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United States Senate

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June 3, 2014

The Honorable Tom Tidwell, Chief
United States Forest Service
1400 Independence Ave., SW
Washington, D.C. 20250

Dear Chief Tidwell:

Thank you for visiting North Dakota last week to participate in the roundtable discussion regarding the management of the Dakota Grasslands. I am grateful for your willingness to work with the ranching families of my state when setting policies for grassland management, and appreciate your leadership in the effort to maintain the health and vibrancy of our forests and grasslands. As a follow up to your visit, I would like to request updated information on the Pautre Wildfire reimbursement process and raise my concerns about reports that the Forest Service is considering limiting compensation for ranchers who lost property in the fire.

The Pautre Wildfire damaged thousands of acres of grassland and resulted in nearly \$10 million in property loss for ranchers in the region, through no fault of their own. It is imperative that every action necessary is taken to make those impacted by the fire whole. This means fully reimbursing ranchers for documented losses.

As I have made clear in my previous correspondence, the Pautre Wildfire was an avoidable event and I am disappointed that the Forest Service made the decision to proceed with the controlled burn despite warnings from members of the grazing associations in the region. Specifically, concerns were raised about the dangerous wind and moisture conditions at the time the planned controlled burn took place. Further, it is my understanding that the Forest Service relied on observations supplied by the National Weather Service in Rapid City, South Dakota, according to Forest Service burn plan guidance. However, the Forest Service also requested a spot weather forecast and had access to additional information from the National Weather Service office in Bismarck, North Dakota, which indicated gusts up to 30 mph for the afternoon and a very high fire danger index.

The Forest Service correctly states that safety is the primary concern when managing a burn. When the Forest Service has information that contradicts its conclusion that a burn will be safe, it must err on the side of safety. Thus, I think the case is quite clear that the Forest Service must not only admit responsibility for the fires, but negligence in the handling of this burn as well.

Additionally, skepticism about the effectiveness of controlled burns on the grasslands in western North and South Dakota has been raised by the grazing associations of the Dakota Grasslands and academic researchers at North Dakota State University.

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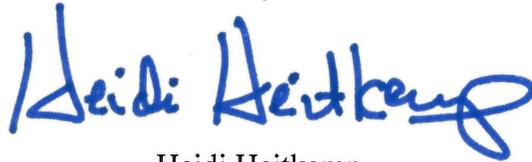
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These factors combined have created a significant level of frustration among the ranching families of North Dakota regarding some aspects of the Forest Service's management of the grasslands. In order to maintain a good faith relationship with these communities, it is critical that they be compensated for their losses as a result of the Forest Service's actions.

For this reason, I am alarmed by reports the Forest Service may consider limiting reimbursements for ranchers impacted by the Pautre Fire by taking the position that the fire was not the result of negligent behavior. By taking this position, the Forest Service has positioned itself to limit reimbursements under the Federal Tort Claims Act. I am very concerned about any attempt by the Forest Service to limit reimbursements for ranchers by arguing that the Forest Service exercised caution when executing the controlled burn. This argument does not stand on its merits given the direct reports the Forest Service received about the dangerous conditions in the hours before its execution of the controlled burn.

I was encouraged the Forest Service assumed responsibility for the actions that took place by agreeing to compensate ranchers affected by the wildfire. Now the Forest Service must follow through by compensating ranchers in full. If you or your staff have questions or require any additional information or assistance, please contact Jack Huerter in my office at 202.224.9894 or jack_huerter@heitskamp.senate.gov.

Sincerely,



Heidi Heitskamp
United States Senator