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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FORESTS AND FOREST HEALTH

September 14, 2006

CONCERNING

H.R. 5769 – Washington County Growth and Conservation Act of 2006

H.R. 5756 – Colorado Emergency Wildfire and Insect Infestation Response Act of 2006

H.R. 5690 – Ouachita National Forest Boundary Adjustment Act of 2006

S. 447 – Jornada Experimental Range Transfer Act of 2005

Mr. Chairman and members of the Subcommittee:

Thank you for the opportunity to provide the Department's views on the bills which are on the agenda today.

H.R. 5769 – Washington County Growth and Conservation Act of 2006

I will limit my remarks to the provisions of the bill related to the National Forest System lands and will defer to the Department of the Interior on provisions relating to the lands managed by the Bureau of Land Management.

This bill pertains to various aspects of Forest Service (FS) and Bureau of Land Management (BLM) lands in Washington County, Utah. It would authorize conveyance of BLM lands and provide for the distribution of the proceeds for various public purposes described in the bill including implementation of provisions of the legislation. The bill would establish new wilderness areas, including 2,642 acres of National Forest System land as the Cottonwood Forest Wilderness, provide for trail maintenance, travel management planning, and conservation projects, establish the High Desert Off-Highway Vehicle Trail, and prescribe certain management objectives in wilderness areas designated in this bill.

The Department does not oppose Section 201(a)(5) of H.R. 5769, which would designate approximately 2,642 acres of National Forest System Land as a component of the National Wilderness Preservation System to be known as "Cottonwood Forest Wilderness," although we have concerns regarding some of its provisions.

While the Department does not oppose this wilderness designation, the Dixie National Forest has determined that the area is suitable for wilderness, but expects to recommend that the area be managed as "Backcountry Area" in its proposed revision to the forest plan. This classification is similar to wilderness, but differs because it would allow a mix of motorized and non-motorized recreation to take advantage of the unique recreation opportunities that exist in the area. The area is scenic, rugged, and has diversity of narrow canyons providing excellent opportunity for solitude and primitive recreational experiences. It also possesses a special feature by virtue of its location adjacent to a desert tortoise reserve. In addition, the area is contiguous to BLM land that would be designated as the "Cottonwood Canyon Wilderness."

The bill includes various provisions regarding management within wilderness. The Department prefers the current process it applies to wilderness management that subjects proposed uses to review on a case-by-case basis and allows us to work cooperatively with partners to balance use in compliance with the Act. This process allows for a consistent approach to management of wilderness resources throughout the National Forest System.

Section 206 would direct the Secretaries to enter into a cooperative agreement under which the State or designee of the State would carry out wildlife management activities in wilderness areas designated by this title. The Department does not oppose this provision. The Forest Service has recently signed a cooperative agreement with the Association of Fish and Wildlife Agencies and the Bureau of Land Management. This agreement outlines policies and guidelines for fish and wildlife management in wilderness areas, including protocols for managing nonconforming uses. It demonstrates a common understanding between the States and Federal agencies. The agreement also allows for similar State-

specific agreements if needed. The Department believes that this national agreement provides a mutually agreed upon method to address management issues, and it would be our preference to develop any State agreement in accordance with it to maintain a consistent approach.

Section 501 would direct the Secretaries to jointly complete a travel management plan that identifies routes for the High Desert Off-Highway Vehicle Trail, would require the Secretaries to jointly designate the trail after the completion of the travel plan, and would direct the development a management plan, and monitoring of the trail. The Department does not oppose the trail designation. The Department is concerned about the repair and the construction that the designation could require. This work has not been a priority trail reconstruction project for the Forest. The Department is also concerned about the requirement to develop a management plan. The Forest is conducting forest-wide travel management planning to be completed in 2007. The management plan required by the bill could be duplicative of the current travel management planning process and could circumvent that process that will have taken into account public comment and the balancing of interests to provide an integrated plan for the forest as a whole.

H.R. 5756 – Colorado Emergency Wildfire and Insect Infestation Response Act of 2006

H.R. 5657 would provide additional authority to the Secretary of Agriculture to implement hazardous fuel reduction projects in the State of Colorado in response to dangerously high fuel levels and insect infestations in forested Federal lands in Colorado. The bill would extend the maximum duration of stewardship contracts carried out in Colorado, and would amend the Internal Revenue Code of 1986 to extend credit for electricity produced from biomass.

The Administration supports the goals of the bill to accomplish fuel reduction and insect damage treatment actions promptly and to foster economic incentives to utilize forest products from these treatments. The Administration does, however, have concerns about the bill's application to a single State when these conditions exist in other parts of the nation, and objects to funding provisions in Section 4.

Bark beetles have infested over 425,000 acres in northern Colorado by the end of 2005. The Department shares the concerns reflected in this bill regarding forest health and infrastructure for economic uses. The Forest Service is a proud participant in the Northern Colorado Bark Beetle Cooperative. We lead this effort and provide technical and financial assistance which has contributed to the treatment of almost 12,000 acres since 2005. Roughly 10 percent of the area in northern Colorado infested with bark beetles is public land managed by the BLM. To address urgent concerns about wildfire risk to communities and watersheds, loss of key wildlife habitat, and impacts to local economies, BLM is also actively participating in the Northern Colorado Bark Beetle Cooperative which works cooperatively to treat infested areas with salvage and fuels programs. At midyear (fiscal year 2006), the BLM's leadership moved \$200,000 in additional funding to the BLM Colorado state office to plan a large scale stewardship contract to respond to the bark beetle infestation in North Central Colorado. The proposed Northpark stewardship project, located in Jackson County, Colorado, has the potential to treat up to 15,000 acres of beetle infested public lands (managed by the BLM) over the 10 year span of the project. BLM expects to implement the stewardship project in Fiscal Year 2007, and anticipates that in its first year of implementation, could reduce fuels and salvage timber on up to 1,000 acres.

Section 2 would amend Section 104 of the Healthy Forest Restoration Act of 2003 by adding a new subsection that would, for a 10-year period after enactment, provide that the Secretary is not required to study, develop, or describe any alternative to the proposed action to be considered pursuant to NEPA for authorized hazardous fuel reduction projects on Federal land in Colorado. The Department supports the intent to further expedite hazardous fuel reduction to address insect infestation, but prefers the national approach outlined in H.R. 4200, the Forest Emergency Recovery and Research Act, which is still under consideration by Congress.

Section 3 would amend Section 347 (c) of the Department of the Interior and Related Agencies Appropriations Act of 1999, to provide that stewardship contracts in Colorado may have a term of up to 20 years, and that the Forest Service or the Bureau of Land Management may extend the term of a current agreement or contract to a 20 year term.

The Department does not support the extension of the term for a stewardship contract as proposed in the bill. We believe extending the contract beyond the current 10 year term will not result in any significant increase in interest from business entities to enter into stewardship contracts or improve effectiveness of this important tool in treating hazardous fuels in Colorado. We believe the current 10 year term is sufficient to foster business investment in Colorado, as businesses in other parts of the country obtain financing from institutions with 10-year and shorter contract terms. We understand longer terms are meant to offer business greater certainty of supply. A 20 year term, however, spans multiple forest planning cycles and may not produce the certainty of available material from fuels treatment in the future. In addition, extension of current contract terms would conflict with the best value award contracting process currently used. An extension would modify the scope of work of the original contract and create a competitive advantage potentially unfair to non-successful bidders to that original contract.

Section 4 would require the expansion of the "Fuel for Schools" program to the State of Colorado for a five year period and authorize the Secretary to make grants in Colorado for \$5,000,000 each fiscal year. The Department supports the Fuels for Schools initiative and its effort to utilize otherwise unmerchantable biomass in economically beneficial ways. However, the initiative is not a separate "program" at this time and does not receive line item funding. Instead, Fuels for Schools has operated as a special initiative with earmarked funding for pilot projects. The Department does not support the authorization of funding in the bill because it could result in funding that would be derived from other Forest Service programs and could displace other high priority work across the agency. We do believe, however, this is an important initiative to meet municipal energy needs and that it could easily be expanded to work for other public facilities beyond school buildings, and can aid to increase use of material from forest health restoration activities as a renewable energy source.

Section 5 would amend section 45 (d)(3)(A) of the Internal Revenue Code of 1986 (relating to open-loop biomass facilities) to provide that biomass is eligible for full credit rate as opposed to a partial credit rate currently reflected in section 45 (b)(4) of the Internal Revenue Code, and expands the termination date from January 1, 2008 to January 1, 2010. Section 5(c)(2) provides that subsection (b) shall apply to electricity produced and sold after the date of the enactment of the Act in taxable years ending after such date. The Department defers to the Department of the Treasury for a position on the adjustment of the tax code and respectfully requests the Committee consider their views before completing action on this bill.

H.R. 5690 – Ouachita National Forest Boundary Adjustment Act of 2006

H.R. 5690 would adjust the boundaries of the Ouachita National Forest in the States of Oklahoma and Arkansas, as generally described in maps dated May 15, 2001.

The bill would provide that Federally-owned lands within the modified forest boundaries would be managed in accordance with the Weeks Act of 1911 and other laws and regulations pertaining to the National Forest System. The bill would not limit the authority of the Secretary to adjust the boundaries of the forest in the future and subsection (d) provides that for the purposes of the Land and Water Conservation Fund Act of 1965 the modified boundaries are to be considered the forest boundaries as of January 1, 1965.

The Department supports this bill and the modified boundary adjustments. In 1996, a large land exchange was successfully completed between the Ouachita National Forest and Weyerhaeuser Timber Company in the States of Arkansas and Oklahoma as directed in P.L. 104-333. The modifications proposed in this bill would provide a technical correction to extend boundaries as intended in the 1996 Act. In addition, the legislation would provide the Ouachita National Forest the opportunity to facilitate current and future land exchanges and other transactions with private timber industry seeking to consolidate and divest timber lands in the area. The boundary adjustment would allow for additions to the National Forest that would provide for water quality protection, outdoor recreation opportunities, wildlife habitats and timber products.

S. 447 – Jornada Experimental Range Transfer Act

The Act would authorize the conveyance of certain Federal land in the State of New Mexico. The land that is described is under the administration of USDA's Agricultural Research Service and was transferred from the Forest Service in 1954. We are pleased to offer this testimony on their behalf.

Section 3 would authorize the Secretary of Agriculture to convey, by quitclaim deed, for no consideration the parcel of land consisting of not more than 1000 acres selected by the Secretary that is located in the Jornada Experimental Range and is subject to an easement granted by the ARS to the Chihuahuan Desert Nature Park Board. The conveyance would be subject to conditions. The Board pay costs related to the conveyance, any rights-of-way to the land would be reserved by the Secretary, the deed would contain certain covenants or restrictions, and the land shall revert to the United States, at the discretion of the Secretary if no longer used for educational purposes.

- The USDA supports the conveyance of the land which is currently under an easement from the Agricultural Research Service to the Chihuahuan Desert Nature Park, Inc. We also support the conveyance for no consideration insofar as the land is used for its current educational purposes. However, the Department believes the bill should be amended to address several technical issues concerning the realty transaction and would be pleased to work with the Committee in that regard.