

EXPANDED TESTIMONY OF LESA L. DONNELLY
FOR THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

My name is Lesa L. Donnelly. I worked for the USDA, Forest Service, Region 5, California in various administrative positions and fire support positions from 1978 through 2002. I am the Vice President of the USDA Coalition of Minority Employees which is a USDA sanctioned, independent employee resource organization that works to ensure respect, dignity, and equal opportunities for employees and farmers. In 2008 President Emeritus Lawrence Lucas and I testified before this Committee, and along with current President Ron Cotton have been invited to the White House three times under the previous administration to discuss issues of harassment, discrimination, work place violence, and reprisal against USDA employees and Black Farmers.

As a Lay Advocate I represent Department of Agriculture and Department of Interior employees from the West Coast to the East Coast, as well as for other agency employees such Homeland Security, and have done so for twenty years. The majority of examples of civil rights violations I describe today occurred in Region 5 of the Forest Service. However, Region 5 is but a microcosm of the incidents occurring throughout the Forest Service and USDA. The culture is very similar DOI and the NPS.

I watched the September 22, 2016 Hearing on the National Park Service and could not help but notice the difference between Secretary Jewell's response to our 2014 report of sexual harassment and work place violence at Grand Canyon, and Secretary Vilsack's response to the same issues when brought to his attention. While there is much room for improvement in her response to the issues, I commend Secretary Jewell's quick call for an investigation, the investigator's professional interviews and data gathering, the transparency of the process and results, and Secretary Jewell's decision to open up the investigation across the Park Service. It is a far cry from Secretary Vilsack's actions. We have been reporting egregious incidents of sexual harassment, work place violence, discrimination, and

reprisal to Secretary Vilsack since 2009 to no avail. Forest Service investigations invariably are turned against the employee reporting incidents. Reprisal is swift and severe. There are very few instances of accountability for the perpetrator. In fact, perpetrators often receive what we call “disciplinary promotions.” Before any cultural change can occur, the agency must acknowledge the scope of the problem and be willing to make a good faith effort to address it. USDA and Forest Service have been unwilling to do this despite mountains of evidence of harassment, discrimination and reprisal against women, people of color, and people with disabilities.

To emphasize the enormity of the problem it is important to point out that Region 5 was under court-ordered oversight to address gender discrimination from 1971 through 2006 – over 30 consecutive years. In 1971 the *Bernardi v. Madigan* class action resulted in the Bernardi Consent Decree for hiring, training, and promotions in non-traditional positions such as firefighting, engineering, law enforcement, timber, and biologists. Unwilling to make an honest effort to increase diversity, Forest Service management fomented an attitude that unqualified women were taking men's jobs. The backlash against the women hired into these positions was tremendous. The attitude that unqualified women are hired to satisfy diversity requirements became a cultural norm. In 1994, just 6 months before the end of the Bernardi Consent Decree I filed a class action on behalf of 6,000 in women in Region 5 based on harassment, sexually hostile work environment, and reprisal. The agency refused to address the issues and in 1996 another lawsuit, *Donnelly v. Glickman* was born. Again, the court ordered a consent decree that lasted through 2006. Working conditions improved during court oversight. But by 2008 I started contacting the Secretary and Chief again to report job discrimination, physical and sexual assaults, and reprisal. Again, they were non-responsive. I wrote numerous letters to Secretary Vilsack and Chief Tidwell. I wrote letters to President Obama, Vice President Biden, and Valerie Jarrett. I wrote to Michelle Obama. I even wrote to Mrs. Vilsack requesting she speak with her husband and ask him to meet with us. There was no response from anyone. Finally, in 2011 Valerie Jarrett's staff, Michael Blake contacted me. He said that President Obama was concerned about the

harassment and violence against women in Region 5. They called Secretary Vilsack to the White House and told him to correct the problems. Secretary Vilsack's response was to remove Employee Relations and Civil Rights authorities from the Forest Service and place it in his office under Assistant Secretary Robin Heard for about one year. She was unwilling or unable to take any meaningful action to address job equity or the women's working conditions. The working conditions worsened. Additionally, in 2011 the Coalition of Minority Employees met with Secretary Vilsack and Chief Tidwell in the Secretary's office. Several Region 5 female firefighters attended the meeting. Secretary Vilsack personally apologized to firefighter Elisa Lopez-Crowder, because Region 5 management had not properly addressed the racial and gender harassment, and the supervisor's physical assault against her. Secretary Vilsack said he personally insured the perpetrator was fired. Ms. Lopez-Crowder advised the Secretary that he had not been fired. His staff had misled him. Secretary Vilsack's answer to our concerns was to discuss the success of his "Cultural Transformation" program. I advised the Secretary that his program might be successful, but it had no meaningful impact on preventing and eliminating the civil rights violations of employees in the field. He was not interested in a dialogue or collaboration with the Coalition. Please note, Ms. Lopez-Crowder left the fire organization due to fear for her safety. She had been a deployed veteran before she joined the Forest Service. She told me that she was safe on a Navy ship with a thousand men, but not safe working in the Forest Service fire organization.

In 2013, the Coalition and several Region 5 female firefighters met with Secretary Vilsack and Chief Tidwell's staff. Just prior to traveling to Washington I received a call from a female firefighter that had been raped by a male coworker. The woman would not report it to the police or file a complaint with the Agency. Her reason was that she observed that the Forest Service had fired Alicia Dabney when she reported the sexually hostile work environment and an attempted rape by a supervisor. Ms. Dabney had been trumped up on false charges and terminated. The woman told me she had children and a mortgage, and could not take the chance of being terminated. She suffered in silence. When I shared this information with Deputy Under Secretary Butch Blazer, USDA Chief of

Staff Oscar Gonzales, Deputy Chief Angela Coleman, and General Counsel Tami Trost I received the same platitude as always, “There is zero tolerance for sexual harassment and work place violence.” It was lip service. The agency continued to ignore my reports of sexual-harassment and discrimination. For several months after the meeting Mr. Blazer, Mr. Gonzales and Forest Service Civil Rights Director Ted Gutman held monthly meetings with the Coalition to discuss civil rights violations against women and others. And while there is widespread sexual harassment, a larger issue is the systemic and institutionalized practice of inequities in hiring, training, assignments and promotions. Mr. Gonzales promised to fly out to California and meet with the female firefighters to start a dialogue with the objective to improve job equity and working conditions. He later reneged on the promise and refused to collaborate in any way with us. This resulted in the Region 5 female firefighters filing the *Bush v. Vilsack* class action complaint in August 2014.

In January 2015 the agency agreed to mediate the *Bush v. Vilsack* class complaint. At a huge cost to the tax payer seven class agents met in San Francisco with the USDA Office of General Counsel, agency representatives, and a mediator judge. The women spent hours preparing for the meeting, drafting issues, opportunities, and resolutions. We brought two facilitators with us and flip charts filled with ideas. We were excited to finally start a dialogue. To our great surprise, after less than an hour of introductions and general discussion, the agency told us they were not willing to discuss anything and walked away from the table. I fear the new administration will have a class action lawsuit to contend with in 2017.

It is important to point out that Congresswoman Jackie Speier, Congressman Peter DeFazio, and Congressman Raul M. Grijalva wrote a letter to USDA Inspector General Phyllis Fong in November 19, 2014. They were highly concerned about the sexual harassment, attempted sexual assaults, gender discrimination, and whistleblower retaliation against women in Region 5 of the Forest Service. They asked for an investigation. As of this date, no investigation has occurred.

There are two clear indicators that the USDA and Forest Service are unwilling to acknowledge

the pervasive and endemic discrimination against women and minorities. First, the comments made this year by Chief Tidwell are indicative that the Forest Service has no true intention of preventing and eliminating the discrimination against female employees. After the Huffington Post article on the Grand Canyon and Region 5 women was published this past summer, Chief Tidwell sent an email to all Forest Service employees, referring to it and telling the employees that the incidents were, “older allegations.” Then, less than a week ago, Chief Tidwell had an all employee “Webinar” meeting. He referred to the recent Washington Post article and this Hearing, again stating that our claims are, “older allegations.” These public comments are Chief Tidwell's continuing attempts to minimize the serious civil rights incidents that he is fully aware of, and to undermine our efforts to have them acknowledged and addressed. Yes, some of the incidents occurred awhile ago, but he failed to state that these employees are *still* being harassed and are *still* in the EEOC system because of continued reprisal and the agency's absolute refusal to settle EEO complaints.

I would like to share with you an actual “older” case to exemplify the ongoing and continual issues women have faced in the Forest Service. In 2000, a twenty-two year old female firefighter on the Shasta-Trinity National Forest worked at the Lake Shore Fire Station. The male crew shot at her with BB guns, called her profane names, threw her into a Dempsey Dumpster with brackish water to have “a wet T-shirt contest, physically accosted her, and told her she was only hired because of the Bernardi “cuntsent decree.” The crew changed the Lake Shore logo on her fire hat to “Lake Whore” and she unknowingly wore it all day. When she reported these incidents she was disciplined for spreading rumors. She quit. No one was held accountable. Skip forward to 2008 where a female employee was brutally physically assaulted by a male coworker on the steps of the District Office. He split her lip, loosened her teeth, blackened her eye, and hurt her neck. He stomped her cell phone so she could not call for help. He was never fired. In this small community the Forest Supervisor made a deal with the D.A. that he would not prosecute the man for one year until he was eligible for retirement, because if prosecuted the man would go to jail and lose his job. For an entire year the woman lived in

fear, keeping her dogs with her for safety while working alone in the forest. She feared the male coworker would harm or kill her. He retired with no blemish on his record and then spent a few months in jail. Keep in mind, I reported these incidents to Secretary Vilsack and Chief Tidwell. They did not respond.

Now, I'd like to skip forward to 2016 where women with the "older allegations" to which Chief Tidwell referred have been in the EEO system for years. For example, in 2002 Archaeologist Janine McFarland reported sexual harassment when she worked on the Los Padres National Forest. She also presented photos of two Los Padres Hotshot crew carriers with dozens of Hustler type photos of naked and scantily clad women plastered on the walls. She was retaliated against for reporting it, including death threats against her *and* her son. For her safety and to salvage her career, she fled to an Archeologist position in Region 6 (Oregon) but the reprisal followed her. She was demeaned, shunned, disciplined, and had her duties removed. She was ultimately falsely accused of falsifying archeological sites which destroyed her career. Ms. McFarland is still employed on the Deschutes National Forest, but management has isolated her from the Archaeology program and her duties have been diminished to the point she has no meaning full work to perform. For fourteen years she has battled agency harassment and reprisal. Her EEO case was recently filed in federal court.

In 2011 former Sequoia National Forest firefighter Alicia Dabney was sexually harassed, physically assaulted, endured an attempted rape from her supervisor and was terminated due to reporting these incidents. Though she settled her case in 2013, the agency continued to retaliate against her and breached her settlement agreement. She recently filed her EEO case in federal court. Darla Bush a Native American who lives on the Tule Indian Reservation is a former Engine Captain on the Sequoia National Forest. In 2011 she filed an EEO complaint on gender and race discrimination for being denied training, assignments, and promotions. The harassment included her supervisor telling her that he would ensure she never promoted and telling her she was useless because she got pregnant. In 2012 she reported that her all male crew refused to follow her directions, undermined her authority, and

yelled at her. She feared physical harm from her assistant. Ms. Bush's numerous reports to the District Ranger and Forest Supervisor Kevin Elliott went unaddressed. But when the male crew made false claims that Ms. Bush "created a hostile work environment" they held an immediate investigation. In September 2016 Ms. Bush was suspended for ten days and demoted to a non-supervisory, non-fire suppression position. She now sits at a desk all day with no work to perform. She is the lead Class Agent for the August 2016 female firefighter class complaint, *Bush et al. v. Vilsack*.

More "recent" complaints include twenty-two year old Heidi Turpen who was sexually harassed by a male Engine Captain last season. She was directed to live in the fire barracks with the men because the forest had made the women's barracks into a residence for the Engine Captain who harassed her. One of the male firefighters screamed at her, physically menaced her, and insisted upon using the bathroom and shower in the female side of the barracks. When she reported these men she was stalked and further harassed. As retaliation, Sequoia National Forest management illegally, and without a warrant brought a drug sniffing dog into the female side of the barracks to search her room for drugs. Ms. Turpen left before the season ended and will never return to the Forest Service. It is important to note that almost every female firefighter on the Sequoia National Forest has been discriminated against and harassed by repeat offenders, with Forest Supervisor Kevin Elliott promoting retaliation against the women who report it. Mr. Elliott has retaliated against Union President Jonel Wagoner for reporting the working conditions and trying to assist the women.

There are also numerous current complaints at the Forest Service Albuquerque Service Center (known as ASC). It is the Center that handles all personnel matters for the Forest Service from training and benefits, to discipline and terminations. Cindy George is a Human Resource Specialist at ASC. She is blind and needs reasonable accommodations to perform her job. The Commission for the Blind purchased the equipment and has a plan in place to train her. However, for over a year ASC management has refused to install the equipment. She filed an EEO complaint and has been retaliated against. She sits at her desk all day doing nothing. Her skills have been degraded. She has asked for a

Reasonable Accommodation to a vacant position that would be more conducive to accommodating her blindness but the agency refused. Ms. George has a real fear of termination. There are multiple complaints of sexual harassment, discrimination, and reprisal at ASC, particularly for women with disabilities. Forest Service management will not investigate the complaints. They will not hold discriminators accountable. They will not settle EEO complaints. Perhaps a reason that the Center is so dysfunctional is that the Director, Marybeth Lepore does not work on-site because she lives in Alaska. The government pays her travel when she does show up in Albuquerque. The arrogance and entitlement of the ASC Human Resource managers is outrageous. Ms. Lepore recently had a “retreat” where she brought many of her HR managers to Alaska at tax payer expense for no legitimate reason. When employees, who had been told there was no money for training or travel complained of the expense they still went. They just cancelled the Saturday “tour.” What is particularly disturbing is that ASC HR personnel advise Forest Service management on personnel and EEO matters, yet they have as big a problem with civil rights violations as the Regions to which they give guidance.

And finally, the most recent allegation I received was just last week. A citizen called me to report the rape of yet another female employee who is afraid to come forward.

The second indicator that the agency is unwilling and unable to prevent and eliminate the discriminatory and hostile work environment is that the USDA Office of Civil Rights (OCR) EEO program, under the leadership of Assistant Secretary for Civil Rights Dr. Joe Leonard is dysfunctional and corrupt. As you are aware, in 2015 the Office of Special Council wrote a letter to President Obama identifying multiple problems that have not been resolved, including EEO, reprisal, and whistleblower complaints filed against OCR senior leaders. I question how the OCR can address systemic and institutionalized issues of discrimination when they are not capable of managing their internal personnel problems and violations of civil rights.

The USDA Coalition of Minority Employees and many women have tried to engage the USDA and Forest Service for many, many, years, identifying issues of sexual harassment and discrimination

and asking to collaborate on developing strategies to change the culture. The USDA has ignored our requests and retaliated against us for our efforts.

The question remains, “How do we address these problems and where do we start?” In response to a September 19, 2014 article in the New York Times and a September 24, 2014 article in High Country News about sexual harassment and discrimination against Forest Service female firefighters, Chief Tidwell sent out one of his “All Employee” emails. He stated, “Foremost, focus was placed on investments targeted to increase our capacity, competencies, and expertise in our Employee Relations and Equal Employment Opportunity programs and also equipping leaders throughout the organization to find ways to improve the work environment.” This government-speak has little meaning as it applies to changing the work environment and the culture. The Chief went on to say that they initiated measures such as assessment teams, training, and operating procedures to address the problem. These are the same measures they have been taking for years with no success or achievement. Chief Tidwell is also quick to point out that the numbers of EEO complaints have decreased. This is not a metric for success of their new operating procedures and programs. Reprisal is such an immense problem employees are unlikely to file EEO complaints because when they do they are committing career suicide.

In order to effect a real cultural change there needs to be a collaborative effort between the agency, employees, and external sources. An effort must be made to include employees who have endured the harassment and discrimination because they have insight into what should have been done differently. Known obstructionists to change must be weeded out of the joint effort because they have shown to be resistant to change. External sources such as the USDA Coalition of Minority Employees have a broad understanding of the issues and can provide much needed objectivity and acumen. A strategy must be developed that includes implementation, time frames, and measurements of success. The process should be transparent. Accountability is a key issue. Changing the culture of reprisal is another key issue. Above all, congressional oversight of this process is a must. Based on their past lack

of accomplishments agency leaders cannot be entrusted to monitor their own progress. With a new administration the time is ripe to role up our sleeves and get to work. The USDA Coalition of Minority Employees looks forward being a part of the challenge and success of making the USDA a place of respect, dignity, and equal opportunity for all employees.

/s/Lesa L. Donnelly
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