These adjustments would provide for better separation of motorized use from the wilderness, allow for road maintenance activities within road clearing limits (such as ditch cleaning and culvert and bridge maintenance), as well as to accommodate treatments of plantations that would improve forest health and habitat diversity while increasing firefighter safety.

The wilderness proposal comprises 13,700 acres of rugged forested land surrounding Copper Mountain, Barklow Mountain, and Salmon Mountain adjacent to the Grassy Knob Wilderness. It contains vast stands of Douglas fir and relatively rare native Port Orford cedar trees. About ten percent of the proposed wilderness

area is designated in the Siskiyou National Forest Plan as a "Supplemental Resource Area", considered highly productive habitat for wildlife and fish, critical for the maintenance of watershed condition, and with special recreation values. Lands within the proposed wilderness are primarily allocated as Late Successional Reserves (LSR) under the Northwest Forest Plan. LSRs are designed to serve as habitat for old growth-related species. This LSR allocation includes 2,267 acres of previously managed overstocked Douglas fir plantations.

Using perimeter forest roads as the boundary designation as in H.R. 3513 would likely lead to unintended incursions of motorized vehicles and mechanized equipment into the wilderness. In addition most of the plantations adjacent to forest roads that comprise a portion of the wilderness boundary (about 1,000 acres) were included in the Coastal Healthy Forest Environmental Analysis signed in 2007. Treatment of these stands would improve habitat conditions for fish and wildlife, reduce effects from insects and disease, and provide defensible space for firefighters in the event of a wildfire, consistent with their allocation as Late Successional Reserve (LSRs). Wilderness designation would preclude this treatment.

The proposed wilderness includes about nine miles of designated roads. All but two of those road miles are currently closed to vehicular traffic; however, these roads are highly engineered up steep slopes, with significant cuts and fills, culverts, and other constructed features. If the area is designated as wilderness, the forest would consider converting some of these roads into hiking and equestrian trails to improve access, but most would require decommissioning to protect water quality and fisheries resource values. This would require significant investment to remove culverts and contour the land to reduce erosion.

The Department would like to work with the bill's sponsor and the committee to offset the wilderness boundary inward along perimeter roads to implement planned treatments within a reasonable distance of the road, provide for routine road maintenance, and to decrease the likelihood of incompatible motorized use in wilderness. We also request that the bill include the date of the map referencing the intended wilderness configuration.

The bill would designate segments of the North and South Forks of the Elk River as additions to the existing Elk Wild and Scenic River. The Rogue River-Siskiyou National Forest completed an extensive wild and scenic river inventory and, while both tributaries are free-flowing, neither was judged to have an outstandingly remarkable value. Nevertheless, in recognition of the value of managing the Elk River as a system that contributes to one of the most important and valuable runs of anadromous fish in coastal Oregon, the Department does not oppose the proposed additions in this bill. We would like to work with the bill's sponsor on several minor corrections to the description of the Elk Wild and Scenic River.

H.R. 3682, California Desert and Mountain Heritage Act

The Department of Agriculture supports H.R. 3682, if amended.

H.R. 3682 would create two new wildernesses on the San Bernardino National Forest, and add additional acreage to existing designated wilderness on the Cleveland and San Bernardino National Forests. It would also designate stretches of four rivers on the San Bernardino National Forest as components of the National Wild and Scenic Rivers System. This bill would also expand the boundaries of the Santa Rosa and San Jacinto Mountains National Monument.

There are discrepancies between the proposed wilderness designations in bill, and the revisions to the forest plans for Southern California forests (Forest Plan), the Record of Decision for which was published in the Federal Register on April 21, 2006. Discrepancies also exist between the proposed designations under the Wild and Scenic Rivers Act and the Forest Plan.

During the revision process, most of these proposed wilderness designations were determined not to meet criteria for wilderness suitability. The areas were found unsuitable because of current or potential uses that would conflict with wilderness designation such as reduction of hazardous fuels (mechanical treatments and prescribed burning), elements of fire management (including Burned Area Emergency Response—BAER treatments), current recreational uses (e.g., mountain bikes), grazing improvement maintenance, existing protections (Research Natural Area), external influences and the availability of nearby wilderness.

For example, the portion of the Agua Tibia Wilderness addition in the Cleveland National Forest that would be designated by the bill is not the same as the area of National Forest recommended for wilderness designation in the Forest Plan. We support the addition of the parcel that was recommended in the Forest Plan. We defer to the Bureau of Land Management (BLM) for its part of this proposal.

The Cahuilla Mountain Proposed Wilderness in the San Bernardino National Forest also was found not to meet Forest Service wilderness criteria during the

Forest Plan revision process. We continue to support the Forest Plan's final recommendation, developed with public involvement. Therefore, we do not support this proposed addition.

Section 104(f)(2) of the bill contains provisions related to access and use of the Cahuilla Mountain Wilderness by members of an Indian tribe for traditional cultural and religious purposes, including temporarily closing areas to the general public for use by members of an Indian tribe. The Department supports and encourages providing access to tribes consistent with PL 95-341 (also known as the American Indian Religious Freedom Act) but we do not support the provision in the bill. To that end, the Forest Service has directives that allow for voluntary temporary closures to protect privacy for tribes in the conduct of traditional cultural activities. We would like to work with the bill's sponsor, the Subcommittee, and the Department of Justice to address these concerns.

The proposed South Fork San Jacinto Wilderness on the San Bernardino National Forest was found not to meet the wilderness criteria during the revision process. The South Fork San Jacinto area is a combination of two inventoried roadless areas with the same issues as the Cahuilla proposal. We do not support this area to be designated as wilderness.

Additionally, during the revision process thirteen acres of Cactus Springs were recommended as an addition to the Santa Rosa Wilderness. We support this 13-acre addition, and defer to the Bureau of Land Management for its portion of the addition.

Although a suitability study has not been conducted for the four rivers that would be designated by the bill, we do not oppose their addition to the National Wild and Scenic Rivers System based on general support by the communities of interest and consistency of the designation with the management of the National Forest System lands within the river corridors. We wish, however, to work with the Committee to clarify river management and address differences between mileage and classifications in this bill and those in the Forest Plan.

We fully support that portion of the expansion of the Santa Rosa and San Jacinto Mountains National Monument under National Forest management.

Working with the Subcommittee, we are confident that we can remedy the inconsistencies this bill has with our California Forest Plan Revisions.

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

Mr. GRIJALVA. Let me introduce Director Daly, Director of National Landscape Conservation System, BLM.

STATEMENT OF ELEANA DALY, DIRECTOR, NATIONAL LANDSCAPE CONSERVATION SYSTEM, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY RICK POTTS, CHIEF OF CONSERVATION AND OUTDOOR RECREATION, NATIONAL PARK SERVICE

Ms. DALY. Thank you, Mr. Chairman. And thank you for inviting the Department of the Interior to testify on a number of wilderness bills before the Subcommittee. I am accompanied by Rick Potts, Chief of Conservation and Outdoor Recreation for the National Park Service. Rick will join me at the table to answer any questions on issues related specifically to the National Park Service.

The Department of the Interior strongly supports congressional efforts to resolve wilderness designations throughout the West, and we welcome this opportunity to further those efforts. Only Congress can determine whether to designate wilderness study areas as wilderness or release them for other multiple uses. We support the resolution of WSA issues and stand ready to work with Members of Congress toward this goal.

The Department of the Interior supports H.R. 2632, a bill designating 19,880 acres of BLM-managed land in northwestern New Mexico as the Sabinoso Wilderness area. The Sabinoso area provides a rugged and dramatic landscape. The proposal has the sup-

port of both the New Mexico house of representatives and San Miguel County, New Mexico. We would like the opportunity to work with Congressman Udall and the Subcommittee to resolve a few technical errors on the map referenced in the legislation, which we prepared at Congressman Udall's request.

Ms. DALY. H.R. 3682, the California Desert and Mountain Heritage Act, designates wilderness throughout Riverside County, California, on lands managed by the BLM, the National Park Service and the Forest Service. It also expands the Santa Rosa and San Jacinto Mountains National Monument.

The Department of the Interior supports H.R. 3682 as it applies to BLM and NPS designations, but would like the opportunity to work with the Subcommittee on a number of clarifications. We defer to the Department of Agriculture on those designations for Forest Service managed lands. Title I designates four new wilderness areas, Beauty Mountain and Pinto Mountains Wilderness to be managed by the BLM, and expands six existing wilderness areas.

The expansions will improve manageability, protect important resource values and improve dispersed recreational opportunities. These expanded wilderness designations are possible now because of the acquisitions of land by the BLM and changes in on-the-ground conditions.

Within the boundary of Joshua Tree National Park Section 105(f) of H.R. 3682 designates as wilderness 36,800 acres of land which are owned by the National Park Service and are appropriate for wilderness designation.

Section 103 designates as potential wilderness approximately 43,100 acres of land along the park's southwestern boundary where about one-third of the acreage is still in private ownership. While we recognize the Congress' authority to designate this area as potential wilderness, we would like to work with the sponsor and the Subcommittee to further clarify some ambiguities in this section.

Finally, Title III of H.R. 3682 expands the boundaries of the Santa Rosa and San Jacinto Mountains National Monument by approximately 8,360 acres designating 2,990 of those acres as wilderness inside the monument.

H.R. 3682 is the result of a multi-year process undertaken by Congresswoman Bono and other members of the California congressional delegation. This public process included engaging elected officials, interest groups, local communities and the affected land managing agencies. We appreciate these efforts, as we believe that local input and consensus building are essential ingredients to successful wilderness bills.

Ms. DALY. The Department of the Interior cannot support H.R. 2334 Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act unless amended to address National Park Service concerns regarding the provisions related to the Grand River Ditch, as fully described in the written testimony.

H.R. 2334 would designate 249,339 acres, approximately 95 percent of the Rocky Mountain National Park's acreage, as wilderness. Almost all of these lands were originally recommended for wilderness designation by President Nixon and are currently managed as wilderness. In addition, H.R. 2334 would exclude lands occupied by

the Grand River Ditch from wilderness, change the liability standard for future damage to park resources resulting from operation and maintenance of the ditch and enable the Water Supply and Storage Company to convert its Grand River Ditch water rights to other uses.

The Department cannot support H.R. 2334 unless it is amended to address these concerns.

Thank you for the opportunity to testify. I will be happy to answer any questions.

Mr. GRIJALVA. Thank you.

[The prepared statement of Ms. Daly follows:]

Statement of Elena Daly, Director, National Landscape Conservation System, Bureau of Land Management, U.S. Department of the Interior

Thank you for inviting me to testify on H.R. 2632, the Sabinoso Wilderness Act, H.R. 3682, the California Desert and Mountain Heritage Act, and H.R. 2334, Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act. The Department strongly supports Congressional efforts to resolve wilderness designations throughout the West, and we welcome this opportunity to further those efforts. Only Congress can determine whether to designate Wilderness Study Areas (WSAs) as wilderness or release them for other multiple uses. We support the resolution of WSA issues and stand ready to work with Members of Congress toward this goal.

H.R. 2632, Sabinoso Wilderness Act

The Department of the Interior supports H.R. 2632, a bill designating 19,880 acres of BLM-managed land in northwestern New Mexico as the Sabinoso Wilderness area. The Sabinoso area provides a rugged and dramatic landscape. Deep sinuous canyons are interspersed with flat-topped mesas in an area that has changed little over the last several hundred years. While there is both archaeological and historical evidence of sporadic human visitation, the rough nature of the terrain has discouraged all but the hardiest. Today, the canyons and mesas are home to mule deer, elk, mountain lion, and wild turkey. Golden eagles and turkey vultures soar off the thermals rising from sandstone canyon walls.

The BLM is currently working with the state on a land exchange which would result in the acquisition of state land inholdings within the proposed wilderness. This process should be completed within a year. We also are in discussions with private landowners in the area about acquiring either conservation easements or fee title of some of the private inholdings. The BLM only explores such options from willing landowners.

Congressman Udall has worked with the local community to reach consensus on the proposed designation. The New Mexico House of Representatives and San Miguel County, New Mexico have passed resolutions in support of wilderness designation of Sabinoso. We would like the opportunity to work with Congressman Udall and the subcommittee to resolve a few technical errors on the map referenced in the legislation, which we prepared at Congressman Udall's request.

H.R. 3682, California Desert and Mountain Heritage Act

H.R. 3682 designates wilderness throughout Riverside County, California on lands managed by the BLM, National Park Service (NPS) and Forest Service. It also expands the BLM and Forest Service-managed Santa Rosa and San Jacinto Mountains National Monument (designated by Public Law 106-351) as well as designates a number of Wild and Scenic rivers under the management of the Forest Service. The Department of the Interior supports H.R. 3682 as it applies to BLM and NPS designations but would like the opportunity to work with the subcommittee on a number of clarifications, including acreage and mapping adjustments. We defer to the Department of Agriculture on those designations on National Forest System lands.

H.R. 3682, as introduced, includes acreage numbers that do not match area descriptions or the maps provided to the sponsors by the Department. We are working with the sponsor and the subcommittee to make appropriate corrections. Our discussions of the bill in this testimony will reflect the updated acreage numbers.

Title I designates four new wilderness areas: Beauty Mountain and Pinto Mountains Wilderness to be managed by the BLM as well as Cahuilla Mountain and South Fork San Jacinto Wilderness to be managed by the Forest Service.

The proposed new Beauty Mountain Wilderness would cover over 15,000 acres of BLM-managed lands. It is one of the last undeveloped areas in the region; numerous outside groups recognize both its significance as open space and the important resource values of Beauty Mountain. We should note that the boundary for Beauty Mountain is arbitrarily set at the Riverside County line. The second new BLM wilderness area, Pinto Mountains wilderness, lies just to the north of the National Park Service's Joshua Tree National Park and wilderness. Much has changed in these areas during the last 15 years. In 1994, the California Desert Protection Act changed the management landscape in the entire California desert. That same year, much of the area was designated as critical habitat for the threatened desert tortoise. This area is important habitat for the desert bighorn sheep. Many inholdings have been acquired by the State, private groups, or BLM that made this area more manageable and enhanced their wilderness characteristics. Far fewer mining claims exist in the area than were there15 years ago. These areas are currently primarily non-motorized.

In addition, Title I expands six existing wilderness areas that were designated under Public Law 103-433 the California Desert Protection Act and earlier wilderness bills: Agua Tibia, Orocopia Mountains, Palen/McCoy, and Chuckwalla Mountains Wilderness managed by the BLM; Joshua Tree National Park Wilderness managed by NPS; and additions to the Santa Rosa Wilderness within Santa Rosa and San Jacinto Mountains National Monument managed by both the BLM and the Forest Service. The expansions, which will improve manageability, protect important resource values and improve dispersed recreational opportunities, range from a mere 500-acre addition to the existing Agua Tibia Wilderness to a large 23,000-acre addition to the Palen/McCoy Wilderness. Other additions include 5,000 acres to the Orocopia Mountains Wilderness and 13,000 acres to the Chuckwalla Mountains Wilderness. These expanded wilderness designations are possible now because of acquisitions of land by the BLM and changes in on-the-ground conditions that have occurred since the original wilderness designations.

Within the boundary of Joshua Tree National Park, section 102(f) of H.R. 3682 designates 36,800 acres of land in non-contiguous parcels as wilderness. All of these lands are wilderness quality. Of these acres, about 8,400 acres were designated only as potential wilderness as part of the original wilderness designation for Joshua Tree National Park in 1976 (Public Law 94-567), because they were privately owned or used for non-wilderness purposes. The lands now are owned by the National Park Service and are appropriate for wilderness designation. Another 28,400 acres, owned by the National Park Service, are located in a roadless area west of the Cottonwood Entrance. A draft study conducted by the National Park Service supports wilderness designation for these lands.

Section 103 of H.R. 3682 designates as potential wilderness approximately 43,100 acres of land along the park's southwestern boundary. This area is physically inaccessible and has no available water source. As such, the park already is managing this area as wilderness. About one-third of the acreage is in private ownership, and the National Park Service has been working to acquire these lands with donated funds, on a willing-seller basis. While we recognize the Congress' authority to designate this area as potential wilderness, we would like to work with the sponsor and the subcommittee to further clarify some ambiguities in this section.

Finally, Title III of H.R. 3682 expands the boundary of the Santa Rosa and San Jacinto Mountains National Monument by approximately 8,360 acres, designating 2,990 of those acres as wilderness inside the monument. Santa Rosa and San Jacinto Mountains National Monument was originally designated by Public Law 106-351. Since then, the communities, agencies, and other interested members of the public in the Coachella Valley have strongly embraced the Monument and take great pride in their many achievements towards making the Monument a success story. The Santa Rosa and San Jacinto Mountains National Monument Advisory Committee fully participated in the development of a management plan that is now in the implementation phase. We support this proposed expansion, which would enhance manageability of the monument and expand protection of important habitat for the endangered Peninsular bighorn sheep.

H.R. 3682 is a result of a multi-year process undertaken by Congresswoman Bono and other members of the California Congressional delegation. This public process included engaging elected officials, interest groups, local communities, and the affected land managing agencies. We appreciate these efforts as we believe that local input and consensus-building are essential ingredients to successful wilderness bills. As this bill moves forward, we look forward to the opportunity to work with the Committee on the corrections and amendments discussed in this testimony and to ensure that the maps most accurately reflect the intended boundaries.

H.R. 2334, Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act

The Department of the Interior cannot support H.R. 2334 unless amended to address our concerns regarding the provisions related to the Grand River Ditch as described in this testimony. The Department presented the same position in testimony on S. 1380, an identical bill, at a hearing held before the Senate Subcommittee on National Parks on July 12, 2007. The Department also testified in support of a similar bill, S. 1510, at a hearing held before the Senate Subcommittee on National Parks on April 6, 2006. That bill did not contain the Grand River Ditch provisions. We defer to the U.S. Department of Agriculture on lands affecting the U.S. Forest Service.

H.R. 2334 would designate approximately 249,339 acres of Rocky Mountain National Park's backcountry in the National Wilderness Preservation System. This represents approximately 95% of the park's total acreage, lands that currently are managed as wilderness. In addition, H.R. 2334 would exclude lands occupied by the Grand River Ditch from wilderness, change the liability standard for future damage to park resources resulting from operation and maintenance of the ditch, enable the Water Supply and Storage Company to convert its Grand River Ditch water rights to other uses, make adjustments to the Indian Peaks Wilderness and Arapaho National Recreation Area, both administered by the U.S. Forest Service, and give the National Park Service (NPS) the authority to lease the Lieffer tract.

In 1964, Congress designated Rocky Mountain National Park as a wilderness study area. In 1974, President Nixon recommended to Congress 239,835 acres for immediate designation and 5,169 acres for potential designation as wilderness in the park. The increased acreage amount included in H.R. 2334 is based on modifications brought about by land acquisition and boundary adjustments since 1974.

Present road, water, and utility corridors, and all developed areas, are excluded from recommended wilderness. Wilderness designation would not alter any current visitor activities or access within the park, and would allow visitors to utilize the park in the same ways and locations that they presently enjoy.

Federal reserved water rights for park purposes are not an issue related to wilderness designation as water rights for the park have been adjudicated through the State of Colorado water courts. Consequently, no water rights claims for wilderness purposes are needed or desired by the NPS.

After holding public meetings on the proposed designation in June 2005, the gateway communities of Estes Park and Grand Lake, and the counties of Grand and Larimer, endorsed wilderness designation for Rocky Mountain National Park, subject to specific boundary modifications on the west boundary of the park. These modifications, which have been incorporated in H.R. 2334, would provide an area of non-wilderness around the Town of Grand Lake in order to ensure that the park could continue to actively manage hazardous fuels and other uses that might affect the Town. The proposed modifications would also reserve a corridor along the east shore of Shadow Mountain and Granby reservoirs for the possible construction of a non-motorized hike/bike trail, which would be subject to normal NPS planning processes including analysis under the National Environmental Policy Act.

In addition to excluding lands occupied by the Grand River Ditch from wilderness, H.R. 2334 would allow for a change in the liability standard for future damage to park resources resulting from operation and maintenance of the ditch, as long as the ditch is operated and maintained in accordance with an operations and maintenance agreement between the NPS and the ditch's owners. This provision would alter the protections to park resources under the Park System Resource Protection Act (16 U.S.C. 19jj) which holds any person who causes injury to park resources liable to the United States for response costs and damages, except in certain circumstances such as an act of God or actions by a third party.

In 1907, and again in 2000, the owners of the ditch, the Water Supply and Storage Company, agreed to a stipulation, in return for a valuable right-of-way across public land and a stipulated water rights agreement, that requires them to pay the United States for any and all damage sustained by use of the right-of-way regardless of the cause and circumstances.

Altering these protections to a more lenient negligence standard for the Grand River Ditch, as proposed by H.R. 2334, could have serious implications for future damage causing events resulting from the operation of the Grand Ditch within park boundaries. Changing that standard to a general liability standard would require the NPS to expend scarce financial resources to prove negligence. In cases where negligence could not be proven, the United States would pay for response and repair costs associated with damage caused by operation of the ditch. This could set a dangerous precedent for all national parks and other public lands with implications far beyond the boundaries of Rocky Mountain National Park. Also, to retroactively

change the 1907 stipulation would negate a century-old agreement that the ditch's owners have twice agreed to in exchange for valuable consideration it has received, the right-of-way itself and the 2000 stipulated water rights agreement.

As proposed in H.R. 2334, an operations and maintenance plan for the ditch is clearly needed. However, it must be comprehensive in scope and enforceable and should not be tied to a change in the liability standard for the ditch. We believe that an effective plan must contain provisions that reduce the risk of catastrophic failure of the ditch (as occurred in 2003) that could injure park visitors and staff and harm critical park resources. The plan should also establish clear expectations regarding maintenance and operational issues that impact park operations. Such a plan, if fully implemented by the operators of the ditch, should reduce the likelihood of future breaches or damage causing events, which we believe is in the interest of all parties and should negate the perceived need for a change in liability protection for the park.

H.R. 2334 also proposes to grant an exemption to the Water Supply and Storage Company from the requirement in its original right-of-way grant that the primary purpose of the ditch is for irrigation or drainage. This proposed change would enable the Company to convert its Grand River Ditch water rights to other uses, such as municipal use, without risking forfeiture of the ditch right-of-way, which could represent a significant increase in the value of the water rights for the shareholders of the Water Supply and Storage Company.

The provisions of H.R. 2334 related to the Grand Ditch go beyond ensuring that ditch operations are not affected by the designation of wilderness and grant the owners of the ditch significant privileges and exemptions from existing law and prior agreements with the United States and a potential windfall by allowing a change in use of the water. We would be happy to work with the Committee on amendments to the bill to address our concerns related to the operations of the Grand Ditch.

Finally, H.R. 2334 would give the NPS the authority to lease the Lieffer tract. This 12 acre tract is located outside the boundary of Rocky Mountain National Park, was donated to the park, and lends itself to leasing to educational institutions or other similar entities.

Conclusion

Thank you for the opportunity to testify. We support the efforts of Congress to resolve the wilderness issues. I will be happy to answer any questions.

Mr. GRIJALVA. Let me begin with Mr. Holtrop for some of the comments in your testimony. I think, as you are aware, there are eight wilderness areas designated along the Canadian border, adjacent to three at that same proximity along the Mexican border, with five close, also, but not in direct proximity to the border.

And I ask you that because, does H.R. 3287 allow the agencies to utilize the 2006 interagency memorandum of understanding for border enforcement activities?

Mr. HOLTROP. Yes, it does, specifically.

Mr. GRIJALVA. And then the other part of the question is, does the Wilderness Act allow the Federal Government to take measures, such measures as required in emergencies involved in health and safety that could include motorized equipment, aircraft for law enforcement activity, as you understand it?

Mr. HOLTROP. Are you asking, does the Wilderness Act specifically allow for that?

Mr. GRIJALVA. Yes.

Mr. HOLTROP. The Wilderness Act does allow for the use of those types of activities in an emergency situation. The intent of both the memorandum of understanding that the act, and that you referred to, has to do with—we take specific coordination actions with the Border Patrol to assure that whatever actions they take have the appropriate resource protection. And there are some additional re-

source protection activities that we carry out in those areas that are designated wilderness.

Mr. GRIJALVA. That, and I believe the ultimate waiver that the Secretary of Homeland Security has—we can debate whether that waiver should be as expansive as it is, but it is law now, the ultimate waiver that they have over any public land, including wilderness, to waive all other kinds of requirements that might be in place, including the memorandum of understanding. Am I correct in that?

Mr. HOLTROP. That is my understanding, as well, which—of course, we very much appreciate our relationship with Border Patrol, so that we generally operate under the memorandum of understanding.

But what you are asking is exactly the reason that we have some concern with designating this as wilderness.

A wilderness test is a very special designation, and it ought to be special and it ought to be a different area if there is so much activity going on that diminishes that character. That is what the concern is about.

Mr. GRIJALVA. I bring it up because since the designation, I believe, in 1984 in the Pajarita Wilderness Area and then the memorandum that went in place at Pajarita and any future wilderness area designations along, I assume, both borders—am I correct that it is both borders?

Mr. HOLTROP. Yes.

Mr. GRIJALVA.—that is an applicable tool that is available right now, if I am not mistaken, both to Border Patrol, to ensure that all enforcement activities are carried out?

Mr. HOLTROP. Yes. Again, they have the authority to use whatever means are necessary to carry out their responsibilities. They have agreed with us to do so—with us and the Department of the Interior to do so under the terms of the memorandum of understanding.

Mr. GRIJALVA. And that involves any cooperative national security, counterterrorism on Federal lands and U.S. borders? It is extensive?

Mr. HOLTROP. That is correct.

Mr. GRIJALVA. Thank you.

Ms. Daly, just a couple of quick questions, if I may.

One of the issues that came up on H.R. 3632, would you comment on the claim that wilderness designations do not allow any mechanized vehicles in the area, going as far as including wheelchairs.

Ms. DALY. No, sir. In fact, I have some very specific policy quotes on that for you. There are instances where mechanized vehicles may be used in wilderness areas, and wheelchairs are an excellent example. At 43 CFR 630 217, it states, quote, "If you have a disability that requires the use of a wheelchair, you may use a wheelchair in a wilderness," unquote.

Additionally, the Americans with Disabilities Act, section 5007(c) states, quote, "Nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires the use of a wheelchair," and that includes mechanized wheelchairs.

Mr. GRIJALVA. Thank you. And what about the claim that wilderness designations negatively impact the West's ability to fight and prevent forest fires. Is that an accurate statement or a claim?

Mr. HOLTROP. No, sir. Actually, for BLM, we interpret the Wilderness Act to allow for mechanized and motorized use in fighting wildfire and for fuels management in some cases. Those decisions are made by our State director, so they can be made immediately at the local level; and we are particularly interested in using those tools where property or life are in danger.

An example is a fire that—well, it was August of 2006, a little over a year ago, in the San Gorgonio Wilderness where two fires merged into one rather large conflagration. And BLM authorized the California Department of Forestry and Fire to use bulldozers to create a 7-mile firebreak within the wilderness.

Mr. GRIJALVA. Thank you.

And I went a little over my time. Maybe if we have a second round, I have a couple other questions.

With that, Mr. Bishop.

Mr. BISHOP. I am sure we are going to go through a couple of rounds. Let me start with Ms. Daly, then, on a couple of bills for which you made a comment. Can I start with Tom Udall's bill first?

You are talking there about, you are currently working with the State on a land exchange that would deal with State land inholdings as well as with private landholders for inholdings.

How much area is included in both of those?

Ms. DALY. I can give you the exact. State land is—I believe it is—2,990 is the State land; and the private inholdings, about 9,000.

Mr. BISHOP. Acres?

Ms. DALY. Acres.

Mr. BISHOP. Congressman Udall had a good rough estimate of how many private property owners have inholdings. Do you have a specific number?

Ms. DALY. We believe it is nine, sir.

Mr. BISHOP. Nine? OK.

You say in here that there are clarifications, including the acreage and mapping adjustments, and the acreage numbers do not match the area descriptions. Is that merely a technical issue or a technical problem, or is that substantive?

Ms. DALY. The acreage differential results from an acquisition by BLM about 10 years ago, as well as the inclusion of a special management area to the north and west of the Sabinoso. It is very similar terrain, very typical of the area. And so the inclusion in that raises the acreage number.

Mr. BISHOP. I'm sorry, I was actually on a different bill. But it is a good answer to that question.

Ms. DALY. I am so glad you are pleased, sir.

Mr. BISHOP. Let me stick with Tom's, and this is the last one on his particular bill.

On your Web site, you call this particular wilderness study area 15,000 acres, but you are supporting a bill that designates 20,000 acres in wilderness.

Can you explain the acreage difference between those two numbers?

Ms. DALY. That is the Sabinoso?

Mr. BISHOP. Yes.

Ms. DALY. It was the acquisition from a private landholder about 10 years ago.

Mr. BISHOP. Of 5,000 acres.

Ms. DALY. I am not sure what the acreage was.

Mr. BISHOP. Well, that is the difference.

Ms. DALY. OK. That and the inclusion of a special management area. It is the two factors that result in that difference.

Mr. BISHOP. Let me leave his bill alone and let me go, if I could, now to perhaps the one in Mrs. Bono's bill.

That was the one specifically where you say in your testimony that there is a difference between the number of acreage—the acreage numbers do not match area descriptions. Is that technical or not?

Ms. DALY. That is a technical issue.

Mr. BISHOP. You also said that in Section 103 you wanted to work with this committee to clarify some ambiguities. What are those ambiguities?

Mr. POTTS. Sir, I will answer that. This is Rick Potts from the National Park Service.

That would be the Joshua Tree National Park. The ambiguities that we refer to, we would like a little more guidance as to the intent of that language. For instance, there is a clause that says when we acquire a sufficient acreage from willing sellers or donors to manage the area, to make management of the area practicable as wilderness, I think we would like to dial that down just a little bit more because if it gets designated as potential wilderness, then, as you know, the final step of converting potential to fully designated doesn't involve any additional public input. It is merely a publish of notification in the Federal Register.

We want to make sure our public is comfortable, so we would like perhaps a threshold or a trigger, some guidance language, in that passage.

Mr. BISHOP. Are there other ambiguities you want to address?

Mr. POTTS. That would be the main one at this time.

Mr. BISHOP. That is the only one?

Mr. POTTS. That is the main one at this time I can think of, sir.

Mr. BISHOP. So there are others?

Mr. POTTS. I will double-check that and will get back to you.

Mr. BISHOP. Thank you. With the way some of these bills rush through here to the Floor, I hope you do it before they actually move the bill forward, but that would be a good one.

Let me get off that one with you, for example, and let us go to the other Congressman Udall's bill at the same time. Am I reading your testimony correctly that you support this, except for the provisions of the Grand River Ditch that the two Senators spoke about?

Ms. DALY. Yes.

Mr. BISHOP. So it is solely prohibited on granting liability protection to this historic ditch?

Ms. DALY. Yes.

Mr. BISHOP. There is one issue with this park that you did not address, and that is the elk overpopulation problem. Would the status of this issue and the wilderness designation either help or hinder your efforts to return that herd into a healthy number?

Mr. POTTS. Your question again is in reference to the Rocky Mountain National Park?

Mr. BISHOP. Yes, the Rocky Mountain now.

Mr. POTTS. The Elk and Vegetation Management Plan that is being drafted is currently in the Department of the Interior for review. We expect that review will be completed and that plan will come back out so the designation of wilderness will not affect the implementation of that plan.

Mr. BISHOP. Are you planning on having vehicles permitted to help cull the herd?

Mr. POTTS. That hasn't been determined.

Mr. BISHOP. Is it part of the discussion?

Mr. POTTS. The access that currently exists on the main roads in Rocky Mountain National Park would continue to exist.

Mr. BISHOP. Can you give me any of the details of part of the Elk Management Plan?

Mr. POTTS. Not at this time.

Mr. BISHOP. It is being discussed, though? That will be part of the written request that we make for the details of that plan, the Elk Management Plan?

Mr. POTTS. I would be more than happy to supply that to you if you don't already have it.

Mr. BISHOP. I have run out of time. Let me go on to some of the others.

Mr. GRIJALVA. Thank you.

Mr. Mark Udall.

Mr. MARK UDALL. Thank you, Mr. Chairman. I neglected earlier when you yielded me some time to ask unanimous consent that my initial statement could be included in the record.

Mr. GRIJALVA. Without objection.

[The prepared statement of Mr. Mark Udall follows:]

Statement of The Honorable Mark Udall, a Representative in Congress from the State of Colorado, on H.R. 2334

Thank you, Mr. Chairman, and thank you for holding this hearing on my bill to designate most of Rocky Mountain National Park as wilderness.

The Subcommittee is also taking testimony on four other bills, and we will be hearing from quite a few witnesses. So, I don't want to delay proceedings with a long statement about our bill.

I am very pleased that we will be hearing from both of Colorado's Senators, who are cosponsors of the identical Senate bill introduced by Senator Salazar.

The House bill is cosponsored by Representative Musgrave, and will designate as wilderness about 94 percent of the park, including Longs Peaks and other mountain areas, while allowing continued use of the existing roads and buildings in the developed areas and without affecting any privately owned land.

We have included a provision—requested by Grand County, the Town of Grand Lake, and others—to maintain the ability of the National Park Service to decide whether to authorize construction of a mountain bike route along the west edge of the park. Another provision would give the Service authority to lease an 11-acre tract outside the park boundaries, which they would like to be able to do.

And we would add 1,000 National Forest acres to the existing Indian Peaks Wilderness by redesignating lands now managed as part of the Arapaho National Recreation Area, which is also managed by the Forest Service.

The bill includes explicit language to make clear that it will not create any new federal water rights, because the park already has extensive federal reserved water rights and because its location astride the continental divide means there's no possibility of any diversion of water upstream of the park.

Finally, the bill has provisions related to the Grand River Ditch, which was dug before the park was established and which is partly located within the park. They

have been included in order to give the ditch's owners a strong incentive to reach an agreement with the National Park Service about how the ditch will be operated and maintained in the future. We will hear about this from Dennis Harmon, the general manager of the Water Supply and Storage Company, as well as from the Administration.

In short, Mr. Chairman, the bill will protect some of our nation's finest wild lands. It will protect existing rights. It will not limit any existing opportunity for new water development. It is bipartisan and reflects long consultation with all the interested parties in Colorado. I commend it to the Subcommittee, and look forward to hearing from our witnesses.

Mr. MARK UDALL. Thank you.

Ms. Daly, if I could turn to you, and if Mr. Potts needs to chime in as well, that is more than appropriate. I, of course, want to focus on the situation of the ditch because that is the last important element in making a historic step to provide for wilderness status for this significant amount of acreage in the park.

In your statement, you say an operations and maintenance plan for the ditch is clearly needed. Is the Park Service currently trying to reach such an agreement with the Water Supply and Storage Company, and if so what is the status of those talks.

Mr. POTTS. Yes, sir, allow me to answer, please.

Yes, the National Park Service's staff, superintendent's staff for Rocky Mountain National Park have been in regular dialogue with the company. A draft operations and maintenance plan for the ditch has been done.

It was sent to the park for their review. The park reviewed it and sent it back with comments on October 19th, I believe about 4 weeks ago, and is waiting the reply from the ditch company.

We also submitted some best management practices and some examples of similar operations and management plans that were furnished to us by the Bureau of Reclamation.

Mr. MARK UDALL. What do you perceive as the sticking points at this stage?

Mr. POTTS. I won't speak for the ditch company. From our concerns, it is the appearance of establishing what is likely a national precedent that would weaken the current standard in place for protection of park resources that was established under the Park System Resource Protection Act.

Mr. MARK UDALL. If I could follow that line of questioning and comment, the statement presented today says that an agreement, if it was fully implemented, should reduce the likelihood of future breaches or damage-causing events and that this should negate the perceived need for a change in liability protection for the park.

The way I read your statement, the Park Service's statement, today you are saying that if there is an agreement, that ditch's owners and operators will no longer need to worry about the risk of absolute liability.

But isn't that what the bill says, that if the owners and operators reach an agreement and it is fully implemented that their current worries will be reduced?

Mr. POTTS. We believe the worries can be reduced on all sides, and remembering, I am sure as we all do, that we are dealing with world class resource here. And it is in everyone's best interest to do our very best to make sure that that resource is preserved for

all time, as you, I am sure, as much as anyone, or more, is aware of.

Our main concern is that the level of liability expressed in the bill—as we interpret it, anyway—would drop it down below the current threshold that is in place nationwide in every other unit of the National Park system that was established in the Park System Resource Protection Act.

Mr. MARK UDALL. I would note for the record that the bill does just apply to Rocky Mountain National Park, which is, I think, an important note, given the precedent-creating concerns that you have expressed.

Let me speak a little bit more, if I could, Mr. Potts, to the liability provisions. Again, the statement in the testimony shared with us today states, "Liability provision of the bill would require the NPS to expend scarce financial resources to prove negligence."

If so, couldn't this be addressed in the agreement perhaps by requiring a bond or through some other financial agreement?

Has the Service suggested anything along these lines?

Mr. POTTS. I believe that is perhaps one of the options that is being discussed between the park's superintendent and the owners of the ditch.

Mr. MARK UDALL. Let me move to incentives here.

One purpose of the part of the bill we are discussing is to provide an incentive for the ditch's owners to reach an agreement with the park system and to abide by that agreement. But your statement indicated, the way I read it, that the administration wants to remove that incentive; and wouldn't—if you do that, wouldn't it make it harder to reach an agreement with the ditch company leadership?

Mr. POTTS. We believe that everyone has been negotiating in a good-faith effort to reach an equitable agreement. We do have an agreement in place with the ditch company. It has been in place for over 100 years. They have agreed twice and reaffirmed to a level of absolute liability. We have—in an effort to present a fair and equitable assignment of liability to this company, the same as we do to any other entity across the Nation, we are willing to discuss lowering their current level of liability from an absolute level down to the level found that is defined in 19jj of the Park System Resources Protection Act. We believe that still provides strong incentive.

Mr. MARK UDALL. If you would be willing, Mr. Chairman, if you will indulge me for a few more minutes. Because I think this is very important, the legislation that we are considering.

Distinguish between those two approaches when it comes to these liability provisions.

Mr. POTTS. Yes, sir. I would be happy to.

The Park System Resources Protection Act is a civil act, not criminal. We don't have to demonstrate negligence on the part of the company if it is—if they cause damage to the resources of the national park system, they are liable for that damage, and it is not a—it is no accusation of negligence.

Mr. MARK UDALL. How is that different from the current level?

Mr. POTTS. The current level of agreement is an absolute liability regardless of the cause, including act of God. The ditch company

is liable. This would, in fact, lower that, because the Park System Resource Protection Act gives it several defenses if the action is caused by a third party or an act of God.

Mr. MARK UDALL. So it is just an act-of-God defense that you are talking about in the one liability provision?

Mr. POTTS. And third party.

Mr. MARK UDALL. Mr. Chairman, thank you for indulging my line of questioning here.

I just want to underline that, of course, the Chairman has made it clear he wants to see an agreement. It was very clear that the Colorado delegation is united. And this is a historic opportunity, and I want to weigh in once again to urge both the Park Service and the ditch company to continue to move as expeditiously as possible to find the sweet spot here. Because we know it is there; and certainly the citizens of Colorado are very, very inspired about the possibility of setting aside this crown jewel of our public land system in Colorado as wilderness so that we preserve its perpetuity.

Mr. GRIJALVA. Thank you.

Mr. Tom Udall.

Mr. TOM UDALL. Thank you, Mr. Chairman, and thank you both for your testimony today.

Mrs. Daly, I want to thank you for your hard work on this, on the Sabinoso Wilderness study area, and also an overall thanks to the BLM for their work in terms of identifying wilderness study.

You, obviously, over the years have gone through a lengthy process, and have worked very hard to find these special areas and get them designated, and it is really long overdue that Congress now begins to weigh in and start actually getting to the step of taking wilderness study and creating wilderness. So thank you for that.

On the issue that my good friend, Mr. Bishop, has raised of whether landowners are included and did they know about this, I would just like to further add and supplement my testimony by saying, to the best of my knowledge, in visiting with my staff, all of the landowners have been contacted by the BLM and the New Mexico Wilderness Alliance, and all of them are supportive of this legislation.

So with that, Mr. Chairman, I would yield back any time; and I would thank both of you for, once again, hearing this bill again today.

Mr. GRIJALVA. Thank you.

Just a couple of quick questions.

Mr. Holtrop, regarding H.R. 3682, I think you expressed concerns about the maintenance of existing grazing improvements that conflicts with the wilderness designation. Is it true then that the Wilderness Act didn't—previous reports from this committee and Ms. Bono's bill all protect existing grazing operations and existing improvements on that land?

Mr. HOLTROP. The existing grazing permits are allowed to continue in designated wilderness.

Mr. GRIJALVA. And improvements that ranchers, the permittee hold of improvements that they might have made for whether it is livestock or other—those are——

Mr. HOLTROP. Generally, those are allowed to continue as well. The difference, once it has been designated wilderness, is mecha-

nized access to or mechanized means for maintenance is only allowed if a minimum dual analysis says that that is the correct way to go.

Mr. GRIJALVA. And in H.R. 3513, Mr. Holtrop, reiterate for us, of the roads contained in this proposed wilderness area, how many of them are currently closed to vehicular travel or use?

Mr. HOLTROP. This is the Copper Salmon Wilderness in Oregon. As I recall, in that wilderness there are currently nine miles of road existing in the Copper Salmon proposed wilderness in which two remain open, two miles remain open.

Mr. GRIJALVA. And I was—Ms. Daly or Mr. Potts, I am going to ask you about a law that relates to the previous conversation we were having, a law that passed in the 101st Congress that gave the National Park Service additional authority to take legal action against those who damage park resources.

Would you please describe the liability standard in the National Park Resource Protection Act, which I understand you referred to as 19jj, and talk about how that differs from the liability standard being discussed in H.R. 2334?

Mr. POTTS. The liability standard that was established on the Park Protection Act—Park Resource Protection Act called 19jj was that any damage, any harm caused to resources of the National Park Service are—the causer of the damage would be held—can be held liable regardless of the cause. There are several exceptions, and the ones we were just talking about were an act of God and the third party causing the damage.

The way that differs from the current—the absolute standard that the ditch company currently has with Rocky Mountain National Park that has been in place since 1907, that is an absolute standard.

Mr. GRIJALVA. OK.

Mr. Bishop.

Mr. BISHOP. Mr. Holtrop, I didn't get a chance to talk to you in the last round. Let me try to come here again.

In two of these bills, both the one in California as well as the one in Arizona, there is a great deal of discussion as far as fire potential that is there. Do you have any figures as to allegedly how many fires have been caused by humans in the Arizona portion by illegal activity in that particular area?

Mr. HOLTROP. In the year just concluded in Fiscal Year 2007 on the Nogales ranger district, which is one of the two ranger districts in that area, there were 20 human-caused fires in that area; and, of those 20, 9 of them were determined to be caused by undocumented illegal immigrants.

Mr. BISHOP. Does the Forest Service use mechanized or motorized units to respond to those?

Mr. HOLTROP. If the fire occurs in wilderness, because not of all of those fires were in wilderness. But so, obviously, if it is not in wilderness, then mechanized equipment is—if it is accessible to mechanized equipment, we would. In wilderness, we would do so only if in an emergency it was determined that that was necessary.

We—as much as possible, we want to allow natural causes, natural events to occur in wilderness.

Now a human-caused fire is not considered to be a natural cause. So we are going to do what we can to put it out. But, at the same time, if we can do so using nonmechanized means and be effective, we would choose to do that in wilderness.

Mr. BISHOP. But in the California bill that we have before us, it authorizes the use of mechanical and mechanized equipment for activities that are preventive. Does that run askew of the concepts that we have had with wilderness in the past?

Mr. HOLTROP. In general, it does, in my opinion.

There is a distinction to be made between an emergency situation in which we are treating a fire that is already occurring and preventative measures, which is what your question was referring. There are some exceptions in which, again, in an emergency activity, natural activity such as an insect and disease outbreak or something like that that increases the fire danger in an area in which there is particular concern, could perhaps create a situation where we would need to take some action in wilderness in a preventative way.

But, in general, our overriding influence in wilderness is allowing natural processes to occur and if—and, again, so the fact that this bill would give us the authority to carry out treatments in advance of fire occurring, that is a unique circumstance that we have not dealt with in the past in the Forest Service.

Mr. BISHOP. How many acres of wilderness has the Forest Service—and BLM does this, too—has the Service or BLM mechanically treated to thin hazardous fuels like in the past year, maybe the past 5 years?

Mr. HOLTROP. I am not aware of any in the Forest Service.

Mr. BISHOP. Ms. Daly, in the BLM?

Ms. DALY. I have to get that information for you, sir. I am not aware of any at the current moment.

Mr. BISHOP. Let me stick in the area, Mr. Holtrop, in the California bill in the first place, your testimony is you support wilderness where wilderness ought to be and this area perhaps exceeds some of that as well. How many total acres of proposed wilderness in the California builders and Forest Service believe should not be designated as wilderness?

Mr. HOLTROP. I don't have the exact acreage figures memorized, but it is the additions to the Agua Tibia Wilderness we do support and a portion of the Santa Rosa Wilderness we do support. The others are inconsistent with our forest plan direction which is largely generated because of concerns with fire protection around communities.

Mr. BISHOP. What types of current recreational uses take place in proposed wilderness areas?

Mr. HOLTROP. In general, or are you referring to one or the other bills at this point?

Mr. BISHOP. I am sticking with California right now.

Mr. HOLTROP. Generally those, of course, would be dispersed forms of recreation such as hiking, hunting, and some climbing, mountain climbing.

Mr. BISHOP. What about mountain biking?

Mr. HOLTROP. If it is designated wilderness, mountain biking is not allowed.

Mr. BISHOP. Are some of those—are mountain biking activities being done in some of this land right now that it would be prohibited?

Mr. HOLTROP. Yes.

Mr. BISHOP. The bill also talks about transmission lines and talks about basically grandfathering existing lines. What does this bill do to new lines or to upgrades, which I understand they are presently doing, upgrading of current lines? How would this bill impact that transmission authority?

Mr. HOLTROP. And—I am sorry—are you still asking about the California bill or——

Mr. BISHOP. California, yes. Grandfathers in transmission lines. Those are existing lines. What does it do about new lines or if you want to upgrade current existing lines?

Mr. HOLTROP. I am not aware of the relationship between this legislation and new lines or upgrading those lines. I would have to research that for you and get back to you later.

Mr. BISHOP. OK. It recommends new wild and scenic rivers, but the suitability study has not yet been done. How long do those suitability studies normally take?

Mr. HOLTROP. Suitability studies depend on various factors, but they can generally be done in a few years' period of time.

We have taken a position that we are not opposed to this, despite the fact that the suitability studies have not been done. We know they are eligible, which means they are free flowing and have outstanding remarkable values. And given the general support of the community and the bipartisan nature of the support on Capitol Hill, we are not opposed to this designation.

Mr. BISHOP. I am out of time. So let me yield to the others. I do have more questions. I told you we have a lot of bills here in front of us.

Mr. GRIJALVA. Thank you.

Mr. Mark Udall.

Mr. MARK UDALL. Mr. Chairman, I have no further questions at this time.

Mr. GRIJALVA. If I may, Mr. Holtrop, just a quick follow-up on fire causes.

Mr. HOLTROP. Yes, sir.

Mr. GRIJALVA. The Nogales ranger sectors is not just the proposed designation wilderness?

Mr. HOLTROP. That is correct.

Mr. GRIJALVA. The figure you gave me is for the whole sector.

Mr. HOLTROP. It is for the entire ranger district. That is correct.

Mr. GRIJALVA. And in the proposed wilderness area, the highlands, of that figure of 22, how many in there?

Mr. HOLTROP. I don't believe there were any.

Mr. GRIJALVA. Thank you.

And I think there was a 2005 environmental impact statement on the management plans for four southern California national forests. The agency stated, the notion that wilderness designation makes fire suppression more difficult and restrictive is not based on fact.

Director Daly, your reaction to that statement, that it does?

Ms. DALY. That was the Forest Service study, sir?

Mr. GRIJALVA. Environmental impact study.

Ms. DALY. I think you want—I would feel inadequate to comment on the Forest Service study.

Mr. HOLTROP. So your question is how do I react to?

Mr. GRIJALVA. How do you react to that designation of a wilderness area would make fire suppression more difficult and restrictive, the conclusion is that that claim is not based on fact. Your reaction to that?

Mr. HOLTROP. Well, I believe that, again, wilderness designation—we take wilderness designation seriously; and, as much as possible, we are going to allow natural forces to play out in wilderness. We would take a look at—in an emergency situation, we are allowed to make exceptions to that. There are processes that we and I believe the Department of the Interior and agencies are also very good at being able to accomplish those processes in a very short period of time, as Ms. Daly's answer to the one question referred to being able to get approval to use a bulldozer in wilderness to fight fire. That is—those types of situations occur on national forest system lands when necessary as well, and there are some process steps that need to be gone through.

But, again, we would choose to only do that as a matter of last resort.

Mr. GRIJALVA. I am just trying to reconcile that. You know, this committee has gone on record twice as expressly approving the use of mechanized equipment, the building of fire roads, fire towers, firebreaks, or any fire pre-suppression facilities where necessary and other techniques for fire control. And, you know, according to House Report 95540, anything necessary—and I quote—for the protection of public health and safety is clearly permissible.

I am reconciling that that latitude exists. If I am wrong in that assumption, I need to be corrected.

Mr. Holtrop.

Mr. HOLTROP. I am not in any way, shape, or form wanting to correct you on that. I am only meaning—in fact, you are correct that that latitude exists.

What I am trying to point out is that we also are going to weigh the wilderness values that are at stake as well and when we make those decisions.

Mr. GRIJALVA. And in your professional capacity in the stewards, you should. But what I am reconciling is that the latitude exists and if an agency chooses to use it, given the circumstance that there was no other restrictive clause in the wilderness designation that would prevent you from doing that. That is the only point I am reconciling.

Mr. Bishop, any additional questions?

Mr. BISHOP. Yes, I do. I apologize. We have a lot of bills here. We haven't even touched Oregon yet.

Let me go back to Arizona. You have presently in the area that is designated for wilderness have five endangered species, four threatened species, that you are managing in that area. Does your management plan change under wilderness designation?

Mr. HOLTROP. Generally, no, not for the management of threatened and endangered species unless, again, there is some aspect of

that management that requires mechanized equipment use. I am not aware of that for any of those species.

Mr. BISHOP. Same thing also happens when you have at least eight active rate allotments in assessment range improvements within a proposed area that requires occasional maintenance, including tanks, water wells, water catch gates, fences.

When I created the wilderness in Utah, one of our efforts was to try to exclude those areas so that they could be maintained. What happens if this becomes designated to those wilderness elements?

Mr. HOLTROP. If those elements are within the designated wilderness, the access to them then has to be by a nonmechanized means.

Mr. BISHOP. In some cases, that may work. In many cases, it wouldn't.

We talked very briefly about the memo understanding you have with border enforcement. What happens—is there any way of changing that memo understanding once this has been changed into wilderness areas? Is there any way of making a new or amended one? What happens to that memo of understanding?

Mr. HOLTROP. The memo of understanding would continue to exist, because it already refers to existing wilderness that the Pajarita Wilderness—the existing portion of the Pajarita Wilderness is adjacent to the Mexico border, so it has already—the MOU already deals with management activities for the border patrol within wilderness. The MOU would then also apply to any new wilderness that would be designated.

Mr. BISHOP. What about if you wanted to amend that MOU?

Mr. HOLTROP. It is a three-party MOU between the Departments of the Interior, Agriculture and Department of Homeland Security.

Mr. BISHOP. So would a new wilderness designation make it change in that MOU or make it more difficult at any time?

Mr. HOLTROP. It would not require a change in the MOU. It may—what—and I can't speak for the Department of Homeland Security or the Border Patrol on this, but my understanding is there are some concerns over the additional difficulties of carrying out their operations within designated wilderness. But our concern—the Forest Service concern is our ability to carry out our resource management activities.

Mr. BISHOP. So it wouldn't have an impact on you. It may on some other sites.

Mr. HOLTROP. Yes.

Mr. BISHOP. You had some objections to the cherry stems in this one. Would you just kind of tell me what you meant by that?

Mr. HOLTROP. The——

Mr. BISHOP. Extensive use of cherry stems to exclude designated roads, travel ways was the language in your testimony.

Mr. HOLTROP. There are several roads that are inside the area of the Tumacacori Highlands proposed wilderness, and the way the legislation is written is those roads are excluded by drawing what we call cherry stems of nonwilderness around those roads that allow those to continue.

Our concern with the cherry stem roads is that—are a couple. One is, in some cases, those roads do not have public access and

only have access for the permittees who have improvements at the end range—permittees at the end of some of those roads.

In some cases, those roads would provide means for people to leave the road and use mechanized equipment in the designated wilderness, and it would be difficult for us to manage that; and it has the additional detrimental effect of reducing the solitude that is one of the characteristics that we like to—we designate and manage wilderness for.

So our suggestion is to find ways to adjust the boundary of the wilderness so that the roads are excluded in a more substantial way than just through the cherry stemming.

Mr. BISHOP. Let me run up to Oregon with you.

You said you had support of the bill with important adjustments. Approximately how many acres would you recommend be removed from this Copper Salmon Wilderness bill?

Mr. HOLTROP. I don't have an acreage figure. What our suggestion is for the Copper Salmon Wilderness is some of the boundaries are defined as roads that currently are adjacent to the boundary. We are suggesting that an offset from that road inside into what would be otherwise designated as wilderness be nonwilderness for various reasons. And depending on the width of that offset, the acreage figure would change. Whether it is a couple hundred feet, whether it is several hundred feet, it would change the acreage figure.

The reason we would ask for that—I think one very important reason is the ability for us to maintain the roads. This is steep mountain country with lots of hydrologic situations that we may have to replace ditches, we may have to replace culverts and have to move the roads inside in a manner that would be the most conducive to doing so in protecting the water resources. And if it is designated wilderness immediately adjacent to the road, we are not able to move the road inside of the wilderness, of course. So by having some offset is what we are looking for.

Mr. BISHOP. If you have 11 miles of road, I am assuming interior roads as well here, 92 culverts in these areas, are they going to have to be removed in a wilderness designation?

Mr. HOLTROP. If it were designated wilderness, we would have to take a look at those on a case-by-case basis. Some of those roads——

Mr. BISHOP. Could you remove the culvert with a mechanized means?

Mr. HOLTROP. What we would choose to do is do a minimum tool analysis. If a culvert needed to be moved, and some of them would certainly need to be removed, we would do a minimum tool analysis; and if that minimum tool analysis told us we needed to use a mechanized means to accomplish that, that is what we would choose to do.

Mr. BISHOP. You have 20 percent of this land that is being proposed up in Oregon that has already been harvested which doesn't necessarily meet the 1964 definition of the law. You also have communication towers all over the place. It doesn't meet the definition of the law. Most of this is what is called late successional reserves. For what purpose do you have—do you propose having land that is a late successional reserve?

Mr. HOLTROP. The purpose of the late successional reserves in the Northwest Forest Plan is to provide habitat for species that are dependent upon late successional forest types, such as the spotted owl.

Mr. BISHOP. If you have densely planted acreage where you have very thin, tall trees, does that adapt itself easily to habitat for these species, or do you need to have bigger trees with more areas so they can actually have leaves to live in or branches and crap to live in?

Mr. HOLTROP. Generally, in those areas, thinning of those types of stands would allow those stands to grow up into a larger late successional reserve type of situation that would meet the objectives more quickly than others.

However, large—late successional reserves, there is large acreages associated with those; and treating all of the acres is not going to be something that would happen. But that very question that you are asking is another one of the reasons of some offset from the road would be beneficial to us.

Mr. BISHOP. One last one.

We talked about the interior roads within Oregon that would have to be removed. In the Arizona proposal, there are also interior roads within the wilderness that are being presently used by border patrols. Would they have to be removed as well?

Mr. HOLTROP. I think there are probably three sets of circumstances that might occur in that. One is, if it has been excluded from the wilderness through the cherry stemming, they would not need to be removed. If they are roads that exist in the wilderness, we would close them for public use and we would make a decision through the MOU process with the border patrol as to whether they were needed for their purposes.

Mr. BISHOP. Thank you, and I will quit my questioning of this panel, Mr. Chairman. I apologize for going over time, but I have got—when you give me five bills of these kinds of magnitude, it is hard to try to get them all in, in a short period of time.

Mr. GRIJALVA. Thank you, Mr. Bishop.

Mr. Holtrop, before I thank you and Director Daly and Mr. Potts for being here today and providing information, in the Tumacacori, the point of those cherry stems is to provide access for ranchers and border patrol. And those roads for ranchers and border patrol are nonsystem roads, and they shouldn't be open to the public, but they should be accessible and used consistent with the MOU and consistent with the permittees that have the gracing permits on that land.

But, with that, let me thank you and appreciate your——

Mr. HOLTROP. Mr. Chairman, if I could correct a misstatement that I made earlier—and I apologize for this. I have been informed that there were two human-caused fires in the proposed Tumacacori Highlands in 2007, rather than the zero that I mentioned earlier.

Mr. GRIJALVA. And a lot better than the 22.

Let me call up the next panel. Thank you very much.

Let me welcome our next panel and in particular welcome Ms. Carol Cullen from the district, District 7 of southern Arizona; Mr.

Max Skroch, also from the district; and Mr. Mark South from Rio Rico, also from the district.

Welcome. I know it is a long way to come, but we appreciate it.

Mr. GRIJALVA. Let me begin with Ms. Cullen, Executive Director, Tubac, Arizona, Chamber of Commerce. Thank you.

STATEMENT OF CAROL CULLEN, EXECUTIVE DIRECTOR, TUBAC, ARIZONA, CHAMBER OF COMMERCE

Ms. CULLEN. Mr. Chairman, members of the committee, good afternoon; and thank you for the opportunity to be heard today on this important matter before you.

My name is Carol Cullen, and I am a resident of Tubac, Arizona. My family has been in Arizona for five generations. In fact, at the turn of the last century, my grandfather, Jack McVey, homesteaded Las Jarillas Ranch in southern Arizona, just south of Arivaca and just west of the Tumacacori Highlands.

Today, I have the privilege of speaking to you as the Executive Director of the Tubac Chamber of Commerce. I am happy to be here today to tell you a little bit about the wonderful town of Tubac and to ask you to support H.R. 3287, the Tumacacori Highlands Wilderness Act of 2007.

Tubac is a small town in southern Arizona. Its location is about an hour's drive south of Tucson. We are the closest community to the Tumacacori Highlands.

Looking back historically, Tubac began in 1752. Over the next two centuries, Tubac waxed and waned, a victim of frontier hardships, mining's boom and bust economies and other factors.

Today, Tubac is a thriving village. Over 100 businesses line our streets, almost every one locally owned and operated. Tubac has become a center of art and history. Tubac has developed into a thriving, successful 21st century western town because we are blessed with a beautiful and healthy natural landscape.

Many of us are fortunate to see the Tumacacori Highlands from our kitchen window or front porch every single day. When we can get away from the obligations of running our businesses, we enjoy a walk or a hike in the Tumacacori Highlands or showing off the area to visiting friends and family on a drive down the historic rustic Ruby Road.

Having an enduring resource of beautiful landscapes nearby is very valuable to us. In fact, it puts the "quality" in our quality of life. And it is good for business.

Most everyone understand that tourists spend money in the local communities they visit, but there is more to this story. Economic studies have highlighted the connection between protected wild land and the economic prosperity of rural communities in the West. A 2005 study demonstrated that wild public lands, such as the Tumacacori Highlands, draw people who want to live and work in rural areas. This, in turn, leads to vibrant economies, higher-paying jobs and better quality of life for everyone. In Tubac, we know firsthand the truth of these studies.

The Tubac Chamber of Commerce is engaged in all activities relating to the perpetuation, preservation and promotion of Tubac. That is our mission. In 2005, the Tubac Chamber of Commerce unanimously adopted a resolution of support for Federal legislation

to protect the Tumacacori Highlands as wilderness. Mr. Chairman, I have that resolution of support from the Tubac Chamber of Commerce; and, with your permission, I would like to have it entered into the record.

Mr. GRIJALVA. Without objection. Thank you.

[NOTE: The resolution submitted for the record has been retained in the Committee's official files.]

Ms. CULLEN. When the Chamber was considering the wilderness proposal, we saw that a large majority of our member businesses had already expressed their support as individual business owners. As the elected leaders in the business community, that spoke to us.

We recognized the connection between desirable and sustainable economic development and a high-quality natural environment. We see environmental conservation as an economic and business concern for Tubac. Protected healthy landscapes, wilderness areas are a competitive advantage for rural towns like Tubac; and protect we must.

Southern Arizona is growing rapidly. We are having growing pains. Where we still have intact and healthy landscapes like the Tumacacori Highlands, we must take action to give them the additional protections that wilderness designation provides.

On behalf of the Tubac Chamber of Commerce and as an Arizonian, I ask that you help us with this effort. I ask that you pass H.R. 3287 and designate the Tumacacori Highlands as wilderness. It is good for the land. It is good for business. It is good for Arizona.

Thank you for the opportunity to present this testimony.

Mr. GRIJALVA. Thank you very much.

[The prepared statement of Ms. Cullen follows:]

Statement of Carol Cullen, Executive Director, Tubac Chamber of Commerce

Mr. Chairman, Members of the Committee: good afternoon, and thank you for the opportunity to be heard today on this important matter before you.

My name is Carol Cullen, and I am a resident of Tubac, Arizona. My family has been in Arizona for 5 generations. In fact, at the turn of the last century, my grandfather, Jack McVey, homesteaded Las Jarillas Ranch in Southern Arizona—just south of Arivaca and just west of the Tumacacori Highlands.

Today, I have the privilege of speaking to you as the Executive Director of the Tubac Chamber of Commerce. I am happy to be here today to tell you a little about the wonderful town of Tubac, and to ask you to support HR3287, the Tumacacori Highlands Wilderness Bill of 2007.

Tubac is a small town in southern Arizona, about an hour south of Tucson, in Santa Cruz County, named for the Santa Cruz River. Tubac began as a Spanish presidio, or fort, in the wilderness, in 1752, when its population was 41 souls. By 1848, Tubac had grown to 250 people as a frontier and mining town. By 1859, shortly after becoming part of the United States of America with the Gadsden Purchase of 1853, Tubac was home to 800 people—one-sixth the population of Arizona. When soldiers were withdrawn from the Fort to fight in the Civil War, raids by Apaches dramatically decreased the population of Tubac and Santa Cruz County. In 1871, the publication "Arizona Miner" reported the population of Tubac to be 1. In 1908, there are reports that Tubac was deserted—victim of frontier hardships, the bust cycle of mining's boom-and-bust economy, and the movement of people to the city of Tucson.

I'm telling you this history because today Tubac is a thriving village of over 1500 souls. Over 100 businesses line our meandering streets—almost every one locally-owned and operated. An Artists' School opened in 1948, and since that time Tubac has become a center of art and history. In fact, part of the original town site has been placed in the National Register of Historic Places. The first Tubac Festival of the Arts was held in 1959—it continues to be a large annual celebration today. The

Tubac Presidio State Historic Park was established in the same year, 1959, and the Museum in 1964. Our Tubac Center for the Arts opened in 1972. Today we host new residents and visitors from around Arizona and other states for festivals, getaways, and cultural, historical and artistic events year-round.

Tubac has developed into a thriving, successful 21st century western town. This is due in large part because we are blessed with a beautiful and healthy natural landscape. We have jewels of the Coronado National Forest on both sides: the Mount Wrightson Wilderness to the east, and the proposed Tumacacori Highlands Wilderness to the west. Indeed, many residents of Tubac are fortunate to see both of these magnificent wilderness mountain ranges from their kitchen window or front porch every single day.

It's why many of us came to Tubac in the first place and remain there today. We enjoy; we appreciate; we need the rural character of Tubac and Santa Cruz County in our daily lives. When we can get away from the obligations of running our businesses, many of us enjoy a walk or a hike in the Tumacacori Highlands, or showing off the area to visiting friends and family on a drive down the historic and rustic Ruby Road.

Having the enduring resource of beautiful landscapes nearby is very valuable to us. It provides places for family outings. It affords opportunities for spiritual reflection and renewal. It puts "quality" in quality-of-life.

And it's good for business. Protected healthy landscapes—Wilderness areas—are a competitive advantage for small towns like Tubac, and our neighbors in Rio Rico, Arivaca, Green Valley, Nogales, Sahuarita, and Tucson. The West is changing—today's model of economic prosperity is based on attracting and retaining educated, entrepreneurial people who create value and wealth through nondestructive enterprises. Examples of this include software engineering, financial services, artist galleries and workshops, cultural and historic tourism, providing hospitality for tourists coming to enjoy wild Arizona—to hike, to camp, to hunt, to take photographs, to look for birds.

"To look for birds." It may sound silly to some, but it is one of the fastest-growing hobbies in America. In fact, wildlife watching provides a significant and sustainable source of revenue for local communities. The Arizona Game and Fish Department reports that in 2001 the total economic effect from watchable wildlife activities in Arizona was $1.5 billion.[1] A University of Arizona study found that in Santa Cruz County alone, visitors to natural areas spent between $10 million and $16 million in one year just on associated travel and accommodations in the area.

Most everyone understands that tourists spend money in the local communities they visit, whether it is in a restaurant, a hotel or bed-and-breakfast, a sporting goods store, or an art gallery. But there is more to the story.

Recent economic research studies have highlighted the connection between protected open space and wildlands and the economic prosperity of rural communities in the West.

Economic research has uncovered a "new paradigm for economic development in the West: protection of the wild and scenic character of the landscape and the quality of life in local communities serves as a magnet to attract and retain local people and their businesses."[2]

Indeed, through the 1990s, research shows that areas in the West with high levels of natural amenities correlate with rising income levels.[2] There have been more than a dozen studies quantifying the economic value of wilderness recreation and the other economic benefits that wilderness provides society.[3]

Many of these studies reach similar conclusions: that economic development models that ignore the role of environmental amenities, ties to the land, sense of place, commitment to a landscape and culture may well misdirect public policy in ineffective ways. [4]. That "an informed rural economic development strategy should have as one important element the protection of the natural environment."[2] That "keeping a high-quality wild environment is a development strategy."[3]

The Tucson-based Sonoran Institute published a 2005 study demonstrating that protected, wild public lands—environmental amenities—such as the Tumacacori Highlands draw people who want to live and work in rural areas, which leads to vibrant economies, higher paying jobs, and better quality of life for everyone.

What economists call "environmental amenities", in Tubac we call "the land," or "the mountains," or "the Tumacacori Highlands," or "wilderness."

In Tubac, we know first-hand the truth of these studies. We're the people these studies are talking about. We've moved to or remained in Tubac because of the surrounding environment and rural character of the area. And we brought with us or created through entrepreneurial effort the means to thrive and contribute to our community.

The Tubac Chamber of Commerce is a non-profit business league engaged in all activities relating to the perpetuation, preservation, and promotion of Tubac, and its businesses; with particular attention given to the economic, civic, commercial, artistic, cultural, and historical interests of the area. It is our responsibility to advocate for public policies that will benefit the Village of Tubac, Santa Cruz County, and Southern Arizona.

The Tubac Chamber of Commerce endorses the wilderness proposal because protecting our open space and wild places like the Tumacacori Highlands contributes directly to a high quality-of-life and is a key component in drawing local business patrons and tourists' dollars to the area. Many of the residents of Tubac are also business owners and Chamber members. We live in Tubac because it's naturally beautiful and our businesses are dependent on the tourism drawn by this beauty; we want to preserve that beauty and the natural rural character of the area.

In 2005, the Tubac Chamber of Commerce unanimously adopted a Resolution of Support for Federal Legislation to Protect the Tumacacori Highlands as Wilderness. When the Chamber was considering the wilderness proposal, we saw that a large majority of our Member businesses had already expressed their support as individual business owners. As the elected leaders in the business community, that spoke to us.

The Tubac Chamber of Commerce and its member businesses understand the values that protected open space and a healthy natural environment provide to residents, visitors, and businesses alike. We recognize the connection between desirable and sustainable economic development and a high-quality natural environment. We see environmental conservation—protecting the special rural character of the valley and surrounding areas—as an economic and business concern for Tubac.

And protect it we must. I would like to make this clear. Arizona is growing rapidly; Southern Arizona and the Santa Cruz River Valley are growing rapidly. In fact, we have the dubious honor of being neck-and-neck with Phoenix and Las Vegas as the fastest-growing, fastest-urbanizing part of the country. We're experiencing growing pains. The rapidly increasing urbanization pressures threaten the natural wild character and environment that makes the area special. Even on federal land, the actions of irresponsible or uninformed recreational users threaten the integrity of the land. Where we still have intact and healthy landscapes like the Tumacacori Highlands, we must take action to give them the additional protections that Wilderness designation provides.

On behalf of the Tubac Chamber of Commerce, and as an Arizonan myself, I ask that you help us with this effort. I ask that you pass H.R. 3287 and designate the Tumacacori Highlands as Wilderness. It's good for the land; it's good for business; it's good for Arizona.

Thank you for the opportunity to present this testimony.

References:

1. "Economic Impact Analysis of Nonconsumptive Wildlife-Related Recreation in Arizona." Conducted for the Arizona Game and Fish Department by Southwick Associates, May 2003.
2. Rasker, R. and Hansen, A. 2000. Natural Amenities and Population Growth in the Greater Yellowstone Region. Human Ecology Review, Vol. 7, No. 2.
3. Loomis, John B. Economic Values of Wilderness Recreation and Passive Use: What We Think We Know at the Beginning of the 21st Century. USDA Forest Service Proceedings RMRS-P-15-VOL-2. 2000.
4. Rudzitis, Gundars. 2000. The Impact of Wilderness and Other Wildlands on Local Economies and regional Development Trends. USDA Forest Service Proceedings RMRS-P-15-VOL-2. 2000.

Mr. GRIJALVA. I will introduce Mr. Matt Skroch, Executive Director, Sky Island Alliance.

Mr. Skroch, your testimony, please.

STATEMENT OF MATT SKROCH, EXECUTIVE DIRECTOR, SKY ISLAND ALLIANCE

Mr. SKROCH. Mr. Chairman, members of the committee, good afternoon, and thank you for the opportunity to speak with you today regarding H.R. 3287, the Tumacacori Highlands Wilderness Act of 2007.

My name is Matt Skroch. I am the Executive Director of the Sky Island Alliance. We are a regionally based organization in southeastern Arizona that works with volunteers, government agencies, land counselors and the general public in our mission to protect and restore the magnificent natural heritage of the region in which we live.

The Tumacacori Highlands incorporate three mountain complexes northwest in Nogales, Arizona. Home to the only resident jaguars known in the United States, they are comprised of deep and well-watered canyons, soaring lichen-drenched cliffs and rolling hills of subtropical oak savannahs. The mountains are largely influenced by subtropical regions to the south, hence hosting many additional species of wildlife found nowhere else in the Nation.

The Tumacacori Highlands host the largest unprotected roadless area in Arizona's national forest lands. Together with the expansion of the small existing Pajarita Wilderness south of Ruby Road, this designation will ensure that it hits the fast-paced population growth in our region. The Tumacacori Highlands will remain in their wild state for generations to come.

The wilderness idea was born 5 years ago by concerned local residents alarmed at the conversion of lands to development and the ever-growing presence of off-road vehicles.

Congressman Grijalva listened to these concerns and responded affirmatively to the concept that we made it clear that it was a process that needed to be followed. That process involved public outreach in stakeholder collaboration. Lots of it, I might add.

Over the last 4 years, we have presented the proposal to hundreds of organizations and thousands of individuals. With transparency and fair-mindedness, the proposal changed and changed again, based on feedback.

It has been a pragmatic approach to land management that recognizes that, in a time of great change, some things should remain the same. Chairman Grijalva and members of the committee, that is exactly what this initiative strives to do for a small segment of lands on the forest.

Access was a major issue. You will find that, after designation, the Tumacacori Highlands will be one of the most accessible wilderness areas in Arizona, hosting more than 100 miles of motorized access points from all directions. This access-friendly priority is balanced with the protection of the roadless acreage and the core wild lands of the area, providing measured opportunities for motorized and nonmotorized uses alike.

The continuance of cattle raising is also an important issue. We have worked collaboratively with the largest permittee in the area and found agreement in how we believe grazing and maintenance of facilities should be managed under the congressional grazing guidelines.

Mr. Chairman, if I may, I would like to add that agreement into the record.

Mr. GRIJALVA. Without objection.

Mr. SKROCH. Thank you.

[NOTE: The agreement submitted for the record has been retained in the Committee's official files.]

Mr. SKROCH. The border is the third key issue.

From the outset, proponents of this issue made it clear that wilderness should not interfere with law enforcement along the border. For those of us who live near the international line, border and immigration enforcement are facts of life, just as is our vigilance in working to solve the complex issues they raise.

In wilderness areas, agencies have clarity on how to achieve operational success. We respect the policies the Department of Homeland Security has put into place collaboratively with land management agencies along the border.

The 2006 agreement between the Department of Homeland Security, the Department of the Interior, and the Department of Agriculture, provides a detailed framework for border operations within wilderness areas.

In closing, I am proud to say that H.R. 3287 enjoys a wide base of support in southern Arizona. Governor Napolitano, along with local and statewide editorial board support, from the Arizona Republic, the Tucson Citizen, the Nogales International, the Green Valley News support the Tumacacori Highlands Wilderness, though more impressive is the bill's grassroots' support from businesses to back-country hunters, scientists to homeowners' associations. This bill tells a story that reveals just how popular wilderness is in southern Arizona. It also speaks volumes as to why the Tumacacori Highlands deserve to be Arizona's next wilderness area.

On behalf of the Sky Island Alliance and all of the supporters behind this initiative, I ask for your support of H.R. 3287. Thank you for the opportunity to present this testimony.

Mr. GRIJALVA. Thank you.

[The prepared statement of Mr. Skroch follows:]

Statement of Matt Skroch, Executive Director, Sky Island Alliance, on H.R. 3287

Chairman Grijalva, Members of the Committee and staff, thank you for the opportunity to testify today. My name is Matt Skroch. I am the Executive Director of the Sky Island Alliance, a regionally-based non-profit organization dedicated to the conservation and restoration of the unique natural heritage of the Sky Island region of southwest North America. We are a membership-based organization, representing more than 1,200 residents of southeastern Arizona, southwest New Mexico, or throughout the country.

On behalf of Sky Island Alliance, I would like to thank Congressman Grijalva and his staff for the hard work that has gone into this legislation. Their process has been fair, and they have worked hard to listen to the concerns and recommendations from all interested parties.

H.R. 3287 is a wilderness bill built upon nine years of local citizen efforts. It addresses the management of certain lands of the Coronado National Forest in Santa Cruz County, Arizona. This legislation represents a significant and worthy addition to the National Wilderness Preservation System and we ask for your support in passing this important measure.

Allow me to begin with a history of the initiative that is before you today. Five years ago, a small group of landowners and concerned citizens met in the living room of Bill and Ellie Kurtz, good folks who have lived in the northern shadow of the Tumacacori Mountains for over thirty years. Bill, who worked as an exploration geologist, came to southern Arizona in 1952 and Ellie followed four years later. Most of the other folks at the meeting had also spent a considerable number of years living in and around the Tumacacori Highlands, collecting stories and memories from a time previous to Arizona's explosive growth. I had the pleasure of attending that meeting. Mostly, I listened to their stories. I heard about the mountain lion that harassed their horses, the big floods of 1983, and the various ranches that, over time, have been sold for development.

My role at that meeting was to present the previous four years of work that Sky Island Alliance and other collaborating organizations had accomplished in the Tumacacori Highlands. Through extensive field assessments, volunteer weekends, aerial flyovers, historical research, and biological studies, we had prepared a draft analysis of the Tumacacori Ecological Management Area, a 300,000+ acre unit of the Coronado National Forest northwest of Nogales, Arizona. Included within this unit of federal land were several roadless areas, one of which stood as the largest unprotected roadless area on National Forest lands in Arizona. The question arose among the residents—how can we ensure that these lands remain untrammeled in perpetuity, free from the development we see around us and kept in a state of naturalness becoming more rare with each passing year? The idea of designating a portion of the Tumacacori Highlands as Wilderness was born.

Wilderness here was not a new idea. In 1978, the Coronado National Forest identified Tumacacori unit 03-114 as "a very large and very wild mountain range...known intimately by very few people and held to be the best hunting grounds in this part of the state." During the RARE II process that ensued, the Forest Service received 430 letters regarding the potential for Wilderness designation there. 399 of those letters—all personal correspondence excluding form letters—supported Wilderness. The sufficient acreage, outstanding views, rare biological characteristics, and overwhelming public support warranted the Forest Service recommendation in support of Wilderness, and throughout most of the review they did. Unfortunately at the last step in the RARE II analysis, the area was classified as "Further Planning" by the Regional Forester, who simply stated "Little interest. Volume of public comment was low. Interest was evenly divided but local response favored non-wilderness." Explanation for the disconnect was never given, nor was there documentation for why the Tumacacori unit was listed as a Non-Wilderness recommendation in the Final Environmental Impact Statement. The Tumacacori Highlands were left behind, but not forgotten.

Characteristics of the Tumacacori Highlands

Twenty years later in 1998, five years previous to the aforementioned meeting, Sky Island Alliance began a science-based review of the Coronado National Forest. Over the next five years, more than 1200 volunteers would donate their time photographing roads, helping scientists conduct biological surveys, and identifying important wildlife linkages between the isolated "Sky Island" mountain ranges that speckled the southeastern Arizona landscape.

Home to more threatened and endangered species than any other Forest in the nation, the Coronado bridges the temperate Rocky Mountains to the tropical Sierra Madre, pulling from both biogeographies to create a continental meeting point unparalleled in biodiversity. The review we conducted along with former studies confirmed that among all of the splendid places in our nation, more mammal, reptile, bird, ant, and bee species occur in southeastern Arizona. We also discovered that of the eighteen mountain ranges in southeastern Arizona, the Tumacacori Highlands stood out as an unusually rich region.

Formed by the convergence of three mountains, the Tumacacori Highlands encompass, from north to south, the Pajarito, Atascosa, and Tumacacori ranges. Characterized by deep and well-watered canyons, soaring lichen-drenched cliffs, and rolling hills of sub-tropical oak savannahs to the west, the Highlands represent an ecological niche extremely rare in the current National Wilderness Preservation System. Perhaps its rarest and most heralded quality is that only here scientists have confirmed resident jaguars living in the United States. With dozens of photographs of the cats spanning six years, the jaguar continues to roam the Highlands today. Needing large, unfragmented land left in its natural state, the jaguar is testament to the current conditions that make the Tumacacori Highlands an appropriate home for this magnificent cat. Other species of wildlife reinforce the quality of the land. The most intact breeding population of Chiricahua leopard frog, rare populations of Mexican vine snakes, and consistent sightings of gray hawks, five-stripped sparrows, elegant trogons, and Mexican opossum are just a few additional animals that reach their northern limit in the Tumacacori Highlands.

The Tumacacori Highlands are more than good wildlife habitat. The mountains are cherished by the people of southern Arizona as well. Since 1933 when the fire lookout was constructed atop Atascosa Lookout, generations of families have enjoyed the moderate trek to one of southern Arizona's top rated scenic vistas. Walking about the wooden planks that surround the now-restored cabin, visitors enjoy 360 degree views of valleys and mountains in every direction. Looking down onto Bear Valley and the jagged tooth of Baboquivari Peak to the west, the expanse is of unbroken wildlands as far as the eye can see. For the more adventurous, the perennial waters in Peck Canyon or the towering cliffs in Pine and Beehive Canyons provide

a level of solitude rarely found on the Coronado National Forest. Hunting is popular here. As one of the best white-tailed deer units in the state, sportsmen and women flock to the area in the fall hoping to find a place for their tag. Photographers, horse enthusiasts, botanists, and bird-watchers come to the Highlands for its wild country, beautiful views, and unlimited opportunities for exploration. The impetus for the initiative before you is designed precisely to ensure that these values remain long into the future.

Growth

I suspect that most of the members of this committee have had occasion to visit Arizona. Still shaped by its majestic public lands, Arizona is defined more by its explosive population growth today. It is the fastest growing state in the nation, and any visitor who travels to Phoenix or Tucson will readily understand the phenomena taking place. Since the millennium, our population has increased by more than 20%. This rate is more than 300% of the national average. Regardless of the increased tax base, our cities, towns, and counties struggle to keep infrastructure and services on par with the breakneck growth.

Our parks, forests, and other public lands have struggled as well. Visitor numbers have sky rocketed as land managers scramble to protect resources and balance recreation demands. Since 1998, the number of off-road vehicles in Arizona has increased 347% to more than a quarter million machines. At the same time, public demands for high quality recreational opportunities have increased as well. While thousands of miles of authorized or unauthorized routes and trails have appeared on public lands in the last decade, Wilderness acreage has not increased since the 1990 Arizona Desert Wilderness Act. On Forest Service lands, Arizona hasn't added a Wilderness Area since 1984 when our state's population was less than half of what it is today.

Arizona's growth is not confined to urban centers. Rural Santa Cruz County's population growth follows the same trajectory. Today, there are plans to add more than 15,000 homes in the northern portion of the county. This growth provides new jobs, and more often than not our new residents refer to the beautiful desert and mountains as important aspects of their quality of life. The Tumacacori Highlands Wilderness Act is a part of ensuring that our quality of life and access to premier wilderness lands keeps in step with the new demands placed upon our landscapes.

In 1964, the United States Congress had the foresight to plan for the unintended consequences of growth. At that time, bi-partisan legislation creating the Wilderness Act proclaimed that

> "In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness."

After 43 years, these words are very relevant to how the Tumacacori Highlands Wilderness fit into a larger effort to appropriately manage and respond to our population growth.

Process and Stakeholder Input

In that living room meeting five years ago, the small group of folks left for home with an understanding that Wilderness was an appropriate option for a portion of the Tumacacori Highlands. We affirmed that in moving forward with the idea, we must make every effort to lay forth an open, fair, and transparent public process. We vowed to seek the widest spectrum of input possible, and to be open to change as the initiative took shape. Hence, a five-year grassroots outreach effort ensued.

The need for public dialogue and stakeholder outreach was strongly reinforced when proponents presented the initiative to Congressman Grijalva in 2003. In his January 2004 remarks below Tumacacori Peak, the Congressman made it clear that a long path lay ahead, and that he expected a thorough vetting of the issues often associated with Wilderness. I speak with confidence in saying that over the last four years the Tumacacori Highlands Wilderness Act has been worked and reworked to ensure an appropriate balance of land protection and land use.

Beyond the land itself, what defines the Tumacacori Highlands Wilderness Act is its overwhelming grassroots support. After hundreds of presentations and stakeholder meetings, we reflect upon the fact that support for this bill is larger than anyone initially expected. As local volunteers walked the streets of Tubac, the nearest town nestled in the Santa Cruz Valley east of the Highlands, they spoke with hundreds of business owners and residents about Wilderness and the Tumacacori

Highlands. Recently former real estate executive and thirty-year resident of Tubac, Birdie Stabel, remarked that as she visited local shops she "was amazed at how much support there really was" for Tumacacori Highlands Wilderness. As evidenced by the presence of Tubac Chamber of Commerce director Carol Cullen here today, the Tumacacori Highlands Wilderness bill reflects a new relationship between business and wilderness. Her organization, along with hundreds of individual businesses throughout the Santa Cruz River Valley who support this bill, speak to the new dynamics emerging in the West. That is, healthy landscapes and protected areas equal healthy communities and sustainable economies.

From a hunter's perspective, the Backcountry Hunters and Anglers organization, along with other supporters, will tell you that Wilderness in the Tumacacori Highlands means good game habitat. Especially with the increase in off-road vehicles, sportsmen and women are increasingly demanding prime hunting grounds on their public lands. In this context, access was also raised as an important issue. We often heard from the public and various agencies that the wilderness boundaries must be accessible by vehicle. We agree. After designation, the Tumacacori Highlands will be one of the most accessible Wilderness Areas in Arizona, currently enjoying more than 100 miles of Forest roads providing direct access, including a number of cherrystems that allow visitors to drive further into the interior of the wildland complex. We also support current efforts by the Arizona Game and Fish Department and Forest Service to acquire public easements outside the Forest boundary.

As for wildlife management, proponents have met with the Arizona Game and Fish Department numerous times to discuss their access and management needs. Based on feedback from agency staff, we applaud the Congressman for making changes to the bill that include cherrystemmed access to Frog Tank, larger buffer areas around Arivaca and Pena Blanca Lake, and legislative language that refers to agency agreements such as the 2006 Association of Fish and Wildlife Agencies' Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness.

Ranching is a historic use in the Tumacacori Highlands. Unfortunately, at least three of the six current ranches that manage grazing allotments with the proposed area have recently been sold for housing developments or are currently on the market. Regardless, we appreciate the attention that Congressman Grijalva has given to this traditionally difficult interface. H.R. 3287 makes it clear that grazing shall continue in accordance with law, including the maintenance of existing facilities, by citing the long-standing Congressional Grazing Guidelines. We also thank the Congressman for supporting the agreement that proponents have reached with certain cattle operations in the area.

The Tumacacori Highlands are near the international border with Mexico, and currently the Border Patrol maintains one of their few remaining horse patrol units in the area because of its rough topography and inaccessibility by vehicle. From the beginning, proponents of the Wilderness bill made it clear that we had no intention of impeding Border Patrol's ability to do their job. We also recognized that the Wilderness legislation should acknowledge this fact and provide clarity on the issue. Section 4(i) of the bill addresses border operations. More importantly, it refers to policies that have been worked out to ensure compatibility between the land management and border enforcement agencies. Specifically, I'd like to acknowledge the 2006 Inter-Agency Memorandum of Understanding Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders. This document was ratified by the Secretaries of Homeland Security, Agriculture, and Interior, providing a solid basis for how the agencies coordinate and operate with Wilderness Areas along the border. It is an important document that has much bearing on the future of the Tumacacori Highlands Wilderness.

The aforementioned issues have been vetted and vetted again by Congressman Grijalva and the many stakeholders who have participated in the process to bring this bill to your subcommittee. To re-emphasize the tack that proponents took from the beginning, we set out five years ago to strike a balance between protecting this magnificent land in the face of rapid urbanization, and the many uses and interests that come to bear on our public lands. We feel that balance has been reached. It has been reached through a lengthy, fair, and open process that focused on compromise, not ideologies. As Arizona has learned from our late Congressman Morris Udall, who leaves a legacy of wilderness across our great state, we must not alienate but rather unite. He taught us that because of Wilderness's importance and longevity, it must be created respectfully and with great care. Thanks to Congressman Grijalva and the thousands of volunteers and supporters who stand behind this bill, I'd like to think that Mo' Udall would be proud of his legacy coming to bear on the Tumacacori Highlands..

That legacy has been confirmed through numerous editorials and opinions throughout Arizona, including the support of the Arizona Republic, Tucson Citizen, Nogales International, and Green Valley News. It has been confirmed by Arizona Governor Napolitano and former Governor Bruce Babbitt. And it has been confirmed by the hundreds of various organizations throughout Arizona that have pledged their support. From businesses to backcountry hunters, from scientists to homeowners' associations, this bill tells a story that reveals just how popular Wilderness is in southern Arizona. It also speaks volumes as to why the Tumacacori Highlands deserve to be written into the next chapter of Arizona's Wilderness legacy.

Chairman Grijalva, members of the subcommittee and staff, I ask for your support of the Tumacacori Highlands Wilderness Act. Thank you for the opportunity to present this testimony.

Mr. GRIJALVA. Turning now to Mr. Mark South of Rio Rico, Arizona.

Sir.

STATEMENT OF MARK M. SOUTH, RIO RICO, ARIZONA

Mr. SOUTH. Good afternoon, Mr. Chairman and committee members. My name is Mark South, and I am a retired U.S. Forest Service officer of 28 years; and 25 of those years I spent on the Nogales ranger district, the area in which H.R. 3287 is being proposed.

And for the record, Mr. Chairman, I would like to introduce Zach Taylor as part of my testimony or key witness for law enforcement if those questions do come up. Zach Taylor is a retired border——

Mr. GRIJALVA. With the agency people that presented first, bringing on an additional witness that wasn't a specific part of the invitation is permissible. In this case, we issued a specific invitation to you. The gentleman is free to submit any of his material. Without objection, it will be accepted in the record.

Mr. SOUTH. That has been submitted to your office.

Proceeding along then, I am here to explain why creating this wilderness along the U.S. Mexico border will not result in a pristine and untrammeled wilderness that was envisioned in the Wilderness Act of 1964. I will be discussing two main issues: destruction of wilderness values and homeland security.

First, let us talk about the thousands of border crossers, illegal border crossers who are entering this particular area. I have seen firsthand the tons of garbage that the border crossers are leaving, not to mention the change of clothes they leave behind, their backpacks, plastic bags, water bottles, food items, human waste, abandoned campfires, and let us not forget all of the Red Bull cans.

Now behind one of the people here, this photo was just taken a week and a half ago of the particular area of H.R. 3287 with the litter that was left behind by many of the border crossers coming across. I am asking, is this the kind of wilderness—proposed wilderness we want to see be promoted?

It has been averaged that each entrant leaves an average of over eight pounds of material left behind. My whole career with the Nogales ranger district, this is unprecedented with this amount of stuff. Even on a busy Easter weekend we never saw this much litter.

Although the mountains of garbage have spoiled the environment, what about the hundreds of illegal entrant trails rutted down to over two feet entering the United States?

Soil erosion in the so-called untrammeled area has washed away precious topsoil. Just last week, I saw a GPS map that visually shows how many illegal trails that actually are coming across the border. I was told there was over 200 known trails that cross-border violators use to access the U.S.—to access from Sasabe almost clear to Nogales.

Just think about it. 200. That is four times more trails than the Nogales district administers over across the whole district.

Now the map we show here, which is part of the record, is just an older map showing some of the drug trails coming right up through the proposed H.R. 3287.

I was just there a week and a half ago at Atascosa Lookout, performing maintenance on the rehabilitation on the Lookout. I noted the many trails coming across the border, only to see that there was some illegal activity coming on the trails below us. These were not designated trails.

I have personally been approached by many crossers in need of water, food, and medical help. I am used to this activity, but what about the unsuspecting bird watcher from back east that has no idea what to do when confronted by illegal entrants? Is this the kind of wilderness values we want our public to remember?

Even more important is our concern regarding homeland security. We feel that an ulterior purpose of H.R. 3287 and other legislation is to handcuff the law enforcement agencies from performing their duty, which is to prevent the thousands of cross-border violators and contraband from entering the U.S..

Oh, yeah, we are given the right of way with the cherry stem of the roads, but we know that the Wilderness Act of 1964 will eliminate those 4-by-4 roads that are not inventoried that the users, such as law enforcement, would be able to have. Not every law enforcement officer is going out there under an emergency. They are for patrol.

The security of our borders is so threatened that wildfire suppression crews are now required to have armed guards with them at all times. This policy stems out of this spring when there were some fires along the border along Tubac where the firefighters went into and there was a major shoot-out that took place.

Should national security of the U.S. be sacrificed in order to create a wilderness area that does not readily conform to definition of the wilderness? With this area being pushed north, we are going to have the border from Mexico pushed in another 20 to 30 miles. Don't you want our law enforcement agencies, which are our first defense against terrorism, to keep our Nation safe?

Thank you for allowing me to speak before you, Mr. Chairman.

Mr. GRIJALVA. Thank you for your comments.

[The prepared statement of Mr. South follows:]

Statement of Mark M. South, member of a committee representing the Southern Arizona Cattleman's Association and the National Association of Retired Border Patrol Officers, on H.R. 3287

Mr. Chairman, Members of the Committee: good afternoon, and thank you for the opportunity of being able to speak to you concerning this important matter.

My name is Mark South, a retired U.S. Forest Service Official of 28 years and my assistant, Zach Taylor a retired U.S. Border Patrol Official of 26 years, both live in Rio Rico, AZ, which is adjacent to the proposed wilderness area. Many of us who

live within the area are opposed to H.R. 3287. We feel that this initiative is not in the best interest of the area. The reasons that we are opposed are as follows:

Homeland Security:

If H.R. 3287 is passed, motorized vehicles and equipment will not be allowed in the wilderness designation, thereby leaving our border vulnerable to smugglers, terrorists, and contraband. Enacting this legislation will only hinder Homeland Security in their job of protecting the United States/Mexico Border. Section (i) of the H.R. 3287 states "...border enforcement operations are common management actions throughout the area encompassing the covered wilderness areas. This Act recognizes the need to continue such management actions so long as such management actions are conducted in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and existing inter-agency agreements...". What H.R. 3278 says, as per the Wilderness Act of 1964, that law enforcement agencies will not be able to use motor vehicles, motorized equipment, or landing of aircraft or any other form of mechanical transport to complete their duties such as curtailing the flow of undocumented individuals, reducing the threat of terrorists from coming into the U.S., and stemming the flow of illegal drugs.

Another proposed bill, H.R. 2593, The Borderlands Conservation & Security Act of 2007, will also strengthen the exclusion of motorized vehicles along the border. Under Section 5, Border Barrier Construction part (3) paragraph D implies the exclusion of motorized vehicles by recommending the use of remote equipment to track illegal entry into the U.S. This will help, but there still is a need to have motor vehicles within the designated area to deter criminal activity and to apprehend the violators from progressing any further north. Lack of law enforcement signals the cross-border violators that they can now extend the Mexico/U.S. Border another 30 miles north of the existing boundary.

Not only does the Wilderness Act and future legislation prohibit the use of motorized vehicles/equipment in a wilderness area, but non-inventoried 4x4 roads used by law enforcement and the public will be eliminated. Existing numbered roads will be cherry stemmed, but what about all the other 4x4 roads that are not on existing Forest Road inventories? They will be blocked off and rehabilitated. This will even further limit the access of law enforcement, but give the green light to illegal activities coming across the border. This legislation will create safe havens and safe environments for criminals that smuggle humans and narcotics into the United States.

In the last 4 years, several major access points used by law enforcement have been blocked by private land owners, thus denying access to law enforcement. Extreme violent criminal activity has increased in the proposed boundaries of the wilderness commensurate to the lack of access for law enforcement. Just this year, numerous murders and drug rip offs have taken place in communities adjacent to the proposal. We have seen armed criminals intercept entrants smuggling loads and shoot into drug hauling vehicles, killing people in the smuggling load. There was also a shoot out between drug smugglers while several fire agencies were trying to suppress a wildfire. On a daily basis, the news recounts details on shootings, deaths, drug seizures, break-ins, property damage and the influx of undocumented individuals. Criminal activity originating along the proposed wilderness areas extend north into the neighborhoods of Tubac, Amado, Arivaca, Green Valley, Tucson, Phoenix and points beyond creating serious situations.

All of these criminal activities originate along the Mexican Border. We should not hinder law enforcement agencies in carrying out their duties of protecting the U.S. citizens. We need to give them all the tools they need in order to stop the flow of drugs and undocumented individuals. If we can't do that, then do away with agencies responsible for Border Security and save millions of dollars on this effort. Allowing cross-border violators has become more economically based than protecting the environment.

Existing Protection

The Tumacacocori's, Pajarito's and the Atascosa's are already protected by the U.S. Forest Service and are backed by a host of environmental laws. A few of these laws include; Multiple-Use Sustained "Yield Act of 1960, The Endangered Species Act of 1973, Antiquities Act of 1906, Archaeological Resources Protection Act of 1979, the Archeological and Historic Preservation Act of 1960, the National Environmental Policy Act of 1969, Chapter 70—Wilderness Evaluation of the FS Handbook, and the Wilderness Act of 1964.

Before any project can be initiated on public land, the National Environmental Policy Act of 1969 must be followed. An Environmental Impact Statement or an Environmental Assessment document must be written and approved before any project can be started. Both environmental documents contain alternatives to the proposed

action and any adverse environmental effects which cannot be avoided. They utilize all the environmental disciplines along with public input to come up with a project that all can agree upon. If no solution can be found between all parties, then the project can be appealed.

Another environmental safeguard is the Endangered Species Act of 1973. Before a project can start, a Biological Opinion must be written. This involves surveying the area for any possible threatened and endangered species with a document being submitted to the U.S. Fish & Wildlife Service for approval/disapproval. This adds another level of protection to the environment.

Grazing

The cattle ranchers in this area are good stewards of the land. They have a great relationship with the Forest Service and strive to improve the land they lease. Enacting this legislation will disrupt this relationship between the environment, Forest Service and the rancher.

Ranchers with experience in Wilderness Areas are bitter about the enactments. Managing ranch operations will become much harder if not impossible if burdened by a whole new layer of regulations that include prohibiting the use of motorized equipment or transport. Special use permits require a lengthy environmental assessment and approval by both the District and Regional offices. So-called "primitive two-track roads," the jeep trails they use to reach isolated improvements, will be closed. Where once ranchers had access to clean out a dirt tank with mechanized equipment or use a chain saw to cut brush from a fence line, they now are being told to get a special use permit. Often this takes months with no guarantee that they will receive the permit to use mechanized equipment. The question is, why should modern day ranchers try to manage a business under wilderness standards when the rest of the world is using 21st Century techniques? The pressure of a diverse interpretation of regulations can be a slow death "of a thousand head cuts of cattle."

Plants and Wildlife along the Border

A wilderness designation is not needed to protect plants and animals in this H.R. 3287 proposal. The plants and animals in the proposed area are not only found in the U.S., but can also be found in Mexico. There are unique species that many say are only indigenous to the Pajaritos on the U.S. side, but in reality they are also found on the Mexican side. Section 72.31-Factors item 4 of the FS Handbook states that when evaluating a wilderness area to provide a refuge for those species that have demonstrated an inability to survive in less than primitive surroundings, then protection should be provided. A wilderness is not needed to protect species that can be found in both countries. The same species of plants and wildlife can be found on both sides of the border.

Presidential Special Provisions

Having a wilderness designation does not always guarantee that the land will remain pristine. There are several exemptions that are listed within the Wilderness Act of 1964 that would allow development within the area by Presidential declaration. Under Special Provisions of the Act, Section 3, mineral exploration and leasing can still occur. In Section 4, "...the President may authorize power projects, transmission lines, and other facilities needed in the public interest, including construction and maintenance essential to development and use thereof; upon his determination this will better serve the interests of the United States and the people...". For example, originally, H.R. 3287 came out of resistance by the local community of Tubac to stop the installation of a needed overhead powerline to Nogales, AZ. If the wilderness is approved, the President could still approve an electrical transmission line to Nogales, AZ.

Cherry Stemming Roads

Cherry stemming of the existing 20-30 roads will not always give the protection to wilderness as some proponents suggest. Nogales Ranger District Officials set the boundaries for both the Mt. Wrightson and Pajarita Wilderness Areas in the early 80's and were told to set the wilderness boundaries just a mere 66 feet off center line of existing roads. This became a management night mare for Forest Service Officials in trying to enforce no off-road vehicles in favorite camping spots just off the road. Closing off the hundreds of campsites along Ruby Road and other access points will be quite an undertaking. Where will the money and enforcement come for this action? The Forest Service didn't receive any extra money in the 80's for the wilderness fencing or enforcement. How can one have a true wilderness experience if all they see are clouds of dust coming from vehicles on dirt roads just a few feet from the wilderness?

A wilderness criterion says that wilderness areas should not contain roads. This criterion can be found in the Forest Service Handbook, Chapter 71.1—Inventory Criteria of Wilderness Evaluation states that under evaluation criteria. "...Areas do not contain Forest roads (36 CFR 212.1) or other permanently authorized roads, except as permitted in areas east of the 100th meridian...". However, the Ruby and Summit Motor Roads dissect all three portions of H.R. 3287 proposed wilderness area. To the south of Ruby Road and west of Motor Summit Motor Way, there is the existing Pajarita Wilderness. Then to the south of Ruby Road and east of Summit Motor Way there will be the Pajarito Wilderness. The creators of the bill(s) are just changing the last vowel of Pajarito to get away with having additional acres. Then the Tumacacori Highlands will just be north of Ruby Road, clearly adjacent to the two to the south. We are sure that the boundaries of all three wilderness areas will be just a mere 66 foot off center of the existing well traveled roads.

Existing Electronic Site and Helispot

Access must still be allowed for the helispot at Atascosa Lookout which is used by the Forest Service and the many Homeland Security agencies to access their solar powered electronic radio equipment at the lookout. This is a historic use for the site.

Pristine Attributes Trashed

The area along the border is becoming a trash heap from the refuse left behind by the cross-border violators. The Wilderness Act states that the areas is to be untrammeled by humans. The Coronado National Forest struggles now with maintaining the wilderness areas along the border in a pristine condition from the influx of cross-border violators coming from Mexico. What kind of beauty is there in looking at discarded clothing, plastic bags, cans, plastic water jugs, Red Bull cans, human waste, abandoned campfires, and deep rutted human made trails created by groups of people that have entered the U.S. illegally? How much worse will it look if H.R. 3287 is passed?

Solitude Spoiled by Cross-Border Violators

Solitude in the area is often spoiled by smugglers and by large group of illegal's coming across the border. I have been in the area thinking I was alone only to find out that a smuggler is watching every move I make. Or how about the many Homeland Security Sensors along the border that can be tripped by anyone only to have a Black-hawk helicopter swoop down on them to verify their intentions. Is this the wilderness experience we want visitors to come away with? We would hope not. The Coronado National Forest has placed signs at major access points into the proposed wilderness area(s) advising visitors of dangerous illegal border activities. At one time many of us would have had no reservations about camping with our families in the proposed wilderness area, but now, none of us would take our families for a camping trip. Now when recreational people visit the area, they are often faced with providing food and water to the border crossers who usually are lost, sick and tired. Knowing that the border is regularly patrolled can bring visitors some peace of mind as they visit our national forests on the border.

On behalf of the Arizona Cattleman's Association and the National Association of Retired Border Patrol Officers, I would like to thank you for allowing us to express our concerns about H.R. 3287. We ask that you vote no against this proposal that will limit law enforcement's ability to protect our Nation's Border.

Mr. GRIJALVA. Mr. Geary Hund for your comments, sir.

STATEMENT OF GEARY HUND, IDYLLWILD, CALIFORNIA

Mr. HUND. Good afternoon Mr. Chairman and members of the Subcommittee. My name is Geary Hund; and I am a long-term resident of Idyllwild, California, of Riverside County. I appreciate the opportunity to testify in support of the California Desert and Mountain Heritage Act.

I believe Riverside county is one of the most spectacular regions in California. From the rocky crags of Mount San Jacinto to the sands of the eastern deserts, its scenic beauty is remarkable. It is this beauty that attracts over one million visitors annually to

places like Joshua Tree National Park, and it is one of the primary reasons it is among California's fastest-growing counties.

During my 30-year career, I have worked as a law enforcement ranger, ecologist, fire manager, and conservationist. In these capacities, I have visited most of the areas included in this legislation.

The California Desert and Mountain Heritage Act proposes to create four new wilderness areas and to increase the size of six others. The bill would also designate four wild and scenic rivers and would add important new land to the San Jacinto and Santa Rosa Mountains National Monument, itself a legacy of Congresswoman Bono's work.

The areas proposed for protection in the bill are among the best remaining wild lands in southern California, including the steep and rugged mountain ranges of the eastern deserts, with their deeply dissected canyons, vast bajadas, elusive herds of bighorn sheep, desert tortoise and lush palm oases; the dramatic Monument additions ranging in elevation from below sea level to over 8,000 feet, which preserve remnants of an ancient lakeshore, a vital wildlife corridor and the pine-covered slopes of Santa Rosa Peak; the cascading waters and lemon lilies of Fuller Mill Creek; the mountaintop island of pines and oaks on Cahuilla Mountain, and the deeply wooded canyons of the South Fork San Jacinto.

Protecting these and the other areas in the bill will contribute to the quality of life of millions of people, whether they visit them often or only notice them in passing. For increasingly it is understood that preserving nature has practicable benefits. Forests clean our air and store and filter our water. Open space near communities often equates to a strong local economy by increasing property values and attracting more residents, businesses and visitors.

The lands and rivers in the bill also help preserve California's rich biological diversity, for many rare and wondrous creatures grace these remarkable places. By setting aside and connecting their habitat, we will help to ensure their future.

But perhaps the greatest value of these wild places is the contribution they make to the preservation of the human spirit. For these are places of respite from the fast pace of modern life. They are places for discovery of our children, and they are places for personnel renewal. Lands such as these are increasingly rare in our world, and we must make every effort to preserve them.

While crafting any important piece of legislation, a conscientious policymaker must ensure that the final product reflects the concerns and desires of his or her constituents. With H.R. 3682, Congresswoman Mary Bono has done an outstanding job of seeking local input and addressing local concerns.

For example, she has consulted extensively with local elected officials, fire safe councils, Federal agencies, and other interests and made 20 boundary adjustments to allow for effective fire and fuels management.

She has met with recreationists of all kind, including mountain bikers, hikers, off-road vehicle enthusiasts, equestrians and excluded from proposed wilderness areas that are managed for vehicle use and popular mountain bike trails.

She has worked with Federal agencies and utility companies to exclude areas that could potentially be used to meet California's future energy needs.

She has carefully listened to the concerns of private landowners and ensured that the right to access and use of their property would not be impaired, and she met with local tribal representatives addressing their cultural and other concerns.

Congresswoman Bono has a well-deserved reputation for collaboration and reasonableness that is clearly illustrated by the way she went about crafting this bill. It should therefore come as no surprise that H.R. 3682 is supported by a wide variety of interests, including local chambers of commerce, tribes, municipalities, recreation and conservation groups and two Riverside County supervisors whose cities are affected by the bill.

I firmly believe that as a result of Congresswoman Bono's responsiveness to the concerns raised by local interests and the importance of the areas included in the bill, H.R. 3682 will benefit not only Riverside County but our Nation as a whole.

I urge the committee to support this important legislation and, once again, thank you for the opportunity to testify.

Mr. GRIJALVA. Thank you, sir.

[The prepared statement of Mr. Hund follows:]

Statement of Geary Hund of Riverside County, California, on H.R. 3682

Good afternoon Mr. Chairman and members of the Subcommittee. My name is Geary Hund and I am a resident of Idyllwild, California in Riverside County. I appreciate the opportunity to testify in support of the California Desert and Mountain Heritage Act.

I believe Riverside County is one of the most spectacular regions in California. From the rocky crags of Mount San Jacinto to the sands of its eastern deserts, its scenic beauty is remarkable. It is this beauty that attracts tens of thousands of visitors annually to places like Joshua Tree National Park and it is one of the primary reasons it is among California's fastest growing counties. During my 30 year career I've worked as a law enforcement ranger, ecologist, fire manager, and conservationist. In these capacities I've visited most of the areas included in this legislation.

The California Desert and Mountain Heritage Act proposes to create four new wilderness areas and to increase the size of six existing ones. The bill would also designate four wild and scenic rivers and it would add important new lands to the San Jacinto and Santa Rosa Mountains National Monument, itself a legacy of Congresswoman Bono's work. The areas proposed for protection in the bill are among the best remaining wild lands in southern California including:

- The steep and rugged mountain ranges of the eastern deserts, with their deeply dissected canyons, vast bajadas, elusive herds of bighorn sheep, desert tortoise, and lush palm oases;
- The dramatic Monument additions ranging in elevation from below sea level to over 8,000 feet, which preserve remnants of an ancient lakeshore, a vital wildlife corridor and the pine covered slopes of Santa Rosa Peak;
- The cascading waters and lemon lilies of Fuller Mill Creek;
- The mountain top island of pines and oaks on Cahuilla Mountain, and the deeply wooded Canyons of the South Fork San Jacinto.

Protecting these and the other areas in the bill will contribute to the quality of life of millions of people, whether they visit them often or only notice them in passing, for increasingly, it's understood that preserving nature has practical benefits—forests clean our air and. store and filter our water. And open space near communities often equates to a strong local economy by increasing property values and attracting more residents, businesses, and visitors. The lands and rivers in the bill also help preserve California's rich biological diversity, for many rare and wondrous creatures grace these remarkable places. By setting aside and connecting their habitat we will help to ensure their future. But perhaps the greatest value of these wild places is the contribution they make to the preservation of the human spirit. For these are places of respite from the fast pace of modern life, they are places of discovery for our children and they are places for personal renewal. Lands such as

these are increasingly rare in our world and we must make every effort to preserve them.

While crafting any important piece of legislation a conscientious policymaker must ensure that the final product reflects the concerns and desires of his or her constituents. With H.R. 3682, Congresswoman Mary Bono has done an outstanding job of seeking local input and addressing concerns. For example, she:

- Consulted extensively with local elected officials, fire safe councils, federal agencies and other interests and made 20 boundary adjustments to allow for effective fire and fuels management;
- Met with recreationists of all kinds, including mountain bikers, hikers, off-road vehicle enthusiasts and equestrians and excluded from proposed wilderness areas that are managed for vehicle use and popular mountain bike trails;
- Worked with federal agencies and utility companies to exclude areas that could potentially be used to meet California's future energy needs;
- Carefully listened to the concerns of private landowners and ensured that their right to access and use of their property would not be impaired; and
- Met with tribal representatives, addressing their cultural and other concerns.

Congresswoman Bono has a well-deserved reputation for collaboration and reasonableness that is clearly illustrated by the way she went about crafting this bill. It should therefore come as no surprise that H.R. 3682 has faced minimal opposition from within Riverside County, and that it is supported by a wide variety of interests including local chambers of commerce, tribes, municipalities, recreation and conservation groups and two Riverside County supervisors whose districts are affected by the bill.

I firmly believe that as a result of Congresswoman Bono's responsiveness to the concerns raised by local interests and the importance of the areas included in the bill, H.R. 3682 will benefit not only Riverside County, but our nation as a whole. I urge the committee to support this important legislation and once again, thank you for the opportunity to testify.

Mr. GRIJALVA. Mr. Bill Dart, Off-Road Business Association.

Sir, your comments.

STATEMENT OF BILL DART, OFF-ROAD BUSINESS ASSOCIATION, BAKERSFIELD, CALIFORNIA

Mr. DART. Thank you, Mr. Chairman, members of the committee, I appreciate the opportunity to testify here today.

My name is Bill Dart. I am the Director of Land Use for the Off-Road Business Association, or ORBA. We are a national nonprofit trade association representing all aspects of the motorized recreation industry, from the manufacturers of vehicles to the after-market manufacturers and distributors to local retail dealers.

Off-road recreation is a very, very popular activity today both for recreation but it is also a major economic engine in our economy today. As an indicator of how significant the economic impacts are, a study by the University of California found that OHV recreation in California generates over $10 billion a year in economic activity and has created over 80,000 direct employment jobs in California alone. Not only does this create a lot of jobs and economic activity for the manufacturer and sale of the vehicles, it creates a lot of tourism, and it generates tremendous amounts of tourism dollars to the people visiting rural communities where most of the opportunities are at.

ORBA supports the intent of the original act of 1964, and there are many areas that are proposed for wilderness today that we can agree with. However, we also believe that the use of this designation should be reserved only for areas that should truly qualify under the original definition of the 1964 Act.

Today, we have many, many proposals with roads, graded roads, culverts, buildings, transmission sites, a variety of things that do not fit the original definition of the Wilderness Act untrammeled by man as a visitor. Today, we think these are going too far.

One of the things that we would like to talk about just in general is that we think it is time for this body to seriously consider a new designation short of wilderness, one that would preserve the landscapes as they look today. We can agree with many wilderness advocates. We want to preserve the landscapes and not alter it. But, at the same time, we want to preserve the access to more of the public and to not handcuff the agencies' management activities as much as they are today.

Today, less than 3 percent of the people who actually visit national forest lands for recreation go to wilderness areas. This is a Forest Service research study. Another similar study by the Forest Service found that over 25 percent of the people who visit national forests enjoy off-highway vehicle recreation while they are there. Those are huge numbers, and it is—you know, we agree with many of the sentiments of the wilderness folks that we love these landscapes, we love the rejuvenation, the refreshing of our spirits and getting away from the hustle and bustle of everyday life. But we just have a different way of getting there and enjoying these lands.

Additionally, we want to see the agencies be able to do things like these forest health projects. It has been brought up many times today that these bills allow these activities to occur, but you also heard that they have never been done. It is almost impossible to get a process through to do these type of projects even on less controversial areas. Wilderness areas would be far more controversial if a proposal were made to do a forest health project, and we suspect it is unlikely to be approved.

Regarding H.R. 3862, we have concerns about it is not clear. Looking at the maps, there are many, many roads and trails there that are open today for use for hunting, for rockhounding and just for sightseeing and general recreation. If those routes were left open, we could support this bill. But it is not clear that they are. In fact, we are pretty certain that most of them would be closed.

This is the problem, is that, you know, it is—excuse me—in the Riverside County area, there is already a minimum of opportunities for motorized recreation. This would constrain it even further and minimizes the opportunities for the public to enjoy their public lands.

With adjustments to some of these boundaries, we think we could support this bill, but as it is today, we cannot. And we are in opposition.

Thank you.

[The prepared statement of Mr. Dart follows:]

Statement of Bill Dart, Off-Road Business Association

Mr. Chairman and honorable committee members, my name is Bill Dart and I am the Director of Land Use for the Off-Road Business Association (ORBA). The Off-Road Business Association is a national non-profit trade association representing all aspects of the motorized off-road recreation industry. Our member businesses include the full OHV industry spectrum of vehicle manufacturers, aftermarket suppliers and distributors, and local retailers, many located in Riverside County. ORBA protects the interests of its member companies by promoting and protecting off-road recreation opportunities throughout the country. Motorized recreation is a major

economic engine, both the manufacture and sales, but more significantly, the expenditures made by motorized recreationists as they travel to enjoy motorized recreation opportunities around the country. As an indicator of how significant the economic impacts are, a study by the University of California found that OHV recreation in California generates over $10 billion dollars in economic activity and has created over 80,000 direct employment jobs in California alone.

I am a native of California and have been recreating on public lands for my whole life. I have lived in rural communities where recreation tourism is the most significant industry. I have been involved with motorized recreation of all kinds first as an enthusiast, then as an organizer and activist, culminating with over 19 years as a professional advocate for motorized recreation. I understand the issues surrounding the wilderness debate, and we have much in common with wilderness advocates, as we also want to see the landscapes in question preserved as they are today.

ORBA supports the intent of the original Wilderness Act of 1964. However, we also believe that the use of this designation should be reserved only for areas that truly qualify. Overall, a wilderness designation is the most extreme limits and restrictions on access and use that the federal government can place on public lands. By definition, wilderness designations do not allow mechanized vehicles in the area, including bicycles and wheelchairs. These restrictions effectively discriminate against certain constituencies by effectively denying them meaningful access to these public lands. As a result, these areas are no longer accessible to a large portion of American society, namely the very young, the elderly, and the handicapped who are not able to hike long distances. We believe that these areas deserve protection from future development but should not be off limits to such a large segment of the population.

We are concerned with a number of the areas included in this bill and do not feel that all of them are appropriate for this type of designation. Our concern is that many forms of recreation currently occur on them. Rockhounders, hunters and off-road enthusiasts use these areas and have been doing so for many generations. These are all valid uses of public lands and are not currently detrimental to the surrounding habitat. Rockhounding is a very popular past time engaged in by the surrounding retired population and several of the areas proposed as wilderness in this bill will prohibit that activity, needlessly in our view. Gem and rock hounding currently occurs in the proposed Orocopia Mountains addition, the Chuckwalla Mountains addition, and the Palen-McCoy Mountains addition. Some of these proposed wilderness areas are also currently used by sportsmen, such as bird hunting in the Palen-McCoy Mountains edition. Therefore, in order to access these areas people must use SUVs or 4 wheel drive vehicles. Since a wilderness designation would not allow motorized vehicles in these areas, if this legislation was enacted, these rockhounders and sportsmen would be locked out of these areas unless they were able to hike long distances to get there.

ORBA has reviewed the online maps available to the public and have found them to be difficult to examine for the areas we are concerned about. As a result, we are unable to determine if currently used OHV areas will be included. For example, the maps make it unclear as to whether the Historic Bradshaw Trail would be included in the Orocopia addition. The Bradshaw Trail was the first road through Riverside County and was blazed by William Bradshaw in 1862, as an overland stage route beginning at San Bernardino and ending at La Paz, AZ (now Ehrenberg, AZ). The trail was used extensively between 1862 and 1877 to haul miners and other passengers to the gold fields at La Paz. The trail is a 65 mile county graded road that traverses mostly public land between the Chuckwalla Mountains and the Chocolate Mountain Aerial Gunnery Range. The trail offers spectacular views of the Chuckwalla Bench, Orocopia Mountains, Chuckwalla Mountains and the Palo Verde Valley.

There are very few OHV recreation opportunities within the Riverside County area. "Taking the High Road", a study released in 2002 by the OHMVR Division, states that "since 1980 the amount of land available to recreate on for off-highway vehicles (OHV) has shrunk 48 percent in our deserts alone, while OHV registrations have increased 108 percent since 1980." Currently California has over 1 million registered OHVs and, as of April 2, 2007 there are 96,034 registered green sticker vehicles in Riverside County alone. This form of family recreation has seen immense growth in recent years. By implementing public lands policies that further decrease the amount of land to recreate on we are doing a great disservice to these families. Some people believe that the only way to minimize the impacts of OHV use on the environment is to eliminate it. The opposite is actually true. Clearly OHV users and their vehicles are not just going to go away. Without legal areas for these families

to recreate on user created trails will be the result. These user created areas often, but not always, result in habitat damage.

Instead of creating additional wilderness areas that will restrict citizens' access to the land, ORBA would like to request that Congress consider other alternatives that will assure that: 1) All citizens are able to use the public lands without discrimination; 2) mechanized vehicles can be used to fight forest fires; and 3) management of the public lands can occur in order to maintain trails, forest health and other facilities.

Finally, I would like to add that we are concerned about the California Desert and Mountain Heritage Act because Representative Bono has not attempted to seek the input from the OHV community with regard to how it will affect public lands access for our recreation interests. We are in the process of trying to work with Congresswoman Bono and her staff on H.R. 3682, but we would like to be a part of the ongoing discussions with their community stakeholders and to be more involved with the legislative process for this bill.

Mr. Chairman, thank you for allowing ORBA to testify today and we urge you to carefully consider the concerns we have with H.R. 3682. We look forward to additional conversations with the House Natural Resources Committee and Congresswoman Bono to make this bill work for the people, environmental preservations and future users of these public lands.

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

Mr. GRIJALVA. Thank you very much, sir. Let me begin with some questions for Ms. Cullen. How many local businesses does the Tubac Chamber represent.

Ms. CULLEN. Mr. Chairman, we represent about 130 businesses.

Mr. GRIJALVA. And let me follow up on that because there is some misconception, I believe, that a wilderness designation begins to harm the local economies. You state in your testimony that wilderness areas are a competitive advantage for small businesses. Could you elaborate in what effect it has had already in Tubac and what potentially the new designation would have on the community?

Ms. CULLEN. Yes. We in Tubac and in southern Arizona are very dependent on tourism. In fact, tourism is a $2 billion industry in southern Arizona. In our little piece of it in Tubac we do our best to promote the area to draw the tourists down south I-19 into your hometown area and then over to Sonoida, Begonia, Elgin. We do so by promoting the art, the history, and the natural resources. We walk a fine line in Tubac between promoting commercially the area, drawing people in. They see this little piece of paradise and they want to move here. It is an attraction both to bring people in for the art, for the history, as well as to live here. So it is a big piece of it. The wilderness in particular would be another advantage that we have to advertise for hiking, birding, walking, strolling.

We have the wilderness area on the east side with Mount Wrightson. That is an important draw. We are a unique area in southern Arizona and this wilderness area will make it even more precious.

Mr. GRIJALVA. And let me, Ms. Cullen, because you are there on the border as many of us are, and we have heard testimony about a wilderness designation, how that would threaten homeland security and border security. And we live with this every day. And our response to the claim that this designation would do irreparable harm to the security of the border, if you could just make a quick comment regarding that.

Ms. CULLEN. Mr. Chairman, members of the Tubac Chamber, our family members are Border Patrol agents, our neighbors are Border Patrol agents. We are very concerned with making our area a very safe area. Immigration, illegal immigration, illegal drug trafficking is a serious problem for all of us. I can appreciate my neighbor Mr. South's testimony and his pictures. That could be anywhere in our area. We all experience the problems and the negative impacts associated with it. We are all very concerned about immigration and our safety. I don't think that anybody else in the United States is more concerned about it than those of us in southern Arizona. We would not be asking for this wilderness designation if we thought that would make our area, our homeland less safe.

Mr. GRIJALVA. Thank you. Mr. Skroch, let me ask you, there was an agreement reached with the ranchers during this whole collaborative process that you went through, to the point where some of the significant early opposition is now supporting the designation. Could you walk us through there in a minute or less that I have here about that particular agreement?

Mr. SKROCH. I can try. I will do my best, sir. We did contact every landowner relevant to some questions that we heard earlier today. Every landowner that contains a permit or an allotment with Tumacacori Highlands. Some of them wanted to discuss the proposal further. Some of them wanted to seek agreement. Some of them did not. Those that did, those discussions continued. And really over the course of several years from the beginning, 3 or 4 years ago, a relationship of trust was formed and eventually a relationship of agreement was formed. And we are proud to say that the largest permittee in the Tumacacori Highlands, who holds multiple allotments there, has signed a letter of support. And we have come to agreement on how we think the congressional grazing guidelines should be applied to wilderness areas. We think the law is pretty clear. We think his operation should not be impacted by this designation. And we are happy to move forward in this process with his support and in our support of his operation as well, sir.

Mr. GRIJALVA. Thank you. Mr. Bishop.

Mr. BISHOP. Mr. Skroch, let me just follow up on that because that was my first question I had for you. Were certain concessions made to the ranchers in exchange for working through this issue for their support?

Mr. SKROCH. It was a collaborative relationship. Really, it literally occurred at the kitchen table. As I referenced earlier, sir, we made numerous contacts to all of the permittees within the Tumacacori Highlands. And forgive me for my redundancy, but some of them there was a range of interest in actually sitting down and looking at maps. With the largest permittee in the area who had multiple allotments, that discussion did take place over numerous meetings. And it really was sitting down at the table talking about what facilities he had on the landscape that were important, how the wilderness designation would interface with his operations and what we could do together to make sure that his operation was affected in the slightest.

Mr. BISHOP. So let me try this question again. Did you make certain changes or concessions to meet their needs?

Mr. SKROCH. Over the course of 4 or 5 years that this proposal has been actively kind of out in the community on the table, many changes have been made to the map. It might have been in relation with Arizona Game and Fish Department or in relation to the ranching community or bearing out of discussions with perhaps the Forest Service or many, many other stakeholders, the proposal has changed pretty significantly through different iterations over the years, sir.

Mr. BISHOP. I am not trying to be rude or forceful here. What I am hearing you say is the answer was yes, there were certain concessions that were made.

Mr. SKROCH. Yes, sir. The agreement——

Mr. BISHOP. OK. Now, with the concessions made in the bill that is before us, were all the concessions delivered in this particular bill or were there some that were still outstanding?

Mr. SKROCH. Well, I would say that it was really an iterative process, sir. I mean, looking at the map and talking about different values and what people wanted to see at the end of the day, I mean I think it was a really good example of people coming together and meeting in the middle and making some compromises. There is nothing specifically in my mind that I can think of off the top of my head, sir, that I would say, oh, rancher A really wanted this and he didn't get it. That is not coming to my mind right now.

Mr. BISHOP. So the answer is no, there were no concessions that were made that are not delivered in this piece of legislation?

Mr. SKROCH. I can't answer that question, sir. I just don't have the level of specificity in my mind to answer that level of detail, sir.

Mr. BISHOP. Did other ranchers ask for similar consideration or were there similar concessions offered to other ranchers in the area?

Mr. SKROCH. Like I said, sir, the process was iterative in nature. Over the course of 4 or 5 years we contacted each of the permittees and asked if we may sit down. And with some of those ranching interests we were able to sit down and we were able to look at the maps and to have a discussion about their operations, and changes were made based on a variety of different input.

Mr. BISHOP. I'm sorry, this is not supposed to be the inquisition that is right here. But in the wilderness area that I created in the State of Utah I knew exactly how many people were there and we did make concessions to each of the private landowners for specific reasons. We excluded some things. And I can tell you which landowners we actually made good on those concessions and which landowners we didn't.

Now, am I making the assumption there are some ranchers over there that were given some agreements of concessions? And as I have heard here, you are saying that these were now covered in this particular bill and there weren't anyone that asked for concessions and were told no?

Mr. SKROCH. That is correct.

Mr. BISHOP. I certainly hope so. Now, I have other questions here. Do you want to give these other two members a chance first and then I will come back?

Mr. GRIJALVA. Thank you, Mr. Bishop. Mr. Holt, any questions?

Mr. HOLT. I just want to say, having looked through the testimony here, I must say, Mr. Chairman, you put together a good hearing. No questions. Thank you.

Mr. GRIJALVA. Mrs. Capps, any questions?

Mrs. CAPPS. I do. I do also want to thank you for holding this hearing. And I'm sorry, I am going to be directing my questions to Mr. Hund. And I had intended—I wanted to be here during the testimony of my colleague, Mary Bono, but I was on the Floor managing a suspension bill at that time. But I am a big supporter of the California Desert and Mountain Heritage Act. There is a lot of concern that wilderness designations make fighting fires difficult. But we know that in fact that is not true, even though there are a lot of myths that surround wilderness areas. The act does make clear that Federal agencies can act to prevent and control fire in wilderness areas. It is also the case, as we have discovered surveying the aftermath of the fires we have had in California this year, that southern California fires were started by people on or near roads, as are 80 percent of all fires in the West, and this is according to the Forest Service.

The Los Padres National Forest is in our backyard, my district. I represent part of it. The Forest Service quickly approved the use of bulldozers in wilderness areas to prevent the spread of fires in the last two summers. In 2006, during the Day Fire, which burned 165,000 acres, the Forest Service used bulldozers in the Siskiyou Wilderness to help build a 163-mile firebreak around the fire.

And this past summer the Zaca Fire burned 240,000 acres. It took 3 months. The Forest Service used bulldozers and other equipment to create a 2-mile firebreak inside the San Rafael Wilderness. So on both instances the Forest Service did have the tools that it needed to get the job done.

Mr. Hund, I want to ask you three questions and within 5 minutes you will not be able to go very deep into any of them, I'm sorry. But I understand you live in one of the more fire prone areas that we are considering, so you can give us firsthand testimony, maybe one or two examples of how Mrs. Bono has worked to ensure that her bill accommodates access for fire prevention or firefighting.

Mr. HUND. Thank you very much, Congresswoman Capps. Representative Bono was very cognizant of the fact that particularly the western part of the district is very fire prone. And even though the Wilderness Act does provide managers, land managers with all the tools that they need to fight fire, and there are many examples of them using those tools, she still met with agency personnel and with other fire professionals and drew the boundaries of the proposed wilderness areas in such a way that they would accommodate effectively fire management. She made 20 boundary changes in order to ensure effective fire and fuels management. And I will just give you a couple of examples.

There is a dirt road on a ridge known as Rouse Ridge in the proposed South Fork San Jacinto Wilderness, and there is a fuel break on that ridge. And so she created a 200-foot buffer on both sides of the road to allow for the continued maintenance of that fuel break. And she also adjusted the boundaries of the Cahuilla Wilderness where there was, quote, from the Forest Service, good trac-

tor ground so that they would be able to modify fuels in that area to protect the community of Anza. And last Highway 74, which is one of the primary routes into my community, Idyllwild, California, at the Forest Service request she included a 300-foot setback from Highway 74 so that the Forest Service could modify fuels to create an emergency evacuation route, and in fact that fuel modification has occurred.

Mrs. CAPPS. Those are excellent examples of stakeholders being involved, actually in the formation of the legislation, it sounds to me is what you are saying.

Mr. HUND. Yes.

Mrs. CAPPS. If you could tell us just very briefly about off road vehicle use. Are there any examples of how this bill accommodates that?

Mr. HUND. Yes. In the case of Beauty Mountain, for example, three routes were cherry stemmed for that and fuels management. And then also in the vicinity of the Chuckwalla Mountains and the Orocopia Mountains there were designated routes in washes the Congresswoman explicitly left out of the bill so that those designated routes were off road vehicle use and other vehicles would remain open.

Mrs. CAPPS. Excellent. I have a couple more seconds I think. This question is probably too long to answer quickly, but I think it is important to get it out and maybe a quick response. Do the important wilderness values in this area and the language in the bill on fire and recreation stand at odds with your views? I mean we are talking about putting a lot of things together in a bill. Are we treating this area that you call home, and it is dear to you obviously, you are here to testify about it, are we treating this area with proper caution through this legislation?

Mr. HUND. When you say proper caution, could you just elaborate a little bit?

Mrs. CAPPS. Is it a balanced piece of legislation?

Mr. HUND. I think it is extremely balanced. What it is doing is preserving great back country recreation opportunities while at the same time allowing for management and other forms of recreation.

Mrs. CAPPS. So it might even be considered a model?

Mr. HUND. I think very much so.

Mrs. CAPPS. Thank you very much.

Mr. GRIJALVA. Thank you.

Mr. Bishop.

Mr. BISHOP. Let me run through a couple of these and see if I can get them as quick as possible. Mr. Dart, for example, what kind of recreational activities currently take place on what would be on this proposed wilderness area in 3682?

Mr. DART. Well, there is a lot of use by sport utility vehicles on some of the back roads, ATVs, motorcycles, dune buggies.

Mr. BISHOP. I guess I asked you a stupid question. Let me try and change this. Which one of those would be impacted by changing the designation into wilderness?

Mr. DART. All of them.

Mr. BISHOP. Does the organization with which you have worked oppose wilderness designation routinely?

Mr. DART. I am sorry.

Mr. BISHOP. Do you oppose all wilderness designation?

Mr. DART. No, not at all. There are many areas we can agree with wilderness advocates that are appropriate.

Mr. BISHOP. How much input did you have into, or the recreational community have into this proposed legislation?

Mr. DART. Very, very little.

Mr. BISHOP. Would you be willing to work with Representative Bono's office?

Mr. DART. Absolutely.

Mr. BISHOP. I think that would be a wise thing to do.

Let me ask a couple questions of Mr. South if I could. 1984, I understand was the last designation or study designation for wilderness in this area. Were you involved in the studies that resulted in our current wilderness areas?

Mr. SOUTH. Yes, I was.

Mr. BISHOP. How much of that proposed area, how much of the proposed area in the proposal for this bill, the Arizona bill, met that wilderness criteria then?

Mr. SOUTH. Are you asking me the 1984, that met the criteria.

Mr. BISHOP. Yes.

Mr. SOUTH. It did in 1984, but we already had an area reserved for protection—the Goody Natural Resource Area—which I was part of enlarging before the 1984 wilderness bill actually went into effect.

Mr. BISHOP. So in the 20 years since that time what has changed in this particular area?

Mr. SOUTH. The amount of illegal traffic coming across the border has increased tremendously in my 28 years on the border. What I mean illegal traffic, I mean the border crossers, the cross border violators, the contraband, the number of illegal trails within the existing Pajarita Wilderness and the Sycamore Canyon. It has increased just tremendously.

Mr. BISHOP. So that is the human activity of which you are speaking?

Mr. SOUTH. Yes.

Mr. BISHOP. There is motorized use in wilderness areas permitted in emergency situations to pursue suspects. Can you tell me what the criteria for that pursuit would be, and would that include regular patrolling?

Mr. SOUTH. It will not allow regular patrolling. Think of it as your patrol officer responding to your neighborhood just periodically. Is he always coming in in an emergency? No. When I think of emergency, I am thinking of life and death type things that get in there and get you. Not for the common ordinary patrols that the law enforcement officers need to do to protect our neighborhoods and/or the border. There is a difference here.

Mr. BISHOP. Would the use of the emergency motorized vehicles now require a sighting of something before it can take place?

Mr. SOUTH. I'm sorry, would you repeat the question again.

Mr. BISHOP. If you can now use emergency motorized vehicles to go after a suspect, does it require a sighting currently before you can actually do that?

Mr. SOUTH. Yes. You need to see that person first before you got to go after him. It would eliminate just the normal patrols.

Mr. BISHOP. Of any kind of preventive patrols.

Mr. SOUTH. Yes, any kind of preventive patrols would be eliminated.

Mr. BISHOP. I got like about a minute and a half. And I am looking at that one picture there with all the clothes that are around there. Why is that debris left there?

Mr. SOUTH. This was a band of illegal people coming across. What has happened is that the group of smugglers, the coyotes they call them, brought these people across with the intent of robbing them. What you see here is the clothes. Where the clothes are is where those individual people from across lines and were seeking a better life in America were robbed at gunpoint. The smugglers then stripped them of all their clothing or their backpacks and stuff and threw everything on the ground to make them vulnerable, then to bring them across into safe houses on the U.S. side. And so this bare ground that you see between the packs and clothes are where the people were standing. So when you walk up and down the wash there, each bare spot is where there was nobody standing. But where all the garbage is is where they stripped everybody to take away their valuables. What happens now, those guys are in cahoots, bring those people across at their mercy, because they stripped all away their IDs, money, phones, anything else. And they get to a safe house further north. And then they are required to supplement the border, you know, the bad guys, with more money as like a ransom.

That is what is happening here. That is why you are seeing in all that garbage. It is not because we are just going to throw it here. That was a robbery.

Mr. BISHOP. Thank you. I appreciate you answering my question. And you did that with one second to spare, so thank you, sir. I will yield back.

Mr. GRIJALVA. Thank you. Let me thank the panel. And I will be—I have other questions for Mr. Hund and Mr. Skroch that I will submit to you in writing, and hopefully get those answers back as soon as possible so they can be part of the record, those responses. And just to thank you for your testimony.

In particular, H.R. 3287 recognizes the need for drug interdiction and border enforcement in proposed wilderness areas. Anybody who questions this has clearly not read the legislation. Be that as it may, thank you very much and we will invite the next panel. Thank you very much.

Mr. GRIJALVA. Let me welcome our last panel and begin with Mr. Dennis Harmon, General Manager, Water Supply Storage, regarding H.R. 2334. Sir, your testimony.

STATEMENT OF DENNIS HARMON, GENERAL MANAGER, WATER SUPPLY STORAGE COMPANY

Mr. HARMON. Good afternoon, Chairman Grijalva and members of the Subcommittee. We appreciate the opportunity to provide testimony to the Subcommittee concerning House bill 2334, the Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act. Water Supply & Storage Company is a 116-year old nonprofit mutual ditch company. It collects and distributes about

60,000 acre-feet of water annually to roughly 40,000 acres of farmland in northern Colorado.

Company facilities include the Grand River Ditch, most of which lies within Rocky Mountain National Park. Grand River Ditch provides about one-third of the total water that we collect and distribute each year to our shareholders. It was not always so. In 1890, when ditch construction began and the first water was appropriated for the ditch Coloradans who were settling in the State developed water and other natural resources and put them to beneficial use. Farmers arriving in northern Colorado at that time looking to establish homesteads quickly learned that the naturally occurring rainfall there was providing only about half that was needed for crop production. In accordance with Federal and State law at the time, they searched for available water not already claimed and filed for a ditch water right and right-of-way for the Grand River Ditch.

The water right was adjudicated later on August 3, 1906. In 1907, after the water right was adjudicated, Federal regulations were issued requiring Water Supply and Storage Company to sign a stipulation or else. The stipulation required the company, because the Grand River Ditch was located on public lands, to accept the strict liability standard or forfeit its legally established right-of-way and abandon its investment in the ditch, reducing acreage being farmed and so on.

And I will tell you here that in the early days we can tell by looking at the old records an assessment for a shareholder in those days consisted of the shareholder agreeing to send one of his hired men and a team of horses up to work on the ditch. If the company had decided to abandon the ditch instead of signing the stipulation, one might assume they could have secured other water elsewhere. Not necessarily so. Because Colorado's water law is based on a concept of prior appropriation where first in time, first in right applies, the company would have been forced to search for later junior, less reliable water supplies to replace those collected by the ditch, if it was even available.

By the end of the 19th century most of the valuable water rights had been claimed and put to beneficial use by others. Equivalent water simply was not available in 1907 when the stipulation was signed.

Eight years later, in 1915, Rocky Mountain National Park was established. The park boundary at that time did not include any of the land around the Grand River Ditch on the west side of the Continental Divide where most of it lies. In fact, not until 1930, 40 years after the first appropriation of water in the ditch when the park boundary was expanded was the majority of the ditch annexed into the park. With the 1907 stipulation, the 1930 park expansion, the enactment of the Park System Resource Protection Act in 1990 and the proposed wilderness legislation, our shareholders, understandably so I think, had become increasingly alarmed at the pattern of increasing Federal legislation and control over the ditch.

When we learned of this proposed legislation we approached the Colorado delegation and asked for their help to insert some language in the draft bill to mitigate what we believe are some fundamental inequities. I will go through a couple specifics here.

Section 4(d)(1) of the bill excludes of Grand River Ditch from the wilderness designation. What is included in the bill is functionally the same as the exclusions provided by the Rocky Mountain National Park for its own roads on the map, which is described in sections 3 and 4. Section 4(e)(4)(A) would modify the company's liability from strict liability to simple negligence. The new negligence standard was modeled on the liability standard under Colorado law for all ditches that we labor under now with our other facilities. Water Supply & Storage Company would be responsible for damages caused to the park resources and facilities if we were at fault, as it should be if the language is passed as it is written today, if the legislation is passed as it is written today.

In summary, we believe that Section 4(e)(4)(A) of H.R. 2334 as drafted, A, preserves a historical agricultural heritage by bringing balance to an unfair situation which has a potential of harming northern Colorado agriculture; B, it recognizes the park effectively annexed the ditch in the 1930 expansion. The ditch was not built in a national park. And C, recognizes a very unique situation, preexisting water facilities, and requires an operating and maintenance agreement.

We don't know of another similar water ditch or other facility in any national park which predates the park and the National Park Service itself. Therefore, we don't think that H.R. 2334 creates a precedent that would adversely affect application of the PSRPA nationwide. Section 4(e)(4)(D) protects the possible future of the use of the Grand River Ditch and the water transported there and for the benefit of our municipal shareholders. Although all the water presently captured in the Grand River Ditch is used for agricultural purposes today, undoubtedly that will change over time. We would like to avoid future disputes.

We request the opportunity to supply additional testimony in writing to the Subcommittee at a later date, particularly in response to questions which you may pose. I would like to especially thank Representative Udall and Representative Musgrave, Senators Salazar and Allard for their support in working through some very difficult issues to arrive at a compromise which not only adds the wilderness designation to the park but protects the ditch, the Grand River Ditch, an important part of Colorado's agricultural heritage.

Thank you for this opportunity to speak to you.

[The prepared statement of Mr. Harmon follows:]

Statement of Dennis Harmon, General Manager, Water Supply and Storage Company

Good afternoon Chairman Grijalva and members of the Subcommittee. We appreciate the opportunity to provide testimony to the Subcommittee concerning H.R. 2334, which would designate as wilderness portions of Rocky Mountain National Park ("RMNP") administered by the National Park Service ("NPS").

Background of WSSC and the Grand River Ditch

The Water Supply and Storage Company ("WSSC") owns and operates the Grand River Ditch, which is a water supply ditch located in the Never Summer Range in RMNP. The Grand River Ditch provides irrigation water to approximately 40,000 acres of land located in Larimer and Weld Counties in northern Colorado. WSSC owns, operates and maintains eleven reservoirs and seven ditch systems, including the Grand River Ditch. WSSC's system of ditches, canals and laterals is more than

100 miles in total length and provides approximately 60,000 acre-feet of water annually to 173 shareholders.

The Grand River Ditch is an integral component of the Water Supply and Storage Company system. The Ditch is located in the headwaters of the Colorado River on the West Slope of Colorado (i.e., west of the Continental Divide). The north segment or branch of the Grand River Ditch (sometimes referred to as the North Ditch) is approximately 17 miles long and traverses a variety of creeks. Water from these creeks can either be diverted into the Ditch or can be released so that it continues to flow down these creeks to the Colorado River. A measuring weir and recorder for the Grand River Ditch is located near La Poudre Pass. A shorter branch of the Grand River Ditch (sometimes known as the Specimen Ditch or the South Ditch) also captures various waters and transports them to La Poudre Pass.

At La Poudre Pass, water diverted by the Grand River Ditch crosses to the East Slope of Colorado (i.e., east of the Continental Divide) and flows to Long Draw Reservoir, which is located in Roosevelt National Forest. From Long Draw Reservoir, water is delivered down the Cache La Poudre River to WSSC's system of canals, ditches and laterals for agricultural purposes. Although a number of WSSC's shares are owned by municipalities, and water ultimately will be used by them for municipal purposes, water diverted by the Grand River Ditch is used exclusively to irrigate crops and water livestock at this time. The primary water right for the Grand River Ditch is decreed to divert waters from the Colorado River basin with an adjudication date of August 3, 1906 and an appropriation date of September 1, 1890 in the amount of 524.6 cfs (cubic feet per second of time).

WSSC was incorporated as a Colorado mutual ditch company in 1891. Under Colorado law, the shareholders of a mutual ditch company own pro rata interests in the company's water rights and other facilities; therefore, a mutual ditch company is essentially a water distribution organization owned and operated by its shareholders and is not a profit-generating enterprise.

WSSC holds a right-of-way for the Grand River Ditch under the Irrigation or General Right of Way Act of March 3, 1891 ("1891 Act") codified at 43 U.S.C. §§ 946-49. Construction on the Grand River Ditch began in 1890. The federal lands around the Grand River Ditch were included in the Medicine Bow Forest Reserve around the turn of the century, at which time they were administered by the fledgling United States Forest Service. The Forest Service and WSSC entered into a stipulation concerning the operation and maintenance of the Grand River Ditch on March 21, 1907, which was required by a 1906 federal "amendatory regulation" applicable to rights-of-way.

RMNP was created in 1915, but did not include most of the land surrounding the Grand River Ditch at that time. In fact, the portions of Medicine Bow Forest Reserve that included the Never Summer Range and the land through which the Grand River Ditch flows were not included in RMNP until 1930. Thus, WSSC and the Grand River Ditch had existed for some 35 years prior to becoming part of RMNP.

The Wilderness Proposal in H.R. 2334

H.R. 2334 proposes to designate significant portions of RMNP, including the area in which the Grand River Ditch is located, for inclusion as part of the National Wilderness Preservation System pursuant to the Wilderness Act of 1964. The bill was introduced by Representatives Udall and Musgrave. A corresponding bill in the Senate (S. 1380) also enjoys bipartisan sponsorship having been introduced by Senators Salazar and Allard.

Two provisions of H.R. 2334 directly affect WSSC:

- Section 4(d)(1) specifically excludes from the boundaries of the wilderness designation: "[t]he Grand River Ditch (including the main canal of the Grand River Ditch and a branch of the main canal known as "Specimen Ditch"), the right-of-way for the Grand River Ditch, land 200 feet on each side of the marginal limits of the Ditch and any associated appurtenances, structures, buildings, camps, and work sites in existence as of June 1, 1998.
- Sections 4(e)(4)(A)-(D) state:

  A. Liability—Notwithstanding any other provision of law, or any stipulation or applicable agreement, during any period in which the Water Supply and Storage Company (or any successor in interest to the Water Supply and Storage Company with respect to the Grand River Ditch) operates and maintains the portion of the Grand River Ditch within the Park in compliance with an operations and maintenance agreement between the Water Supply and Storage Company and the National Park Service entered into on XXXXXXXXXXXX, no individual or entity who owns, controls, or operates the Grand River Ditch shall be liable for any

response costs or for any damages to, loss of, or injury to the resources of the Park resulting from any cause or event (including, but not limited to, water escaping from any part of the Grand River ditch by overflow or as a result of a breach, failure, or partial failure of any portion of the Grand River Ditch, including the portion of the ditch located outside the Park), unless the damages to, loss of, or injury to the resources are proximately caused by the negligence or an intentional act of the individual or entity.

B. Limitation—Nothing in this section limits or otherwise affects any liability of any individual or entity for damages to, loss of, or injury to any resource of the Park resulting from any cause or event that occurred before the date of enactment of this Act.

C. Existing Activities—Nothing in this Act, including the designation of the Wilderness under this section, shall restrict or otherwise affect any activity (including an activity carried out in response to an emergency or catastrophic event) on, under, or affecting the Wilderness or land excluded under subsection (d)(1) relating to the monitoring, operation, maintenance, repair, replacement, or use of the Grand River Ditch that was authorized or approved by the Secretary as of the date of enactment of this Act.

D. No Effect—Notwithstanding any other provision of any previous or existing law, any stipulation, or any agreement, or interpretation thereof, use of water transported by the Grand River Ditch for a main purpose or main purposes other than irrigation shall not terminate or adversely affect the right-of-way of the Grand River Ditch, and such right-of-way shall not be deemed relinquished, forfeited, or lost, solely because such water is used for a main purpose or main purposes other than irrigation.

Explanation of the Provisions Affecting WSSC

WSSC has worked closely with Representatives Udall and Musgrave and Senators Salazar and Allard to draft language for the legislation that accomplishes the wilderness objectives of the bill and protects the interests of WSSC and its shareholders. WSSC is pleased to have this opportunity to explain the rationale of these particular sections to the Subcommittee.

Excluding the Grand River Ditch and an area on either side of the Ditch allows WSSC to properly operate and maintain the Ditch including conduct of activities, such as operation of motorized mechanical equipment, otherwise not permitted in wilderness areas. Exclusion of 200 feet on either side of the Ditch is the same margin as the land excluded to either side of RMNP roads.

H.R. 2334 should also not cause any change in land use, land management, or water rights. The GRD diverts water high in the Colorado mountains and transports it some 50 miles downstream to its location of use. At present, all of the water is used for agricultural irrigation; however, a portion of WSSC's stock is owned by Colorado municipalities and GRD water will be used for this purpose in the future. No matter what the end use is, the existence of the GRD in RMNP imposes the same burden on the Park. In other words, there is no change in land use, land management or water rights whether the end use of water is agricultural irrigation or municipal use. Conversion of agricultural water to municipal purposes is commonplace in Colorado, and the GRD is no exception. In a mutual ditch company such as WSSC, ownership of stock represents a pro rata share of ownership in the water rights of the company. Therefore, when a shareholder sells his or her stock, the shareholder benefits, but WSSC derives no revenue from the transaction.

Similarly, WSSC does not anticipate that our day-to-day relationship to the NPS staff at RMNP will change significantly as a result of the wilderness designation in S. 1380. WSSC and the RMNP have worked together on issues related to the Park and to the GRD for upwards of 70 years, and we have no reason to believe that the relationship will be substantially altered in the future.

The liability provisions of Section 4(e)(4)(A)-(D) require additional background information. In 1990, Congress enacted the Park System Resource Protection Act ("PSRPA"), 16 U.S.C. § 19jj. That Act imposes liability for damage caused to any park system resource:

(a) In general. Subject to subsection (c), any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(b) Liability in rem. Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss

> of, or injures any park system resource or any marine or aquatic park resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subsection (a).

Thus, the PSRPA purports to create a new standard of strict liability applicable to the Grand River Ditch notwithstanding that the GRD existed before creation of the Medicine Bow Forest Reserve, before RMNP was established and for about 40 years before RMNP included the GRD. This is not a situation where WSSC applied to either the Forest Service (at the time the property was Forest Reserve) or the NPS (after RMNP was established) to locate a ditch on federal property pursuant to terms and conditions required to protect the federal interest. Over the years, the GRD has become subject to increasing legal regulation, most recently by the enactment of the Park System Resource Protection Act ("PSRPA").

The 1907 Stipulation between the WSSC and the Forest Service (to which the NPS has succeeded) states that the Company shall "pay the United States for any and all damages sustained by reason or use and occupation of said forest reserve by the Company, its successors and assigns, regardless of the cause and circumstances under which such damages shall occur." WSSC was required to execute this Stipulation by a federal regulation enacted in 1906, years after construction of the Grand River Ditch had commenced. Even after the Stipulation had been executed, it was essentially ineffective. Neither the Forest Service nor the NPS had ever sought to enforce the liability provision of the 1907 Stipulation set forth above until the NPS commenced an action under the PSRPA in response to a breach of the Ditch in May 2003, which is discussed below.

Imposition of a strict liability standard clearly may have the unintended consequence of severely and adversely affecting agricultural interests in northern Colorado. It is difficult to imagine that either the PSRPA or 1907 Stipulation intended to put farming interests in economic jeopardy, or potentially out of business, by making them liable for millions of dollars in damages for a harm that was not caused by their actions. WSSC certainly does not take lightly the potential for damage to RMNP resources; however, a fair balancing of the affected interests compels the conclusion that neither the PSRPA nor the 1907 Stipulation should impose liability without fault. WSSC agrees that our national parks are certainly worthy of protection; however, we cannot believe that Congress intends punitive consequences to the agricultural community in the event that another breach of the GRD occurs where WSSC is without fault.

Section 4(e)(4)(A) of H.R. 2334 rectifies the fundamental unfairness of a strict liability standard of relief, particularly when it is imposed on WSSC literally 100 years after construction of the Grand River Ditch commenced. Strict liability is an inappropriate standard of liability because it potentially makes WSSC liable for damages caused by events beyond its control such as naturally occurring landslides into the Ditch that, in turn, cause a breach event.[1] WSSC, like other owners of private property potentially affecting federal property interests, should be subject to a negligence standard of liability or, in other words, liability for damages caused by the negligent conduct of WSSC. Negligence is the standard of liability imposed on ditch owners in under Colorado law, which is the reason it was proposed in H.R. 2334.

Section 4(e)(4)(A) includes an additional safeguard by requiring that the negligence standard of liability will apply only in the event that WSSC is in compliance with an Operating and Maintenance Plan ("O&MP") to be entered into between it and the NPS. The parties have already exchanged drafts of the O&MP and are attempting to resolve their differences. While some significant differences of opinion are evident in the documents exchanged to date (mostly related to the scope of the O&MP and the extent to which it should incorporate other legal regulations and standards by reference), WSSC continues to proceed on the basis that both parties will apply their best efforts to the negotiations and that a mutually acceptable document can be completed. WSSC, however, wishes to be clear that it does not support the wilderness legislation and does not believe the bill should become law in the absence of Section 4(e)(4)(A) and the negligence standard of liability permitted by it.

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[1] We are unaware of any case applying the PSRPA's "Act of God" defense; however, cases decided under other similar statutes have held that the subject natural phenomenon must be "exceptional, inevitable, and irresistible" and must be the "sole" cause of the harm. See generally Apex Oil Co. v. United States, 208 F.Supp.2d 642, 650-59 (E.D. La. 2002). The courts have so eviscerated the statutory "Act of God" defense that WSSC believes that its liability should be determined based upon its negligent or intentional conduct and the common law defenses applicable thereto.

Successful completion of the O&MP negotiations, therefore, is imperative and should be completed at the earliest possible date.

WSSC believes that Section 4(e)(4)(B) was requested by the NPS to explicitly preserve its legal action against WSSC related to a breach of the Grand River Ditch in May 2003. Litigation related to this breach is pending presently in the U.S. District Court in Colorado. WSSC understands that this case is unaffected by H.R. 2334.

Section 4(e)(4)(C) is similar in the sense of preserving and protecting "existing activities" related to the Grand River Ditch. In particular, this section recognizes and incorporates as an "existing activity" the fact that a significant number of the WSSC's shares are owned currently by Colorado municipalities and that water diverted by the Grand River Ditch will be used by them for municipal purposes. The inevitability of municipal use of a portion of the Grand River Ditch is clearly an "existing activity" within the scope of Section 4(e)(4)(C). This section is very important to the municipal shareholders in WSSC and is also fundamental to WSSC's support for the wilderness legislation.

Finally, Section 4(e)(4)(D) is intended to ensure, notwithstanding any case law arguably to the contrary, that the use of water transported in the Grand River Ditch will not be adversely affected, and that the right-of-way for the Ditch shall not be relinquished, forfeited or lost, because water diverted to the Ditch will be used for municipal purposes as opposed to agricultural irrigation. As noted above, the fact that shares of WSSC are owned by various municipalities is well known, and Congress should explicitly ensure that use of the Grand River Ditch water and right-of-way will be preserved at the time they are used for municipal purposes.

Section 4(e)(4)(D) begins "[n]otwithstanding any other provision of any previous or existing law" because the 1891 Act under which WSSC's right-of-way was granted was repealed by the Federal Land Policy Management Act ("FLPMA"), 42 U.S.C. §§1701 to 1785, but the 1891 Act remained in effect with respect to rights acquired prior to October 21, 1976, the effective date of FLPMA. See 43 U.S.C.A. Sections 1701, 1769." Overland Ditch and Reservoir Co. v. United States Forest Service, No. Civ. A. 96 N 797, 1996 WL 33484927 (D. CO., Dec. 16, 1996) at *9, footnote 2. The reference to "previous law" expressly picks-up this legislative history and expressly preserves the integrity of WSSC's right-of-way.

Conclusion

The provisions of the H.R. 2334 discussed above directly and significantly affect WSSC and the Grand River Ditch and are critical to WSSC's support of the legislation. Each of these provisions has been discussed in detail and at length with the offices of Representatives Udall and Musgrave and Senators Salazar and Allard, all of whom contributed to the language of these sections prior to introduction of S. 1380 and H.R. 2334.

Throughout its more than 100 years of existence, WSSC has worked diligently to be a good neighbor and property owner in RMNP. We believe that our working relationship with RMNP and the NPS has been good and productive over the years, and we anticipate that relationship will continue in the years to come.

WSSC thanks the Subcommittee for the opportunity to present our views on H.R. 2334, and we would be pleased to respond to any questions.

Mr. GRIJALVA. Thank you. And you took a minute of Mr. Mark Udall's time, but we will adjust as we go along. The Honorable William Pinkham, Mayor Pro Tem, Town of Estes Park, Colorado. Mr. Mayor, your testimony, please.

STATEMENT OF BILL PINKHAM, MAYOR PRO TEM, TOWN OF ESTES PARK, COLORADO

Mr. PINKHAM. Mr. Chairman and members of the Subcommittee, thank you for the opportunity to present the views of the Town of Estes Park on H.R. 2334, a bill to designate as wilderness certain lands within Rocky Mountain National Park and adjust the boundaries of the Indian Peaks Wilderness and Arapaho National Recreational Area of the Arapaho National Forest in the State of Colorado.

Forty-three years have passed since Congress designated Rocky Mountain National Park as a wilderness study area, and 33 years have passed since President Nixon recommended wilderness designation. On May 14, 2007, local citizens and officials applauded the announcement with Representatives Musgrave and Udall and Senators Allard and Salazar at the Marine Park Campground Amphitheater in Rocky Mountain National Park of the introduction of bipartisan legislation to permanently protect the back country of the park as wilderness. And it was a banner day because the wind wasn't blowing and it also didn't rain or snow on us. H.R. 2334 was then introduced into the House of Representatives by Congressman Mark Udall with Congresswoman Marilyn Musgrave as co-sponsor.

The Town of Estes Park, one of the two gateway communities to Rocky Mountain National Park, fully supports H.R. 2334, designating approximately 250,000 acres of Rocky Mountain National Park's back country in the National Wilderness Preservation System. The town will not take a position on the Grand River Ditch liability issue. However, it appears this is a major obstacle in granting wilderness designation to the park, and we hope prompt resolution can be reached.

In addition to Estes Park, the gateway community of Grand Lake and three Colorado counties which encompass the park, Larimer, Grand and Boulder, have endorsed the wilderness designation for Rocky Mountain National Park. It is also supported by a variety of conservation and civic groups, including the League of Women Voters, Colorado Environmental Coalition, Colorado Mountain Club, the Wilderness Society, Headwaters Trails Alliance, and the International Mountain Biking Association.

Wilderness designation will help sustain the ecological health of the park, guarantee the economic vitality of the local communities, and ensure that the park remains as it is today for future generations of visitors to enjoy and explore. The Board of Trustees, the Town of Estes Park, has thoroughly reviewed the present proposed wilderness boundaries and received public input with regard to the designation of wilderness and all agreed to fully support it as evidenced in the Estes Park Resolution Number 17-05, which I believe you have a copy of with my testimony. We hope that the wilderness designation legislation will be adopted and will permanently protect and solidify the wild character of the park lands in perpetuity. Designation will have no impact on park management and function and would in no way alter current activities or access in the park. Park managers will continue to encourage hiking, backpacking, horseback riding, fishing, climbing, skiing, snowshoeing and sightseeing with ample access to one of the Nation's most beautiful landscapes.

Trail Ridge Road, the highest continuous paved road in the continental United States, and Fall River Road, the first road to cross the Rocky Mountains in northern Colorado, will continue to be maintained for motorized travel. This will allow visitors of all ages and abilities to experience the history and majesty of the magnificent park lands and the wilderness represented.

Wilderness designation will reaffirm the park's original mission to preserve vistas and wildlife, protecting the unscarred landscape

from a crisscrossing of roads and from policies that could degrade the character of the park's forest and its quiet places. In this age of opportunistic development it is important to protect this national treasure. By-products of preservation also will promote clean air, water and open spaces for the benefit of the public health in Colorado.

We urge you to resolve any remaining issues and to act on the wilderness designation for Rocky Mountain National Park. Now is the time to make a difference and to forever preserve our treasure for all generations.

Mr. Chairman, this concludes my statement. I would be happy to provide any further support or documentation that would assist in the passage of H.R. 2334.

[The prepared statement of Mr. Pinkham follows:]

Statement of Bill Pinkham, Mayor Pro Tem, Town of Estes Park, Colorado, on H.R. 2334

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the views of the Town of Estes Park on H.R. 2334, a bill to designate as wilderness certain lands within Rocky Mountain National Park and adjust the boundaries of the Indian Peaks Wilderness and Arapaho National Recreation Area of the Arapaho National Forest in the State of Colorado.

Forty-three years have passed since Congress designated Rocky Mountain National Park as a wilderness study area, and 33 years have passed since President Nixon recommended wilderness designation. On May 14, 2007, local citizens and officials applauded the announcement by Representatives Musgrave and Udall and Senators Allard and Salazar at the Moraine Park Campground Amphitheater in Rocky Mountain National Park of the introduction of bipartisan legislation to permanently protect the backcountry of the Park as wilderness. H.R. 2334 was then introduced into the House of Representatives by Congressman Mark Udall with Congresswoman Marilyn Musgrave as cosponsor.

The Town of Estes Park, one of the two gateway communities to Rocky Mountain National Park fully supports H.R. 2334 designating approximately 250,000 acres of Rocky Mountain National Park's backcountry in the National Wilderness Preservation System. The Town will not take a position on the Grand River Ditch liability issue; however, it appears this is a major obstacle in granting wilderness designation to Rocky Mountain National Park, and we hope prompt resolution can be reached.

In addition to Estes Park, the gateway community of Grand Lake and the three Colorado counties that encompass the park (Larimer, Grand and Boulder) have endorsed the wilderness designation for Rocky Mountain National Park. It is also supported by a variety of conservation and civic groups, including the League of Women Voters, Colorado Environmental Coalition, Colorado Mountain Club, The Wilderness Society, Headwaters Trails Alliance, and the International Mountain Bicycling Association.

Wilderness designation will help sustain the ecological health of the park, guarantee the economic vitality of local communities, and ensure that the park remains as it is today for future generations of visitors to enjoy and explore.

The Board of Trustees of the Town of Estes Park has thoroughly reviewed the present proposed wilderness boundaries and received public input with regard to the designation of wilderness and all agreed to fully support it as evidenced in the attached Estes Park Resolution # 17-05, "Support of Wilderness Designation for Rocky Mountain National Park". We hope that the wilderness designation legislation will be adopted and will permanently protect and solidify the wild character of the park lands in perpetuity. Designation will have no impact on park management and function and would in no way alter current activities or access in the park. Park managers will continue to encourage hiking, backpacking, horseback riding, fishing, climbing, skiing, snowshoeing and sight-seeing with ample access to one of the nation's most beautiful landscapes.

Trail Ridge Road, the highest continuous paved road in the continental United States, and Fall River Road, the first road to cross the Rocky Mountains in northern Colorado, will continue to be maintained for motorized travel. This will allow visitors of all ages and abilities to experience the history and majesty of the magnificent park lands.

Wilderness designation will reaffirm the park's original mission to preserve vistas and wildlife, protecting the unscarred landscape from a crisscrossing of roads and from policies that could degrade the character of the park's forest and its quiet places. In this age of opportunistic development, it is important to protect this national treasure. Byproducts of preservation also promote clean air, water and open spaces to the benefit of the public health in Colorado.

We urge you to resolve any remaining issues and to act on the Wilderness Designation for Rocky Mountain National Park. Now is the time to make a difference and forever preserve our treasure for all generations.

Mr. Chairman, this concludes my statement. I would be happy to provide any further support or documentation that would assist the passage of H.R. 2334.

Mr. GRIJALVA. Thank you, Mr. Mayor.

Turning now to Mr. Arturo Sandoval, President, Center of Southwest Culture.

STATEMENT OF ARTURO SANDOVAL, PRESIDENT, CENTER OF SOUTHWEST CULTURE

Mr. SANDOVAL. Mr. Chairman and members of the committee, thank you for this opportunity to tell you why I support the proposed Sabinoso Wilderness Area in San Miguel County in New Mexico. My name is Arturo Sandoval and I am a native of New Mexico. I am President of the Center of Southwest Culture, an organization that promotes the people's and cultures of the Southwest through economic, cultural and educational initiatives. I have been engaged in supporting the well-being of New Mexico's Indo-Hispano people for more than 40 years.

In New Mexico we have had people living on the land for at least the past 10,000 years. Native Americans have lived continuously in what is now New Mexico for all of that time and Hispanos have shared the land with them for the past 400 years. We boast the longest continuously occupied village in the U.S. Taos Pueblo in northern New Mexico has been continuously occupied for the past 1,000 years.

What this deep imprint of people upon the land in New Mexico means is that we have developed an intimate and abiding relationship to place. Place has helped shaped our world view. It has helped us define who we are. It literally grounds us in core values of respect and love for all living things and for conservation of wild and open spaces.

As a result, Hispanos in New Mexico know that the health of our cultural landscape is forever tied to the health of our physical landscape. Healthy cultures in New Mexico depend on healthy landscapes.

I am especially honored to be with you today because the Sabinoso area is part of my ancestral homelands. My great-grandparents, Pablo and Pablita Madrid, were born and raised near the proposed Sabinoso Wilderness in a small ranching community called Trementina. Today Trementina is mostly abandoned with just a few scattered homes and a part-time post office marking what was once a vibrant rural village.

On an even more personal note, I own a small parcel of forest land near Sabinoso in my homelands of Mora County. There I am privileged to spend time riding horses, watching as deer, elk, wild turkey, bear and a host of birds share the landscape with me. In

that regard I am typical of many northern New Mexico Hispanos who have grown up on the land and who love it as much as I do.

That is why so many Hispano residents of San Miguel County are strongly in support of the proposed Sabinoso Wilderness. We know the area well. Our grandparents and parents took us there to hunt, to run cattle during summer months, to camp and share stories around the campfire. We know that protecting San Miguel as a wilderness area means we are also protecting our traditional culture.

Just as important, we are currently engaged in a process to rethink our traditional land-based economy. We are rolling out new economic initiatives that seek to keep our people on the land while understanding the need to keep the land intact.

These new sustainable economic initiatives seek to encourage ecotourism as a viable economic option for northern New Mexico's rural Hispano communities. Wilderness areas we are rapidly learning are one way to ensure that we can develop sustainable ecotourism activities and help reenergize and rebuild our traditional land-based communities.

That is why the Las Vegas/San Miguel County Economic Development Corporation, along with the San Miguel County Commission and the town councils of Springer and Wagon Mound, New Mexico, have all passed resolutions in support of Sabinoso.

Through the Center of Southwest Culture, we are actively working to create ecotourism opportunities in northern New Mexico. Part of our efforts to achieve economic health in small rural communities includes talking to local ranchers whose lands abut the proposed Sabinoso Wilderness.

They strongly support creation of Sabinoso as a wilderness because they see the economic opportunities that wilderness will create, outfitting and guiding hunters and bird watchers and all of those millions of Americans who gain personal satisfaction from being someplace that has been untouched and unspoiled by humans.

These local ranchers and villagers are excited because these Federal lands support traditional practices like hunting and grazing. We are happy to report that New Mexico's Game and Fish Department is currently talking to several local ranchers about purchasing public access to this pristine area, and the ranchers I am happy to report are happy to collaborate in this process.

On behalf of our ancestors, on behalf of rural villages and villagers in San Miguel County, we respectfully ask that you pass the Sabinoso Wilderness bill and that you help us revive and sustain our culture and our life ways.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Sandoval follows:]

Statement of Arturo Sandoval, President, Center of Southwest Culture, on H.R. 2632

Mr. Chairman, Members of the Committee, thank you for this opportunity to tell you why I support the proposed Sabinoso Wilderness Area in San Miguel County, New Mexico.

My name is Arturo Sandoval, and I am a native of New Mexico. I am president of the Center of Southwest Culture, an organization that promotes the peoples and cultures of the Southwest through economic, cultural and educational initiatives. I

have been engaged in supporting the well-being of New Mexico's Indo-Hispano people for more than 40 years.

In New Mexico, we have had people living on the land for at least the past 10,000 years. Native Americans have lived continuously in what is now New Mexico for all that time, and Hispanos have shared the land with them for the past 400 years. We boast the longest continuously occupied village in the US: Taos Pueblo in northern New Mexico has been continuously occupied for the past 1,000 years.

What this deep imprint of people upon the land in New Mexico means is that we have developed an intimate and abiding relationship to place. Place has helped shape our worldview. It has helped us define who we are. It literally grounds us in core values of respect and love for all living things and for conservation of wild and open spaces.

As a result, Hispanos in New Mexico know that the health of our cultural landscape is forever tied to the health of our physical landscape. Healthy cultures in New Mexico depend on healthy landscapes.

I am especially honored to be here today with you because the Sabinoso area is part of my ancestral homelands. My great-grandparents, Pablo and Pablita Madrid, were born and raised near the proposed Sabinoso Wilderness, in a small ranching community called Trementina. Today, Trementina is mostly abandoned, with just a few scattered homes and a part time post office marking what was once a vibrant rural village.

On an even more personal note, I own a small parcel of forest land near Sabinoso in my homelands of Mora County. There, I am privileged to spend time riding horses, watching as deer, elk, wild turkey, bear and a host of birds share the landscape with me.

In that regard, I am typical of many northern New Mexico Hispanos, who have grown up on the land and who love it as much as I do.

That is why so many of us Hispano residents of San Miguel County are strongly in support of the proposed Sabinoso Wilderness. We know the area well. Our grandparents and parents took us there to hunt, to run cattle during summer months, to camp and share stories around the campfire.

We know that protecting Sabinoso as a wilderness area means we are also protecting our traditional culture.

Just as important, we are currently engaged in a process to re-think our traditional land-based economy. We are rolling out new economic initiatives that seek to keep our people on the land, while understanding the need to keep the land intact.

These new sustainable economic initiatives seek to encourage eco-tourism as a viable economic option for northern New Mexico's rural Hispano communities. Wilderness areas, we are rapidly learning, are one way to ensure that we can develop sustainable eco-tourism activities and help re-energize and rebuild our traditional land-based communities.

That is why the Las Vegas/San Miguel County Economic Development Corporation, along with the San Miguel County Commission and the town councils of Springer and Wagon Mound, NM, all have passed resolutions in support of Sabinoso.

Through the Center of Southwest Culture, I am actively working to create eco-tourism opportunities in northern New Mexico. Part of my efforts to achieve economic health in small rural communities includes talking to local ranchers whose lands abut the proposed Sabinoso Wilderness.

They strongly support creation of Sabinoso as a wilderness because they see the economic opportunities that wilderness will create: outfitting and guiding hunters, birdwatchers and all of those millions of Americans who gain personal satisfaction from being someplace that has been untouched and unspoiled by humans.

These local ranchers and villagers are excited because these federal lands support traditional practices like hunting and grazing. I am happy to report that New Mexico's Game and Fish Department is currently talking to several local ranchers about purchasing public access to this pristine area and the ranchers are happy to collaborate in this process.

On behalf of our ancestors, on behalf of rural villagers in San Miguel County, I respectfully ask that you pass the Sabinoso Wilderness bill and that you help us revive and sustain our culture and our life ways.

Thank you.

Mr. GRIJALVA. Thank you, Mr. Sandoval. Before I go to the next witness, Mr. Sandoval, the woman I am related to marriage with, she is from Penasco. And she told me to be sure to nod approvingly

as you spoke and not to ask any difficult questions, and I am glad to do that sir.

Mr. SANDOVAL. Thank you, Mr. Chairman.

Mr. GRIJALVA. Mr. Jerry Becker, Executive Director, Elk River Land Trust. Sir.

STATEMENT OF JERRY BECKER, EXECUTIVE DIRECTOR, ELK RIVER LAND TRUST

Mr. BECKER. I am Jerry Becker. Thank you for the opportunity to testify supporting the Copper Salmon Wilderness Act. I am a consulting forester and watershed restorationist, a founding board member of Friends of Elk River, and the Executive Director of Elk River Land Trust.

I have lived, worked and fished in Elk River's watershed since 1974. In those 33 years I have covered every part of the watershed. I represent Friends of Elk River, Trout Unlimited, Campaign for America's Wilderness, a Coalition of Sportsmen, the North Curry Chamber of Commerce, the City of Port Orford, Port Orford Watershed Council, and a who's who list of national, state and local public officials and environmental organizations who all ask me to protect Elk River and 50 miles of crystal and headwater streams by designating the Copper Salmon Wilderness Area.

The rural community is united in support of wilderness designation for the Copper Salmon Area. This is why I traveled across the country to explain to you in plain words that the ecology and the economy of our remote fishing community are deeply interconnected. Our community depends on the health of Elk River watershed and the world class fishery provided by the North Fork of Elk River. We also know that just as our economic well-being is bound to our wild rivers and to our forested watersheds, our well-being is also dependent on the clean air and clean water that these forests provide.

During the 1980s and 1990s Stocking Survey Contracts sent me to check the survival of newly planted conifers in U.S. Forest Service clear-cuts. It is easy to remember the units in the upper Elk River area. The slope of the land averages more than 80 percent, with many hill slopes exceeding 100 percent. And this is an area that gets 170 inches of rainfall and hurricane force winds. All the clear-cuts had landslides in the bottom of the units. Invisible from the roads above, these slides delivered sediment to the tributaries below the units. Logging road failures dump literally tons of rock into the river. Gravel and cobblestones worked loose by road building tumble down the watershed for decades, filling deep holes and destroying the low gradient productive flats that scientists consider barometers of watershed health.

Locals understand that we must protect our natural infrastructure to maintain Elk River's world class salmon fishery. The Copper Salmon Wilderness proposal has achieved widespread support in Curry County because Elk River's abundant chinook run equals jobs that drive North Curry's economy. There is no matrix in the Copper Salmon. However, as was the case with the adjacent Grassy Knob Wilderness, old timber plantations remain inside the wilderness. Including these regrown plantations and using main roads as the Copper Salmon Wilderness Area boundary circumvents high

priced land surveying and mapping expenses. It is the no-cost sensible way to go that best safeguards the North Fork's ecosystem and watershed values.

I want to reemphasize that I am a forester and that I agree with the need to thin vast areas of second growth plantations. I also feel certain places should be left untouched for watershed protection, and here are two of the many reasons Copper Salmon Wilderness is among those places.

I can still look down through 20 feet of clean, clear water and see every stone on the river bed below. And the thrill of a 40-pound chinook salmon pulling and jumping while I try to hang onto my fishing rod is a connection with nature that I hope to share with my grandchildren.

H.R. 3513 proclaims that big fish and exceptional water quality can be part of all Americans' futures. All the area within the proposed Copper Salmon Wilderness meet the criteria of the Wilderness Act.

Please protect Elk River by authorizing the no disturbance, no cost Copper Salmon Wilderness Act as expeditiously as possible. Church groups, business leaders, fishermen, artists and thousands of visitors who travel great distances to smell the sea air and glimpse the area's unparalleled beauty join me in urging you to release us from the old boom and bust cycle of resource extraction and to make our vision of economic stability a reality by establishing the Copper Salmon Wilderness Area.

There is nothing to restore. We simply need to permanently protect Elk River's headwaters.

Thank you for the opportunity to speak at this hearing today. I look forward to answering your questions. And also have a map here that I would like to submit. It depicts the slopes in the area. The green area is pretty general slopes. The yellow area is steeper where caution should be applied. And the orange and red areas are extremely steep and there should be no disturbance, no human disturbance in those areas. And I ask that this be submitted for the record.

Mr. GRIJALVA. Without objection. Thank you.

[NOTE: The map submitted for the record has been retained in the Committee's official files.]

[The prepared statement of Mr. Becker follows:]

Statement of Jerry P. Becker, Port Orford, Oregon

Thank you for the opportunity to testify supporting H.R. 3513, the Copper Salmon Wilderness Act. I am a consulting forester, a watershed restorationist, a founding board member of Friends of Elk River, and the Executive Director of Elk River Land Trust. I have lived, worked, and fished in Elk River's watershed since 1974. In those 33 years I have covered every part of the watershed.

To speak before you today, I've traveled from Port Orford, a small fishing village located along a remote stretch of Pacific Highway 101 that's known as America's Wild Rivers Coast—and our weather is every bit as wild as our rivers are.

I represent Friends of Elk River, Trout Unlimited, Campaign for America's Wilderness, a coalition of sportsmen, the North Curry Chamber of Commerce, the City of Port Orford, the Port Orford Watershed Council, and a Who's Who list of national, State, and local public officials and environmental organizations, who all ask you to protect Elk River—and 50 miles of crystalline headwater streams—by designating the 13,700 acre Copper Salmon Wilderness Area.

The Copper Salmon Wilderness proposal started locally, from the ground up. Our rural community is united in support of wilderness designation for the Copper Salm-

on area. This is why I traveled across the country—from shore to shore—to explain to you in plain words, that the ecology and the economy of our remote fishing community are deeply interconnected. Our community depends on the health of Elk River watershed and the world-class fishery provided by the North Fork of Elk River. We also know that just as our economic well-being is bound to our wild rivers and to our forested watersheds, our well-being is also dependant on the clean air and clear water that these forests provide.

After graduating from the University of Rochester in New York State, I came to Oregon and spent much of the following 10 years timber cruising old-growth in the Elk River watershed. Then to support my family, I performed technical forestry contracts for the U.S. Forest Service throughout the entire Pacific Northwest. So I know what I'm talking about when I say that the Wild & Scenic Elk with it's "outstandingly remarkable" water quality, is a real gem in Oregon's crown. I know that for Elk River to maintain this preeminent position, however, we need to protect her headwaters.

During the 1980's and 1990's, stocking survey contracts sent me to check the survival of newly planted conifers in USFS clearcuts. It's easy to remember units in the upper Elk River area. The slope of the land averages more than 80%, with many hillslopes exceeding 100%. All the clearcuts had landslides in the bottom of the units. Invisible from the roads above, these slides delivered sediment to the tributaries below the units. I mapped and noted the slides in the "comments" sections of my data cards. And I'd wince during heavy rainstorms, knowing that slides were sending pulses of sediment downstream that would settle on spawning beds, slowly smothering precious salmon eggs during their incubation periods. Forty years later, logging road failures continue to dump literally tons of rocks into the river. Gravel and cobblestones worked loose by road building, tumble down the watershed for decades, filling deep holes and destroying the low-gradient productive flats that scientists consider barometers of watershed health.

During these contracts, the reason that Elk River was the last south coast watershed to be logged became obvious. Not only was it the most dangerous and the most expensive watershed to work in—more often than not—serious ecological damage resulted from building roads and logging in this extremely steep, rough, unstable country.

Locals understand that we must protect our natural infrastructure to maintain Elk River's world-class salmon fishery. The Copper Salmon Wilderness proposal has achieved widespread support in Curry County because Elk River's abundant chinook run equals the jobs that drive North Curry's economy.

The Sunday before last, my wife and I spent an afternoon at Cape Blanco watching Port Orford's commercial fishing fleet working right off the mouth of Elk River. Their "North Beach" or "bubble" fishery is a special late-season opportunity to catch returning Elk River salmon. Each Elk River Chinook brought on board means more than $100 to the boat's captain.

The Copper Salmon Wilderness Act can be a "No Cost" action by the Federal Government. Because of it's high ecological value, the Elk was designated a Tier I Key Watershed 13 years ago. Remember, many of these slopes are 100% and greater. Any attempts to manage plantations which should never have been logged in the first place, or to decommission already-impassable roads, will create disturbance. And we've learned that even the slightest disturbance in Elk River's fragile headwaters degrades the watershed.

There is no matrix in Copper Salmon. However, as was the case with the adjacent Grassy Knob Wilderness Area, old timber plantations—the legacy of imprudent management that took place decades ago—remain inside the Copper Salmon Wilderness. Including these re-grown plantations and using main roads as the Copper Salmon Wilderness Area boundary, circumvents high-priced land surveying and mapping expenses. It's the no-cost, sensible way to go that best safeguards the North Fork's ecosystem and watershed values.

Indiscriminate incursions notwithstanding, Elk River watershed remains one of the most intact low-elevation temperate rain forests in the world. Although the entire area has been off-limits to logging for the past 13 years, there will inevitably be continued attempts to go back after the North Fork's timber, each furtive attempt further damaging and eventually irreparably destroying our world-class salmon fishery. The only way to really protect this unique, extremely important area for perpetuity is by awarding it Congressional protection as Wilderness.

I want to re-emphasize that I'm a forester and that I agree with the need to thin vast areas of second-growth plantations. I also feel certain places should be left untouched for watershed protection reasons. Here are two of many reasons the Copper Salmon Wilderness is among those places:

1. I can still look through twenty feet of clean, clear water and see every stone on the riverbed below; and
2. The thrill of a forty-pound Chinook salmon pulling and jumping while I try to hang on to my fishing rod, is a connection with nature that I hope to share with my grandchildren.

H.R. 3513 proclaims that big fish and exceptional water quality can be part of all American's futures. All of the areas within the proposed Copper Salmon Wilderness meet the criteria of the Wilderness Act.

Please protect Elk River (and 50 miles of crystalline headwater streams) by authorizing the "no disturbance/no cost—Copper Salmon Wilderness Act as expeditiously as possible.

From retirees to schoolchildren, all facets of our coastal community support wilderness designation for the Copper Salmon area. Church groups, business leaders, fishermen, artists, and thousands of visitors who travel great distances to smell the sea air and glimpse the area's unparalleled beauty, join me in urging you to release us from the old boom and bust cycle of resource extraction, and to make our vision of economic stability a reality by establishing the Copper Salmon Wilderness Area.

There is nothing to restore, we simply need to permanently protect Elk River's headwaters. Thank you for your wisdom on this far-reaching matter and thank you for the opportunity to speak before this hearing today. I look forward to answering your questions.

Mr. GRIJALVA. Mr. Jacob Groves, again on H.R. 3513, American Forest Resource Council. Sir.

STATEMENT OF JACOB GROVES, AMERICAN FOREST RESOURCE COUNCIL

Mr. GROVES. Good afternoon Mr. Chairman, members of the Subcommittee, ladies and gentlemen. Thank you for the opportunity to discuss my perspective, experiences and concerns with H.R. 3513, the Copper Salmon Wilderness Act.

My name is Jacob Groves. I have lived, worked, fished in the Copper Salmon area all my life and most recently have walked or driven nearly every acre of the wilderness proposal. I am a life-long resident of the area, a third generation forester having grown up in Myrtle Point, Oregon and attended Oregon State University, where I earned my Bachelor's of Science in Natural Resources with an option in Forestry Ecology and my Master's of Forestry in Forest Biology. Currently I am the Western Oregon Field Forester for the American Forest Resource Council, AFRC. Today I am here representing AFRC, the Associated Oregon Loggers, and the Douglas Timber Operators.

To highlight my testimony each of you should have a copy of AFRC's analysis of the Copper Salmon area complete with maps, photos taken on the ground, and aerial photos.

AFRC has several concerns with this bill, but the most alarming to me is that approximately 1,000 acres of this proposal was included in the Coastal Healthy Forests Environmental Assessment that the Rogue-Siskiyou National Forest recently completed. These acres are scheduled to be mechanically thinned to improve forest health. This May 2007 management decision satisfied the Forest Service requirements under the National Forest Management Act, National Environmental Policy Act, Administrative Procedures Act and many other laws. Furthermore, there were no appeals on this project, nor was a suit filed challenging the agency decision.

The NEPA work has already been paid for by the Forest Service and is ready to move forward with the needed treatments within these stands. In addition to this acreage, we believe there are an

additional 1,600 acres of second growth stands within the wilderness proposal in need of the same type of treatments. This project is consistent with the 1994 Clinton Northwest Forest Plan and legislative concepts currently being considered by Congressman DeFazio.

Supporters of the bill point to the world class fishery as one of the main reasons to protect it. While I personally appreciate the fact that they also value this area, their efforts here seem to be misguided. Many times forest management, whether it be thinning, road restoration, soil stabilization, in-stream habitat improvements or other activities are needed to ensure high quality fish and wildlife habitat. A wilderness designation, however, would prohibit this type of restoration and severely limit the options of land managers.

This area is naturally prone to landslides. But what this highlights is the need to thin some of these managed stands. When these natural landslides do occur, would we prefer, for example, 300 small diameter trees choking a stream or 60 large older trees delivering large woody debris to a stream? I can easily say that most, if not all, fish biologists would prefer large woody debris to provide adequate stream structure.

Clearly the intent of this area, as established by the Northwest Forest Plan, is to create late successional or what most would consider old growth habitat, helping enhance habitat for both fish and wildlife. Without some active management in these areas, especially forest health, thinning and road maintenance, it will be difficult to meet these goals or to ever achieve late successional or old growth type forests.

Instead of wilderness, the appropriate approach would allow for responsible management now and into the future to ensure the area remains a world class fishery. To be clear, I am not advocating for traditional timber management in this area even though it has been done in the past. But the fact of the matter is timber harvests have been conducted on one-fifth of the entire proposed wilderness and it remains an excellent fishery.

Timber management and fishery health are certainly not mutually exclusive. When I reviewed the aerial photos of the Copper Salmon, every single photo had a road in it. Let me make this clear. There are 0 aerial photos without a road. This adds up to 11.8 miles of system roads, 92 culverts, an unknown amount of roads no longer identified as system roads. Most of these were constructed because of old mining claims and approximately 2,600 acres of previously harvested stands, which is 19 percent of the total acreage that need continued management.

This area was also analyzed for its suitability for wilderness designation during the forest required land management process in 1989. The NFMA/NEPA-approved document concluded that the area was not suitable or worthy of wilderness designation. The area analyzed was 9,354 acres and excluded the previously managed and system road acres which are included in H.R. 3513. At the very least, the areas containing roads, previously harvested stands and plantations should be removed from the wilderness proposal.

Finally, the Forest Service has indicated that if this bill becomes law the agency would likely restore roads and remove culverts to

protect water quality. It has been estimated that due to the numerous culverts and the permanent natures of the roads it would cost the agency roughly $300,000 to conduct these activities under current land designations. After further review, however, AFRC believes the work could realistically cost $400,000 to $500,000 with costs to operate heavy equipment such as an excavator continuing to rise with the price of diesel fuel. In all honesty the Forest Service would likely lack the money and resources needed to return the area to that resembling wilderness.

If the agency were required to conduct these activities under minimum tools and non-motorized policies that accompany wilderness designations, the costs would soar to close to $1 million. The Forest Service is already having a tough time meeting even the most basic needs. Knowing this, it is unrealistic to place the financial burden on the already cash strapped agency.

AFRC has expressed a desire to work with Congressman DeFazio to find a common sense wilderness proposal that fits the needs of this area while ensuring that responsible management continue to contribute to the health of both the forest and the fishery.

I thank you for the opportunity to testify today, and I am happy to answer any questions you might have.

[The prepared statement of Mr. Groves follows:]

Statement of Jacob Groves, Representing the American Forest Resource Council; Associated Oregon Loggers; and Douglas Timber Operators

Good afternoon, Mr. Chairman, members of the Subcommittee, Ladies and Gentlemen. Thank you for the opportunity to discuss my perspective, experiences, and concerns with H.R. 3513, the Copper Salmon Wilderness Act. My name is Jacob Groves. I have lived, worked and fished in the Copper Salmon area all my life and most recently have walked or driven nearly every acre of the wilderness proposal. I am a lifelong resident of the area, third generation forester having grown-up in Myrtle Point, Oregon, and attended Oregon State University where I earned my Bachelors of Science in Natural Resources (Forest Ecology) and my Masters of Forestry in Forest Biology. Currently, I'm the Western Oregon Field Forester for the American Forest Resource Council (AFRC). Today I am here representing AFRC, the Associated Oregon Loggers and the Douglas Timber Operators.

Specifically, I'm intimately aware of the Copper Salmon because I grew up in the area and have fished for steelhead and salmon in the Elk River numerous times. Make no mistake; it is an excellent fishery that I have personally enjoyed and deeply value. I also agree that there are certain areas within the wilderness proposal that contain old stands of Port Orford cedar that should remain intact. That does not, however, mean this entire area should be designated as wilderness. To highlight my testimony, each of you should have a copy of AFRC's analysis of the Copper Salmon area complete with maps, photos taken on the ground and aerial photos.

AFRC has several concerns with this bill, but the most alarming to me is that approximately 1,000 acres of this proposal was included in the Coastal Healthy Forests Environmental Assessment that the Rogue-Siskiyou National Forest recently completed. This May 2007 management decision satisfied the Forest Service's requirements under the National Forest Management Act, National Environmental Policy Act, Administrative Procedures Act and many other laws. Furthermore, there were no appeals on this project nor was a suit filed challenging the agency decision. The NEPA work has already been paid for and the Forest Service is ready to move forward with needed treatments within these stands. In addition to this acreage, we believe there are an additional 1,600 acres of second-growth stands within the wilderness proposal in need of the same type of treatments.

It's important to note that most of the area included in the wilderness proposal is classified as "Late Successional Reserves" or "LSRs" under the 1994 Clinton Northwest Forest Plan. These areas were set aside to create future late-successional forests (generally what most folks would think of as "old growth" forests) for late-succession species, such as the Northern Spotted Owl. Forest thinning projects, like those contemplated for portions of this area, were specifically envisioned under the Plan to speed the development of these characteristics. Prior to the adoption of the

Plan, the 2,600 acres I'm referring to was successfully regenerated as Douglas fir plantations with timber management envisioned in the future. Today, as some of the pictures show, there are roughly 300 trees per acre—with this kind of stocking, it is unlikely these stands will ever become viable late-successional habitat and they certainly aren't providing great habitat in their current state. Moreover, roads already exist to access these areas. It is important to remember that LSRs cannot be managed after stands reach the 80-year old age class and that clear-cutting, or other intensive types of active management are strictly prohibited in these areas.

It must also be noted that this area was analyzed for its suitability for wilderness designation during the Forest's required land management process in 1989. The NFMA/NEPA approved document concluded that the area was not suitable or worthy of wilderness designation. The area analyzed was 9,354 acres and excluded the previously managed and roaded acres which are included in H.R. 3513.

Supporters of this bill point to the world class fishery as one of the main reasons to protect it. While I appreciate the fact that they also value the area, their efforts here seem to be misguided. Many times forest management—whether it be thinning, road restoration, soil stabilization, in-stream habitat improvements, or other activity—is needed to ensure high-quality fish and wildlife habitat. A wilderness designation, however, would prohibit this type of restoration and severely limit the options of land managers. This area is naturally prone to land slides—but what this highlights is the need to thin some of these managed stands. When these natural land slides do occur, would we prefer, for example, 300 small diameter trees choking a stream or 60 large, older trees delivering large woody debris to a stream? I can easily say that most, if not all fish biologists would prefer large woody debris to provide adequate stream structure. Clearly the intent of this area, as already established by the Northwest Forest Plan is to create late-successional habitat, helping to enhance habitat for both fish and wildlife. Without some active management in these areas, it will be difficult to meet these important goals.

Instead of wilderness, the appropriate approach would allow for responsible management now and in the future to ensure the area remains a world-class fishery. To be clear, I am not advocating for traditional timber management in this area even though it's been done in the past, but the fact of the matter is timber harvests have been conducted on one-fifth of the entire proposed wilderness and it remains an excellent fishery. Timber management and fishery health are certainly not mutually exclusive.

To me, the 1964 Wilderness Act is very clear. Wilderness is an area "untrammeled by man", it is "undeveloped"retaining its primeval character—without permanent improvements." When I reviewed the aerial photos of the Copper Salmon, every single photo had a road in it. Let me make this clear, there are zero aerial photos without roads. This adds up to 11.8 miles of system roads, 92 culverts, an unknown amount of roads no longer identified as system roads—most of these were constructed because of old mining claims, and approximately 2,600 acres of previously harvested stands (which is 19% of the total acreage) that need continued management. To the contrary, these areas have been substantially influenced by humans. At the very least, the areas containing roads, previously harvested stands and plantations should be removed from the wilderness proposal.

Finally, the Forest Service has indicated that if this bill became law, the Agency would likely "restore" roads and remove culverts to protect water quality. It has been estimated that, due to numerous culverts and the permanent nature of the roads, it would cost the Agency roughly $300,000 to conduct these activities under current land designations. After further review, however, AFRC believes the work could realistically cost $400,000 to $500,000 with costs to operate heavy equipment, such as an excavator, continuing to rise with the price of diesel fuel. In all honesty, the Forest Service would likely lack the money and resources needed to completely decommission roads and return the area to that resembling "wilderness." If the agency were required to conduct these activities under the "minimal tools" and non-motorized policies that accompany wilderness designations, the costs could soar to close to one million dollars. The Forest Service is already having a tough time meeting even the most basic needs; its budget has been static or declining for several years and fire suppression costs consume nearly half of the budget now and will consume more than half the budget in the near future. Knowing this, it is unrealistic to place this financial burden on the already cash-strapped Agency. It is also irresponsible to designate this area as wilderness—precluding much-needed road or forest restoration in the future—with the knowledge that this could harm the fishery in the future.

AFRC has expressed a desire to work with Congressman DeFazio to find a common-sense wilderness proposal that fits the needs of the area while ensuring that responsible management can continue to contribute to the health of both the forest

and the fishery. The member companies of AFRC generate thousands of quality jobs across the region and often are among the largest private employers in rural communities. Within Congressman DeFazio's district alone, AFRC is proud to represent nearly 20 forest products companies which operate approximately 25 manufacturing facilities that employ thousands of Oregonians. These companies are both locally and privately owned and are part of the solution for our nation's forest health, energy independence, and domestic economic challenges.

With the Federal government managing over 60 percent of the forestland in southwest Oregon, these facilities are highly dependent on an adequate supply of timber from Federal lands to survive. The lack of supply from these forests continues to contribute to economic dislocation in the area. Just last week, the Swanson Group, a major forest products employer in the western Oregon, announced layoffs that will result in the loss of approximately 150 family-wage jobs. It is clear that we must get back to responsibly managing our Federal forests, such as the areas I have outlined above that are in need of future management.

I thank you for the opportunity to testify today. I'd be happy to answer any questions you may have.

Mr. GRIJALVA. Thank you very much. At this time I have no questions. I intend to submit to some of our witnesses some questions so I can get a response in writing, but that will happen later.

With that, let me turn to Mr. Bishop for any questions he might have.

Mr. BISHOP. I would like to ask the UC at the very beginning. This is not meant in any way as criticism. I think it is the archaic rules that we have on what limits testimony coming in at our hearing process. But I would like to submit for the record a letter signed by 74 individuals in opposition to H.R. 3682, as well as a petition with 700 signatures and communications we got in opposition to H.R. 3287 to be included in the record under unanimous consent.

Mr. GRIJALVA. Without objection.

[NOTE: The petition submitted for the record has been retained in the Committee's official files.]

Mr. BISHOP. Thank you, Mr. Chairman. Mr. Harmon, if I could ask you just one quick question. The Department of the Interior has been making out that basically this bill is a sweetheart deal for your company, that you have had a long history inside Rocky Mountain working with the Park Service. They claim this legislation breaks agreements that were made in 1907 and 2000 that require your company to make payments for damages.

Why were those terms acceptable then, why not now? Why do you need this bill now?

Mr. HARMON. Well, not impacted by this legislation, in 2003 we had a problem up there and the Park Service filed a $12 million claim against us, which got our attention after over a hundred years of operating without those kinds of issues.

Mr. BISHOP. OK. This is open-ended. Do you want to add anything more than that?

Mr. HARMON. No.

Mr. BISHOP. You got it then. Let me go to Mr. Groves, our forester there. Others have testified that areas in this area, especially the Doug fir plantations, don't need to be thinned. What is your take on that? And does the thinning stance negatively impact you as a fishery or the landslides?

Mr. Groves.

Mr. GROVES. Thank you, Congressman.

These stands were planted at a density that ranges close to 300 to 400 trees per acre. And with the intent, the assumption they were going to be forests for timberland production. The Northwest Forest Plan changed that assumption. They are now to be late successional reserves to provide habitat for spotted owls and other late successional types of species.

Mr. BISHOP. Let me interrupt you right now. If you want land for late successional reserves, what should be the average amount of trees you have per acre to make that acceptable?

Mr. GROVES. To have the kind of diameter growth and the kind of tree structure that you are looking for, you would want the trees per acre to be down between 50 to 80 trees per acre, not the 300 to 400 trees that these are currently stocked at, Congressman.

Mr. BISHOP. If you thinned these new growth areas, the replanted areas, does that have a negative impact on the fishing opportunities, landslide opportunities, or landslides that may occur?

Mr. GROVES. Sir, we have come a long ways with the technology and equipment these days. The stands that have already been through the NEPA process could easily be accessed by the boundary roads of the proposal with the skyline system that would have little to no negative effects on both the fishery and on the potential for increasing natural landslides.

Mr. BISHOP. I understand of the 2,600 acres that are here, some of them have already gone through the NEPA process, and I understand they have no appeals, no litigation. About how much of this land has already gone through that process already?

Mr. GROVES. Sir, I believe 1,000 acres of the 2,600 managed stands are through the NEPA process decision, notice signed and ready to be offered up.

Mr. BISHOP. So it should go forward within this proposal.

With the county payments being such an important issue right now for all of us, can you give me an idea of how much revenue would likely—this thinning process would likely raise for the county.

Mr. GROVES. Sir, State, private landowners and tribal lands thin these type of stands, and do so at a profit.

With the Forest Service having these thousand acres through NEPA, I see no reason why they could not thin these stands and make a profit and have, you know, millions of dollars in returned receipts, of which 25 percent would probably—it would be required to go to the counties under the current structure.

Mr. BISHOP. So in this particular area of wilderness designation, we have areas that need to be thinned for the habitat that it is supposedly providing for. It improves the stream quality, spawning opportunities, the pooling process that needs to be there, and it would also help those counties that are in dire need of that kind of money at the same time.

Now, that is what I am understanding your testimony is.

Mr. GROVES. Yes, sir.

Mr. BISHOP. Have you seen any other areas where you have 11 miles of roads, the 92 culverts, maybe 20 percent of it is managed planting area, that would be classified as wilderness?

Mr. GROVES. Not in the State of Oregon. I have not, no, sir.

Mr. BISHOP. Thank you. I am done.

Mr. GRIJALVA. Thank you.

Mr. Mark Udall.

Mr. MARK UDALL. Mr. Chairman, thank you. I know, Mr. Chairman, since you didn't use your time, you will yield some additional time to us.

Mr. GRIJALVA. You have 4 minutes.

Mr. MARK UDALL. Let me start by thanking the two Coloradians here.

If I could, I would like to turn to Mr. Harmon and ask you some questions very similar to the ones I asked the representatives of the Park Service earlier.

I want to start: Does your company want to reach an agreement with the National Park Service regarding operation and maintenance of the Grand Ditch?

Mr. HARMON. We do.

Mr. MARK UDALL. Are you currently in negotiations to see if you can reach an agreement, and if so, when did they begin.

Mr. HARMON. They began last calendar year, 2006. We have been working on discussing it since then.

Mr. MARK UDALL. Have you made a specific proposal, and if so, has the Service responded to it.

Mr. HARMON. There have been a couple of drafts that have gone back and forth. So there has been a dialogue and a couple of meetings.

Mr. MARK UDALL. Where in your best estimation do things stand, and would you say you are making progress? I am not trying to put words in your mouth.

Mr. HARMON. We met with the superintendent and a couple of his staff people in July of—because we were having some frustration of the process. We had asked for some input on examples of what they wanted to see. And we got a 100-page, both sides, single-spaced document from the BLM on a reclamation project somewhere as an example.

So we went to him and said, "You know, there are two people in our office, this is not going to work," and got an outline from the superintendent of about nine items that were important. So I wrote a new draft based on that and got some complimentary feedback from them that we thought we were making progress, but that they had to have it reviewed by legal counsel and other technical people, and got a draft back about 4 weeks ago that was pretty disappointing.

You know, I characterize it, not being a lawyer, as trying to write an operating agreement that obviates the benefit of this legislation to us.

So we have a draft response that will probably go out in a few days back to them. If you had asked me a month ago, I would say we are making good progress. I am not so sure right now.

Mr. MARK UDALL. The administration says they think there should be an agreement that is comprehensive in scope and enforceable. Could you agree to that.

Mr. HARMON. Yes.

Mr. MARK UDALL. They also say the agreement must contain provisions that reduce the risk of another catastrophic failure of the ditch.

Could you agree to something like that?

Mr. HARMON. Yes. They have made some suggestions about engineer—independent engineering inspections and those sorts of things. And we have some of our own ideas on things, improvements and facilities that could be helpful, and we are supportive of all of those ideas.

Mr. MARK UDALL. They say there should be, quote, clear expectations, unquote, regarding maintenance and operational use that impact Park operations. Do you agree that would be a good idea.

Mr. HARMON. Yes.

Mr. MARK UDALL. What are the outstanding issues, and do you think there is a way to resolve them?

Mr. HARMON. There is some language in there that says you must do whatever necessary to make sure there is never another breech of the ditch, and otherwise the liability of standard reverts. And that sort of approach doesn't work for us.

Mr. MARK UDALL. My follow-on question will provide the committee with some additional insight.

Why do you want to be relieved of the absolute liability standard that now applies to your operations inside of the Park?

Mr. HARMON. We think there is a basic inequity.

When we originally went on the property to produce the water, you know, it was a window of opportunity based on Colorado law that was never going to come around again, and in good faith and in full support of the Federal and State government, you know, this ditch was developed. The Park came later.

We just don't think it makes sense, from an equity standpoint, that an act of God, which is no fault of ours, could cause this kind of multimillion-dollar liability to the company; and we think this is an opportunity to try to fix that.

Mr. MARK UDALL. Is the prospect of that relief in the legal sense, Mr. Harmon, an incentive for your company to reach an agreement with the National Park Service.

Mr. HARMON. Yes, it is.

Mr. MARK UDALL. Would you have that same incentive otherwise?

Mr. HARMON. No.

Mr. MARK UDALL. I assume you heard the testimony of the witnesses from the administration regarding the differences between the liability standard under the 1907 stipulation and the 1990 legislation. They say the 1990 legislation is less stringent; would you agree.

Mr. HARMON. No. I don't think there is much difference, and that is the opinion of our legal counsel. And the reason is because in the 1990 legislation, there are three exceptions to the—as defenses, and one of those is an act-of-God defense. But if you look at the case law, I am told that the act-of-God is so narrowly defined that it has never, from a practical standpoint, been a defense for anybody in any case.

And it also has a provision in the act-of-God defense that says that there has to be a determination that it was solely an act of God; that if there is any comparative negligence, 1 percent of the water company, then the defense gets tossed out, too.

So from a practical standpoint, it is not a compromise. It is about the same situation.

Mr. MARK UDALL. It sounds to me, Mr. Harmon, even though you are not a lawyer, you have gained a great working knowledge of the law.

Mr. HARMON. I have spent a lot of time in my life in the last couple of years working on this.

Mr. MARK UDALL. Particularly when it comes to Colorado water law and the interface it has with the Federal statutes.

If I might be indulged for another 30 seconds, I wanted to thank Mayor Pinkham for being here and want to acknowledge the great town—it is a town, I know the town fathers want to keep it a town—of Estes Park.

I thought if you wanted to speak briefly to the process and the evolution of the town's thinking about the important economic benefits that you believe will be generated by the designation of the large bulk of the Park as wilderness.

Mr. PINKHAM. One of the big questions for the town is whether wilderness designation might hurt the town and its economy. And I have chaired a sustainability committee for the last couple of years, called the 2017 Team, looking out over the next 10 years to try to get a sense of the issues that we face, and wilderness designation was one of the questions that came up.

It is a cross-functional team of lodging, restaurants, retail, as well as public citizens. And the consensus was that the wilderness designation could, in fact, actually help in terms of increasing the uniqueness and the visibility of Rocky Mountain National Park. We don't have the same type of image that, say, Yellowstone or Glacier or some of the other parks have. And so this could actually help us.

Our local economy, our general fund is about 10 million bucks. And about 7-1/2 million of that comes from the tourist economy, which is very seasonal in our area.

So the designation, we think, is very important. We have a very good, close working relationship with the Park and, in fact, started shuttle bus services this last year which helped to reduce the Park's need for additional parking space and has reduced traffic through town. So it has been a successful collaboration. We look forward to many continued years.

Mr. MARK UDALL. Thanks again for joining us here today.

And I think I could extend on your behalf and my behalf an invitation to Congressman Bishop to visit Estes Park next October to see the abundant elk in the town of Estes Park. He will not be busy next October, because I believe his reelection is a given. But we would like you to visit our wonderful State of Colorado and see the challenge we do have with the elk in person and on the ground.

Mr. BISHOP. I hope you are right on every count.

Mr. GRIJALVA. Thank you, Mr. Udall.

And as the panel can tell and the people here at the meeting, I run a tough meeting. I was going to take a minute away from Mr. Mark Udall, and he ended up taking an additional 3-1/2 extra.

So with that, let me turn to our colleague, Mr. Tom Udall, a relation of Mr. Mark Udall, for 2 minutes of questions.

Mr. MARK UDALL. I knew that was coming.

Mr. TOM UDALL. Thank you to all of the panels. You have been excellent today. I think you have really enlightened us on the pieces of legislation you have testified on.

Mr. Sandoval, and thank you specifically for your very eloquent and passionate statement about the Sabinoso Wilderness and you, in particular, having your roots in northern New Mexico and seeing the need for doing this, I think it is particularly good that you are here today to testify.

One of the things that I would like you to just talk a little bit about because, you know, we see these resource fights in the West and we have had them for many years, and it seems that you and the people working with you have found a third way around those. And as you have talked, you have talked about everybody working together and ranchers and hunters and recreationists all coming together.

What is it that you are doing on the ground? I know you are doing more in Sabinoso that is helping that to happen. Could you talk a little bit, because I think that all of us from Western districts would like to see more of that happen where we get people building consensus and common ground.

Mr. SANDOVAL. Thank you, Congressman, and members of the committee.

There is a number of initiatives we are working on. One, for example, is that in the spring for the first time we are going to do an ecotourism project with several acequias. And the acequias are the thousand-year-old governance systems that came over to the Americas with the Spaniards, and the Spaniards learned it from the Moors who had developed it in the arid regions of Northern Africa. So we have these governmental and governance systems for water in place in New Mexico for the past 400 years.

In the spring, we do what—a tradition that has been happening for thousands of years, and in New Mexico for 400 years, which is where all of the members who belong to this ditch system have to gather and jointly clean out and repair the main ditch. We call it the Acequia Madre, the mother ditch that delivers water to everybody's individual fields; and that is a requirement of everyone who belongs to an acequia.

So what we are developing is a regional ecotourism plan where we are bringing in members of conservation groups, in this case the International Wilderness Alliance members, who are paying for the privilege of bringing a shovel and work gloves and helping us repair these acequias in the spring.

And what they are doing is, besides doing the work and working side by side with these traditional systems, is that they actually are paying, so that there is a profit going in to the maintenance fund for these acequias.

So it was a difficult sell to acequia members. They said, "Let me get this straight. You mean you are going to get people to come and work with us and they are going to spend a weekend working with us and they are going to pay us for the privilege?" and I said, "That is the deal."

So we are doing a lot of that. We hope to make that a regional process.

The other thing we are doing, Mr. Congressman Udall, is that I am trying to convince, and we are working slowly and working one-by-one with a number of ranchers to make them see cattle not necessarily as money on the hooves, but sort of props for tourists from the Eastern Rim and from the east and west coast. So what I am trying to do is convince them to have fewer cattle and not depend so much on the cattle market in Chicago, and depend more on bringing in Japanese and east coast and west coast citizens to get on a horse and chase a few cows around the corral.

The downside to that is I am having to teach these ranchers how to sing around the campfire, and they are not that good at it. But I am hopeful that their singing classes will take effect.

But that is a gospel that is beginning to spread quite widely in Northern New Mexico, Congressman. And also just outfitting. We are getting a lot of younger Indo-Hispanos now who are actually doing outfitting and being able to stay in place, stay in their community, raise their kids there and preserve these lands, these agricultural lands, we hope far into the future.

So there are a lot of things, exciting things going on in your district, Congressman.

Mr. TOM UDALL. Thank you very much. I am aware of much of the work you are doing there, and with my great singing voice, maybe I could join those cowboys for a singing session.

Thank you very much, and thanks to the panel.

And I yield back to the Chairman.

Mr. GRIJALVA. Thank you very much, and let me thank our last panel and all of the people that took the time and effort to come here today to discuss these pieces of legislation.

For the record, on what was just accepted to the record for Tumacacori, one of the petitions, Mr. Bishop, is from late 2004, 2005, and I think there has been some progress made in reconciling some of the opposition.

And the other one, the question there is from the organization that is boycotting the Minneapolis airport because of a certain incident with a certain Senator. So our piece of legislation has got dragged into that whole sordid affair.

So with that, let me thank everybody, and we will stand in recess.

[Whereupon, at 5:15 p.m., the Subcommittee was adjourned.]

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