

**DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008**

**TUESDAY, MAY 22, 2007**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10 a.m., in room SD-124, Dirksen Senate Office Building, Hon. Dianne Feinstein (chairman) presiding.  
Present: Senators Feinstein, Craig, Stevens, Cochran, Gregg, Al-  
lard, and Alexander.

**DEPARTMENT OF AGRICULTURE**

**FOREST SERVICE**

**STATEMENT OF HON. MARK REY, UNDER SECRETARY  
ACCOMPANIED BY LENISE LAGO, BUDGET DIRECTOR**

**OPENING STATEMENT OF SENATOR DIANNE FEINSTEIN**

Senator FEINSTEIN. The meeting of the Interior Appropriations Subcommittee will come to order. I'd like to thank you for attending this hearing on the President's budget request for the U.S. Forest Service.

I'd like to welcome Mark Rey, the Under Secretary for Natural Resources and Environment at the Department of Agriculture. Under Secretary Rey is accompanied by Lenise Lago, the Budget Director for the Forest Service.

I just want to point out to you that the Chief, Gail Kimbell, couldn't be with us today because she's traveled to my State, California, to attend the release of the report on last year's deadly Esperanza Fire, which took the lives of five firefighters in California.

I happened to go to their funerals, and it was just a terrible, terrible thing. I'm very sorry Chief Kimbell could not be with us today, but I'm very pleased that she's focusing her attention on ensuring the health and safety of our firefighters.

Mr. Rey, as I think you know, approximately 20 percent of all the land in California is national forest lands, so this account is particularly important to me.

The President has requested \$4.1 billion for the Forest Service in fiscal year 2008. This request reduces the agency's budget by \$200 million from the 2007 enacted level. That's a 4.6 percent cut.

These cuts will have a huge impact on the 193 million acres of forest and grasslands across the country. As ranking member, Senator Craig knows, and Senator Cochran and Senator Stevens, we've all tried to work together to create a situation where we could both manage our forests and fight our fires in a much more effective manner.

So I'm worried that many of these cuts are being driven by the skyrocketing costs of fighting wildfires, and unless something changes, the problem's only going to get worse. Funding for the 10-year average for fire suppression has increased by 23 percent over last year, for a total of \$911 million.

That means that fire programs now account for 45 percent of the Forest Service budget. That's a doubling from 2000—I think this is good news, actually—when fire programs accounted for 21 percent of Forest Service spending.

I'm concerned, though, that if we continue at this pace, the Forest Service will turn into the Nation's fire department instead of a land management agency. I understand the choices, and I appreciate them, however.

To pay for these increases, the administration is proposing steep program reductions, including \$108 million in cuts to the operating budgets of national forests, an 8 percent reduction, and \$78 million in cuts to grants and assistance for State and private landowners. That's another 28 percent cut.

Funding for hazardous fuels reduction is also reduced from \$301 million to \$292 million. As you know, fuels reduction is a big public safety issue, since nearly 7 million people in my State alone live in the wildland-urban interface near southern California forests.

I should also point out that there has never been more drought in southern California than there is today, so this year's fire season is very worrisome.

I'm also concerned about the cuts to the Fire Preparedness Program. The Service's budget includes \$97 million in cuts for training, equipment, and support staff. That's a 15 percent reduction. We've seen recently catastrophic wildfire already.

Despite these enormous budget holes, I'd really like to commend the administration for proposing \$124 million in funding for law enforcement on national forests to help eradicate drug production and trafficking. That's an 8 percent increase over the 2007 level.

Mexican drug cartels, I'm sorry to say, have discovered that it's easier to grow marijuana on public land than to try and smuggle it across the border. In 2006, Federal authorities seized some 3 million marijuana plants on public land, worth between \$10 and \$15 billion. Half of that harvest, I'm sorry and ashamed to say, came from my State.

I'm told that nationwide, 83 percent of the problem on public land is centered on national forests. Clearly, this problem is reaching epidemic proportions, and we should address it squarely.

So I'd like to commend the Forest Service for making additional resources available for this effort, despite their lean budget.

I was also pleased to add an additional \$12 million to the Iraq supplemental that would help the Service fund additional hiring and training that's central to solving this problem.

It's clear from looking at the details of this budget that this subcommittee has its work cut out for it, but I'm really very pleased to be able to work with my distinguished ranking member, Senator Craig. We've worked together before on these issues, and I think we see things very similarly.

So I'd like to offer him now the time, as ranking member.

OPENING STATEMENT OF SENATOR LARRY CRAIG

Senator CRAIG. Well, Madam Chairman, thank you very much, and let me welcome Under Secretary of Natural Resources and Environment, Mark Rey, to the subcommittee today.

As we look at the agency's proposed 2008 budget, what is inescapable is that the Forest Service seems to be turning into the Fire Service. Now, Madam Chairman, it isn't that you or I compared notes prior to this, but it's obvious that we are reacting in a similar fashion to the proposed budget.

As recently as 2000, the percentage of the budget devoted to fire management activities was 21 percent. Now, it is 45 percent. I understand that part of this is because we made a policy decision to increase the budget for fire programs to fund the national fire plan in the wake of the massive 2000 fires.

But that doesn't explain the skyrocketing expenditures on fire suppression that we've seen over the last few years. The budget for fire suppression has grown from \$418 million as recently as 2003 to a proposal for fiscal year 2008 of \$911 million. That's a 118 percent increase in just 5 years.

Mark, all the more disturbing is that over the same period of time, we have spent roughly \$2.5 billion in fuel reduction between the Forest Service and the Department of the Interior. I believe all of us had thought this investment would start to bring some suppression costs down. That is just not happening.

From what I see, virtually every program in the budget is being cut besides fire suppression in order to pay for these skyrocketing costs. The size of the pie stays the same, but fire is becoming an even larger slice of that pie. Even programs within the fire account are not immune from cuts. This budget proposes to cut preparedness by over \$95 million.

Coming off the worst fire season on record, I agree with the chairman. It is dry in California. It appears to be getting dry in Idaho and in the Rocky Mountain West. To me, this will lower the agency's readiness capacity and lead to more catastrophic fires.

Perhaps the most concrete way to see what is proposed in this request for the Forest Service is to look at the number of people that will lose their jobs. If we were to accept this budget without change, it would mean over 2,100 fewer employees at the Forest Service level.

I spend a lot of time with the Forest Service in Idaho at the district level and across the forest. I know they are dramatically stretched today just to do maintenance—reasonable, environmentally sound, and appropriate maintenance—let alone fight the fires.

I also find it ironic that at the Department of the Interior, which houses three other public land agencies, their fiscal year 2008

budget would add over 2,000 people, roughly the same amount that will be cut from this budget.

I simply can't see the equity in that, particularly when so many rural communities depend on the Forest Service to sustain their fragile economies through timber harvest, recreation, grazing, and a host of other important programs that do take maintenance, and take personnel on the ground.

So I thank you, Mark, for being here today. I look forward to hearing from you in your testimony as you attempt to justify this budget.

Senator FEINSTEIN. Well, that's a challenge.

Senator CRAIG. Thank you, Madam Chairman.

Senator FEINSTEIN. Senator Cochran, would you like to make a statement?

#### STATEMENT OF SENATOR THAD COCHRAN

Senator COCHRAN. Madam Chairman, thank you very much. I'm pleased to join you and Senator Craig in welcoming our witnesses today to review their budget requests for the Forest Service.

In our State of Mississippi, we have about 70 percent, I guess, of forest lands that are privately owned, and much of that land borders public forest land. So it's important to us that the Forest Service continue its research programs to develop management and treatment methods that will help keep our national forests healthy and protect forest lands that are owned by individuals.

I want to commend also, just for your information, the staff of the Center for Bottomland Hardwoods Research, which is located at Stoneville, Mississippi. I was just there, and I understand that they are engaged in some very important work on hardwood genetics and stand management practices.

I hope that the funding for that activity will be supported by the administration, because the success of hardwood for reforestation efforts throughout the Southeast are very important.

I know you've also begun a review of a policy regarding all-terrain vehicle use in national forests in Mississippi. Some of my constituents have expressed concerns that this might unfairly affect those who have disabilities or those who are elderly, and prevent them from using all-terrain vehicles in the national forest area, so I hope that'll be taken into account as you review any changes to those activities.

#### PREPARED STATEMENT

We appreciate your good stewardship and your leadership, and we look forward to working with you in this new fiscal year. Thank you.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR THAD COCHRAN

Madam Chairman, I am pleased to join you in welcoming Under Secretary Mark Rey to the committee this morning. We appreciate very much his hard work to ensure that our National Forest system is maintained in a way to guarantee the appropriate use of our Nation's forest resources as well as to protect the health of our forests.

An important part of forest health in the Southeast is forest land research and treatment of insects and disease. In my State, about 70 percent of the forest land is privately owned, and much of this land borders public forest lands.

It is very important for the Forest Service to continue its research programs and develop management and treatment methods that will protect Federal lands. I especially want to commend the staff at the Center for Bottomland Hardwoods Research at Stoneville, Mississippi, for their work on hardwood genetics and hardwood stand management practices. This research has been an important part of the success of hardwood reforestation efforts throughout the Southeast.

It is my understanding that the Forest Service has begun a study to amend the current policy of all terrain vehicles use on National Forest lands. My constituents have expressed concern that the proposed changes would not take into consideration the use of these vehicles by the elderly and handicapped. I hope that the Forest Service will review these issues as policy is developed.

Madam Chairman, thank you very much for holding this hearing and I look forward to the testimony.

Senator FEINSTEIN. Thank you. Senator Stevens.

#### STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Just a short comment, Madam Chair. I'm disturbed as I look at this budget to realize how far the Forest Service has come from being a manager of harvesting timber to a fire department, as my two colleagues have said.

When I came to the Senate, the Forest Service managed the harvest of 1.5 billion board feet a year from Alaska. Last year, it was, what, 140 million.

We look at this budget now and I think State and Private Forestry in Alaska is reduced. National Forest System budget in Alaska is reduced. Wildland Fire Management in Alaska is reduced. Capital Improvement and Maintenance in Alaska is reduced.

We have two of the largest forests in the United States, and they're basically being neglected, and they're being neglected from the pressures you face from the extremists, who somehow or other believe they should be turned into national parks.

I just wonder when we're going to wake up and realize that we're coming to the point where we have two climaxed forests now in Alaska because they've been ignored, and one of these days, they're going to burn, too, despite our weather. They're normally fairly damp places, but now, they're climaxed.

Deer are getting smaller. All the wildlife is getting fewer. We're losing even some of the birds, because of the lack of the vitality of these forests. It can only be restored by management. So I'm very disturbed about it, really, and I don't know what to do about it. Thank you very much.

#### MEXICAN CARTELS AND MARIJUANA GROWING

Senator FEINSTEIN. Thank you very much, Senator Stevens. Before calling on Senator Allard, I was just handed an article entitled "A Budding Invasion: The Mexican Cartels Have Made Marijuana a Cash Crop Worth Billions of Dollars," and it goes on and describes some of this.

I'm going to put it in the record, but I'd like to just pass it down and ask each one of you to take a look at it.

[The information follows:]

[From Men's Vogue, February 2007]

## A BUDDING INVASION

(By James Verini)

THE MEXICAN CARTELS HAVE MADE MARIJUANA A CASH CROP WORTH BILLIONS OF DOLLARS BY INFILTRATING AMERICA'S NATIONAL FORESTS AND TURNING THEM INTO VAST POT PLANTATIONS. CAN ANYONE HALT THE HARVEST?

The Shasta-Trinity National Forest in Northern California covers over two million acres, stretching roughly from the former lumber town of Redding north to near the Oregon border, and from close to the Pacific Ocean east toward Nevada. Like most of the public land in this part of the country, Shasta is beloved of campers and hunters, a seemingly endless expanse of pine, fir, and oak trees, glistening lakes, and snowy mountaintops. It is the kind of place where a visitor resolves to write a check to the Sierra Club immediately upon returning home. It is also a new front in something else seemingly endless—the drug wars. Which is why I found myself, last August, knee-deep in Shasta's undergrowth, bushwhacking my way up a hillside with a group of Forest Service agents. Clad in dark camouflage and Kevlar vests, they carried M-16 rifles and hip-holstered pistols.

They were not being overzealous. In 2006, authorities here seized over \$700 million worth of illicit marijuana from gardens—the euphemistic name generally given to pot farms—planted in Shasta, most of it by trained, and heavily armed, Mexican growers. As an occasional hiker myself, it was not hard for me to imagine being out on a trail (we were not far from one now, and only about a mile from the nearest road), my gravest concern a twisted ankle or the odd grizzly, only to stumble upon a garden and find myself facing a gun barrel. Things could go bad fast. They have before. In 2000, a grower shot a hiker and his young son. The year before, growers kidnapped a Bureau of Land Management botanist. In 2005, Forest Service agent Matt Knudson, walking a few yards ahead of me in Shasta, was on a raid near Los Angeles when a grower took two blasts at an agent. "Come harvest season they start bringing in more guns," Knudson explained. He regularly recovers shotguns, AK-47s, even MAC-10s and Uzis.

Late summer—harvest season was beginning. After an hour of hiking, the air grew heavy with a familiar scent, and just as my mind was transported back to my college dorm room, we arrived at our quarry: Cannabis plants, many thousands of them sprouting five and six feet tall from the forest floor, came into focus, their thin, serrated leaves and hirsute emerald buds everywhere. This was no Grateful Dead concert parking-lot piddle, mind you; these specimens were the size of tropical fruit.

The growers had fled in a hurry the night before, it seemed, leaving their camp looking like a scene from Pompeii. Spread on a crate between two cheap tents was a freshly dealt hand of cards. Sleeping bags, worn and stained, lay in the tents near an outdoor kitchen outfitted with a propane-burning skillet. Sweatshirts, chain-store jeans, garbage bags, ramen-noodle wrappers, emptied cans of jalapeño peppers and El Pato brand tomato sauce, detergent bottles, and countless supermarket plastic bags littered the ground. Black PVC tubing fed a reservoir dug out of an embankment—a water system for drinking, bathing, and irrigation. The growers had bolted in such haste, they'd even left their shoes.

But there were no guns to be found: A bunch of felons, working under some very nasty auspices indeed, were now running around this bucolic paradise barefoot, cranky, and possibly in possession of some large automatic weapons.

Until recently, marijuana cultivation in the United States was mostly the province of small-time ex-hippies and the occasional rancher. In the last two decades, however, Mexican drug trafficking organizations (DTOs) have taken over the business. Before 9/11, these cartels produced much of their marijuana in Mexico and ran it over the border. But since then law enforcement has squeezed many smuggling routes, and the gangs have increasingly taken to growing it here.

This is their new, brazen approach: commandeering large patches of public land in the United States and smuggling in illegal growers to convert them into megagardens. They're easy and cheap to grow and extremely difficult to detect, except from the air. In 2006, authorities seized nearly three million marijuana plants from public lands, a harvest with a potential street value of between \$10 and \$15 billion, nearly half of it in California. Most investigators I spoke to agree that the amount seized was a fraction of the total produced. In other words, growing marijuana on public lands is a business worth more money than most Fortune 500 companies—more money, in fact, than the Mexican cartels (who, since the nineties, have wrested majority control of the American drug trade from their Colombian cohorts) make

from such upper-shelf wares as cocaine, heroin, and methamphetamine, a fact that has gone strangely underreported in the press.

"You have to be kind of crazy, as a drug trafficking organization, not to jump on the marijuana bandwagon," Patrick Kelly, a special agent with the Drug Enforcement Administration in Sacramento, told me. "In California, even if you are caught, the chances of being successfully prosecuted are almost nil." Prosecutors, usually a contrarian lot, agree. "The Mexican DTOs have figured out the penalties are less for marijuana," said McGregor Scott, U.S. Attorney for California's vast Eastern District, the hardest hit in the country. Building cases is difficult, to put it mildly. A tangle of Mexican cartels and families control the trade. In turn, they enlist fierce Latin American gangs such as the Sureños and Mara Salvatrucha to distribute the weed. Many trails lead back to Michoacán, a rugged state on Mexico's Pacific coast, but direct ties are hard to establish. Much like members of terrorist cells, the growers who are caught in the United States either aren't privy to larger operational details or won't talk if they are. This is understandable. According to the Associated Press, 2,000 people were killed last year in Mexico's escalating drug wars, many of them traficantes, though not all; among the casualties were police and journalists.

Gardens—they're also called "grows"—have been found in 15 States, from the Northwest to the Midwest to the Southeast, in a pattern that mimics the general trend of Mexican immigration. In California, every single national forest and park—from Shasta to Sequoia, Kings Canyon to Tahoe, and even Yosemite, the crown jewel of the public-land system—has been infiltrated. Each spring, the gardens grow more fecund and more growers are smuggled in. And each spring, they are bolder and better armed. The average garden requires four men to cultivate it. If the higher estimates of total production are right, that adds up to the equivalent of about five large army battalions—roughly the number of U.S. troops dispatched to invade Grenada in 1983.

"An informant told us this year that word came down from the higher-ups to the growers to shoot if they need to," Knudson tells me one frosty morning in December. I have come to see him at his station in Upper Lake, a tiny town on the edge of Mendocino National Forest, a two-hour drive northwest of Sacramento. He doesn't bother to specify the growers' intended targets—himself and his fellow Forest Service agents. "It's only a matter of time before a member of the public gets killed."

Mendocino National Forest is ground zero in the marijuana battles, having led the country in seizures last year. Amazingly, though, Knudson is one of only four agents patrolling its million acres. A young-looking 34, with a goatee and close-cropped hair, he joined the Forest Service at 19 to pay for college, working at first as a firefighter. When he wasn't putting out forest blazes, he was contending with tweakers and exploding kitchen labs: California has the distinction of supplying the country with much of its meth, as well as most of its pot. Indeed, the same cartels seem to control a large portion of both markets. "You can't look at the whole picture," Knudson tells me. "If you looked at the whole picture you'd be on medication."

As we drive into the forest along dirt roads, Knudson's M-16 rifle stowed within arm's reach, he points to the location of a raided garden. Then he points to another one. And another. The pointing is ceaseless, and the gardens are everywhere, once you know how to spot them—usually no more than a few hundred feet from the road.

Every year in March and April, the growers are driven in to begin planting at spots that have been scouted during the winter or used before. After being dropped off, they hike into the forest with their seedlings and sophisticated lightweight irrigation systems, even sprinklers with battery-powered timers. After planting, they live in the forest through the summer and into the autumn, when they harvest their crop and then pack out the buds in trash bags. In their wake they leave terraced, eroding hillsides, dead trees, soil and water contaminated with pesticides, and tons upon tons of garbage—an eco-disaster. (The Forest Service estimates that 18,000 acres have been affected since 2005 alone.) With each passing year they become more comfortable with the terrain. "The growers know the land better than we do—they live in it," Knudson says. "They know our schedules, they know when we work."

That none of his colleagues have been killed yet is due to little more than luck, Knudson believes. In 2002, a deputy sheriff was shot, as was a Fish and Game warden in 2005. So far, five growers have been shot and one killed in shootouts with agents. "Working marijuana is not by choice—it's pure necessity," Knudson says. "You'd think a Forest Service officer would be out dealing with fires or poaching or rowdy campers, that kind of stuff."

"Would you rather be doing those things?" I ask him.

"Truthfully, no," he says, smiling faintly. Chasing down the grower cells, he adds, has "become a passion for me."

Passionate as Knudson may be, the frustration is audible in his voice. “My job is to protect and serve, but I can’t protect and serve a quarter million acres,” he says. The Forest Service, part of the Department of Agriculture, is one of the most capacious landholders in the United States, but it employs only about 500 full-time agents like Knudson. (The National Park Service, better staffed and resourced and less affected by marijuana cultivation, is in the Department of the Interior.) Help comes from local sheriffs, California’s Bureau of Narcotics Enforcement, the D.E.A., and the drug czar’s office, which set up a special marijuana task force for California and an intelligence center in Sacramento in 1999. But even with that assistance, Knudson usually feels he’s on his own. The D.E.A. doesn’t disagree. “There’s no backup to call,” Agent Kelly told me. “There are no hospitals nearby.”

“We’re getting to the point of saturation,” Knudson admits. “We just can’t handle it.”

Mexico has a long and storied history with marijuana cultivation. Traficantes are folk heroes, and in raided gardens, Knudson regularly finds figurines depicting Saint Jesus Malverde. Not recognized in the Roman Catholic canon, Malverde, also known as El Bandido Generoso and El Narcosanton (roughly translated: the Big Drug Saint), is the patron saint of the poor and, incongruously, drug traffickers. Some investigators believe the growers are indentured servants, brought over the border against their will. But Knudson disagrees. He thinks the growers brought to the United States hail from this drug demimonde.

“There’s a true science to it that’s probably been handed down from generation to generation,” he says. “As much marijuana as I’ve worked, I could never grow plants like these.” Knudson juts out a forearm: “We’ll find buds like this”—a foot or more long, inches thick. Knudson then points to the hillside where he chased down a grower who was packing a 9-millimeter pistol in a belt holster. That in turn leads him to recall the raid in which he pulled up a sleeping bag and found a grower hiding beneath it, holding a loaded MAC-10.

A week after riding through Mendocino with Knudson, I meet Scott Burns in Washington, D.C. An otherwise unostentatious man who bears the raja-length title of Deputy Director for State and Local Affairs at the White House Office for National Drug Control Policy (colloquially known as the drug czar’s office), Burns is the Bush administration’s point man on domestic marijuana eradication. His office, one block from the White House, is not much larger than Knudson’s ranger station room, but he wields considerably more power, having access to the czar’s \$12.6 billion budget. A faithful soldier in the war on drugs, Burns, like his boss, czar John P. Walters, professes to be a true believer where marijuana is concerned. “More 12- to 17-year-olds are in treatment for marijuana addiction than all other drugs combined,” he tells me when I point out that it’s hard to get Americans concerned about rolling papers and bongos, even when foreign cartels are involved.

But when I present him with the figures from California and tell him about my tour with Knudson, Burns appears almost unfazed. Unlike the Forest Service, the D.E.A., and the U.S. Attorney, Burns implies that the problem is under control, and he disputes the claim that only a fraction of the marijuana grown on public lands is being found. When I point out that public-land seizures have leapt over 300 percent in 2 years, he tells me the figure is “not about an explosion in plants, but a better efficiency in law enforcement.” This is a curious statement, considering that Walters devoted a mere \$3.5 million—.03 percent of the drug czar’s total budget—to the problem of domestic marijuana production in 2006.

Yet Walters says that combating marijuana is a cornerstone of his policy. He was chief of staff to the first drug czar, William Bennett, who was appointed by President George H.W. Bush in 1989. The current President Bush appointed him in 2001, and since then domestic production—thanks to grows like those I saw at Shasta and Mendocino—has reached an all-time high.

From his cramped quarters, Burns must vie with an indifferent, even hostile, public, and he must look south of the border at a situation that may well be intractable: Mexico is in the midst of a long and bloody drug war all its own. The cartels are battling each other for control of production and access routes to the United States, but they’re also engaged in a lethal struggle with the state governments—when they’re not infiltrating them. Gruesome violence afflicts Michoacán—stomping grounds of some of the cartels that dominate the American marijuana market—where cartel henchmen have lately developed a partiality for leaving human heads, with written warnings attached, outside government offices. Last year they rolled five of them onto a discotheque dance floor.

The bloodshed is dismaying, but Burns sees it as a potentially promising sign. “The violence can be an indication of many things, such as disrupting the cartels,” he says. “If everything is running smoothly, there’s no reason to shoot somebody. It can be an indication of good work by the Mexican and United States govern-

ments.” D.E.A. agents and prosecutors are now working with a new crop of extradited traficantes and are moving their way up the cartel ranks, but their success, and Burns’s, may depend on new president Felipe Calderón. So far, Calderón, who was educated in Mexico and the United States, seems eager to impress. During protests over his controversial election, he sent over 6,000 soldiers and federal police into Michoacán to set ablaze acres of marijuana fields. He didn’t rely on the Michoacán police, because they are underpaid, hopelessly inept, and often corrupt.

But no one is safe from the cartels, it seems—perhaps not even the presidential family. In December, the body of a Calderón relative was found in Mexico City. Calderón has denied any explicit connection between the murder and the cartels, but the timing and the manner were ominous. It happened just after the crackdown in Michoacán and was carried out execution style.

Then there is the Left Coast of America, an interminable irritant to Burns, who describes California marijuana laws with Rumsfeldian coyness as “not helpful.” California’s judges, juries, and sentencing laws are famously forgiving, and in 1996 the State flouted Federal law, passing Proposition 215, the Compassionate Use Act. Burns and many others believe that the law has opened the floodgates for a generation of clever dealers claiming to be medicinal marijuana distributors and has directly contributed to the precipitate spike in production. In other words, they say, not only is California law not preventing Mexican cartels from infiltrating the state, it’s aiding them.

Walters may not be particularly effective in combating marijuana—but then, neither were William Bennett and General Barry McCaffrey; nor, in all likelihood, will any future drug czar be. It should be news to no one that marijuana is an enduring feature of American life—just as it is in Mexico, Europe, and Asia. Recent reports suggest that at least a third of Americans have smoked it. Rates of use among various age groups rise and fall, but talk to an average high school student—or, for that matter, an average middle-aged lawyer—and you’ll find rather quickly that marijuana is not going away anytime soon.

Still, the war on drugs, no less than the drug wars being waged in places like Mendocino National Forest, will go on. For our last stop, Knudson took me to an eradicated garden hours deep in the woods. How anyone could have found the spot was mind-boggling. Knudson only noticed it by chance from a helicopter while on his way to another garden across the ravine. The cannabis plants were gone, a field of truncated stalks left in their place. The ground, however, was still buried ankle-high in the familiar refuse—plastic bags, clothes, the ever-present cans of El Pato. The garbage was still there because the Forest Service doesn’t have the budget to get rid of it. All Knudson could do was hope the growers wouldn’t come back to this spot in the spring—and hope, if they did, that some unfortunate hiker wouldn’t stumble upon it.

Senator FEINSTEIN. Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Well, thank you, Madam Chairman, for holding this hearing. I am going to be joining in the chorus, I guess, expressing my concern about the amount of money that we actually use for fire suppression when we could be doing so much more for managing our forests.

Colorado is unique in many regards, in that we have 13 national forests, and they provide lots of scenic viewing opportunity. Trees are part of that. We are having health problems in our tree populations affecting not only lodgepole pine, but also aspen.

We haven’t exactly identified what the aspen problem is. The lodgepole pine problem is beetles. Many States are affected with beetles, and Colorado is no exception. We’re particularly being affected by the beetle problem in Colorado.

Also unique to Colorado is that we are a State where four major watersheds are originating: Arkansas, the Upper Colorado, Rio Grande, and South Platte Rivers, which supply water to 19 Western States.

The key to keeping that water flowing is a good healthy forest. They provide the shade and protection for the snow to retain later

on into the summer, which keeps those streams flowing. So we have a particular interest in good healthy forest management.

I'm particularly concerned about the fire suppression cost and funding for national forest programs, and I have an editorial from Monday's Denver Post outlining the same that I would like to submit to the record, Madam Chairman.

Senator FEINSTEIN. Without objection.  
[The information follows:]

[From the Denver Post, May 18, 2007]

#### FIGHTING FIRE WITH FUNDING

(The Denver Post Editorial Board)

The restoration of \$2 million in U.S. Forest Service funding for Colorado fire management projects this year is welcome and potentially lifesaving news.

Until Colorado's congressional delegation intervened, the money was set to be diverted to other forestry programs as a midyear effort to balance the books at the service, which manages federal forests, recreation and wilderness areas.

The restored Colorado money is intended to thin forest land of easily ignitable tinder that can turn a manageable fire into an inferno. That the administration even considered diverting the money to pay for other expenses points out a systemic problem with the agency's budgeting that ought to be addressed.

The driving force behind the problem is the increasing cost of fighting wildfires and the failure of Congress to adequately budget for firefighting.

It's not a problem that's going away. The price of fighting wildfires has spiraled as the country faces the effects of drought, climate change and residential development in forested areas. In recent years, the service has spent more than \$1 billion annually to fight fires.

Yet, the agency's overall budget has remained flat. Jay Jensen, executive director of the Council of Western State Foresters, notes, "Basically, everything else gets squeezed."

Since 1998, the agency's fire-suppression costs have routinely outstripped the money appropriated to pay them.

Typically, Congress will pass supplemental measures that only partially cover costs incurred. To make ends meet, the agency siphons money from other projects. Ironically, the projects that get raided frequently are mitigation initiatives intended to lessen the severity of fires or prevent them to begin with—things such as forest thinning and equipment purchases, according to a 2004 Government Accountability Office report.

The GAO suggested Congress consider alternative funding strategies, including the creation of an agency-wide or government-wide recurring emergency reserve account that that could be tapped to pay firefighting costs.

While Colorado's congressional delegation deserves a pat on the back for its success in persuading Forest Service chief Gail Kimbell to restore the Colorado money, it's clear that a structural change in the budget is necessary. As fires raged through California, Florida, and Georgia last week, it could hardly be more apparent.

Senator ALLARD. On forest management, if I may. I'm also concerned that funding the Northwest Forest Plan at the levels outlined in the President's budget will affect funding for forest management programs in Colorado.

For these reasons, I look forward to this hearing and the discussion it will enable us to have about the Forest Service budget. I think this will help us to make a responsible decision about what is best for our Nation's forests. Thank you, Madam Chairman.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR WAYNE ALLARD

Madam Chairman, thank you for holding this important hearing. Colorado has an abundance of forests and the Forest Service budget is of great importance to me. The role the Forest Service plays in managing our public lands is of particular interest to the people of Colorado.

I understand that Chief Kimbell is in our Chair's home State of California to unveil an accident report relating to fire, but Undersecretary Rey, I thank you for your appearance before the subcommittee today. I also appreciate the assistance that you and Chief Kimbell gave us in restoring funding to help address the bark beetle epidemics in Colorado. This was an important issue to the entire Colorado delegation.

Colorado is home to 13 National Forests, more than almost any other State. These forests provide countless scenic vistas and some of the Nation's most popular recreational areas. Several of Colorado's ski areas lie on or adjacent to Forest Service lands. They are also very popular destinations for hunting and fishing, and for summer activities such as hiking and camping. Perhaps most importantly, Colorado's forests contain 4 major watersheds, the Arkansas, Upper Colorado, Rio Grande and South Platte, which supply water to 19 western States. Colorado is truly the Headwaters State.

Unfortunately most areas of the State continue to suffer from drought conditions and the potential for catastrophic fires has been very high for a number of years. We are also experiencing forest health issues on an unimaginable scale. Over 600,000 acres of lodgepole pine are infested and dying from mountain pine beetle, over 100,000 acres of spruce have been infested and are dying from spruce bark beetle, and another 100,000 acres of aspen are affected by aspen decline. And forest exerts see no relief in sight. These problems only serve to compound one another and increase our fire risk. Colorado was very lucky to have dodged the bullet last year in that we did not experience the kind of catastrophic wildfires that other states experienced, but I am concerned that it is only a matter of time before we have another catastrophic fire year like 2002, when the Hayman, Missionary Ridge, and other fires burned over 200,000 acres and hundreds of homes and other buildings.

I am particularly concerned about the effect of fire suppression costs on funding for all other national forest programs, and I have an editorial from Monday's Denver Post outlining the same concern that I would like to submit for the record. I am also concerned that funding the Northwest Forest Plan, at the levels outlined in the President's budget, will affect funding for forest management programs in Colorado.

For these reasons I look forward to this hearing and the discussions it will enable us to have about the Forest Service budget. I think that this will help us to make responsible decisions about what is best for our Nation's forests. Thank you again, Madam Chairman.

Senator FEINSTEIN. Thank you very much, Senator Allard. Senator Alexander.

#### STATEMENT OF SENATOR LAMAR ALEXANDER

Senator ALEXANDER. Thanks, Madam Chairman. Just two points. One, I'd like to commend the Forest Service for what I understand are its efforts to establish guidelines for alternatives to big cell towers on national forest lands by camouflaging, collocating, and concealing them.

They're some of our most scenic areas of the United States, and many communities are now doing that, and I think it would be wise to do that wherever we can. I commend you for that; I hope I'm correct that that's what you're doing.

The second is, as we go on, I wanted to raise questions about your proposal to sell nearly 3,000 acres of the Cherokee National Forest, which is in Tennessee and North Carolina, to pay for rural schools and roads. That seems to me like selling off the back 40 to pay the rent, and especially when, in Tennessee, just 3 percent of our land is Federal land, unlike Idaho, where it's 50 percent. We'd like some more Federal land, not less.

We just completed purchase of 10,000 acres for Cherokee National Forest from Alcoa Power. There are three additional tracts that the Forest Service has identified that you'd like to acquire. If you're going to sell low-priority tracts, I wonder why you wouldn't take the money and use it to buy high-priority tracts. So that was

the second area, Madam Chairman, that I wanted to explore. Thank you.

Senator FEINSTEIN. Thank you very much, Senator Alexander. With that, we will turn to Mr. Rey. Mr. Rey, welcome.

If you could summarize your remarks, I think we'd love to have the opportunity for questions, and if you could possibly keep your statement within 5 to 7 minutes, that would be appreciated; we'll activate the time clocks. Thank you.

#### SUMMARY STATEMENT OF HON. MARK REY

Mr. REY. We'll summarize for the record.

Senator FEINSTEIN. Thank you.

Mr. REY. What I'll do is discuss two issues relating to the 2008 budget, both of which you all have raised concerns about, and then I'll ask Ms. Lago to talk about the broad outline of the budget, as she is substituting for the Chief of the Forest Service here today.

The two issues that I will address will be changes to the Wildland Fire Management account and associated issues, and the need to provide further transitional assistance to rural communities through the proposed National Forest Land Adjustment for Rural Communities Act.

With regard to fire, the 2008 budget proposes a total of \$1.9 billion for activities associated with wildland fire management, including a new appropriation for wildland firefighters and other cost-saving measures.

The events of the 2006 season made a compelling case for these strategic changes. On the heels of Hurricane Katrina, the 2005 fire season flowed seamlessly into that of 2006, without the respite normally provided by winter precipitation.

From November through April, extremely low humidity, persistent drought, and winds contributed to ignition of fires through Texas, Oklahoma, Colorado, Missouri, and New Mexico.

By late July, the wildland firefighting community had entered preparedness level five, the highest level of fire activity, during which several geographic areas were experiencing simultaneous major incidents.

During 2006, the Forest Service was at preparedness level five from late July through late September without intermission.

Although the 2006 fire season had one of the highest number of fire starts in a single day, and an extraordinary number of lightning-caused fires, as well as a record number of simultaneous large fires, it also resulted in significantly fewer dwellings and other structures being destroyed; 750 homes in 2006, as compared to more than 4,500 homes lost in 2003.

That, we believe, is directly attributable to the fuels reduction work that's been done over the last 4 years, concentrating in the wildland-urban interface, and does represent a return on the investment that we've made in fuels treatment work.

Congress has repeatedly expressed concerns, including today, about rising fire suppression costs. Large fire costs are a persistent challenge for the agency and threaten to compromise the achievement of levels of other critical mission areas.

In response, a number of key actions are underway in fiscal year 2007, and the 2008 budget request makes additional significant

proposals. These include a refinement of the concept of appropriate management response toward a risk-informed fire suppression approach.

This approach provides risk-informed fire protection by introducing the concept of managing wildland fire in relationship to the risk that the incident poses.

The Forest Service Chief will also designate an individual with access to a support team to provide oversight on fires of national significance and assistance to local units, and will collaborate with the Department of the Interior on interior lands.

Third, national resources, such as smoke-jumpers, hotshot crews, and helicopters will be moved to areas and incidents based on predictive services and on planning levels, as opposed to simply based on prior practice.

Fourth, aviation resources will be managed more effectively to reduce their high cost. A full-time national helicopter coordinator will be selected to provide oversight for the assignment and positioning of helicopters.

Helicopter management will be centralized as a national resource, and the agency will attempt to shift more to exclusive use versus more expensive call-when-needed contracts for helicopters.

Fifth, efforts will be made to maintain our initial attack success, while reducing the dependence on severity funding. This explains the distribution of funding between suppression and preparedness, and with those two accounts, we believe we have adequate flexibility to respond to the 2007 fire season.

I would note that in a previous appropriations bill, the Congress required an independent audit of large incident fires each year. Yesterday, we released the independent audit of the 19 large fires that burned more than 1.1 million acres and cost more than \$470 million to suppress.

The independent panel organized by the Brookings Institution found that the Forest Service exercised appropriate and adequate fiscal diligence in suppressing wildfires on each of these 19 incidents.

The report also provides a number of recommendations for additional potential cost reductions, which will be evaluated and adopted as appropriate, as we move into the 2007 fire season.

I'll make a copy of the Brookings Institution report available for the record of this hearing.

[The information follows:]

The report can be accessed at the following location: <http://www.fs.fed.us/fire/BR6988%7E1.PDF>

Mr. REY. The second thing that I'd like to talk about is the Secure Rural Schools and Community Self-Determination Act of 2008, and our proposal to reauthorize that statute.

The statute was enacted in 2000 to provide transitional assistance to rural communities affected by the decline in revenue from timber harvests on Federal lands. The last payment authorized by the act was for fiscal year 2006 and was made in December 2006.

In lieu of a multi-year reauthorization, the administration continues to support a 1-year extension of the act with agreed-upon offsets as an interim step.

With our budget proposal, we have submitted the National Forest Land Conveyance for Rural Communities Act, which would also authorize a 4-year extension of the funding formerly provided by the 2000 legislation. The legislation would also provide conservation funding for national forests and grasslands.

Sale of identified National Forest Systems lands, similar to those lands described in the fiscal year 2007 budget proposal, would provide funding to both replace what was provided to schools under the 2000 legislation, as well as additional money for land acquisition.

Our proposal would authorize the Secretary to sell the sufficient national forest land to fund an \$800 million account. Under the legislation, 50 percent of the receipts obtained from land sales would be used as a funding source to make the rural school payments over a 4-year period, with a gradual phase-out.

The remaining 50 percent of receipts from land sales within a State would be used for land acquisition and related conservation purposes.

Over the last 20 years, as we've exchanged less desirable parcels for more desirable parcels, we have added lands to the National Forest System, because the lands that we have been exchanging out are more economically valuable and less environmentally valuable. Conversely, the lands we've been acquiring through these exchanges are more environmentally valuable and less economically valuable.

Because these exchanges are value-for-value exchanges, we've averaged about three acres received for every acre transmitted out of Federal ownership.

If this proposal were to become law, using half of the money from the sale of lands, we would probably net increase the number of national forest acres, and we would do it more effectively than doing it through exchanges, because exchanges require a one-to-one correlation between what we want to exchange and what somebody else wants to exchange, and that's often difficult and time-consuming to do.

We often have to find a third party to bridge the gap—the difference between what we'd like to get and what we'd like to exchange away.

#### PREPARED STATEMENT

So I think should this proposal be enacted, we would not only have money to fund the schools, but we would have money to effect a net increase in national forest acreage, and acquire acres that are more valuable for the National Forest System at the same time.

That will conclude my remarks, and I'll turn the podium over to Ms. Lago.

[The statement follows:]

#### PREPARED STATEMENT OF HON. MARK REY

##### OVERVIEW

Madam Chairman and members of the Subcommittee, I appreciate the opportunity to discuss the President's fiscal year 2008 Budget for the Forest Service during today's hearing. I am pleased to join Gail Kimbell, newly appointed Chief of the Forest Service, at this hearing today.

I will discuss two issues that relate to the 2008 Budget. First, I will address changes in the Wildland Fire account and associated issues. I will next address the need to provide further transitional assistance to rural counties through the proposed National Forest Land Adjustment for Rural Communities Act.

#### WILDLAND FIRE

The 2008 Budget proposes a total of \$1.9 billion for activities associated with Wildland Fire Management, including a new appropriation for Wildland Fire Fighters. The events of the 2006 fire season make a compelling case for these strategic changes.

On the heels of Hurricane Katrina, the 2005 fire season flowed seamlessly into that of 2006—without the respite normally provided by winter precipitation. From November through April, extreme low humidity, persistent drought conditions, and winds contributed to the ignition of fires through Texas, Oklahoma, Colorado, Missouri, and New Mexico. By late July, the wildland fire fighting community had entered Preparedness Level 5—the highest level of fire activity, during which several geographic areas are experiencing simultaneous major incidents. During 2006 the Forest Service was at Preparedness Level 5 from late July through late September, without intermission. Although the 2006 fire season had one of the highest number of fire starts in a single day (548), an extraordinary number of lightning-caused fires (over 16,000), and a record number of simultaneous large fires (affecting nearly every region in the country); it also resulted in significantly fewer dwellings and other structures destroyed—750 homes lost in 2006 as compared to more than 4,500 lost in 2003.

Despite many positive accomplishments, fire suppression expenditures topped \$1.5 billion in 2006. Moreover, the agency has spent over \$1 billion on fire suppression in 4 of the last 7 years. The increasing frequency of “billion dollar” fire-fighting years is driving up the 10 year average suppression cost figure, which is used to determine suppression funding levels. Congress has repeatedly expressed concerns about rising fire suppression costs. Large fire costs are a persistent challenge for the agency and threaten to compromise the achievement levels of other critical mission areas. In response, a number of key actions are underway in fiscal year 2007, and the 2008 Budget request makes additional significant proposals.

The most significant actions underway in 2007 include:

#### *1. From Appropriate Management Response to Risk-Informed Response*

The Appropriate Management Response (AMR) was articulated in the 2001 update of the Federal Wildland Fire Management Policy. Further, the 2008 Budget reflects refinement of the concept of AMR toward a risk-informed fire suppression approach. This approach provides risk-informed fire protection by introducing the concept of managing wildland fire in relationship to the risk that the incident poses. If a wildland fire has potential benefits to natural resources and poses a relatively low risk to impact other valued assets, the fire would receive a lower intensity suppression effort. Conversely, if a fire incident is determined to pose high risk to property or community, high suppression efforts would be applied. The approach utilizes risk management and tools such as probability analysis and actuarial data to inform rigorous and systematic ways to reach decisions that allocate resources on the basis of risk posed by the wildfire and the strategy used by managers to address it. The Forest Service has developed a draft guidebook that presents a coherent strategy to implement this approach. DOI is reviewing this guidebook and will work with Forest Service on interagency implementation.

#### *2. Forest Service Chief's Principal Representative*

The Forest Service Chief will designate an individual with access to a support team to provide oversight on fires of national significance and assistance to local units and will collaborate with the DOI on DOI lands. The individual will be highly experienced in wildfire management, and the team will have knowledge and capability with decision-support tools. These changes will immediately provide for experienced decision-making that should reduce costs on large fires.

#### *3. National Shared Resources*

National resources such as smoke jumpers, hot shot crews and helicopters will be moved to areas and incidents based on Predictive Services and on Planning Levels. This will create a more centralized and flexible management of these response resources. Funding and decision-making from the national level will ensure consistency across regions, flexibility in the assignment of resources and eliminate geographic concentration of resources that impose costs in both time and money.

#### 4. Aviation Resource Cost Management

Aviation resources will be managed more effectively to reduce their high cost. A full-time National helicopter coordinator will be selected to provide oversight for the assignment and positioning of helicopters. Helicopter management will be centralized as a national resource. The Forest Service will attempt to shift more to “exclusive use” versus “call when needed” contracts for helicopters. This will increase preparedness costs initially, but is expected to greatly reduce large fire suppression cost with potential saving of tens of millions of dollars per year. We will pursue longer term aviation contracts for all aviation resources with increased performance-based contracting. DOI also is pursuing strategies to reduce its costs.

#### 5. Initial Attack and Severity Funding

Efforts will be made to maintain our initial attack success while reducing the dependence on severity funding. The Forest Service will require lower thresholds for the approval of severity funding to be elevated for approval by the Chief. National Shared Resources will be pre-positioned whenever possible in geographic areas where fire risk is the greatest during the fire season. The Forest Service and DOI agencies will continue to submit a coordinated severity request so as to not duplicate effort or expense.

In addition to the changes for 2007, the 2008 Budget proposes a separate appropriation for Wildland Firefighters. The Budget proposal moves funding for firefighters out of the Preparedness budget within Wildland Fire, and into a separate appropriation. There is no net program change as a result of this move. Importantly, this adds a higher degree of visibility and transparency to fire suppression activities and provides \$220 million for hiring and training the 10,000 firefighters necessary to ensure a successful fire season.

The Wildland Fire account's Suppression line is funded at \$911 million, reflecting the updated 10-year average for total suppression costs as adjusted for inflation and includes indirect costs not charged to fire suppression in previous years—but now required by Congress to be included in the account.

The Budget funds Fire Preparedness at \$349 million, which is a reduction of \$97 million as compared to the fiscal year 2007 when considering the strategic shifts and creation of the new Wildland Firefighter account.

We expect that the management improvements implemented and underway will enable managers to be better prepared for wildfires; help managers to make better decisions during firefighting operations; and provide managers with the tools necessary to analyze, understand and manage fire suppression costs. While the factors of drought, fuels build-up in our forests and increasing development in fire prone areas have the potential to keep the number of incidents and total cost of wildfire suppression high for some time to come, we are confident in our strategy to address wildland fire suppression costs and are committed to action. We believe that the measures discussed today promise to expand efficiency and reduce suppression costs. We look forward to continued collaboration with our Federal, State, local, Tribal, and other non-Federal partners to address our shared goal of effectively managing wildfire suppression costs.

#### CONTINUING TRANSITIONAL SUPPORT TO RURAL COMMUNITIES THROUGH THE NATIONAL FOREST LAND CONVEYANCE FOR RURAL COMMUNITIES ACT

The Secure Rural Schools and Community Self-Determination Act of 2000 (SRS) (Public Law 106-393) was enacted to provide transitional assistance to rural counties affected by the decline in revenue from timber harvests in federal lands. Traditionally, these counties relied on a share of receipts from timber harvests to supplement local funding for school systems and roads. Funding from SRS has been used to support more than 4,400 rural schools and to help maintain county road systems. In addition SRS has authorized the establishment of over 55 Resource Advisory Committees (RAC) in 13 States, which has increased the level of interaction between the Forest Service, local governments, and citizens—resulting in greater support and understanding of the agency's mission. RACs have implemented more than 4,500 resource projects on National Forests, Grasslands, and adjacent non-federal lands with a value from SRS funds and leveraged funds of more than \$292 million.

The last payment authorized by the SRS Act was for fiscal year 2006 and was made in December 2006. The administration continues to support a 1-year extension of the SRS Act with agreed-upon full offsets as an interim step. The Budget underscores the President's continuing commitment to states and counties impacted by the ongoing loss of receipts associated with lower timber harvests on Federal lands. The National Forest Land Conveyance for Rural communities Act is included in the fiscal year 2008 President's Budget to fund transition payments targeted to the

areas of greatest need, and to provide counties additional time before payments are phased-out. Under the proposal, half of land sales proceeds will be available to offset county payments and half will be available for national forest acquisition or habitat improvement in the states in which lands are sold. Counties benefit from 4 additional years of payments, and states receive an environmental benefit from exchanging land with low environmental values for lands with high environmental value.

The National Forest Land Conveyance for Rural Communities Act would authorize a 4-year extension of the funding formerly provided by SRS. The legislation would also provide conservation funding for National Forests and Grasslands. Sale of identified National Forest System lands—similar those lands described in the fiscal year 2007 budget proposal—would provide funding to replace that which SRS had provided. Our new legislation differs from our previous proposal by including additional provisions which allow for land sale receipts to also be used for the acquisition of land for the National Forest System, conservation education, improved access to public lands, wildlife and fish habitat improvement.

This year's proposal addresses the concern that affected States would not receive financial benefit from the sale of Federal lands within their borders. It does so by including a requirement that 50 percent of all land sale receipts be retained for conservation purposes within the State from which the receipts were derived.

The legislation would authorize the Secretary to sell excess national forest land or interests in land that the Secretary determines to be both eligible for disposal and in the public interest. Many of these lands are isolated from other contiguous National Forest System lands, and because of their location, size, or configuration are not efficiently managed as components of the National Forest System.

Isolated tracts can be expensive to manage because of boundary management and encroachment resolution costs. The sales of these lands will not compromise the integrity of the National Forest System; instead, it will allow the agency to consolidate federal ownership and reduce management costs. Land sales would be limited to a list of lands identified by the Secretary. By selling lands that are inefficient to manage or have limited ecological value, and subsequently purchasing critical, environmentally sensitive lands; the Forest Service will maintain the integrity of the National Forest System, while funding payments under the Act in a fiscally responsible manner.

Our proposal would authorize the Secretary to sell sufficient National Forest land to fund an \$800 million account. Under the legislation, 50 percent of receipts obtained from land sales would be used as a funding source to make SRS payments over a four year period with a gradual phase-out. The remaining 50 percent of receipts from land sales within a State would be used for conservation purposes.

Finally, the legislation would authorize the establishment of a National Advisory Board to advise the Secretary on the land sales and the use of their proceeds. State governments will be encouraged to participate in formulating recommendations to the National Advisory Board for habitat improvement projects and land acquisition needs. By selling lands that are inefficient, isolated, or of limited-value and purchasing critical, environmentally sensitive lands, the Forest Service will maintain the integrity of the National Forest System while funding payments formerly provided by SRS.

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

Senator FEINSTEIN. Thank you very much. Ms. Lago.

#### STATEMENT OF LENISE LAGO

Ms. LAGO. Thank you, Madam Chairman. I'd like to present an abbreviated version of Chief Kimbell's testimony, and request that her full statement be entered into the record.

Senator FEINSTEIN. So ordered.

[The statement follows:]

#### PREPARED STATEMENT OF ABIGAIL KIMBELL, CHIEF, FOREST SERVICE

Madam Chairman and members of the subcommittee, it is a great privilege to be here today to discuss the President's budget for the Forest Service in fiscal year 2008. Let me also say, having been Chief of the Forest Service for just over 3 months, I am deeply honored to have this opportunity.

First, I want to express my gratitude to Secretary Johanns for his confidence in me, and to thank the dedicated, hard-working employees of the Forest Service for

their support and encouragement. Let me also express my appreciation in advance to you Mr. Chairman and members of the subcommittee for working with the Forest Service and me during this transition.

I will begin by saying a few words about myself and my long-time commitment to the Forest Service. I have worked in the Forest Service for more than 30 years. I started as a seasonal employee and went on to serve as Forester, Planner, District Ranger, Forest Supervisor, Regional Forester, and Associate Deputy Chief, among other positions. I have worked in Oregon, Washington, Colorado, Alaska, Wyoming, Montana, and Washington D.C. Equipped with these experiences, I am eager to lead the Forest Service into its second century of service, and am humbled by the duties entrusted in me as Chief.

For those new members who may be unfamiliar with our agency, the U.S. Forest Service works to sustain the health, diversity, and productivity of the Nation's 193 million acres of national forests and grasslands. We not only steward the National Forest System, but also provide states, Tribes, and private forest landowners with technical and financial assistance. Moreover, we are the world's largest forestry research organization.

In its second century of service, the Forest Service faces diverse challenges. These include restoring fire-adapted forests to more resilient conditions, providing natural resource raw materials to the American public, providing sustainable recreation opportunities, mitigating the loss of open space, addressing the spread of invasive species, restoring watershed health, and more—all during a period of rapid fragmentation, intensive development, and landscape-scale change. These challenges occur at a time when our nation is pursuing deficit reduction goals. The Forest Service is responding, adapting, and modernizing in response to the complex and evolving environment in which we operate.

Before I begin my testimony on the 2008 Budget however, I would like to reflect on Chief Bosworth's leadership and some of his many achievements during these past six years.

#### THE FOREST SERVICE UNDER CHIEF BOSWORTH

When Chief Bosworth took the helm of the Forest Service, the agency's finances were in disarray. The General Accountability Office had listed the Forest Service among agencies at high risk for waste, fraud, and abuse. Under Dale Bosworth's leadership, the agency progressed from being "in receivership," to achieving five consecutive clean audit opinions from the USDA Office of the Inspector General. Chief Bosworth reduced overhead costs, reorganized the Deputy areas by eliminating two Deputy Chief positions and reducing staff, and guided the agency through the centralization and reengineering of its business processes—whose net cost reductions will approach \$100 million by fiscal year 2008. The Forest Service's improved business policies, processes, and organization have enhanced internal controls, eliminated duplication, and created accurate and complete financial data. Under the President's Healthy Forests Initiative, Chief Bosworth oversaw hazardous fuels reduction on more than 8.5 million acres. Further, the Chief responded with confidence and composure to such momentous challenges as September 11th; the Space Shuttle Columbia disaster; Hurricanes Katrina and Rita; and a period of wildland fire frequency and severity heretofore unprecedented in the modern era. Chief Bosworth skillfully ushered the Forest Service into the 21st Century's complex and demanding environment.

#### FOREST SERVICE FISCAL YEAR 2008 BUDGET

This budget request must be viewed in the larger context of the overall federal budget in which it is presented. Like other non-defense domestic discretionary programs, the Forest Service faces a constrained budget. And the results of the Administration's policies on economic growth and fiscal restraint include cutting the deficit in half, three years sooner than originally predicted. The fiscal year 2008 President's Budget request for the Forest Service is \$4.127 billion, which is approximately the same level of funding as fiscal year 2006 and a modest reduction below fiscal year 2007. However, within that total are some important shifts: the budget makes important changes to the Wildland Fire account, maintains funding for Healthy Forests including the commitment to fully fund the Northwest Forest Plan to provide 800 million board feet of timber, and emphasizes public health and safety by proposing a significant increase in the Law Enforcement Operations budget. These increases are offset by reductions in other programs so that wider administration goals of supporting the Global War on Terror and sustaining the momentum of the economic recovery can continue. The President's Budget addresses reductions by

continuing or implementing new cost saving measures and by enhancing efficiencies and streamlining management and organization.

*Wildland Fire.*—During the 2006 fire season the United States experienced more than 95,000 wildfire ignitions, and more than 9.9 million acres burned. Of those 9.9 million acres burned, approximately 5 million acres were on Federal lands and the balance on non-Federal lands. The Forest Service continued its excellent track record in protecting lives, property, and the environment. However, as occurred in 4 of the last 7 years, in 2006 the Forest Service spent over \$1 billion for suppression activities—a record \$1.5 billion. The increasing frequency of “billion dollar” fire-fighting years is driving up the 10 year average suppression cost figure, which is used to determine annual suppression funding levels.

The 2008 Budget responds to escalating fire costs in three important ways. First, the budget provides funding for suppression at the 10 year average level, adjusted for inflation. The 2008 Budget funds Suppression at \$911 million—a 23 percent increase over 2007 levels of \$741 million. Further, the 2008 Budget reflects refinement of the concept of “appropriate management response” toward a risk-informed fire suppression approach. Under the risk-informed approach, wildland fire will be managed on a priority basis as determined by considering private property, infrastructure, and human values most at-risk and resource benefits associated with the incident. In 2008 we will increase our decision support for this refined approach. New tools, including improved fire behavior monitoring and prediction, and costs and benefits of alternative suppression strategies will help managers decide how to respond to fires. In addition, the 2008 Budget pursues a more efficient and precise budget structure by establishing a separate account for “firefighter” expenditures. The 2008 Budget requests \$220 million for this new appropriation, which will fund salary and training for 10,000 firefighters and 67 type I hot shot crews.

*Healthy Forests.*—The Healthy Forests Initiative (HFI) was launched in 2002 to reduce administrative process delays to implementing projects, and Congress passed the Healthy Forests Restoration Act (HFRA) in 2003. The Act provides improved statutory processes for hazardous fuel reduction projects on certain types of at-risk National Forest System and Bureau of Land Management lands and also provides other authorities and direction to help reduce hazardous fuels and restore healthy forest and rangeland conditions on lands of all ownerships. The 2008 Budget maintains funding throughout the programs that support the Healthy Forests Initiative, including Hazardous Fuels, Forest Products, and applied Fire Science and Silvicultural Research. At least 40 percent of hazardous fuels funding will be used on projects that contribute to the goal of improving condition class on at least 250,000 acres by the end of the fiscal year through the use of HFRA and HFI authorities. In addition, the Budget supports a hazardous fuels reduction target of 3 million acres, a timber sales target of 3.5 billion board feet, and fully funds the Northwest Forest Plan, including an increase in Capital Improvement and Maintenance (Roads) to maintain the road infrastructure needed to support Northwest Forest Plan timber sales.

*Law Enforcement Operations.*—The 2008 Budget proposes a \$9 million increase from fiscal year 2007 in Law Enforcement Operations. Recent years have seen a significant increase in crime on National Forests, causing resource impacts and increasing risks to public and employee safety. Agency law enforcement officers are increasingly responding to violent crimes, including rape, homicide, domestic disputes, assault, robbery, drug manufacturing and trafficking, and other serious felony crimes. Law enforcement officers routinely respond to traffic accidents, search and rescue, medical or emergency assistance, hazardous materials spills, domestic terrorist activity, large group events and gang activity. In addition to reducing the impacts on natural resources and avoiding the associated costs of restoration, the requested funding increase will enable the Forest Service to maintain public and employee security and reduce illegal occupancy of National Forests.

In order to fund these high priority programs, the Budget makes hard tradeoffs to other programs. Moreover, efficiencies gained through the centralization of Business Operations and renewed focus on collaborative management will help offset reductions under the fiscal year 2008 Budget request. In fiscal year 2008 and fiscal year 2009, the agency will further its efforts to optimize organizational efficiency by restructuring leadership and program management functions at its National and Regional Offices. In order to provide additional funding for on-the-ground performance, many headquarters and regional activities will be consolidated on a centralized basis, and appropriate program management functions will be zoned across multiple regions. The Forest Service will realize personnel cost decreases of approximately 25 percent in National and Regional Office operations by the end of fiscal year 2009. An executive Steering team, led by Eastern Regional Forester Randy Moore, has been appointed to oversee the reorganization effort.

I will now discuss program changes of the Research, State and Private Forestry, National Forest System, Capital Improvement and Maintenance, and Land Acquisition accounts.

#### FOREST AND RANGELAND RESEARCH

The Forest Service Research Program is a globally recognized leader at exploring the fundamental ecological, biological, social, and economic questions and issues challenging natural resource management and conservation in the modern era. Not only do Forest Service research efforts inform Forest Service management, conservation, education, and outreach activities; but importantly, our Research programs inform the conservation activities of the global community.

The 2008 Budget funds Research at \$263 million. This is a 7 percent decrease from the 2007 funding of \$280 million. The budget eliminates funding for un-requested Congressional earmarks and employs investment criteria to ensure alignment between research projects and strategic priorities. Funding priorities within the request include continued research to improve large fire decision support, particularly with respect to improving managers' ability to predict probability of fire occurrence and spread related to values at risk, long-term integrated planning, successful collaboration with communities, and further development of improved tools for integrated risk analysis. The invasive species program area includes new funding for research on biological control of invasive weeds. To help meet the Nation's energy needs there is an increase of \$1.3 million to enhance research on wood-based bio-fuels development and conversion processes, bio-refinery applications, energy efficient housing, and processing and manufacturing energy reduction, life cycle analysis of wood, and marketing analysis for energy and bio-based products. The 2008 Budget also retains support for Forest Inventory and Analysis, which is of great importance in the context of tracking today's dramatic ecological changes and their effects on forest resources.

Forest Service Research and Development has focused on strengthening the conformance of its research program with the President's Management Agenda criteria for Federal research agencies: quality, relevance and performance. Research has identified 7 Strategic Program Areas (SPA), and developed strategic plans for each one. Further, Research plans to conduct national external panel reviews of each SPA, as well as reviews of each Research Station's alignment with the SPAs. These include periodic peer review and evaluation of all scientist positions through the Research Panel Process, peer review of proposed study plans and manuscripts for publication, and periodic updating of station quality assurance and quality control plans. During 2006, a restructuring of the Research headquarters staff was initiated to improve responsiveness, quality, relevance, performance and efficiency.

#### STATE AND PRIVATE FORESTRY

The State and Private Forestry program is a critical component of the Forest Service's conservation mission in that it connects the agency's research and federal public lands-based programs to those of states and private individuals and entities. State and Private Forestry programs work across boundaries to conserve forested landscapes and open spaces, and protect the ecological services they provide. State and Private Forestry programs assist successful conservation of the nation's natural resources by enhancing cooperation between individuals, non-governmental organizations, states, and the federal government.

The 2008 Budget funds State and Private Forestry at \$202 million, a 28 percent decrease from 2007 funding levels of \$280 million. Funding will be focused on priority activities in the Forest Health and Cooperative Fire programs.

The Forest Health program will receive more than \$90 million and provide for treatments of invasive and native pests on more than 600,000 acres of priority forest and rangelands. When combined with funds received under the National Fire Plan, the total acreage will increase by almost one-third and will yield close to 800,000 acres of treatments. Attention will be placed on priority pests such as the southern pine beetle, the western bark beetle and slowing the spread of gypsy moth. In fiscal year 2008, the Forest Health program will emphasize increased early survey and monitoring efforts against invasive species. These activities are important and integral to the overall program—increasing the agency's ability to prevent and detect problems early is a more cost-effective way to deal with invasives than treatments after wide spread infestations have occurred.

The Cooperative Fire program will receive more than \$42 million and will help more than 9,800 communities protect themselves from disastrous wildland fires. The majority of funds allow the Forest Service to provide financial assistance to state and local fire agencies, which in turn use the grant monies to develop and imple-

ment cooperative wildland fire preparedness programs and conduct hazardous fuel treatments around communities. A very successful program funded under the Cooperative Fire activity is Firewise, which emphasizes individual responsibility for fire hazard mitigation on community and private property. The program provides education and support to community leaders, and assistance with mitigating wildland fire hazards around structures. Moreover, the program leverages \$4 in local matching funds for every federal dollar spent, allowing the program to assist more communities.

Finally, more than \$66 million in the State and Private Forestry program will fund priority Cooperative Forestry programs including the Forest Legacy Program, which will receive \$29 million. These funds will be used on 14 projects, which are expected to conserve 97,000 acres of important forest resources. To date, more than 1.4 million acres of environmentally important private lands have been protected through the Forest Legacy Program and with more than 429 million acres of the Nation's forest held in private ownership this program continues to be important to prevent critical forest lands from being converted or fragmented.

The balance of funding in the Cooperative Forestry program will fund Forest Stewardship and Urban and Community Forestry activities. All State and Private programs will focus on national goals to produce public benefit outcomes. State-developed resource plans will identify priority response to national goals. This approach is designed to connect with all ownerships in a collective effort to achieve healthy forest objectives and protect human communities from wildland fire.

#### NATIONAL FOREST SYSTEM APPROPRIATIONS

The National Forest System account provides funds for the stewardship and management of National Forests and Grasslands. The 2008 Budget requests \$1.344 billion for this account, a 7 percent decrease from the fiscal year 2007. This decrease from prior year levels reflects greater efficiencies gained through organizational restructuring of leadership and program management functions at the National and Regional Offices. In order to provide additional funding for on-the-ground performance, many headquarters and regional activities will be consolidated on a centralized basis, and appropriate program management functions will be zoned across multiple regions. Moreover, efficiencies gained through the centralization of Business Operations, and renewed focus on collaborative management will help offset reductions under the fiscal year 2008 Budget.

As discussed previously, the fiscal year 2008 Budget supports full funding for the Northwest Forest Plan and emphasizes public safety. Specifically, the National Forest System 2008 Budget proposes \$319 million for Forest Products. Funds allow for the continued full implementation of the Northwest Forest Plan and support an overall timber sales target of 3.5 billion board feet, including 800 million board feet from the Northwest Forest Plan. The Budget also proposes an increase of \$9 million to Law Enforcement for a total of \$124 million. The increased funding will be used to hire, train, and equip new law enforcement officers and special agents. Increased visibility of law enforcement will improve public and employee safety and address foreign drug trafficking organizations on the National Forests.

The 2008 Budget proposes to hold funding in Grazing Management at prior year levels for a total of \$47 million. Maintaining this level will enable the Agency to comply with the Rescissions Act of 1995 by completing the backlog of NEPA-based environmental analysis.

Funds are available to other programs in the National Forest System account to address highest priority needs. The 2008 Budget proposes funding for Land Management Planning at \$53 million, a decrease of 9 percent. Funds will be used to support work to complete Land Management Plan revisions and continue work on other plan revisions. The fiscal year 2008 Budget also proposes \$146 million for Inventory and Monitoring programs, a decrease of 12 percent. Funds will focus on forest plan monitoring and establishing Environmental Management Systems on 50 National Forest units. Environmental Management Systems are a comprehensive approach to improving the management of environmental issues and performance on individual units.

The 2008 Budget proposes funding for Recreation, Heritage, and Wilderness at \$231 million, a decrease of 10 percent. In fiscal year 2008, the agency will continue to emphasize implementation of the travel management rule in order to address issues of unmanaged recreation, visitor safety and resource protection. By fiscal year end, the agency will have 48 percent of National Forest System lands covered by travel plans. Program funds will permit continued operation of recreation sites, although some reduction in seasons and hours for visitor information services may occur in some locations. National Forests are currently undertaking a process to

analyze their recreation facilities and evaluate the future needs of the recreating public. The process, the Recreation Site Facility Master Planning, is an analysis tool, to encourage dialogue amongst a variety of interested communities on the changing demands for recreation facilities on national forests and what options may exist to respond to those changes.

The recreation program will continue to strengthen relationships with private, volunteer-based, and nonprofit organizations to ensure some capacity levels are maintained and more particular to make programs and services relevant to youth in diverse and underserved populations.

The fiscal year 2008 President's Budget requests \$71 million for Minerals and Geology Management program, a decrease of 16 percent. The energy component of the program will focus on increasing opportunities for environmentally sensitive development and supply of oil and gas, coal, and geothermal resources from Federal lands in support of the Energy Policy Act of 2005. Funding levels to support environmental compliance and environmental restoration will continue at prior year levels to ensure required audits are continued and to focus on cleaning up publicly accessible abandoned mines and other contaminated sites in high priority watersheds.

The budget also proposes funding for Wildlife and Fisheries Management at \$118 million, a decrease of 11 percent, and for Vegetation and Watershed Management at \$154 million, a program decrease of 14 percent. Focus in the wildlife and fisheries program will be on improving fish and aquatic passage, recovery of the Columbia basin salmon, and on-going recovery efforts of other species including the Bighorn Sheep.

In addition to efficiencies garnered through organizational alignment, the Forest Service will continue to achieve efficiencies by centralizing Business Operations, utilizing email and video conferencing to lower travel costs, realigning the Agency, and will see these efficiencies and reduced costs continue over time. The net result is to maintain our foremost commitment to the land and focus funding on where the work gets done.

#### CAPITAL IMPROVEMENT AND MAINTENANCE

The Capital Improvement and Maintenance Program provides for, and maintains, the infrastructure for many Forest Service programs including; the transportation networks upon which many of our management operations, projects, and users depend; the recreational infrastructure, including trails that serve many diverse populations; and facilities that house Forest Service employees.

The 2008 Budget funds Capital Improvement & Maintenance at \$423 million, a decrease of \$14 million. To support the goal of selling 3.5 billion board feet of timber, the 2008 Budget requests an additional \$4 million for Road Improvement and Maintenance. In addition to this request, the Forest Service will continue to receive revenues from sites conveyed under authorities provided by the Facility Realignment and Enhancement Act, which has to date provided \$34 million in receipts to convey unneeded administrative sites and retain the proceeds for building maintenance, rehabilitation, and construction.

#### LAND ACQUISITION

Land covered by urban areas has more than doubled over the last 40 years, and more than 44 million acres of private forests are at-risk of being developed by 2030. The Land Acquisition account enables the Forest Service to perennially stay abreast of, and act upon, the changing land-use patterns, demographic trends, and ecological changes. The Land Acquisition program allows us to pursue landscape connectivity, by purchasing in-holdings and keystone habitat parcels, and to manage the national forests as ecosystems rather than simply as real estate.

The 2008 Budget funds Land Acquisitions at \$16 million. This includes \$8 million to purchase land and \$8 million for acquisition management. The funding will allow us to move forward with 7 high priority acquisitions. The funding request continues a trend of declining budgets for land acquisition. However, the Budget also contains a legislative proposal that permits the Forest Service to retain upwards of \$400 million in land sales for acquisition of national forest lands. The parcels to be sold have already been identified as suitable for sale or exchange because they are isolated or inefficient to manage. Lands with high environmental value will not be offered for sale, while acquisitions would focus on parcels that enhance the environmental integrity of our National Forests. Given the importance of maintaining assets already in federal ownership, the Budget strikes a good balance with the need to acquire and preserve special places.

## CONCLUSION

Priority forest management issues such as reducing hazardous fuels in the Wildland Urban Interface and prevention of property destruction by catastrophic wildfires will be increasingly integrated with other pressing policy issues, including sequestering carbon, preserving open space, improving watershed health, and other mission-driven goals. We are addressing the costs of wildland fire suppression to mitigate constraints on other Forest Service programs. Our risk-based suppression approach and Healthy Forests Initiative fuels reduction work—much like our Business Operations centralization and collaborative management efforts—will reap tremendous mid- and long-term efficiencies in the contexts of agency budgets and reducing risk to human communities posed by wildland fire. The 2008 Budget reflects the President's commitment to providing the critical resources needed for our Nation's highest priorities. The 2008 Budget also responds to the national need for deficit reduction while preparing the Forest Service for a new, more collaborative, era of natural resource management. With this Budget, the Forest Service will continue to identify and support more efficient and effective methods of pursuing its mission. This will be accomplished through increased collaboration, the use of legislative authorities, expanded program efficiencies, and improved organizational and financial management. Through these efforts the Forest Service will continue to sustain the health and productivity of the Nation's forests and grasslands.

Thank you for this opportunity to discuss the President's Budget. I look forward to working with you to implement our fiscal year 2008 program, and I'm happy to answer any questions that you may have.

Ms. LAGO. Thank you, Madam Chairman, and members of the subcommittee. For those of you who weren't here earlier, I'm Lenise Lago. I'm the Budget Director for the Forest Service.

First of all, it's a very great privilege for me to be here representing the Chief. Thank you. As you noted, Madam Chairman, Chief Kimbell could not be here today because she's in California for the release of the report of the investigation into the deaths of five Forest Service employees who were killed in the Esperanza Fire on October 26.

The report of the investigation, which was conducted by the State of California, along with the Forest Service, will be released to the public later today.

Turning to the Forest Service budget, in our second century of service, the Forest Service faces diverse challenges, which many of you have noted.

These include restoring fire-adapted forests to a more resilient condition; providing natural resource raw materials to the American public; and providing sustainable recreation opportunities, and more, during a period of rapid fragmentation, intensive development, and landscape scale change.

These challenges occur at a time when our Nation is pursuing deficit reduction goals. The Forest Service is responding; we're adapting, we're modernizing in response to the complex and evolving environment in which we operate.

This budget request must be viewed in the larger context of the overall Federal budget in which it is presented. Like other non-defense domestic discretionary programs, the Forest Service faces a constrained budget.

The fiscal year 2008 President's budget request for the Forest Service is \$4.1 billion. That's about 2 percent less than we had in 2006, and as you noted, about a 5 percent reduction below 2007.

However, within that total are some important shifts. Since the Under Secretary's testimony focused on wildland fire and the proposal for secure rural schools, I'd like to briefly discuss three other

emphasis areas. We can discuss other programs during the question and answer period.

First of all, Healthy Forests. The 2008 budget maintains funding throughout the programs that support the Healthy Forests Initiative, including hazardous fuels, forest products, and applied fire science and silvicultural research.

At least 40 percent of hazardous fuels funding will be used on projects that contribute to the goal of improving condition class, with a target of at least 250,000 acres treated by the end of the fiscal year through the use of the Healthy Forests Restoration Act and Healthy Forests Initiative authorities.

This is part of a total hazardous fuels reduction target of 3 million acres, and a timber sales target of 3.5 billion board feet. It fully funds the Northwest Forest Plan, including sufficient funds in Capital Improvement and Maintenance-Roads to maintain the road infrastructure needed to support the Northwest Forest Plan timber sales.

Our second emphasis area, as you also noted, is law enforcement. This budget emphasizes public health and safety by proposing a \$9 million increase in law enforcement operations. Recent years have seen a significant increase in crime on national forests, causing resource impacts and increasing risk to public and employee safety.

The requested funding increase will enable the Forest Service to maintain public and employee security and reduce illegal occupancy on national forests.

The third area I'd like to talk about are efficiencies. The need to fund high-priority programs is severely restricted by the requirement to fund the 10-year average for fire suppression. This budget begins to look at what we can do to attack fire differently to achieve cost savings.

Throughout the non-fire programs, we're looking at ways to increase efficiency and add value. For example, in fiscal year 2008 and fiscal year 2009, the agency will further its efforts to optimize organizational efficiency by restructuring leadership and program management functions at the national and regional office levels.

In order to provide additional funding for on-the-ground performance, many headquarters and regional office activities will be consolidated on a centralized basis and appropriate program management functions will be zoned across multiple regions.

The Forest Service will realize cost decreases of approximately 25 percent in national and regional office operations by the end of fiscal year 2009. The efficiencies gained through the continued centralization of business operations through Washington and regional office transformation, and renewed focus on collaborative management, will help offset reductions in the fiscal year 2008 request.

The net result, and the reason that we're doing this, is to maintain our foremost commitment, which is to the land, and focus on funding work where it gets done.

Thank you for this opportunity to discuss the President's budget. On behalf of Chief Kimbell, we stand ready to work with you to implement our fiscal year 2008 program. I'm happy to answer any questions that you have.

## FIREFIGHTING

Senator FEINSTEIN. Thank you very much. As chairman of this subcommittee, for however long or short it might be, I essentially have three priorities with respect to the budget. The first is to see that we do everything we can to manage forests and fight fires, so that we make a consequential dent in what is happening.

## MARIJUANA ERADICATION

The second is that we are able to stop marijuana from being grown in our national forests. In my State, marijuana is currently being grown in every single national forest. That is unacceptable. Growers are armed, they shoot, they leave the ground as an eco-disaster. It's my understanding 19,000 acres have been essentially ruined.

This is unacceptable. It would just seem to me that if INS, instead of going into the homes of innocent people, would go into some of these forests and rout these crews, and arrest them and send them away, it'd go a long, long way.

## QUINCY LIBRARY GROUP

The third is the Quincy Library Group. Quincy was something that I authored. I feel strongly about it. It is not working adequately now.

## LAW ENFORCEMENT AND MARIJUANA ERADICATION

So let me just ask a few questions on these points. Let me begin with the law enforcement and the marijuana. You're funded at \$124 million. You've got a \$12 million increase, if the money survives, in the supplemental. My question is, how many new personnel do you plan to hire, and how will you prioritize enforcement in areas like my State that have the highest concentration of drug activity in our forests?

Mr. REY. Our current plans, should our requested increase go forward, would be to hire an additional 60 agents, and they would be prioritized on the forests with the highest amount of marijuana cultivation.

The reason that the cartels are on the national forests is that we have done a pretty good job of interdicting large volume shipments across the border, so they're adapting to our success.

The reason they are disproportionately on the national forests, as compared to say Bureau of Land Management lands, is that we have water, and we have trees, which work as good visual barriers to help hide the cultivation work that's being done, as opposed to open range lands, where it's more easy to identify from the air.

Senator FEINSTEIN. Is there any relationship between your Department and the INS, or ICE now—

Mr. REY. Yes, we—

Senator FEINSTEIN [continuing]. To have those people help you going in? These are all Mexican nationals. They don't belong here.

Mr. REY. Right.

Senator FEINSTEIN. They've broken the law coming here, and they've broken it again by growing marijuana.

Mr. REY. We have cooperative agreements with both INS and the Border Patrol, as well as the Drug Enforcement Administration.

Senator FEINSTEIN. So they actually go into the national forests and pull people out?

Mr. REY. When we do a major operation, it's usually a joint operation with INS, local law enforcement, and our own agents.

Senator FEINSTEIN. Okay, good. I'd like to know a little bit more about that, if I can.

[The information follows:]

CLERK'S NOTE.—Senator Feinstein asked for more information about joint operations between agencies to eradicate marijuana on Federal lands. A meeting to discuss this subject was scheduled for June 25, 2007, between Senator Feinstein, Under Secretary Rey, Forest Service Director of Law Enforcement and Investigations John Twiss, and representative of the Drug Enforcement Administration and the Federal Bureau of Investigation.

Senator FEINSTEIN. Let me speak for just a moment about the Quincy Library Group. If I understand it, the Sierraville District ranger position is the only one in Sierra County.

#### QUINCY LIBRARY GROUP

That's 75 percent national forest land, and the county is very concerned that a consolidation will hurt the Forest Service's ability to the local community's issues and concerns.

The local board of supervisors unanimously passed a resolution on May 15 opposing these plans. I strongly oppose these plans. I don't think you can leave this huge area without a ranger.

So my question is, has a decision been made to consolidate these ranger districts, and what impact will this plan have on the community and the success of Quincy Library Group activities?

Mr. REY. I don't think it will have any measurable impact on the community, and it should have no impact on the implementation of the Quincy Library Group activities. While we're planning to manage the east side of the forest as one district, we're not proposing to close any offices, and we're not moving any employees.

So we're simply extending the span of control of a district ranger to include a larger number of offices.

Senator FEINSTEIN. Well, if I may, I'd like to know more about that.

Mr. REY. Sure.

Senator FEINSTEIN. The Forest Service tells us no final decision has been made, and I just want to reemphasize the importance of this to the Quincy Library Group and to everything that we have passed and authorized and moved forward with.

Mr. REY. Madam Chairman, I think one of the things you may be hearing is that there's still a lot of unhappiness with some downsizing we did over two decades ago on the east side of the Sierras. We moved an office out of Downieville, and therefore, anytime we announce any changes, we send up a fair amount of flares.

But we'd be happy to work with you on this one, because I don't think what we're doing is going to materially affect the communities there.

Senator FEINSTEIN. All right. The whole point of Quincy is to build firebreaks, to do small logging on these fire breaks so that

you make the forest more secure, and you also create jobs for the people.

The pilot legislation requires the Forest Service to treat between 40,000 and 60,000 acres, creating the strategic system of fuel breaks.

My understanding is that you've only been able to reach the acreage goal outlined in the legislation once. What are the major obstacles to implementation of the goals, and what is the Forest Service doing to meet these challenges?

I know some of it is litigation, but we need to get around that somehow, some way, and I thought that our Hazardous Fuels legislation created the opportunity to do that.

Mr. REY. Both the Quincy Library legislation and the Healthy Forests Restoration Act gave us new tools to do fuel reduction work. But you put your finger on the main impediment that exists today, and that's working through the litigation associated with many of the projects that we've proposed.

The Quincy Library Group area has a somewhat larger frequency of litigation than the State as a whole. The State as a whole has a somewhat larger frequency of litigation than the country as a whole.

I don't know that there's any easy answer, but to do the best job we can in both producing these projects using the authorities you've given us, and then do the best job we can defending them in court, is what we do.

Senator FEINSTEIN. Just one last question. In August, I hope to meet with the Quincy Library Group and go over this, and it would be very helpful if you or someone could be there from the Department that we might be able to find a way to ameliorate this and move this program forward. I'm very concerned about it.

Mr. REY. I'd be happy to join you there in August.

Senator FEINSTEIN. Thank you. Thank you very much. Senator Craig?

Senator CRAIG. Thank you, Madam Chairman. Revisiting Quincy is fascinating to me. Obviously, I helped you legislate that—

Senator FEINSTEIN. Yes, you did.

Senator CRAIG [continuing]. As one of the early collaborative efforts on the part of community and stakeholders to try to resolve what had become, obviously, a point of tremendous conflict.

I must say I'm always frustrated when local environmental groups and local stakeholders come together to agree to something, but the nationals say no, and then they start filing lawsuits—a right hand doth not know what left hand does. In this case, you're obviously concerned, as you should be, that not all has been carried forward.

#### WILDLAND FIRE RISK

Mark, there are a variety of questions I want to ask both you and Ms. Lago, but let me take you to the Brookings study and the overview there.

Talk to us about some of the key findings. I have tried to understand the idea of firefighting, as now envisioned by the Forest Service, where I see literally large communities and tens of thou-

sands and millions of dollars established and spent in the course of a fire.

But you used one word that worried me a great deal, because of the transformation of our public lands, and especially the fee lands within them, where large mega-homes are being built.

I know that we have reason to be proud of the fact that we've lost fewer homes, and I'm glad you believe, and have justification to believe, that that's a result of thinning and cleaning. It certainly is in some areas of my State.

But you used the word "risk". Am I to assume—and this is just an assumption—that where there are no big homes, there will be therefore less risk to human structures, therefore, less focus on fighting fire?

We've got habitat out there, we've got watershed to worry about. We've seen the idea of simply letting it burn go, because now we have a cost factor involved.

We know that in some of these heavily fuel-laden environments, the fires are mega-fires, in the sense of temperature and damage to the subsoil and subsoil surfaces or conditions, and therefore, the ability of the forest to regenerate itself is lessened.

What does your use of the word "risk" mean—you used it in your testimony—as it relates to the selectivity or the decisionmaking as to where to fight and where to engage a fire?

Mr. REY. What we're talking about here is doing an analysis of the resources that are there against the proposition of whether the fire is going to pose a direct risk to those resources or a lower risk, or, alternatively, maybe even a beneficial effect.

There are obvious cases where there is property involved where the risk is high. The less obvious cases are where there's no property involved. But that doesn't necessarily mean, even when there's no property involved, that we're viewing the fire as one that would be a low priority to suppress.

It would depend on what the ecological values are, and what our level of certainty is that we can extinguish the fire if it burns beyond the parameters that we want.

So we are doing fire management plans on all of our units to evaluate where there are areas where the risk to the loss of some value, whether it's an ecological value or an economic value, in the form of property or structures, is sufficiently low that we wouldn't—

Senator CRAIG. So I was right in my assumption?

Mr. REY. You better repeat the assumption, so I can be sure.

Senator CRAIG. All right. Structure versus non-structure decisionmaking.

Mr. REY. No, no. Where there are structures, the choice is fairly obvious. But where there are no structures, there are still instances where we're going to move to immediate suppression.

The most common of those instances would be where the fuel loads are too high for the fire to burn safely, and the risk of a larger spread is too great, or where there are ecological values involved that we know a fire would diminish.

Conversely, where there are no structures, there are areas where the risk of spreading beyond where we'd like to see the fire burn

is fairly low, and where the resource values are also low, and the fire might have a beneficial effect.

Senator CRAIG. Okay. Well, I've observed fire all of my life. I've observed a time when the slightest smoke put smokejumpers in, and the fire was put out. Now, I've watched knowledgeable people debate for days whether to engage, while the fire roars across the landscape.

I hope whatever system you put in place allows rapid decision-making, instead of will it or won't it or should it or could it get into a certain watershed, and if it does, then we put it out. Oftentimes, the damage, as you know from your own experience, is excessive.

I won't carry that forward. Let me ask this question of you, Mark. We've talked about what went on last year. We saw the worst fire season ever in total acreage burn. The chairman speaks of drought. Our runoff this year in Idaho is substantially less than we thought it would be.

We hope this year's fire season, as bad as it may be, won't be as bad as last year. Your agency could be \$750 million short of what it needs to fight fires and be forced to borrow massive amounts of money from other programs if we have a similar fire scenario.

When GAO looked at firefighting borrowing problems recently, it concluded that the borrowing of funds caused numerous project delays and cancellations, strained relationships with State and local agency partners, and disrupted program management efforts.

In some cases, these cancellations and delays increased costs and the time needed to complete the project.

Can you then, from your own perspective now, and with the resources you have, give us some sense of how severe you expect this fire season to be, based on what you know now? That's one question.

The supplemental appropriation bill that we have been considering has \$400 million for Forest Service, for firefighting. I understand that some folks at the OMB think this funding is unnecessary.

Is it your sense that these funds are needed by the agency to pay for firefighting and to avoid the massive borrowing that has occurred in recent years? So, I'd like to know about the issue of borrowing and the issue of fire perspective for this season.

Mr. REY. The answer to the first question is we predict this season will be less severe than last year, but still above the 10-year average, given the long-term drought indications. That's answer one.

#### BORROWING FUNDS TO FIGHT FIRES

Question two is we believe that it's too early to be putting additional money in the account. The fire season is developing somewhat more slowly than last year, and if need be, we can adjust the 2008 bill and make that work for us.

Third, the impact of borrowing is basically as GAO has stated it. It's not the most perfect way to fund firefighting, but it is the way we have. We did propose a governmentwide contingency account with our 2003 budget proposal, and that's something we'd be willing to pursue with you again.

## WILDLAND FIRE RISK

I did, however, so garble the answer to the previous question, I'd like to add to it, if I might, Madam Chairman, because I think I left you all feeling very uneasy about when we do and when we don't decide to suppress fires.

Senator FEINSTEIN. Please do.

Mr. REY. We don't spend time debating whether to suppress a fire after it's ignited. The fire management plans make those decisions ahead of time.

Included in those decisions are not only physical limitations on where and where not, but other variables as well. Just looking at fuel loads and topography in an area, we might not move to immediate suppression, but if we're in high winds or extended drought, we will.

So there are triggers within those plans that require immediate action in certain circumstances when, if those circumstances were not present, we would otherwise think that's a fire that might have a salutary effect if it burned.

Last summer, we heard from a lot of places about the fact that we were letting more fires burn, and that it was somehow an indictment of this overall risk-based approach to firefighting.

In a normal bad year, we'll have one or two broad-scale dry lightning events. Those are events where we get as many as two or three thousand ignitions in one 24 or 48-hour period.

When that happens, we typically try to get all of those ignitions, but when you've got that many at once, you don't get them all.

So you leave the ones that are the most remote to get to last, and you run the risk that one or more than one of those is going to grow into a larger fire. But it makes sense to go to the most close-in ones that are nearer property first.

Last year, we had seven of those large dry lightning incidents, so there was a greater number of escapements because there was a greater number of large multi-ignition dry lightning events.

Consequently, we heard, and I'm sure you all heard, that the Forest Service is letting some of these burn. Well, we weren't letting them burn. We were responding to them as quickly as possible, given the multiplicity of the ignitions that were occurring over a very short and compressed period of time.

Senator FEINSTEIN. Thank you, Mr. Rey.

Senator CRAIG. I'll come back for second round. Thank you.

Senator FEINSTEIN. Very helpful. Senator Stevens?

## LAW ENFORCEMENT AND MARIJUANA ERADICATION

Senator STEVENS. Well, I want to ask you a question, but I hope you won't take 5 minutes answering it, because I want to get to Alaska in my questions. But I am disturbed you're going to hire agents. We have other subcommittees where we deal with the problems of illegal growers.

I don't know why Agriculture needs agents to deal with those illegals in the forest areas. It'll take a year to train them. Why don't you go out for a task force from DEA and the National Guard and Immigration, and go in and take them down?

If you did one or two, took them down really seriously, you wouldn't have any more. But if you wait a year to train agents, it'll just get worse. This calls for action, in my opinion. Maybe I'm watching too many episodes of 24, but it's time someone did something about that.

We had a little touch of that up North, you know, and our people did form a task force, and did go in and took them down. I haven't heard any more about it. So I do think you ought to really face this—face up to it now, and not just hire agents and make plans of how Agriculture's going to do it.

This isn't your business. You don't know how to handle these guys at all. You're used to just normal trespassers in the national forest. Give it to people who are trained to do it now, and get it done.

Otherwise, I would oppose that money. I think you should use the money we've got on other bills, and go get them now, not train more agents. Now, let me—

Senator FEINSTEIN. Can Mr. Rey respond?

Senator STEVENS. If you want to comment on that, we'll give you 5 seconds. Yes.

Senator FEINSTEIN. I'll give you more time if we let him respond.

Senator STEVENS. Yes.

Senator FEINSTEIN. Thank you.

Mr. REY. All of the major takedowns are task force takedowns involving ourselves, local law enforcement, and DEA, or whatever—

Senator STEVENS. Why are you involved in it at all? DEA does it. That's their job. We have UAVs, we have the National Guard, we have immigration people already trained. You don't need to train people to do that, Mark.

Mr. REY. The knowledge of the land and that sort of stuff is—

Senator STEVENS. Ah, that's baloney.

Mr. REY [continuing]. Somewhat important.

Senator STEVENS. Baloney. You just don't want other people on your force. Now cut that out and get them in there and take them down. They can be down in 2 or 3 months, and you know it. But you should not take this on in Agriculture.

Senator FEINSTEIN. Well, don't be intimidated by him. Say what you think.

Mr. REY. If the Congress wants to fund another agency to do this, we're—

Senator STEVENS. Don't need to fund them. They've already got the money. They got more money than they need right now.

Senator FEINSTEIN. It's not getting done.

Senator STEVENS. It's not being done. You didn't ask him. You didn't tell them, "It's your job. Come take them down now." You should do that. You ought to go to the administration to demand it.

#### TONGASS LAND MANAGEMENT PLAN AMENDMENT

Let me go to Alaska, if I can. I was wrong. My staff tells me I was wrong. We didn't get 140 million board feet last year. We got 50 million board feet out of a forest that used to cut 1.5 billion. At Chugach, they don't cut any timber now, as I understand it. The

timber cutting is supposed to be, under the Tongass Timber Reform Act, cut out of the Tongass.

We've had one law office that's kept you all busy now for 10 years. Are we going to get the Tongass LMP amendment process completed this year?

Mr. REY. Yes.

Senator STEVENS. Would it allow some cutting of timber next year?

Mr. REY. It will call for cutting of timber next year. That will have to be defended in court, as will the individual—

Senator STEVENS. Will you support an amendment to say "No more challenging this plan in court"? It's been planned. You spent \$40 million now to defend this plan over 10 years. The same lawyers are going to take you to court again.

Meanwhile, we've got 32 different communities. Is it 32? Yeah, 32 different communities in southeastern Alaska dependent upon timber harvest. They can't do it. They're just—all the timber companies are going to collapse and fail if this goes to court again.

Isn't it time now to say no more appeal of this?

Mr. REY. We've been working on the Tongass plan since 1979. There are Forest Service employees who started their career and have retired before we completed the Tongass Land Management Plan.

I will commit to you that we will produce a Tongass Land Management Plan this fall, which will be the best plan that the Forest Service can produce.

Senator STEVENS. Well, meanwhile, the second generation of lawyers is in that law firm, and they're rich, and all the timber people are going bankrupt. Now, we've got to stop that litigation over this plan somehow.

Mr. REY. I agree.

Senator STEVENS. Good. Thank you. I'm going to offer such an amendment. There ought not to be another challenge to this plan. We had a plan agreed to. Those people represented by these lawyers were involved in settling the Tongass Timber Reform Act.

From the day it was signed, they challenged it, although they helped get it passed. It's now been challenged, what are you talking about, 27 years, 28 years?

Mr. REY. 28 years.

Senator CRAIG. Ted, I was a freshman congressman. I was 35 years of age. I'm near retirement age now. The issue is still the same.

Senator STEVENS. Don't use the word retirement. I don't believe in that.

Thank you very much.

#### FOREST LEGACY

Senator FEINSTEIN. You're very welcome. Senator Gregg?

Senator GREGG. Thank you, Madam Chairman. Mr. Rey, Ms. Lago. There are a number of things I want to talk about, but I do want to express my concerns about the funding for Forest Legacy in the administration's proposal. Forest Legacy has been an extremely successful program, especially in the East.

In the East, we are still interested in purchasing land and protecting land in significant proportions, and especially in a place like New Hampshire, which is in the path of the megalopolis.

In the West, or some of the States, I can understand, you're overwhelmed with the Federal ownership percentage of the State. They feel they've got enough ownership, and probably would like to sell some.

But in the East, we still feel very strongly that we need the funds to help us, especially Forest Legacy, leverage purchases and easements that make a huge difference in our ability to protect land which is critical and in the path of the megalopolis.

Forest Legacy's a big part of that. Unfortunately, the Forest Legacy funds have dropped 71 percent in the proposal; and not just this year, over the last 4 or 5 years, 3 or 4 years, even though the administration initially supported Forest Legacy with some robustness.

So I regret this, and this year's request is really piddling, and——

Senator FEINSTEIN. Senator?

Senator GREGG. Yes?

Senator FEINSTEIN. If I could, I'm just looking at the numbers. 2008 was 29,311. Enacted——

Senator GREGG. I'm talking about the budget request.

Senator FEINSTEIN. Twenty-seven—we're going to put some money back——

Senator GREGG. Great.

Senator FEINSTEIN [continuing]. In the Forest Legacy——

Senator GREGG. Thank you.

Senator FEINSTEIN [continuing]. So we'll be happy to work with you.

#### WHITE MOUNTAIN NATIONAL FOREST FUNDING

Senator GREGG. I appreciate that. On a specific issue, I wanted to ask you about the White Mountains. I believe the White Mountain Forest is the most visited national forest in the country. Is that correct?

Mr. REY. It's heavily visited, but it's not number one.

Senator GREGG. Well, it's certainly got to be the most visited east of the Mississippi. I would presume it was the most visited—it was right up in the top two or three.

Mr. REY. It's probably in the top half dozen, I'd guess.

Senator GREGG. We get hundreds of thousands of people using it because, of course, it's right there. I mean, it's 4 hours from New York, 1.5 hours from Boston, and it's a great and beautiful spot.

Yet, I notice in the budget that the budget for the forest is being reduced by 10 percent, which will reduce the forestry programs there by 25 percent, reduce the recreational proposals by 15 percent, reduce the seasonal employees by 75 percent.

It will eliminate the leverage programs we have relative to trail protection, and the permanent timber personnel are being reassigned to other resource areas. That, I presume, is a function of the need to spend money somewhere else.

I guess my question is if you've got one of the more visited forests, no, the most visited forest east of the Mississippi, is it appro-

appropriate to target that as a place where you're reorienting your resources?

Mr. REY. I think I'd have to work with you to go over those numbers. I don't have forest by forest breakdowns with me today. I'm quite confident we wouldn't do anything to reduce the partnership dollars that we have coming in, because that's how we've boosted the support for some of our recreation programs.

Senator GREGG. Well, actually, you are. They're going to be terminated, under the information I have, which I presume is accurate, because it's from the people who do the trail programs.

Of course, a 75 percent reduction in temporary employees on the White Mountains is a seasonal event. It's used aggressively in the winter, but it's for skiing, and those are all private.

But in the summer, of course, that's when most of the seasonal employees are hired. A 75 percent reduction is going to lead to problems. I mean, we've got some problems in that forest from people using it inappropriately anyway. We've had some serious issues with motorcycle gangs, for example.

But generally, the experience of going to the White Mountains is a really good experience, and people pay for it. As you know, they pay a parking fee if they're going to hike there. I'm interested, what percentage of that parking fee stays with the White Mountains, and what percentage goes to a central office?

Mr. REY. Eighty-five percent stays with the White Mountain, under the legislation that Congress enacted in 2003.

Senator GREGG. So 15 percent comes down here?

Mr. REY. Fifteen percent goes into the administration of the program, wherever that is required, but 85 percent stays on the ground.

Senator GREGG. So if we were just to give them a 100 percent—I'm not sure the numbers work out correctly—maybe the 10 percent cut wouldn't impact them so much?

Mr. REY. It'd be a possibility.

Senator GREGG. It's a \$1 million reduction. In the context of this budget, obviously, not even an asterisk, even less than an asterisk, but it does have an impact.

So I just wanted to raise the visibility of it to you. I recognize that there's tremendous pressure out West to fight fires, and that that's absorbing huge amounts of money. I recognize that we're our own worst enemies in the area of timber cutting, which was used to maintain the forests. We're basically at dramatically reduced revenues, as a result of what people represent—in many instances inaccurately—as environmental concerns.

Some are correct, but 80 percent reduction in timber harvesting is not appropriate. In the context of those resource pressures, it does seem to me that when you've got a place like the White Mountains, which has a unique role in the forest system because it is really more of a visited forest and a recreational forest and a multi-use forest than most of your properties, certainly most of them east of the Mississippi, that we shouldn't be putting it on a path to failure.

Mr. REY. What I'd like to do is collect the data from the White Mountain and see if we can sit down and visit in greater detail.

[The information follows:]

CLERK'S NOTE.—Under Secretary Rey offered to discuss funding for the White Mountain with Senator Gregg. Forest Service staff will schedule a meeting once the information has been collected.

Senator GREGG. I appreciate your courtesy. Thank you.

Mr. REY. Thank you.

Senator FEINSTEIN. Thank you, Senator Gregg. Before turning to Senator Craig, I want to just make one comment.

#### PREPAREDNESS FUNDING

The cut in your preparedness budget, 15 percent, is really unsustainable. In view of what we think is going to happen this fire season, despite what Ms. Lago said, there is no reason to believe that you can solve the problem with efficiency.

I think we've got to add some money back here and find a way to do it, and I'd like to work with you in that. I am really concerned about this year, that we could have really catastrophic fire.

The Esperanza Fire killed five people. I mean, what can happen this year is just dreadful. I think we have to be prepared. I can tell you this, that the California Governor, Governor Schwarzenegger, is moving with preparedness. We all know we expect a bad time, and once we know it, we have an obligation to do something about it.

So I want to work with you on this particular number and try to change it. Senator Craig?

Mr. REY. We'd be happy to work with you.

Senator FEINSTEIN. Thank you.

Mr. REY. Two quick clarifications. This budget is 2008. The fire season we're in is 2007, so the money that you've already appropriated is what we're spending this year.

Senator FEINSTEIN. I understand. That's a good point.

Mr. REY. Then the other is that we do have the authority to move dollars from suppression to preparedness, and will do that if circumstances necessitate. But I would still be happy to sit down and go through the budget lines.

Senator FEINSTEIN. Okay. Senator Craig?

Senator CRAIG. Thank you very much, Madam Chairman. A couple more questions of both of you, and I think I have one also for you, Ms. Lago.

#### GRAZING PERMIT BACKLOG

There is a real problem with a backlog of expiring grazing permits that need to be renewed. Congress put a schedule in place for a renewal of these permits in the 1995 Rescissions Act. The schedule required NEPA to be completed on all allotments by 2010.

Your budget justification says that accomplishments from 1995 through 2003 were well below scheduled levels. It also indicates that significant amounts of work remain to be done to finish the NEPA reviews by the deadline.

In the 2005 Interior Appropriations bill, the committee provided additional funds to address the backlog of allotments, also provided categorical exclusions from NEPA for grazing allotments that met certain conditions. There was a gap of 900 allotments on this authority.

How many allotment decisions have been made using this authority so far, Mark? Do you know? That'd be the one question of either of you. Is this authority helping to speed up the process? Does the authority need to be extended?

We're fighting fire, but there are an awful lot of folks who are dependent upon the relationship they have with you for grazing in their livelihoods and in their businesses.

Mr. REY. To date, we've used the authority on 250 renewals. We have another 250 planned for fiscal year 2007. That would get us to 500. The cap was 900 renewals. So yes, it would be helpful to extend the authority 1 more year, and then we would use that time to try to do the other 400 renewals.

The CE has been helpful in expediting this work. The CE is one of the reasons we think we'll still make the 2010 deadline, assuming we can use the CE beyond 2007.

#### CATEGORICAL EXCLUSIONS

Senator CRAIG. Okay. Speaking of CEs, obviously, in October 2005, a Federal District Court in the *Earth Island Institute v.*, I think it's *Ruthenbeck*, was it—

Mr. REY. *Ruthenbeck*.

Senator CRAIG [continuing]. Case held that the Forest Service had to provide notice, comment, and appeal on projects implemented through the use of the categorical exclusion. Of course, you know, Madam Chairman, this dealt with our Healthy Forests legislation.

Last year, the chief testified before the subcommittee that this case delayed or cancelled 723 fuel reduction projects affecting over 1 million acres. Here we are, talking about worse fire scenarios, and we've got interest groups and courts shutting us down in some of those areas. What's the status of this litigation?

How many projects are being affected by this ruling now, and is there anything you can do administratively to address this situation, or is a legislative fix needed so that the Forest Service is treated like every other agency when it comes to the use of categorical exclusions?

Mr. REY. At this point, I do not believe that there is a judicial remedy in this case. We have asked for an en banc review by the 9th Circuit. It's been denied. It's highly unlikely that the case will be resolved judicially.

So even though we believe that the court wrongly interpreted the 1990 Appeals Reform Act, in terms of obligations that it imposed on the Forest Service, that nevertheless is where the litigation will stand.

The only remedy to put the Forest Service back on the same footing as every other agency in how it complies with the National Environmental Policy Act would be for a legislative clarification of the 1990 Appeals Reform Act.

Senator CRAIG. Okay. It would be through the 1990 Appeals Reform Act?

Mr. REY. That was the legislation that the court based the decision that—

Senator CRAIG. Okay.

Mr. REY [continuing]. Unlike every other agency in the Federal Government, the Forest Service is obliged to offer an opportunity for notice, comment, and administrative appeal anytime it uses a categorical exclusion from the National Environmental Policy Act.

That was a reading of the court interpreting the 1990 legislation, wrongly in our judgment, but there you have it.

Senator CRAIG. Okay. Thank you very much, Mark, Ms. Lago. Thank you very much, Madam Chairman.

Senator FEINSTEIN. Thank you, Mr. Rey. Thank you—

Senator CRAIG. I have other questions I'll submit for the record.

Senator FEINSTEIN. All right. Excellent. Thank you, Ms. Lago.

#### ADDITIONAL COMMITTEE QUESTIONS

There will be some additional questions which will be submitted for your response in the record.

[The following questions were not asked at the hearing, but were submitted to the Service for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

*Question.* The California Department of Conservation Estimates that there are 47,000 abandoned mines in the State, including 7,000 on National Forest Lands. These sites create physical hazards, contaminate watersheds in my State and throughout the West, and create physical hazards to members of the public recreating on National Forest System lands. Your fiscal year 2008 budget reduced funding for the Minerals and Geology activities by 16 percent, from \$84 million to \$71 million. What impact will these budget cuts have on the number of sites targeted for cleanup in fiscal year 2008, both in California and nationwide?

*Answer.* Cleanup of contaminants and mitigation of physical safety hazards are addressed in the "Manage Environmental Restoration" (Restoration), and "Mitigate Abandoned Mine Land Safety Risk Feature" (Safety) activities in the Minerals and Geology Management Budget Line Item.

The Forest Service Budget Justification on page 9-56 displays the changes in budget and outputs in fiscal year 2008 as compared to fiscal year 2007 for these two activities. A decrease in budget does not easily translate into numbers of sites because of the wide variation in site cleanup costs, as well as the number of years it takes to complete a project. For that reason, the most accurate measure of the change in outputs for both California and the Nation would be the percentage decrease in budget for these two activities, which is 6 percent and 17 percent, respectively, for Restoration and Safety.

*Question.* How are you prioritizing which mine sites to clean up? Have you developed an estimate of how much funding you would need to remediate all abandoned mine sites on National Forest System lands?

*Answer.* Hazardous and non-hazardous cleanup projects are submitted by each Forest Service regional office along with narratives describing the costs and benefits of each. Projects submitted are prioritized at the national level using criteria that includes; human health and safety, environment protection, public/private partnerships, and public interest.

The Forest Service does not have a current estimate for remediation of all abandoned mine sites on National Forest System lands. However, it is important to note that previously unknown abandoned mines sites are continually being discovered, and that only a small percentage of known sites have clean-up designs and associated costs established.

*Question.* I have been extremely concerned about the Forest Service's slow pace in using the Healthy Forest Restoration Act authorities provided by Congress to increase the efficiency of your hazardous fuels reduction program. I have also raised concerns that you are not using these authorities in California. How many acres in California will the agency treat using HFRA authorities in fiscal year 2007 and fiscal year 2008? What percentage of total fuels treatments will be accomplished using HFRA in fiscal year 2007 and fiscal year 2008? What steps is the agency taking to ensure that these authorities are actually being used?

*Answer.* In fiscal year 2008, not less than 40 percent of program funding will be used on projects that contribute to the goal of improving the condition class on at least 250,000 acres across the Nation by the end of fiscal year 2008 through the use

of Healthy Forest Restoration Act and Healthy Forests Initiative authorities. The Forest Service is committed to using all available authorities to reduce the risk to communities and resources from wildland fire. Healthy Forest Restoration Act authorities are an important set of tools available to land managers.

In fiscal year 2007 the Forest Service and Department of Interior anticipate treating hazardous fuels on over 4 million acres with Federal funding using all available authorities. The Forest Service is expanding use of HFI and HFRA authorities throughout the country with an 88 percent increase in acres treated under the authorities from fiscal year 2005 to fiscal year 2006. To date, the Forest Service has treated over 115,000 acres in fiscal year 2007, more than 6,000 of which are in California. The Pacific Southwest Region has placed increased emphasis on HFRA projects, and continues to work with communities to develop the Community Wild-fire Protection Plans (CWPP) necessary to proceed with HFRA authorities. As more communities implement CWPPs, the Forest Service can expand use of HFRA authorities in California and throughout the country.

In 2006, the Forest Service conducted a review of Healthy Forests and associated authorities including Stewardship Contracting. The review team found widespread agreement among both Forest Service and partners that while useful in many scenarios, HFI and HFRA authorities were not appropriate or feasible in many situations. The agency is proceeding with implementation of many of the recommendations made by the review team. A copy of the review report will be made available to Congress following Departmental approval.

*Question.* Your budget calls for decisions on whether to mobilize a number of preparedness resources, including helicopters, hotshot crews and smokejumpers, to be made at the national rather than the regional level starting in fiscal year 2007?

Who will be in charge of deciding to deploy these resources?

*Answer.* An interagency delegation of authority is being finalized for members of the National Multi-Agency Coordinating Group (NMAC) to implement the national mobilization and prioritization of these resources. NMAC members include representatives from the four DOI bureaus, the Forest Service, and the National Association of State Foresters.

These resources may be deployed locally by the host unit if no higher geographic area or national priority is pending. Deployment at the geographic area level will be determined by the geographic area multi-agency coordinating groups.

*Question.* What is the proposed timeline for nationalizing these resources?

*Answer.* Hotshot crews, smokejumpers, Type 1 helicopters, and a portion of the Agency's Type 2 helicopter fleet are currently managed as national resources. For 2007, our remaining Type 2 helicopters will be converted from local to national resources for the impending fire season. Additional analysis will be required before converting our local Type 3 helicopters to national resources, this analysis will occur prior to the 2008 western fire season.

*Question.* How will you balance local concerns against national needs?

*Answer.* Consistent with our policy of allocating resources on the basis of risk mitigation, control of these resources will transfer to higher levels as the national preparedness level escalates. Priorities for resource deployment will be based on anticipated initial attack requirements, Predictive Services analysis, and decision support tools.

*Question.* The agency will spend \$301 million on fuels treatments in fiscal year 2007—a significant investment in the face of other budget constraints. How does the Forest Service measure the amount of fire risk generated through these fuels treatments?

*Answer.* We do not have a system designed to track fire risk generated, as our programs are aimed at mitigation of fire risk through the reduction of hazardous fuels. Often our restoration and fuel reduction objectives require multiple entries to achieve. There have been cases in which the first treatment puts fuel on the ground that temporarily increases fire risk. That risk is short lived and balanced by the long term benefit of the fuel reduction treatments. To enter a treatment in our accomplishment reporting system, it must meet the definition of hazardous fuel reduction. In 2006, the Forest Service reduced fire risk on approximately 2.5 million acres from management actions with a direct or indirect benefit of fuels reduction.

*Question.* How much funding is proposed in your fiscal year 2008 budget for fuels reduction related to the bark beetle infestation in the San Bernardino National Forest? How much funding is proposed to address infestation and fire risk on adjacent State or private lands?

*Answer.* The fiscal year 2008 allocation to the San Bernardino will depend on the final allocation to Region 5 and reflect consideration of regional priorities. We anticipate that expected funding for the San Bernardino bark beetle infestation will be at or above historical levels.

*Question.* I am concerned that California fuels treatments are at a disadvantage because the region has higher unit costs due to the abundance of wildland-urban interface and other factors. Has the Forest Service examined what factors contribute to higher unit costs in the State? Has the agency taken steps to try to reduce the unit costs for California fuels treatments?

*Answer.* High unit costs within the region are a significant concern for the administration. The region has conducted several region wide assessments of unit costs and visited a forest to conduct a specific unit cost review and develop a strategy for reducing unit costs. A significant part of the cost of activities in the region is the general cost of doing business in California. A typical vegetation mastication contract is over \$500/acre. Typically the California program is greater than 60 percent mechanical treatments. Some of the treatments on the San Bernardino have exceeded \$2,500/acre. The only choice is whether or not to proceed with implementation of the treatment. We will continue to re-examine the program mix, choices of project areas, and opportunities for modification of objectives to reduce contract costs.

*Question.* It is critical that the Forest Service has incentives in place for the agency to fund the highest priority fuels treatments, regardless of unit costs. What role do unit-cost measures play when you are allocating fuels dollars? How does the agency balance cost-effectiveness with other priorities?

*Answer.* For fiscal year 2007, the Forest Service developed the Ecosystem Management Decision Support model, which will assist with establishing national priorities and allocation of funds. This model is under continuing development and enhancement for fiscal year 2008 to incorporate improved data on wildfire potential and consequences of problem fires, particularly the wildland-urban interface. The model will be used in fiscal year 2008 for national- to regional-scale strategic planning, broad ecological assessments, and resource allocation. The model emphasizes areas with the highest potential for problem wildfire, consequences, and greatest opportunity for efficient and effective treatments while meeting multiple objectives. Based upon this analysis, the Forest Service will identify national priorities within the fuels program and focus funding on those priorities, consider performance in risk reduction through systematic risk analysis tools for fire hazard analysis and fuels treatment implementation, and assess project criteria for WUI fuels treatments. Average Regional unit cost comes into effect in allocation of funding.

The objective in the allocation is to distribute funding to the highest priority projects while optimizing accomplishments. In essence, the agency must provide optimal benefits at an efficient and effective level of cost as reflected in a risk-informed decision process. National program allocations and local project selections would attempt to optimize wildfire risk mitigation (i.e., net benefits) over time by choosing projects that provide cost-effective risk reduction. Having a risk-informed approach provides a path forward for both national and local decision-makers that is suitable in a variety of circumstances, including where there exist differing State and local government codes or where there are numerous fire protection alternatives. It also recognizes the ecological benefits associated with wildfires occurring within normal ranges of intensity.

*Question.* How will you improve incentives for local decision-makers to choose higher priority treatments, even when they are more expensive?

*Answer.* Both national and local decision makers seek cost-effective risk reduction. Local decision-makers focus on a balance between high priority, high cost work near communities and lower cost restoration and maintenance treatments that will restore sustainability in the long term. The selection of projects is accomplished in collaboration with local communities, partners and stakeholders and includes balancing values at risk with costs. Decision makers participate as partners in the formulation and execution of community wildfire protection plans (CWPPs) that help to prioritize fuel treatment and restoration activities. These plans describe the common vision between Federal land managers and adjacent communities on how we may work together to meet our objectives on both sides of the property line. Those projects determined with the use of the CWPP become eligible to use streamlined planning protocols made available under the Healthy Forest Restoration Act, with fewer action alternatives to analyze, reducing planning workloads.

*Question.* How much funding does your fiscal year 2008 budget contain to support the activities of the California Fire Safe Councils, and how does this compare to fiscal year 2007 levels? How much funding in your budget will go toward community wildfire protection planning in California in fiscal year 2008?

*Answer.* A portion of the funding to be allocated to the Pacific Southwest Region is available, as the California State Forester deems appropriate, to fund California Fire Safe Councils. In fiscal year 2007 approximately \$1.9 million was made available to the California Fire Safe Councils. There is no set amount established or pro-

grammed for community wildfire protection planning in any of the States. Our program direction will include community wildfire protection planning as a high priority for funding in 2008.

*Question.* On March 10, 2007, the Riverside Press-Enterprise ran a story regarding increased illegal dumping in the San Bernardino National Forest. According to the story, there has been a dramatic increase in the amount of illegal dumping in the forest as fees at public dumps and recycling centers has increased. The story also notes that the problem is no longer limited to dumping household garbage, but rather “trash by the trailer load. Truckloads of old tires. Fifty cans of paint at a time. Assortments of junked refrigerators and recliner chairs, mattresses and TV sets.” The San Bernardino National Forest may be at risk for dumping more because of its large residential population and proximity to urban areas. Have you assessed the situation, and do you have an estimate of how much funding will be required to clean up the forest? How much funding with the Forest Service devote to these clean-up efforts in fiscal year 2007?

*Answer.* The San Bernardino National Forest has not assessed the forest dumping situation. In fiscal year 2007, approximately \$250,000 will be spent on the San Bernardino to address unauthorized and illegal dumping in key areas located in the urban interface and watersheds. Increased funding levels requested in the President’s fiscal year 2008 budget justification for law enforcement will be used to prevent further and future dumping from occurring. Additional officers should help deter and eliminate future dumping. In addition, collaboration with local partners and volunteers will assist the Forest in cleanup efforts.

*Question.* Are there other forests, especially in California, where you have seen significant increases in illegal dumping? What measures is the Forest Service taking to prevent dumping on national forests in California?

*Answer.* This is strictly a reactionary/responsive enforcement action. In the rare cases that we have a “pattern” we have scheduled officers to try to catch the individuals in the act. But that is rare. Prevention requires a prolonged presence. Our limited presence is most often concentrated where people are. Illegal dumping does not usually take place in those locations—that’s why it’s successful. Our best prevention tool is patrol “being in the right place at just the right time”. Officers will look through debris to see if we can find any evidence of ownership, etc, and every once in a great while we’ll find some household mail with an address that allows officers to conduct follow-up contacts.

*Question.* Public Law 109–154, the Public Lands Corps Act, authorizes the Secretary of Agriculture to enter into contracts and cooperative agreements with our Nation’s Service and Conservation Corps for projects that reduce fire risk. What steps has the Forest Service taken to implement this act, and what steps does the agency plan to take in fiscal year 2007 and fiscal year 2008?

*Answer.* The Forest Service has a long-standing and rich history of working with State and local Service and Conservation Corps throughout the Nation. Public Law 109–154 allows the agency to continue this rich tradition and to develop even greater Partnerships.

The Public Land Corps Healthy Forests Restoration Act of 2005 amends the act governing the youth conservation corps laws to include provisions for “priority projects” that meet the purposes of HFRA. Essentially, it allows the FS and DOI to give preference to certain youth and conservation corps to carry out projects that meet the purposes of HFRA.

The FS supports opportunities for qualified youth and conservation corps to further the goals of the Healthy Forests Restoration Act when the corps have the appropriate skills and capabilities to safely complete the projects under the provisions of the Public Land Corps Healthy Forests Restoration Act.

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#### QUESTIONS SUBMITTED BY SENATOR LARRY CRAIG

##### FIRE PREPAREDNESS

*Question.* Your budget proposes to create a new appropriation called Wildland Firefighters. These funds were previously funded within the Preparedness line item of the overall fire budget. When I add what you are proposing for this new appropriation to what remains of the traditional preparedness budget it looks to me like a cut of about \$95 million for overall fire preparedness.

What will be the impact on our fire readiness capability?

*Answer.* The agency will have approximately 10,010 firefighters in fiscal year 2008 as compared to 9,550 firefighters in fiscal year 2006; however other resources will be reduced commensurate with the agency’s transition to Appropriate Manage-

ment Answer. The agency will focus and prioritize resources, such as engines, to the areas where the highest risk exists. The following displays planned resource changes:

Resource	Fiscal years		
	2006 actual	2007 planned	2008 estimated
Firefighters <sup>1</sup> .....	9,550	10,010	10,010
Type I Interagency Hot Shot Crews (20 person) .....	67	67	67
Other Firefighters:			
Smoke Jumpers .....	277	277	190
Prevention Technicians .....	419	399	277
Engines .....	940	950	726
Water Tenders .....	57	63	48
Dozers & Tractor Plow Units .....	144	152	119
Type I, II, and III helicopters for local mobilization .....	80	84	65
Type II helicopters for national mobilization .....	7	7	5
Airtankers .....	18	16	14
Type I helitankers/helicopters .....	15	15	8

<sup>1</sup> Includes IHC crews.

*Question.* Won't this lower the agency's initial attack success rate and lead to more catastrophic fires?

*Answer.* The agency anticipates a 2–5 percent reduction in initial attack success and an increase in acres burned in fiscal year 2008, which will be consistent with our transition to a risk informed performance based fire suppression system.

This strategy will minimize cost and recognize contributions of lower intensity wildfires to healthy forests. Initial attack capability will remain a priority for the agency and as fire activity and risks elevate, existing resources may be supplemented to enhance capability.

*Question.* How does it make sense to cut money for firefighter training and equipment following the worst fire season we have ever had in terms of acres burned?

*Answer.* The Wildland Firefighter Appropriation provides adequate funding to ensure continued firefighter training. In fiscal year 2006 approximately \$30 million was spent on wildland fire training, we anticipate a similar amount in fiscal year 2008. While some large firefighting equipment, such as engines, will be reduced, adequate funding will be provided to ensure field and safety equipment is available for firefighters. Compared to earlier years, the 9.9 million acres burned in 2006 was indeed a large amount but still significantly lower than the numbers of acres burned earlier in the 20th Century, including an average of 35 million acres per year in the 1920s and 38 million acres per year in the 1930s.

#### FOREST PLANNING PROCESS

*Question.* Under the old forest planning rules, the time and expense to complete Forest Plans became incredibly expensive. Plans designed to last for 15 years were taking 6–8 years to complete and many millions of dollars. This Administration streamlined that process and I see that your budget reflects a reduction of \$5 million or roughly 10 percent of the total budget for the program.

Can you tell us what your experience is so far under the new planning rules? For example, how much less are individual plans costing now than before?

*Answer.* The agency has not yet completed an approved plan under the 2005 Planning Rule. In addition the agency's financial management system does not track actual expenditures to the activity level. Thus, even if we had an approved plan under the new rule, it would be difficult to estimate the costs of producing that plan and to compare those costs with those from revisions conducted under the 1982 planning rule. However, anecdotal evidence suggests that the costs of revising a plan under the new rule are lower than those incurred under the 1982 rule.

In addition to having the option of using streamlined NEPA procedures, forest and grassland supervisors have found the 2005 planning rule identifies and encourages the use of much more engaging procedures to involve the public in land management planning. Rather than relying on predominantly a "notice and comment" method for public involvement, the 2005 planning rule improved the planning process by collaboratively involving the public. The public is offered more opportunities to help with existing condition and trend evaluations, developing guidance for land management plans, and developing monitoring programs for the plan. While a "notice and comment" opportunity still exists with the required 90-day comment period

and 30-day objection period, the public has many opportunities to be involved in the planning process prior to these comment/objection periods.

*Question.* Quite a number of Forest Plans have gone beyond their 15 year revision date. Are the new rules helping address this backlog?

*Answer.* Although the 2005 planning rule is expected to reduce the time and cost associated with revising a forest plan, the rule has not been in place long enough to affect the backlog of Land and Resource Management Plan revisions. Implementing the new rule has taken longer than expected because of the need for many units to engage in lengthier transition tasks while changing over to the new rule.

In addition, the new rule has been litigated. The United States District Court for the Northern District of California has enjoined the 2005 planning rule. This will delay some plan revision approvals. The Forest Service has started the rulemaking process to approve a new planning rule.

#### RECREATION BUDGET

*Question.* I see that your budget for the recreation program is decreased by over \$27 million—that's a 10 percent cut. In many of our Western States, recreation is helping to reduce some of the impacts from reduced harvesting on our national forests by providing another means to attract investment and dollars into rural communities. This seems like a large cut for this program.

What impacts will there be on effectively managing recreation facilities, administering special use permits for various private operators, and providing interpretive services for visitors?

*Answer.* The proposed reduction in funds will result in a number of program reductions, including shortened seasons at some developed and dispersed recreation sites; reduced hours for visitor information services with minimal staffing; processing new special use permit applications would be limited; restoration and adaptive reuse of heritage properties for interpretation, recreation, and tourism will occur at very low levels; and a limited number of wilderness rangers will be available to provide visitor information and education. However, recreation resources will continue to be directed towards efforts that maximize program delivery, including strengthening partnerships which are vital to accomplishing stewardship work on the ground. Additionally, the Recreation Site Facility Master Planning process is working to analyze our existing recreation site inventories to identify sites that are most used and most valued by the public, allowing the agency to determine where to prioritize recreation site investments in response to public needs.

#### GRAZING PERMITS

*Question.* There is a real problem with a backlog of expiring grazing permits that need to be renewed. Congress put a schedule in place for the renewal of these permits in the 1995 Rescissions Act. The schedule requires NEPA to be completed on all allotments by 2010. Your budget justification says that accomplishments from 1995 through 2003 were well below scheduled levels. It also indicates that significant amounts of work remain to finish the NEPA reviews by the deadline.

In the fiscal year 2005 Interior appropriations bill, the Committee provided additional funds to address the backlog of allotments and also provided a Categorical Exclusion from NEPA for grazing allotments that met certain conditions. There was a cap of 900 allotments on this authority.

How many allotment decisions have been made using this authority so far?

*Answer.* The Rescissions Act schedule identifies 6,886 allotments that need NEPA based analysis and decisions by the end of CY 2010. At the end of fiscal year 2006, 4,616 allotments had NEPA completed and management decisions made. To date, approximately 250 allotment decisions have been completed using the Categorical Exclusion (CE) authority provided in the fiscal year 2005 Interior and Related Agencies Appropriations Act. Another 250 CEs are planned for fiscal year 2007.

*Question.* Is this authority helping to speed up the process?

*Answer.* Yes. The CE authority helped the Forest Service complete more allotments on the Rescissions Act schedule than without it. On those allotments that meet the established criteria, the Forest Service was able to reduce the time and effort necessary to complete the NEPA process. In addition, the CE authority has allowed the Forest Service to focus funding and staffing on those allotments with more complex management issues.

*Question.* Does this cap need to be raised so you can get more allotments processed that meet the standard for use of this authority?

*Answer.* No. The 900 allotment cap appears to be sufficient for the number of allotments that meet the established criteria. However, an extension of the authority

to September 30, 2008, would be very useful so that the remaining 400 CEs would continue to be available should they be needed.

*Question.* Will you be able to complete the NEPA on these allotments consistent with the Rescissions Act schedule?

*Answer.* The Forest Service continues to place a strong emphasis on allotment NEPA in order to complete the Rescissions Act schedule. It is our intention to complete the NEPA by the scheduled time frame. However, from fiscal year 2007 through fiscal year 2010 the agency will need to further accelerate the process to complete NEPA on an average of over 500 allotments per year in order to meet the Rescissions Act schedule.

#### TIMBER BUDGET

*Question.* For 2007, the timber budget was increased by roughly \$33 million. The increase was to fully fund the implementation of the timber sales piece of the Northwest Forest Plan. Your fiscal year 2008 budget retains this level of funding for the Plan.

I can acknowledge that promises were not kept to the timber industry in the Northwest Forest Plan, but I wonder whether such a large increase primarily aimed at 2 regions of the Forest Service covering Washington and Oregon is the most efficient use of timber dollars.

Aren't there still major litigation problems with timber sales in Oregon and Washington?

*Answer.* The agency does not expect that litigation will significantly affect the timber sale program under the Northwest Forest Plan, and the volume needed to meet the Settlement Agreement. In fact, there is a good deal of support for thinning in late successional reserves, where much of the treatments need to be conducted.

*Question.* Could these funds be allocated in a fashion where more Regions could benefit and would have a better chance to maximize actual harvest volumes?

*Answer.* The administration has made a commitment to fully fund the Northwest Forest Plan, and the proposed Forest Products allocations to Regions 5 and 6 are necessary to achieve that commitment. The unit costs to produce timber volume under the Northwest Forest Plan are some of the lowest in the agency, so shifting funds to other Regions would likely reduce our capability to produce timber.

#### CATEGORICAL EXCLUSION

*Question.* In October of 2005, a Federal District court in the *Earth Island Institute v. Ruthenbeck* case held that the Forest Service had to provide notice, comment, and appeal on projects implemented through the use of Categorical Exclusions. This judicially created requirement regarding CE's applies to no other agency in the Federal Government.

Last year, the Chief testified before this subcommittee that this case delayed or canceled 723 fuels reduction projects affecting over 1 million acres. What is the status of this litigation?

*Answer.* Injunctions issued in *Earth Island Institute v. Ruthenbeck* (E.D. Cal.) and *Wilderness Society v. Rey* (D. Mont.) remain in effect, as do the Chief's instruction letters issued after each ruling.

—Categorically excluded activities listed by the court (timber sales and 10 other types of activities) are subject to notice, comment and appeal; and

—Eligibility to appeal is to be determined under the 1993 version of 36 C.F.R. 215.11(a)—not 36 C.F.R. 215.13(a)(2005).

A brief status report on the three nationwide challenges to the project appeal regulations follows:

##### *Earth Island Institute v. Ruthenbeck*

The District Court's injunctive order remains in effect. The Ninth Circuit declared eight claims were not ripe for judicial review, but affirmed the District Court's application of the Appeal Reform Act to certain categorical exclusions (CE). The agency petitioned for a rehearing with a suggestion for rehearing en banc seeking reversal of the adverse portion of the ruling. The petition was denied by the Ninth Circuit June 8, 2007.

##### *Wilderness Society v. Rey*

The District Court's injunctive order remains in effect. An appeal was filed, but briefing in this case was stayed pending action by the Ninth Circuit on the Forest Service's petition for rehearing in *Earth Island v. Ruthenbeck*. It is expected that briefing will now move forward.

*Wildlaw v. USDA*

No injunction was issued. All Appeal Reform Act issues were dismissed as unripe facial challenges. The Forest Service was affirmed on NEPA claims. The deadline for filing notice of appeal was March 27, 2007.

*Question.* How many projects are being affected by this ruling now?

*Answer.* We do not have a current survey of projects being affected.

*Question.* Is there anything you can do administratively to address this situation or is a legislative fix needed so that the Forest Service is treated like every other agency when it comes to the use of categorical exclusions?

*Answer.* The courts' rulings relate to the Appeal Reform Act and the types of activities subject to administrative appeal under the act. The agency clarified through its 2005 appeal regulations that CEs are not subject to appeal under the Act and thus do not require notice, comment and opportunity for appeal. However, the courts have rejected that interpretation. The courts' rulings require notice, comment and opportunity for appeal of several types of categorically excluded activities. This undermines the purpose of CEs established through the National Environmental Policy Act implementing regulations—to reduce documentation requirements for project analysis and decision-making for projects that typically have no significant effects.

There is no further administrative action the agency can take to address the effects of these court rulings.

## WILDLAND FIRE OUTLOOK FOR THIS YEAR

*Question.* A number of fires have been in the news already this year, particularly in the chairman's home State. Drought is persisting in much of Interior West. I know that it is very early for predictions but it concerns me that if this year's fire season is as bad as last year's your agency could be \$750 million short of what it needs to fight fires and will be forced to borrow massive amounts of money from other programs.

When GAO looked at this fire borrowing problem recently, it concluded that "the borrowing of funds caused numerous project delays and cancellations, strained relationships with State and local agency partners and disrupted program management efforts. In some cases, these cancellations and delays increased costs and the time needed to complete the projects."

Can you give us some sense of how severe you expect this fire season to be based on what you know now?

*Answer.* Most of the eastern, central, and northwestern United States has a normal outlook for wildland fire potential. A portion of the Southwest is predicted to have a below-normal wildland fire season. This area includes northeastern New Mexico, and small parts of southeastern Colorado, western Oklahoma, and northern Texas, where it borders New Mexico. Wildland fire potential is expected to be higher than normal across much of the Southwest, California, portions of the Great Basin, the Northern Rockies, a small portion of the Northwest, Alaska, and the Southeast. The amount of precipitation many areas receive in the early summer will determine the severity of the fire season.

Predictive Services' May through August outlook is available at: [http://www.nifc.gov/nicc/predictive/outlooks/season\\_outlook.pdf](http://www.nifc.gov/nicc/predictive/outlooks/season_outlook.pdf)

*Question.* The supplemental appropriations bill that we are considering on the floor this week has \$400 million for the Forest Service for firefighting. Is it your sense that these funds may very well be needed by the agency to pay for firefighting and avoid the massive borrowing that has occurred in recent years?

*Answer.* Current funding is sufficient for foreseeable suppression needs.

## PERSONNEL CUTBACKS

*Question.* As I mentioned in my opening statement, if we accept this budget as proposed, there will be a cut of over 2,000 Forest Service employees. That's over 6 percent of the work force. I understand the need for belt tightening given the budget climate that we're in, but it strikes me as a little odd that at the Department of the Interior, other land management agencies like the BLM and the Fish and Wildlife Service will face virtually no cutbacks in personnel. The Park Service is slated to go up by over 2,000 employees.

I believe the important role that the Forest Service plays in rural areas that rely on grazing, recreation, and timber could be harmed by such cutbacks. I'm also concerned about how we address the massive forest health problems that we are facing with fewer boots on the ground.

Can you explain this difference in treatment between your budget and those of the land management agencies at the Department of the Interior?

Answer. The priorities reflected in the requests for the Department of the Interior bureaus and the Forest Service with regard to proposed staffing levels for fiscal year 2008 are based on the President's Budget request.

*Question.* How will these cutbacks affect the agency's mission?

Answer. We know that our personnel costs are increasing. We are taking action to respond to this. We are focusing on reducing operating costs at the WO/RO/Northeastern Area, which may result in a reduction of personnel at these levels of the organization. Taking this action will enable us to invest more resources toward mission delivery through enhanced services to the public by agency field units.

*Question.* Are there really that many efficiencies that can be achieved at the Forest Service that would warrant such a reduction of employees?

Answer. In our best judgment, the answer is yes. It is critical to the Forest Service to reduce costs at the WO/RO/Northeastern Area so to provide opportunities to enhance program delivery and services on the ground to benefit the public.

#### WILDERNESS MANAGEMENT

*Question.* I have a question regarding the agency's position on recommended wilderness management. It seems that different Regions treat recommended wilderness differently and as you know I have two forest service Regions in my State.

NFS: Does the agency believe it is their job to designate wilderness?

Answer. No, the agency studies areas to determine whether they have wilderness characteristics and then determines their eligibility and decides whether to recommend their designation to Congress. These analyses occur during the forest planning process and the forest plans may then contain a recommendation for wilderness designation. However, only Congress has the power to designate wilderness areas.

*Question.* If not, would the agency attempt to restrict historical mechanized access to recommended wilderness areas even though it is congress' job to designate wilderness?

Answer. Once an area has been recommended to Congress for wilderness designation, the agency has the responsibility to maintain its wilderness character until Congress has had the opportunity to decide whether to designate it. Maintaining its wilderness character while an area is being considered by Congress may, in some cases, mean limiting the types of use an area receives, including mechanized use.

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#### QUESTIONS SUBMITTED BY SENATOR WAYNE ALLARD

*Question.* I believe that Forest Service staff on-the-ground in Colorado are working hard, and we appreciate the funding that was shuffled last month, but the final fiscal year 2007 timber and fuels program funding is still less than the national forests in Colorado need to address the bark beetle epidemics.

Are you willing to work with me on some meaningful strategies to address the bark beetle epidemic and the risk of catastrophic fire to see if there isn't a way to get more funding to the national forests in Colorado this year, and in future years, until we've dealt with the problems to the best of our ability?

Answer. Yes, we are interested in working with you Senator as we have in the past, on meaningful strategies to address bark beetles.

*Question.* Is it true that "fully funding the Northwest Forest Plan", as proposed in the President's budget, will require reductions in timber and fuels funding to Colorado's national forests?

Answer. To the extent possible we will try to maintain level timber and fuels funding from for the other regions in fiscal year 2008.

*Question.* I strongly support spending money proactively on hazardous fuels projects if it will reduce the risk of forest fires and the associated risks to watersheds, communities, and residents. However, I'm concerned that some of the acres treated aren't the highest priority acres. From your reviews of the hazardous fuels program, is there room to improve what's being done on-the-ground, and how are you working toward that objective?

Answer. The agency is continually looking to improve efficiency and effectiveness of program delivery. Based on preliminary results from the 2006 Healthy Forests Review, the agency feels that greater efficiency will be gained through increased use of Stewardship Contracting authorities and greater coordination with communities through the Community Wildfire Protection Plan process. The Forest Service anticipates that we will be in better position to address high priority projects in an efficient manner through the use of these two initiatives and other relevant authorities. The agency works to balance the high costs of some projects through lower cost

maintenance treatments to both protect earlier investments and meet National resource and community protection goals.

For fiscal year 2007, the Forest Service developed the Ecosystem Management Decision Support model to assist with establishing national priorities and allocation of funds. This model is under continuing development and enhancement for fiscal year 2008 to incorporate improved data on wildfire potential and consequences of problem fires, particularly the wildland-urban interface. The model will be used in fiscal year 2008 for national- to regional-scale strategic planning, broad ecological assessments, and resource allocation. The model emphasizes areas with the highest potential for problem wildfire, consequences, and greatest opportunity for efficient and effective treatments while meeting multiple objectives. Based upon this analysis, the Forest Service will identify national priorities within the fuels program and focus funding on those priorities, consider performance in risk reduction through systematic risk analysis tools for fire hazard analysis and fuels treatment implementation, and assess project criteria for WUI fuels treatments.

The objective in the allocation is to distribute funding to the highest priority projects while optimizing accomplishments. In essence, the agency must provide optimal benefits at an efficient and effective level of cost as reflected in a risk-informed decision process. National program allocations and local project selections would attempt to optimize wildfire risk mitigation (i.e., net benefits) over time by choosing projects that provide cost-effective risk reduction. Having a risk-informed approach provides a path forward for both national and local decision-makers that is suitable in a variety of circumstances, including where there exist differing State and local government codes or where there are numerous fire protection alternatives. It also recognizes the ecological benefits associated with wildfires occurring within normal ranges of intensity.

*Question.* In addition, how successful has the Forest Service been at integrating multiple budget line items, for instance hazardous fuels, forest health, and timber sales funding, into individual projects and getting “more bang for your buck?”

*Answer.* Integration of budget line items is occurring at all levels in the organization. The Washington Office Directors of the vegetation treatment programs (Fire & Aviation Management, Forest Management, Range Management, Forest Health Protection, Wildlife Management, etc.) are working at the National level to enhance coordination across program areas and foster greater integration of allocations to the Regional level. For fiscal year 2008, the Directors developed new allocation methodologies that incorporate integrated objectives.

Hazardous fuels, forest health, wildlife and forest management coordinate the budget line item allocations to each region. In addition, the construction and landline location line items are coordinated to support these vegetation treatments. This exercise delivers a total package of vegetation treatments for regions to build integrated programs.

Integration of projects has been increasing every year. The ability to use multiple funding sources to achieve a total vegetation treatment has worked well with recent new authorities, such as stewardship contracting and the Healthy Forests Restoration Act.

Examples of integrated projects at the forest level include restoration of native species, provisions for T&E habitat, catastrophic event recovery, and suppression of insect epidemics. As part of the long-term recovery efforts implemented after Hurricanes Katrina and Rita in 2005, the agency integrated and aligned a wide range of programs (hazardous fuels, forest management, wildlife, and forest health) and tools (salvage timber sales, mechanical fuels treatments, stewardship contracts, prescribed burns, and wildlife habitat treatments) to achieve restoration of the native longleaf pine ecosystem, restore habitat for threatened and endangered species such as the Red-cockaded Woodpecker and Gopher Tortoise, reduced insect and disease risks, and protected adjacent communities.

*Question.* The Forest Service is in the process of considering forest plan amendments that would determine how Canadian Lynx habitat is managed. As I understand it, in order to manage the Lynx habitat, precommercial thinning in critical habitat areas will be greatly reduced. Is this the case? How will the proposed amendments affect long-term forest health and productivity?

*Answer.* The following information is specific to the Northern Rockies Lynx Amendment (NRLA) area, which includes several National Forests in Montana, Idaho and Wyoming, and one Forest in Utah. A final decision on these amendments was made on March 23, 2007. The vegetation management standards in the amendment do not apply to fuel treatments in the Wildland Urban Interface as defined by the Healthy Forest Restoration Act. Precommercial thinning within mapped lynx habitat (areas capable of supporting snowshoe hares) could occur on a total of about 135,000 acres over the next decade. There are an additional 180,890 acres per dec-

ade available for precommercial thinning outside of lynx habitat in the NRLA area. A total of 314,870 acres are now available for thinning each decade. The historic average precommercial thinning within the NRLA area has been 193,530 acres per decade. Precommercial thinning may also be conducted for essential restoration activities for aspen, western white pine, and whitebark pine. Precommercial thinning may also be permitted elsewhere if new information indicates that long-term benefits exceed short-term adverse effects.

The following information is specific to the Southern Rockies Lynx Amendment (SRLA) area, which includes several National Forests in Colorado and Wyoming. Public comments on the Draft Environmental Impact Statement for these amendments are being reviewed and considered. A final decision on these amendments is expected this fall.

Effects of the amendments on forest health are difficult to quantify as many factors and values are involved, including very diverse forest plan management goals and objectives. Forest health and productivity for Canada lynx will be increased. Much management flexibility remains during the design of individual projects for land managers to respond to insect and disease outbreaks with silvicultural treatments, should that be desirable and feasible.

*Question.* I am concerned that the multiple-use philosophy may be falling by the way-side in our National Forests. I understand that the Boulder Ranger District is in the process of holding public input sessions on limiting campfires, overnight camping, and shooting on parts of the forest. The community believes that the District is essentially hoping to close the forest off in certain areas to these activities. Similar closures have taken place in other forests in Colorado. Can you tell me why the Forest Service has moved toward limiting multiple use?

*Answer.* Operating and managing recreation opportunities on National Forest System lands is authorized under the Organic Act of 1897 and has been further defined under many subsequent acts, such as the Multiple Use Sustained-Yield Act of 1960. The Forest Service is currently working under these authorities to identify a variety of sustainable uses to determine conditions which indicate a potential purpose and need for future action. This charge is particularly challenging on highly fragmented lands with high levels of recreation uses, such as the Arapaho Roosevelt National Forest (one of the highest in the Nation). The Boulder Ranger District, in particular, is reviewing its past implementation of dispersed camping, campfires and recreational shooting as these are the uses that cause the most conflict between users and adjacent private homeowners, and between visitors expecting different settings and experiences. Involvement of the local public, surrounding communities and each national forest's recreation visitors will continue to remain a critical and essential component of this process to respond to public needs and ensure that a variety of multiple uses are available to the American people on our national forests, while ensuring sustainable management of the land, protection of private property and the safety of those visiting.

*Question.* I ask this question in light of the fact that my office has received several phone calls from constituents who claim that they have had agreements for years—sometimes decades—and are abruptly being told that their access road is closing and they will not have access to their property. What process does the Forest Service use to close a road and is this process dictated by agency policy or statute?

*Answer.* Current authorities provided through each year's appropriations act allows for the use of road maintenance funds for decommissioning roads, including unauthorized roads not part of the transportation system, and that no funds be expended to decommission any system road until notice and an opportunity for public comment has been provided on each decommissioning project. Changes to the existing use (open road to closed road or vice versa) on Forest Service system roads also require notice and an opportunity for public comment. In 2001, the Forest Service implemented the Road Analysis Process (RAP) to utilize a science-based method of determining the minimum road system needed for managing lands under Forest Service jurisdiction. Implementation of this policy utilizes the input from interested citizens, other State and Federal agencies and tribal governments. The Forest Service is also implementing the Travel Management Rule which will determine the portion of the Forest Service road system that will be available for motorized use. Public involvement is being utilized for the implementation of this regulation.

*Question.* After passage of the Ditch Bill the agency set a goal to have all Ditch Bill easements issued within four years. It is my understanding that, with the level of funding requested this year that goal might not be met. Can you please tell me if the agency is still on track to meet that goal? If not, what can be done to ensure that the goal is met?

*Answer.* In June 2004, the Forest Service issued direction for the consistent and timely processing of the remaining 1,800 Ditch Bill applications by the end of fiscal

year 2008. The agency expects to complete 1,200 (two-thirds) of these cases by October 2008. The processing of the remaining Ditch Bill applications is a high priority. Although completion of the remaining applications is very near, many of the remaining Ditch Bill cases are complex, involving Endangered Species Act consultations and the need for additional information from applicants. Often, these complex situations require more time and attention to resolve.

*Question.* With regard to the aspen die-off happening around the State of Colorado. We have several sawmills in Colorado that depend heavily on aspen sales from the national forests; can you increase the volume of aspen sales to regenerate young, thrifty aspen stands? Please tell me what—if anything—the Forest Service is doing to determine the reasons for these die-offs and what can be done about it.

*Answer.* The Region 2 Forest Health Management Staff has initiated a study, in cooperation with the San Juan and Grand Mesa-Uncompahgre-Gunnison National Forests and the Rocky Mountain Research Station, to better understand the causes and extent of recent accelerated mortality of aspen. Results of the study will include management recommendations. In addition, the Region 2 Forest Health Management Staff and cooperators are assessing the expanse of the problem across Colorado, and in adjoining States. We know from the 2006 aerial survey data that over 140,000 acres of recent aspen mortality were documented in the State of Colorado alone.

Our current plan for aspen treatments ranges from 500–1,000 acres each year. This generates 10,000–20,000 CCF (5–10 million board feet) of aspen sawlogs and other products.

*Question.* Can anything be done to mitigate these losses? Do you need additional authorities to take action?

*Answer.* Regeneration of aspen is key. Our observations indicate that some aspen stands are regenerating beneath a recently dead overstory, other aspen stands are not regenerating. One of the aspects of the study is to determine the condition of root systems. If the aspen root system is dead, no amount of prescribed burning or harvest will be successful in regenerating the aspen. The mortality trigger was likely drought. With recent years of increased moisture, it has been hypothesized that the stands/clones will recover. However, stands already seriously impacted by disease cankers, wood borers and aspen bark beetles will continue to decline.

At this time we do not need additional authorities to take action.

I believe that Forest Service staff on-the-ground in Colorado are working hard, and we appreciate the funding that was shuffled last month, but the final fiscal year 2007 timber and fuels program funding is still less than the national forests in Colorado need to address the bark beetle epidemics.

*Question.* Please provide me with the percentage and dollar amounts of the total funding that was appropriated for the purposes of Fire Preparedness and Fire Suppression that actually “reach the ground?” By “reach the ground” I mean the amount that is actually used at the lowest level to fund temporary hires, permanent positions, purchase equipment, let contracts, etc to deal with the upcoming fire season.

*Answer.*

*Fire Preparedness.*—The Forest Service has \$665 million of Appropriated Fire Preparedness funds for fiscal year 2007. Sixty percent or \$397 million will be available to fund firefighting capability and operations including temporary hires, permanent positions, purchase equipment, dispatchers, and contracting resources.

*Fire Suppression.*—The Forest Service has \$741 million of Appropriated Fire Suppression funds for fiscal year 2007. Seventy one percent or \$523 million are available to fund temporary hires, permanent positions, purchase equipment, contracts, etc. for the upcoming fire season. The funds are available on an as needed basis.

*Question.* Please provide nation-wide information, as well as numbers specifically relating to my home State of Colorado.

*Answer.*

*Fire Preparedness.*—The Forest Service has \$665 million of Appropriated Fire Preparedness funds for fiscal year 2007.

Within the State of Colorado, the Forest Service will spend approximately \$13.7 million on Preparedness capability and operations.

*Fire Suppression.*—The Forest Service has \$741 million of Appropriated Fire Suppression funds for fiscal year 2007.

Through mid June 2007 the Forest Service has expended approximately \$215,000 of Fire Suppression funds in Colorado.

CONCLUSION OF HEARINGS

Senator FEINSTEIN. Thank you all very much. The subcommittee will stand in recess subject to the call of the Chair.

[Whereupon, at 11:13 a.m., Tuesday, May 22, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]