STATEMENT OF
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BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON FEDERAL LANDS

Regarding
H.R. 5015, "Seedlings for Sustainable Habitat Restoration Act of 2023"
H.R. 5499, "Congressional Oversight of the Antiquities Act"
H.R. 7006, "Prohibiting Natural Asset Companies in Utah"

March 20, 2024

Chairman Tiffany, Ranking Member Neguse, and Members of the Subcommittee, thank you for the opportunity to present the Administration's views on H.R. 5499, the "Congressional Oversight of the Antiquities Act," H.R. 5015, "Seedlings for Sustainable Habitat Restoration Act of 2023," and H.R. 7006, "Prohibiting Natural Asset Companies in Utah".

H.R. 5015, "Seedlings for Sustainable Habitat Restoration Act of 2023"

H.R. 5015 amends the Infrastructure Investment and Job's Act's (IIJA) ecosystem restoration section (16 U.S.C. 6592a) to allow the USDA Forest Service to enter into contracts, grants, or agreements with State forestry agencies, local private or nonprofit entities, institutions of higher education or multistate coalitions for the collection and maintenance of native seeds and for the production of seedlings for revegetation to carry out the ecosystem restoration activities under section 16 U.S.C. 6592a(b).

For some of the ecosystem restoration activities described in subsection (b), particularly those funding work on the National Forest System, the agency already has the authority to enter into contracts and agreements with these entities for collection and maintenance of native seeds and the production of seedlings for revegetation. For this set of activities, this legislation would not augment our authorities for these existing programs. Using IIJA funds, the Forest Service has engaged with partners on availability of native seed for restoration through partnership agreements and contracts, and we have broad authority to do so with a range of partners. The list of agency partners is broad and includes Tribes who are not specifically mentioned in H.R. 5015.

For activities on non-federal lands under subsection (b)(9) of IIJA's ecosystem restoration section (16 U.S.C. 6592a), however, this bill would expand authorities. Currently the *Rural Forestry Assistance* section (16 U.S.C. 2102) of the *Cooperative Forestry Assistance Act* gives the agency authority to award financial assistance via grants and cooperative agreements to state foresters or equivalent state officials for the production of tree seed and seedlings to benefit non-federal lands. H.R. 5015 appears to expand this authority to include native plants and would

expand eligible entities beyond state foresters and equivalent state officials. H.R. 5015 may therefore significantly expand the range of projects and partners potentially requesting funding under subsection (b)(9), which will require the Forest Service to prioritize and manage expectations of eligible partners.

H.R. 5015 would also modify requirements for forest landscape restoration proposals for funding under the Collaborative Forest Landscape Restoration Program (CFLRP) (16 U.S.C. 7303(b)(7)). Though it does not seem to expand or change authorities, it would broaden the framing around the program to make explicit that seed collection and seedling production activities could be part of what projects are proposed to benefit local economies. This is in line with existing agency program guidance. In addition, the bill adds institutions of higher education to the list of entities that may provide employment or training opportunities under a proposal. Although academic institutions are already among the entities that provide local employment and training in collaboration with the Forest Service at CFLRP landscapes, this bill explicitly includes them.

USDA recognizes the importance of native seed collection and maintenance and for seedling production for revegetation. We support the goals of this bill and would like to work with the Committee to better understand its intent and to provide technical assistance.

H.R. 5499, "Congressional Oversight of the Antiquities Act"

Presidents of both parties have used 54 U.S.C. 320301 (commonly known as the "Antiquities Act") for over 100 years to protect historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest on Federal lands for future generations. National monument designations under the Antiquities Act place no restrictions on non-federal property and are subject to valid existing rights.

The National Forest System administers 15 national monuments (including two national volcanic monuments) in eight states (Alaska, Arizona, California, Colorado, Oregon, South Dakota, Utah, and Washington) comprising 5,150,746 acres. Some of these were designated by the President through proclamation under the Antiquities Act while others were established by an act of Congress. Some are co-managed with the Bureau of Land Management.

H.R. 5499 would amend the Antiquities Act such that the establishment of a national monument, or reservation of a parcel of land as part of a national monument, would only be a temporary designation unless it is subsequently enacted through legislative action within the earlier of six months or the last day when Congress is in session for the Congressional term. Moreover, if a statute to extend or modify the designation is not enacted within this time, the acreage would be prohibited from establishment or inclusion in a national monument designated by the President under the Antiquities Act for the next 25 years.

The Administration strongly opposes H.R. 5499. Congress already has the ability to enact legislation revising or even eliminating a national monument that was created improvidently or

that is no longer needed. Legislation modifying national monuments has been used sparingly but effectively for over a century, and the Administration believes this time-tested approach remains the appropriate tool for evaluating monuments.

The Administration believes that, as has been the case since enactment of the Antiquities Act in 1906, national monuments should be treated as valid unless a court of competent jurisdiction determines otherwise, or Congress, acting with deliberative care, concludes that a monument is unnecessary. H.R. 5499 reverses 118 years of practice to make national monument proclamations presumptively invalid unless proclamations are ratified by Congress. This change is counter to the core purpose for enacting the Act. The Antiquities Act recognized that threats to objects of historic and scientific interest that are found on lands that are owned or controlled by the Federal government may arise quickly. The Act also recognized that swift action may be needed to protect objects of historic or scientific interest, and that the President, acting under delegated authority and with the advantage of both administrative agency expertise and procedural efficiencies, is best positioned to address these threats. And as already noted, Congress can already modify any national monument proclamation as necessary and appropriate. The Administration believes this time-tested approach strikes an appropriate balance, allowing for prompt action to protect irreplaceable objects of historic or scientific interest while retaining multiple avenues to deliberatively evaluate, and if necessary, revise national monument proclamations.

Furthermore, section 2(c)(2) would prohibit a President from protecting as a national monument the land or property included within the boundaries of a monument that is not ratified by Congress. This prohibition would extend for a period of 25 years and raises at least two significant concerns. First, section 2(c)(1) may not provide Congress with adequate time to carefully consider and vote on a legislation ratifying a national monument proclamation. A needed monument may therefore fail to secure ratification for reasons having nothing to do with the worthiness of resource protection. Second, prohibiting a President from proclaiming a national monument on covered lands for the next quarter-century leaves future Presidents powerless to respond to new information or changed conditions, including both the discovery of new objects of historic or scientific interest, or recognition of emergent threats to irreplaceable objects of historic or scientific interest on public lands. Under either scenario, the outcome is difficult to square with the overall purpose of the Antiquities Act. For these reasons, the Administration strongly opposes H.R. 5499.

H.R. 7006, "Prohibiting Natural Asset Companies in Utah"

H.R. 7006 would prohibit "natural asset companies," as defined in the Security and Exchange Commission's (SEC) withdrawn proposed rule regarding the New York Stock Exchange, or substantially similar companies from entering into any agreement with respect to land in the State of Utah or natural assets on or in such land. USDA was not involved in the withdrawn SEC proposal and defers to the SEC on the potential impacts associated with H.R. 7006.

Thank you for the opportunity to present the views of the Administration.