

PUBLIC LANDS AND FORESTS LEGISLATION

HEARING
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

S. 1024

S. 1090

S. 1144

S. 1149

S. 1344

AUGUST 3, 2011



Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE

72-433 PDF

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
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PUBLIC LANDS AND FORESTS LEGISLATION

WEDNESDAY, AUGUST 3, 2011

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:37 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Ron Wyden presiding.

OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. The subcommittee will come to order.

This afternoon the Subcommittee on Public Lands and Forests will receive testimony on five bills addressing issues under the jurisdiction of the Bureau of Land Management and the Forest Service. The bills on today's agenda include S. 1024, designating the Organ Mountains and other public lands in New Mexico as wilderness; S. 1090, designating certain lands in the Cherokee National Forest in Tennessee as wilderness; S. 1144, to amend the Soda Ash Royalty Reduction Act of 2006 to extend the reduced royalty rate for soda ash; S. 1149, to expand geothermal production; and S. 1344, to direct the Secretary of Agriculture to take immediate action to recover ecologically and economically from a catastrophic wildfire in Arizona.

The bills on today's agenda cover a variety of issues and involve different states across the Nation. However, they share a common trait, in that each of these bills is extremely important to the states that are covered by the legislation.

I know the two wilderness bills, for example, are the result of many years of work by the Senate sponsors and folks in the local communities.

When this hearing was first announced, the Senate was scheduled to be in session today. However, since the Senate is now adjourned, several of my colleagues have left Washington to return home, so this hearing will perhaps be a little bit more abbreviated than most. We intend to include all of the written statements in the record.

I'm pleased that we're joined today by heads of the two agencies involved with the legislation. I'd like to welcome BLM Director Bob Abbey, and Forest Service Chief Tom Tidwell, who will give the Obama administration's views on all of the bills.

The subcommittee has also invited Edward T. Flynn to testify on S. 1140, the Soda Ash Competition Act. Mr. Flynn is the President

of FMC Wyoming Corporation, a subsidiary of FMC Corporation. Mr. Flynn is also the General Manager of Alkali Chemicals Divisions for FMC Corporation and has held this position since 2002. He's currently Chairman and a Board member of the Board of Directors for the American National Soda Ash Corporation, and is also Secretary-Treasurer and a member of the Board of Directors for the Industrial Minerals Association of North America.

The subcommittee has also invited Mr. Scott Nichols to testify on S. 1149, the Geothermal Production Expansion Act of 2011. Mr. Nichols is Manager for Lands and Permitting at a major geothermal energy company, U.S. Geothermal, located in Boise, Idaho. Before coming to U.S. Geothermal, he was the Environmental Service Manager for Brown and Caldwell, an environmental services firm in Boise, and served for 12 years before that with the Idaho Department of Lands.

I'd just like to take a minute to discuss two of the bills—the Soda Ash bill and the Geothermal bill—that are especially important in my part of the country. Both of these bills have bipartisan support. Senator Risch and Senator Crapo are co-support—cosponsors of the Geothermal bill, along with my colleague from Oregon, Senator Merkley. Senator Barrasso, Senator Enzi and Senator Cochran are cosponsors of the Soda Ash bill, along, again, with Senator Merkley.

Both of these bills are aimed at the development of resources on public lands. My goal for both of these bills is to strike the proper balance between developing public resources to provide clean energy and jobs, while ensuring that the interests of our taxpayers are protected.

The Geothermal bill would expand existing authority that the Secretary of the Interior has under the Geothermal Steam Act to issue non-competitive leases for geothermal development. The reason for this is to allow a geothermal project which is already under lease to expand the boundaries of its project so that it can fully develop the geothermal energy resource that it has discovered. This will increase the amount of renewable energy that can be produced from the project and the amount of royalties that would be paid to the Treasury.

The bill includes specific provisions to ensure that our government receives fair-market value for these adjacent leases and receiving annual rental payments equal to those that would be paid for competitive leases.

The legislation also has the support of the Geothermal Energy Association, and I ask unanimous consent that a letter* from the Association be made part of the record.

The Soda Ash Bill would continue a policy put in place by this committee and the Congress in 2006 to provide a reduced Federal royalty for soda ash that's produced on public lands. The reason for the policy, then, and the reason for continuing it now, is that the soda ash market is an international market, and some of our international competitors are trying to game this market.

At the time Congress acted in 2006, China had adopted a policy of providing a rebate on its value-added tax to Chinese exporters

*See Appendix II.

of its synthetic substitute for soda ash. Although China abandoned this practice in 2007, it resumed the rebates in April 2009 and has continued them to this day. Without objection, two bipartisan letters* sent by members of the House and Senate in 2009 and 2011, including myself and Senator Barrasso, who serves on this committee, to the U.S. Trade Representative and the Secretary of Commerce calling on them to raise this trade abuse with the Chinese government, will be made a part of the record.

The legislation is also supported by the Glass Packaging Institute, and, without objection, a letter* from the Institute in support of the bill will also be made part of the record.

The current royalty rate authorization expires in October. It was my hope that the Congress would have the benefit of an economic analysis of the benefits of keeping American soda ash production competitive. It's my understanding that the Interior Department is still working on this report, which was required by the original 2006 legislation for this purpose.

I look forward to the Department's testimony on this legislation, but the time is short for taking action to make sure that hundreds of millions of dollars in U.S. soda ash exports, and the jobs they provide, don't fall victim to unfair foreign trade practices because our Government wasn't able to act.

Finally, I want to raise one last concern of great importance for my State, and it involves Director Abbey, who will be here today. I have learned of some extremely serious errors that were committed by the Bureau of Land Management in estimating the 2011 county payment for the ONC Counties. An incorrect level of funding was used to calculate these payments originally, and as a result, counties in my home State will be receiving some \$11.6 million less in 2011 than they had planned on under prior estimates by the Bureau of Land Management.

To make matters worse, when the Bureau of Land Management recognized this error in March of this year, they failed to notify the congressional delegation or the counties about this mistake. In fact, my office has yet to receive the corrected data, or a response to a letter that I have sent to the agency, to Mr. Abbey, on this matter. So, we will have some questions on this matter after Director Abbey is here.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA,
ON S. 1344

Mr. Chairman, I'm pleased to join my colleague, Senator Jon Kyl, as a cosponsor to S. 1344, legislation that provides for the timely removal of post-wildfire dead and drying trees in northern Arizona. This bill is extraordinarily important to my state in terms of job creation, public safety and wildfire prevention.

As you know, Arizona experienced its largest wildfire in state history this summer with the 538,000-acre Wallow Fire. Left standing are many millions of large ponderosa pine trees that no longer resemble their picturesque appearance nor serve their former ecological purpose but instead pose a safety hazard to roads, private property and utility lines. These trees must be removed quickly lest we encourage the considerable risks of falling trees, potential insect infestations, or reburns.

I commend the Forest Service for responding to the Wallow Fire burn area with plans to conduct some tree removal under their existing categorical exclusion authority. Unfortunately, the reality is the Wallow Fire area is so vast that many of these dead trees will remain a public danger without a tailored policy for conducting meaningful tree removal operations. This legislation establishes a procedure for re-

moving these dead trees in partnership with forest contractors that is both mindful of environment priorities and economic conditions. The bill would also require that a portion of the tree removal receipts be returned to offset the costs of future thinning projects. Not only is this bill desperately needed for the safety of communities in northern Arizona, it is estimated the tree removal projects that would result from this legislation could create hundreds of local jobs. This bill represents a sensible approach to federal land management policy that I'm proud to support.

Mr. Chairman, this legislation can help address a federal problem in ways that will benefit both local communities and the Apache-Sitgreaves National Forest. However, time is of the essence because every day that passes means a growing mass of dying trees will only compound the devastation caused by one of the worst natural disasters in Arizona history.

I urge the Committee to quickly pass this legislation.

Senator WYDEN. I'm very pleased that Senator Risch, my friend and colleague from Idaho is here, and also Senator Kyl, who we will greet momentarily. But, let's hear from Senator Risch as this time.

Senator RISCH. Mr. Chairman, I'd like a statement from Senator Barrasso regarding this hearing be placed in the record, please.

Senator WYDEN. Without objection. So ordered.

[The information referred to follows:]

PREPARED STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM WYOMING

I want to thank the Chairman for scheduling this hearing today.

Let me begin by welcoming Edward Flynn. Mr. Flynn is President of FMC Wyoming Corporation. FMC is the largest soda ash producer in Wyoming.

FMC recently announced it was reopening its Granger soda ash production facility in Wyoming. This means increased production and more American jobs.

The soda ash industry supports thousands of jobs in Wyoming. With unemployment at 9.2 percent, promoting job growth is a top priority. We can create jobs by reducing Washington red-tape, simplifying the tax code, and keeping royalty rates low. These steps will help American companies compete.

I want to thank Senator Wyden for his leadership on this issue. I am an original cosponsor of Senator Wyden's Soda Ash Competition Act. The bill extends the existing royalty rate on soda ash. The current royalty rate has helped American soda ash producers compete with China. Keeping the current royalty rate is important for job growth and export growth.

The President has announced a goal of doubling U.S. exports. Soda ash production can help achieve that goal. The Soda Ash Competition Act provides a straightforward solution for increasing American exports.

The current royalty rate was set by a 2006 law championed by my predecessor, Senator Craig Thomas. The law also requires the Interior Department to analyze the impact of the reduced royalty rate. The report is due in October 2011.

Senator Wyden and I—along with three other Senators—sent a letter in May 2010 requesting the Department expedite the study. The report is still not complete.

It is important for Congress to have an opportunity to review this study before the royalties are changed. The Department should delay any increase in royalties until Congress can evaluate the impact on jobs.

I am also interested in several of the other bills included in this hearing. I see two wilderness bills that interest me because one reflects the exact recommendations from the current forest plan and one does not.

S. 1090—Senator Lamar Alexander's bill designates certain public land in the Cherokee National Forest as Wilderness. S. 1024—Senator Bingaman's bill to designate the Organ Mountains and other public land as components of the National Wilderness Preservation System and the National Landscape Conservation System.

Senator Alexander's bill adheres to the recommendations from the current forest plan for the Cherokee National Forest. While Senator Bingaman's bill goes beyond what was recommended in the land management plan produced by the Bureau of Land Management.

I have one other concern that needs explanation before I will be comfortable supporting this bill at a business meeting. That is the relative distance between the proposed Wilderness boundary and the Mexican border.

Several bills are recommending the elimination of Wilderness and other set-asides that might encumber Border Patrol activities within 100 miles of the border. I want

to make sure people who have been border patrol agents and are border patrol agents give us their best advice before I will be comfortable with the boundaries proposed in this bill.

Mr. Chairman, thank you again for scheduling this hearing.

Senator RISCHE. I yield back my time, and let's proceed.

Senator WYDEN. All right.

Very pleased to see Senator Kyl.

Senator Kyl and I have worked together often on forestry issues. We've served together on the Senate Finance Committee.

Senator Kyl, we welcome you. Please make whatever remarks you wish this afternoon, and we'll make the prepared remarks a part of the record in their entirety.

STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA

Senator KYL. I appreciate that. Thank you, Mr. Chairman, and Senator Risch.

Folks should know that there are still some hardworking Senators here in Washington even though the Senate is no longer in session. As you point out, some of the matters before you are truly emergency matters in time.

Such is the case with respect to the legislation that Senator McCain and I have introduced—S. 1344, the Arizona Wallow Fire Recovery and Monitoring Act.

When I was last before the committee, the fire was still raging in eastern Arizona. It had just blown through the small community in which I have a cabin, destroying about two-thirds of the cabins on the road, just barely missing mine and my two neighbors'. We went up over 4th of July, put up sandbags all over the community for people that couldn't help themselves and, of course, around our own cabins. Because, with the mountain right behind us totally denuded of any vegetation now, the ash and mud, with the summer rains, are beginning to come down the mountain and threaten the communities. Recovery is a huge and immediate problem right now.

Fortunately, the Forest Service and their BAER Teams, have jumped to the effort, spreading a lot of seed and straw, and doing whatever else they can do. I'm sure Chief Tidwell will have more to say about that in a moment. But, money is short.

The fire cost over \$100 million to fight, and the estimates are that the recovery can be twice that much. Our bill addresses that, and it addresses two aspects of this huge fire.

This fire, incidentally, in terms of the size, was over 538,000 acres, which is over 841 square miles. I think that's about as big as the State of Rhode Island. Because of the size of this fire, the tools that the Forest Service would usually employ, for example, to remove dead and dying trees that pose a threat to people and to communities, to deal with the removal of trees and watersheds and so on; and sometimes, even in a broader area, try to salvage whatever timber is salvageable. Those tools are simply inadequate to the task. They've never, I think, had a fire this size for salvaging over 200,000 acres, and the need to restore that area, with zero funds in the budget.

So, our bill addresses this in two ways, without taking away any of the existing authorities that the Forest Service has and is al-

ready beginning to employ. For example, trying to remove as many of the trees along roadways as possible under the categorical exclusions permitted by existing law.

In addition to that, this legislation would provide some additional authorities for the Forest Service to move forward with the kind of environmental review that would be appropriate under these circumstances. It requires a comprehensive hazard tree and commercial timber evaluation, which the Forest Service, and my conversation with Chief Tidwell yesterday, is already commencing to prepare. It simplifies the National Environmental Policy Act compliance by limiting the alternatives to be analyzed, and specifying that an environmental assessment must be completed; and then, monitoring of removal projects implemented under the bill would be required, and all appeals and judicial review would follow processes in the Healthy Forest Restoration Act, which was, as you know, Mr. Chairman, and act that you had a lot to do with on a bipartisan basis to get established.

So, it would provide that we can move forward fairly quickly. That's necessary because, as you know, in 18 months or so, the value of any, of this timber is, goes down dramatically. After a couple years it doesn't have commercial lumber value any longer. So, speed, time is of the essence.

The other thing it does is to provide that if there is any income from this salvaged timber, that it can be plowed right back into the Forest Service for restoration on this forest. That's critical, because of the huge number of acres that will need to be treated here. There just isn't the money in the Forest Service budget. But to the extent that we can make some money from the forest, from the timber that will be salvaged off of this forest, it would provide a source of funds that would not have to otherwise come out of the Forest Service budget for restoration.

Mr. Chairman, I've got several letters here and resolutions from political jurisdictions in the area that I would ask be made a part of the record.

Also, I think, if, I think Chief Tidwell will put in the record a great report the Forest Service prepared entitled, "How Fuel Treatment Saved Homes from the 2011 Wallow Fire."^{*} It's just another exhibit, in case anybody needed it, that fuels treatment before the fire occurs is a huge benefit in not only saving property, but helping the forest fire fighters do their job. So, that's for the further work of this committee. But, I would ask unanimous consent that both of those items be inserted in the record.

Senator WYDEN. Without objection, Senator Kyl.

[The prepared statement of Senator Kyl follows:]

PREPARED STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA, ON S. 1344

Chairman Wyden, Ranking Member Barrasso and members of the subcommittee, thank you for holding this hearing and giving me the opportunity to testify on S. 1344, the Arizona Wallow Fire Recovery and Monitoring Act. I introduced this bill on July 11 with Senator McCain in response to the Wallow Fire, a catastrophic mega-fire that burned more than half a million acres, supplanting the 2002 Rodeo-Chediski Fire—which burned 468,000 acres just 40 miles to the west of this fire—as the largest wildfire in Arizona history. Together these 2 fires blackened nearly a million acres in the picturesque White Mountains in Eastern Arizona, a top des-

^{*} Report has been retained in subcommittee files.

mination for outdoor recreation in the West and a favorite of valley residents seeking a break from the summer heat.

For nearly 40 days, the Wallow Fire burned. Television crews and media reporters flashed images on the evening news of heroic firefighters and the first-ever DC 10 dropping slurry to battle a blaze in the Southwest. The fire was front and center in what will likely go down as one of the worst fire seasons in our nation's history. The fire destroyed 32 homes and four rental cabins. Nearly 10,000 people were evacuated at one point. The suppression effort for this fire alone cost American taxpayers more than \$100 million. Although the fire may now be extinguished and the media frenzy may be over, for these communities and the landscapes they hold dear, the story isn't over.

Now we must turn our attention to recovery. Recovery from a megafire of this scope and magnitude is daunting. We have only a narrow window of opportunity to hasten forest rehabilitation; reduce the risks of flooding, insect epidemics and future fires; and capture some economic benefit from the hazard, dead, and dying trees. Of course, there is also much forest restoration and fuel reduction work that must continue on the front end to preserve the forests we have left. If we have learned anything from the Wallow Fire, it's that treatments work; I saw the successes first-hand while touring the affected communities of Alpine, Nutrioso, Greer, and Eager. But you don't have to take my word for it, just take a look at the fuel treatment effectiveness assessment titled, *How Fuel Treatments Saved Homes from the 2011 Wallow Fire*, prepared by the Forest Service. If this doesn't convince you, nothing will.

Due to the intensity, size, and magnitude of the Wallow Fire, there are a tremendous amount of hazard, dead, and dying trees within the burned area near communities. Conservative estimates from the Forest Service indicate that more than 700 million board feet of mixed conifer and 679 million board feet of Ponderosa Pine may be recoverable across 200,000 acres within the Wallow Fire area. These estimates do not even include wilderness, roadless areas, steep slopes and areas with threatened and endangered species. That is a significant acreage of hazard, dead, and dying trees! Every day that we wait, these trees will lose economic value. In fact, within just 2 short years, the scientific literature indicates that nearly 40 percent of a dead tree's value is lost. Under these post-fire conditions, we need to expeditiously move and use timber removal as a recovery tool to generate revenue and jobs and put the forest on a healthy trajectory for the future.

This legislation would focus on expediting the removal of hazard, dead, and dying trees in community protection management areas within the Wallow Fire area. The removal projects prescribed under this act would be completed within 18 months of enactment.

We saw the negative consequences of delay in the aftermath of Arizona's Rodeo-Chediski Fire. Bureaucratic regulations, onerous environmental requirements, and lawsuits so severely delayed salvage efforts that these trees had lost most of their economic value by the time projects were cleared to proceed. I do not want to see that mistake repeated again.

That said, we are not looking to eliminate environmental safeguards or exempt timber harvest from federal environmental laws. The bill instead requires a comprehensive hazard tree and commercial timber evaluation and simplifies the National Environmental Policy Act compliance by limiting the alternatives to be analyzed and specifying that an environmental assessment be completed. Monitoring of timber removal projects implemented under the bill would be required. All appeals and judicial review would follow the processes in the bipartisan Healthy Forest Restoration Act.

I understand that the Forest Service is currently doing some timber removal projects of hazardous, dead and dying trees using existing administrative authorities. This is a good thing. I expect the Forest Service to continue doing as much as possible—as quickly as possible—under existing authorities. It is not the intent of this legislation to limit the ability of the Forest Service to use its existing tools. Rather, the legislation is intended to add a tool to the toolbox. Given the scale and the time frame of the timber removal work that must be done in the Wallow Fire area, it is not possible to treat the entire area by just using existing authorities to accomplish it. Moreover, there is no existing timber sale authority that gives the Forest Service the authority to retain 100 percent of the timber sale receipts or pump those receipts back into forest restoration. This is important because we all know that there is far more work that needs to be accomplished within the fire area than there are federal dollars. The only way to accomplish this "win-win" is through this legislation.

This bill strikes a responsible balance between environmental concerns and economics after a catastrophic wildfire, and enjoys widespread support in my state. I urge the committee to support the legislation.

Senator WYDEN. I thank you for your excellent testimony. You know I very much share your view with respect to the treatment of these fuels. I mean, the West, and particularly the rural West, has a choice—we can either get there in a preventive kind of way, in a sensible way, to move in there with thinning and other kinds of approaches, or we can, in effect, wait until we have these infernos. That's what these fires are.

You and I have talked about this. These are not natural fires. These are fires that stem from years and years of neglect. So, I very much share your view. We're just getting into some of the details of your bill, but it certainly sounds like you're very much on track. The Forest Service, I believe, generally shares that view. There may be one or two issues that we want to work with you on.

But, you and I have worked together on a lot of forestry issues, and a lot of other matters. So, I'm looking forward to moving ahead with your legislation.

Senator Risch, anything that you'd like to—

Senator RISCH. Briefly, Senator Kyl, for those of us that have been dealing with the issue for years, of fuel removal, particularly around private property, or any kind of improvements, we're really well aware of the necessity to remove. It's a constant fight.

In Idaho we adopted a roadless plan. In fact, we're the only State that has a State-approved roadless plan. It's part of the negotiations with the stakeholders.

In the large part of that, we negotiated a system whereby whatever the classification of the property immediately adjacent to these small towns—and we have lots of small towns, subdivisions, like your cabin is in, in Idaho—and we've negotiated to where we can do treatments around those, notwithstanding whatever the classification of the property is. We've had some real successes in that regard. Everybody that's ever fought fire knows exactly what happens when a fire hits either a treated area or an area that's had a previous fire.

So, at least, this Senator's well aware of it, and we're going to continue to do everything we can to convince others of it. Appreciate you bringing those materials for us. They'll be helpful.

Thank you, Mr. Chairman.

Senator KYL. Thank you.

Thank you, Mr. Chairman. I do look forward to working with you to try to get this moved forward as much as possible.

I think Chief Tidwell will tell you that the kind of treatment that did occur saved three communities. There were over 10,000 people evacuated from their homes at one point. Three of the communities were saved because of this kind of treatment. We need to do it elsewhere.

But, in the meantime, we've got some restoration work to do, and this legislation will help us do the salvage and restoration, and I thank you very much for your attention to it.

Senator WYDEN. Thank you, Senator Kyl. We will excuse you at this time. You're, of course, welcome to stay if you want to ask anything of Chief Tidwell.

Senator KYL. We talked yesterday.

Senator WYDEN. Very good. Thank you.

Let's bring forward our administrative witnesses—Robert Abbey, Director of the Bureau of Land Management, Department of the Interior; Thomas Tidwell, Chief of the Forest Service, Department of Agriculture.

Gentlemen, if you all will come forward.

I'd also like at this time, as our witnesses are getting settled, we have two statements from Chairman Bingaman, with respect to his bill, S. 24, the Organ Mountains, which is an important piece of legislation that he's joined in on by Senator Tom Udall. We want to put that into the record. Senator Alexander has spent a lot of time working on the Tennessee Wilderness Act of 2011. This is a piece of legislation that he and Senator Corker have worked on. They've both put a great deal of time in working with all of the stakeholders and folks at home. We're going to put both of their statements into the record at this time.

[The information referred to follows:]

PREPARED STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO

Mr. Chairman, thank you for holding this hearing. I would like to briefly discuss one of the bills on your agenda today, S. 1024, the Organ Mountains—Doña Ana County Conservation and Protection Act. I'd like to thank my colleague, Senator Tom Udall, who has joined me in sponsoring this bill.

Very briefly, this bill is very similar to legislation that we sponsored during the previous Congress. It would designate approximately 240,000 acres of public lands in southern New Mexico as wilderness, as well as another 100,000 acres as National Conservation Areas, all of which would be managed by the BLM.

The bill includes protection for the Organ Mountains, which are the iconic backdrop for the city of Las Cruces. The bill would also establish the Desert Peaks National Conservation Area to protect the canyons of the Robledo and Uvas Mountains and the Broad Canyon watershed which lies in between. And finally, the bill would protect the Chihuahuan desert grasslands and volcanic cinder cones in the Potrillo Mountains, which are located in the southwest portion of the county.

Last Congress, we held two hearings on the previous version of this bill—one in Washington and another in Las Cruces. Based on the testimony we received at those hearings, we made further modifications to the bill, all of which are included in this year's bill.

Among these changes were additional measures to improve border security in southern New Mexico beyond what exists today. Based on these modifications, U.S. Customs and Border Protection Commissioner Alan Bersin wrote a letter to me last year indicating that the bill "would significantly enhance the flexibility of U.S. Customs and Border Protection to operate in this border area." I would ask consent to include Commissioner Bersin's entire letter* in the record. All of the changes that we made to address border security issues are included in the bill before the subcommittee.

While last year's bill was reported favorably out of this Committee, it unfortunately shared the same fate with all of the other public land bills and we were unable to get floor time before the end of the Congress. Despite the lengthy legislative process, I believe public support in New Mexico for this legislation remains high, and it is my hope that we will find a way to move this bill through the Senate and House during this Congress.

Mr. Chairman, I know the subcommittee has a very full agenda this afternoon, and I appreciate this opportunity to discuss this bill. Thank you.

PREPARED STATEMENT OF HON. LAMAR ALEXANDER, U.S. SENATOR FROM TENNESSEE

Thank you Chairman Bingaman and Senator Murkowski.

I appreciate the invitation to speak before the committee about the Tennessee Wilderness Act of 2011. This is the second year that Senator Corker and I have in-

*See Appendix II.

roduced this legislation, but the first hearing we've had, so I thank the committee for having this hearing.

Our bill will implement an important next step in conservation for some of the wildest, most pristine and beautiful areas in East Tennessee. Specifically, this bill will officially designate 19,556 acres in the Cherokee National Forest as "wilderness areas." To say that these are among the wildest, most pristine and beautiful areas in East Tennessee sets a very high bar, since the region is home to the Appalachian Mountains and our nation's most visited national park, which is also a World Heritage Site, the Great Smoky Mountains National Park. From growing up in these mountains and my many years of hiking the quiet trails of the Cherokee National Forest, I can personally attest that the wilderness areas we have protected there are something very special.

I want to emphasize that the lands that will be designated as wilderness area are already Federal lands, part of the Cherokee National Forest. This was recommended for wilderness area designation by the U.S. Forest Service in the development of their comprehensive 2004 forest plan, which included extensive opportunities for public comment. And in these tight budget times, I think it is important to note that these lands have been managed as Wilderness Study Areas since 2004, and passing the bill into law would require no additional cost to the federal government to manage the land. Finally, our bill is also supported by all of the county mayors from the Tennessee counties that are impacted by this.

Congress began protecting wilderness areas in the Cherokee National Forest in 1975 with additional wilderness areas being established by the Tennessee Wilderness Act of 1984 and the Tennessee Wilderness Act of 1986. The bill before the committee today will make important additions to this legacy of Tennessee's natural heritage. Combined, these areas have the effect of better protecting not only ecosystems and watersheds, but also the diverse recreational value of these areas.

Congress first took steps to protect wilderness areas in the 1964 Wilderness Act. Members of Congress then showed extraordinary prescience about the threats that destroy wilderness, in section 2(a) of the Act Congress states, "In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas of the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness."

Mr. Chairman, this is a simple bill, but it will make a significant contribution for these wild and pristine portions of the Cherokee National Forest.

Thank you Mr. Chairman and Senator Murkowski

Senator WYDEN. Let's go forward, then, with the testimony of our witnesses, beginning with you, Mr. Abbey.

STATEMENT OF ROBERT ABBEY, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. ABBEY. Thank you, Mr. Chairman, and Senator Risch. It's certainly a pleasure for me to testify today on behalf of the Department of the Interior.

I will give a brief summary of my written testimony before this subcommittee today on three bills—S. 1024, regarding the New Mexico Wilderness; S. 1144, on soda ash royalty, and S. 1149, on geothermal leasing.

S. 1024, the Organ Mountain Desert Peaks Wilderness Act, designates two new National Conservation Areas and eight new Wilderness Areas in Doña Ana County, New Mexico. Also within the county, the legislation releases nearly 31,000 acres from Wilderness Study Area status, transfers land from the Department of Defense to the Bureau of Land Management for inclusion within the National Conservation Area, and withdraws certain additional lands from disposal, mining, and mineral leasing.

Finally, in order to provide the greatest flexibility to the Department of Homeland Security and other law enforcement agencies,

the bill includes a number of provisions to facilitate and improve border security.

The Department of Interior supports S. 1024, and welcomes opportunities to engage in important discussions such as this that advance protection of some of America's most compelling landscapes.

S. 1144, the Soda Ash Competition Act, extends for 5 years the royalty rate reduction provided for by a 2006 act of Congress for sodium mined on Federal lands. The provisions of the Soda Ash Reduction Act of 2006 expire in October.

As you know, Mr. Chairman, our Department is completing a report analyzing the effects of the current royalty reduction, and we'll be providing a recommendation from the Secretary about continuing this reduction. The BLM has been working with other agencies within the Department of the Interior to prepare this report and will be providing it to you this September.

We believe the information in our report may be helpful to Members of the Congress when assessing the merits of S. 1144. Our report will address the amount of sodium compounds and related products shipped to market from Federal lands; the number of jobs that have been created or maintained as a result of the royalty reduction; the royalty paid to the United States on the sodium compounds and related products, and a portion paid to states; and, as I mentioned earlier, a recommendation of whether the reduced royalty rate should continue.

S. 1149 authorizes the BLM to non-competitively lease Federal geothermal resources when a discovery of these resources is made that extends into adjoining unleased Federal lands. Under this legislation, a non-competitive lease may be made available for areas less than 640 acres that have not already been leased, are nominated to be leased competitively.

Under the provisions of the legislation, the lessee would pay fair market value for the non-competitive lease in accordance with regulations issued by the Secretary of the Interior. The bill establishes a minimal price on the amount the Secretary may determine the fair market value to be.

This legislation would make proposed fair market value determinations open for public comment and would allow a qualified lessee and any affected party to appeal the determination. Further, a lease awarded non-competitively would be assessed the annual rental rate of leases awarded competitively.

The Department of the Interior supports the goal of enhancing geothermal exploration and development. We believe the bill's provision that the Secretary of the Interior establishes regulatory procedures for determining fair market values of adjoining lands is the most effective way to ensure a fair return to American taxpayers.

This legislation addresses several concerns that the Department raised during consideration of earlier legislation. We do have, or, still have a concern with a few provisions of S. 1149, including the minimal value provision and the short timeframes identified to conduct a rulemaking process. We'd like to work with the members of the subcommittee to address these issues.

We appreciate, again, the opportunity to appear before this subcommittee to testify today, and we'll be happy to answer any questions that you might have.

[The prepared statements of Mr. Abbey follow:]

PREPARED STATEMENT OF ROBERT ABBEY, DIRECTOR, BUREAU OF LAND
MANAGEMENT, DEPARTMENT OF THE INTERIOR

S. 1024

Thank you for inviting the Department of the Interior to testify on S. 1024, the Organ Mountains-Desert Peaks Wilderness Act. The Administration supports S. 1024, which designates two new National Conservation Areas (NCAs) and eight new wilderness areas in Dōa Ana County, New Mexico. We welcome this opportunity to enhance protection for some of America's treasured landscapes.

Background

Dōa Ana County is many things—the county with the second highest population in New Mexico; home to Las Cruces, one of the fastest growing cities in the country; and a land of amazing beauty. Towering mountain ranges, dramatic deserts, and fertile valleys characterize this corner of the Land of Enchantment. The Organ Mountains, east of the city of Las Cruces, dominate the landscape. Characterized by steep, angular, barren rock outcroppings, the Organ Mountains rise to nearly 9,000 feet in elevation and extend for 20 miles, running generally north and south. This high-desert landscape within the Chihuahua Desert contains a multitude of biological zones—mixed desert shrubs and grasslands in the lowlands ascending to piñon and juniper woodlands, and finally to ponderosa pines at the highest elevations. Consequently, the area is home to a high diversity of animal life, including peregrine falcons and other raptors, as well as mountain lions and other mammals. Abundant prehistoric cultural sites, dating back 8,000 years, dot the landscape. The Organ Mountains are a popular recreation area, with multiple hiking trails, a popular campground, and opportunities for hunting, mountain biking, and other dispersed recreation.

On the west side of Las Cruces are the mountain ranges and peaks of the Robledo Mountains and Sierra de las Uvas, which make up the Desert Peaks area. These desert landscapes are characterized by numerous mesas and buttes interspersed with deep canyons and arroyos. Mule deer, mountain lions, and golden eagles and other raptors are attracted to this varied landscape. Prehistoric cultural sites of the classic Mimbres and El Paso phases are sprinkled throughout this region along with historic sites associated with more recent settlements. This area is also home to the unusual Night-blooming Cereus—seeing the one-night-a-year bloom in its natural surroundings is a rare delight. Finally, the area provides varied disburSED recreational opportunities.

To the southwest of Las Cruces, near the Mexican border, is the Potrillo Mountains Complex. The geologic genesis of these mountains is different from that of the Organ Mountains and Desert Peaks area. Cinder cones, volcanic craters, basalt lava flows, and talus slopes characterize this corner of Dōa Ana County. These lands are famous for their abundant wildlife, and contain significant fossil resources. A well-preserved giant ground sloth skeleton, now housed at Yale University, was discovered in this area. The sheer breadth of these lands and their open, expansive vistas offer remarkable opportunities for solitude.

Senator Bingaman and a wide range of local governments, communities, user groups, conservationists, and Federal agencies have worked collaboratively to develop this consensus proposal to protect all of these special areas.

S. 1024

S. 1024 proposes to designate two new NCAs and eight wilderness areas in Dōa Ana County, New Mexico, which would be included in BLM's National Landscape Conservation System. The legislation also releases nearly 31,000 acres from wilderness study area (WSA) status, transfers land from the Department of the Defense (DOD) to the BLM for inclusion within an NCA, and withdraws certain additional lands from disposal, mining, and mineral leasing.

Section 3 of S. 1024 designates eight wilderness areas totaling approximately 241,000 acres. The BLM supports the proposed wilderness designations in S. 1024. We would like the opportunity to work with the Chairman on minor boundary modifications for manageability.

These new wilderness designations are in three distinct areas of the county. First, within the proposed 86,000 acre Organ Mountains NCA, 19,200 acres would be designated as the Organ Mountains Wilderness.

The second area is within the Desert Peaks National Conservation Area proposed in this legislation. The bill proposes three designations in this area: Broad Canyon Wilderness (13,900 acres); Robledo Mountains Wilderness (17,000 acres); and Sierra

de las Uvas Wilderness (11,100 acres). These three areas are within the 75,550-acre Desert Peaks NCA. Within the Robledo Mountains Wilderness, a small corridor of approximately 100 acres has been designated as “potential wilderness” by section 3(g) of S. 1024. The lands included in this potential wilderness contain a communications right-of-way, and it is our understanding that it is the intention of the Chairman to allow the continued use of this site by the current lessees. However, in the event that the communications right-of-way is relinquished, these lands would be reclaimed and become part of the wilderness area. We support this provision.

Finally, the Potrillo Mountains complex in the southwest corner of Dōa Ana County includes: Aden Lava Flow Wilderness (27,675 acres); Cinder Cone Wilderness (16,950 acres); Potrillo Mountains Wilderness (125,850 acres); and Whitethorn Wilderness (9,600 acres). Both the Potrillo Mountains Wilderness and Whitethorn Wilderness extend into adjacent Luna County.

Two National Conservation Areas are established by section 4 of the legislation—the Organ Mountains NCA and the Desert Peaks NCA. As noted above, both of these NCAs include proposed designated wilderness within their boundaries. Each of the NCAs designated by Congress and managed by the BLM is unique. However, all NCA designations have certain critical elements in common, including withdrawal from the public land, mining, and mineral leasing laws; off-highway vehicle use limitations; and language that charges the Secretary of the Interior with allowing only those uses that further the purposes for which the NCA is established. Furthermore, NCA designations should not diminish the protections that currently apply to the lands. Section 4 of the bill honors these principles, and the BLM supports the designation of both of these NCAs.

Much of the lands proposed for both wilderness and NCA designations have been historically grazed by domestic livestock, and grazing continues today. Many of BLM’s existing wilderness areas and NCAs throughout the West are host to livestock grazing, which is compatible with these designations. This use will continue within the NCAs and wilderness areas designated by S. 1024.

Section 4(f) of the bill transfers administrative jurisdiction of 2,050 acres from DOD to the BLM. These lands, currently part of the Army’s Fort Bliss, would be incorporated into the Organ Mountains NCA. The lands to be transferred include the dramatic and scenic Fillmore Canyon as well as the western slopes of Organ Peak and Ice Canyon. We would welcome these lands into BLM’s National System of Public Lands.

Section 6 of S. 1024 concerns the recently established Prehistoric Trackways National Monument, just southeast of the proposed Desert Peaks NCA. The Monument was established in Title II, Subtitle B of the Omnibus Public Land Act (Public Law 111-11) signed by the President on March 30 2009. Section 6 of S. 1024 addresses recent additional discoveries of 280 million-year old reptile, insect, and plant fossils on adjacent BLM-managed lands by adding 670 acres to the Monument. The BLM supports this expansion of the Monument.

Section 5(d) of the legislation provides for the withdrawal of two parcels of BLM-managed lands from the land, mining, and mineral leasing laws. The parcel designated as “Parcel A” is approximately 1,300 acres of BLM-managed lands on the eastern outskirts of Las Cruces. This parcel is a popular hiking and mountain biking site, and provides easy access to the peak of the Tortugas Mountains. From here, visitors can take in spectacular views of Las Cruces and the Rio Grande Valley. We understand that Chairman Bingaman’s goal is to ensure that these lands are preserved for continued recreational use by Las Cruces residents. The legislation provides for a possible lease of these lands to a governmental or nonprofit agency under the Recreation and Public Purposes Act. The larger, 6,500 acre parcel, designated as “Parcel B,” lies on the southern end of the proposed Organ Mountains NCA. It is our understanding that Chairman Bingaman considered adding this parcel to the NCA because of important resource values. However, a multitude of current uses make inclusion of this parcel in the NCA inconsistent with the purposes established for the NCA. Therefore, the limited withdrawal of the parcel will better serve to protect the resources within this area without negatively affecting the current uses of the area. The BLM supports the withdrawal of both of these parcels.

In order to provide the greatest flexibility to the Department of Homeland Security and other law enforcement agencies, the bill includes a number of provisions to facilitate and improve border security. First, the legislation releases over 28,000 acres from WSA status along the southern boundary of the proposed Potrillo Mountains Wilderness. Additionally, it places 16,525 acres along that southern boundary in a “restricted use area.” The Secretary is charged with protecting the wilderness character of these lands to the extent practicable, while at the same time allowing for the installation of communications and surveillance facilities that may be nec-

essary for law enforcement and border security purposes. Finally, in order to provide additional flexibility to law enforcement personnel, the bill keeps open for administrative and law enforcement uses only, an east-west route bisecting the Potrillo Mountains Wilderness.

Finally, the BLM, along with many partners, has undertaken restoration efforts on nearly two million acres in New Mexico, with the goal of restoring grasslands, woodlands, and riparian areas to their original healthy conditions. The BLM will continue to implement appropriate land restoration activities that will benefit watershed and wildlife health.

Conclusion

Thank you for the opportunity to testify in support of S. 1024. Both the BLM and the Department welcome opportunities to engage in important discussions such as this that advance the protection of some of America's most compelling landscapes. Passage of this legislation will ensure that generations of New Mexicans and all Americans will be able to witness a golden eagle soar over the Sierra de las Uvas, hike the landmark Organ Mountains, or hunt in the volcanic outcroppings of the Potrillo Mountains.

S. 1144

Good morning and thank you for inviting the Department of the Interior to testify today on S. 1144, the Soda Ash Competition Act, which extends for 5 years the royalty rate reduction provisions of the Soda Ash Reduction Act of 2006 (2006 Act).

At this time, the legislation is premature, pending the completion of a report that will analyze the effects of the royalty reduction under the 2006 Act, and contain a recommendation from the Secretary about continuing the royalty reduction.

Soda ash is one of several products derived from sodium minerals mined on public lands and is used in many common products, including glass, pulp, detergents, and baking soda. The mineral trona is a naturally occurring mixture of sodium carbonate, sodium bicarbonate, and water. Soda ash, or "sodium carbonate," is refined from trona mined at depths of between 800 and 1,600 feet below the surface.

Soda ash may be either natural or synthetic. It can be extracted from mined natural trona deposits, or it can be manufactured synthetically. Synthetic soda ash production began in this country in the 1880s and increased as the demand for soda ash increased.

In the early 1950s, the modern natural soda ash industry began in the Green River Basin of Wyoming, home of the world's largest known natural deposit of trona. In 2010, the U.S. soda ash industry consisted of five companies that mine and mill soda ash, four of which operate five plants in Wyoming. One company in California produces soda ash from sodium-carbonate rich brines. At the end of FY 2010, there were 86 Federal sodium leases covering 113,886 acres in Wyoming, California, Colorado, Arizona, and New Mexico. Sixty-one of these Federal sodium leases were located in Wyoming.

Although in 2010 soda ash represented only 2 percent of the nation's \$39 billion nonfuel mineral industry, its use in many diversified products, including flat glass for the automobile and construction industries, makes it a substantial contributor to the gross domestic product of the United States.

Soda Ash Report

A provision of the 2006 Act requires the Secretary of the Interior to report on the effects of the royalty rate reduction at the end of the 4-year period after enactment and before the end of the fifth year. According to the Act, the report must discuss:

- The amount of sodium compounds and related products shipped to market from Federal lands;
- The number of jobs that have been created or maintained;
- The royalty paid to the United States on the sodium compounds and related products and the portion paid to states; and
- A recommendation of whether the reduced royalty rate should continue.

The report is to include an analysis of data on production, exports, sales values, employment, and royalties. The benchmarks against which the effects of the royalty reduction are evaluated are the conditions that would have been anticipated to prevail absent the royalty reduction. The Bureau of Land Management (BLM) has been working with the Department to finalize the report so that it may be transmitted to Congress in order to meet the October 11, 2011, timeframe.

The BLM can offer some insight at this time into its factual findings. Specific to the three questions identified in the Act:

- Total domestic sodium minerals sales from FY 2002 through FY 2010 ranged from 12.2 million tons to 13.8 million tons annually based on information reported by the Department's Office of Natural Resources Revenue (ONRR). In FY 2006, the year before the royalty reduction took effect, total domestic sales of sodium compounds and related products were approximately 12.9 million tons. The following year, domestic sodium sales increased 7 percent, reaching 13.8 million tons. By FY 2010, domestic sales were approximately 13 million tons, or about 1 percent higher than the total in FY 2006.
- Based on available data¹, overall employment has not increased since passage of the Act. An analysis of the number of jobs maintained depends on a number of factors such as the overall soda ash market conditions and employee productivity.
- Royalty payments on sales of sodium from Federal leases ranged from a low of \$10.3 million in FY 2004 and peaked in FY 2006 at \$29.1 million. From FY 2006 to FY 2007, there was a steep drop in royalty payments as a result of the royalty rate reduction authorized under the Act. Since passage of the Act, Federal royalty payments have fallen per year.

The BLM is also able to identify that:

- For the four years following passage of the Act, total sales revenues from sodium production was more than 60 percent higher than the total sales revenues from the four years before passage of the Act based largely on increases in the commodity prices. For example, the weighted average annual sodium price rose from about \$89 per ton in FY 2006, the year before the Act took effect, to approximately \$126 per ton in FY 2009.
- Since passage of the Act, a significant amount of production has shifted from state leases and private (fee) lands onto Federal leases, according to data from ONRR.
- United States exports of soda ash gradually increased from FY 2002 through FY 2008, dropping in FY 2009 during the global economic downturn. United States exports recovered in FY 2010, and were 11.7 percent higher than the export totals for FY 2006.

The 2006 Act requires the Secretary to make a recommendation as to whether the royalty rate reduction should be continued. If enacted, S. 1144 would make the Secretary's recommendation moot.

S. 1144

S. 1144 updates the original Soda Ash Royalty Reduction Act by extending the royalty rate of 2 percent for 5 years, until October 2016. The Act waives the requirements of section 102 (a)(9) of the Federal Land Policy Management Act of 1976 (FLPMA), section 24 of the Mineral Leasing Act, and the terms of any lease under the Act. The FLPMA citation states that it is the policy of the United States to receive fair market value for the use of public lands and their resources unless otherwise provided by statute. The Mineral Leasing Act sets the royalty rate at not less than 2 percent.

Before the royalty reduction Act went into effect in 2006, the BLM was charging royalty rates of 6 and 8 percent. The BLM established these rates based on a study to examine the fair market value in the sodium industry in Wyoming. The study reviewed many comparable state and private leases and found that fair market value in Wyoming appeared to be somewhat higher than the 5 percent being charged by the BLM at that time. As a result of the study, the BLM determined that the royalty for all then-existing leases would be increased from 5 to 6 percent at the lease renewal date. The BLM, based on the study, also determined that the royalty rate on all new leases would be 8 percent. In the Green River Basin at that time, the royalty rate on most private land was 8 percent and 5 percent on State lands.

Conclusion

Thank you again for the opportunity to testify on S. 1144. I would be glad to answer your questions.

S. 1149

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to provide the views of the Department of the Interior on S. 1149, the Geothermal

¹Based on data from the United States Geological Survey Mineral Commodity Summaries, the Industrial Minerals Association—North America, and the Wyoming State Inspector of Mines.

Production Expansion Act. S. 1149 would amend the Geothermal Steam Act of 1970 to allow non-competitive leasing of Federal geothermal energy resources when a valid geothermal discovery is made on adjoining lands. The Bureau of Land Management (BLM) supports the goal of enhancing geothermal exploration and development by ensuring that valid discoveries can be responsibly developed. Accordingly, the BLM generally supports S. 1149, and believes that the bill's provision that the Secretary of the Interior establish regulatory procedures for determining fair market values of adjoining lands is the most effective way to ensure a fair return to American taxpayers. The BLM has concerns with a few provisions in the legislation and would like to work with the Committee to address them.

Background

Geothermal energy resources on Federal lands are leased and managed in accordance with the Geothermal Steam Act of 1970 (GSA), which was amended by the Energy Policy Act of 2005 (EPAct). The EPAct made extensive changes to the law governing geothermal leasing and royalty policies. The changes were designed to encourage geothermal energy development and simplify the royalty structure, while ensuring a fair return for the use of Federal lands and geothermal resources. The GSA, as amended, provides the BLM with the authority for leasing and managing geothermal resources on the public lands, and the delegated authority for leasing geothermal resources on lands managed by the U.S. Forest Service (FS). In 2008, the BLM and FS jointly prepared and issued a Programmatic Environmental Impact Statement (PEIS) that analyzed the potential for geothermal leasing on their respective lands. Based on this analysis, the BLM and FS have opened 192 million acres to potential geothermal leasing.

Federal geothermal resources have the potential to make an important contribution toward the President's goal of increasing energy production from clean, renewable sources. To date, the BLM has issued 818 geothermal leases that cover 1.2 million acres of Federal lands. Approximately 59 leases have reached producing status with a generating capacity of nearly 1,300 megawatts (MW). These producing leases account for more than 40 percent of current U.S. geothermal capacity. Despite this progress, the development of geothermal energy is just beginning, and its future role and importance is expected to increase significantly, from the current level to 12,200 MW by 2025, according to estimates in the 2008 PEIS. Notably, this is often base-load power that does not have the variable qualities of some other renewable sources and may pair well with them.

The BLM's geothermal leasing program is administered under regulations (43 CFR 3200 and 3280) issued in 2007 to reflect the 2005 EPAct's amendments to the GSA. Under these regulations, most leases for geothermal development on Federal lands are offered initially through competitive oral auctions, which are held about twice per year. Typically, the parcels offered at auction are nominated for lease by industry, but may also be nominated by the public, or by Federal, state, and local governments. Since competitive auctions began in 2007, a total of 366 geothermal leases have been sold, generating more than \$74 million in revenue. In addition to the price paid at auction, geothermal lease holders pay annual per-acre rental fees until production begins. Thereafter, lease holders pay royalties or fees on production.

Lease parcels that do not receive a bid at auction are made available for non-competitive lease for a period of 2 years, at a price of \$1.00 per acre. In addition, noncompetitive geothermal leases may be offered under certain conditions for direct, on-site energy uses, which include the use of geothermal steam and hot water in greenhouses and aquaculture. Noncompetitive leases are also offered to qualified mining claim holders.

S. 1149

S. 1149 seeks to focus Federal geothermal energy leasing activities toward entities that intend to develop geothermal resources rather than toward those who may intend to obtain leases for parcels with geothermal resources for speculative purposes. More specifically, the bill aims to address a practice whereby speculators purchase at auction Federal geothermal leases for parcels that are located adjacent to parcels of Federal or private land with existing geothermal leases or developments. This practice is viewed by some as an effort to capitalize upon another company's geothermal exploration efforts, and is a disincentive for future geothermal investment and development. Because the geothermal competitive leasing program is open to all qualified bidders, the potential exists for such speculative activity.

To address this concern, the legislation authorizes non-competitive leasing of adjoining Federal geothermal resources when a valid discovery of geothermal resources is made, and the geothermal resources are shown to extend into unleased Federal

land. Under the bill, a Federal non-competitive lease would be available only for areas not exceeding 640 acres that have not already been leased or nominated to be leased competitively. Only one noncompetitive lease could be issued for each valid geothermal discovery.

To qualify for a noncompetitive lease under this legislation, an applicant would have to demonstrate, consistent with industry standards, a valid discovery of a geothermal resource. An applicant also would have to present sufficient geological and technical data showing that the geothermal resource extends into adjoining Federal lands.

Section 3 of S. 1149 would amend Section 4(b) of the GSA to define fair market value per acre for the non-competitive lease. Under the provisions of Section 3, the lessee would pay fair market value for the non-competitive lease in accordance with regulations issued by the Secretary of the Interior. The bill would set a minimum price on how much the Secretary may determine the fair market value to be at not less than the greater of \$50 per acre, or four times the median amount paid per acre for all land leased during the preceding year.

This legislation would make proposed fair market value determinations open for public comment for a period of 30 days and would allow a qualified lessee and any affected party to appeal a fair market value determination. Further, the lease awarded non-competitively would be assessed the annual rental rate of leases awarded competitively.

The BLM supports the objective of S. 1149 to enhance geothermal development by increasing investor confidence that geothermal discoveries could be fully developed. Additionally, BLM supports a requirement that regulations be promulgated to establish procedures for determining the fair market value of leases on adjoining lands.

The BLM is concerned, however, about the provision of S. 1149 that sets a minimum price on how much the Secretary may determine the fair market value to be. Though the minimum price set forth in the bill may provide some assurance of a return to American taxpayers, the price may not reflect a fair market value. The BLM believes that the provision is unnecessary, because under the bill, the Secretary would be required to establish procedures for determining fair market values of these leases. With these procedures, the BLM would consider a number of factors, including available information on the known resources and the value of other leases within the local market, in determining a price that is fair for that lease. Thus, the BLM recommends that the provision that sets a minimum price be removed from the bill.

The BLM also has concerns with the timeframes included in the legislation. Specifically, the promulgation of regulations issued by the Secretary typically requires more than 180 days. The 90 days provided in the bill for determining the fair market value of a lease may not be adequate to conduct such an evaluation.

Conclusion

The BLM supports efforts to enhance geothermal exploration and development in the United States in a manner that is fair to geothermal developers and other participants in the competitive leasing process. We must ensure those efforts result in a fair return to the American taxpayers. Thank you for the opportunity to testify and I would be happy to answer any questions.

Senator WYDEN. Very good.

Mr. Tidwell.

STATEMENT OF TOM TIDWELL, CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. TIDWELL. Mr. Chairman, thank you for the opportunity to appear before you today to provide the Department's views on S. 1344, the Arizona Wallow Fire and Recovery Monitoring Act, and S. 1090, the Tennessee Wilderness Act of 2011.

With the Tennessee Wilderness Act, we strongly support this legislation. It would add about 19,586 acres of the Cherokee National Forest in east Tennessee to the Wilderness System. This bill would create one new Wilderness Area, and expand the boundaries of five existing Wilderness Areas.

All of these areas were identified in the 2004 Cherokee National Forest plan, to be recommended to Congress for your consideration to add these areas to the Wilderness System. Currently, these areas are used for dispersed recreation, hunting, and hiking. By adding these parcels, you would be expanding the current areas to better provide the wilderness characteristics of solitude, undeveloped landscapes, and preserving historic and cultural significant areas.

As you well know, forest plans are a product of extensive public involvement, including countless public meetings with local government, local communities, and just all the interested public. Based on the public input, these areas are recommended to Congress for your consideration as Wilderness. Congressional designation of these areas as Wilderness would be the culmination of this planning process.

Now, with S. 1344, the Arizona Wallow Fire and Recovery Monitoring Act, the Department supports the objectives and purpose of this legislation and agrees with the urgency for us to respond to the consequences of this fire. The Wallow fire burned over 535,000 acres of National forest, as well as tribal, State and private lands—the largest fire in Arizona history. I want to assure you that we understand and we appreciate the magnitude and the scope of the task ahead of us to restore these landscapes and recover the economic value of some of the timber while we can, and we've already started work.

We started that with our Burned Area Emergency Response. We've already seeded about 36,000 acres of about 80,000 that are planned; we've spread straw mulch on over 18,000 acres of the 25,000 acres that we feel that we need to put this treatment on; and we're currently removing hazard trees along 245 miles of road. There's an additional about 40 miles of powerline corridors that we also feel we need to remove the hazard trees. This is all part of the Burned Area Emergency Response, the BAER, work.

In addition, there's another 300 miles of road—excuse me—350 miles of road, about 10,000 acres, that we need to harvest the hazard trees off, to just deal with the threat to public safety.

Now, we're using categorical exclusions to address a lot of this work, and we'll be, soon be advertising, you know, the sales from this work.

All of this roadside and corridor treatment were, will be concluded by the end of 2012.

In addition, like Senator Kyl referenced, we have a rapid assessment team that's actually going to have their report completely, hopefully by the end of the week, that will actually identify the rest of the restoration work that needs to be done, and also the opportunity for salvage work, in addition to what the BAER work has already completed.

So, in addition to using the CEEs to quickly accomplish the roadside hazard tree harvest, we're also going to use the opportunity we have to issue additional task orders under the existing White Mountain Stewardship Contract. That will help us also to quickly recover some of the economic value of this material and be able to get the restoration work started,

The Forest right now is planning on completing an environmental analysis for the rest of the work, and hopefully we'll have that done by early spring. We're working with an approach that we refer to as more of a streamlined NEPA approach that, we feel that this restoration work fits in very well with using this streamlined approach so that we can get the NEPA completed by early next year, so we can complete, get started on the rest of the work.

We recognize to be able to recover any of the economic value of the trees, that we have about 2 years to be able to get this material harvested so it's usable as saw timber. For biomass purposes, it'll last, you know, much longer than that.

So, with the bill itself—and I've had this discussion with Senator Kyl—that we want to make sure that we are allowed to continue our current flexibilities of using CEEs along with, you know, using an EEA.

The other thing that this bill does, it provides for the use of a pre-decisional objection process that—it's been our finding that by using this, versus our current appeals process, it actually gives the public another opportunity to raise their concerns before a final decision is issued, and it makes this process much more collaborative. It makes our NEPA process much more collaborative. Also, it's been our experience that it allows us to have a, to move a little bit sooner to be able to implement our project. So, we appreciate having that authority to use the objection process.

You know, under our salvage sale authority and stewardship authority, we can retain the receipts, but if we were using a timber sale to remove any of this material, those receipts would go to the Treasury. This bill would allow us to retain those receipts.

As devastating as the Wallow fire was, I tell you, it would have been so much worse without the thousands of acres, the 50,000 acres of treatment that was done through the White Mountain Stewardship Project.

I've brought just one photo with me today—and I think you have a copy up there—and it's out of the report that Senator Kyl referenced. But this is one picture that shows, once again, how this fire, this racing fire that was coming over the top of the mountain; and as it moved toward the community of Alpine, it was a running crown fire. When it hit the treated areas, which were mid-slope—and you can see it identified in that photo—that's when the fire got out of the top of the trees, came down onto the ground, and allowed our firefighters to be successful with their suppression efforts.

From, based on the first ten reports from our firefighters out there, and when I was out there on the ground and looked at it, without this treatment that we did throughout this part of the forest, we would have lost, you know, significantly more homes than the few that we did.

I cannot stress enough about the importance of the work that we're doing through collaboration and stewardship contracting on a landscape scale. Without that question, that work modifies the fire behavior; allows our suppression efforts to be successful; it protects our communities; and it creates jobs.

In summary, the Department supports the objectives of this legislation, and we want to work with the subcommittee on some of

the specific provisions, while we still want to continue our ongoing work, you know, to address the objections of this legislation.

In closing, I want to thank you for the opportunity to testify today, and I'll be happy to answer any questions you have.

[The prepared statement of Mr. Tidwell follows:]

PREPARED STATEMENT OF TOM TIDWELL, CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ON S. 1344 AND S. 1090

Chairman Wyden, Ranking Member Barrasso, and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department of Agriculture's views on S. 1344, the "Arizona Wallow Fire Recovery and Monitoring Act" and S. 1090, the "Tennessee Wilderness Act of 2011."

S. 1344, THE ARIZONA WALLOW FIRE RECOVERY AND MONITORING ACT

The Department supports the objectives and comprehensive response that underlie the legislation and agrees that the response to this fire should be addressed with a sense of urgency. With or without this legislation, the U.S. Forest Service is committed to accomplish the restoration objectives in a timely manner. The Wallow Fire burned over a half million acres of National Forest System land, as well as tribal, state and private lands (including lands in New Mexico). In terms of acres of forest burned, the Wallow Fire was the largest fire in Arizona's history. The effects of this wildfire are significant for the communities of eastern Arizona. I want to assure you that the U.S. Forest Service understands and appreciates the magnitude and scope of the task ahead to restore the landscapes damaged by this fire and we have already started this work.

Background

Igniting on May 29, 2011 in the Apache-Sitgreaves National Forest southwest of Alpine, Arizona, the Wallow Fire was contained on July 8th. Its cause is under investigation. The fire's burned area includes 840 square miles (535,000 acres) and includes 24 square miles (15,000 acres) of western New Mexico. Nearly half of the Wallow Fire's burned area (48%) is classified as low burn severity, 14% moderate severity and 16% high severity. Burned Area Emergency Response (BAER) assessments have been completed with approved funding and prescriptions being implemented. USDA agencies and Arizona State agencies are assisting the Forest Service at public workshops to provide information on programs and assistance to home owners and small businesses affected by fires and/or floods. At the zenith of the Wallow Fire's run more than 4,700 firefighters from the Forest Service and cooperating agencies responded. Moreover, fuels treatments developed with private citizens and state and local governments as part of the White Mountain Stewardship Project and implemented between 2004 and 2011 successfully reduced fire behavior near the Arizona communities of Greer, Eagar, Nutrioso, and Alpine.

Current Planning

The Forest Service is in the process of conducting an evaluation which includes an assessment of restoration needs and salvage as required by the bill. In order to assess the magnitude of the restoration needs resulting from the Wallow Fire, a Rapid Assessment Team was assembled. The Team is currently developing a comprehensive restoration plan for the Wallow Fire area. The plan will identify and organize all restoration needs for the Wallow Fire area, including on-going Burned Area Emergency Response (BAER) projects, and projects to reduce risks to health and safety in the short term and restore the area over the longer term. The Forest Service will adjust work priorities in order to focus the resources necessary to ensure the recovery of the Wallow Fire area.

Ongoing and Proposed Work

The Forest Service's BAER work is ongoing. We have just completed seeding some 36,000 acres of 80,000 acres projected for seeding, spreading straw on 18,000 acres of 25,000 projected, and are currently removing hazard trees along 245 miles of road from a projected 300 miles of road needing treatment. The roadside hazard tree removal could result in approximately 162,000 tons of material. Approximately 39 miles of power line corridors have been identified for emergency hazard tree removal (BAER work) in conjunction with various power companies. In addition, our post-emergency assessment shows that there is a substantial risk of falling hazard trees along an additional 350 miles of roads and power line corridors. These roads and power line corridors are critically important to the communities of Greer, Al-

pine, Nutrioso, and Eagar, among others. We estimate that treatments within these corridors could result in the removal of approximately 150,000 tons of material on approximately 10,400 acres. In order to minimize the safety risk and provide employment opportunities, we plan to proceed expeditiously so that some of the wood can be used for higher valued products.

Collaborative Efforts

The White Mountain Stewardship collaborative, a diverse group of local, state, tribal, environmental and other partners, is assisting us in developing our rehabilitation plans. Our plan is to complete the environmental analyses and administrative review for the projects to carry out the plan, and prepare the contracts over the next several months. Roadside corridor work would conclude by the end of 2012. Other projects would conclude as expeditiously as possible. Our plan is to use our current authorities to utilize receipts for future salvage sales that carry out post-fire rehabilitation. We are planning to work with many of the same individuals and groups in monitoring our rehabilitation work.

Provisions of the Bill

Section 4 of S. 1344 would direct the Secretary to prepare a hazard tree and commercial timber evaluation. The evaluation would describe the forest conditions in the Wallow Fire Area and the short-and long-term risks posed by the conditions. The evaluation also would include a map of the areas for potential hazard tree removal, a map of areas for potential fire-damaged commercial tree removal, and a map of areas where harvest should not be considered. In the evaluation, the Secretary would be required to describe one or more proposals for timber removal projects and a description of the desired outcomes of rehabilitation and tree removal. The Secretary would involve the public in preparing the evaluation and would be required to complete the evaluation within 45 days after initiating it.

Section 5 of S. 1344 also would provide that a timber removal project carried out under the bill would be limited to the removal of hazard trees and the removal of trees that are already down, dead, or severely root-sprung such that there is a high probability of mortality. The bill would require the Secretary to prepare an environmental assessment for a timber removal project carried out under the bill for portions of the Wallow Fire Area that are in a Community Protection Management Area. The Secretary would not be required to consider any alternative to the proposed agency action in the environmental assessment. Any timber removal project carried out in the Wallow Fire Area would be subject to the pre-decisional objection process under section 105 of the Healthy Forests Restoration Act (HFRA). S.1344 also specifies that receipts from timber removal projects be available, without further appropriation for restoration purposes on the Apache-Sitgreaves National Forest in the State of Arizona.

Departmental Perspective on Specific Bill Provisions

While we support the objectives of S. 1344, we note that the Forest Service already has appropriated funds, stewardship contracting authority, and the salvage sale fund to address various forest management scenarios proposed in the bill. In complying with NEPA under current authorities, the Forest Service is utilizing categorical exclusions for tree removal projects in certain high risk areas. We would prefer that any legislation maintain this flexibility. Under current authorities, the Forest Service is required to use a post-decisional appeals process and does not have the option of using the pre-decisional objection process in HFRA except for hazardous fuel reduction projects covered by HFRA. The HFRA pre-decisional review procedures provide the public with an opportunity to raise concerns before a final decision is issued, making the process more collaborative and helpful.

Demonstrated Benefits of White Mountain Stewardship and Anticipated Benefits from the Four Forests Restoration Initiative

As devastating as the Wallow fire was, it could have been significantly worse if it had not been for the thousands of acres that had been treated as part of the White Mountain Stewardship project. The accomplishments of the White Mountain Stewardship project have been significant—50,851 acres treated as of July 23, 2011. The Community Wildfire Protection Plans for the communities of Nutrioso, Eagar, Alpine and Greer provided much of the guidance for the accomplishment of that work. There is no doubt that a significant number of neighborhoods and portions of the forest were spared thanks to this work. The forest fuels thinning and removals in the path of this fire clearly demonstrate what can be accomplished through collaboration and stewardship contracting at the landscape scale. Fire behavior can be modified, communities can be protected, local jobs can be created, and relationships between organizations and individuals can be built. The Four Forests Restora-

tion Project (4FRI) is the next step in expanding this collaborative model. Through the 4FRI is a Collaborative Forest Landscape Restoration (CFLRP) project, the Forest Service aspires to restore approximately 2.4 million acres of ponderosa pine forests on portions of the Apache-Sitgreaves, Coconino, Kaibab, and Tonto National Forests in Northern Arizona over the next 20 years. In the past two years, more than eleven million dollars has been committed to this initiative.

In summary, the Department supports the objectives of this legislation. However, we are already engaged in focusing our workforce and resources to accomplish these objectives in an expeditious manner and we have the appropriate authorities to meet the intent of this legislation.

S. 1090, THE TENNESSEE WILDERNESS ACT OF 2011

S. 1090, the "Tennessee Wilderness Act of 2011," would designate seven parcels totaling 19,586 acres as wilderness in the Cherokee National Forest in east Tennessee. The Department strongly supports this legislation.

S. 1090 would create one new wilderness area and expand the boundaries of five existing wilderness areas:

- 1) The Upper Bald River Wilderness includes 9,038 acres and contains headwaters of streams that drain into the Tellico River.
- 2) The Big Frog Addition to the Big Frog Wilderness includes 348 acres and is a mountain ridge containing the headwaters of Payne Branch, a tributary of Tumbling Creek which is in turn a tributary of the Ocoee River.
- 3) The Little Frog Mountain Additions, NW and NE, to the Little Frog Mountain Wilderness include 996 acres including the headwaters of Dewees Creek and portions of Dry Pond Lead Trail.
- 4) The Sampson Mountain Addition to the Sampson Mountain Wilderness includes 2,922 acres includes a mountain ridge and the Hell Hollow Trail.
- 5) The Big Laurel Branch Addition to the Big Laurel Wilderness includes 4,446 acres and portions of the Appalachian National Scenic Trail.
- 6) Joyce Kilmer—Slickrock Addition to the Joyce Kilmer—Slickrock Wilderness includes 1,836 acres along a mountain ridge and a portion of the Stiffknee trail.

Wilderness management is an important part of the Forest Service mission. There are currently 11 designated wildernesses covering 66,600 acres in the Cherokee National Forest. The areas proposed for wilderness designation in S. 1090 were recommended for wilderness status by the Forest Service in the development of its comprehensive 2004 Land and Resource Management Plan (Forest Plan) for the Cherokee National Forest and have been managed as recommended wilderness since that time.

Public involvement was an integral part of the Forest Plan revision process. Individuals, groups, other agencies and various organizations took advantage of the opportunities to provide input into the overall management of the Forest, including areas proposed for wilderness designation. The final Forest Plan reflects years of collaboration and public participation. Congressional designation of these areas as wilderness would be the culmination of this process.

Thank you for the opportunity to appear before you today and I look forward to answering any questions you may have.

Senator WYDEN. All right. Thank you, both.

Let me begin on this question of the ONC payments, you know, Mr. Abbey. I mean, these are extraordinarily important to rural Oregon. They got to counties that are very hard-hit; you know, where unemployment is just in the stratosphere; they just feel that, in this economy, they feel like they've been hit by a wrecking ball.

I want to go through with you some of the errors that the agency has made with respect to calculating these payments, and try to figure out how this happened, and then what we're going to do to turn it around.

Now, I learned recently that the Bureau of Land Management revised its estimates of county payment to be made to Oregon's ONC counties for Fiscal Year 2011. The revised estimate revealed the significant error that the Bureau of Land Management committed, with the result that these counties are going to receive ap-

proximately \$11.6 million less than they originally planned and budgeted for. The amount of the reduced payment varies by counties, but for some of the counties it results in millions of dollars.

Now, my understanding, from a call which Bureau of Land Management and Forest Service employees did with my staff and others in our congressional delegation, is that the Bureau of Land Management learned of the errors in March, when the Forest Service was revising its estimates for the 2011 payments. The Forest Service then put their revised estimates for the Forest Service lands on their website.

The Bureau of Land Management did not publically post those numbers. Instead, the Bureau of Land Management waited until June to let the counties know of this error. That was after the counties had completed their budgets for the coming fiscal year. So, the changed information means that they've now got to go through a lengthy process to publically amend the budgets, and the counties, in these tough times, are going to have to scour their budgets again trying to figure out how to make deeper cuts.

Now, I wrote to you on July 20th asking for these revised estimates and an explanation about the calculations, and I haven't gotten those revised estimates from the agency, although the counties have shared with me the information that they have with respect to what BLM provided to them. I also didn't get a response to my letter.

Mr. Abbey, this is just completely unacceptable. This is so important to my State. As you know, I wrote the county payments legislation with Senator Craig, wrote the reauthorization. This is a matter of great importance to Oregon.

Why don't we start by having you explain to me how the error occurred, one; why the counties weren't notified until months after the error was discovered; and why they didn't get this information in a timely way, to factor it into their budgets?

Mr. ABBEY. Let me do my best—Senator Wyden, I'm fortunate to work with 10,000 of the most dedicated public servants that you'd find anywhere in all of government. Unfortunately, mistakes sometimes are made.

In December 2010, when we were putting together the final information for the President's—or, 2011, when we were putting together the information for the President's 2012 budget request, there was a mistake in the calculation for the ONC county payments. That mistake was discovered in January, or, February 2011, in time for us to correct that mistake and incorporate the correct estimates as part of the President's 2012 budget request, which was published and disseminated to members of the public in March 2011.

The mistake was compounded, unfortunately, by us not communicating the corrected draft estimates to the counties. Therefore, rather than reviewing the President's budget request, they were, depended upon the information that had been shared, you know, from the Bureau of Land Management from our earlier calculations as they worked to pass a budget for their counties for this coming fiscal year.

What I have done is to look into the situation to see how the calculations were corrected; when they were corrected; why the com-

munications had not been, or, why the information had not been communicated more timely to the ONC counties. I've got the information. I will include all that information as part of my response to your letter.

Senator WYDEN. So, when will I get that?

Mr. ABBEY. I just reviewed a draft of it yesterday afternoon, so you should get it within the next couple of days.

Senator WYDEN. OK. What is going to be done to try to help the counties get through this? I mean, this is going to be very, very hard on them right now in this kind of budget cycle. What can you tell them about how they ought to get through dealing with their budgets, given the fact that a mistake was made by the Federal, you know, Government.

As you know this program exists because, you know, the Federal Government owns most of our lands. I mean, this is not like much of the United States, where you can sell a piece of private property, and taxes are paid as a result of the sale, and you can go about your business in providing, you know, services. We are in this situation because the Federal Government owns most of our land. So, we don't have many options. What can you tell our counties they ought to do to try to get through this budget season?

Mr. ABBEY. I wish I had those answers as well. I do know that the calculations are based upon law. The amount of money that will be distributed to the ONC counties through the Bureau of Land Management will be approximately 40 million, a little over \$40 million. As part of our letter, an attachment to our response to your letter, would include what we estimate to be the breakdown by county. Again, that information will be shared with the county officials. To the degree that we can work with them to alleviate or mitigate the effects of the lost revenue, or, the last distribution, we will do so. But, I'm not sure we have a lot of options.

Senator WYDEN. I'm sure they're going to have some ideas for how to mitigate some of the consequences here, because they feel very strongly about this. To me, your point about the dedication of the employees of the Bureau of Land Management is well-taken. There's no question about that. We deal with them constantly, and they do a very good job.

What I think has angered people in my part of the world is, you all knew about it months ago; it wasn't communicated; we're still trying to excavate the facts here at this subcommittee, and, had it been communicated in a timely way, that would have been the best way to kind of mitigate some of the consequences. So, I'm looking forward to getting your letter. I'm sure that the ONC counties will have some suggestions about how to mitigate this, because this has really made for some very difficult times—as if they didn't have already—

Mr. ABBEY. Yes.

Senator WYDEN [continuing]. Enough to deal with in communities that have unemployment, in our view, of well upwards of 15 percent.

I'm going to have some other questions, but I'm over my time. I want to let Senator Risch ask what he desires.

Senator RISCH. Thank you very much.

Tom, a technical question—what time did that, what time of day did that crown fire come of the top and take a run at Alpine—do you, if you know?

Mr. TIDWELL. I think it was early in the morning—Senator Risch, I think it was early in the morning when it, the fire came over the top toward Alpine.

Senator RISCH. After sunrise, or—

Mr. TIDWELL. It was, I think, right around—I could be wrong on that. I probably need to get back to you. But it was toward either, I think it was either late in the day, or earlier. I, just the amount of smoke, it was so dark that it didn't matter what time of day it was. But, I think it was—I'll get back to you on that.

Senator RISCH. Was it making its own weather by that time, to—

Mr. TIDWELL. It was. By now, this fire had been burning for a few days. It was making big runs of thousands—tens of thousands of acres each day. So, well, it's, the point on this is that this was a fire that was burning as intense as probably any fire that we've seen through timber. It wasn't a grass fire. When it was, still had a full head of steam on it, these treatments made the difference. It's one of the things that we've learned, you know, for the treatments that we did around these communities, that it helps us to understand the size of the treatments that we do; the placement on the slope where we need to put these treatments will really make a difference. But, I'll tell you, this is an example that, if we do this work, and we get out and do it before we have the fires, it does make a difference. There's just—without any question.

Senator RISCH. That brings me to my second point. I didn't want to miss the opportunity to thank the Service for their help, when I was Governor, writing our 9.2 million acre roadless rule. As you know, this was a large concern of ours, for those small communities that we had in roadless areas, and the ability to be able to treat them. You and I are both well aware of, as you just stated, the difference that it makes when there has been a treatment.

We have two sections—Idaho, the State of Idaho, has two sections of every township of every 36 square miles. I think you and I have discussed at length what a difference the management of our sections make, because we cut them regularly, and, in a very managed fashion. But, I know, having been out on the first, that the manager, fire managers are always happy when they've got some of our State sections around, or a prior fire, because the fire acts so much differently.

So, I want, again, I want to publicly express my appreciation to the Service, to the Bush administration, and to the Obama administration for their enthusiastic support and help in our roadless rule. With that support we are, hopefully, going to wind up with these kind of results when the inevitable fire comes through, as it always does. So, thank you.

Thank you, Mr. Chairman.

Senator WYDEN. Thank you, Senator Risch.

Let's go to S. 1144, the Soda Ash Royalty Reduction legislation.

Mr. Abbey, your testimony said that the bill will make the statutory requirement that the Secretary provide Congress with a recommendation on continuing royalty relief a moot issue. That is not

the intent of the sponsors. Over a year ago, Senator Barrasso and three of my colleagues, Senator Enzi, Senator Merkley, and Senator Feinstein and I wrote to the Secretary asking that the Department expedite the soda ash royalty study required by the Soda Ash Royalty Reduction Act from 2006 so that Congress would have the information in a timely way to gauge whether or not royalty relief ought to be extended. I spoke to you earlier this year about the importance of the report and the importance of getting an understanding of the impact of foreign producers, particularly China, on the market.

So, now we are just a few months from the October deadline, and there is still not a report. My understanding is that if Congress takes no further action, soda ash royalties would automatically increase to the higher levels. So, here we're dealing with a situation where the clock is ticking; there is no report. Let's start with when the report is going to get finished.

Mr. ABBEY. Again, Mr. Chairman, we anticipate delivering a report to Members of the Congress in September.

Senator WYDEN. OK. Now, foreign, you know, competitors, particularly, again, China, appear to be subsidizing their own production of soda ash. In April 2009, China began to offer soda ash exporters a 9 percent rebate on their value added taxes subsidy, which has continued. At that time, a bipartisan group of Senators and Representatives, including Senator Barrasso, wrote to Ron Kirk, our U.S. Trade Representative, asking him to take action on what we believe is a blatant effort to subsidize Chinese soda ash exports.

What is the Department's estimate of the impact of foreign subsidies on the ability of the soda ash industry—our soda ash industry—to compete in the world market?

Mr. ABBEY. Again, we'll provide some of that information in the report. But in the meantime, I will say this—that the domestic industry in the United States does have some advantages over the synthetic soda ash that's being developed in some of the foreign countries.

It is cheaper to use natural soda ash that comes mainly from the public lands here in the United States and so, therefore, it does make U.S. exports more competitive in the world market. If you look at the current reductions in royalty, no doubt that any reduction in costs, including the royalty payments, does enhance our domestic industry's position in the world market.

Senator WYDEN. One last question on the soda ash issue. I think it's certainly obvious to Americans now that moving legislation through the Congress is not exactly a quick process. We wanted to hold this hearing today on legislation because the clock is running, and it was my judgment we just couldn't wait any longer for the Department to come forward on a recommendation on extending the royalty relief for soda industry. I just felt we had to get going. We'd been trying for some time to move the process along; we haven't been able to get this report. It's my desire to keep working with you and the Secretary, but I'm beginning to have questions about whether this crucial work is going to get done before October.

So, it is also my understanding that the Mineral Leasing Act provides the Secretary discretion to set the royalty rate for soda ash

at 2 percent, and that it gives the Secretary the discretion to provide case-by-case reductions for the royalties. My question, then, is, to wrap up, you know, this matter—if the Department continues to take its time to get us this report, and the Congress, you know, comes back, and it's just not possible to get this legislation passed before October, what administrative action could the Department take to provide interim relief, given the importance of soda ash production to our economy and jobs? This is a jobs issue.

Mr. ABBEY. Yes.

Senator WYDEN. We try on this subcommittee to constantly look at energy as one of the key issues with respect to employment. The energy sector feeds the jobs sector of this county, and I outlined some of the provisions that we believe gives the Secretary some discretion here. Tell us what administration action the Department could take to provide, as if suggested, at least some interim, you know, relief in an area that relates directly to employment of our constituents.

Mr. ABBEY. Mr. Chairman, there are provisions in our regulations that allow for leaseholders to apply for royalty rate relief, that they must meet certain criteria. There's three criteria that we use in reviewing such requests: First, the criteria is in the interest of conservation. If there's a reason why the industry decides to do something, or a particular company decides to do something, to protect the natural resources, and they come in to either shut down operations during, for some wildlife reason, or some other reasons, then certainly we will take that into consideration in looking at a royalty relief.

A second criteria that we use is, we'll encourage the greatest ultimate recovery of the mineral resource itself. Then, the third criteria that we use to review these proposals is, is it necessary to either promote the development of the mineral resource or because the company cannot successfully operate the lease under the existing terms.

So, those are the three criteria that we use to review the requests that may come in from the industry when they're seeking a royalty rate relief. We have granted such relief in the past in some cases for coal and some of the other leases that we have on public lands. We would certainly look at requests from the soda ash industry.

Senator WYDEN. So, I want to make sure, again, because this has such impact on our economy. It is pivotal right now that we move quickly. What else do they need to do to be able to get this interim relief?

I think, the way I'd characterize it, there are jobs on the line; you know, soda ash for my constituents is a pivotal aspect of the economy, and we just do not want to lose more employment. What else needs to be done?

Mr. ABBEY. Again, as you indicated in your own comments, the royalty relief is already set for 2 percent up until the time that the 2006 Act expires, and that's in October. At that point in time, prior to October, if this bill has not been passed by Congress, then, certainly, the companies can apply following the regulations that we have in place for royalty relief. We would take their applications;

we would take their requests; we'll review it; and we'll make a decision.

Senator WYDEN. On the basis of what you know now, are they positioned to be able to get administrative relief?

Mr. ABBEY. Some companies may provide appropriate justification that we would grant such a relief; others might not. We would have to look at it on a case-by-case basis.

Senator WYDEN. I'm going to have some other questions on this. But, Senator Risch, I know, is very concerned about this as well, and I want to let him ask his questions.

Senator RISCH. Mr. Abbey, I hear what you're saying about this list of standards that you have. Who put together that list of standards?

Mr. ABBEY. The Bureau of Land Management put it together several years back. It's part of our regulations.

Senator RISCH. Don't you think maybe you ought, it's time to review that? It seems to me that's a pretty narrow list of things, particularly in light of what Senator Wyden has said here about how important it is in the economy and other things like that. I mean, this issue is broader than just the narrow scope, it seems to me, that those standards are, not the least of which is the economy, and the position we're in in the economy. You know, these resources belong to the people of the United States; and the people of the United States need relief right now. Since it belongs to them, we ought to see if we can't use it to create jobs, as suggested by Senator Wyden.

So, I would urge—and I don't expect you to resolve this right here, sitting here. But I'd urge you to think about this, and see if there isn't some way you can review those standards, and not simply accept the fact that these were written in stone some many years ago, and that they're still there.

Mr. ABBEY. OK.

Senator WYDEN. We'll wrap this up with just one last point. I mean, soda ash is an industrial mineral, and it's important to folks in my State; it's important to folks in Wyoming; it's important throughout the West. Because of its relationship with our economy, we have got to work together on this, get it right, and make sure we don't lose those jobs.

Can I leave this subject knowing that you're committed to working with us and the Senators from Wyoming so we get this done?

Mr. ABBEY. You bet.

Senator WYDEN. OK. One last question, if I might, on Federal geothermal leasing issues.

Geothermal resources play an enormously important role in providing energy for our country. Thermal—geothermal leases generated more than 4,600 gigawatts of electrical power in 2010. The bill that I've introduced is intended to help expand the development of proven geothermal resources by making small tracts adjoining proven resources available on a non-competitive basis.

Do you agree that this approach can help to accelerate the development of these resources?

Mr. ABBEY. I do. We think it's a good approach.

Senator WYDEN. All right. One last question on this, with respect to fair market value. I believe it's very important the public receive

fair market value for public resources. The bill specifically requires the Department to obtain fair market value for adjacent parcels, even if they're not competitively leased. The bill also requires lessees to pay the higher annual rental payments for the adjacent parcels as if they were obtained competitively, though they're not.

Any suggestions or modifications on this, Mr. Abbey, that could make sure that the Government, and, the fair compensation issue are addressed?

Mr. ABBEY. We do have a recommendation. Again, one of our concerns with the bill as currently written, it sets a minimal price on how much the Secretary may determine a fair market value to be. We believe that this provision is not necessary, because the Secretary of the Interior is also authorized under the provisions of this bill to use the regulatory process to actually establish fair market values for these leases. So, we believe that certain provision, or, that specific provision is not necessary.

Senator WYDEN. All right.

Mr. Tidwell, you are, I think, liberated this afternoon, in that I don't have any questions specifically of you. Is there anything else that you'd like the subcommittee to know?

Mr. TIDWELL. I appreciate the time to be here, and also, not only to stress the importance on the recovery work, but also, once again, to stress the importance on the restoration work that we need to do before these fires occur. I just appreciate the opportunity to, you know, share another photo. We will submit the report that Senator Kyl referenced as part of the record today. Thank you for your time.

Senator WYDEN. Thank you.

Senator Risch, anything else?

Senator RISCH. No. Thank you very much, but—

Senator WYDEN. All right.

We thank you both, and you're excused.

Let's bring forward Mr. Edward Flynn, Division Manager of FMC Corporation, Philadelphia, Pennsylvania, and MR. Scott Nichols, Manager of Lands and Permitting, U.S. Geothermal, Inc., Boise, Idaho.

All right. We welcome both of you, Mr. Edward Flynn, Division Manager, FMC, Philadelphia, Pennsylvania, and Mr. Scott Nichols. Good to see you again. We welcome your remarks, gentlemen, and we'll make your prepared remarks part of the hearing record in their entirety. If you could take 5 minutes or so and summarize your principal concerns, that would be helpful.

Mr. Flynn.

**STATEMENT OF EDWARD FLYNN, PRESIDENT, FMC WYOMING,
AND CHAIRMAN, BOARD OF THE AMERICAN NATURAL SODA
ASH CORPORATION**

Mr. FLYNN. Chairman Wyden and Senator Risch, thank you for the opportunity to testify on S. 1144, the Soda Ash Competition Act. We appreciate Mr. Abbey's willingness to work on this issue based on the fact that time is running out.

Soda ash production represents U.S. manufacturing at its best—the United States' mineral resources mined and produced by Amer-

ican workers to be sold throughout the United States and across the globe.

During the period in which the soda ash royalty has been in effect, we have experienced the greatest recession in most individuals' lifetimes. Yet, Mr. Chairman, in spite of this dramatic hit to the global economy, U.S. soda ash exports have risen by more than 1 million tons. This was the intent of the 2006, why it was a success, and why we believe it should be extended, as your legislation proposes.

We believe maintaining a current royalty of 2 percent will increase exports of soda ash out of the United States, because it will keep us competitive with Chinese synthetic soda ash producers, our main rivals in the world market.

Your legislation can therefore help achieve three important policy goals: First, it will help grow jobs; second, it will help grow exports; and, third, we believe it will help grow Treasury revenues. Mr. Chairman, let me elaborate on these.

Let me start first with jobs. The House first voted on a royalty rate reduction for the soda ash industry H.R. 4625 on July 19, 2004. As you know, the act didn't get passed until 2006, but we believed in the wisdom of Congress and reacted, starting in 2004, which should be the comparison point. My company began hiring and restarting a mothballed plant which took almost 1 year to get back in shape, and we added about 100 direct jobs. I should point out that these are high-paying jobs with an average salary of 85,000 per year with benefits, in very rural communities. We estimate an additional 12,000 jobs nationwide are directly dependent on our industry.

This is good industrial policy, and sound energy and environmental policy. Synthetic soda ash produces greater greenhouse gas emissions and uses more energy per ton than U.S. soda ash.

Second, your legislation will help grow exports. Mr. Chairman, our jobs growth in a natural soda ash industry is fueled by exports. One of every two jobs in the U.S. soda ash industry is dependent on exports. The U.S. soda ash industry is supporting achievement of the President's National Export Initiative. During this same period, we have seen a dramatic contraction in the U.S. domestic soda ash demand due to the housing bubble, a decline in auto demand, and a poor commercial construction market which has not returned to previous levels.

So, domestic soda ash sales are down from when the act was passed, and exports are up. It is clear to me that, without the royalty increasing U.S. competitiveness, the industry and the jobs dependent on our industry would have been decimated during this recession.

Third, we believe your legislation will lead to increased Treasury revenues. The Department of the Interior understandably argues that it will miss out on revenue by maintaining the royalty rate at 2 percent. I believe that statement is mathematically true. However, I think that is looking at the tree instead of the forest, and let me tell you why.

The industry has about 4 million tons of nameplate capacity versus what we produced in 2010. The industry and economists we talk to tell us that to produce those additional 4 million tons will

require over 850 direct new jobs and 3,900 indirect or induced jobs. The Federal Treasury will take an additional income tax revenue, FICA and Medicare tax revenue from the jobs added. I did state before, these are high-paying jobs.

Additional diesel taxes for the fuel to get our one-mile-long unit trains to ports like Portland, as well as the increased royalty, even at 2 percent, from the additional 4 million tons shipped. I believe the Federal Treasury will gain—let me repeat, gain—more than 17 million from additional revenue above the 14 million CBO score for not raising the royalty from 2 percent.

Looking at the forest and not the trees, and as a businessman and a taxpayer, I believe this is a good deal—adding jobs, and growing exports. The U.S. soda ash industry, which is cleaner and greener than foreign competitors, has proven, since the 2 percent royalty has been in place, a steady increase in export growth will occur due to the increased competitiveness of the U.S. natural soda ash industry.

The wisdom of Congress to make the U.S. soda ash industry more competitive to spur export growth has been a success. I ask you to let it continue.

Thank you for this opportunity. I would welcome any questions you may have.

[The prepared statement of Mr. Flynn follows:]

PREPARED STATEMENT OF EDWARD FLYNN, PRESIDENT, FMC WYOMING, AND
CHAIRMAN, BOARD OF THE AMERICAN NATURAL SODA ASH CORPORATION, ON S. 1144

INTRODUCTION

Chairman Wyden, Ranking Member Barrasso, and Members of the Committee, we thank you for the opportunity to testify on S 1144, the Soda Ash Competition Act. The U.S. soda ash industry is an American success story. American natural soda ash is produced largely in Wyoming, and also in California. Soda ash exports are positively contributing nearly one billion dollars annually to our balance of trade and some 3,000 direct jobs. Your legislation, by maintaining the current royalty rate for soda ash produced on federal lands at two percent, will allow this important domestic industry to continue to steadily grow both exports and therefore U.S. jobs. It is precisely the sort of growth that is required if we are to realize the goals contained in President Obama's National Export Initiative.

As recently as June of this year FMC, which is the largest of the four Wyoming producers, announced the addition of significantly expanded capacity and 100 new jobs to meet growing export demands. This was our way of expressing confidence that Congress will see fit to continue its current royalty rate that encourages this jobs and export growth into the foreseeable future. The predictability offered by passage of your legislation that extends the current royalty two percent rate will enable the American natural soda ash industry to invest in further expansion that create more manufacturing jobs and more shipments from Portland Oregon and Port Arthur Texas to important new Asian and Latin American markets. Mr. Chairman, though there is no expiration date in the Soda Ash Royalty Reduction Act of 2006, some will interpret it to expire on October 12 of this year. For this reason we urge prompt enactment of your legislation, S. 1144.

RATIONALE FOR THE SODA ASH ROYALTY REDUCTION ACT OF 2006

We believe it is important for members of the Committee to know that our domestic American natural soda ash industry continues to face substantially the same international pressure from off shore producers that led to enactment of the original Soda Ash Royalty Reduction Act of 2006. Let me briefly review, therefore, what prompted Congress to take this important action in the first place.

In the fifteen years between 1982 and 1997, our domestic soda ash industry enjoyed a steady and significant growth in exports. But after 1997 export growth slowed dramatically. By 2003 our U.S. exports were only 4% above their 1997 levels. This rapid decline in export growth resulted from a sudden and dramatic change

in global competition. More significantly, in the brief span of the decade of the 1990's, China went from importing over one million tons of soda ash per year of soda ash a year to becoming a two million ton net exporter. By 2000 China had become the world's largest producer of soda ash, though hardly it's most efficient. A growing number of state owned Chinese producers making soda ash from a more energy intensive and more greenhouse gas generating synthetic process flooded international markets with low cost material aided by an export VAT rebate incentive. While these exports had a larger carbon footprint they were hurting our cleaner, more efficient American natural soda ash producers in growing markets particularly those in Asia and South America.

Faced with this state owned competition, we identified innovative ways to reduce spiraling structural costs, and the increasing prices we paid for energy and transportation. However, as our export growth slowed in the early part of the last decade we also had to reduce employment. This was not a preferred option. In this context of slowing exports and recurring restructuring initiatives early, in 2004 we asked the Congress to consider that the royalty we pay on each ton of soda ash be assessed at two percent as called for in the Minerals Leasing Act. We testified then that our low cost natural soda ash production process when allowed to compete fairly on a level playing field can beat any other producer in the world. In sum, then as now, if conditions are equal, we know we can compete with any other global producer. We can mine the vast underground trona ore reserves in Wyoming, bring this raw material above ground to be processed into soda ash, ship it by rail to Portland and Port Arthur, and deliver to any Asian port and effectively compete for our fair share of global business against the Chinese.

RESULTS OF THE CURRENT RATE

Mr. Chairman we are pleased to report that as a result of the action Congress took in 2006, our industry has experienced sustained growth driven by our ability to again grow exports. Despite a global recession and a continuing slow recovery, the American Natural Soda Ash industry added almost 100 new jobs in 2010 and expects to add 100 more in the next two years. To put this in perspective, one out of every two jobs in our U.S. soda ash industry is now the direct result of exports. During the period from 2006 to 2010, while our domestic volume declined from 6.1 million to 5.8 million tons, our export volume grew from 4.8 million to almost 6 million tons.

Our global competitiveness is a direct result of our ability to reinvest in our business made possible by the reduced royalty rate. Since passage of the act in 2006 we have reinvested in our business at rates well above those before its passage. In 2005, the year before the royalty was enacted the US soda ash industry spent some \$88 million dollars in capital improvements. In 2006, the year after passage, and with the predictability of a stable two percent royalty, the US soda ash industry nearly doubled that rate of investment in our future spending \$158 million dollars in expanded capacity and improvements.

Importantly, we believe there can be additional growth on the horizon with predictability in government policies that encourage investment for exports. The U.S. nameplate annual capacity for soda ash is estimated by USGS to be 15.6 million tons. The actual 2010 production was 11.7 million tons. We believe that with the current combination of federal lands and trade policies in place, we can continue this steady growth toward realizing nameplate capacity adding almost 4 million new tons of production over the next decade if not sooner. We estimate this growth in capacity could mean some 850 new jobs in Wyoming alone. My company's recent announcement means we are already contributing 500,000 more tons of annual capacity and 100 more jobs toward these goals.

This steady industry expansion over the next decade we estimate could ultimately result in some \$27 million dollars annually in additional new income tax revenues (at current rates) from both direct and indirect jobs attributable to added employment. There are other benefits to the Treasury as well from this steady expansion realized from the increase in other revenue streams from increasing property, sales, and fuel taxes. Thus while some may argue the current royalty has resulted in a \$5 million loss to the Treasury between the rates we paid in 2005 (the year before the current royalty took effect) and 2010, we would argue that the growth of jobs and exports and therefore additional tax revenues more than compensates for any reduced royalty revenue. We therefore ask is it worth it to take a \$5 million risk by raising the royalty we pay, when the impact on jobs creation and export growth could return us to pre 2006 levels?

CONCLUSION

For these reasons, Mr. Chairman, we strongly believe that enactment of your bipartisan legislation is critical to realizing the steady growth toward the full capacity of this important U.S. industry. We possess vast reserves of a raw material that allow the U.S. to produce soda ash naturally, not synthetically, and therefore offer us significant cost and environmental advantages when allowed to compete on a level global playing field. We have a committed work force including steelworkers and longshoremen that strive to maintain this low cost advantage by continually improving already safe and efficient operations. Finally, we have in place supportive trade and lands policies that seek to reduce the barriers to our international competitiveness and the impacts of state sponsored production. In short, Mr. Chairman, we have a formula for success that is working. The current royalty is an important component of that success. Why risk changing a formula that works? Your legislation recognizes the importance of continuing policies that work to grow jobs and exports. We should not risk reducing our competitiveness in a global business we should continue to lead. Thank you, Mr. Chairman for the opportunity to provide our views in support of S 1144.

Senator WYDEN. We'll have some in a moment.

We thank you, Mr. Flynn, and know that you all have been working closely with us. We appreciate it.

Mr. Nichols, welcome.

STATEMENT OF SCOTT NICHOLS, U.S. GEOTHERMAL, INC.

Mr. NICHOLS. Chairman Wyden, Senator Risch, I want to thank you for being here today—Chairman Wyden, Senator Risch. I apologize.

My name is Scott Nichols. I'm here representing U.S. Geothermal. I've been the Lands and Permitting Manager with the company now for the last three and a half years.

U.S. Geothermal is a publicly traded company out of Boise, Idaho. We have projects in Nevada, Oregon, and in southeast Idaho. We explore, develop and operate utility-scale geothermal power plants. We're also a member of the Geothermal Energy Association on the, and on the Board of Directors.

I'm glad to hear that the Geothermal Energy Association has provided under separate cover written testimony supporting S. 1149.

U.S. Geothermal strongly supports this bill. We, this bill was, actually, the brainchild of our company a number of years ago. S. 1149 simply allows a developer like us who's taken—or anybody else—who's taken the high risk of exploration and development, and invested significant capital in that discovery, that commercial geothermal resource, the ability to add up to 640 acres of critical adjoining lands—just up to 640 acres of critical adjoining lands.

The bill addresses a problem that was not anticipated under the Energy Policy Act of 2005—specifically, numerous geothermal resources throughout the West are located on lands that are mixed ownership—State, private and Federal. This bill allows us to secure those lands without going out for lease.

The geothermal provisions of the Energy Policy Act were intended to support an increased production of geothermal energy in the United States. Originally, those lands were available over the counter, and the auction system was mandated under the Energy Policy Act. The first geothermal auctions occurred in 2007.

Under the current leasing provisions, BLM is also allowed to issue non-competitive leases. There are three circumstances currently where the Energy Policy Act allows the BLM to issue these

leases. They are, first, under a mining claimant who has a valid operation; second would be for the direct use of that heat in the production of, for example, a, well, direct use heat, for greenhouses, for example; last would be for parcels that have gone unleased.

Similar to mining, S. 1149 would create a fourth category of non-competitive lease whereby the BLM would have authority to issue non-competitive geothermal leases, again, for up to 640 acres where we have discovered adjoining—discover resources on adjoining State, private or Federal lands.

I think it's also important to note that, as we talk here today, the State of Idaho is considering geothermal legislation that also has this very similar language. The State of Idaho is intending and will, we anticipate, allow the adjoining of State, adjacent State lands if there's an existing Federal lease in play.

The change provides the following benefits: First, it allows us, the developers that have invested substantial capital and made high-risk investments to secure a documented geothermal discovery; second, it allows the development of geothermal resources for the creation of new jobs in rural areas, it allows us to finance projects, it increases short-term bonuses to the Bureau of Land Management and our Treasury, and it ensures long-term production of geothermal royalties; finally, S. 1149 would provide a more efficient and optimal development of geothermal resources. It allows a developer to bring the resources to a single land package.

I want to reiterate—there are many fragmented land parcels in the West, and there simply isn't the incentive to bring those parcels to market when we can't assure ourselves that we can secure those additional resources that may be critical to the development of that project.

We believe that it's appropriate for all leases issued under the non-competitive categories to pay a filing and bonus fees that are fair market value. We agree with the Secretary's ability under this legislation to establish that fair market value. We believe that that should be an administrative decision and an administrative process, and that we ought to move forward in that role as quickly as possible with the BLM.

In summary, I'd like to say that S. 1149 has been carefully crafted over the last 3 years. It is narrowly focused so that when a commercial geothermal resource is identified, it can be brought to market in a timely, effective manner. It can assure us—it allows us a better assurance of financing.

The United States leads the world in geothermal energy production. This is clean, renewable baseload power. We would like to see us in the West retain that position.

I want to thank you for considering these comments, and I'd like to stand for any questions.

[The prepared statement of Mr. Nichols follows:]

PREPARED STATEMENT OF SCOTT NICHOLS, U.S. GEOTHERMAL, INC., ON S. 1149

Mr. Chairman and members of the Subcommittee, my name is Scott Nichols and I am here today representing U.S. Geothermal Inc. U.S. Geothermal is a publicly traded company that explores for, develops, builds and operates utility scale geothermal power plants. We are a member of the board of directors of the Geothermal Energy Association, which is a trade association composed of U.S. companies who support the expanded use of geothermal energy and are developing geothermal re-

sources worldwide for electrical power generation and direct-heat uses. The membership of the Geothermal Energy Association includes large utilities and Independent Power Producers, equipment suppliers, drilling companies, technical and financial service providers, in addition to developers like U.S. Geothermal. These companies are primarily focused on the exploration, development and generation of clean, base load electricity from our country's great geothermal resource base.

U.S. Geothermal and the Geothermal Energy Association strongly support Senate Bill 1149, the Geothermal Production Expansion Act of 2011. Very simply, Senate Bill 1149 allows a developer that has taken the high risk of exploration and invested significant capital in the discovery of a commercial geothermal resource, the ability to add up to 640 acres of critical adjoining federal resource so a power plant can be financed and built without exposing the project to the high cost of delay and speculation. We believe S. 1149 is an important, small policy adjustment to the geothermal leasing process that will promote the development of mixed ownership properties, help accelerate the development of our geothermal resources, create new jobs, and provide additional revenue for the United States treasury.

S. 1149 addresses a vexing problem as the private sector ramps up to develop this proven, renewable resource. A large portion of the potential geothermal resources in the United States are located on federally administered lands in the West. Oftentimes these federal resources are mixed with private and state land, which reduces a developer's interest in leasing and working to develop a geothermal resource.

The geothermal provisions in the Energy Policy Act of 2005 were intended to support and increase the production of geothermal energy in the United States. A provision of EPACT 2005 mandated a change in how geothermal leases are issued—from an open leasing system to an auction based system. These changes were implemented with the first auction of geothermal leases in 2007.

The changes to the geothermal steam act made by the Energy Policy ACT 2005 have been beneficial for both the federal government and the geothermal industry. While the leasing provisions of EPACT 2005 have allowed a significant acreage of federal lands to be leased, a challenge was created by the new leasing rules when there are intermixed lands (public, private and state). This issue was first brought to light during the public forums held to discuss the proposed rules issued by the BLM in July 2006, but there is no specific provision in the statute that allowed for an exception to address the circumstances of intermixed land. Senate Bill 1149 will correct that oversight.

Under the current leasing provisions, the BLM is allowed to issue non-competitive leases under three specific circumstances; leases to mining claim holders that have a valid operating plan, direct use leases, and leases on parcels that do not sell at a competitive auction. The mining claim category is very similar to the situation addressed by the proposed language in S. 1149 as it allows a mining developer that already has a mineral discovery and has invested a significant amount of capital to secure the property.

S. 1149 would create a fourth category of non-competitive lease whereby the BLM would have the authority to issue a non-competitive geothermal lease for 640 acres or less of federal lands that adjoin a commercial geothermal discovery, but only if those federal lands are not already leased or nominated for lease under the auction system. The applicant must also demonstrate conclusively that the commercial geothermal discovery extends on to the adjoining federal lands. This bill provides a very specific, laser focused requirement for a geothermal developer to qualify for this proposed non-competitive lease.

This change would provide the following benefits:

- Developers that have invested substantial capital and made high risk investments would be allowed to secure a documented discovery.
- Development of the geothermal resource would accelerate the creation of jobs.
- The financing capabilities of geothermal projects would increase.
- All non-competitive leaseholders would be required to pay a market average "bonus" fee and thereby increase the short term fees paid to the federal government.
- Increased development will provide higher revenue to the federal government with the payment of production royalties over decades.

In addition, Senate Bill 1149 would provide for a more efficient and optimal development of a geothermal resource since it allows a developer to bring the resource in to a single land package. Fragmented ownership adds significant additional time and cost to the development of a geothermal project, can reduce overall power generation from a geothermal resource, and in some instances may stop development altogether.

We believe that it is appropriate for all leases issued under all of the non-competitive categories to pay a filing or bonus fee set at the fair market value per acre as determined by the Secretary of Interior. If a fair market value isn't determined by the Secretary, then a fee equal to four times the median price paid at auction during the preceding year or \$50 per acre is due. This fee is fair and provides increased funding for the BLM leasing program. Recipients of non-competitive leases should be required to pay for the privilege of being granted a non-competitive lease.

While the early years of geothermal leasing caused much excitement and some speculators paid extremely high bonus bid amounts for tracts of land, experienced developers know that there is an economic limit to the amount of capital that can be recovered when you are selling electricity into a regulated market.

S. 1149 has been carefully vetted over the past 3 years, and is narrowly focused to provide a specific remedy for intermixed lands, so that when a commercial geothermal resource has been identified, it can be developed in a timely, cost effective manner. The United States leads the world in clean, base load power generation from geothermal resources, and we would like to see us retain that preeminent position. Thank you for considering our comments on this important issue to the geothermal industry. I am happy to respond to any questions.

Senator WYDEN. Thank you, Mr. Nichols. I appreciated your coming to my town hall meeting as well in Ontario and—

Mr. NICHOLS. Thank you

Senator WYDEN [continuing]. I just appreciate it. I always like it when folks from Idaho come over and spend a lot of money in Oregon. We think that's generally a good, good policy.

Mr. NICHOLS. We're happy to be there. We intend to be there for many years.

Senator RISCH. That door swings both ways.

Senator WYDEN. It does, indeed. Mr. Flynn, a question for your first with respect to competitiveness. I think you know I also chair the Senate Finance Subcommittee on International Trade. I go into all of these debates saying expanded trade is good for us in this country, we want to promote it in every way possible; but we also want to stand up for our folks and make sure that they're treated fairly. Certainly, there are number of markets where we have seen unfair interference by foreign governments to gain a competitive edge.

In the case of your industry, I think it's fair to say the Chinese have flip-flopped. You know, they have flip-flopped, for, example, on whether or not they're going to provide a rebate on the VAT tax to synthetic soda ash exporters.

Tell me a little bit about the impact on foreign competition in your industry, and how important this question of competitiveness is for your company.

Mr. FLYNN. As I said in my verbal testimony, one of every two jobs in the U.S. soda ash industry, and the jobs that are supported by the soda ash industry—those that, railroad workers or port workers—depends on exports. We compete against, in many cases—in particular, let's talk about China, where over 60 percent of the soda ash competitors are State-owned. So, what that means is they don't have to make a profit.

When the global economic crisis happened, we saw them selling below their cash cost—in fact, in some cases, below their variable cash cost, which meant they weren't making any money, just to grab market share away from the United States. They grabbed significant market share away from the United States during that period of time. One hundred percent of the soda ash that is exported

from China does get the VAT rebate which was reinstated in 2009, which lowers their costs.

Senator WYDEN. What would be the impact on your industry and these jobs that I've been referring to this afternoon if you have an abrupt, you know, change of policy? As you know, there is this understanding that the current 2 percent cap on soda ash royalties expires in the middle of October, October 12th of this year. I think it would be helpful to know what the consequences to you all would be about an approach that involved, just, an abrupt change right now.

Mr. FLYNN. I think the, my own belief, and I could speak for my company and then project what I think would happen in the industry. I think we're looking at, we believe that we can remain competitive against these foreign competitors, and that we can continue to grow exports.

In the case of FMC, we have begun work—our Board of Directors has authorized spending \$5 million on pre-engineering for an expansion. There's a set of assumptions that go into finally going to the Board of Directors about the large amount of money to do the full expansion. I think—and that assumption is that the 2 percent royalty would stay in place.

I think that would cause, in many cases, both FMC and other companies, to say, I'm not sure we want to do that expansion. We might put that investment in some other business line, or some other country.

Senator WYDEN. So, if it expires, it has direct effects on possible investments that would translate to more jobs in this area?

Mr. FLYNN. That is correct.

Senator WYDEN. OK.

Mr. FLYNN. I would just relate it to when the economic crisis happened, and the total output of soda ash of the United States dropped dramatically, there were jobs lost directly in the industry, and also that rippled through the economy, whether it was on a railroad or in the ports of Portland, Port Arthur, Texas. It ripples its way all the way through the economy.

Senator WYDEN. I appreciate your laying that out for us. Because one aspect of our duties on the Finance subcommittee, the Trade subcommittee, is to promote policies that ensure American competitiveness. It's in the title of the subcommittee. My sense is, between this subcommittee and that one, we have some ideal ways to do it. I appreciate your laying out the consequences of what happens if the current 2 percent, you know, cap expires, because people need to know this will affect real investments—investments, as you characterize your Board of Directors is looking at that would translate into more jobs. I appreciate that.

Mr. Nichols, a question for you. We also think geothermal power is something that has a lot of economic potential. I think I mentioned to you Klamath Falls and some of the exciting work that's being done there. There, college, you know, for example, the only college in the world that is heated exclusively with geothermal. So, Oregon feels very strongly about the prospects of geothermal, and we're very encouraged by your project.

It's my understanding that, as a project developer, that allowing you all to get adjacent land would offer several benefits that assist

the Bureau of Land Management and the Government. First, your project output is going to increase, and you're going to be paying larger royalties over the long term. Second, the adjacent land, which is now, as I understand it, not going to be developed, would be developed, so there would be an additional lease payment at fair market value, and additional rental payments.

So, all of these revenues would go to the Treasury. They're not going there now. That would be direct benefits, certainly, that would kick in as the project got off the ground. Is that correct?

Mr. NICHOLS. Chairman Wyden, Senator Risch, that's correct.

This bill really addresses, like we said, not only allows, or, promotes—promotes new development. The bottom line is that there, like I said, there are mixed ownership properties, maybe even some existing Federal lease properties, where a developer is unwilling to expend large, large sums of money necessary for the geothermal evaluation of an individual site. It just is very difficult, as Mr. Flynn commented about his investment decisions in terms of royalty, it's very difficult for a geothermal power company, a producer, to make a decision to expend those millions of dollars when we can't be assured that, if that resource extends off the property we currently control, that we can't acquire that resource.

We are not asking for a handout, and we believe we should pay fair market value and be treated just the same as any other over-the-counter direct lessee. But, the ability that we have to know that that land is available is a key component of our decision process to invest those dollars.

Senator WYDEN. I'm over my time. I want to ask you one last question, and then let my friend Senator Risch ask you questions for an hour or two, or whatever he desire.

Here's my question for you with respect to the issue of the adjacent, you know, parcels, Mr. Nichols. One of the reasons for the legislation is, we've come to feel that it will help avoid the gridlock that can come from speculation on adjacent parcels of land once a developer has staked a geothermal claim.

Could you explain to us why a company such as yours should not leave the process for leasing as it is and let BLM allow competitors to have access to the land?

Mr. NICHOLS. Chairman Wyden, the, you know, it's a very interesting scenario. There are some prospects out there that will be competitively bid. Other prospects that are, I would say, yet undiscovered, those are the ones that we're trying to bring to market; or, adjacent lands, like you say, that are key critical aspects.

What happens is, although speculation is a normal part of our business life—we do it every day in the markets, the geothermal industry—I, on the plane trip here—I liken the original BLM offerings in geothermal leasing to an IPO. The excitement was boundless. Everybody was over the top. That, however, led to a realization that the industry, with these very small long-term revenues—nobody wants to pay more than a few cents per kilowatt for their power. Even we here today don't want to pay any more than we have to for power. That speculation in this market can drive those costs beyond the realm of our ability to develop them.

Senator WYDEN. OK.

Mr. NICHOLS. That's why this is important.

Senator WYDEN. Thank you very much.

Senator Risch.

Senator RISCH. Thank you, Mr. Chairman.

I'm going to brag a little bit about Idaho's geothermal.

Senator WYDEN. Good.

Senator RISCH. Our State Capitol is heated with geothermal water, as are a lot of the homes in downtown Boise. We have a lot of geothermal.

Mr. Nichols' company runs what I would call as close to a perpetual motion machine as I've ever seen, where they take hot water out of the ground, and use, turn a turbine, and put it back in the ground and heat it up, and it comes back up again. So, it's kind of an amazing thing.

Having said that, I think virtually everyone understands what a high-risk business it is. The entrepreneurs and the free market people that go out there are to be commended, that look for this.

We, I think, virtually everyone here wants to help every way we can with this particular method of generating electricity, heat, and what have you.

One thing you can be thankful for, Mr. Nichols, is, it doesn't seem that your industry is as politically correct as wind and solar, and for that matter, the ethanol thing that turned this institution on its head some years back. Because the minute the Congress discovers that, they want to get their hands on it, and they want to help you so much that they will cause all kinds of turmoil for you, that we're seeing now in those other more politically correct forms of generating energy. So, you can be thankful for that.

But, thank you for what you do. You're a great addition to Idaho, and we're glad to have you. I think most of us understand, I think, particularly those that have visited geothermal sites understand how necessary it is that, if you're going to spend the money and do this high-risk exploration, you need to have the benefits of it, not only on the particular section that you're on, but on the adjacent sections, too. So, I think all of us are committed to seeing if we can't find a way to help you.

Mr. NICHOLS. Thank you.

Senator RISCH. Mr. Flynn, likewise, we're certainly glad to have your company in Idaho. It's a good corporate citizen, and we appreciate you being there.

Your comments about what's going to happen on October the 12th are well taken. We hear this, Senator Wyden and I hear this every day, about certainty. Business can thrive if you have certainty. There is almost nothing that is more destructive to the stock market, to the investors, to the free market system, than uncertainty. So, I think we're all committed to try to do something about this October 12th date. The Congress, as you know, isn't geared sometimes to do these kinds of things. But I think Senator Wyden and I can commit that we'll do everything we can to help you out and keep this going, because jobs right now is where it's at. American people are hurting. We need these jobs. So, thank you for what you're doing.

Thank both of you for being——

Mr. FLYNN. Thank you, Senator.

Senator RISCH [continuing]. Good corporate citizens of Idaho.

Thank you, Mr. Chairman.

Senator WYDEN. I thank you, Senator Risch. I think you really summed it up, you know, well. If you just look at the events of the last, you know, week or so, we've had a bipartisan effort on the soda ash question, and important industry, you know, mineral; on geothermal, another bipartisan effort with our colleagues; we've already moved the Hydropower Improvement Act in committee. So, I think you sum it up very well.

This is about jobs. There can be plenty other issues.

Mr. Flynn, as you know, Senator Coats and I have introduced the first bipartisan tax reform bill in a quarter century. We're hoping to get moving as part of the super-committee process that will begin in the fall.

But, we'll leave today with our thanks to both of you for being here. Both of you represent sectors, as I mentioned, that are extremely important to the Oregon economy, extremely important to Westerners, like Senator Risch, and we'll be following up with you. We're going to get these issues addressed and, particularly, ensure the jobs that are so important to the West and our country.

With that, we'll excuse you. I think you're the last witnesses in the Senate before the August break. At least—

Mr. FLYNN. Appreciate that.

Senator WYDEN [continuing]. I'm advised that. So, you're liberated, and we thank you.

The subcommittee is adjourned.

[Whereupon, at 3:54 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

RESPONSES OF ROBERT ABBEY TO QUESTIONS FROM SENATOR MURKOWSKI

S. 1024

Question 1. Given the border situation in Arizona, Texas, New Mexico and California and the refuge that additional Wilderness designations might afford those that seek out remote places to traffic in illegal drugs and illegal immigration activities; do you think it would be better to pull the boundaries of the proposed wilderness back even further from the Mexico border than has been proposed by S. 1024?

Answer. No, the Administration supports the boundaries proposed in S. 1024. As we noted in our testimony, a number of improvements have been made to the bill in order to accommodate law enforcement needs including releasing additional lands near the border with Mexico, and special provisions to allow law enforcement to install communications and surveillance facilities on a wide area of land as may be needed.

S. 1149

Lease payments

I have two questions on the geothermal bill. Currently in Nevada, the state that has had the most leasing of federal lands for geothermal activities, the average payment per acre is roughly \$12 and that average apparently is lower for surrounding states in the Lower 48.

Question 1. To my knowledge there has been no leases sought on federal lands in my home State of Alaska, so there is no data for what a relevant lease amount may be in Alaska. My question is, is the requirement that a potential leasee pay four times the amount of the existing lease, or a minimum of \$50 per acre for a neighboring site the correct amount?

Answer. The BLM is also concerned about the provision of S. 1149 that set a minimum price on how the Secretary may determine the fair market value for a non-competitive geothermal lease on adjoining lands, in part because lease values vary from site to site and across states and regions. The establishment of a minimum price as defined by S. 1149 would not account for these local valuation factors. The BLM instead supports the requirement that regulations be promulgated to establish procedures for determining the fair market value of leases on adjoining lands.

Question 2. While we don't want to give anyone too good of a lease deal for a non-competitive lease extension, still if this bill is going to increase geothermal energy production, the lease can't be too high as to be non-competitive on an economic basis. Any view on the lease terms built into the bill and whether they walk that fine line appropriately?

Answer. The BLM supports the requirement that regulations be prepared to determine the appropriate fair market value for non-competitive leases on adjoining lands. Through the regulatory process, DOI can appropriately consider the economic value and site specific factors that may influence the fair market value of a lease.

S. 1144

Question 1. If this bill is not passed before October, what are the Administrative options that the Secretary of Interior will have to provide this important industry an extension of the royalty relief?

Answer. The current regulations enable royalty reduction on a case-by-case basis, subject to the leaseholder's presentation of information demonstrating that he meets the criteria of the currently applicable regulations as contained at 43 C.F.R. Subpart 3513. Under that Subpart, leaseholders may apply for a royalty rate relief if they meet certain criteria. Under 43 C.F.R. § 3513.12, the BLM "will consider if approval:

- (a) is in the interest of conservation;
- (b) will encourage the greatest ultimate recovery of the resource; and
- (c) is necessary either to promote development of the mineral resources or because you cannot successfully operate the lease under existing terms."

The BLM has processed royalty rate reduction applications from many solid mineral lessees. We analyze operational and financial information submitted by the operator and determine if a royalty rate reduction is justified, based on the above-described criteria.

The BLM has established Royalty Rate Reduction Guidelines under which applications may be processed under five categories; (1) Expanded Recovery, (2) Extension of Mine Life, (3) Financial Test—Unsuccessful Operations, (4) Financial Test—Expanded Recovery / Extension of Mine Life, and (5) Regional. These guidelines are subject to, and must be implemented consistent with, the provisions of the applicable regulations. Administratively complete applications containing the information and documentation required by 43 C.F.R. § 3513.15 to justify the rate reduction request must be received from the lessee and evaluated by BLM on a lease-by-lease basis. Following such submission, if BLM determines that the criteria of the applicable regulation, 43 C.F.R. § 3513.12, have been met, royalty rate reductions may be granted on a lease-by-lease basis. Each such decision would be dependent upon the particular facts presented in each case and thus, there is no guarantee that every applicant will receive the requested reduction.

As noted in the letter accompanying the report to Congress, the BLM is willing to entertain "bundled" requests for royalty relief when similarly situated leaseholders jointly submit information that meets the regulatory tests for which royalty reduction is sought.

The minimum royalty rate for federal sodium leases is 2%, as set by the 1920 Mineral Leasing Act. Most federal sodium leases in Wyoming were initially issued with a royalty rate of 5%. In the early 1990s, BLM began a process of raising the federal rate to match the 8% local private lease royalty rate. In 1996, the decision was reached to issue any new federal leases at 8%, and renew existing leases at 6%. There are currently eight sodium leases in Wyoming at 8%, 49 leases at 6%, and four leases at 5%.

Question 2. At this point, lacking an extension, what will the Bureau of Land Management recommend to the Secretary of dropping the Soda Ash Royalty back down to the 2 percent range?

Answer. As previously noted, the current regulations enable royalty reduction on a case-by-case basis, subject to the leaseholder's presentation of information demonstrating that he meets the criteria of the currently applicable regulations as contained at 43 C.F.R. Subpart 3513. DOI delivered a report to Congress on September 30, 2011, on the Soda Ash Royalty Reduction Act of 2006. The report found that "the Act resulted in substantial unrealized royalty revenues to the Federal Government and the states which exceeded Congressional estimates. The royalty rate reduction does not appear to have contributed in a significant way to the creation of new jobs within the industry, to increased exports, or to a notable increase in capital expenditures to enhance production. In addition, the royalty rate reduction appears to have influenced a shift of production away from state leases and private lands and onto Federal leases." As noted in the letter accompanying the report to Congress, the BLM is willing to entertain "bundled" requests for royalty relief when similarly situated leaseholders jointly submit information that meets the regulatory tests for which royalty reduction is sought.

RESPONSES OF ROBERT ABBEY TO QUESTIONS FROM SENATOR HELLER

S. 1024

Question 1. Under BLM's regulations for managing Wilderness areas, are Border Patrol and law enforcement officials allowed to patrol, in routine circumstances, Wilderness areas with mechanized vehicles? On bicycle?

Answer. BLM regulations for managing Wilderness areas (43CFR 6303) specify that BLM may authorize officers, employees, agencies, or agents of Federal, State, and local governments to occupy and use wilderness areas to carry out the purposes of the Wilderness Act or other Federal statutes. Unless another Federal statute re-

quired use of motorized and mechanized vehicles, including bicycles, routine patrols using such methods would not be permitted by these agencies. Routine patrols could be conducted by foot or horseback, or by air. However, under emergency conditions, such as law enforcement emergencies, motorized and mechanized vehicles may be used.

Question 2. In September of 2010 there were reports by news outlets in New Mexico that BLM was blocking sites favored by Border Patrol for placing Forward Operating Bases (FOB) in areas highly trafficked by drug traffickers and human smugglers. Border Patrol reportedly had to settle for a location 20 miles from the border and from the area they originally wanted the FOB placed. Has BLM in New Mexico denied requests for FOB to be placed in areas because of environmental or preservation laws? Has BLM allowed FOBs to be placed in Wilderness areas in New Mexico or elsewhere?

Answer. While I am unfamiliar with the news story, BLM in New Mexico works closely with law enforcement on requests for placement of FOBs on public lands. No requests have been denied.

Question 3. In a CRS report released in October of 2010, Border Patrol officials in New Mexico stated it may take up to 6 months or more to obtain permission from federal land managers to simply maintain roads within federal lands. Another account in the report said it took 8 months for federal land managers to do the environmental and historical preservation work that they claimed had to be done before a permit could be issued to improve a road so Border Patrol could move an underground sensor. During this eight month delay Border Patrol could not patrol this area known to be highly trafficked by "illegal aliens". Given the documented evidence that exists of the obstructions that Border Patrol faces from federal land management agencies and environmental and historical preservation laws in areas in southern New Mexico, wouldn't the highly restrictive land use designations in S. 1024 only exacerbate the problem?

Answer. The BLM Las Cruces District and the El Paso Sector Border Patrol signed a Memorandum of Understanding (MOU) in January 2007 that identified all of the dirt roads within the El Paso Sector that the Border Patrol needed to maintain. This MOU gives them the authority to maintain and improve these roads as needed and has expedited our ability to respond to Border Patrol requests. The Border Patrol has acquired maintenance responsibilities for a number of access roads that were previously two-track dirt roads and have now been improved by the Border Patrol to be fully passable. The BLM continues to work closely with the Border Patrol to identify roads in need of improvement and maintenance and to authorize this action as feasible.

Question 4. Dona Ana County Sheriff Todd Garrison wrote a letter to the Subcommittee on Public Lands and Forests opposing S. 1024. Has BLM talked to Sheriff Garrison about his concerns with S. 1024? Doesn't BLM rely heavily on local law enforcement officials like Sheriff Garrison to help police their lands?

Answer. We are aware of Sheriff Garrison's concerns regarding S. 1024. The BLM meets regularly with many of the law enforcement agencies along the border, including the Doña Ana County Sheriff's Department, to discuss border security. This includes the Border Management Task Force meetings facilitated by the BLM and the Border Security Task Force meetings facilitated by Senator Bingaman's staff. Coordination and cooperation between law enforcement agencies is excellent and provides for our improved ability to combat crime along the border.

RESPONSES OF ROBERT ABBEY TO QUESTIONS FROM SENATOR BARRASSO

S. 1144

In your testimony, you called the Soda Ash Competition Act (S.1144) "premature" because the Department had not completed its Soda Ash report. In May 2010, I sent a letter with Senators Wyden, Enzi, Merkley and Feinstein requesting the Department expedite the report so that Congress would have time to review it and consider legislative options. The report has yet to be submitted, leaving Congress with little time to respond.

Question 1. During the hearing, you mentioned the potential for administrative royalty relief on a case-by-case basis. Please provide information on the nature of this process. Is relief granted on a lease-by-lease basis?

Answer. Yes, royalty relief is considered on a lease-by-lease basis for leaseholders who apply for such relief in accordance with the provisions of 43 C.F.R. Subpart 3513. Each leaseholder may apply for a royalty rate relief if they meet the criteria contained in 43 C.F.R. § 3513.12. Under 43 C.F.R. § 3513.12, the BLM "will consider if approval:

- (a) is in the interest of conservation;
- (b) will encourage the greatest ultimate recovery of the resource; and
- (c) is necessary either to promote development of the mineral resources or because you cannot successfully operate the lease under existing terms.”

The provisions of 43 C.F.R. § 3513.15 set out the requirements for the information and documentation that a leaseholder seeking a reduction must present to the BLM for the agency’s consideration of a rate reduction. The BLM has processed royalty rate reduction applications from many solid mineral lessees. The BLM analyzes operational and financial information submitted by the operator and determines if a royalty rate reduction is justified, based on the above-described criteria.

The BLM has established Royalty Rate Reduction Guidelines that allow applications to be processed under five categories; (1) Expanded Recovery, (2) Extension of Mine Life, (3) Financial Test—Unsuccessful Operations, (4) Financial Test—Expanded Recovery / Extension of Mine Life, and (5) Regional. These guidelines are subject to, and must be implemented consistent with, the provisions of the applicable regulations. Administratively complete applications containing the information and documentation required by 43 C.F.R. § 3513.15 to justify the rate reduction request must be submitted by the lessee and evaluated by BLM on a lease-by-lease basis. Following such submission, if BLM determines that the criteria of the applicable regulation, 43 C.F.R. § 3513.12, have been met, royalty rate reductions may be granted on a lease-by-lease basis. Each such decision would be dependent upon the particular facts presented in each case and thus, there is no guarantee that every applicant will receive the requested reduction.

The BLM is willing to entertain “bundled” requests for royalty relief when similarly situated leaseholders jointly submit information that meets the regulatory tests for which royalty reduction is sought.

Question 2. How long would it take the Department to process a waiver request?

Answer. Review of royalty rate reduction applications involves extensive coordination with the applicant, the Office of Natural Resources Revenue, and the Governor of the affected state. Time frames are heavily dependent on whether the application is complete and all the associated information from the operator is provided. Our experience has shown that in most cases, the review by the affected state governor will necessitate additional information collection, analysis and follow-up coordination with both the applicant and the respective state’s governor.

Question 3. Would BLM consider these requests on an expedited basis given the significant economic and job impacts on the line?

Answer. Yes.

Question 4. What other options, if any, are available to administratively extend the royalty rate on an interim basis?

Answer. Under current laws and regulations, the Secretary has no authority to unilaterally extend a general rate reduction of the type currently imposed by the Soda Ash Royalty Reduction Act. Any generally applicable rate reduction extension for all leases without individual adjudications would require a formal rulemaking under Administrative Procedure Act requirements of 5 U.S.C. § 553. Those requirements include publishing a proposed rule in the Federal Register and providing the public with opportunity to comment. The agency then would need to address any public comments and publish a final rule. The administrative record supporting such rulemaking would need to demonstrate the basis and reasons supporting the rule.

Question 5. Would the Department consider granting a temporary one-year extension to leaseholders to provide Congress adequate time to review the Department’s study?

Answer. There is no current authority for the Department to immediately grant a general one-year extension of rate reduction to leaseholders.

Question 6. The BLM has the authority to maintain the current royalty level. Can you describe to us the procedure the Department would undertake if the decision is made to maintain the current royalty rate until Congress has the time to consider your recommendation?

Answer. The BLM does not currently have the authority to continue the general royalty rate reduction that was granted by the Soda Ash Royalty Reduction Act of 2006, once the authorities in that Act expire. The BLM’s regulations at 43 C.F.R. Subpart 3513 provide a formal process for only case-by-case applications by lessees for the reduction of rental and royalties.

43 C.F.R. § 3513.12 states that BLM will consider an applicant’s request for a reduction in the royalty rate if approval:

- (a) is in the interest of conservation;
- (b) will encourage the greatest ultimate recovery of the resource; and

(c) is necessary either to promote development of the mineral resources or because the applicant cannot successfully operate the lease under the existing terms.

43 C.F.R. § 3513.15 provides the required information that a royalty reduction applicant must present to BLM. 43 C.F.R. § 3513.16 provides that BLM will charge a processing fee "on a case-by-case basis" for applications for royalty reduction. Thus, the applicable regulatory provisions require case-by-case applications and decisions supported by an administrative record demonstrating that the criteria of 43 C.F.R. § 3513.12 have been met to justify approval of a rate reduction.

As stated above, the BLM is willing to entertain "bundled" requests for royalty relief when similarly situated leaseholders jointly submit information that meets the regulatory tests for which royalty reduction is sought.

RESPONSES OF THOMAS TIDWELL TO QUESTIONS FROM SENATOR MURKOWSKI

S. 1090

Question 1. Am I correct that the Cherokee National Forest is not a Forest Reserve Forest?

Answer. The Cherokee National Forest is not a Forest Reserve. All lands were acquired under authorities granted by Congress, primarily the Weeks Act of 1911

Question 2. If that is the case, shouldn't these proposed Wildernesses be authorized on the Eastern Wilderness Act of 1975, not the Wilderness Act of 1964?

Answer. Designation in accordance with the 1964 Wilderness Act is appropriate. The Eastern Wilderness Act of 1975 (P.L. 93-622) designated certain national forest lands east of the 100th Meridian "in furtherance of purposes of the Wilderness Act of 1964" and provided for the study of certain additional lands for inclusion in the National Wilderness Preservation System. The 1975 Act limits the law to areas "east of the 100th meridian," the 1975 Act does not separately or independently establish authority or criteria to designate wilderness, but rather is reliant on the authority of the 1964 Act.

S. 1344

Question 1. Chief Tidwell; in your opinion does this bill place a higher priority on accomplishment of the Wallow fire rehabilitation over other Forest Service other programs and projects if the bill is signed into law?

Answer. Yes, the bill language emphasizes the agency's need to take action on rehabilitating and restoring the Wallow fire area. I have already addressed this priority within the context of my responsibility to manage all National Forest System lands. The response to the need for rehabilitation following the Wallow fire has been to shift the program of work on the Apache-Sitgreaves National Forest and the Southwest Region. In addition, the agency takes a strategic approach in prioritizing funding to provide the maximum opportunity for fire rehabilitation and recovery in critical emergency landscapes in need of restoration across the country.

APPENDIX II

Additional Material Submitted for the Record

PEOPLE FOR PRESERVING OUR WESTERN HERITAGE,
August 2, 2011.

Hon. RON WYDEN,
*Chairman, Subcommittee on Public Lands and Forest, 304 Dirksen Senate Building,
Washington DC.*

DEAR SENATOR WYDEN:

I am writing to you and the committee as President of People for Preserving Our Western Heritage, a coalition of more than 800 businesses, organizations and professionals in Dona Ana County, New Mexico. The mission of People for Preserving Our Western Heritage is "To preserve, promote and protect the farming, ranching and rural heritage of our western lands." We support permanently preserving and protecting the Organ Mountains and the other special areas in our county. We believe there are viable alternatives to federal Wilderness designations that can be used to protect our land, our natural resources, our open space and our western heritage.

We are opposed to the passage of S.1024 as it is currently written because of the highly limited access it creates that affects our community for the following reasons:

Border security as we know it today would be severely compromised. Border Patrol and other law enforcement bodies currently have access in Wilderness Study Areas. The designation of Wilderness will severely limit Border Patrol's ability to carry out its National Security Mission along the International Border and surrounding areas. Border Patrol will not have access into the proposed Wilderness areas for routine patrol.

Control of flood waters is of high importance for those of us who live in a desert environment. The rainfall events are characterized many times by intense thunder storms, followed by flash floods along the arroyos, which cause severe damage. Current knowledge of control and management of flood waters require building of structures further up the watershed instead of at the mouth of the arroyo. Access for construction and maintenance of protective dams must be confirmed in S.1024.

Guaranteed access to livestock and ranch improvements is not spelled out clearly in S.1024. Reference to the grazing guidelines is presented as adequate concession for access to improvements. The BLM District Manager would not commit to how "occasional" access was defined. However, he was certain that the permittees would not have daily or even weekly access for maintaining water developments. This is unacceptable in a hot, dry desert environment.

We are opposed to S.1024 as currently written and request that this letter be made part of the permanent hearing record.

Respectfully,

JERRY G. SCHICKEDANZ,
President,

LAS CRUCES TEA PARTY.

Hon. RON WYDEN,
*Chairman, Subcommittee on Public Lands and Forests, 304 Dirksen Senate Building,
Washington DC.*

DEAR SENATOR WYDEN:

The Las Cruces Tea Party opposes S. 1024, which designates 242,000 acres as Wilderness near our border with Mexico, for the following reasons:

- Campers will not be allowed motorized access
- Hunters will not be allowed motorized access
- Tourists, general recreationists and the handicapped community will not be allowed motorized access
- Neither motorized vehicles or mechanical equipment can be used to construct or maintain flood control projects, thereby threatening the health and safety of the citizens
- neither motorized vehicles or mechanical equipment can be used by the Border Patrol or state or local law enforcement, thereby threatening the health and safety of the citizens

The Las Cruces Tea Party opposes the designation of land as wilderness in Dona Ana County and strongly recommends that where Federal land is deserving of protection a designation other than wilderness be utilized.

The Las Cruces Tea Party supports the public having more, not less, access to Federal land for their use and enjoyment and therefore strongly opposes the passage of S. 1024.

We ask that this letter be included in the official record. In addition, we ask that the attached excerpts from the August 3, 2011 edition of *The Westerner* be included in the official record as it gives voice to the concerns of many Dona Ana County residents.

Respectfully submitted,

DEBRA WHITE,
President.

ATTACHMENT.—THE WESTERNER WWW.THEWESTERNER.BLOGSPOT.COM

Wednesday, August 03, 2011.

SPECIAL EDITION ON BINGAMAN'S WILDERNESS BILL

Today Senator Bingaman will present his Wilderness bill, S. 1024, to the Subcommittee on Public Lands and Forests. This legislation would designate as Wilderness over 240,000 acres on or near our border with Mexico.

Since most folks don't have the opportunity to testify or to meet with the Senator, we put out a few emails and asked folks for their comments. The response was overwhelming.

There's no way I could post them all, so I've tried to eliminate duplicates (although Border Security is mentioned by almost everyone) and emphasize comments from Dona Ana County or its environs, or from those who have experience with border issues. Plus I've just run out of time.

What follows are sometimes edited comments, plus excerpts from letters opposing S. 1024 sent to the Subcommittee by the National Association of Former Border Patrol Officers, the Dona Ana County Sheriff, the Greater Las Cruces Chamber of Commerce and the Dona Ana Soil & Water Conservation District.

My family has been called the "First family of Wilderness" because they were the first family in the nation evicted from federal wilderness. I am told that their mistreatment is the reason that grazing language was inserted into the Wilderness Act. What am I supposed to believe? Is it Mr. Bingaman's word that grazing will continue in his border bill, or is it what the government did to my family?...Mayci McKindree Lee, 14 year old, seventh generation New Mexican ranching descendent and great-great-great-great granddaughter of pioneer Gila wilderness rancher, Peter McKindree Shelley .

My Dear Senator; Please listen to the voices of reason and common sense! Securing the NM Border is a top priority. The designation of additional Federal protected land will only make it harder for law enforcement to monitor the increased criminal activity on the NM Border. Concentrate on job creation not a legacy of creating vast stretches of land designated for Wilderness. . .William Mattiace, Former Mayor, City of Las Cruces, NM.

I am opposed to S1024 because it ignores the BLM wilderness studies conducted pursuant to FLPMA. The Las Uvas WSA and the Robledos WSA were found not suitable for Wilderness designation. The Broad Canyon area between those two WSAs was found to have insufficient wilderness characteristics to warrant WSA designation and further study. These three areas included in S1024 for permanent Wilderness designation are major Rio Grande watersheds that contribute to frequent downstream flooding. They have been identified as probable non-point sources of e coli bacterial con-

tamination of the river during storm event runoff. Experts associated with the Paso del Norte Watershed Council are studying the feasibility of designing and constructing series of small drainage retention devices throughout the watershed in lieu of traditional large earthen dams to mitigate both flooding and bacterial contamination. These innovative practices would not be allowed under Wilderness designation. . Tom Mobley, Rancher.

The National Association of Former Border Patrol Officers is opposed to S. 1024. This legislation seeks to create 242,000 acres of wilderness designations on or near our border with Mexico and deny all but the most minimal use of motorized vehicles, even for routine patrol. Prohibition against the use of mechanical equipment will consequently prevent the deployment of mobile surveillance systems, remote cameras, electronic detection devices and other tools critical to maintaining operational control of the area in question. Approval will restrict unfettered access to Border Patrol Agents and their equipment to a strip of land only five miles wide from the border. By Federal statute the Border Patrol has the right to enter private property within twenty-five miles of the border and we find it astonishing that Congress would choose to limit this to five miles on Federal property. .Letter to Subcommittee Chairman Wyden from Kent Lundgren, Chairman, National Association of Former Border Patrol Officers.

I am against S.1024. If the Potrillos are made wilderness, the Lazy E will become the doormat from Mexico. My home will be signpost on the trail north. Reckon these senators will request armed guards when they want to have supper with me?". .Leonard Goad, Ranch Foreman, Butterfield Trail Ranch.

While I agree we should ensure the lands defined in Senator Bingaman's Wilderness Bill should never be developed, I strongly feel the Wilderness designation is too restrictive jeopardizing Border Security, public safety and flood control of surrounding population centers, and meaningful public access. These lands can be protected in more reasonable and less restrictive ways...Tom Hutchinson, Restaurant Owner, former Chair, Greater Las Cruces Chamber of Commerce.

I am opposed to Senate Bill 1024 because of my personal knowledge of and field experience with the rangeland of southern Dona Ana county, New Mexico. This area needs ecosystem inputs to mitigate woody plant encroachment occurring on these rangelands. Active management inputs are functionally not allowed under wilderness designation. S. 1024 relegates these lands to a future of continual grassland degradation, soil exposure and erosion, resulting in a deteriorated watershed and a downward spiral in rangeland health. .Chris Allison, Dept. Head, Ext. Animal Sci. & Nat. Res., NMSU.

The federal government has been derelict in its constitutional mandate to protect the borders of the United States. S1024 is reckless and irresponsible legislation which will further jeopardize our national security. There is already evidence of human and drug smuggling in the prescribed area (which does not meet the criteria of the Wilderness Act of 1964), and a wilderness designation will guarantee an increase in illegal activity which endangers public safety. This administration and Congress cannot be trusted to honor any MOUs or promises to law enforcement; therefore, I urge you to defeat S1024. . Carol P. Richardson, Retired School Teacher.

As the duly elected Sheriff of Dona Ana County, New Mexico, I write in opposition to S. 1024 which would designate over 240,000 acres as Wilderness in southern New Mexico. The Wilderness Act of 1964 prohibits the use of motorized vehicles, mechanical devices and structures in all Wilderness areas. Such prohibitions would stymie my department's efforts to protect the public safety. Furthermore, given the recent problems of drug and human trafficking from Mexico, it would seem the height of folly to place such restrictions on law enforcement in this border area. . Letter to Subcommittee Chairman Wyden from Todd Garrison, Dona Ana County Sheriff.

I am opposed to S. 1024 because it will cause the loss of access to wilderness areas by all segments of the population, greatly hamper efforts by the Border Patrol and law enforcement to carry out their missions, impose severe limits on ranching and grazing operations, severely limit recreational opportunities, endanger sensible flood control projects, cause severe restrictions on firefighting and search and rescue operations, and greatly limit po-

tential future growth opportunities on federal land. The areas that are proposed to be wilderness do not qualify as wilderness due to the historical use of, and access to, these allotments. The major proponents of this bill are those that oppose free enterprise, and seek to greatly reduce, if not nearly eliminate any private or public use of federal lands. That is clearly not a sensible, prudent approach to land management, in this time of severe economic crisis worldwide, and less and less U.S. access to resources in an increasingly hostile world. If we are to survive as a nation, we must protect our borders from foreign, illegal encroachment, and develop the natural resources we possess in this country. . .Phil Harvey, Jr., Mesilla Business Owner.

I am strongly opposed to S.1024 for many reasons, including the fact that it would create Wilderness in two Wilderness Study Areas totaling about 30,000 acres which Interior Dept. determined are lacking in Wilderness characteristics and recommended they be returned to multiple use status (the Las Uvas and Robledo Mountains areas). In addition, S.1024 would create Wilderness in two areas which Interior Dept. studied and left in multiple use status, also totaling about 30,000 acres, again due to lack of Wilderness characteristics (the E. Potrillo Mountains and Broad Canyon areas). S.1024 would override these realistic conclusions of the Interior Dept. drawn after studying the areas for 15 years, from 1976 to 1991, and would ignore the strong opposition of the real stakeholders. With more than 100 million acres of Wilderness already created, why is Senator Bingaman so determined to ignore his Dona Ana County constituents and force S.1024 on us with staged committee hearings falsely claiming broad community support? We deserve better! Please stop S.1024 from moving forward. . .Tom Cooper, Rancher.

Taking the word "wilderness" out of the title of S 1024, does not change the fact that this bill is a wilderness bill that is attempting to create and restore lands to wilderness characteristics. This bill is an insult to Wilderness Act of 1964. Wilderness areas are supposed to be already pristine and untouched by man. This bill completely ignores the very basic fact that most of the 242,000 acres in your bill were carefully and professionally studied by unbiased professionals and declared as unfit for the designation as wilderness. But, you know that and do not care. This bill and your one sided "hearing" is just catering to the green gangsters that do not care one bit about the security of our borders, our economy, and want to close all of our precious public lands to most Americans. Hopefully, this perversion of the Wilderness Act will be stopped in the House of Representatives. Please retire early. . .Fred Huff, Outdoor Recreation.

The Greater Las Cruces, NM Chamber of Commerce, representing approximately 1,000 businesses, has strongly opposed Senator Bingaman's efforts to designate our community's lands as "Wilderness" in the former S. 1689 and now its current reincarnation of S. 1024. . .Until Senator Bingaman can answer our concerns regarding these important issues, we stand in strong opposition to S. 1024. . .Letter to Subcommittee Chairman Wyden from John Hummer, Government Affairs, Greater Las Cruces Chamber of Commerce.

I am opposed to the wilderness bill S.1024 because the bill as written does not allow for routine access by law enforcement personnel. The proposed wilderness areas on the border will become safe sanctuaries for human and drug smugglers. Law Enforcement Officers in Dona Ana County face many problems in carrying out their duties and to have another unnecessary law forced on them will be devastating. . .LeeAnn Evans, Spouse of former law enforcement employee.

I am opposed to S.1024 because of the severe restrictions it places on law enforcement efforts and the negative impact it will have on border security for our community. I am also opposed to this legislation because of the severe restrictions on access to the areas involved, and because of the harmful restrictions placed on the ranchers that operate in these areas. . .Jodi Denning Horse Owner/Breeder Senator Jeff Bingaman's bill S-1024 is a further government intrusion into the rights of all citizens by depriving them access to areas covered by this unacceptable bill. It is a "land grab" and would be very detrimental to our state and nation. . .Mary C. Fuller, businesswoman.

I am opposed to S. 1029 because it's unnecessary as the land is already protected and further restricting it and depriving it's routine use to law en-

forcement is contrary to border security. Also, as one who uses some of this area for recreation and exploring, I'm concerned that if I should fall or encounter some other catastrophe no one can come to my aid except on foot or horseback. It is a bad and short sighted bill with no "up side." W.J Haynes, Sportsmen.

The addition of more Wilderness land designations on or near the border between the United States and Mexico is one of the most ill conceived ideas that Congress will ever be asked to consider. What could possibly be the rational to effectively legislate away the lawful presence of the Border Patrol and all other law enforcement agencies to the extent that they are denied all but the most insignificant access to areas so critical to the defense of our national security and the health and safety of our citizens. Passage into law of this proposed legislation is not in the best interests of our national security and must be opposed by all legitimate means. . .Gene Wood, Border Patrol Chief Patrol Agent (Ret.), Trustee of the National Border Patrol Museum, Dona Ana County Resident.

Senator, close to 85% of Dona Ana County and this District is federal land under the management of the Bureau of Land Management. The Lower Rio Grande Watershed includes all lands that drain into the Rio Grande from Caballo Dam to the Texas state line near El Paso, TX, the majority of which are federal lands. Our concern is about access. Your Senate Bill 1024 will eliminate the District's access to key areas of this watershed to perform any watershed restoration projects aimed at improving watershed health and/or providing for effective stormwater management to preserve our natural resources and provide for the safety and welfare of our public and property. . .Letter to Subcommittee Chairman Wyden from Joe Delk, Chairman, Dona Ana County Soil & Water Conservation District.

I am opposed to S.1024 because it will become a super highway for illegal entry into the USA and deny access to the Border Patrol and other law enforcement. This area will become another Organ Pipes Cactus National Monument as in Arizona. Secondly, I am a sportsman and hunter. My access to prime quail area would be denied. . .Patrick Dunnahoo.

The membership and Board of the Las Cruces T.E.A. Party (Dōa Ana County) stand firmly in opposition to passage of S.1024. We believe the members of organizations, businesses, and individuals opposed to the legislation greatly outnumber those in favor of the legislation, many of whom are not even residents of Dōa Ana County. Our members are greatly concerned about the impacts of S.1024 including loss of access, on border security, on our ranching community, on health of the land, and on recreational opportunities, flood control, and beneficial use of flood waters. S.1024 is seen by our members and by our citizens as potentially extremely detrimental to our community and our agricultural heritage. We ask that the legislation be withdrawn from any further consideration. . .Debra White, President, Las Cruces T.E.A. Party.

I am opposed to S1024 because it is not widely supported by the citizens. The government controls too much land in Dona Ana county already. The bill will put too much pressure on our farmland for future growth and the land in question needs to be accessible for multiple uses. Martin Porter, business owner.

I am vehemently opposed to S1024. This bill has been pushed by our two Senators in an attempt to confiscate public land and take it out of our reach. There are a number of reasons to not make this a Wilderness area: 1) The southern border needs to be protected from those who want to enter our country illegally. 2) The area needs to be made available to companies and private enterprise that can make use of the resources and bring revenue into the state treasury . 3) The federal government already has confiscated too much of our state. 4) The way of life of those living in the area needs to be protected over the animals and plants that live there. 5) The politicians need to listen to the citizens of this area who have repeatedly said they don't want this to be a wilderness and are happy with the present disposition of the land as a managed area. These are only a few of the reasons that this bill should be tabled. I, as a long time New Mexico resident, am greatly offended by Senator Bingaman 's " my way or the highway" attitude." . .Scott LaFon, TorC.

I am opposed to S.1024, as it will be putting our nations security at risk, If wilderness designation is implemented in southern Dona Ana County

along the US New Mexico border, we then may be facing the same devastation as southern Arizona. More jeopardy & expense for our citizens. . .Brenda Allen, Rancher, Realtor.

S.1024 is the same bill as the original Wilderness Bill with only minor changes. New Mexicans in the majority rejected S.1689 despite Bingaman and Udall's claims otherwise. It's a travesty that we in NM must fight again against a bill that will shut us out of land that for the most part doesn't even meet the criteria for Wilderness. The new bill does not address border security and therefore will create a brand new Drug Corridor for the Southwest. . .Betty Russell, Business Owner.

I'm opposed to S.1024 simply because it ranks border and national security below the desire to preserve public lands too near the border. Areas where the Border Patrol cannot have free access do NOT belong ANYWHERE near our borders. . .Claude E. Guyant, retired US Border Patrol Agent, former Immigration Attache, Central & South America, Dona Ana County Resident.

I write in opposition to S.1024 which would limit law enforcement of the New Mexico/Mexico border, lock up natural resources, and shut down access to public land. . .Crystal Diamond, Sierra Soil & Water Conservation District Supervisor.

As the wife of a Potrillo corridor rancher, border wilderness scares me to death. Think of the implications of that . . . why does any American have to fear the actions of his or her government? I am against S.1024."...Kathy Wilmeth, wife of Potrillo Mountain corridor rancher, Steve Wilmeth.

S.1024 is very much a concern to all of us who make a living on or near the border. The more we learn about Arizona, the more alarmed we become regarding prospects of violence on ALL expanses of federal lands that limit full and unencumbered access by Border Patrol. At this time, ALL plans for federal lands status changes in Hidalgo, Luna, and Dona Ana Counties, New Mexico must be put on hold. This is a matter of national security and we ask that you consider the dangerous situation in which we find ourselves."...Walt Anderson, Rancher, Hidalgo Soil & Water Conservation District.

And our friends in Arizona issue a warning.

My beloved southeast Arizona homeland has been devastated by federal government policy starting with the designation of federal Wilderness. Senator Bingaman's S.1024 will only hasten the expansion of the same smuggling corridors that we now have in Arizona. Wake up Congress!...Joe Dreyfuss, Tucson area businessman and talk show host.

A wilderness area on the US—Mexico border is a cruel joke. There is no way the United States government can protect the supposed wilderness values of land along the border when the countryside is overrun with illegal aliens and drug smugglers. We have the Pajarita Wilderness Area just west of Nogales. The area is covered with illegal immigrant trails, empty water bottles, discarded backpacks, and littered with spent automatic weapon bullet shells. At the end of last May illegal aliens started what they claimed was a "distress fire" which burned most of the wilderness area to ashes. Wilderness Areas impede securing our border. No new roads can be constructed, the fence cannot be completed, and Border Patrol access is limited to horseback and foot travel. Wilderness areas are open doors into the US for illegal aliens and drug smugglers. Large areas of federal-managed lands are damaged as a result of putting protecting alleged wilderness areas ahead of protecting national security. Those who advocate wilderness areas at the border are really opposing protecting national security from the Mexican drug cartels. . .Hugh Holub, an attorney who blogs at the Tucson Citizen newspaper.

Posted by Frank DuBois at 4:49 AM.

DONA ANA SOIL AND WATER CONSERVATION DISTRICT,
 BOARD OF SUPERVISORS,
Las Cruces, NM, August 2, 2011.

Hon. JEFF BINGAMAN,
U.S. Senate, 703 Hart Senate Office Building, Washington, DC.
 RE: S.1024

DEAR SENATOR BINGAMAN,

I am appealing to you today as Chairman of the Dona Ana Soil and Water Conservation District (District) with grave concerns about S.1024.

As an elected Supervisor and Chair, I have an obligation to my Board of Supervisors and my constituents to address issues that relate to the preservation and protection of the natural resources of this District in general and the Lower Rio Grande Watershed in particular.

Senator, close to 85% of Dona Ana County and this District is federal land under the management of the Bureau of Land Management. The Lower Rio Grande Watershed includes all lands that drain into the Rio Grande from Caballo Dam to the Texas state line near El Paso, TX, the majority of which are federal lands.

My concern is about access.

Your Senate Bill 1024 will eliminate the District's access to key areas of this watershed to perform any watershed restoration projects aimed at improving watershed health and/or providing for effective stormwater management to preserve our natural resources and provide for the safety and welfare of our public and property.

Please, how can you believe this to be good for Dona Ana County?

Senator Bingaman, please consider the long term ramifications of eliminating the ability of this community to effectively manage these key watersheds by restricting access to them and pull S.1024.

Respectfully,

JOE DELK,
Chair.

GREATER LAS CRUCES CHAMBER OF COMMERCE,
 GOVERNMENT AFFAIRS,
August 1, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, 304 Dirksen Senate Building, Washington, DC.

RE: OPPOSITION TO S. 1024

DEAR CHAIRMAN WYDEN:

The Greater Las Cruces, NM Chamber of Commerce, representing approximately 1,000 businesses, has strongly opposed Senator Bingaman's efforts to designate our community's lands as "Wilderness" in the former S. 1689 and now its current reincarnation of S. 1024. Please note the following when considering S. 1024:

- There is "not" a consensus of support within our community for this legislation.
- Our current Governor has expressed concerns regarding Wilderness designations in Dona Ana County.
- Our Congressman, Steve Pearce, who represents the very district affected by this legislation, has expressed strong opposition to Senator Bingaman's legislation.
- There is a deep concern within our community on S. 1024's negative impact to our local, state and national security due to its wilderness designation of lands near the U.S. / Mexican border.
- There is deep concern regarding S. 1024's negative impact on flood control within our valley.

Until Senator Bingaman can answer our concerns regarding these important issues, we stand in strong in opposition to S. 1024. Please ensure that this letter be made part of the official record when evaluating and debating S. 1024.

Thank you.

JOHN L. HUMMER,
Division Chair.

NEW MEXICO STATE UNIVERSITY,
 COLLEGE OF AGRICULTURAL, CONSUMER AND ENVIRONMENTAL SCIENCES,
 SOUTHWEST BORDER FOOD SAFETY AND DEFENSE CENTER,
 OFFICE OF BIOSECURITY,
Las Cruces, NM, August 17, 2011.

Hon. RON WYDEN.

I respectfully request that congress not designate the proposed areas of Dona Ana County as Wilderness Area. Drug trafficking and illegal activity always increases in areas along the border where civilian or law enforcement activity decreases.

This area is largely badlands with no tourist value and there will not be any benefits derived from its designation and the risks to the county, New Mexico and the US will increase significantly.

No one argues the value of preserving the peaks of the mountains; however hundreds of thousands of acres is flat barren land with no extra value to be derived and much to be lost as a drug trafficking corridor and illegal access corridor.

We are concerned about the spread of diseases, both animal and human, by illegal traffickers coming across the border without any inspection or permits. We have concerns that law enforcement cannot have unfettered access in wilderness areas. Law enforcement officers are not able to use motorized vehicles in the wilderness areas without obtaining a permit. Routine patrol by law enforcement, federal, state and county officers cannot be accomplished under prohibited uses in the Wilderness Act. Our water supplies and food production can be contaminated by flood waters from arroyos carrying human waste of illegals hiding.

Sincerely,

BILLY DICTSON,
Director.

HIDALGO COUNTY SHERIFF'S DEPARTMENT,
Lordsburg, NM, August 11, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, 304 Dirksen Senate Building, Washington, DC.

DEAR SENATOR WYDEN:

I am writing to oppose S. 1024, which would designate 242,000 acres near our border with Mexico as Wilderness.

The "Prohibition of Certain Uses" section of the Wilderness Act prevents the use of motor vehicles, mechanized equipment and other tools which are vital to local law enforcement. Of additional concern are the five Wilderness study Areas in Hidalgo County, totaling 98,960 acres, which are being promoted as candidates for future legislation.

Given the current situation on our border I find it highly inadvisable to create Federal land use designations which prevent, limit or restrict law enforcement activity.

Thank you for your consideration and please include this as part of the official record.

Respectfully,

SATURNINO MADERO,
Sheriff.

NATIONAL ASSOCIATION OF FORMER BORDER PATROL OFFICERS
Brunswick, GA, August 1, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forest, 223 Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR WYDEN:

The National Association of Former Border Patrol Officers is opposed to S. 1024. This legislation seeks to create 242,000 acres of wilderness designations on or near our border with Mexico and deny all but the most minimal use of motorized vehicles, even for routine patrol. Prohibition against the use of mechanical equipment will consequently prevent the deployment of mobile surveillance systems, remote cameras, electronic detection devices and other tools critical to maintaining operational control of the area in question. Approval will restrict unfettered access to Border Patrol Agents and their equipment to a strip of land only five miles wide

from the border. By Federal statute the Border Patrol has the right to enter private property within twenty-five miles of the border and we find it astonishing that Congress would choose to limit this to five miles on Federal property.

Our organization is currently completing a review and analysis of 570 documents which we recently received from Customs and Border Protection (CBP) pursuant to a request authorized by the Freedom of Information Act (FOIA).

We believe that a knowledgeable examination of these highly redacted documents will help determine, among other things, what criteria was used by the sponsor of S.1024 (formerly S.1689), when negotiating exceptions to the strict “no human presence” provisions mandated by Section 4(a)(3)(c) of the Wilderness Act of 1964.

Specifically, we hope to determine on what basis it was found acceptable to confine all Border Patrol assets and activities into a narrow five-mile wide strip along 25.24 miles of the US/Mexico border. This crucial section of the border is located in southern New Mexico between the Border Patrol Stations located at Santa Teresa and Deming, New Mexico. It is adjacent to the city of Cd. Juarez, Chihuahua, Mexico which is recognized as one of the most dangerous cities in the world.

While we do not speak for the active Border Patrol, it is clear from our several millennia of collective experience that even the smallest impediment to unencumbered access of enforcement assets is unacceptable. Agent safety and national security issues are of paramount concern to us.

Additionally, we are hopeful that our review will determine to what degree Border Patrol Field Supervisors were denied permission to provide candid assessments of the likely consequences of withdrawing enforcement assets as proposed by S.1024, and how the implementation of this restriction will adversely affect their ability to accomplish priorities mandated by the National Border Strategy.

Until answers to these important questions have been answered and for the other reasons stated herein, we respectfully request that this legislation not be advanced and that this letter be made a part of the official record.

Sincerely,

KENT LUNDGREN,
Chairman.

SIERRA CLUB,
August 3, 2011.

*Public Lands and Forests Subcommittee, Energy and Natural Resources Committee,
U.S. Senate, Washington, DC.*

DEAR SENATOR:

On behalf of the Sierra Club’s 1.4 million members and supporters across the country, I’d like to state our strong support for two bills scheduled for a hearing on August 3, 2011: S. 1024 the Organ Mountains—Dōa Ana County Conservation and Protection Act, and S. 1090 the Tennessee Wilderness Act of 2011. Taken together these bills would designate more than 260,000 acres as wilderness, protecting vital habitat and corridors for wildlife and popular recreational spots that support local economies. We urge your committee to expeditiously pass these important pieces of legislation.

The Organ Mountains—Dōa Ana County Conservation and Protection Act would designate 241,000 acres of wilderness and protect another 100,000 acres as a national conservation area around the Organ and Robledo mountains as well as parts of Broad Canyon. These are biologically and culturally rich landscapes that enjoy across the board support from local communities. This support includes: hundreds of local businesses, thousands of local citizens, the Hispano Chamber of Commerce de Las Cruces, the Las Cruces Green Chamber of Commerce, the Southwest Environmental Center, the Dōa Ana County Associated Sportsmen, the Southwest Consolidated Sportsmen, the Back Country Horsemen of New Mexico, local government, former Deputy Secretary of the Interior Lynn Scarlett, and Paul Deason, member of the U.S. Department of Justice Anti-terrorism Advisory Council. The bill passed through committee in the 111th Congress and we hope to see similar action this year.

The Tennessee Wilderness Act enjoys similar bipartisan support from business owners, hunters, hikers, the faith community, and local law makers. The bill would designate nearly 20,000 acres as wilderness in the Cherokee National Forest. This would expand five existing wilderness areas as well as create the Upper Bald River Wilderness Area. If passed, this measure would create Tennessee’s first new wilderness in 25 years. It would also protect key wild places in the Cherokee that provide clean drinking water to nearby communities as well as some of Tennessee’s premier hunting and hiking destinations. With your support, the communities that depend

on these lands and support these bills can ensure that their needs are met and that these places get the protection they deserve.

Please support and move the Organ Mountains—Dōa Ana County Conservation and Protection Act and the Tennessee Wilderness Act as quickly as possible. Thank you for your consideration.

Sincerely,

MICHAEL BRUNE,
Executive Director.

RIO GRANDE SOARING ASSOCIATION,
El Paso, TX.

Hon. RON WYDEN,
*Chairman, Subcommittee on Public Lands and Forest, 304 Dirksen Senate Building,
Washington, DC.*

DEAR SENATOR WYDEN,

The Rio Grande Soaring Association is a group of soaring pilots with a membership of approximately 100 who reside in west Texas and New Mexico.

We have been flying the mountains of southern New Mexico for over 30 years. Among our sites are the East and West Potrillo Mountains including Mt. Riley and Mt. Cox.

S. 1024 would drastically affect access to our flying sites. That is, we would effectively lose access to the above sites. For this reason, we are opposed to the bill (S. 1024).

Other than the ranchers who live in Potrillo Mountain ranges, we are probably the next greatest public user of these lands. Have the groups who are promoting this bill ever traveled to the Potrillo Mountains? If so, how often? Once or twice a year?

Furthermore, how is it that this area is being considered as Wilderness in the first place? It hardly meets the criteria of the 1964 Act—it is crisscrossed with roads, mines, fences, quarries, water tanks, and ranches.

If it becomes a wilderness, no one will be able to get in there except on horseback. Does anyone have any idea how barren and dry this area is? I've been going in and out of there for over 30 years and I have never seen ONE person on foot except at the Maars or on Mt. Riley and they got there by car/truck.

In any case, the Rio Grande Soaring Association is opposed to S. 1024 and we wish this letter to be made a permanent part of the hearing record.

Sincerely yours,

HADLEY ROBINSON,
Secretary.

STATEMENT OF TOM HUTCHINSON, FORMER CHAIR, GREATER LAS CRUCES CHAMBER
OF COMMERCE, ON S. 1024

I want to take a moment to share some thoughts I have on S. 1024.

One point, and a very significant one for that matter, is that both sides of the argument, those citizens who embrace all elements of S. 1024, and those citizens who would like to see modifications; all agree that the Organ Mountains be withdrawn from future development of any kind and retained as public lands. This can best be accomplished with a National Conservation Area (NCA) designation.

The two issues that seemed to generate the most controversy center around, 1) National Security and the Wilderness designations on or in close proximity to our national border and, 2) the public safety issues associated with access to lands for flood control and water capture projects.

When making decision that have elements of risk, whether national security or public safety associated with them, in nearly all cases, one can not totally eliminate risk, but one can manage risk.

In the case of the Potrillo Mountain Complex, although there appears to be some concession in S. 1024 for a buffer between the border and the Potrillo Mountain Complex Wilderness area, the wilderness area is still dangerously close for sheltering/accommodating illegal activity and preventing law enforcement from aggressively taking action.

If we know, and Border Patrol, both active and retired tell me so, that their access and apprehension activity would be less hampered in areas other than wilderness designation, i.e. NCA or Rangeland Preservation Area (RPA), and we can manage the risk better, it would seem the prudent and responsible decision to make is to

designate the Potrillo Mountain Complex as something other than Wilderness. As an NCA or RPA, we still preserve it, we write the rules for access and law enforcement has greater and more flexibility.

With regard to the Broad Canyon area and the current Organ Mountain NCA, Gary Esslinger with Elephant Butte Irrigation District (EBID), has made a compelling argument regarding the public safety risk associated with limiting access and activity in those areas associated with flood control and water capture. Again, if we can manage public safety by giving the Broad Canyon area and Organ Mountain NCA, a designation, perhaps RPA, that can allow appropriate access to manage flood control and water drainage challenges, with the proper designation, we can preserve it and give meaningful access to necessary agencies to manage water issues.

This is precisely why Wilderness designated areas in already remote areas typically have very little border security or public safety concerns. On the other hand, wilderness designations in close proximity to an international border or population centers raise credible national security and public safety concerns.

As a final note, I believe both sides of the argument can benefit from understanding the town of Hatch's perspective on this issue. Hatch not only experienced a catastrophic flood in 2006, but the town leadership chose to reverse their support for a Wilderness Bill. They understood the restrictive nature of a Wilderness designation and its impact on future flood control activity. With regard to Border Patrol and law enforcement, the illegal activity associated with border wilderness areas in Arizona is frightening. It seems there are those that want to ignore and dismiss that this same activity could occur in New Mexico. Even if there is only a remote chance it could, would it not be wise and prudent to establish a designation that would further minimize national security and illegal activity risk.

Accordingly, I respectfully request S 1024 be withdrawn from further consideration as it is currently written.

DOÑA ANA COUNTY SHERIFF'S DEPARTMENT,
Las Cruces, NM, August 2, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, 304 Dirksen Senate Building, Washington DC.

DEAR SENATOR WYDEN:

As the duly elected Sheriff of Dona Ana County, New Mexico, I write in opposition to S. 1024 which would designate over 240,000 acres as Wilderness in southern New Mexico.

The Wilderness Act of 1964 prohibits the use of motorized vehicles, mechanical devices and structures in all Wilderness areas. Such prohibitions would stymie my department's efforts to protect the public safety. Furthermore, given the recent problems of drug and human trafficking from Mexico, it would seem the height of folly to place such restrictions on law enforcement in this border area.

Congress has at its disposal other land designations which would protect the areas from development without placing such encumbrances on law enforcement. I strongly urge you to utilize one or more of these other designations and to reject the provisions of S. 1024.

Sincerely,

TODD GARRISON,
Sheriff.

MESILLA VALLEY SPORTSMEN'S ALLIANCE,
Las Cruces, NM, August 15, 2011.

Hon. JEFF BINGAMAN,
U.S. Senate, 703 Hart Senate Office Building, Washington, DC.

RE: S.1024

DEAR SENATOR BINGAMAN,

The Mesilla Valley Sportsmen's Alliance represents a majority of families in this valley who could be described as your common, everyday folks who work in the agriculture industry, real estate development and construction, local, state and federal government, New Mexico State University, NASA, and White Sands Missile Range or are retired. These families are the hard-working people of Dona Ana County who make this community tick.

These families also play hard. On any given weekend, you will find many of these folks have loaded up their assorted recreational necessities whether its horses, campers, RV's, ATV's, Jeeps or pickups with the appropriate gear and they're off to their favorite public lands area to spend quality time with their families and friends. The key, Mr. Bingaman, is ACCESS.

These families I am referring to do not support your idea of "protecting these lands for future generations" by restricting access to only a few who are able to either walk or go horseback into a "wilderness area". The local Western Heritage group has clearly demonstrated that if the intent is to protect these areas from development, congress has the ability to merely withdraw these lands from disposal without restricting appropriate access for resource management and recreational activities. Why is that not a viable option?

Another point, Mr. Bingaman, is the fact that it is the ranchers and sportsmen who are on these public lands everyday and provide the stewardship and management of these public lands to keep them healthy and clean. If ranchers don't develop and manage water distribution on our public lands for the benefit of their livestock, where do we think wildlife will access water? Ranchers and sportsmen work in concert to establish and maintain a healthy balance in the ecosystem.

Also, Mr. Bingaman, I'm sure that the activities of sportsmen on our public lands, especially those closer to the Mexican border, contribute to border security. Sportsmen play a significant role in the vigilance we must all engage in to keep our country safer. How can you think "wilderness on the border", which locks the public and the Border Patrol out of those areas, to be acceptable?

Finally, Mr. Bingaman, I want to address the importance of family. In every family, there are family members who are either, too old, too young or otherwise incapable of walking or riding horseback, that deserve to have access to recreate on our public lands. Yet you have selected some of the best recreational areas in Dona Ana County to "protect for future generations". What are you protecting these lands from? Do you think non-use is the answer? Why do you think it's alright to limit access to these wonderful areas of our public lands to only those physically capable of walking or riding horseback?

The families represented by Mesilla Valley Sportsmen's Alliance take great pride in the involvement of their families, especially the youth, in their recreational activities. Please don't take that away from us in Dona Ana County.

We call on you to withdraw your S.1024 and as such, allow continued recreational access to all of the public lands in Dona Ana County.

Sincerely,

RALPH RAMOS,
Co-chair.

BUILDING INDUSTRY ASSOCIATION OF SOUTHERN NEW MEXICO,
Las Cruces, NM, August 15, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, 304 Dirksen Senate Office Building, Washington, DC.

Dear Senator Wyden:

The Building Industry of Southern New Mexico (BIA) is a non-profit trade association of over 400 members and represents the residential and commercial home building industry in our region. Its designated membership area includes all of Dona Ana County as well as the Truth or Consequences and Deming areas.

Our association is very concerned about provisions in S. 1024 which would limit or prevent the Border Patrol from accomplishing their mission. Furthermore, those same provisions would disallow or delay the maintenance of existing flood control structures and prohibit the construction of new structures.

Primarily for those reasons the BIA is opposed to the passage of S. 1024 in its current form.

Please include this letter in the official record.

Respectfully,

FARRELL THURSTON,
President.

U.S. CUSTOMS AND BORDER PROTECTION,
Washington, DC, June 1, 2010.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN:

I write to thank you for your efforts to address border enforcement concerns in S. 1689, the Organ Mountains-Desert Peaks Wilderness Act. The provisions of this bill, including your recent changes to address the operational needs of the Border Patrol, would significantly enhance the flexibility of U.S. Customs and Border Protection (CBP) to operate in this border area.

As you know, the existing wilderness study area along the southern boundary of the West Potrillo Mountains provides CBP with 1/3 of a mile in which to perform its activities. The most recent changes that you have made to the bill would provide five miles between the U.S.-Mexico border and the area with full wilderness protections. Three miles of this zone would allow normal public access, and an additional two miles would allow restricted use by the public. Throughout the entire buffer zone, CBP could operate motor vehicles, build infrastructure, and carry out other activities as it would on any non-wilderness Bureau of Land Management land.

I also appreciate other security-focused modifications that you have made to the bill, including:

- Explicit provision to allow the East-West way, which will be closed to the public, to be accessible to CBP and other law enforcement personnel;
- Clarification that no provision of the bill would restrict CBP from pursuit of suspects within the wilderness area, including the use of motorized vehicles in hot pursuit; and
- Clarification that nothing prevents CBP from conducting low-level overflights above the wilderness area.

The security-related enhancements to this bill are the result of careful consultations between your office and CBP in New Mexico and Washington, DC. While the solutions identified in this bill are specific to this particular area of the border, the collaborative process should be a model for future consideration of wilderness designation along the border.

Sincerely,

ALAN BERSIN,
Commissioner.

STATEMENT OF JENN DICE, DIRECTOR OF GOVERNMENT AFFAIRS, INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION, ON S. 1090

Mr. Chairman and Members of the Committee, thank you for the opportunity to express our concern regarding certain provisions included in S. 1090, the Tennessee Wilderness Act of 2011. This Act is the culmination of years of local collaboration and effort to protect treasured wild places where Tennesseans and visitors from around the country seek solitude and adventure. However, we respectfully express concern regarding the impact to local trail systems from a new proposed highway corridor included in the legislation. Assurance that the new highway would not negatively impact the trails or that any impacted trails or related facilities such as trailhead parking and restrooms would be replaced would allow IMBA to wholeheartedly support this legislation.

Founded in 1988, the International Mountain Bicycling Association (IMBA) leads the national and worldwide mountain bicycling communities through a network of 80,000 individual supporters, 750 affiliate clubs, and 600 dealer members. IMBA teaches sustainable trail building techniques and has become a leader in trail design, construction, and maintenance; encourages responsible riding, volunteer trail work, and cooperation among trail user groups and land managers. Each year, IMBA members and affiliated clubs conduct more than one million hours of volunteer trail stewardship on America's public lands and are some of the best assistants to federal, state, and local land managers.

Wilderness designations are a difficult issue for IMBA and mountain bicyclists. On one hand we want to preserve the beauty and experience of wild landscapes. On the other hand, federal land management agencies interpret the Wilderness Act of 1964 to prohibit the use of mountain bicycles. Our decision to support a Wilderness proposal or bill is not one we take lightly. Only when we have worked with the Wilderness proponents to develop win-win solutions can we fully support the designation.

IMBA is concerned with portions of the Tennessee Wilderness Act of 2011, as we understand a new highway, Corridor K, will be built in the Ocoee River Gorge, and this project could negatively impact a popular and economically significant mountain bike trail system. We are asking that no action be taken on the Wilderness Act until the Corridor K route is determined or if assurance can be provided that the trails would not be negatively impacted. We believe the area should receive permanent land protection, but first new trails must be designed and built to replace those trails destroyed by the new highway. This careful attention to detail in drawing the boundaries and considering the diverse recreational opportunities the public enjoys can continue, while at the same time preserving the extensive wilderness compatible is essential for creating a broad base of local support for this Act.

We applaud the bill's sponsors, Senator Lamar Alexander (R-TN) and Senator Bob Corker (R-TN) for their outstanding support for Tennessee public lands. There are many special places across the beautiful state threatened by resource extraction, development, and road building. IMBA agrees that Tennessee's most treasured places, like Little Frog and Big Fork Mountain must be safeguarded, but in this case we ask you to work with us to preserve these trails, a critical recreational asset, before acting on the Wilderness Bill.

As mountain bikers, we cherish the natural landscape and work to protect and maintain the trails. The mountain bike trails around the Ocoee River Gorge is an important recreational resource for the scenic yet economically challenged region. Every year thousands of mountain cyclists attend events and support the local economy. Without a doubt Tanasi/Chillhowee is a premier national mountain bike destination.

As demands on public lands continue to increase the areas that have been preserved for their recreational assets will continue to support local business. Wilderness additions created through the same local process and careful boundary definitions help to ensure that towns like those near Ocoee River Gorge area will continue to reap the benefits of a healthy recreation economy.

We look forward to continuing to work diligently with the bill sponsors' staff to preserve the region's conservation and recreation legacy.

August 3, 2011.

Hon. JEFF BINGAMAN,
Chairman, Senate Committee on Energy and Natural Resources, 304 Dirksen Office Building, Washington, DC.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, 223 Dirksen Senate Office Building, Washington, DC.

Hon. LISA MURKOWSKI,
Ranking Member, Senate Committee on Energy and Natural Resources, 709 Hart Office Building, Washington, DC.

Hon. JOHN BARRASSO,
Ranking Member, Subcommittee on Public Lands and Forests, 307 Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS: We are respectfully writing to thank you for scheduling a hearing on S.1090, the Tennessee Wilderness Act of 2011. As you know, this bill, introduced by Senator Alexander and cosponsored by Senator Corker, would protect 19,556 acres of Tennessee's national forest lands as wilderness.

We are part of the broad, locally based support for Senator Alexander's proposal. This group includes more than 70 businesses, locally-elected officials, conservation and outdoor recreation groups and religious leaders. For your information, we have included a partial list of the supporters of this legislation.

The broad support for S.1090 is the result of several factors. The legislation expands five beloved existing wilderness areas. This includes additions to the Big Frog (348 acres) and Little Frog Wilderness Areas (978 acres) in Polk County. Both of these special areas are within an hour's drive of Chattanooga. Chattanooga's revitalization is inextricably linked to its proximity to outdoor amenities such as these wilderness areas. Protecting these areas has allowed nearby Hamilton and Bradley Counties to attract major corporations such as Volkswagen, Wacker and Amazon.com, as businesses are keenly aware that prospective employees need places to recreate to maintain their quality of life.

In addition, this legislation will expand the Joyce Kilmer Slickrock Wilderness (1,836 acres) and create the first new wilderness area in Tennessee in 25 years; the

Upper Bald River Wilderness (9,038 acres). Both of these areas are located in Monroe County and are within 90 minutes of Knoxville. The Joyce Kilmer Slickrock Wilderness offers outstanding recreational opportunities including hunting, fishing, horseback riding, hiking, camping and fall foliage viewing. The Upper Bald River Wilderness Study Area protects nearly an entire watershed. In addition to the water quality protection that this provides for downstream communities (including Chattanooga), the area offers outstanding opportunities to fish for native brook trout and hunt for both black bear and wild boar. Nearly 12 miles of the Benton MacKaye Trail will be permanently protected as a result of this legislation.

In northeast Tennessee, additions to the Big Laurel Branch Wilderness (4,446 acres) in Carter and Johnson Counties and the Sampson Mountain Wilderness (2,922 acres) located in Washington and Unicoi Counties offer enhanced recreational opportunities within 45 minutes of Johnson City. The Big Laurel Branch Wilderness addition will permanently protect 4.5 miles of the Appalachian Trail on Iron Mountain. The Sampson Mountain addition is adjacent to the newly obtained Rocky Fork tract, enhancing the conservation value of both of these parcels.

We hope that you will favorably move S.1090 in the near future. Thank you for your consideration.

Sincerely,*

VICTOR ASHE,
*Former Mayor Knoxville, TN,
Former US Ambassador to Poland.*

JOAN ASHE,
Knoxville, TN.

LEON HUMPHREY,
Mayor, Carter County.

LARRY POTTER,
Mayor, Johnson County

GEOTHERMAL ENERGY ASSOCIATION,
Washington, DC, August 1, 2011.

Hon. RON WYDEN,
Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN, On behalf of the Geothermal Energy Association (GEA), I am writing to express our strong support for S. 1149. This is important legislation to ensure the timely development of new geothermal prospects in the Western US.

We urge the Subcommittee to support this important legislation.

Sincerely,

KARL GAWELL,
Executive Director.

GLASS PACKAGING INSTITUTE,
Alexandria, VA, August 2, 2011.

Hon. RON WYDEN,
Chairman, U.S. Senate Subcommittee on Public Lands and Forests, U.S. Senate Energy and Natural Resources Committee, 304 Dirksen Senate Office Building, Washington, DC.

Re: Support of S. 1144, the Soda Ash Competition Act

DEAR CHAIRMAN WYDEN: I represent the Glass Packaging Institute (GPI), which is the trade association for the glass container manufacturers of beverage and food containers, as well as suppliers to our collective industry. Our industry employs tens of thousands of Americans in 48 operating glass container manufacturing plants throughout the country. The U.S. soda ash industry is a critical supplier and partner of the glass container industry, as soda ash is used as part of our manufacturing processes on a daily basis.

We would like to offer our support for your legislation, S. 1144, the Soda Ash Competition Act, under consideration this week in the Subcommittee on Public Lands and Forests.

S. 1144 is a vital piece of legislation that will help to ensure the competitiveness of the U.S. soda ash industry, and to the companies they supply by extending the

*Other signatures have been retained in subcommittee files.

royalty rate at 2% for an additional five years, for all outputs of sodium compounds, including soda ash, on federal land.

The U.S. soda ash industry relies on the current 2% rate to stay competitive in an export market increasingly distorted by foreign industrial policies. As the majority of the world's naturally occurring soda ash is found in the U.S., the ability to continue to supply glass container domestic markets and more fairly compete in the export market is crucial.

As you are aware, the export of soda ash through this country's ports is economically significant, as it is the number two export headed through the Port of Portland.

The American Natural Soda Ash Corporation (ANSAC) estimates that a five year extension of the current 2% rate would provide soda ash producers certainty and confidence to expand production, while supporting thousands of existing jobs and contributing to \$1 billion annually in exports.

The domestic soda ash market now contends with unfair manipulation in the global markets, specifically China, whose has offered their exporters of soda ash a 9% rebate on the 17% value added tax (VAT). This legislation is one step forward in an attempt to create a more level playing field for the domestic soda ash industry. Additionally, the Chinese synthetic soda ash production process is significantly more energy intensive than current domestic production from naturally occurring deposits of trona (soda ash) found in the U.S.

Glass container manufacturers and our domestic soda ash partners depend on each other to ensure continued success of our industries. We hope your Committee will favorably consider this legislation. Please contact me should you have any questions or concerns regarding our position on this legislation.

Sincerely,

LYNN M. BRAGG,
President.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 31, 2011.

Hon. GARY LOCKE,
U.S. Secretary of Commerce, 1401 Constitution Ave., NW, Washington, DC.

Hon. RON KIRK,
U.S. Trade Representative, 600 17th Street, NW, Washington, DC.

DEAR SECRETARY LOCKE AND AMBASSADOR KIRK: We are writing to express our continued concerns about China's use of a Value-Added Tax (VAT) rebate to promote its soda ash industry at the expense of U.S. exports. For over two years, China has provided its domestic manufacturers with an artificial incentive to export through a 9% rebate of the 17% VAT. For a number of reasons, we ask that the issue of the soda ash VAT rebate be specifically included on the JCCT agenda this fall.

After suspending its VAT rebate for soda ash in July 2007, China reinstated the soda ash rebate in April 2009 to encourage its own exports during the global economic crisis. China's state-supported soda ash industry is the largest in the world and this policy is harmful to its international competitors, particularly U.S. soda ash manufacturers. As you may know, U.S. soda ash has a natural advantage over Chinese soda ash, based on a manufacturing process that is much more sustainable in terms of environmental protection and energy use than the synthetic processes used in China. China's manipulation of the VAT rebate to support its domestic soda ash industry also has wider implications—not only is it economically unjustified, it contravenes China's own interests in shifting energy resources from more productive and efficient industries.

We must focus on Chinese policies that are a direct threat to U.S. exports and U.S. jobs. The soda ash VAT rebate is one such policy. Chinese exports compete directly with U.S. soda ash exports in the Asia-Pacific market and beyond. Although the VAT is just one part of China's overall industrial policy, the soda ash VAT rebate is a distinct threat to U.S. manufacturing in a sector where the United States enjoys a natural competitive advantage. If we don't stand up for the pillars of our export-based manufacturers like the soda ash industry—and the U.S. workers employed throughout the soda ash supply chain—we cannot seriously contend we are doing everything we can to support U.S. exports.

We ask that the Department of Commerce and the U.S. Trade Representative's Office ensure that the soda ash VAT rebate is raised at the highest levels with Chinese officials at the JCCT meetings this year. The message should be as clear as it is convincing; namely, China should live up to its repeated pledge to discourage the expansion of highly-polluting and energy-intensive sectors such as its own soda

ash industry. Policies aimed at promoting soda ash exports, such as the VAT rebate, are inconsistent with China's own stated goals and a direct threat to U.S. interests.

We greatly appreciate your consideration of this request and look forward to your response.

MICHAEL B. ENZI,
U.S. Senator.
JOHN BARRASSO, M.D.,
U.S. Senator.
DAVID WU,
U.S. Representative.
JOSEPH I. LIEBERMAN,
U.S. Senator.
ROBERT MENENDEZ,
U.S. Senator.
CYNTHIA LUMMIS,
U.S. Representative.
RON WYDEN,
U.S. Senator.
JEFF MERKLEY,
U.S. Senator.
JAMES A. HIMES,
U.S. Representative.
FRANK LAUTENBERG,
U.S. Senator.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 5, 2009.

Hon. RON KIRK,
U.S. Trade Representative, 600 17th Street, NW, Washington, DC.

DEAR AMBASSADOR KIRK: We are writing to express our serious concern over the decision by the People's Republic of China (PRC) to begin offering, effective April 1, 2009, its soda ash exporters a 9% rebate on the 17% VAT. We strongly urge you and others in the Administration to convey the U.S. government's concern over this development and request that the rebate offer be promptly eliminated.

U.S. soda ash, which is a primary raw material in the manufacturing of glass and detergents, is the most competitive and environmentally friendly in the world due to a unique natural deposit of the raw material, trona, located in Wyoming. Over 40% of U.S. production is exported. With U.S. exports in 2008 reaching \$1.4 billion, soda ash is the second largest export from the Port of Portland, and thousands of jobs are dependent on this industry in a number of other U.S. states, including Connecticut, New Jersey, Georgia and Texas.

In 2003, China became the world's largest producer and consumer of soda ash. Roughly 45% of China's soda ash production is done through a synthetic process, the major byproduct of which is calcium chloride, a well-known contributor to environmentally-harmful toxic sludge emissions. This process generates five times the amount of waste as naturally-sourced U.S. soda ash. Moreover, Chinese synthetic soda ash production is highly energy intensive. About 13.6 million BTUs per metric ton are required to produce China's synthetic soda ash, compared to 6.3 million BTUs per metric ton needed to produce U.S. natural soda ash.

The recent PRC decision to offer the 9% VAT rebate to its exporters will further stimulate excessive capacity expansions in China. Chinese export prices, helped by the artificial incentive to export, will decline at the expense of U.S. exports, particularly in the Asia-Pacific region. This will happen in the midst of a major decline in global demand for soda ash. The new rebate is nothing short of irresponsible during this troublesome economic period.

Moreover, the export rebate represents an unfortunate policy shift in China that is harmful to China's own interests. In July 2007, PRC eliminated the 13% VAT rebate on soda ash exports. The decision to do this was, according to a WTO Report, designed to limit the export of products deemed to have an adverse effect on the environment and to reduce exports of highly energy intensive products such as soda ash. Consequently, the recent decision to reintroduce a VAT rebate on Chinese soda ash exports is a setback both for China and U.S. soda ash exporters.

Therefore, we urge you and others in the Administration to immediately consult with the appropriate senior Chinese government officials in an effort to achieve the elimination of the April 1 9% VAT rebate on soda ash.

We greatly appreciate your consideration of this important matter to the U.S. soda ash industry and look forward to your response.

MIKE ENZI,
U.S. Senator.

JOHN BARRASSO,
U.S. Senator.

CYNTHIA M. LUMMIS,
U.S. Representative.

RON WYDEN,
U.S. Senator.

PHIL GINGREY, M.D.,
U.S. Representative.

DAVID WU,
U.S. Representative.

JOSEPH I. LIEBERMAN,
U.S. Senator.

JAMES A. HIMES,
U.S. Representative.

JEFF MERKLEY,
U.S. Senator.

ROBERT MENENDEZ,
U.S. Senator.

FRANK R. LAUTENBERG,
U.S. Senator.

STATEMENT OF RANDI SPIVAK, VICE PRESIDENT OF GOVERNMENT AFFAIRS, GEOS
INSTITUTE, ON S. 1344

Chairman Wyden, Ranking Member Barrasso, and members of the Subcommittee, the Geos Institute greatly appreciates the opportunity to submit testimony for the record on S. 1344, the "Arizona Wallow Fire Recovery and Monitoring Act."

The Geos Institute is a science-based organization with expertise in forest and watershed management, ecological restoration and post-disturbance ecology. We engage in scientific analysis and forest management policy on federal lands.

The purpose of S.1344 as stated is to "take immediate action to recover ecologically and economically from a catastrophic wildfire in the State of Arizona." The bill further calls for rehabilitating and restoring the Wallow Fire Area. The primary method for accomplishing both the ecological and economic goals would be to log areas burned by the Wallow fire.

The Geos Institute agrees that following a wildland fire federal land management agencies should act quickly to protect public safety. The Forest Service is currently using existing authorities to remove hazard trees from roadsides and campgrounds and create defensible space in the immediate vicinities of communities at risk. Burned Area Emergency Recovery (BAER) practices that have proven to be effect should also be implemented.

Abundant science however, has shown that post-fire or "salvage" logging is not ecologically restorative, most results in cumulative impacts to watersheds after fires, can elevate the risk of fires from logging slash left on the ground and can be detrimental to long-term forest development and other critical ecosystem services such as soil stability and erosion control.¹ University of Washington Professor Dr. Jerry Franklin noted that logging dead trees often has greater negative impacts than logging of live trees and concluded, "timber salvage is most appropriately viewed as a 'tax' on ecological recovery."² Any post-fire logging beyond what is necessary to protect public safety will likely result in greater damage and be more cost-

¹Donato et. al. 2006. Post-Fire Logging Hinders Regeneration and Increases Fire Risks, Science., Beschta et al.,2004. Postfire Management on Forested Public Lands of the Western United States. Conservation Biology. D.B. Lindenmayer et al., 2004 Salvage Harvesting After Natural Disturbance. Science, D. B. Lindenmayer, Salvage Logging and its Ecological Consequences, Island Press

²Testimony House Subcommittee on Resources, November 10, 2005.

ly to the communities within the Wallow Fire area than any short term-gain from the sale of fire-damaged logs. Further, only by maintaining crucial ecological processes post-fire like nutrient cycling in recovering soils and native plant species establishment functions can we expect to sustain renewable resources.

Specifically, logging immediately after a fire has been show to:

1. Inhibit the ability of a forest to regenerate.—Numerous scientific studies have shown that logging after fires can actually reduce the ability of a forest to naturally regenerate. Logging, especially the use of ground based equipment:

a. Hampers natural re-growth.—Research has shown that conifer forests have adequate seed densities to naturally regenerate.³ Moving heavy logging equipment across burned soils further disturbs the soil and can bury young seedlings during logging operations, thereby inhibiting the natural regenerative growth of the forest. In another study of post-fire logging in the 2002 Biscuit Fire area in southwest Oregon, researchers found that post-fire logging by removing naturally seeded conifers and increasing surface fuel loads, can be counterproductive to goals of forest regeneration and fuels reduction and may conflict with ecosystem recovery goals.⁴ In this study, researchers found that logging subsequently reduced regeneration by 71% (767 seedlings per hectare to 224 seedlings per hectare) due to soil disturbance and physical burial by woody material during logging operations.

b. Compacts soils and impairs soil productivity.—One of the most important elements in forest regeneration following fires is soil stability and soil productivity. Ground-based logging equipment compacts soils. Soil compaction adversely impacts post-fire recovery and longterm site productivity by eliminating pore spaces in soil that retain air, water, and facilitate spread of fine roots. The result of decreased water infiltration and retention is increased surface runoff, sheetwash erosion, and subsequent sedimentation in stream. Soils and soil productivity are irreplaceable in human time scales. Management practices that compact soils, reduce soil productivity, or accelerate erosion should not be undertaken.⁵ In particular, sediment delivery to streams is exacerbated by the road system, including failing roads, which represent a chronic and cumulative impacts with consequences to downstream water quality.⁶

2. Increase fire risk.—Post-fire logging has been shown to increase both fire risk and coarse downed woody fuel loads. Post fire logging typically removes the larger diameter trees that have the most commercial value but least flammability, but leaves behind the smaller diameter trees and logging slash that have little to no commercial value, but are the most flammable fuels. In a study modeling the effects of various fuels treatments in the Sierra Nevada, lop-and-scatter, group selection (small clearcuts), and salvage logging operations that left the slash and adjacent landscape untreated produced the highest fireline intensity, heat per unit area, rate of spread, area burned, and scorch height of all other fuels method treatments because they increased the flammable surface fuel load. The researcher of this study concluded that salvage logging would make the fire situation more severe because removing only large, standing trees will not reduce fire hazard in Sierra Nevada forest ecosystems.⁷

Fuel reduction treatments (prescribed burning or mechanical removal) are frequently intended following post-fire logging, but resources are often not allocated to carry out these activities.⁸ The lowest risk strategy may be to leave dead trees standing as long as possible allowing for the slow decay of surface fuel. The study author concluded, “Therefore, the lowest fire risk strategy may be to leave dead trees standing as long as possible (where they are less available to surface flames), allowing for aerial decay and slow, episodic input to surface fuel loads over decades. Our data show that post fire logging, by removing

³Shatford, et. Al. 2007. Conifer Regeneration after Forest fire in the Klamath-Siskiyou: How Much, How Soon? *Journal of Forestry*, Society of American Foresters.

⁴Donato et. al. 2006. Post-Fire Logging Hinders Regeneration and Increases Fire Ricks, *Science*.

⁵Beschta et al.,2004. Postfire Management on Forested Public Lands of the Western United States. *Conservation Biology*.

⁶Karr et al. 2004. The Effects of Postfire Salvage Logging on Aquatic Ecosystems in the American West. *Bioscience*.

⁷Stephens, S.Lewis. 1998. Evaluation of the Effects of Silvicultural and Fuels Treatments on Potential Fire Behavior in Sierra Nevada Mixed-Conifer Forests. *Forest Ecology and Management* 105:21-35.

⁸R. W. Gorte, 1996. *Forest Fires and Forest Health*. Congressional Research Service (Publication 95-511).

naturally seeded conifers and increasing surface fuel loads, can be counter-productive to goals of forest regeneration and fuel reduction.⁹

3. Limit ability to adapt to a changing climate.—Every forest changes through successional stages as forests develop, mature, die and renew. An often overlooked and severely underappreciated phase is the early successional or early seral stage of a forest that follows after stand-replacing or partial disturbances such as fire. This phase, also referred to at the “stand-initiation stage” in forestry, can be characterized by high productivity of plant species (including herbs and shrubs), complex food webs, large nutrient fluxes, and high structural and spatial complexity. The ecological importance of early-successional forest ecosystems (ESFEs) has received little attention, except as a transitional phase, before trees begin to grow. Yet, this phase of development plays a crucial role in key ecosystem processes that sustain a forests regrowth.¹⁰ Organisms that survive (e.g. seeds, spores, rootstocks), and biological legacies (e.g. standing dead and downed trees), are extremely important for repopulating and restoring ecosystem functions following disturbances. Early seral plant and shrub species provide major opportunities for recharge of nutrient pools, such as additions to the nitrogen pool, which is especially important after nitrogen losses from wildfires. The important role of re-sprouting vegetation in curbing massive losses of nitrogen was demonstrated by experimentally clearcutting and applying herbicides in a watershed at Hubbard Brook Experimental Forest (Bormann and Likens 1979).

Recent research concludes that early successional forest ecosystems may be more adaptable to future climate change.¹¹ Given the importance of this developmental stage, management actions should be avoided that: (1) eliminate biological legacies, (2) shorten the duration of the early seral phase, and (3) interfere with stand-development processes. Such activities include intensive post-disturbance logging, aggressive reforestation, and elimination of native plants with herbicides.

4. Impact water quality and stream.—By themselves, the effects of fire create few problems for aquatic populations that have access to high-quality stream environments. Fire even provides benefits, such as pulsed additions of spawning gravel and wood. But where a history of environmental degradation and fragmentation of aquatic populations already exists, fire can threaten certain species, and post fire logging adds another layer of stress.

After fires, soils can exhibit a water-repellent condition that reduces the infiltration of water.¹² These conditions however will vary based on soils, fire intensity, the amount of organic matter left on site and other factors. Generally, water-repellent conditions are spatially variable and diminish as vegetation and soils recover.¹³ In the short-term, the adverse effects of high-severity fires—decreased infiltration, increased overland flow, and excess sedimentation in streams—can be greatly exacerbated by the soil disturbance caused by salvage logging.¹⁴ Running heavy equipment across an area that may experience high-intensity rains, as can be the case in the monsoon season in the Wallow fire area, cannot be in any manner restorative. Additionally, the steeper ground the more likely there will be adverse effects from logging/heavy rainfall than relatively flat ground.

Another tremendous stressor are the logging roads and landings that are built for post fire logging operations which cause enduring damage to soils and streams, help spread noxious weeds, and hinder revegetation. Roads are a primary cause of reduced water quality and of contractions in the distribution and number of native salmonids on public lands. In fact, reducing road density on national forests should be a primary post-fire response. Temporary roads not built to construction specifications can result in even greater sedimentation.

⁹Donato et. al. 2006. Post-Fire Logging Hinders Regeneration and Increases Fire Ricks, Science.

¹⁰Swanson et al., 2010. The Forgotten stage of forest succession: early-successional ecosystems on forest sites. *Frontiers in Ecology and the Environment*.

¹¹ibid.

¹²DeBano, L.F., D.G. Neary, and P.F. Ffolliott, 1998. *Fire's Effects on Ecosystems*. New York: John Wiley & Sons, Inc. 333 p.

¹³Robichaud et al. 2000, Evaluating the Effectiveness of post-fire rehabilitation treatments. General Technical Report RMRS-GTR 63. USDA Forest Service, Rocky Mountain Research Station., J. Letey, 2001, Causes and Consequences of Fire Induced soil water repellency. *Hydrological Processes*.

¹⁴McIver, J.; and L. Starr. 2000. *Environmental Effects of Postfire Logging: Literature Review and Annotated Bibliography*. Gen. Tech. Rep. PNW-GTR-486. USDA-Forest Service, Pacific Northwest Research Station.

Consequently, logging activities in these areas undermine the conservation and restoration of aquatic ecosystems and increase the risk of extirpation for already imperiled, fragmented, and sensitive populations. Post-fire logging ignores many threats to aquatic resources, virtually guaranteeing trajectories toward unsustainable ecosystems. Halting this deterioration should be a policy priority. We support the recommendations for protecting streams, wetlands, and associated watersheds offered by Dr. Karr and his associates in their paper, *The Effects of Postfire Salvage Logging on Aquatic Ecosystems in the American West*.¹⁵

Recommendations and Conclusions

The Forest Service already has the needed authorities to quickly remove hazardous trees and address other public safety issues. Given the range of current authorities to address public safety following wildland fires, the provisions of S.1344 are unnecessary.

As Forest Service Chief Tidwell stated in his testimony before this committee on August 9, 2011 “While we support the objectives of S. 1344, we note that the Forest Service already has appropriated funds, stewardship contracting authority, and the salvage sale fund to address various forest management scenarios proposed in the bill.” Chief Tidwell further noted that the agency is currently removing hazard trees along 245 miles of road from a projected 300 miles of road needing treatment. The roadside hazard tree removal could result in approximately 162,000 tons of material.

Rather, we believe that a more effective and efficient expenditure of limited resources is to continue to support the White Mountain Stewardship Project. Again, as Chief Tidwell noted in his testimony “. . . hazardous fuel reduction and thinning projects implemented between 2004 and 2011 have successfully reduced fire behavior near the Arizona communities of Greer, Eagar, Nutrioso, and Alpine.”

In conclusions, I urge the committee to reject S. 1344 on grounds that it is not ecologically or scientifically sound and is unnecessary to accomplish post-fire objectives given the Forest Service already has the authorities to deal with the most pressing needs after fire—hazard tree removal.

Thank you for the opportunity to provide testimony, I would be happy to provide any follow up information the committee may require.

NAVAJO COUNTY,
BOARD OF SUPERVISORS,
Holbrook, AZ, August 2, 2011.

Hon. JON KYL,
730 Hart Senate Building, Washington, DC.

DEAR SENATOR KYL, Navajo County would like to express its strong support for the Arizona Wallow Fire Recovery and Monitoring Act (S. 1344), legislation that would expedite the removal of hazard, dead and dying trees in the community protection management areas of the Wallow Fire. We believe that S.1344 strikes a responsible balance between environmental and economic interests, and that salvaging these fire-damaged trees will help in the prevention of future fires by reducing the hazardous fuels on the ground, improving the overall health and recovery of the forest, and providing an economic benefit to the communities of northeastern Arizona a by putting the wood to good use.

As you know, Navajo County has been an adamant supporter and participant with the White Mountains Stewardship and Four Forest Restoration Initiative. These commercial thinning projects are the key to the restoration of the 2.4 million acres of ponderosa pine throughout Arizona, and the mechanism by which we can end these catastrophic and unnatural wildfires from occurring in the future.

I understand that S. 1344 will be presented in the Public Lands and Forests Subcommittee of the Senate Energy and Natural Resources Committee on, August 3, 2011. Please add Navajo County as one of the voices that support S.1344, and please let me know if there is anything that I may be able to do to support this legislation and speed the process along. The removal of these stands of timber must be completed within the next 18 months to preserve the economic value of timber for commercial harvest. We desperately need a stream of revenues from these salvage sales

¹⁵Karr et al. 2004 *The Effects of Postfire Salvage Logging on Aquatic Ecosystems in the American West*. Bioscience.

that can offset the costs for the restoration treatments in the Apache-Sitgreaves National Forest.

Regards,

DAVID TENNEY,
Chairman.

BOARD OF SUPERVISORS OF APACHE COUNTY,
St. Johns, AZ, July 28, 2011.

Hon. JON KYL,
U.S. Senate, 730 Hart Senate Office Building, Washington, DC.

Re: Clearing Red Tape for Salvage Logging and Recovery of Our Forests

DEAR SENATOR KYL: I am writing today to express my support for S, 1344, the Arizona Wallow Fire Recovery and Monitoring Act. I am confident that this legislation will help implement various programs which will remove hazardous and dead trees within our Apache County communities. Many management and forest health practices were tried in the past and ignored over the last couple of decades. This has led to many of the conditions in our forests to now be at a critical state of disrepair and massive amounts of dead and dying landscape, insect infestation and a main contributor to our tremendous fire conditions. Cattle grazing and logging need to be restored throughout our areas along with competent forest management throughout our great country.

Legislation needs to be established so that the work of recovering fire-damaged materials and removal of tree hazards can immediately begin. Large amounts of soil degradation, loss of habitat and flooding have begun in our local areas. The flooding has severely exacted a heavy toll on Apache County residents and county resources. Infrastructure like bridges, drainages and roadways have been damaged by massive water overflows to homes and other structures during our monsoon season, which has just begun. Business interruptions occur as well in our heavily effected flood regions leading to even more economic losses which, when all combined, will have catastrophic and cumulative effects for years to come.

We all have an opportunity ahead of us to learn by previous forest management mistakes and turn the Wallow Fire disaster into an opportunity for the good of all.

Thank you for your efforts on behalf of the Apache County residents, and especially those who have been impacted by the Wallow Fire.

Sincerely,

R. JOHN LEE,
Supervisor, District III.

TOWN OF SPRINGERVILLE,
Springerville, AZ, July 28, 2011.

To Whom It My Concern:

On behalf of the town of Springerville I am writing this letter in support of Senate Bill 1344, this act cited as "Arizona Wallow Fire and Recovery Act". This Bill is a start in a long recovery process for the communities of the White Mountains and is an integral part in the Town's of Springerville and Eagar s (Round Valley) Resolution No. 2011-R009, attachment and Resolution 2011-R010* that is being presented in support of Salvage Logging at the August 3, 2011 town council meeting.

The Town of Springerville hopes you will consider passing Senate Bill 1344 and will review our Resolution, as our communities have been dramatically impacted by the Wallow Fire.

Sincerely,

ERIC BACA,
Mayor.

*Documents have been retained in subcommittee files.

ARIZONA HOUSE OF REPRESENTATIVES,
Phoenix, AZ, July 13, 2011.

Hon. JOHN MCCAIN,
U.S. Senator, 241 Russell Senate Office Building, Washington, DC.

Hon. JON KYL,
U.S. Senator, 730 Hart Senate Office Building, Washington, DC.

DISTINGUISHED SENATORS: The Arizona House of Representatives would like to commit its strong support for U.S. Senate bill 1344, the Arizona Wallow Fire Recovery and Monitoring Act, introduced by Senator Jon Kyl. This new forest health bill will expedite the removal of dead and dying trees following Arizona's worst wildfire in state history.

S. 1344 strikes a responsible balance between environmental and economic interests. It will help prevent future fires and provide an economic benefit which Arizona desperately needs right now. These projects would include hazardous, dead and dying tree removal.

Self-proclaimed environmental groups cannot slow down this process or the economic benefit of salvage will be permanently lost: The Rodeo-Chediski salvage opportunities were lost due to environmental roadblocks and the remaining wood has no economic value to anyone. Had Arizona been able to clean/salvage the damaged and destroyed trees, we would have had economic growth.

As you know, here at the State Capitol Representatives Brenda Barton and Chester Crandell have brought attention to this issue through the formation of the Ad Hoc Committee on Forest Management in which Congressman Paul Gosar testified at the first hearing. We look forward to working with you in any capacity we can to make sure the mistakes that led to these catastrophic fires do not happen again.

Sincerely,*

ANDREW TOBIN,
Speaker of the House, District 1.

CITY OF SCOTTSDALE,
Scottsdale, AZ, July 21, 2011.

Hon. JON KYL,
U.S. Senate, 730 Hart Senate Office Building, Washington, DC.

DEAR SENATOR KYL: I am writing today to express strong support for S. 1344, the Arizona Wallow Fire Recovery and Monitoring Act.

If enacted, I believe this legislation will put into place an important process to initiate the removal of hazardous, dead, and dying trees in community protection management areas within the Arizona Wallow Fire—one of the most dramatic and devastating wildfires in Arizona's history. Also of importance, S. 1344 provides a mechanism to create new revenues that will be used to treat standing forests to help prevent another catastrophic wildfire in Arizona.

I know it is important to expedite the passage of this legislation to the fullest extent possible so that the work of recovering fire-damaged materials and the removal of tree hazards can begin before these materials lose much of their remaining economic value. The loss of value due to unnecessary delays will have a direct impact on the level of funds available for the much-needed forest restoration treatments in the Apache-Sitgreaves National Forest. I am very supportive of forest restoration projects to improve the health of our western forests.

As you may recall from our recent phone conversation, I am currently working with other local officials to create a resolution that will ask the Congress for assistance in enacting large-scale forest restoration efforts to improve forest health and reduce the risks from catastrophic wildfires. Support for this federal legislation is specifically noted in the resolution. All ninety-one Arizona cities and towns will have the opportunity to vote to support this resolution during the annual meeting of the League of Arizona Cities and Towns in August.

The forest health problem is widespread and is affecting wildlife habitat, watershed management, and increasing the dangers to human life and property from catastrophic wildfire events. I applaud your tireless work to ensure that our forests receive the proper restoration treatments that are so badly needed.

* Other signatures have been retained in subcommittee files.

Again, I would like to thank you for your efforts on behalf of Arizona's residents, and especially those who have been impacted by the Wallow Fire.

Sincerely,

W.J. "JIM" LANE,
Mayor.

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