

**Statement of  
Mark Rey  
Under Secretary for Natural Resources and Environment  
United States Department of Agriculture**

**Subcommittee on Department Operations, Oversight, Nutrition, and  
Forestry  
Committee on Agriculture  
United States House of Representatives**

**on**

**June 6, 2002**

**Concerning  
Public Safety Concerns and Forest Management Hurdles in the Black  
Hills National Forest**

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today. I am Mark Rey, Under Secretary of Agriculture for Natural Resources and Environment. I am here today to discuss with you public safety concerns and forest management hurdles on the Black Hills National Forest in South Dakota and Wyoming.

As Black Hills National Forest Supervisor John Twiss will describe in his remarks, vegetation on the Black Hills National Forest has been actively managed for many decades. However, two areas, in particular, in which the Forest Service has proposed treatments, have generated significant public interest. These two areas, Beaver Park Roadless Area and Norbeck Wildlife Preserve, have unique legal challenges that have eluded our ability for resolution through judicial or administrative means. Each of these areas are close to heavily developed private land and are illustrative of the predicament facing Black Hills National Forest managers in their attempt to reduce the bark beetle infestations and diminish the fire threat from beetle-killed trees and overly dense vegetation. Simply put, court proceedings have prevented implementation of our proposals for treatment--timber sales, thinning, and fuel treatments for example--in these two areas.

Underscoring the public concern about this dilemma is a measure introduced this spring in the South Dakota State Legislature that would empower local municipalities to take fuel treatments on national forest lands into their own hands through a State declaration of emergency. While we do not view this as the best course of action, we certainly understand the desire of local communities to protect themselves from wildfire.

Let me briefly describe the Beaver Park and Norbeck Wildlife Preserve and walk you through the chronology of actions that have led to the current situation. The Beaver Park area includes a 5,000 acre inventoried roadless area southwest of Sturgis, South Dakota. The 34,000 acre Norbeck Wildlife Preserve was established by Congress in 1922 as a special designation within the Black Hills National Forest. It is located adjacent to Mt. Rushmore National Monument and Keystone, South Dakota.

### Chronology

March 1, 1999	Forest Supervisor signed decision to harvest timber in Beaver Park Roadless Area to meet Forest Plan goals of achieving vegetative diversity and providing commercial timber.
April 19, 1999	Decision appealed
June 1, 1999	Regional Forester affirmed Forest Supervisor's decision.
July 30, 1999	U.S. District Court in Colorado denied appellant's motion to stop two timber sales in Norbeck Wildlife Preserve.
November 9, 1999	Lawsuit filed in U.S. District Court in Colorado challenging decision on Beaver Park based on the Chief's appeal decision on the revised Forest Plan.
September 12, 2000	Order filed adopting settlement of Beaver Park lawsuit. Settlement prohibited treatment in Beaver Park Roadless Area and in "candidate" Research Natural Areas until Forest Plan amendment is completed. Plaintiffs agreed not to challenge certain sales totaling 178 million board feet.
August 8, 2001	10th Circuit Court of Appeals rules that the record for proposed timber harvest in Norbeck Wildlife Refuge was not adequate to show the Norbeck Organic Act standards were met.
December, 2001	Forest Service Forest Health Management Unit issues report on pine beetle epidemic in Beaver Park.
February, 2002	South Dakota Governor Janklow threatens lawsuit against Federal government due to lack of action to curtail fire risk.
February 14, 2002	Sen. Daschle and Sen. Johnson ask Forest Supervisor to meet with litigants in Beaver Park and Norbeck lawsuits to discuss deteriorating forest health situation in Beaver Park and Norbeck.
February 19, 2002	Field trip with litigants hosted by Sen. Johnson.
March 16, 2002	Rep. Thune requests language be added to Farm Bill declaring a fire risk emergency in Beaver Park and Norbeck and directing Forest Service to pursue alternative arrangements under NEPA with CEQ.
March-April, 2002	Discussions between parties of Beaver Park and Norbeck lawsuits on reopening Beaver Park settlement agreement and addressing Norbeck issues.
April 3, 2002	Sen. Johnson asks Forest Service to meet 60 million board foot timber sale target on Black Hills.
April 5, 2002	On behalf of Rep. Thune, an amendment declaring a fire risk emergency in Beaver Park and Norbeck during Farm Bill

	conference sessions.
April 9, 2002	Letter from Sen. Daschle and Sen. Johnson urging Under Secretary Rey to support Forest Service attempt to negotiate new settlement on Beaver Park.  Under Secretary Rey assures Sen. Daschle and Sen. Johnson that Administration would participate in good faith.
May 16, 2002	Rep. Thune introduces H.R. 4766, Black Hills National Forest Preservation and Public Safety Act of 2002.
early May, 2002	White House releases \$5.4 million for fire rehabilitation work on Black Hills.
May 24, 2002	All parties with the exception of two of the original plaintiffs reach conceptual agreement modifying the Beaver Park settlement agreement and resolving issues in Norbeck. This would have made fuel treatments possible in each area.

In the case of Beaver Park, our counsel have advised that there is no effective legal process to implement the modified agreement through the District Court, in the absence of the two non-settling plaintiffs. Therefore, the buildup of forest fuels in Beaver Park and portions of Norbeck cannot be addressed through either administrative or judicial action. With Congress' help, we could reduce public safety issues associated with a catastrophic wildfire in these two important areas. The Administration appreciates Congressman Thune's efforts in this area and looks forward to continuing to work with Congressman Thune and the South Dakota Congressional delegation to effectively address this issue.

We also welcome the opportunity to work with this committee and the South Dakota delegation to reduce the threat to public safety that unhealthy forest conditions in Beaver Park and Norbeck have created. This concludes my statement. I would be glad to answer any questions that you may have.