

Statement of Leslie A. C. Weldon
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Forest Service
United States Department of Agriculture
Before the United States House of Representatives
Committee on Natural Resources
Subcommittee on National Parks, Forests, and Public Lands
June 8, 2012
Concerning

H.R. 5544, the Minnesota Education Investment and Employment Act

Mr. Chairman, Ranking Member Grijalva, and members of the Committee, my name is Leslie Weldon. I serve as the Deputy Chief for the National Forest System. Thank you for inviting me here today to testify regarding H.R. 5544, the Minnesota Education Investment and Employment Act. The bill would direct a land exchange between the Federal government and the State of Minnesota to address 86,295 land-locked acres in the Boundary Waters Canoe Area Wilderness (BWCAW) which are owned by the State. The land-locked lands are state trust lands granted to Minnesota by Enabling Act of 1857, under which Minnesota was admitted to the United States.

The Department supports efforts to relieve the State of Minnesota of title to these state trust lands and would like to work with the sponsor, the State of Minnesota and the Committee to address the Department's concerns with the bill.

H.R. 5544 would direct the Secretary to perform an expedited exchange of National Forest System lands for the state trust lands. Although the National Forest System lands are not identified in the bill, we understand that the intent of the sponsor was to require the exchange of lands within the Laurentian District of the Superior National Forest and certain other National Forest System lands in Minnesota. The Department would like to work with the State of Minnesota to identify National Forest System lands suitable for exchange.

The State trust lands to be acquired by the United States are located within the boundaries of the Boundary Waters Canoe Area Wilderness. They are held in trust for the Minnesota public education system. These State trust lands cannot be commercially developed for the benefit of the education trust fund without impacting the area's untrammeled wilderness character.

H. R. 5544 would establish an ambitious and accelerated time line which may be difficult for both parties to meet. The bill provides for a one-year period to consummate the exchange. If the deadline is not met, the Secretary would be required to send a report to Congress explaining why the deadline was not met. For this type of real estate transaction, the agency requires extensive due diligence, including survey work. The land surveys alone required for this type of exchange include significant fieldwork and require an average of two years to complete. In addition to the survey work, the time necessary to complete appraisals, hazardous material inspections and legal descriptions of the parcels in question as well as other due diligence work far exceeds the one-year timeframe provided in the legislation. Given the short field season in northern Minnesota, neither the State of Minnesota nor the Forest Service would meet the deadline established in the bill. The Department suggests extending the time line for the consummation of the exchange from one year to four years to allow for negotiations between the parties and to complete the extensive due diligence required by the exchange.

The Department would like clarification in the legislation to ensure that the subsurface estate of the state trust lands located within the BWCAW would be included in the exchange. Including such language would prevent future conflict between wilderness preservation and economic development for educational purposes.

The Superior National Forest has worked collaboratively with State of Minnesota regarding the State trust lands. Most recently, the agency participated in a working group convened by the Minnesota Legislature to discuss divestment of the State trust lands. The working group also included representatives of the State of Minnesota Legislature, State school trust, environmental groups, timber industry, mining interests, and local governments. The analysis conducted by the Forest Service and negotiations with the working group resulted in a proposal for a combination of land exchange and federal acquisition of the state trust lands. This multi-party working group identified Federal lands appropriate for exchange, with emphasis on those remote parcels with no threatened or endangered species habitat, limited recreation opportunities, and most importantly, where relinquishing federal ownership is consistent with the Forest's Land Management Plan. The Department supports the combined exchange and acquisition proposal as it allows for optimal return for the public while providing lands eligible for resource development to the State of Minnesota.

Although the Department has concerns with H.R. 5544, we would like to work with the Sponsor, Subcommittee, the State of Minnesota, and stakeholder groups to address these concerns in hopes of meeting the needs of both the State of Minnesota and the public.

This concludes my testimony and I would be happy to answer any questions you may have.

STATEMENT OF
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DEPUTY CHIEF NATIONAL FOREST SYSTEM
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

CONCERNING
H.R. 5791, the Emergency Water Supply Restoration Act
JUNE 8, 2012

Mr. Chairman, Ranking Member Grijalva, and members of the Committee, my name is Leslie Weldon. I serve as the Deputy Chief for the National Forest System. Thank you for inviting me here today to testify regarding H.R. 5791, the “Emergency Water Supply Restoration Act”.

The Department opposes H.R 5791. Although the Department is sympathetic to the need for timely restoration of water systems located on federal lands affected by fire, flood or other catastrophic actions and supports the goal of improving administrative efficiencies to this end, H.R. 5791 could result in significant adverse impacts to wilderness resources throughout the National Wilderness Preservation System.

H.R. 5791 would authorize State agencies and political subdivisions, such as counties, to access, reconstruct, repair and restore water sources, supplies, and infrastructure located in designated wilderness administered by the Forest Service and Department of Interior agencies. This authority would be contingent solely on a declaration by the Governor of the State in which the designated wilderness is located that a state of emergency exists. Upon the issuance of an emergency declaration by the Governor, the State agencies and political subdivisions would be empowered to act unilaterally without consultation or authorization by the federal land management agency, in a manner that may adversely impact wilderness resources and character.

The Forest Service's special use permit program supports the economies and infrastructure of rural and urban communities in 42 states and Puerto Rico. Under special use permits, State, county and municipal water utilities and authorities have helped provide for the effective stewardship of federal lands for many decades. The Forest Service strives to maintain a cooperative relationship with States, counties and municipalities that hold special use permits for municipal water sources and supply systems on National Forest System lands, including designated wilderness. The Department is sympathetic to the concern that the loss or damage of permitted water collection and delivery systems on National Forest System lands could detrimentally affect communities' dependent upon those systems for municipal and irrigation water.

H. R 5791 raises serious concerns for the Department. Specifically, the Department is concerned that providing unlimited, unilateral authority for the State, counties and municipalities to operate heavy mechanized equipment and motor vehicles in wilderness for the repair, reconstruction, and restoration of water supplies and infrastructure without authorization from the federal land management agency responsible for administering the area could result in significant damage to wilderness resources and character. Additionally, we note that the bill would preclude agency enforcement of federal laws such as the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and the Wilderness Act on actions that State agencies and political subdivisions would be authorized to implement without explicitly waiving the Federal environmental statutes' applicability.

There is already existing authority under the Wilderness Act to provide for access to water systems under permit with a valid existing right. Our minimum requirements analysis process is designed to produce timely determinations of the best way to implement actions while minimizing adverse impacts to wilderness resources and character. In a wide range of emergency situations—including needs of law enforcement, threats to human health and property, and response to fire and weather emergencies—Federal land managers authorize motorized access to wilderness areas on an expedited basis. The Department supported H.R. 2050, which passed the House on April 26, 2012. H.R. 2050 contains a more narrowly tailored approach to maintenance of several non-federal water systems within wilderness areas that were in existence prior to the wilderness designations.

Thank you for the opportunity to appear before you today and I would be happy to answer any questions you may have.