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SPORTSMEN'S ACT

JUNE 22, 2017.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

【To accompany S. 733】

【Including cost estimate of the Congressional Budget Office】

The Committee on Energy and Natural Resources, to which was referred the bill (S. 733) to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE

The purposes of S. 733 are to protect and enhance opportunities for recreational hunting, fishing, and shooting on Federal lands, and to authorize other conservation and recreation programs related to sportsmen on Federal lands.

## BACKGROUND AND NEED

Sportsmen and women come from all over the country, from big cities and small towns, from the north and the south. Hunting and fishing are a significant element of the nation's economy. According to the 2013 Sportsmen's Economic Impact Report from the Congressional Sportsmen's Foundation, approximately 37.4 million people hunted or fished in America in 2011. That is roughly equal to the population of California, and those numbers are always increasing. Many sportsmen and women enjoy hunting, fishing, and recreational shooting on federal public lands, which is roughly one in every four acres according to the 2014 Congressional Research Service report "Federal Land Ownership: Overview and Data."

### *Sportsmen's access to Federal land*

Current regulations and law lack clarity regarding both when Bureau of Land Management (BLM) and U.S. Forest Service (USFS) lands are available for hunting, fishing, and recreational shooting, and the process for notifying the public of temporary and permanent closures. This has led to confusion and uncertainty among the sportsmen's community and the general public regarding what areas are accessible and when. BLM Instruction Memorandum No. 2010-028 provides that temporary closures can be up to two years in length and provides no guarantee of the opportunity for comment by the public. S. 733 seeks to clarify and expand upon the procedures that currently exist to provide for more public input and greater transparency.

### *Commercial filming*

In 2000, Congress directed the Secretaries of the Interior and of Agriculture to establish a reasonable fee for commercial filming activities on Federal land administered by the Secretaries (Public Law 106-206). The agency response to the Public Law 106-206 (as amended by Public Law 113-287) has been slow, inconsistent, and failed to take account of technological changes and development which allow filming to be done with minimal equipment. Thirteen years later, BLM, U.S. Fish and Wildlife Service (USFWS), and the National Park Service (NPS) finally issued a proposed fee schedule for commercial filming. Currently, the proposed fee schedule draws no distinctions between small businesses with *de minimus* crews and large multi-million dollar endeavors. Additionally, there is currently no way for people such as guides and outfitters who have already obtained a commercial use authorization or special recreation permit to do even incidental amounts of filming, such as filming promotional material to advertise their guiding business, without a duplicative permitting process. Given both the length of time it took to develop a proposed unified fee schedule and the important policy issues that are still not addressed by the proposal, S. 733 seeks to provide additional direction and clarity from Congress on these issues.

In 2014, the USFS began the process to finalize Interim Directive 2709 on commercial filming in wilderness areas. The Interim Directive created ambiguity as to whether journalists have to undergo a permit process (potentially requiring them to disclose the story they are covering and potentially constituting a form of prior re-

straint) and pay a fee in order to gather news, necessitating USFS Chief Tom Tidwell to issue guidance clarifying that the directive does not apply to news gathering or recreational photography. Similar concerns have been raised about the applicability of the commercial filming law to news gathering on lands managed by the Bureaus at the Department of the Interior. The Sportsmen's Act therefore clarifies that the commercial filming statute does not apply to newsgathering in order to protect the Constitutional right to freedom of speech.

The NPS website, under the heading "Commercial Filming and Photography," notes that the NPS encourages filming and photography where it will "promote the protection and public enjoyment of park resources," provided that the activity does not violate certain listed criteria including, "[i]s inspirational, educational, or healthful . . . ." or "will foster an understanding of, and appreciation for, park resources, or will promote enjoyment through a direct association with, interaction with, or relation to park resources." While these are all laudable goals, the NPS may not and should not infringe on freedom of speech rights nor impose prior restraints on the content of what may be filmed in a national park in this manner. S. 733 seeks to clarify that content may not be a criterion for granting a commercial filming permit.

#### *Other land issues*

The 2009 Credit Card Accountability Responsibility and Disclosure Act (Public Law 111–24) prohibits the Secretary of the Interior from promulgating or enforcing any regulation that bars an individual from possessing a firearm, including an assembled or functional firearm, in any unit of the National Park System or the National Wildlife Refuge System (NWRS) as long as that individual is legally authorized to possess the firearm and the possession is in compliance with the law of the State in which the NPS or NWRS unit is located. The NPS website notes one is even allowed to carry loaded guns in national parks. S. 733 seeks to make Federal policy regarding bows and crossbows in national parks more consistent with current policy regarding firearms in national parks and, is consistent with current NPS regulations (36 CFR 2.4(b)(3)), which authorize unloaded weapons, including bows and crossbows, if their use is rendered temporarily inoperable or they are stored in a manner that prevents their ready use.

In addition, there are *de facto* restrictions on access to public land due to non-Federal parcels of land hindering access. More information is needed regarding the nature of such parcels. With the expiration of the Federal Land Transfer Facilitation Act (Public Law 106–248), local units of the BLM are no longer allowed to keep a portion of the proceeds from land sales, an important incentive for removing low priority parcels from government ownership.

#### LEGISLATIVE HISTORY

Senators Murkowski, Heinrich, Risch, and Heitkamp introduced S. 733 on March 27, 2017.

In the 114th Congress, Senator Murkowski introduced a similar measure, S. 556, on February 25, 2015. The Committee on Energy and Natural Resources held a hearing on the bill on March 12, 2015 (S. Hrg. 114–329). The Committee on Energy and Natural Re-

sources met in open business session on November 19, 2015, and ordered S. 556 favorably reported with an amendment in the nature of a substitute and an amendment to the title (S. Rept. 114–183).

The measure was also included in Amendment No. 3234, which the Senate agreed to on April 19, 2016, as an amendment to S. 2012, the Energy Policy Modernization Act of 2016, which the Senate passed, as amended, on April 20, 2016.

The Committee on Energy and Natural Resources met in an open business session on March 30, 2017, and ordered S. 733 favorably reported.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on March 30, 2017, by a majority voice vote of a quorum present, recommends that the Senate pass S. 733, as described herein.

#### SECTION-BY-SECTION ANALYSIS

##### TITLE I—NATIONAL POLICY

##### *Section 101. Congressional declaration of national policy*

Section 101 declares a national policy that all Federal departments and agencies, in accordance with their missions and with Executive Orders 12962 and 13443, shall: facilitate the expansion and enhancement of hunting, fishing, and recreational shooting opportunities; conserve and enhance aquatic systems, game species, and the habitat of those species on federal land, including through hunting and fishing; and consider hunting, fishing, and recreational shooting opportunities as part of all Federal plans for land, resource, and travel management.

##### TITLE II—SPORTSMEN’S ACCESS TO FEDERAL LAND

##### *Section 201. Definitions*

Section 201 provides definitions for this title.

##### *Section 202. Federal land open to hunting, fishing, and recreational shooting*

Section 202 provides that Federal land shall be open to hunting, fishing and recreational shooting unless the Secretary concerned closes an area in accordance with section 203.

##### *Section 203. Closure of Federal land to hunting, fishing, and recreational shooting*

Section 203 provides that the Secretary concerned may prohibit hunting, fishing, or recreational shooting on federal lands for reasons of public safety, administration, or compliance with applicable laws. Except in an emergency, before permanently or temporarily closing any Federal land to hunting, fishing, or recreational shooting, the Secretary concerned shall consult with state fish and wildlife agencies and provide public notice and an opportunity for comment. Temporary closures may not exceed a period of 180 days and may not be renewed more than three times after the first temporary closure. The Secretaries shall publish on a public website a

list of all areas of Federal land temporarily or permanently subject to a closure under this section and shall submit to designated Congressional committees a list of areas of Federal land closed, the acreage of each closure and a survey of total aggregate areas and acres closed under this section in each State, including what percentage of Federal land in each State the closed areas represent. This section shall not apply to closures less than 14 days in duration covered by a special use permit.

*Section 204. Shooting ranges*

Section 204 provides that the Secretary concerned may, in accordance with this section and other applicable law, lease or permit the use of Federal land for a shooting range, except the Secretary shall not lease or permit the use of Federal land for a shooting range within certain specified areas.

*Section 205. Federal action transparency*

Section 205 provides that the Chairman of the Administrative Conference of the United States (Chairman) shall submit to Congress and make publicly available online a report on the amount of fees and other expenses awarded during the preceding year under the Equal Access to Justice provisions (5 U.S.C. 504). Section 205 also provides that the Chairman shall create and maintain online a searchable database containing information on fees awarded and other expenses made under these provisions.

The section requires that the Chairman shall submit to Congress and make publicly available online a report on the amount of fees and other expenses awarded during the preceding year under 28 U.S.C. 2412. The section also requires the Chairman to create and maintain online a searchable database containing information on award of fees and other expenses made under this section. Finally, the section requires that the Secretary of the Treasury shall make available to the public on a website information regarding payments tendered under 31 U.S.C. 1304.

The Committee's understanding is that the addition of subsection (e)(3)(A) in conjunction with subsection (e)(3)(B) to section 504 of title 5, United States Code, means that while fees and expenses awarded will be disclosed, other information that is sealed or otherwise subject to a nondisclosure provision will not be disclosed as a result of this section. Additionally, the online searchable database described in section 504(f) of title 5 is more circumscribed so that it may not reveal any information which is prohibited by law or court order. It is also the Committee's understanding that provisions of 28 U.S.C. 2412(d)(5)(C)(i) and (ii) mean that while fees and expenses awarded will be disclosed, other information that is sealed or otherwise subject to a nondisclosure provision will not be disclosed as a result of this section. The online searchable database provided for in 28 U.S.C. 2412 is subject to the same restrictions discussed above.

*Section 206. Identifying opportunities for recreation, hunting, and fishing on Federal land*

Section 206 directs the Secretary to prepare a priority list that identifies the location and acreage of land within the jurisdiction of each State or regional office on which the public is allowed,

under Federal or state law, to hunt, fish, or use the land for other recreational purposes but to which there is no public access or egress or to which the public access or egress to the legal boundaries of the land is significantly restricted. The section requires that for each parcel of land on the priority list, the Secretary shall include in the priority list whether resolving the issue of public access or egress to the land would require acquisition of an easement, right-of-way, or fee title from another Federal agency, a state, local, or tribal government, or a private land owner. The Secretary shall develop and submit a report to designated Congressional committees that identifies how public access and egress could reasonably be provided to the legal boundaries in a manner that minimizes the impact on wildlife habitat and water quality.

*Section 207. Federal Land Transaction Facilitation Act*

Section 207 permanently reauthorizes the Federal Land Transaction Facilitation Act (FLTFA; Public Law 106–248). The section amends section 203(2) of FLTFA (43 U.S.C. 2302(2)) to make any federally designated area eligible for FLTFA funds, regardless of when the area was established, amends section 205 of FLTFA (43 U.S.C. 2304) to allow any Federal lands identified for disposal in approved land use plans to be eligible for sale, and requires \$1 million in sales annually under the program to be transferred to the general fund of the Treasury for each of the fiscal years 2018 through 2027.

TITLE III—FILMING ON FEDERAL LAND MANAGEMENT AGENCY LAND

*Section 301. Commercial filming*

Section 301 requires the Secretaries of the Interior and Agriculture to develop a single joint land use fee schedule for commercial filming and still photography. The section clarifies that commercial filming fees only apply to commercial still photography, not to all still photography; updates the use of proceeds to match use of recreational fees by providing the use of proceeds shall be in accordance with the Federal Lands Recreation Enhancement Act; and ensures the First Amendment of the Constitution is followed by providing that the Secretary shall not consider subject matter or content as a criterion for issuing or denying a permit under this act. The section exempts holders of commercial use authorizations or special recreation permits who are small businesses where the filming is incidental to the permitted activity under the commercial use authorization or special recreation permit from commercial filming or still photography permits and fees. The section also provides that commercial filming conducted by an entity that is a small business concern, with a crew of not more than three individuals who use only a camera and tripod, is exempt from fees under this act, but not from recovery of costs fees. The section makes clear that newsgathering activities shall not be considered a commercial activity under this Act.

## TITLE IV—WILDLIFE AND HABITAT MANAGEMENT

*Section 401. Amendments to the Pittman-Robertson Federal Aid in Wildlife Restoration Act*

Section 401 defines the term “public target range” and makes several amendments to the Pittman-Robertson Wildlife Restoration Act regarding public target ranges and firearm and bow hunter education and safety program grants.

*Sec. 402. Wildlife and Hunting Heritage Council Advisory Committee*

Section 402 establishes the Wildlife and Hunting Conservation Council Advisory Committee to advise the Secretaries of the Interior and Agriculture on wildlife and habitat conservation, hunting, and recreational shooting.

## TITLE V—BOWS AND WILDLIFE MANAGEMENT

*Section 501. Bows in parks*

Section 501 provides that the NPS Director shall not promulgate or enforce any regulation that prohibits an individual from transporting bows and crossbows that are not ready for immediate use across any System unit in the vehicle of the individual if certain requirements are met.

*Section 502. Wildlife management in parks*

Section 502 provides that if the Secretary determines it necessary to reduce the size of a wildlife population on National Park System land in accordance with applicable law and regulation, the Secretary may use qualified volunteers to assist in carrying out such wildlife management on such land, subject to such training requirements, qualifications, and other terms and conditions that the Secretary may require.

## TITLE VI—MISCELLANEOUS

*Section 601. Respect for treaties and rights*

Section 601 provides that nothing in this Act affects or modifies rights of Federally recognized Indian tribes and that nothing in this act modifies Federal law relating to migratory birds.

*Section 602. No priority*

Section 602 provides that nothing in this Act provides a preference to hunting, fishing, or recreational shooting over any other use of Federal land or water.

*Section 603. State authority for fish and wildlife*

Section 603 clarifies that nothing in this Act authorizes the Secretary of the Interior or the Secretary of Agriculture to require federal licenses or permits to hunt and fish on federal land or enlarges or diminishes the responsibility or authority of states with respect to fish and wildlife management.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 733 would amend existing laws and establish new laws related to the management of federal lands. It also would authorize the sale of certain federal land and permit the proceeds from those sales to be spent without further Congressional action.

CBO estimates that enacting the bill would decrease net direct spending by \$15 million over the 2017–2027 period; therefore, pay-as-you-go procedures apply. Enacting S. 733 would not affect revenues.

Based on information from the affected agencies, CBO also estimates that implementing the legislation also would cost \$1 million over the 2017–2022 period, subject to the availability of appropriated funds.

CBO estimates that enacting S. 733 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 733 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 733 is shown in the following table; those effects fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—											2017– 2022	2017– 2027
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027		
INCREASES OR DECREASES (–) IN DIRECT SPENDING <sup>a</sup>													
Proceeds from Sale of Property: <sup>b</sup>													
Estimated Budget Authority .....	0	–3	–4	–5	–6	–7	–9	–11	–13	–15	–17	–25	–90
Estimated Outlays .....	0	–3	–4	–5	–6	–7	–9	–11	–13	–15	–17	–25	–90
Spending of Sales Proceeds:													
Estimated Budget Authority .....	0	3	4	5	6	7	9	11	13	15	17	25	90
Estimated Outlays .....	0	2	3	4	5	6	7	9	11	13	15	20	75
Total Changes:													
Estimated Budget Authority .....	0	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays .....	0	–1	–1	–1	–1	–1	–2	–2	–2	–2	–2	–5	–15

<sup>a</sup> CB0 also estimates that implementing S. 733 would cost about \$1 million over the 2017–2022 period, subject to the availability of appropriated funds.

<sup>b</sup> The sale proceeds shown in the table reflect expected increases in collections under S. 733. In addition to those amounts, CB0 estimates that the Bureau of Land Management will collect \$10 million over the 2017–2027 period from land sales under current law.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2017 and that the necessary amounts will be appropriated for each fiscal year.

*Direct spending*

CBO estimates that enacting S. 733 would reduce net direct spending by \$15 million over the 2017–2027 period.

**Federal Land Transaction Facilitation Act.** Title II would permanently reauthorize the Federal Land Transaction Facilitation Act (FLTFA) and allow certain federal agencies to spend, without further appropriation, a portion of the proceeds from the sale of land administered by the Bureau of Land Management (BLM) to purchase inholdings (privately held land surrounded by federal land). Based on an analysis of information from BLM, CBO estimates that enacting title II would increase both the proceeds from the sale of federal property and the spending of those proceeds by \$90 million and \$75 million respectively.

*Proceeds from Sale of Property.* Under current law, proceeds from the sale of BLM land are deposited in the Treasury as offsetting receipts. CBO estimates that such proceeds will total \$1 million a year over the 2017–2027 period. Those amounts are not available to be spent without appropriation. Under the bill, the agency would be required to deposit \$1 million a year into the general fund of the U.S. Treasury through 2027. The agency could spend any remaining proceeds. Because, under the bill, BLM could spend proceeds from land sales to pay for administrative costs associated with other land sales, CBO estimates that enacting the bill would lead to an increase in the amount of land sold and related receipts would increase by \$90 million over that period.

CBO estimates that annual proceeds from the sale of BLM land over the next 10 years would be lower (on average) than historical collections under FLTFA, which expired in 2011. Over the 2001–2011 period, proceeds under the program totaled roughly \$120 million. Most of those collections were generated by sales near urban areas in Nevada and Arizona in 2006 and 2007. Because the amount of future proceeds would be related to the state of the housing market in those states, which CBO does not expect to be as high as in 2006 and 2007, total proceeds in the future would probably be lower.

*Spending of Sale Proceeds.* Title II also would authorize four land-management agencies (BLM, the National Park Service, the U.S. Fish and Wildlife Service, and the Forest Service) to spend without further appropriation a portion of the proceeds from the sale of BLM land. Thus, CBO estimates that enacting title II would increase direct spending over the 2017–2027 period. Based on the historical rate of spending for FLTFA and other federal land acquisition activities, CBO expects that those agencies would spend \$75 million over that period.

**Fees for Commercial Filming Activities.** Title III would require the Secretaries of Agriculture and the Interior to establish a fee schedule for commercial filming and photography activities on certain federal lands. Because the affected agencies would have the authority to spend any proceeds from fees established under the bill, we estimate that enacting title III would have a negligible effect on net direct spending.

*Spending subject to appropriations*

S. 733 contains several provisions that would affect the way federal agencies manage lands under their jurisdictions and provide information to the public. The bill would require agencies to follow certain procedures when closing federal lands to recreational uses, authorize agencies to allow shooting ranges on federal lands, and establish a committee to advise certain agencies on issues related to habitat conservation and recreation. The bill also would require the Administrative Conference of the United States to create a website containing information regarding lawsuits filed under the Equal Access to Justice Act. CBO estimates that carrying out those activities would cost about \$1 million over the 2017–2022 period, subject to the availability of appropriated funds.

Pay-As-You-Go Considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

	By fiscal year, in millions of dollars—													
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2022	2017– 2027	
	NET DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact ....	0	– 1	– 1	– 1	– 1	– 1	– 2	– 2	– 2	– 2	– 2	– 5	– 15	

Increase in longterm direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private sector impact: S. 733 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit twelve western states by supporting conservation projects and by sharing receipts generated by federal land sales under the Federal Land Transaction Facilitation Act. The bill also would benefit state agencies by lowering the matching requirement for federal grants that support public shooting ranges. Any costs incurred by public entities, including matching contributions, would be incurred voluntarily.

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 733. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 733, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 733, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

Because S. 733 is similar to legislation considered by the Committee in the 114th Congress, the Committee did not request Executive Agency views. The testimony provided by the Bureau of Land Management and the U.S. Forest Service at the hearing before the Committee on Energy and Natural Resources on March 12, 2015, follows:

#### STATEMENT OF STEVE ELLIS, DEPUTY DIRECTOR, OPERATIONS BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to discuss the views of the Department of the Interior on S. 556, the Bipartisan Sportsmen's Act of 2015. We appreciate the Committee's attention to the important issues of hunting, fishing, and other recreational uses of public lands, and we strongly support the goal of enhancing opportunities for recreation, including hunting, fishing, and target shooting, on public lands. We support the goals of the bill, but we have outlined some concerns in this statement. We look forward to working with the Chairman and the Committee to address these issues.

Agencies in the Department of the Interior manage 19% of the Nation's land area. Providing access to quality recreation on public lands is one of the Department's primary missions as outlined in its current Strategic Plan, which commits to improving outdoor recreation access and increasing opportunities for public enjoyment of Federal lands and waters. In addition to drawing people of all ages outdoors to play, serve, learn, and work, outdoor recreation is a significant contributor to the national economy and the economies of communities that surround the lands we manage. It is important that we make recreational opportunities available in communities across the nation, to promote health and fitness, engage our youth, and inspire the next generations to conserve and protect America's precious resources. In 2012, the Outdoor Industry Association reported that recreation activities generate \$646 billion dollars in spending each year and support 6.1 million jobs. The approximately 417 million visits to DOI-managed lands in 2012 contributed an estimated \$45 billion in economic output to the surrounding economies through trip-related spending.

Because of the complexity of S. 556 and the importance of these issues to the Department, my statement will address each of the bill's provisions individually.

RECREATIONAL FISHING, HUNTING, & RECREATIONAL  
SHOOTING ON FEDERAL PUBLIC LAND (SEC. 101)

*Background*

The Bureau of Land Management (BLM) is responsible for the management of 245 million acres of public land under the principles of multiple use and sustained yield. The BLM manages these public lands for a variety of uses, such as energy development, livestock grazing, recreation, and timber production, while protecting an array of natural, cultural, and historical resources. The BLM's recreation program is one of the key elements of our multiple-use mission. In the West, public lands are America's backyard, providing close-to-home outdoor recreation venues. In addition, they afford extensive backcountry recreation opportunities. The expansive landscapes and world-class recreation opportunities offered by the BLM's public lands are among America's greatest treasures.

BLM maintains high quality dispersed recreation opportunities where visitors and recreationists are free to explore and discover undeveloped places in the outdoors. There are countless outstanding examples of fishing and hunting opportunities on the public lands. The BLM-managed Gunnison Gorge National Conservation Area is designated by the State of Colorado as a Gold Medal Trout Fishery and supports excellent rainbow, brown, and cutthroat trout populations; Wyoming BLM lands provide habitat for abundant herds of trophy pronghorn and Rocky Mountain elk; and the BLM-managed Steens Mountain area in Oregon supports fantastic big game hunting opportunities for trophy mule deer. In many places across the west, the BLM's remote lands are highly regarded for the quality of the hunting experiences they offer.

Hunting activities and regulations on public lands are generally managed by State fish and wildlife agencies, and BLM-managed lands are considered open to hunting, fishing, and recreational target shooting unless they have been specifically closed by law or to protect public safety. In rare circumstances, the BLM may also close areas to balance uses of public lands pursuant to a public land-use planning process. The BLM estimates that over 99 percent of BLM-managed public lands are open to hunting, and 99 percent of BLM-managed public lands are open to recreational target shooting. The most common restricted areas are administrative sites, campgrounds and other developed facilities and in a few other areas with intensive energy, industrial or mineral operations or nearby residential or community development.

*Analysis*

Section 101 of S. 556 provides that Federal land-managing agencies other than the National Park Service (NPS) and U.S. Fish and Wildlife Service (USFWS) exercise their authority to support and facilitate use of and access to Federal land for hunting, fishing, and recreational shoot-

ing. This section would require the agencies to consider effects on hunting, fishing, and target shooting when developing planning documents; designate public lands as open to hunting and shooting unless they are closed for reasons authorized under the bill; and authorize designation of areas for target shooting. Finally, this section would initiate reporting requirements for any closures of lands to hunting or target shooting.

The Department strongly supports the goal of promoting recreational fishing, hunting and shooting opportunities. Some of these provisions, however, appear to be duplicative of existing policies and may interfere with existing management practices. For example, the BLM already regards public lands as open to fishing, hunting, and shooting unless it is demonstrated that the activity could result in unacceptable resource damage or create a public health and safety hazard. Any determination to permanently close public lands to certain activities is made following extensive public involvement and notification through the land use planning and NEPA processes. Temporary closures also involve public notification through the Federal Register. Additionally, when developing resource management plans or when taking any action that may affect shooting sports or access, the BLM notifies over 40 hunting and groups, as specified in the Federal Land Hunting, Fishing and Shooting Sports Roundtable Memorandum of Understanding (MOU), expressly to help ensure that these activities and issues are fully considered.

Similarly, the bill provides that the BLM may lease lands for shooting ranges and designate specific lands for target shooting. The BLM currently has and regularly uses its authority under the Recreation and Public Purposes Act to patent certain lands to cities, counties, and non-profit organizations for use as shooting ranges. This approach allows entities that are focused on the operation of shooting ranges and are better equipped to handle potential clean-up to properly manage these areas of concentrated use. Given the BLM's limited staff and resources, we feel strongly that the current approach is in the best interest of the shooting public and the general public.

In addition to these duplicative requirements, some of the language in the section as drafted appears to contradict the intent of the legislation or to potentially cause confusion with implementation of existing laws. For instance, the BLM is concerned that Section 101(b)(2) may be interpreted to limit the Secretary's discretion and could result in legal uncertainty that might ultimately inhibit the BLM's efforts to enhance opportunities for hunting, fishing, and shooting. Similarly, Section 101(b)(3)(ii) appears to restrict consideration of cumulative effects of certain management actions and activities on adjacent or nearby non-Federal lands, which may in some cases limit the BLM's ability to respond to issues raised in scoping and comply with other federal laws and regulations. Addi-

tionally, certain language in this section may be interpreted to allow activities in wilderness areas that are not consistent with the Wilderness Act.

The BLM supports the purposes of this section and would like the opportunity to work with the Chairman to ensure that those goals are met without unnecessary duplication or unintended legal consequences.

ANNUAL PERMIT AND FEE FOR FILM CREWS OF 5 PERSONS OR  
FEWER (SEC. 102)

### *Background*

Under current commercial filming fee law (Public Law 106-206), the Secretary of the Interior and Secretary of Agriculture are authorized to establish a fee system for commercial filming activities on Federal lands. The Act requires a permit for all commercial filming and directs the Secretaries to collect a cost recovery fee associated with processing the permit requests and monitoring the permitted activities, and a location or rental fee to provide a fair return to the United States for the use of federal lands. The Department of the Interior regularly receives and processes requests for commercial film permits under existing law.

We welcome individuals, groups, and companies who wish to film the beauty and bounty of our nation's incredible public lands. We also understand and appreciate the interest of hunters and anglers in taking video and photos to record their own experiences and memorialize their visit to the public lands. It is important for Americans to see their public lands and—done right and under the right conditions—commercial filming is a very welcome and important use of our nation's natural areas.

### *Analysis*

Section 102 would establish a process for assessing fees and authorize access to Federal land for small commercial film crews. This section would amend Public Law 106-206 by requiring the Secretaries of the Interior and Agriculture to allow commercial filming crews of five persons or fewer access to all areas designated for public use on lands and waters under their purview, provided each filming crew pays one, \$200 annual fee, and that the access is during public hours. While notification would be required and the Secretary could deny access under certain circumstances, no further restrictions could be placed on such film crews, including on the cameras, vehicles or other equipment they may use on public lands.

The Department has concerns about the timeframes for permit denial established by this section of the bill. While the bill requires film crews to notify the managing agency 48 hours before filming begins, and allows the Secretary to deny access in certain circumstances, the Department is concerned that this section does not offer the Secretary the discretion needed to manage film crew permits most effec-

tively. Though the Secretary may deny access, the section does not allow for permit restrictions specific to the circumstances of a filming event, which would limit the Department's primary mechanism for avoiding resource damage, user conflicts, or risks to public safety. Additionally, the Department feels that in most cases, a 48-hour notification is not sufficient to assess the possibility of resource damage, user conflicts, or safety risks that may be incurred.

The Department is also concerned that the bill could be interpreted to require authorization of commercial filming in wilderness areas, notwithstanding the requirements and restrictions in the Wilderness Act. Section 4(d)(6) of the Wilderness Act (P.L. 88-577) states that commercial services may be performed in wilderness areas only to the extent necessary for activities that are proper for realizing the recreational or other wilderness purposes of the areas. Under this bill, some of our most pristine lands could be open to commercial filming, regardless of these wilderness factors. Since the vast majority of public lands, including wilderness, do not have designated hours, this use could occur and at any time and without consideration of potential resource impacts.

The Department also has concerns about the fee structure in this section. The effects of some language in this section are not entirely clear. This section does not specify whether the single annual permit fee would be: (1) one fee applicable for all use on federal lands; (2) a fee that must be paid by each film crew to each agency, depending on the type of land being accessed; or (3) an annual fee to be paid for each federal land unit being accessed. This section also does not make clear whether the agencies would be authorized to recover subsequent costs for further monitoring that may be necessary. We also note that in many cases, the \$200 fee may not represent a fair return to the taxpayer for uses authorized under this section. The appropriate cost recovery and location or rental fees for a given use may depend on the needs of the project, requirements for monitoring, and degree of impact to natural or cultural resources or the experience of other visitors.

The Administration appreciates the needs of the many different visitors to the public lands. These constituencies include commercial film makers and videographers, and we value their contributions in films that educate, enlighten and entertain. However, it is important that all commercial filming activities be managed to avoid disruption to visitor activities and damage to natural and cultural resources, and the Administration cannot support this section as written because it does not provide sufficient discretion for the agencies to manage film crews as a use of public lands.

## FEDERAL ACTION TRANSPARENCY (SEC. 103)

*Background*

The Equal Access to Justice Act (EAJA) provides that in certain circumstances the Federal government pay attorney fees and certain expenses incurred in successful litigation against the Federal government. The Department of the Interior is committed to transparency as it works to fulfill its broad mission. In recent years the Department has worked to better understand and address litigation risks and the associated costs of our litigation-related activities.

*Analysis*

We support efforts to increase the transparency of the EAJA process. We are aware that there are concerns regarding the role of the Administrative Conference of the United States in tracking expenditures pursuant to the EAJA, but defer to others on that issue. We note, however, that the specific reporting requirements under the bill would impose a substantial burden on the Department of the Interior by increasing staff time and expenses in collection, formatting, and dissemination of the requested information.

## BOWS IN THE PARKS (SEC. 104)

*Background*

Sec. 104 would prohibit the Director of the NPS from promulgating or enforcing any regulation that prohibits an individual from transporting inoperable bows and crossbows across any unit of the National Park System in the vehicle of an individual if the individual is not otherwise prohibited by law from possessing the bows and crossbows; the bows or crossbows that are not ready for immediate use remain inside the vehicle of the individual throughout the period during which the bows or crossbows are transported across National Park System land; and the possession of the bows and crossbows is in compliance with the law of the State in which the unit of the National Park System is located.

*Analysis*

NPS regulations in 36 CFR 2.4 allows for the transport of an inoperable bow in a motor vehicle and the NPS has no intentions of changing this regulation. Therefore, the Department objects to this section because it is unnecessary. However, if the committee decides to continue to include this provision, we would recommend that it be amended to define the term “vehicle” and to require that bows and crossbows, as well as arrows, be stored in a manner that prevents their ready use.

AVAILABILITY OF LWCF FOR RECREATIONAL PUBLIC ACCESS  
PROJECTS (SEC. 201)

*Background*

The Land and Water Conservation Fund (LWCF) is one of the Nation's most effective tools for expanding access for hunting and fishing, conserving critical landscapes, creating places for children to play and learn, protecting traditional uses such as working ranches and farms, acquiring inholdings to manage contiguous landscapes, and protecting sites of historic and cultural significance. In FY 2014, the Department of the Interior received roughly \$135 million in LWCF funding, which the Department used to consolidate and more effectively manage the lands for which it is responsible, and to acquire easements and rights-of-way to enhance public access. For the BLM, nearly 100 percent of LWCF funding over the past several years has been used for projects that enhance public access for recreation.

*Analysis*

Section 201 of the bill amends the Land and Water Conservation Act to require not less than the greater of 1.5% or \$10,000,000 of the funds be directed toward public access. The Department supports providing acquisition of easements, rights-of-way, and fee title acquisitions for the purpose of enhancing access to public lands, and would like to note that access priorities can be and have been set administratively through the bureaus' annual LWCF prioritization process. While we strongly support these goals, we would prefer to consider creating a permanent set-aside in the context of establishing full and mandatory funding for the Land and Water Conservation Fund.

IDENTIFYING OPPORTUNITIES FOR RECREATION, HUNTING, &  
FISHING ON FEDERAL LAND (SEC. 202)

*Background*

*Bureau of Land Management*

BLM-managed public lands receive an estimated 60 million visits annually from hunters, anglers, hikers, bikers, OHV riders, climbers, boaters, and other recreationists. The BLM actively seeks to improve access to public lands and has conducted several comprehensive analyses that reported on acres of land with inadequate access. More than 90% of BLM-managed lands are accessible to the public for recreational purposes via adjacent public lands, easements, or rights-of-way. The BLM continually seeks opportunities to acquire access to public lands which are inaccessible because of private or state land ownership patterns that block reasonable access. The BLM uses input from the public obtained during the land use planning and transportation management planning processes to drive the expansion of hunting, fishing, and recreational access opportunities through the acquisition of easements, rights-of-

ways, and other means. BLM field offices are also continually updating local maps and online resources with improved access information that incorporate the unique user needs of each local area. In an effort to utilize technologies that will allow the public to produce and view web maps, the BLM is also developing an interactive web-based interface for the public to access BLM maps, data, and information.

#### *National Park Service*

The NPS manages 84 million acres of land in 407 units of the National Park System across the U.S. Since 1916, the American people have entrusted the NPS with the care of their National Parks. With the help of volunteers and park partners, the NPS is proud to safeguard these special places and to share their stories with visitors across the nation. Each of these special places reflects a fundamental truth about the American experience, whether it is the natural beauty of our lands or the historic importance of the people and events that have shaped this nation. In 2014, there were 292.8 million visits to National Parks. In 2013, our parks contributed \$26.5 billion to the nation's economy, and supported 240,000 jobs nationwide.

#### *U.S. Fish and Wildlife Service*

Hunting and fishing are two priority public uses of the National Wildlife Refuge System. Over 500 national wildlife refuges and wetland management districts are open for fishing, wildlife watching, hunting, photography and other forms of recreation. Currently, 335 national wildlife refuges are open for hunting and 271 are open for fishing. As a way to improve access for all Americans, the U.S. Fish and Wildlife Service (FWS) manages over 3,500 small outdoor recreation facilities on national wildlife refuges that are accessible for hunters, anglers, and other outdoor enthusiasts. These small facilities are supported by a network of well managed roads and trails that enhance access for the public. Refuges rely upon comprehensive conservation plans to identify areas to be opened to the public and are required to undertake appropriate use and compatibility reviews before new recreation programs can be offered.

The FY 2014 Consolidated Appropriations Act (PL 113-76) directed the Department and the U.S. Forest Service to report to Congress on actions they are taking to preserve and improve access to public lands for hunting, fishing, shooting and other recreational activities, including proposed improvements for public involvement in agency decision-making and coordination with State and local governments. The Department is finalizing that report and looks forward to sharing it with the Congress in the near future, as well as using it as a basis for further discussions with the bill's sponsor and the Committee.

### *Analysis*

Section 202 of the bill would require the BLM, NPS, FWS, and the U.S. Forest Service, to develop and maintain a list of priority parcels for which hunting, fishing, or recreational uses are allowed by law but public access is inadequate or unavailable. This section further requires the agencies to identify a general process for obtaining legal public access, and to develop a report to Congress on options providing for access. We note that the Department has existing authority to complete all of these tasks, and that we are prioritizing recreational access under existing law. The Department supports the objectives of this section, but would like to work with the sponsor on technical changes to ensure that reporting and tracking requirements can be feasibly met with existing funding and staffing.

FEDERAL LAND TRANSACTION FACILITATION ACT (SEC. 203)

### *Background*

Congress enacted FLTFA in July of 2000 as Title II of Public Law 106-248. FLTFA expired on July 25, 2011. Under FLTFA, the BLM could sell public lands identified for disposal through the land use planning process prior to July 2000, and retain the proceeds from those sales in a special account in the Treasury. The BLM and the other Federal land managing agencies were then able to use those funds to acquire, from willing sellers, inholdings within certain federally designated areas and lands that are adjacent to those areas that contain exceptional resources. Lands were able to be acquired within and/or adjacent to areas managed by the NPS, USFWS, USFS, and the BLM.

Over the life of the FLTFA, approximately 27,249 acres were sold under this authority and approximately 18,535 acres of high resource value lands were acquired. The President's fiscal year 2016 Budget includes a proposal to permanently reauthorize FLTFA. The BLM identifies lands that may be suitable for disposal through its land use planning process, which involves full public participation. Before the enactment of FLTFA, the BLM had the authority under the Federal Land Policy and Management Act (FLPMA) to sell lands identified for disposal. The proceeds from those sales were deposited into the General Fund of the Treasury. However, because of the costs associated with those sales (including environmental and cultural clearances, appraisals, and surveys), few sales were undertaken. Since it was enacted, the BLM utilized FLTFA to sell 330 parcels previously identified for disposal totaling 27,249 acres, with a total value of approximately \$117.4 million. Over the same time period, the Federal government acquired 37 parcels totaling 18,535 acres, with a total value of approximately \$50.4 million using FLTFA funds.

Using the FLTFA proceeds, the BLM, NPS, FWS, and FS acquired significant inholdings and adjacent lands from willing sellers, consistent with the provisions of the Act. For example, in November 2009 the BLM used FLTFA funds to complete the acquisition of 4,573 acres within the BLM's Canyons of the Ancients National Monument in southwest Colorado. These inholdings encompass 25 documented cultural sites, and archaeologists expect to record an additional 700 significant finds. The acquisition also included two particularly important areas: "Jackson's Castle," which is archaeologically significant; and the "Skywatcher Site," a one-of-a-kind, 1,000-year-old solstice marker. The following are a few additional examples of important FLTFA acquisitions:

- Elk Springs Area of Critical Environmental Concern (ACEC), New Mexico/BLM—This 2,280-acre acquisition protects critical elk wintering habitat.
- Hells Canyon Wilderness, Arizona/BLM—A 640-acre parcel constituting the last inholding within the Hells Canyon Wilderness, located just 25 miles northwest of Phoenix.
- Grand Teton National Park, Wyoming/NPS—This small (1.38 acres), but critical inholding within the Park was acquired and protected from development.
- Nestucca Bay National Wildlife Refuge, Oregon/FWS—This 92-acre dairy farm on the outskirts of Pacific City, Oregon, was slated for residential development and was acquired to protect a significant portion of the world's population of the Semidi Islands Aleutian Cackling Goose.

### *Analysis*

Section 203 of the bill would both reauthorize and enhance the original FLTFA through four major changes. First, the bill permanently reauthorizes FLTFA. Second, under the original FLTFA, only lands identified for disposal prior to July 25, 2000, were eligible to be sold. This section modifies that restriction by allowing any lands identified for disposal through the BLM's land use planning process to be sold through the FLTFA process. The Department supports this change, which recognizes the usefulness and importance of the BLM's land use planning process. Third, the original FLTFA allowed acquisitions of inholdings within, or adjacent to, certain Federal units such as BLM conservation units, National Parks, National Wildlife Refuges, and certain Forest Service units if they existed prior to July 25, 2000. This section eliminates this limitation as well, and we support this change. Finally, the legislation adds exceptions to FLTFA in recognition of specific laws that modify FLTFA with respect to some particular locations. The FLTFA does not apply to lands available for sale under the Santini-Burton Act (P.L. 96-586) and the Southern Nevada Public Land Management Act (P.L. 105-263). This legislation additionally exempts lands included in the White Pine County Conservation, Recreation, and Development Act (P.L. 109-432) and the Lin-

coln County Conservation, Recreation and Development Act (P.L. 108–424). Finally, a number of provisions of the Omnibus Public Land Management Act of 2009 (P.L. 111–11) modify FLTFA at specific sites or for specific purposes. These exceptions are also captured by this legislation.

This section of the bill also provides that \$1 million per year be transferred to the Treasury from the Federal Land Disposal Account. The Department recommends deletion of this section, which would reduce the effectiveness of the FLTFA authority. The Department strongly supports Section 203.

#### CONCLUSION

Thank you for the opportunity to testify on the seven provisions included in this legislation. The Department shares the Committee’s interest in enhancing recreational opportunities and access for hunting, fishing, and target shooting on public lands, and we look forward to continuing to work with you on these important issues. One opportunity for future collaboration on hunting, fishing, and other recreational uses of the public lands is the Administration’s legislative proposal for a Congressionally-chartered, non-profit BLM Foundation. The Foundation would provide opportunities for interested members of the public and stakeholders to contribute financially to the programs they care most about—for instance, land acquisition, recreational access projects, and habitat improvement.

TESTIMONY OF LESLIE WELDON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE

Madam Chairman and members of the committee; thank you for the opportunity to represent the views of the United States Department of Agriculture (USDA) on S. 556, the Bipartisan Sportsmen’s Act of 2015. I am Leslie Weldon, Deputy Chief for the National Forest System, USDA Forest Service.

Please let me begin by strongly emphasizing the foundational role the National Forest System serves in providing high-quality outdoor recreational opportunities for all Americans. The 193 million acres of land the Forest Service manages in the public trust are now and always have been where people across the country go to enjoy world-class hunting, fishing, and recreational shooting, as well as nearly every other variety of healthy outdoor activity. Spending by visitors engaging in recreation activities supports more jobs and economic output than any other activities on the National Forest System. In 2012, outdoor recreation on the National Forests supported approximately 190,000 jobs and contributed about \$13 billion to the Nation’s gross domestic product.

S. 556 would, in summary, require the continued management of the National Forest System for hunting, fish-

ing, and recreational shooting, require consideration of these uses in land management planning documents, require allowance of volunteers for the culling of wildlife, require access to designated wilderness for hunting, fishing, and shooting, continue provisions for the designation of shooting ranges, require reporting measures on closures or restrictions, and require coordination with advisory committees on these actions. The bill would establish procedures for permitting commercial film crews of five or fewer persons and the use of cameras and related equipment. It also creates reporting requirements under the Equal Access to Justice Act. In Title II, the bill would mandate that a percentage of monies from the Land and Water Conservation Fund be used to acquire recreation access to federal lands, would require development and publication of a list of federal lands where access is limited or unavailable, and amend the Federal Land Transaction Facilitation Act.

#### SECTION 101—RECREATIONAL FISHING, HUNTING, AND RECREATIONAL SHOOTING

USDA applauds the interest in promoting the tradition of hunting, fishing, and recreational shooting on the National Forests. Certain components in the legislation, however, raise specific concerns. Management of National Forests, including within designated wilderness, for the purposes of hunting, fishing, and shooting, and consideration of these uses when relevant in planning documents is already a fundamental component of existing law and policy including the Multiple Use—Sustained Yield Act and the National Forest Management Act, and will continue even without passage of this bill. National Forests are and will be open unless closed to these activities. If an agency action has effects on hunting, fishing, or recreational uses they would be evaluated under current policy and those effects disclosed. If they are not relevant to the planning effort, requiring the agency to consider them would provide minimum benefit and generate additional, unnecessary environmental documentation. Although the bill states that the bill is not intended to prioritize recreational hunting, fishing, and recreational shooting over other uses of Federal lands, USDA is concerned that the requirements in section 101 to facilitate recreational hunting, fishing, and recreational shooting could limit the agency's flexibility to balance these uses with other uses as required under the Forest Service's Multiple Use-Sustained Yield Act.

USDA also is concerned that section 101(b)(4)(A) could be understood to open units of the National Wilderness Preservation System to uses prohibited by the Wilderness Act. Section 101(b)(4)(A)(ii) would provide that the bill's requirement that lands are open to fishing, hunting, and recreational shooting does not also authorize motorized access or the use of motorized vehicles in wilderness study areas and areas administratively classified as eligible or suitable for wilderness designation. This provision does not provide

the same safeguard that motorized access for fishing, hunting and shooting will continue to be prohibited in designated wilderness. We are concerned that section 101(b)(4)(A)(ii) could be read to open wilderness areas administered by the Forest Service to temporary roads, motor vehicles, motorized equipment, motorboats, and other forms of mechanized transport in furtherance of recreational hunting, shooting, and fishing.

Further, this provision only mentions motorized vehicles but is silent on other prohibited uses under section 4(c) of the Wilderness Act (16 U.S.C. 1133(c)), such as mechanical transport, structures, and installations. As a result, this provision creates uncertainty as to whether such uses, when in furtherance of recreational hunting, shooting, and fishing, would remain prohibited under the Wilderness Act. Wilderness areas are currently managed by the Forest Service to provide opportunities for recreational use and enjoyment (including hunting and fishing) consistent with the primary responsibility of preserving the wilderness character of the area. Under section 101(b)(4)(C), local agency line officers already exercise authority to designate shooting ranges where appropriate and necessary. We note that the liability limitation in section 101(b)(4)(C) regarding these designations does not override the Federal Tort Claims Act and therefore most likely would not have any legal effect. With respect to section 101(b)(3)(B), the decision to allow culling of wildlife by volunteers or by other methods in any areas closed to hunting or fishing would be a decision best made locally, in concert with state agencies, based on local circumstances.

Given our long-standing commitment to manage National Forests as open for hunting, fishing, and shooting, where prohibitions do occur they are as a last resort to address sound public safety or natural resource concerns. These decisions are again best made by local, delegated line officers rather than agency heads, after the appropriate level of environmental analysis under NEPA and appropriate public involvement have been completed. The restatement in section 101(b)(8) of the authority of Executive Orders 12962 and 13443 is unnecessary and may give the perception the Agency is required to give deference to these activities as special interests. Additionally, to the extent the consultation requirement applies to emergency closures, timely agency response to public safety issues could be compromised.

#### SECTION 102—COMMERCIAL FILMING

USDA agrees commercial filming is an appropriate use of National Forest System lands and should not be overly constrained. To this end, the Forest Service is currently engaged in a public process to revise its commercial filming directives to ensure sufficient protection of public resources, the freedom of individuals and groups, both large and small, to film and photograph National Forest System lands, and the protection of freedom of the press. This ef-

fort has included meeting with industry advocates and media groups, and hosting extensive public meetings in Boise, Seattle, Portland, and Washington DC during the public comment period for the proposed directives. Additionally, in concert with a Department of Interior-led effort USDA has been engaged in formation of an updated fee schedule common across land management agencies, with publication of a final rule anticipated soon. USDA believes issuance of these directives is the most appropriate way to ensure balanced protection of natural resource and wilderness values with use by commercial film crews of all sizes.

We would like to work with the committee on language addressing commercial filming to avoid unintended consequences. We are concerned that even small film crews can have a substantial impact as they may use large vehicles, trailers, generators, and other equipment to conduct their business. Issuing permits based on individual applications allows for commercial filming and provides assurance that impacts on natural resources will be avoided or minimized.

Additionally, we are concerned about new paragraph (3)(E), which provides that the Secretary may not prohibit “as a mechanized apparatus or under any other purposes, use of cameras or related equipment used for the purpose of commercial filming activities or similar projects.” Because paragraph (3)(E) applies to wilderness, this provision would allow use of motorized equipment such as cranes for filming in wilderness, which would be inconsistent with the Wilderness Act.

#### SECTION 103—FEDERAL ACTION TRANSPARENCY

The detailed data to meet reporting requirements in the Federal Action Transparency section of the bill would impose a substantial burden on the Forest Service in terms of staff time and information technology expenses in the collection, database formatting, and dissemination of this information. We do not support section 103 as the information is largely already available via the Public Access to Court Electronic Records reporting system, even though it is not in summary report format as requested in this bill.

#### SECTIONS 201 AND 202—HABITAT CONSERVATION

We fully support the objectives of increasing and improving access to public lands. The development and publication of regional priority lists describing lands with limited, disputed or no legal access as required by Section 202 will require considerable staff time and would not, by itself, create greater access. Local Forest managers regularly pursue opportunities to acquire title, easement, or right-of-way to improve public access. We will continue to pursue negotiations with willing sellers, and assert public rights where access has been denied, to the extent of our capacity to do so.

The Land and Water Conservation Fund (LWCF) is a proven tool that can be used to improve recreational access

to public lands. The President's FY 2016 Budget proposes to permanently authorize annual mandatory funding of the Department of Agriculture and Department of the Interior Land and Water Conservation Fund programs beginning in FY 2017. In FY 2016, we are requesting \$400 million in discretionary funding and \$500 million in mandatory funding, with all \$900 million coming from mandatory funding in FY 2017 to be shared by Agriculture and Interior. Full funding for the Land and Water Conservation Fund supports the President's agenda of improving public access and the past success and ongoing importance of the LWCF cannot be overstated. Of 40 land purchases the Forest Service completed in FY14 using LWCF, 39 provided either legal access where none previously existed or improved legal access. While we support the goals of Section 201 of this bill, we would prefer to consider creating a permanent set-aside in the context of establishing full and mandatory funding for the Land and Water Conservation Fund.

#### SECTION 203—FEDERAL LAND TRANSFER FACILITATION ACT

USDA supports reauthorization of the Federal Land Transfer Facilitation Act (FLTFA) and recommends that all proceeds be retained and used for critical land acquisitions including those that provide access for hunting, fishing, shooting, and other recreational activities.

Sources such as LWCF and FLTFA are significant in achieving our conservation mission, especially as an ever-increasing portion of the Forest Service budget is consumed by wildland fire suppression efforts. Resolving the fire-funding issue with bipartisan legislation is a critical need and an important first step before we could adequately address and fund all the provisions in this legislation.

This concludes my remarks. Thank you again for the opportunity to comment and I am available to take your questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 733, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### **FEDERAL LAND TRANSACTION FACILITATION ACT**

#### **PUBLIC LAW 106-248**

### **TITLE II—FEDERAL LAND TRANSACTION FACILITATION**

\* \* \* \* \*

**SEC. 203. DEFINITIONS.**

In this title:

\* \* \* \* \*

(2) **FEDERALLY DESIGNATED AREA.**—The term “federally designated area” means land in Alaska and the eleven contiguous Western States (as defined in section 103(o) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(o))) that [on the date of enactment of this Act was] *is* within the boundary of—

\* \* \* \* \*

**SEC. 205. DISPOSAL OF PUBLIC LAND.**

(a) **IN GENERAL.**—The Secretary shall establish a program, using funds made available under section 206, to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans [(as in effect on the date of enactment of this Act)] under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

\* \* \* \* \*

[(d) **TERMINATION OF AUTHORITY.**—The authority provided under this section shall terminate 11 years after the date of enactment of this Act.]

**SEC. 206. FEDERAL LAND DISPOSAL ACCOUNT.**

\* \* \* \* \*

[(f) **TERMINATION.**—On termination of activities under section 205—

[(1) the Federal Land Disposal Account shall be terminated; and

[(2) any remaining balance in the account shall become available for appropriation under section 200303 of title 54, United States Code.]

**SEC. 207. SPECIAL PROVISIONS.**

(a) **IN GENERAL.**— \* \* \*

(b) **OTHER LAW.**—This shall not apply to land eligible for sale under—

(1) Public Law [96–568] 96–586 (commonly known as the “Santini-Burton Act”) (94 Stat. 3381); [or]

(2) the Southern Nevada Public Land Management Act of 1998 (*Public Law 105–263*; 112 Stat. 2343)[.];

(3) *the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109–432; 120 Stat. 3028);*

(4) *the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108–424; 118 Stat. 2403);*

(5) *subtitle F of title I of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1032);*

(6) *subtitle O of title I of the Omnibus Public Land Management Act of 2009 (Public Law 111–11 123 Stat. 1075);*

(7) *section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1108); or*

(8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1121).

\* \* \* \* \*

## PUBLIC LAW 106–206, as amended

\* \* \* \* \*

### SECTION 1. COMMERCIAL FILMING.

(a) *DEFINITION OF SECRETARY.*—The term “Secretary” means the Secretary of the Interior or the Secretary of Agriculture, as applicable, with respect to land under the respective jurisdiction of the Secretary.

[(a)] (b) *COMMERCIAL FILMING FEE.*—

(1) *IN GENERAL.*—The Secretary [of the Interior and the Secretary of Agriculture (hereafter individually referred to as the “Secretary” with respect to land in a System unit as defined in section 100102 of title 54, United States Code under their respective jurisdictions)] shall require a permit and shall establish a reasonable fee for commercial filming activities [or similar projects] on Federal lands administered by the Secretary. The fee shall provide a fair return to the United States and shall be based upon the following criteria:

(A) The number of days the filming activity [or similar project] takes place on Federal land under the Secretary’s jurisdiction.

(B) The size of the film crew present on Federal land under the Secretary’s jurisdiction, *except in the case of film crews of 3 or fewer individuals.*

(C) The amount and type of equipment present.

(2) *OTHER FACTORS.*—The Secretary may include other factors in determining an appropriate fee as the Secretary deems necessary.

(3) *FEE SCHEDULE.*—*Not later than 180 days after the date of enactment of the Sportsmen’s Act, to enhance consistency in the management of Federal land, the Secretaries shall publish a single joint land use fee schedule for commercial filming and still photography.*

[(b)] (c) *RECOVERY OF COSTS.*—The Secretary shall also collect any costs incurred as a result of filming activities or similar project, including but not limited to administrative and personnel costs. All costs recovered shall be in addition to the fee assessed in [subsection (a)] *subsection (b).*

[(c)] (d) *COMMERCIAL STILL PHOTOGRAPHY.*—(1) *IN GENERAL.*—Except as provided in paragraph (2), the Secretary shall not require a permit nor assess a fee for still photography on land administered by the Secretary if such photography takes place where members of the public are generally allowed. The Secretary may require a permit, fee, or both, if such photography takes place at other locations where members of the public are generally not allowed, or where additional administrative costs are likely.

(2) *EXCEPTION.*—The Secretary shall require and shall establish a reasonable fee for still photography that uses models or props which are not a part of the site’s natural or cultural resources or administrative facilities.

[(d)] (e) PROTECTION OF RESOURCES.—The Secretary shall not permit any filming, still photography or other related activity if the Secretary determines—

- (1) there is a likelihood of resource damage;
- (2) there would be an unreasonable disruption of the public's use and enjoyment of the site; or
- (3) that the activity poses health or safety risks to the public.

[(e)] (f) USE OF PROCEEDS.—(1) FEES.—All fees collected under this section shall be available for expenditure by the Secretary, without further appropriation *in accordance with the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.)*, and shall remain available until expended.

(2) *Costs*.—All costs recovered under this section shall be available for expenditure by the Secretary, without further appropriation, at the site where the costs are collected and shall remain available until expended.

[(f)] (g) PROCESSING OF PERMIT APPLICATIONS.—[The Secretary shall]

(1) IN GENERAL.—*The Secretary shall establish a process to ensure that the Secretary responds in a timely manner to permit applicants for commercial filming, still photography, or other activity.*

(2) CONSIDERATIONS.—*The Secretary shall not consider subject matter or content as a criterion for issuing or denying a permit under this Act.*

(h) EXEMPTION FROM COMMERCIAL FILMING OR STILL PHOTOGRAPHY PERMITS AND FEES.—*The Secretary shall not require persons holding commercial use authorizations or special recreation permits to obtain an additional permit or pay a fee for commercial filming or still photography under this Act if the filming or photography conducted is—*

(1) *incidental to the permitted activity that is the subject of the commercial use authorization or special recreation permit; and*

(2) *the holder of the commercial use authorization or special recreation permit is an individual or small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632)).*

(i) EXCEPTION FROM CERTAIN FEES.—*Commercial filming or commercial still photography shall be exempt from fees under this Act, but not from recovery of costs under subsection (c), if the activity—*

(1) *is conducted by an entity that is a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632));*

(2) *is conducted by a crew of not more than 3 individuals; and*

(3) *uses only a camera and tripod.*

(j) APPLICABILITY TO NEWS GATHERING ACTIVITIES.—

(1) IN GENERAL.—*News gathering shall not be considered a commercial activity.*

(2) INCLUDED ACTIVITIES.—*In this subsection, the term 'news gathering' includes, at a minimum, the gathering, recording, and filming of news and information related to news in any medium.*

## FISH AND WILDLIFE COORDINATION ACT

Act of March 10, 1934, as amended

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**SEC. 9. THE PROVISIONS OF THIS ACT SHALL NOT APPLY TO THE TENNESSEE VALLEY AUTHORITY.**

**SEC. 10. WILDLIFE AND HUNTING HERITAGE CONSERVATION COUNCIL ADVISORY COMMITTEE.**

(a) *ESTABLISHMENT.*—There is established the Wildlife and Hunting Heritage Conservation Council Advisory Committee (referred to in this section as the 'Advisory Committee') to advise the Secretary of the Interior and the Secretary of Agriculture (referred to in this section as the 'Secretaries') on wildlife and habitat conservation, hunting, and recreational shooting.

(b) *DUTIES OF THE ADVISORY COMMITTEE.*—The Advisory Committee shall advise the Secretaries regarding—

(1) implementation of the 'Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation' and any successor plans, in accordance with Executive Order 13443 (16 U.S.C. 661 note; relating to facilitation of hunting heritage and wildlife conservation);

(2) increasing public awareness of, and support for, the Wildlife Restoration Program;

(3) fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;

(4) stimulating the participation of sportsmen and sportswomen in the conservation and management of wildlife and habitat resources through outreach and education;

(5) fostering communication and coordination among—

(A) the Federal Government and State and tribal governments;

(B) industry;

(C) sportsmen and sportswomen who hunt and shoot;

(D) wildlife and habitat conservation and management organizations; and

(E) the public;

(6) providing appropriate access to Federal land for recreational shooting and hunting; and

(7) recommendations to improve implementation of Federal conservation programs that benefit wildlife, hunting, and outdoor recreation on private land.

(c) *MEMBERSHIP.*—

(1) *APPOINTMENT.*—

(A) *IN GENERAL.*—The Advisory Committee shall consist of not more than 16 discretionary members and 7 ex officio members.

(B) *EX OFFICIO MEMBERS.*—The ex officio members are—

(i) the Director of the United States Fish and Wildlife Service or a designated representative of the Director;

(ii) the Director of the Bureau of Land Management or a designated representative of the Director;

(iii) the Director of the National Park Service or a designated representative of the Director;

(iv) the Chief of the Forest Service or a designated representative of the Chief;

(v) the Chief of the Natural Resources Conservation Service or a designated representative of the Chief;

(vi) the Administrator of the Farm Service Agency or a designated representative of the Administrator; and

(vii) the Executive Director of the Association of Fish and Wildlife Agencies.

(C) *DISCRETIONARY MEMBERS.*—The discretionary members shall be appointed jointly by the Secretaries from at least one of each of the following:

(i) State fish and wildlife management agencies.

(ii) Wildlife and habitat conservation management organizations.

(iii) Game bird hunting organizations.

(iv) Waterfowl hunting organizations.

(v) Big game hunting organizations.

(vi) The tourism, outfitter, or guiding industry relating to hunting, fishing, and shooting sports.

(vii) The hunting or shooting equipment retail industry.

(viii) Tribal resource management organizations.

(ix) Hunting, shooting, and fishing sports outreach and education organizations.

(x) Women's hunting and fishing advocacy, outreach, or education organizations.

(xi) Minority hunting and fishing advocacy, outreach, or education organizations.

(xii) Veterans service organizations.

(2) *TERMS.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), members of the Advisory Committee shall be appointed for a term of 4 years. Members shall not be appointed for more than 3 consecutive or nonconsecutive terms.

(B) *TERMS OF INITIAL APPOINTEES.*—As designated by the Secretaries at the time of appointment, of the members first appointed—

(i) 6 members shall be appointed for a term of 4 years;

(ii) 5 members shall be appointed for a term of 3 years; and

(iii) 5 members shall be appointed for a term of 2 years.

(3) *PRESERVATION OF PUBLIC ADVISORY STATUS.*—No individual may be appointed as a discretionary member of the Advisory Committee while serving as an officer or employee of the Federal Government.

(4) *VACANCY AND REMOVAL.*—

(A) *IN GENERAL.*—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

(B) *REMOVAL.*—Advisory Committee members shall serve at the discretion of the Secretaries and may be removed at any time for good cause.

(5) *CONTINUATION OF SERVICE.*—Each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed.

(6) *CHAIRPERSON.*—The Chairperson of the Advisory Committee shall be appointed for a 3-year term by the Secretaries, jointly, from among the members of the Advisory Committee. An individual may not be appointed as Chairperson for more than 2 consecutive or nonconsecutive terms.

(7) *COMPENSATION.*—Members of the Advisory Committee shall serve without compensation.

(8) *TRAVEL EXPENSES.*—Members of the Advisory Committee may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of duties of the Advisory Committee.

(9) *MEETINGS.*—

(A) *IN GENERAL.*—The Advisory Committee shall meet at the call of the chairperson, but not less frequently than twice annually.

(B) *OPEN MEETINGS.*—Each meeting of the Advisory Committee shall be open to the public.

(C) *PRIOR NOTICE OF MEETINGS.*—Timely notice of each meeting of the Advisory Committee shall be published in the Federal Register and be submitted to trade publications and publications of general circulation.

(D) *SUBGROUPS.*—The Advisory Committee may establish such workgroups or subgroups as the Advisory Committee deems necessary for the purpose of compiling information or conducting research.

(10) *Quorum.*—A majority of the members of the Advisory Committee shall constitute a quorum.

(d) *EXPENSES, ADMINISTRATIVE SUPPORT, TECHNICAL SERVICES, AND ADVICE.*—The Secretaries may provide for expenses, administrative support, technical services, and advice to the Advisory Committee that the Secretaries determine to be appropriate.

(e) *ANNUAL REPORT.*—

(1) *REQUIRED.*—Not later than September 30 of each year, the Advisory Committee shall submit a report to the Secretaries, the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives, and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) *CONTENTS.*—The report required under paragraph (1) shall describe—

(A) the activities of the Advisory Committee during the preceding year;

(B) the reports and recommendations made by the Advisory Committee to the Secretaries during the preceding year; and

(C) an accounting of actions taken by the Secretaries as a result of the recommendations.

(f) *FEDERAL ADVISORY COMMITTEE ACT.*—*The Advisory Committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).*

## **PITTMAN ROBERTSON WILDLIFE RESTORATION ACT**

Act of September 2, 1937, as amended

### **SEC. 2. DEFINITIONS.**

As used in this Act—

(1) the term “conservation” means the use of methods and procedures necessary or desirable to sustain healthy populations of wildlife, including all activities associated with scientific resources management such as research, census, monitoring of populations, acquisition, improvement and management of habitat, live trapping and transplantation, wildlife damage management, and periodic or total protection of a species or population, as well as the taking of individuals within wildlife stock or population if permitted by applicable State and Federal law;

(2) the term “public target range” means a specific location that—

(A) is identified by a governmental agency for recreational shooting;

(B) is open to the public;

(C) may be supervised; and

(D) may accommodate archery or rifle, pistol, or shotgun shooting;

[(2)] (3) the term “Secretary” means the Secretary of the Interior;

[(3)] (4) the term “State fish and game department” or “State fish and wildlife department” means any department or division of department of another name, or commission, or official or officials, of a State empowered under its laws to exercise the functions ordinarily exercised by a State fish and game department or State fish and wildlife department.

[(4)] (5) the term “wildlife” means any species of wild, free-ranging fauna including fish, and also fauna in captive breeding programs the object of which is to reintroduce individuals of a depleted indigenous species into previously occupied range;

[(5)] (6) the term “wildlife-associated recreation” means projects intended to meet the demand for outdoor activities associated with wildlife including, but not limited to, hunting and fishing, wildlife observation and photography, such projects as construction or restoration of wildlife viewing areas, observation towers, blinds, platforms, land and water trails, water access, field trialing, trail heads, and access for such projects;

[(6)] (7) the term “wildlife conservation and restoration program” means a program developed by a State fish and wildlife department and approved by the Secretary under section 669c(d) of this title, the projects that constitute such a program, which may be implemented in whole or part through grants and contracts by a State to other State, Federal, or local agencies (including those that gather, evaluate, and disseminate information on wildlife and their habitats), wildlife conservation organizations, and outdoor recreation and conserva-

tion education entities from funds apportioned under this chapter,<sup>1</sup> and maintenance of such projects;

[(7)] (8) the term “wildlife conservation education” means projects, including public outreach, intended to foster responsible natural resource stewardship; and

[(8)] (9) the term “wildlife-restoration project” includes the wildlife conservation and restoration program and means the selection, restoration, rehabilitation, and improvement of areas of land or water adaptable as feeding, resting, or breeding places for wildlife, including acquisition of such areas or estates or interests therein as are suitable or capable of being made suitable therefor, and the construction thereon or therein of such works as may be necessary to make them available for such purposes and also including such research into problems of wildlife management as may be necessary to efficient administration affecting wildlife resources, and such preliminary or incidental costs and expenses as may be incurred in and about such projects.

\* \* \* \* \*

SEC. 8. (a) Maintenance of wildlife-restoration projects established under the provisions of this Act shall be the duty of the States in accordance with their respective laws. Beginning July 1, 1945, the term “wildlife-restoration project”, as defined in section 2 of this Act, shall include maintenance of completed projects. Notwithstanding any other provisions of this Act, funds apportioned to a State under this Act may be expended by the State for management (exclusive of law enforcement and public relations) of wildlife areas and resources. Funds from the Wildlife Conservation and Restoration Account may be used for a wildlife conservation education program, except that no such funds may be used for education efforts, projects, or programs that promote or encourage opposition to the regulated taking of wildlife.

[(b) Each State] (b) *EXPENDITURES FOR MANAGEMENT OF WILDLIFE AREAS AND RESOURCES.*—

(1) *IN GENERAL.*—*Except as provided in paragraph (2), each State may use the funds apportioned to it under section 669c(c) of this title to pay up to 75 per centum of the costs of a hunter safety program and the [construction, operation,] operation and maintenance of public target ranges, as a part of such program. [The non-Federal share]*

(2) *EXCEPTION.*—*Notwithstanding the limitation described in paragraph (1), a State may pay up to 90 percent of the cost of acquiring land for, expanding, or constructing a public target range.*

(3) *NON-FEDERAL SHARE.*—*The non-Federal share of such costs may be derived from license fees paid by hunters, but not from other Federal grant programs. [The Secretary]*

(4) *REGULATIONS.*—*The Secretary shall issue not later than the 120th day after the effective date of this subsection such regulations as he deems advisable relative to the criteria for the establishment of hunter safety programs and public target ranges under this subsection.*

\* \* \* \* \*

**SEC. 10. FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS.**

(a) **IN GENERAL.**—

(1) **GRANTS.**—Of the revenues covered into the fund, \$7,500,000 for each of fiscal years 2001 and 2002, and \$8,000,000 for fiscal year 2003 and each fiscal year thereafter, shall be apportioned among the States in the manner specified in section 669c(c) of this title by the Secretary of the Interior and used to make grants to the States to be used for—

(A) in the case of a State that has not used all of the funds apportioned to the State under section 669c(c) of this title for the fiscal year in the manner described in section 669g(b) of this title—

(i) the enhancement of hunter education programs, hunter and sporting firearm safety programs, and hunter development programs;

(ii) the enhancement of interstate coordination and development of hunter education and shooting range programs;

(iii) the enhancement of bow hunter and archery education, safety, and development programs; and

(iv) the enhancement of construction or development of firearm shooting ranges and archery ranges, and the updating of safety features of firearm shooting ranges and archery ranges; and

(B) in the case of a State that has used all of the funds apportioned to the State under section 669c(c) of this title for the fiscal year in the manner described in section 669g(b) of this title, any use authorized by this chapter (including hunter safety programs and the construction, operation, and maintenance of public target ranges).

(2) **LIMITATION ON USE.**—Under paragraph (1), a State shall not be required to use more than the amount described in section 669g(b) of this title for hunter safety programs and the construction, operation, and maintenance of public target ranges.

(3) **ALLOCATION OF ADDITIONAL AMOUNTS.**—*Of the amount apportioned to a State for any fiscal year under section 4(b), the State may elect to allocate not more than 10 percent, to be combined with the amount apportioned to the State under paragraph (1) for that fiscal year, for acquiring land for, expanding, or constructing a public target range.*

[(b) **COST SHARING.**—The Federal share of the cost of any activity carried out with a grant under this section shall not exceed 75 percent of the total cost of the activity.]

(b) **COST SHARING.**—

(1) *In general.*—*Except as provided in paragraph (2), the Federal share of the cost of any activity carried out using a grant under this section shall not exceed 75 percent of the total cost of the activity.*

(2) **PUBLIC TARGET RANGE CONSTRUCTION OR EXPANSION.**—*The Federal share of the cost of acquiring land for, expanding, or constructing a public target range in a State on Federal or non-Federal land pursuant to this section or section 8(b) shall not exceed 90 percent of the cost of the activity.*

## (c) PERIOD OF AVAILABILITY; REAPPORTIONMENT.—

(1) PERIOD OF AVAILABILITY.— **[Amounts made]**

(A) *IN GENERAL.*—*Except as provided in subparagraph (B), amounts made available and apportioned for grants under this section shall remain available only for the fiscal year for which the amounts are apportioned.*

(B) *EXCEPTION.*—*Amounts provided for acquiring land for, constructing, or expanding a public target range shall remain available for expenditure and obligation during the 5-fiscal-year period beginning on October 1 of the first fiscal year for which the amounts are made available.*

(2) REAPPORTIONMENT.—At the end of the period of availability under paragraph (1), the Secretary of the Interior shall apportion amounts made available that have not been used to make grants under this section among the States described in subsection (a)(1)(B) for use by those States in accordance with this chapter.

## UNITED STATES CODE

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TITLE 5—GOVERNMENT ORGANIZATION AND  
EMPLOYEES

\* \* \* \* \*

## § 504. Costs and fees of parties

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(c)(1) After consultation with the Chairman of the Administrative Conference of the United States, each agency shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28**[, United States Code]**.

\* \* \* \* \*

**[(e) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman with such information as is necessary for the Chairman to comply with the requirements of this subsection.]**

*(e)(1) Not later than March 31 of the first fiscal year beginning after the date of enactment of the Sportsmen's Act, and every fiscal year thereafter, the Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall submit to Congress and make publicly available online a report on the amount of*

*fees and other expenses awarded during the preceding fiscal year under this section.*

*(2) Each report under paragraph (1) shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information that may aid Congress in evaluating the scope and impact of such awards.*

*(3)(A) Each report under paragraph (1) shall account for all payments of fees and other expenses awarded under this section that are made pursuant to a settlement agreement, regardless of whether the settlement agreement is sealed or otherwise subject to a non-disclosure provision.*

*(B) The disclosure of fees and other expenses required under subparagraph (A) shall not affect any other information that is subject to a nondisclosure provision in a settlement agreement.*

*(f) As soon as practicable, and in any event not later than the date on which the first report under subsection (e)(1) is required to be submitted, the Chairman of the Administrative Conference of the United States shall create and maintain online a searchable database containing, with respect to each award of fees and other expenses under this section made on or after the date of enactment of the Sportsmen's Act, the following information:*

*(1) The case name and number of the adversary adjudication, if available, hyperlinked to the case, if available.*

*(2) The name of the agency involved in the adversary adjudication.*

*(3) A description of the claims in the adversary adjudication.*

*(4) The name of each party to whom the award was made as such party is identified in the order or other court document making the award.*

*(5) The amount of the award.*

*(6) The basis for the finding that the position of the agency concerned was not substantially justified.*

*(g) The online searchable database described in subsection (f) may not reveal any information the disclosure of which is prohibited by law or a court order.*

*(h) The head of each agency shall provide to the Chairman of the Administrative Conference of the United States in a timely manner all information requested by the Chairman to comply with the requirements of subsections (e), (f), and (g).*

**[(f)]** *(i) No award may be made under this section for costs, fees, or other expenses which may be awarded under section 7430 of the Internal Revenue Code of 1986.*

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## **TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE**

\* \* \* \* \*

### **§ 2412. Costs and fees**

\* \* \* \* \*

(d)(1)(A) \* \* \*

(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, [United States Code,] *of this section*, or an adversary adjudication subject to chapter 71 of title 41, the court shall include in that award fees and other expenses to the same extent authorized in subsection (a) of such section, unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust.

\* \* \* \* \*

*(5)(A) Not later than March 31 of the first fiscal year beginning after the date of enactment of the Sportsmen's Act, and every fiscal year thereafter, the Chairman of the Administrative Conference of the United States shall submit to Congress and make publicly available online a report on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection.*

*(B) Each report under subparagraph (A) shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information that may aid Congress in evaluating the scope and impact of such awards.*

*(C)(i) Each report under subparagraph (A) shall account for all payments of fees and other expenses awarded under this subsection that are made pursuant to a settlement agreement, regardless of whether the settlement agreement is sealed or otherwise subject to a nondisclosure provision.*

*(ii) The disclosure of fees and other expenses required under clause (i) shall not affect any other information that is subject to a nondisclosure provision in a settlement agreement.*

*(D) The Chairman of the Administrative Conference of the United States shall include and clearly identify in each annual report under subparagraph (A), for each case in which an award of fees and other expenses is included in the report—*

*(i) any amounts paid under section 1304 of title 31 for a judgment in the case;*

*(ii) the amount of the award of fees and other expenses; and*

*(iii) the statute under which the plaintiff filed suit.*

*(6) As soon as practicable, and in any event not later than the date on which the first report under paragraph (5)(A) is required to be submitted, the Chairman of the Administrative Conference of the United States shall create and maintain online a searchable database containing, with respect to each award of fees and other expenses under this subsection made on or after the date of enactment of the Sportsmen's Act, the following information:*

*(A) The case name and number, hyperlinked to the case, if available.*

*(B) The name of the agency involved in the case.*

*(C) The name of each party to whom the award was made as such party is identified in the order or other court document making the award.*

*(D) A description of the claims in the case.*

*(E) The amount of the award.*

*(F) The basis for the finding that the position of the agency concerned was not substantially justified.*

*(7) The online searchable database described in paragraph (6) may not reveal any information the disclosure of which is prohibited by law or a court order.*

*(8) The head of each agency (including the Attorney General of the United States) shall provide to the Chairman of the Administrative Conference of the United States in a timely manner all information requested by the Chairman to comply with the requirements of paragraphs (5), (6), and (7).*

(e) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any proceeding to which section 7430 of the Internal Revenue Code of 1954 applies (determined without regard to subsections (b) and (f) of such section). Nothing in the preceding sentence shall prevent the awarding under subsection (a) [of section 2412 of title 28, United States Code,] of this section of costs enumerated in section 1920 [of such title] of this title (as in effect on October 1, 1981).

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## TITLE 31—MONEY AND FINANCE

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### § 1304. Judgments, awards, and compromise settlements

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*(d) Beginning not later than the date that is 60 days after the date of enactment of the Sportsmen's Act, and unless the disclosure of such information is otherwise prohibited by law or a court order, the Secretary of the Treasury shall make available to the public on a website, as soon as practicable, but not later than 30 days after the date on which a payment under this section is tendered, the following information with regard to that payment:*

*(1) The name of the specific agency or entity whose actions gave rise to the claim or judgment.*

*(2) The name of the plaintiff or claimant.*

*(3) The name of counsel for the plaintiff or claimant.*

*(4) The amount paid representing principal liability, and any amounts paid representing any ancillary liability, including attorney fees, costs, and interest.*

*(5) A brief description of the facts that gave rise to the claim.*

*(6) The name of the agency that submitted the claim.*

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## TITLE 54—NATIONAL PARK SERVICE AND RELATED PROGRAMS

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### CHAPTER 1009—ADMINISTRATION

100901. Authority of Secretary to carry out certain activities

100902. Rights of way for public utilities and power and communication facilities

100903. Solid waste disposal operations  
 100904. Admission and special recreation use fees  
**100905. Commercial filming**  
 100906. Advisory committees

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## **[§ 100905. Commercial filming**

### **[(a) COMMERCIAL FILMING FEE.—**

**[(1) IN GENERAL.—**The Secretary shall require a permit and shall establish a reasonable fee for commercial filming activities or similar projects in a System unit. The fee shall provide a fair return to the United States and shall be based on the following criteria:

**[(A)** The number of days the filming activity or similar project takes place in the System unit.

**[(B)** The size of the film crew present in the System unit.

**[(C)** The amount and type of equipment present in the System unit.

**[(2) OTHER FACTORS.—**The Secretary may include other factors in determining an appropriate fee as the Secretary considers necessary.

**[(b) RECOVERY OF COSTS.—**The Secretary shall collect any costs incurred as a result of filming activities or similar projects, including administrative and personnel costs. All costs recovered shall be in addition to the fee assessed in subsection (a).

### **[(c) STILL PHOTOGRAPHY.—**

**[(1) IN GENERAL.—**Except as provided in paragraph (2), the Secretary shall not require a permit or assess a fee for still photography in a System unit if the photography takes place where members of the public are generally allowed. The Secretary may require a permit, assess a fee, or both, if the photography takes place at other locations where members of the public are generally not allowed, or where additional administrative costs are likely.

**[(2) EXCEPTION.—**The Secretary shall require and shall establish a reasonable fee for still photography that uses models or props that are not a part of the site's natural or cultural resources or administrative facilities.

**[(d) PROTECTION OF RESOURCES.—**The Secretary shall not permit any filming, still photography or other related activity if the Secretary determines that—

**[(1)** there is a likelihood of resource damage;

**[(2)** there would be an unreasonable disruption of the public's use and enjoyment of the site; or

**[(3)** the activity poses health or safety risks to the public.

### **[(e) USE OF PROCEEDS.—**

**[(1) FEES.—**All fees collected under this section shall be available for expenditure by the Secretary, without further appropriation and shall remain available until expended.

**[(2) COSTS.—**All costs recovered under this section shall be available for expenditure by the Secretary, without further appropriation, at the site where the costs are collected and shall remain available until expended.

[(f) PROCESSING OF PERMIT APPLICATIONS.—The Secretary shall establish a process to ensure that the Secretary responds in a timely manner to permit applicants for commercial filming, still photography, or other activity.]

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## CHAPTER 1049—MISCELLANEOUS

104901. Central warehouses at System units  
 104902. Services or other accommodations for public  
 104903. Care, removal, and burial of indigents  
 104904. Hire of work animals, vehicles, and equipment with or without personal services  
 104905. Preparation of mats for reproduction of photographs  
 104906. Protection or right of individuals to bear arms  
 104907. Limitation on extension or establishment of national parks in Wyoming  
 104908. *Bows in parks*  
 104909. *Wildlife management in parks*

\* \* \* \* \*

### § 104908. *Bows in parks*

(a) *DEFINITION OF NOT READY FOR IMMEDIATE USE.*—The term “not ready for immediate use” means—

- (1) *a bow or crossbow, the arrows of which are secured or stowed in a quiver or other arrow transport case; and*
- (2) *with respect to a crossbow, uncocked.*

(b) *VEHICULAR TRANSPORTATION AUTHORIZED.*—The Director shall not promulgate or enforce any regulation that prohibits an individual from transporting bows and crossbows that are not ready for immediate use across any System unit in the vehicle of the individual if—

- (1) *the individual is not otherwise prohibited by law from possessing the bows and crossbows;*
- (2) *the bows or crossbows that are not ready for immediate use remain inside the vehicle of the individual throughout the period during which the bows or crossbows are transported across System land; and*
- (3) *the possession of the bows and crossbows is in compliance with the law of the State in which the System unit is located.*

### SEC. 104909. *WILDLIFE MANAGEMENT IN PARKS.*

(a) *USE OF QUALIFIED VOLUNTEERS.*—If the Secretary determines it is necessary to reduce the size of a wildlife population on System land in accordance with applicable law (including regulations), the Secretary may use qualified volunteers to assist in carrying out wildlife management on System land.

(b) *REQUIREMENTS FOR QUALIFIED VOLUNTEERS.*—Qualified volunteers providing assistance under subsection (a) shall be subject to—

- (1) *any training requirements or qualifications established by the Secretary; and*
- (2) *any other terms and conditions that the Secretary may require.*

(c) *DONATIONS.*—The Secretary may authorize the donation and distribution of meat from wildlife management activities carried out under this section, including the donation and distribution to Indian tribes, qualified volunteers, food banks, and other organiza-

*tions that work to address hunger, in accordance with applicable health guidelines and such terms and conditions as the Secretary may require.*

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