

S. HRG. 114-361

**IMPROVING INTERAGENCY FOREST MANAGEMENT  
TO STRENGTHEN TRIBAL CAPABILITIES FOR  
RESPONDING TO AND PREVENTING WILDFIRES  
AND S. 3014, A BILL TO IMPROVE THE  
MANAGEMENT OF INDIAN FOREST LAND, AND  
FOR OTHER PURPOSES**

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**HEARING**

BEFORE THE

**COMMITTEE ON INDIAN AFFAIRS**

**UNITED STATES SENATE**

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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JUNE 8, 2016  
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**WEDNESDAY, JUNE 8, 2016**

U.S. SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:20 p.m. in room 628, Dirksen Senate Office Building, Hon. John Barrasso, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN BARRASSO,  
U.S. SENATOR FROM WYOMING**

The CHAIRMAN. Good afternoon. I call this hearing to order and ask the witnesses to please join us at the podium.

As the 2016 wildfire season begins, we take this opportunity to examine current Federal laws and policies in place that strengthen tribal capabilities and capacity for responding to and preventing wildfires on tribal lands. According to the National Interagency Fire Center, last year approximately 4.8 million acres of Federal land managed by the Department of the Interior burned as a result of wildland fires. Of that amount, over a half-million acres of Bureau of Indian Affairs land burned due to wildfires.

In my home State of Wyoming, over 3,000 acres of BIA land burned on the Wind River Reservation just last year. The BIA has a backlog of nearly 3.2 million acres of Indian forest land requiring forest health treatments. If solutions are not found to expedite this treatment, these acres will burn, costing hundreds of millions of dollars to suppress the fire and depriving tribes of the economic value of their forest assets.

The Department of the Interior carries out the trust responsibilities to manage and protect Indian forests. The Department of Agriculture, specifically the U.S. Forest Service, is the primary neighbor of Indian lands, with over 4,000 miles of shared boundaries.

Over 18 million acres of forests are located on over 305 Indian reservations in 24 States. These forests are vital to many Indian and rural communities. They provide a foundation for job creation,

economic development, and cultural preservation. However, one fire can destroy all of that.

For example, the summer of 2015 produced one of the largest wildfires on the Colville reservation in Washington State. According to the National Interagency Coordination Center, the North Star wildland fire on the Colville reservation was the fifth most expensive wildfire in the country. That fire consumed over 250,000 acres of forest and devastated more than 14 percent of its commercial timber. Commercial timber revenues make up about \$10 million of the approximately \$45 million annual operating budget for the Confederated Tribes of the Colville Reservation.

After that destructive fire season, tribal leaders began to question Federal firefighting priorities. One witness today, William Nicholson, Board Member of the Intertribal Timber Council, wrote to Interior Secretary Sally Jewel in December of 2015 about his concern about new and proposed Interior Department policies for wildland fire management.

He noted that the Intertribal Timber Council found the Department's Risk Based Wildland Fire Management Funding Allocation Model "deeply flawed." The council further stated: "The failure to correct [this model] and its application would result in increased long term risk to tribal and other resources managed by the Department of the Interior."

The council further criticized Secretarial Order 3336, which they believe prioritizes Federal firefighting resources towards protecting sage grouse habitat over tribal and other previous priorities. The letter states: "We are frankly bewildered that Secretarial Order 3336 concerning the Sage Grouse appears to take precedence over all other secretarial directives at the expense of all other species, ecosystems, and responsibilities."

In September of 2015, the Northwest Public Radio article, the Northwest liaison for the National Interagency Fire Center, stated: "The single overriding suppression priority is the protection of human life. After that, we start looking at the protection of communities, infrastructure, property and any improvements that may be in place, and then we go on down to natural and cultural resources."

This means other factors such as roads and other structures are given higher priorities, which mean cultural resources are given a back seat. These examples raise serious concerns.

The Secretary must ensure that the trust obligation to tribes is not infringed on by the very agencies entrusted to carry it out. More transparency in agency decision-making, in terms of where assets go in preventing and fighting wildfires, is needed so that tribal priorities are given their proper consideration.

Senator Daines has introduced legislation which is supported by the Intertribal Timber Council, S. 3014, the Tribal Forestry Participation and Protection Act of 2016, which we will take up here today. This bill would increase interagency forest management between the tribes, the Departments of Agriculture and the Department of the Interior.

This bill will also create a ten-year pilot program that authorizes the Secretaries of the Interior and Agriculture, at the request of an Indian tribe, in consultation with State and local governments, to

treat Federal forest land as Indian forest land for the sole purpose of expediting forest health projects on Federal lands that have a direct connection to the tribe.

This bill gives the Secretaries of Agriculture and the Interior authority to enter into 638 contracts with tribes to complete administrative functions under the Tribal Forest Protection Act of 2014, rather than requiring that the Federal Government do it for them.

Before I turn to Senator Daines to have him further explain his bill, I would ask the Vice Chairman, Senator Tester, if he has an opening statement.

**STATEMENT OF HON. JON TESTER,  
U.S. SENATOR FROM MONTANA**

Senator TESTER. I do.

Thank you, Mr. Chairman, for holding this hearing to discuss preventing and responding to wildfire. It is an issue that is a priority for many Native communities and it is certainly an issue that is important to a number of tribes in Montana.

As the climate continues to change, as wildfire seasons are lasting longer, producing more fires and inflicting more damage on forest lands, the tribal forestlands including those in Montana have been severely impacted by wildfire over the last few years. With the ongoing drought in the West and increasingly warmer temperatures, wildfire management deserves more attention and ultimately more robust action. This begins with being proactive in addressing the problem.

It requires improving interagency coordination to allow tribes and the Federal Government to more effectively address wildfire prevention and suppression. It also requires that we get serious about ensuring that tribal and Federal officials have the tools and funding needed to do their jobs.

We cannot continue to treat wildfires different than any other natural disaster. Wildfire costs continue to increase, now taking up over half of the Forest Service budget. This is unacceptable and is why I co-sponsored the Wildfire Disaster Funding Act which would allow wildfires to be treated like other natural disasters. Doing this will ensure that the Forest Service can use its already limited resources toward crucial priorities other than fire suppression like wildfire prevention and maintaining healthy forests.

We have a great responsibility to our tribal Nations to help preserve and protect Indian forestlands as they are important tribal trust assets. This also means that we cannot stand in the way of tribes using their trust assets in a way that creates economic development in their communities.

This is a bipartisan responsibility and I commend Senator Daines for reaching out regarding his bill and incorporating some of my suggestions. I think the goals of this bill are good. I am hopeful we can address some remaining concerns related to the bill to make sure it is done right for the tribes.

Tribal forests have immense commercial, recreational and cultural value that will help support and sustain tribal communities. I am committed to working to promote the health and vitality of Indian forestland.

I want to thank you again, Mr. Chairman, for holding this hearing. I want to thank all the witnesses here today, especially Carole Lankford who traveled from the great State of Montana, some of the prettiest part of the world, to be here today.

Carole, you have testified many times before this Committee. I want to thank you for your continued service to the Salish and Kootenai Tribes and Indian Country as whole. I look forward to hearing your testimony and all of our witnesses and having a productive conversation about this important issue.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Tester.

Senator Daines.

**STATEMENT OF HON. STEVE DAINES,  
U.S. SENATOR FROM MONTANA**

Senator DAINES. Thank you, Mr. Chairman. I want to thank Ranking Member Tester as well.

Montana tribes know all too well how the health of nearby Federal lands impact tribal lands. For example, the 2007 Chippy Creek fire crossed State and Federal lands before spreading to the Flathead Indian Reservation where it burned over 33,000 acres of tribal land. In fact, you can see the severity of this disaster in the powerful images next to the dais just off to my right.

Despite the significant damage, because the fire hit the tribal land at a location where the tribes had undertaken a major fuels reduction effort, the fire spread much more slowly than it would have otherwise and the interagency fire crew was able to extinguish the fire quickly. This is one of the countless similar examples in Montana and across Indian Country where tribal lands suffer the consequences of the failure of the Federal Government to treat Federal forest lands before a catastrophe hits.

More broadly, we can all agree that the status quo on Federal lands is unacceptable. Our forests are failing and we must visit new and innovative ways to improve forest health. That is why recently I introduced the Tribal Forestry Participation Protection Act which will help reduce the risk of wildfires on both Indian and Federal forest lands. It fosters greater cooperation between tribes and the Department of Agriculture and the Interior by broadening the application of existing tribal forest management practices on Federal lands.

The bill also gives tribes more certainty and leadership in implementing Tribal Forest Protection Act projects on bordering and adjacent Federal lands.

The Confederated Salish and Kootenai Tribes, the Crow Tribe, the Blackfeet Tribe and the Intertribal Timber Council have all sent me statements in support of the legislation. I ask they be submitted for the record.

The CHAIRMAN. Without objection.

Senator DAINES. It is incredible how tribes will spread their resources thin and they are still better managers of their forests. I think it shows how important tribal sovereignty and is that tribes know best how to manage their own lands where their ancestors have lived for centuries. We must allow the flexibility for these tribes to continue to do so.

Again, I want to thank Chairman Barrasso, Vice Chairman Tester and both the Committee's Majority and Minority staff for working with my office and me on this legislation. I look forward to today's testimony from the panel of witnesses.

Speaking of the witnesses, I do want to welcome Carole Lankford. I want to thank you for being here to testify today.

It is an honor to have known Carole since my early days as a member of the U.S. House. Carole has served as a member of the Confederated Salish and Kootenai Tribes Tribal Council since 1993 and is a seasoned witness before congressional committees having testified here multiple times.

She has also served as Vice Chair of the CSKT Tribal Council, as the Billings area Indian Health Service delegate to the Tribal Self Governance Advisory Committee and as CSKT's delegate to the National Congress of American Indians. She also currently sits on the board of the Intertribal Timber Council.

Carole, it is an honor to have you here. Thanks for making the long journey to Washington.

The CHAIRMAN. Thank you, Senator Daines.  
Senator Cantwell.

**STATEMENT OF HON. MARIA CANTWELL,  
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman.

I too would like to welcome the Honorable William Nicholson from the Colville Reservation for being here to testify today. He and I have had a chance to be at a couple of different forums discussing fire issues and new legislation that we desperately need in Washington.

Last year, as the Chairman said, the Tunk Block and North Star wildfires burned over 252,000 acres on the Colville Reservation. I do not know, Mr. Chairman, if you actually had an economic value there but the number we have heard discussed many times in Washington State is they lost over \$2 billion of forest timberland. Clearly, the impact on Indian Country and Washington from fires has been felt and felt greatly.

While I commend the BIA for their work to help the Colville Tribe, I do not understand how they can meet trust obligations due to lack of resources moving forward. The BIA estimated that fire recovery costs in 2015 for tribes, not just Colville, would cost an additional \$55 million, more than \$47 million appropriated by the BIA forestry budget.

Despite the tremendous need, this year, fiscal year 2017's request was only \$200,000 more than this year's spending level. The BIA needs to double its forestry budget to meet the needs of tribes but is only asking for a small percentage increase. I definitely will have that as a question for the witnesses.

According to a 2013 report conducted by the Independent Forest Assessment Team, forestry services at BIA are also woefully understaffed, especially when compared to other public and private programs. However, staffing is not the only issue. We do need to have next generation foresters. The aging workforce is a problem. As the Cobell settlement is implemented, lots of land allotment titles are being transferred and there is great staff pressure.

How is this technical assistance needed to train the next generation of BIA foresters going to be met so that some of the trust and trust obligation can be met?

Thank you for holding this hearing on this important subject. I think as a steward, the Colville Tribe has added a lot to the discussion of how to best respond to fire prevention and good practices for reducing risk.

I certainly gain a lot of knowledge as we look at legislation in the Energy and Natural Resources Committee. I have gotten a lot of good ideas from the Colvilles on management strategies we should be pursuing.

Again, thank you, Mr. Chairman, for holding this hearing. Representative Nicholson, thank you so much for being here.

The CHAIRMAN. Thank you, Senator Cantwell.

Senator Heitkamp.

**STATEMENT OF HON. HEIDI HEITKAMP,  
U.S. SENATOR FROM NORTH DAKOTA**

Senator HEITKAMP. Thank you, Mr. Chairman.

Boy, that could not have been better timing. Contrary to popular opinion, we do have some trees in North Dakota. The ones we have, we really would like to protect.

Our challenge goes more to grass fire. I want to talk kind of broadly, Mr. Black, on fire protection and first responder protection in Indian Country in general.

I will tell you I was shocked. I was just down at Fort Yates for a tribal visit. We were talking about the grass fire they had which was very threatening. It took out one of our communities and we had to do a lot of repair.

It was very devastating. We had to displace many, many people, yet there was a fire response. However, if that fire started in Fort Yates on a structure, there is no first responder. Did you know that?

The CHAIRMAN. We are mostly doing opening statements. They have not had a chance to testify yet.

Senator HEITKAMP. I am sorry. My apologies.

The CHAIRMAN. That is quite all right.

We will now hear from our witnesses. I would like to remind the witnesses that your full written testimony will be made a part of the official hearing record. Please try to keep your statements to five minutes so that we have plenty of time for questions.

We will start with you, Mr. Black.

**STATEMENT OF MICHAEL BLACK, DIRECTOR, BUREAU OF  
INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR**

Mr. BLACK. Good afternoon, Chairman Barrasso, Vice Chairman Tester and members of the Committee.

Thank you for the opportunity to provide testimony on behalf of the Department of Interior regarding efforts to improve interagency forest management and tribal capacity to protect reservation forests and woodlands from damaging wildfire.

There are over 18 million acres of Indian forests in the U.S. held in trust by the Federal Government. These lands are located on 310 forested reservations located in 24 States; 6 million acres are

considered commercial timberlands, nearly 4 million acres are commercial woodlands, and more than 8 million acres are a mixture of non-commercial timberlands and woodlands.

Indian forests provide irreplaceable economic and cultural benefits to tribal members. In addition to providing a marketable forest product, tribal forests filter water, purify the air and sustain habitat for fish and wildlife.

The Department's Office of Wildland Fire coordinates the Wildland Fire Program for tribes and other Federal partners to establish policies and budgets that are consistent with the goals of the National Cohesive Wildland Fire Management Strategy.

Their mission is to coordinate the Department's comprehensive Wildland Fire Program while providing the strategic leadership and oversight of the Wildland Fire Program for the Nation as well as the tribes.

Within the Department's Bureau of Indian Affairs, the Division of Forestry and Wildland Fire Management provides coordination, management, planning, oversight and monitoring for all activities related to the development and protection of trust forest resources.

Within the BIA, the 2016 forestry budget is \$54 million, reflecting a \$6 million increase over the 2014 level. While the 2016 non-suppression fire budget is approximately \$109 million, which reflects an increase of \$25 million over fiscal year 2014, nearly all land management agencies share the common goal to promote activities which help to restore and maintain healthy, biologically productive landscapes.

In recent years, we have seen a dramatic increase in the level of collaboration and coordination with multiple stakeholders, including State and private landowners. Initiatives such as the Inca Forest concept strive to create sustainable forest ecosystems through cross boundary, landscape scale collaborative management.

In 2015, drought conditions persisted in Washington State and other parts of the Northwest where record deficiencies in winter precipitation combined with dry fuels and hot summer temperatures resulted in nearly 2 million burned acres. Nearly one-quarter of that burned acreage was located on tribal land with much of it containing valuable commercial timber, wildlife habitat, range land and important fish habitat.

At the high point of the 2015 fire season, there were over 32,000 interagency firefighters assigned to incidents across the country. The Northwest geographic area was the number one priority area in the Nation at the time, with over 5,600 interagency firefighters working solely on tribal fires representing nearly 20 percent of the entire population of available firefighters.

The Department continues to make fire management a priority through a set of initiatives. In 2015, the BIA announced the \$10 million Reserve Treaty Rights Lands Initiative that provides funding for tribal priorities on lands where tribes maintain historical treaty rights adjacent to reservation boundaries.

In addition, the department also appropriated \$10 million in 2015 to fund the Resilient Landscape Pilot Program. Last month, Secretary Jewell announced another \$10 million in funding in fiscal year 2016 to support a second year of resilient landscape project work.

Since 2014, the BIA has been supporting the development of Native American college students and other youth in an effort to fill current and future workforce requirements in both forest and wildland fire management occupations. Through the Pathways hiring authority, the program, in partnership with the Salish and Kootenai Tribal College, provides tuition support, training and education to 45 American Indian and Alaska Native students.

The program is designed to attract students enrolled in forestry and natural resource management and academic programs throughout the country with paid opportunities to work seasonally with the BIA and tribal forestry and fire programs while still in school.

The BIA is also deploying a new Wildland Fire Sustainable Leadership Program by funding three wildland fire training crews. These crews will receive training in fire management and natural resource management by working with BIA and tribal forest and fire managers on projects ranging from fuels management, thinning, reforestation, prescribed fire, burned area rehab, as well as fire suppression.

The Department will continue to support the guiding principles of Secretarial Order 3335 which reaffirms the Federal trust responsibility to federally-recognized Indian tribes and individual Indian beneficiaries.

My written testimony will provide the Department's specific comments regarding S. 3014. The Department supports the goal of the bill but expresses some concerns such as text regarding shortened timeframes for Departmental approvals and description of geographical areas in Section 3(a).

The Department looks forward to working with the Committee on this important bill.

I am available to answer any questions the Committee may have. Thank you.

[The prepared statement of Mr. Black follows:]

PREPARED STATEMENT OF MICHAEL BLACK, DIRECTOR, BUREAU OF INDIAN AFFAIRS,  
U.S. DEPARTMENT OF THE INTERIOR

Chairman Barrasso, Vice-Chairman Tester, and members of the Committee, my name is Mike Black and I am the Director for the Bureau of Indian Affairs (BIA) at the Department of the Interior (Department). Thank you for the opportunity to provide testimony before this Committee on the topic of "Improving Interagency Forest Management to Strengthen Tribal Capabilities for Responding to and Preventing Wildfires, and S. 3014, a bill to Improve the Management of Indian Forest Land." The Department supports the goals of S. 3014 but has some concerns.

There are over 18 million acres of Indian forests in the U.S. held in trust by the federal government. There are 310 forested Indian reservations located in 24 states. Six million acres are considered commercial timberlands, nearly four million acres are commercial woodlands, and more than eight million acres are a mixture of non-commercial timberlands and woodlands. Commercial forests on trust land are producing nearly one billion board feet of merchantable timber every year.

The Office of Wildland Fire (OWF) coordinates the Department's wildland fire program with tribes and other partners to establish policies and budgets that are consistent and support the goals of the National Cohesive Wildland Fire Management Strategy and Secretarial Order 3336, Rangeland Fire Prevention, Management, and Restoration. OWF commits to, and provides, the strategic leadership and oversight to advance the three goals of the Cohesive Strategy, which are to: (1) restore and maintain fire-resilient landscapes; (2) create fire-adapted communities that will withstand the effects of a wildfire without the loss of life and/or property; and (3) safely and effectively respond to wildfire.

The vision of OWF is to significantly reduce the risk to wildland firefighters, communities, and landscapes. OWF's mission is to coordinate the Department's wildland fire program and provide the strategic leadership and oversight that result in a safe, cohesive, efficient, and effective wildland fire program for the Nation, which includes tribal trust lands.

Within the BIA, the Division of Forestry and Wildland Fire Management (DFWFM or Division) oversees the National Indian Forestry and Wildland Fire Management Program, which is a cooperative effort of the DFWFM, Intertribal Timber Council and individual Tribal governments on reservations. The Division is responsible for providing coordination, management, planning, oversight, and monitoring for all activities related to development and protection of trust forest resources, including the National Wildland Fire Program. The Division staff is headquartered in Washington, D.C.

Fire is a normal occurrence that is beneficial to landscapes when managed properly, however, population growth near forests and rangelands, past management practices, and changing climate have dramatically increased fire risk and fire costs. In recent years, Interior and the USDA Forest Service (Forest Service) have relied on funding transfers from non-suppression programs to fund extraordinary fire costs that exceed budgeted amounts. This affects other important programs, including tribal forest management and fire risk reduction activities on tribal lands.

#### **FY 2017 Budget**

Currently, the cost of suppression is planned in our budget process based on averaging historical costs over the preceding 10 years. The approach is not predictive, and does not assume that costs increase in future years.

The FY 2017 President's budget proposes to establish a new framework for funding fire suppression operations in the Interior and the Forest Service. It provides stable funding for fire suppression, while minimizing the adverse impacts of fire transfers on the budgets of other fire and non-fire programs. Both Interior and the Forest Service support this proposal. Under this new framework, the FY 2017 budget includes \$276.3 million for fire suppression, which is 70 percent of the 10 year suppression average spending. Increases proposed in the 2017 budget include:

- \$6.9 million in Preparedness to maintain or strengthen initial and extended attack capacity:
  - \$2.8 million to enhance the initial attack capability of rural fire departments and rural fire protection associations;
  - \$1.6 million to purchase replacement vehicles for the BIA fire program, and,
  - \$1.5 million to cover utility costs for the Alaska Fire Service's leased space.

The budget includes \$20.4 million for Burned Area Rehabilitation, a \$1.5 million increase to address greater post-fire rehabilitation needs caused by the 2015 and 2016 fire seasons, and \$10.0 million for Facilities Construction and Deferred Maintenance, a \$3.6 million increase to address the deferred maintenance backlog, and \$30 million for the Wildland Fire Resilient Landscapes program.

The 2017 budget proposal for fire is similar to other bi-partisan legislation considered in Congress. It allows for a balanced suppression and pro-active fuels management and restoration program with flexibility to accommodate peak fire seasons but not at the cost of other Interior missions, or by adding to the deficit.

#### **Department Initiatives**

The Department continues to make fire management a priority through a set of initiatives. In 2015 the BIA announced the \$10 million dollar Reserved Treaty Rights Lands (RTRL) initiative that provides funding for tribal priorities in High and Very High wildland fire risk areas outside of Interior lands. In addition, the Department provided an initial \$10 million in funding for a pilot program, the Wildland Fire Resilient Landscapes Program. Approved proposals, known as Resilient Landscape Collaboratives, received funding to provide results within five to ten years. Two approved proposals will assist tribes. The Santa Clara Pueblo in New Mexico was awarded \$800,000 to complete restoration of the natural fire regime on the mesa top lands, protecting ancient cliff dwellings, cultural sites, traditional food sources and watershed health. The Valles Caldera, also in New Mexico was awarded over \$1 million to improve the ability of ecosystems to recover from wildfires and other natural disturbance events, in order to sustain healthy forests and watersheds for future generations. The National Park Service is carrying out the work with partners that include the Jemez and Santa Clara Pueblos. Last month, Secretary Jewell announced another \$10 million in funding for 2016 support a second year of work for these projects.

**S. 3014**

S. 3014 would permit Indian tribes to propose and execute stewardship end result contracting to perform forest management activities on public land. Section 2 of S. 3014 amends the Tribal Forest Protection Act of 2004 to include a revised response timeline. The Department is concerned that the two year time limit contained within Section 2(C) is insufficient to “complete all environmental reviews.” From our past experience, requirements for consideration of effects on cultural resources (National Historic Preservation Act of 1966) and threatened and endangered species (Endangered Species Act of 1973) may take as long as three years or more to complete. For example, calling protocol for Mexican Spotted Owl requires two years and can be done only during particular seasons.

Section 3(a) of S. 3014 requires the Secretary to “approve or deny” a request within 180 days and to “consult with each State and unit of local government.” We are concerned that the time requirement of 180 days is insufficient for meaningful consultation to occur. The Department seeks clarity from the bill’s authors regarding the reason for the termination of authority under Section 3(10).

Section 3 of S. 3014 provides for Pilot Authority for Restoration of Federal Forest Land by Indian Tribes. This section amends the Tribal Forest Protection Act (TFPA) to establish required time-frames for the Bureau of Land Management (BLM) consideration of, and response to, tribally-proposed projects on BLM-managed land bordering or adjacent to Indian trust land. The purpose of the TFPA is to protect the Indian trust resources from fire, disease, or other threat from BLM lands. Section 3 amends the National Indian Forest Resources Management Act to authorize the Secretary to treat certain Federal forest land as Indian forest land for purposes of planning and conducting forest management activities. Section 3 would apply to all BLM-managed forest lands, including Oregon and California (O&C) and Coos Bay Wagon Road lands. The BLM has not experienced a backlog of TFPA requests since enactment in 2004 and does not see the need for the required time-frames. Presently there is appropriated funding available for the BLM to apply active forest management treatments to federal lands adjoining tribal lands. Tribes have the opportunity to provide input on proposed vegetative treatments adjoining tribal lands to help BLM set priority areas for treatment.

The Department notes one change between the original 2004 Tribal Forest Protection Act and Section 3(a) of S. 3014 that relates to the geographic scope of the project area. Under the original 2004 TFPA, a tribe may request to carry out projects on federal land that “borders on or is adjacent to” land managed by the BLM or the U.S. Forest Service, or where the Forest Service or BLM land presents a “feature or circumstances unique to that Indian tribe (including treaty rights or biological, archaeological, historical, or cultural circumstances)”. In contrast, the bill amends the National Indian Forest Resources Management Act to expand the scope of federal lands eligible for tribal management to include federal forest land ceded to the United States, within the boundaries of a current or former reservation, or adjudicated by the Indian Claims Commission or a Federal court to be the tribal homeland of that Indian tribe. The amount of federal land that could be considered available under this new authority could significantly expand beyond those bordering or adjacent to federal lands. The expanded geographic scope may raise issues of conflict with existing uses and may require additional resources for the project area.

Section 3(c)(7) in S. 3014, speaks only to consistency with applicable Forest Management Plans under the National Forest System, and does not mention consistency with BLM Resource Management Plans. The Department recommends amending S. 3014 to include consistency with BLM Resource Management Plans.

Also, the Department is concerned with Section 5 of S. 3014 which provides that projects under this Act are to be funded from other amounts available to the Secretaries that are not otherwise obligated. It is unclear how Section 5 would impact the BLM’s appropriated funding particularly when part of funding to manage the O&C lands is offset by timber sale receipts as provided in the 1937 O&C Act.

Finally, federal forest land management is shared between USDA and Interior and the bill appears to create confusion over roles and responsibilities each agency has under the new authority. The Department recommends clarifying language be provided.

**Conclusion**

Thank you for the opportunity to discuss the Department’s activities on improving interagency forest management to strengthen our response to and prevention of wildfires, and to provide the Department’s views on S. 3014. The Department continues to work with tribes to promote and increase tribes’ capabilities to respond to and prevent wildfires and will continue to work closely with this Committee as

well as our federal and state partners to address response and prevention. We also look forward to working with this Committee and the sponsors of S. 3014 to address the Department's concerns with S. 3014.

I am available to answer any questions the Committee may have.

The CHAIRMAN. Thank you, Mr. Black.

Next, we will hear from James Hubbard, Deputy Chief, State and Private Forestry, U.S. Forest Service, U.S. Department of the Interior. Thanks so much for being with us, Mr. Hubbard.

**STATEMENT OF JAMES HUBBARD, DEPUTY CHIEF, STATE AND PRIVATE FORESTRY, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. HUBBARD. Thank you, Chairman Barrasso, Ranking Member Tester, and members of the Committee.

I would like to begin by acknowledging tribal forest management. It is an example of the kind of good, active management it takes to sustain ecosystems and practice the kind of forestry we would like to do across all of our boundaries.

The Anchor Forest Project did just that. It tried to take the tribal management across the boundaries with neighbors maintaining a local base of support and infrastructure for processing material and to work together to expand the scale and reach a larger landscape with that kind of management practice. S. 3014 captures some of the lessons learned from Anchor Forest and the Forest Service supports the approach in S. 3014.

This also builds on the Tribal Forest Protection Act authorities. We currently have 18 active projects with the Forest Service and tribes furthering lessons such as the work we did with the Anchor Forests.

Would we like to do more of this kind of work? Yes, we would. Do we still have wildfire threat in the West? We do. Can we expect actively managed forests to help us with our suppression efforts and our risk reduction? Yes.

The conditions are likely to continue in the West that will promote the kind of fire activity and behavior that we have seen and the large fires we have seen, the forest conditions certainly, the climate conditions probably.

The suppression of large fires is becoming a major issue for us, as you well know. The cost of those fires is a major issue. It does take away from the kind of management activity we would like to be doing to reduce those large fire risks.

We need an alternative. There have been several proposed. We would like to continue to work toward that so that we can eventually get more of the right kind of management done instead of fighting the fires all the time.

The Forest Service wants to be a good neighbor with tribes, with States, with private landowners, and with anyone who wants to work with us across that boundary to deal with active management, risk reduction and larger scale accomplishment of the objectives we want to achieve to have a resilient forest.

We prioritize those kinds of boundary crossing activities. The Forest Service does hold back some of our hazardous fuels money to match up where those mutual objectives can be served. We want

to work together on this legislation. We want to work together on dealing with the cost of wildfire and reducing the risk of wildfire.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Hubbard follows:]

PREPARED STATEMENT OF JAMES HUBBARD, DEPUTY CHIEF, STATE AND PRIVATE FORESTRY, U.S. FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

### **Introduction**

Mr. Chairman and Members of the Committee, thank you for the opportunity to present the views of the U.S. Forest Service regarding efforts to strengthen tribal capacities to carry out projects on our nation's forests, and then to address S. 3014.

Our National Forests and Grasslands provide a broad range of benefits, including biodiversity, recreation, clean air, forest products, erosion control, and clean water. Covering a third of the country's landmass, forests store and filter more than half of the nation's water supply and take in approximately 12 percent of the country's carbon emissions. Our mission of sustaining the health, diversity and productivity of our nation's forests and grasslands is critically important to maintaining these values and benefits. In 2015, we produced 2.873 billion board feet of timber. Our timber harvest has increased 18 percent since 2008. In 2015 we improved 19 watersheds, and treated 2.5 million acres of hazardous fuels. The agency is achieving these results through an emphasis on collaboration.

The frequency and intensity of wildfire is increasing while the cost of controlling the spread of wildfire is rising, and the way we pay for fire suppression constrains the agency's capacity to realize additional gains through efficiencies and partnerships alone. The Forest Service faces two related but distinct challenges from the rising cost of fire suppression. First, wildland firefighting (suppression) activities are currently funded entirely within the U.S. Forest Service budget based on a 10-year rolling average. Today the agency spends nearly half of its budget on fire management activities and has seen a corresponding 39 percent decline in non-fire staffing since 1998. Between fiscal year 2015 and 2017, the 10 year average increased by \$237 million. Absent action from Congress this year, the Forest Service will begin with \$237 million less for all of its non-fire programs next year. In a constrained budget environment, no agency can absorb this level of increase in costs or the loss in resources and capacity.

Second, when appropriated resources fall short, as they did in 2015 by \$700 million dollars, the Forest Service is forced to transfer funds from non-fire programs to cover the cost of suppression. These mid to late season transfers stop projects, cause uncertainty and instability in planning, and impact the agency's ability to implement projects. Notably, the type of work delayed by the rising cost of suppression can include the needed restoration work on National Forest System lands adjacent to tribal lands.

The President's Budget Request for FY 2017 continues a proposal from FY2015 to change wildfire suppression funding by providing access to nearly \$1 billion for emergency purposes outside of the statutory discretionary limits. We can no longer afford to transfer funds away from mission critical work, nor can we sustain a growing 10-year average that permanently reduces an already shrinking portion of the Forest Service non-fire budget. A comprehensive fire budget solution—that addresses both the growth of fire programs as a percent of the agency's budget and the compounding problem of annual fire transfers—remains the most important action Congress can take to increase the pace and scale of forest restoration across all landscapes.

### **Tribal Forest Protection Act (TFPA) and the Anchor Forest Concept**

The Forest Service and Indian tribes share approximately 4,000 miles of contiguous boundary with National Forest System lands. In the summer of 2003, nearly 20 Indian reservations were affected by wildfires from adjacent federal lands. In 2011, New Mexico's Las Conchas fire devastated over 15,000 acres of the Santa Clara Pueblo. Last year, wildfires scorched over 500 square miles of reservation lands in the Northwest. These fires severely affected tribal communities, destroying structures and costing tribes millions in lost resources and, tragically, a number of lives.

The Tribal Forest Protection Act of 2004 (TFPA) authorizes the Forest Service and the DOI's Bureau of Land Management to give special consideration to tribally proposed projects to protect tribal natural and cultural resources on agency land adjacent to tribal lands. The Act authorizes tribes and the Forest Service to work together on National Forest System lands (through contracts or agreements) to reduce

threats to Indian trust land and Indian communities. For a project to be approved, the National Forest System lands must pose a fire, disease, or other threat to tribal lands and communities, must be in need of restoration, and the project must involve tribal concerns about traditional and cultural resources.

Passage of TFPA (Public Law 108–278) initially generated many project proposals with a few projects completed. The momentum of the new authority declined and subsequently few additional TFPA projects were proposed or completed by 2012. The Intertribal Timber Council (ITC), which represents over 60 Indian tribes with forest land, the Forest Service, and the Bureau of Indian Affairs undertook a study to determine why so few projects had taken place and what could be done to encourage use of this valuable authority. That effort resulted in a 2013 report with several recommendations that are now being implemented.

Since 2013, the TFPA has become an increasingly important tool to accomplish work on National Forest System lands. The Forest Service continues to work with the ITC to increase the understanding and awareness of the flexibilities with this authority. We have hosted three workshops, connecting over 150 tribal and Forest Service representatives, to find common areas of interest for TFPA projects. The first of several workshops was hosted in April 2015 and resulted in six proposals. The most recent workshop, held the week of May 23, 2016, was the most successful to date, and is expected to generate at least one proposal from each of the 10 participating tribes. These interactions have significantly increased the number of proposals, which will produce even more projects with partner National Forests.

#### **Anchor Forests**

Anchor Forests are large contiguous areas that can support sustainable long-term wood and biomass production backed by local infrastructure and technical expertise, and that have been endorsed politically and publicly to achieve forest management objectives.

The purposes of Anchor Forests are to:

- *Promote* forest ecosystem function by maintaining and improving working forests and the infrastructure needed to increase ecosystem services and benefits gained from healthy forests;
- *Reduce* the impacts of insects, disease and wildfire in the face of a changing climate through active forest management, and
- *Provide* a framework for cross-boundary land management that achieves the social/cultural, economic, and ecologic values and benefits realized through long-term stewardship.

Forests throughout the United States are negatively affected by fragmentation, wildfire, insects, disease, drought and climate change. The management, harvesting, transportation and processing infrastructure necessary to sustain healthy and productive forests are disappearing. As a result, vital ecological systems and economies of rural communities are being severely impacted. The Forest Service intends to mitigate these adverse impacts through the Anchor Forests concept by creating large networks of interdependent local partners to promote robust large scale landscapes. The Intertribal Timber Council (ITC) believes that Anchor Forests are a “common sense, multifaceted approach for retaining healthy working forests through partnerships, collaboration and coordination.”

The Anchor Forests pilot project is funded through a \$700,000 grant from the Forest Service to ITC. The pilot consists of three study areas in eastern Washington State, including Indian tribal lands of the Yakama Nation, Confederated Tribes of the Colville, and Spokane Tribe. Partners include the Forest Service (Region 6 and Pacific Northwest Research Station), Washington Department of Natural Resources, the University of Washington, The Nature Conservancy, and the University of Idaho. Data were gathered for six tasks: infrastructure analysis, Tapash collaborative case study, institutional capacity, barriers and solutions, tools and funding opportunities, and ecosystem services.

Three Indian Forest Management and Assessment Team studies done in the last three decades have determined Indian tribal forests have desirable management practices. And, because most Indian tribal trust lands are considered ancestral lands, the Anchor Forests will remain intact for future generations.

#### **Tribal Engagement Roadmap**

The Forest Service Research and Development Tribal Engagement Roadmap is a major step in improving the way our research community works with and serves tribes. Under the Roadmap, we are building and enhancing partnerships with tribes, indigenous and native groups, tribal colleges, tribal communities, and inter-tribal organizations. We are enhancing communication with tribes and other native

communities by providing research results that are relevant for their needs in forums that are culturally appropriate and effective. Through a collaborative and participatory approach with tribes and tribal organizations, we seek to advance research on topics of joint interest, such as climate change, fire science, traditional ecological knowledge, water protection, fish and wildlife, forest products, non-timber forest products, restoration, social vulnerability, and sustainability.

#### **Fuels Reduction**

Planning and implementation of vegetative fuels treatments are critical for all land management agencies, including tribes, to reduce the risk of undesired wildland fire impacts. The Forest Service consults with tribes to design and implement fuels treatments.

The purpose of fuels treatments is to alter potential fire behavior; its full value is only realized when tested by a wildland fire. However, that value also relies on careful planning and design, and on proper implementation. Some fuels treatments require collaborative work between many partners and governments, and years of arduous efforts to complete a project.

Fuels treatments can be effective in changing the outcome of wildfires because the fuel volume has been reduced and the structure and arrangement of the fuel has been modified. Ideally, the resulting fire behavior has lower intensity, thus providing wildland suppression personnel more options to safely manage the fire. Fuels treatments can serve as strategic points on the landscape from which to implement suppression operations and protect property and natural resources. Congress recognizes the utility and value of fuels treatments and has enacted legislation to support land management agencies to effectively implement fuels treatments.

A recent example of the Forest Service working with the tribes in support of fuel treatments is the Isleta Project in New Mexico.

As part of The Chiefs' Joint Landscape Restoration Partnership, the U.S. Forest Service and Natural Resources Conservation Service approved \$1,520,000 for the Isleta Project in the East Mountains near Albuquerque. The authorities used to implement this project include the Collaborative Forest Restoration Program, Joint Chief's Initiative, TFPA, Forest Service Forest Health Protection Program, and the Wyden Amendment which allowed the Forest Service to fund fuels reduction projects in the Chilili Land Grant. Under the TFPA, the Pueblo of Isleta submitted a proposal to treat 10,420 acres across three political boundaries, including lands on the Sandia and Mountainair Ranger Districts. The 10,420-acre project will treat 2,000 acres on the Pueblo, 7,800 on Cibola National Forest, and 620 in the Chilili Land Grant. It will provide fuel wood, create local employment opportunities for Hispanic and Native American youth, and increase the small-scale wood products industry.

#### **S. 3014: To Improve the Management of Indian Forest Land, and For Other Purposes**

S. 3014 would amend the Tribal Forest Protection Act of 2004 and the National Indian Forest Resources Management Act. Although we did not have time to complete a detailed analysis, we generally support the intent of this bill but would like to work with the Committee on a few details. Some specific comments are listed below.

##### *Section 2—Protection of Tribal Forest Assets through Use of Stewardship End Result Contracting and Other Authorities*

Section 2 of the bill would amend the Tribal Forest Protection Act of 2004 to specify deadlines for responding to an Indian tribe's request to treat National Forest System lands adjacent to Indian forest land or range land, for completing the environmental analysis for the project, and entering into an agreement or contract with the Indian Tribe to carry out the project, or for denying the Indian tribe's request. Specifically, the Secretary would have two years to complete the environmental analysis for a project and enter into an agreement or contract with the Indian tribe to carry out the project. While this timeframe is a laudable goal, we anticipate that some projects will require work that extends beyond two years.

##### *Section 3—Management of Indian Forest Land Authorized to include Related National Forest System Lands and Public Lands*

Section 3 of the bill would amend the National Indian Forest Resources Management Act under which the Secretary of the Interior is authorized to carry out forest land management activities on Indian forest land to achieve the management objectives specified in the Act. The amendments would authorize the Secretary of Agriculture, at the request of an Indian tribe, to treat National Forest System land as Indian forest land for purposes of planning and conducting forest land management

activities if the National Forest System land is located within, or mostly within, a geographic area that presents a feature or involves circumstances principally relevant to that Indian tribe. National Forest System lands that the Secretary treats as Indian Forest land would be managed exclusively under the National Indian Forest Resources Management Act.

Although we are supportive of the general objectives of the bill, we'd like to work with the Committee to address concerns.

*Section 4—Tribal Forest Management Demonstration Project*

Under section 4, the Secretary would be authorized to carry out demonstration projects under which federally recognized Indian tribes or tribal organizations may enter into contracts to carry out administrative, management and other functions under the Tribal Forest Protection Act, through contracts entered into under the Indian Self-Determination and Education Assistance Act (ISDEAA).

Currently, the Forest Service does not have authority to enter into self-determination contracts under the ISDEAA. We support applying this authority within a demonstration project, which would allow the evaluation of its usefulness to the agency and Indian tribes.

**Summary**

The Forest Service is ready to assist tribal governments and communities in managing tribal forests to improve their health and resiliency which is in all parties' best interest. Joint steps will achieve mutually beneficial management objectives to reduce losses due to wildfire, and bolster post-burn environmental and social consequences. We are committed to our government-to-government relationship with tribes, and welcome the opportunity to consult with tribal governments to improve the resilience of our nation's forests across boundaries. We consider our work to be supporting sovereignty through shared stewardship.

I will end this statement where I started. The single most important step Congress can take to advance forest health and resilience, and to further our collaborative partnerships with tribes, is to enable the Forest Service to continue its mission-critical work and not be forced year after year to respond to the growing 10-year average suppression costs by permanently diverting funds. A comprehensive fire budget solution that addresses both the growth of fire programs as a percent of the agency's budget and the compounding problem of annual fire transfers remains the most important action Congress can take to increase the pace and scale of forest restoration across all landscapes.

Thank you for the opportunity to testify here today. This concludes my testimony. I'll be happy to answer any of your questions.

The CHAIRMAN. Thank you so much for your testimony, Mr. Hubbard.

I would like to now turn to the Honorable William Nicholson, Board Member, Intertribal Timber Council and Secretary, Colville Business Council, Confederated Tribes of the Colville Reservation from Washington State. Thanks for joining us.

**STATEMENT OF HON. WILLIAM NICHOLSON, BOARD MEMBER, INTERTRIBAL TIMBER COUNCIL; SECRETARY, COLVILLE BUSINESS COUNCIL, CONFEDERATED TRIBES OF THE COLVILLE RESERVATION**

Mr. NICHOLSON. Thank you, Chairman Barrasso, Vice Chairman Tester and members of the Committee.

My name is William Nicholson and I am currently Secretary of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation. I am also the delegate from the Colville Tribes to the Intertribal Timber Council.

Forests are the most important trust asset for tribes because they provide food, jobs, clean air and water and are places of cultural and historical legacy. Indian forest management also provides revenue to the tribes for health care, education and other critical social services.

To summarize my statement, tribes are deeply concerned about the failure to prioritize protection of tribal forests by Federal agencies. I will address these failures at each level before fires, during fires and after them.

For this hearing, the ITC is releasing a report by the Indian Forest Management Assessment Team. This report plainly states that the Interior Department “is actively failing in its responsibilities and fiduciary obligations to tribal forests.”

Before wildfire, tribes and the BIA aggressively perform thinning and attack bugs and disease in our forests on a scale and speed not found on other forest lands. We do it on a shoestring budget.

In fact, the BIA consistently receives \$1 for every \$3 received by the Forest Service for service management. Even with effective treatments on our own lands, severe wildfires from adjacent Federal lands inflict serious damage to tribal forests. That is why Congress enacted the Tribal Forest Protection Act in 2004 authorizing the Forest Service and BLM to work with tribes to reduce fire risk on Federal lands adjacent to tribal forests.

Sadly, just a handful of TFPA projects have been implemented in over a decade. The risk to tribal forests from adjacent Federal lands is worse than ever. For example, the Colville Tribe and its staff worked for years to develop two TFPA projects on neighboring national forests. In 2015 both those projects burned.

We recently made some positive project progress with the Forest Service to improve TFPA performance. However, the ITC also supports the provisions in Senator Daines’ legislation that would create timely and firm deadlines for agency response and implementation of TFPA projects. It also would allow tribes to “638” contract TFPA projects, which means tribes would have a greater role in both preparing and implementing TFPA projects to protect their own forests.

The ITC also supports the provision in Senator Daines’ bill that would authorize Federal land to be treated as “Indian forest land” for forest restoration projects. This means that tribes and BIA could help the Forest Service treat more acres by using more flexible management practices found on Indian land.

Part II is during wildfire. Generally, fires on Indian land are smaller, are put out faster and have lower cost than other Federal fires. However, those costs are going up. On just five reservations in 2015, the cost of wildfires exceeds \$200 million. That is more than three times the entire national budget for management for all Indian forests in the country.

Last summer, on these five reservations in the Pacific Northwest, 338,110 forest acres burned, damaging 1.2 billion board feet of tribal trust timber. The timber value alone exceeds \$143 million with an additional \$377 million in lost wages and services, totaling over \$520 million. Losses for the Colville Tribe include 800 million board feet of timber worth approximately \$96 million.

Making matters worse, wildfire suppression priorities appear to be shifting away from tribal trust forests. We have seen fire crews and caretakers diverted to protect second homes and luxurious resorts or Sage Grouse habitat. We experienced this on the Colville Reservation in 2015 when suppression resources were directed to

higher priority State and Forest Service fires while the Northstar fire grew to 220,000 acres.

Part III is after the wildfire. Unlike other Federal managers, tribes have the desire and authority to quickly salvage burnt trees and recover some value from these fires. We are denied the emergency funding to do so.

After the 2015 fires, tribes needed between \$55 million and \$100 million for emergency rehabilitation of burned forest. To date, we have received less than \$10 million.

The Indian forests are not just other trees managed by a different Federal agency. These are our homelands, sources of food and economic basis for Indian people across the country. They are the lands not taken by the Federal Government in treaties, but are now being taken by fire. We ask for your help to change that.

Thank you.

[The prepared statement of Mr. Nicholson follows:]

PREPARED STATEMENT OF HON. WILLIAM NICHOLSON, BOARD MEMBER, INTERTRIBAL TIMBER COUNCIL; SECRETARY, COLVILLE BUSINESS COUNCIL, CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

Good afternoon. Chairman Barrasso, Vice-Chairman Tester, and members of the Committee. My name is William Nicholson and I serve as the Secretary of the Colville Business Council, the governing body of the Confederated Tribes of the Colville Reservation. I also serve as the Colville Tribe's delegate to the Intertribal Timber Council. My testimony today is on behalf of the Intertribal Timber Council, but also reflects the Colville Tribe's experiences from the 2015 wildfire season.

Thank you for holding today's hearing on fire and forest management in Indian Country. It's been said that forests are the most important trust asset for tribes. They provide food, jobs, clean air and water, and are places of cultural and historical legacy. Indian forests also provide revenue to tribes for health care, education and other critical social services.

I also want to specifically thank Senator Daines for his work in introducing S.3014, which will provide tribes and federal agencies additional tools to restore forest health across the landscape.

To summarize my statement, tribes are deeply concerned about the failure to prioritize protection of tribal forests by federal agencies—at both policy and funding levels. I will address these failures at each level: before fire, during fires, and after them.

Indian forests are managed in a direct partnership between tribes and the US Interior Department, particularly its Bureau of Indian Affairs, but also its Office of Wildland Fire Management. We operate under federal law, specifically the National Indian Forest Resources Management Act (NIFRMA)—the most modern federal statute governing forests. One unique element of NIFRMA is that it requires an independent scientific panel to review Indian forest management every ten years in a report to Congress. No other federal land manager is submitted to such a review. The panel, known as the Indian Forest Management Assessment Team (IFMAT), released its third report in 2013 and this committee has reviewed its findings.

The devastation of last summer's wildfires on several Indian reservations led the Intertribal Timber Council to seek additional review by the IFMAT team into wildfire issues. For this hearing, the ITC is releasing this report called "Wildfire on Indian Forests: A Trust Crisis" (hereinafter referred to as the IFMAT 2015 Fire Report), which plainly states that the Interior Department "is actively failing in its fiduciary obligations to tribal forests."

### **Part I: Before Wildfire**

Generally speaking, Indian forests<sup>1</sup> are healthier and more productive than other federal forests. This is an active and ongoing choice by tribes because they directly rely on their forests for virtually all aspects of life: economic, ecological and cultural. Tribal people directly experience the consequences of the both proper and improper

<sup>1</sup>A total of 334 reservations in 36 states, 18.6 million acres of forests and woodlands are held in trust by the United States and managed for the benefit of Indians.

forest management. And they hold their leadership responsible for management decisions.

Tribes, more than anyone, understand the historic role of fire in our ecosystem. We are actively reversing unnatural conditions in the forest to reduce the threat of catastrophic fire. Tribes attack bug and disease outbreaks effectively and aggressively,<sup>2</sup> thin timber stands and use prescribed burns to ready the landscape for the inevitability of wildfire. Tribes and BIA perform these treatments on a scale and speed not found on other federal lands—and we do it on a shoestring budget.

In fact, the BIA consistently receives one dollar for every three received by the Forest Service for forest management. It is disheartening that the Administration's proposed budget for Fiscal Year 2017 essentially flatlines BIA Forestry funding.

Chronic underfunding of BIA forestry has created a 440,000-acre thinning backlog. The IFMAT team estimates that tribes need to be treating five to ten times the amount of acres they have been treating annually over the last decade. This growing backlog will only exacerbate the costs of future wildfire suppression, or decrease the resilience and productivity of untreated acres that are lucky enough to survive to rotation age.

The bottom line here is that tribes have the “will” but not the “wallet” to perform proper forest management. This may be the inverse problem of our federal neighbors. The answer may lie in creating new partnerships between BIA, tribes and other federal land management agencies.

Congress began down this path 11 years ago with enactment of the Tribal Forest Protection Act—authorizing the Forest Service and BLM to work with tribes to reduce fire risk on federal lands adjacent to tribal forests. Tribes needed TFPA because even with effective treatments on our own lands, severe wildfires from adjacent federal lands inflict significant damage and economic cost to tribal forests.

Sadly, just a handful of TFPA projects have been implemented in over a decade. The risk to tribal forests from adjacent federal lands is worse than ever. For example, two of the Colville Tribe's approved TFPA projects—that our tribal staff worked for years to implement with our neighboring national forests—were burned in the 2015 fire season.

The Forest Service and ITC completed an analysis of how to improve TFPA effectiveness. For the past several years, we have made progress in bringing tribes and the Forest Service together for workshops to develop greater interest in using this authority. The ITC hopes this will eventually translate into more acres being treated.

However, the ITC also supports the provisions in Senator Daines' legislation that would improve TFPA performance with timely and firm deadlines for agency response and implementation of TFPA projects. It also would allow tribes to “638” contract TFPA projects, which means tribes would have a greater role in both preparing and implementing TFPA projects to protect their own forests.

We also support the provision in Senator Daines' bill that would authorize federal land to be treated as “Indian forest land” for forest restoration projects. This means that tribes and BIA could help the Forest Service treat more acres by using more flexible management practices found on Indian land.

From a historical perspective, the vast majority of federal forest land has only had two title holders: Indian Tribes and the U.S. government. Tribes have an intimate knowledge of these landscapes and retain legal and cultural interests in seeing them managed in the best possible manner.

## **Part II: During Wildfire**

In addition to restoring forest resilience, Tribes also respond to fires more effectively. The average size of a fire on BIA-managed lands is three times smaller than on Forest Service land. Suppression costs, on a per-acre basis, are five times lower on BIA lands.

However, those costs are going up. The recent IFMAT 2015 Fire Report estimates the cost of fire suppression and rehabilitation on just five reservation fires in 2015 exceeds \$200 million. For perspective, that is more than three times<sup>3</sup> the national budget for management of all Indian forests in the country.

Aside from suppression costs, the IFMAT 2015 Fire Report shows the full cost of fires to tribal communities. For the 2015 fire season last summer, a national total

<sup>2</sup>One such example is the response to budworm infestation on the Yakama Reservation. Timber sales were prioritized to treat areas that were most severely affected by the budworm. Between 1999 and 2003, silvicultural treatments were implemented on approximately 20,000 acres of budworm habitat per year—reducing infestation by 99 percent.

<sup>3</sup>FY 2016 BIA direct Forestry Program and Forestry Projects funding at \$51.9 million, plus FY 2015 BIA Self-Governance Forestry funding for Regional, Agency and Tribal functions of \$7.8 million, totaling \$59.7 million.

of 539,000 tribal trust forest acres burned. On the five reservations examined in the IFMAT 2015 Fire Report, 338,110 forest acres burned, damaging 1.2 billion board feet of tribal trust timber. The timber value alone exceeds \$143 million, with an additional \$377 million in lost wages and services totaling over \$521 million. These losses impact tribes for decades into the future as we work to recover burned forests. Losses for the Colville Tribe included 800 million board feet of timber worth approximately \$96 million dollars.

Tribes are therefore deeply concerned that wildfire suppression priorities appear to be shifting away from tribal trust forests and toward other federal lands and interests. Indian forests are a critical trust asset and we will fight aggressively to protect them from fire. But we cannot do that if fire crews and air tankers are diverted to protect second homes at luxurious resorts or sage grouse habitat—which is already happening on the ground. We experienced this on the Colville Reservation in 2015 as suppression resources were directed to higher priority State and Forest Service fires while the Northstar fire grew to 220,000 acres.

The Interior Department is working on a new way to prioritize its wildfire funds. The so-called “Risk-Based Wildland Fire Management Model” is of great concern to tribes. The IFMAT 2015 Fire Report found that the values prioritized in this model are inherently biased against tribal trust land and the government’s fiduciary responsibility to protect them.

To date, the Interior Department has not conducted meaningful consultation with tribes on this significant policy change.

### **Part III: After Wildfire**

Historically,<sup>4</sup> tribes have responded far faster than other federal agencies to recover economic value and begin the rehabilitation process. However, the federal response to last year’s historic fires in Indian Country suggests a growing failure to meet its basic trust responsibilities.

The IFMAT 2015 Fire Report documents how the Department of Interior is declining to recognize the historically severe 2015’s fires in Indian Country, hindering needed recovery and compounding the resource losses already inflicted on tribes.

The BIA estimated a need for \$55 million for post-fire recovery funding for Indian forests burned in 2015. Yet the Office of Wildland Fire only designated \$3.4 million of its \$19 million burned area recovery budget for Indian forests. To our knowledge, the Administration did not seek any additional funds from Congress for Indian forest recovery, while it did seek over \$700 million to repay the Forest Service for excess wildfire suppression costs. The Colville Tribe requested \$20 million for Burned Area Rehabilitation (BAR). The Northstar and Tunk Block fires burned 252,000 acres on the reservation last year. Along with this huge workload the Tribe is also tasked with continuing rehab efforts on 2014’s Devils Elbow fire, which burned an additional 26,000 acres.

It adds insult to injury when tribes are denied recovery funding to address fires whose intensity was largely the result of insufficient federal resources. Also outrageous is that tribes, unlike other federal managers, have the desire and authority to quickly salvage burned trees and recover some value from these fires. This would support the dwindling forest products infrastructure that Congress is trying to preserve.

Despite the obstacles facing us, the Colville Tribe salvaged 60 million board feet of timber before seasonal restrictions halted logging in late February.

### **Conclusion**

The IFMAT 2015 Fire Report contains many recommendations to the Interior Department and to Congress. Fundamental to all of them is acknowledgement of the trust responsibility for Indian forests. These are not just other trees managed by a different federal agency. These are homelands, sources of food and economic bases for Indian people across the country. They are the lands not taken by the federal government in treaties. But now they are being taken by fire. We ask for your help to change that.

<sup>4</sup>The 2002 Rodeo-Chediski fire burned 467,000 acres of tribal and federal land, including half the timber on the Fort Apache Indian Reservation. While significant damage was done to tribal forests, the intensity of the fire was dramatically less on tribal land. Likewise, tribal salvage and reforestation began within months of the Rodeo-Chediski fire—removing up to 500,000 board feet of fire-killed timber a day. The Forest Service faced litigation that delayed salvage operations, and thus reducing the value and increasing the cost of the operation.

The CHAIRMAN. Thank you so much for your testimony, Mr. Nicholson. We are grateful you were able to make the trip and be with us today.

Next is the Honorable Carole Lankford, Council Member of the Confederated Salish and Kootenai Tribes from Montana. Thank you so much for joining us today.

**STATEMENT OF HON. CAROLE LANKFORD, COUNCIL MEMBER,  
CONFEDERATED SALISH AND KOOTENAI TRIBES**

Ms. LANKFORD. Good afternoon, Chairman Barrasso, Vice Chairman Tester, Senator Daines and distinguished members of the Senate Committee on Indian Affairs.

My name is Carole Lankford. I am an elected Council Member of the Confederated Salish and Kootenai Tribes of Montana. You have my submitted statement and I will now summarize it.

Thank you for holding this hearing on improving interagency forest management to strengthen tribal capabilities for responding to and preventing wildfires and on Senate Bill 3014, a bill to improve the management of Indian forestlands.

Thank you for inviting me to be a part of this discussion. I also want to specifically thank Senator Daines for his work and introducing S. 3014 which will provide tribes and Federal agencies additional tools to restore forest health across the landscape. Thank you for allowing our tribe to have input on the current draft bill.

The reality is that as well intended as the Tribal Forest Protection Act of 2004 was, it has not been implemented in any meaningful way. Tribal stewardship contract proposals just seem to gather dust at BLM or U.S. Forest Service offices despite the fact that poor health of forests managed by those agencies adjacent to tribal lands can have negative effects on our lands.

Forest disease has spread from those lands to our lands. Despite our professional and innovative approaches to dealing with those problems, the bureaucracies of those agencies have stifled requests by tribes to allow our experts to implement forest restoration projections under the TFFPA.

S. 3014 will require the Secretaries of Agriculture and Interior to reply in a timely fashion and hopefully will lead to some innovation and protection of forest management practices on lands surrounding Indian reservations. These changes are long overdue.

Before continuing, I also want to acknowledge and thank our senior Senator, Jon Tester, for his unwavering friendship and advocacy on behalf of Indian people in Montana. There is not enough time in a day to reiterate the many contributions of his leadership but they are all appreciated on so many levels.

The Flathead Indian Reservation is approximately 1.3 million acres, over one-third of which or 460,000 acres are forested. About half is available for active forest management. We have a Forest Management Plan that encompasses an ecosystem management perspective with long term functional and structural goals related to forest health and restoration. Our forests are a vital part of our everyday lives.

Over the past ten years, our tribal fuels personnel have treated over 7,300 acres per year in fuels reduction treatments, including thinning, piling, pile burning, and understory burn projects. We

take great pride in being active land managers, to sustain vital forest communities for our future generations.

Over the last 18 year period, we have averaged 85 wildfires per year that have burned over 145,000 acres in that timeframe, yet proudly with no lives or structures lost. The largest and most devastating was the Chippy Creek Fire in 2007 that burned over 99,000 acres, of which about a third or 33,000 forested acres that burned were on our reservation and were important tribal forest lands.

Our most fundamental problem is not the so-called Wildland Urban Interface. It is the interface with our own Federal Government, issues of funding, priorities and borders. This is why tribes are very sensitive to discussions about priorities for funding in fuel reduction treatments, in fire suppression resources when wildfires occur, and in funding for rehabilitation of lands after the devastating fires are out.

The Federal Government has long-affirmed fiduciary obligations to protect Indian trust assets, and cannot simply let them burn while it protects often insured private property at resorts. My written statement discusses the failed and thankfully withdrawn Hazard Fuels Prioritization and Allocation Process of 2012 and 2013 that was established by the Office of Wildland Fire.

Had that system been implemented, my tribe and the Yakima tribe would have lost 90 percent of their hazard field reduction budget. My tribe and others have asked for a reevaluation of fire suppression priorities. We believe that the protection of our vital trust forest assets fully warrant fire suppression priority at least on a par with that for private structures, and we apparently need congressional direction to the agencies on that point.

The fiduciary trust responsibility and the protection of Tribal natural, cultural and economic resources must be incorporated in all DOI wildfire funding allocation systems and those trust resources must be paramount when allocations are made.

Thank you for your time.

[The prepared statement of Ms. Lankford follows:]

PREPARED STATEMENT OF HON. CAROLE LANKFORD, COUNCIL MEMBER,  
CONFEDERATED SALISH AND KOOTENAI TRIBES

Good afternoon Chairman Barrasso, Vice Chairman Tester, Senator Daines and distinguished members of the Senate Committee on Indian Affairs. Thank you for holding this hearing on Improving Interagency Forest Management to Strengthen Tribal Capabilities for Responding to and Preventing Wildfires, and on the Senate Bill 3014, a bill to improve the management of Indian forest land, and for other purposes and thank you for inviting me to be a part of this discussion.

I also want to specifically thank Senator Daines for his work in introducing Senate Bill 3014, which will provide tribes and federal agencies additional tools to restore forest health across the landscape. Thank you for allowing our Tribes to have input into the current draft bill. The reality is that while as well intended as the Tribal Forest Protection Act (TFPA) of 2004 was, it has not been implemented in any meaningful way. Tribal Stewardship Contracting proposals just seem to gather dust at BLM and US Forest Service offices despite the fact that the poor health of the forests managed by those agencies that are adjacent to tribal lands can and have negatively affected our lands. Fire and disease have spread from those lands to ours and despite our professional and innovative approaches to dealing with those problems; the bureaucracies of those agencies have stifled requests by tribes to allow our experts to implement forest restoration projects under TFPA. S. 3014 will require the Secretaries of Agriculture and Interior to reply in a timely fashion and

will hopefully lead to some innovation and protection in forest management practices on lands surrounding Indian reservations. These changes are long overdue.

The Flathead Indian Reservation is located in western Montana. It is approximately 1.3 million acres, over one-third of which or 460,000 acres are forested. About half is available for active forest management. The other half is set aside for wilderness and other primitive uses. Included in that is the first tribally designated wilderness in the United States. We have a Forest Management Plan (FMP) that encompasses an ecosystem management perspective with long term functional and structural goals related to forest health and restoration. We focus on managing and protecting our entire homelands. Our forests are a vital part of our everyday lives.

Our tribal ancestors took a very active role in management of our vegetative landscape, primarily with fire, be it prescribed or wildfire in nature. Our traditional world evolved from a cultural landscape that was shaped by fire. This way of life continues today. We are steadily working toward re-introducing fire to our lands and in so doing enhancing our diverse utilization of our natural resources. Our approach is all-inclusive and involves more than just the Wildland Urban Interface and/or certain species of interest, which others seem to overly emphasize. Over the past ten years, our tribal Fuels personnel have treated over 7,300 acres per year in fuels reduction treatments, including thinning, piling, pile burning, and under-story burn projects. We take great pride in being active land managers, to sustain vital forest communities for our future generations.

Over the last 18 year period, we have averaged 85 wildfires per year that have burned over 145,000 acres in that timeframe, yet proudly with no lives or structures lost. The largest and most devastating being the Chippy Creek Fire in 2007 that burned over 99,000 acres, of which about a third or 33,000 forested acres that burned were on our reservation and were important tribal forest lands. Our most fundamental problem is not the so-called Wildland Urban Interface. It's the interface with our own federal government—issues of funding, priorities and borders.

Earlier this year, the Intertribal Timber Council testified before Congress about last summer's fires that severely impacted a number of western Indian reservations, the majority of which were in Washington State. In some cases, federal suppression resources were diverted from Indian reservations to fires threatening private property elsewhere. Yes, while in the middle of fighting fires on Indian lands, firefighters were suddenly pulled away and sent to a different and apparently more important place. That's when the reservation fires exploded. Nearly 500,000 acres of Indian trust forest burned. Approximately 1.5 billion board feet of timber was destroyed, worth hundreds of millions of dollars in tribal revenue. This is revenue badly needed for health care, education and law enforcement, similar to the property tax base for county governments. These forests provide critical jobs for Indian people, they provide habitat for some of our most important sources of food, nutrition and medicines and they are central to our culture.

This is why tribes are very sensitive to discussions about priorities for funding in fuel reduction treatments, in fire suppression resources when wildfires occur, and in funding for rehabilitation of lands after the devastating fires are out. The federal government has long-affirmed fiduciary obligations to protect Indian trust assets, and cannot simply let them burn while it protects often-insured private property at resorts. After the United States settled the so call Salazar cases for over \$1 billion for the mismanagement of Indian trust lands, it seems odd to us that those making determinations about allocating fire funds have given such low priority to protecting lands that they hold in trust. We can only assume that there is a fundamental misunderstanding about what the role of a trustee is in this situation. Let me cite a few examples. In 2012 and 2013 the Office of Wildland Fire (OWF) came up with a process for allocating funds they called the Hazard Fuels Prioritization and Allocation Process (HFPAS). Tribes kept asking for input into helping design a fair formula and our pleas were ignored. Had it been implemented as proposed, my Tribes and the Yakama Nation would have both have had our Hazardous Fuels dollars decreased by over 90%! We appreciate that both Senator Tester and then Congressman Daines sent letters to Interior expressing concerns about HFPAS. Finally after OMB began questioning the fairness of HFPAS, it was withdrawn. More recently the BIA received only 6 percent of a new formula for allocating funding in 2015 under the Office of Wildland Fire's "Wildland Fire Resilient Landscapes Program." This is a program focusing on the "integrity and resilience by restoring natural vegetation landscapes to specific conditions and maintaining fire resiliency. Now are trying to deal with the latest allocation method that the OWF has proposed that they call the "Risk Based Wildland Fire Management Model" (RBFMP). Don't just listen to our concerns on this; the congressionally established Indian Forest Management Assessment Team (IFMAT) has said that the values prioritized in this model are inherently biased against tribal trust land, the federal government's trust

and fiduciary responsibility to protect those lands. On the larger picture the 2015 IFMAT Fire report stated that the Interior Department “is actively failing in its fiduciary obligations to tribal forests.”

So my tribe and many others have asked for a re-evaluation of fire suppression priorities. We believe that the protection of our vital trust forest assets fully warrant fire suppression priority at least on a par with that for private structures, and we apparently need Congressional direction to the agencies on that point.

No President in my lifetime has shown a better understanding of this trust relationship than has Barack Obama and his Secretaries of the Interior have shared that support but in the area of forestry firefighting we don’t think our letters and emails are getting to the sixth floor, so I am hopeful that my words today will be understood with good spirit and cooperation.

The Bureau of Indian Affairs receives about one dollar for every three that the Forest Service gets for forest management. Yet fires on Indian land are generally smaller and less destructive. We produce more timber volume but also accomplish more for wildlife, water and air quality. Surely there are lessons to be learned from Native people.

We support more funding being obligated to tribes to reduce hazardous fuels to enhance and protect natural, cultural and economic resources, reduce the cost of fire suppression and improve the safety of our firefighter fighters. Fuels treatments in forested environments have a reasonably long effective period of reducing fire behavior and providing safer opportunity to suppress fires in initial attack and significantly reduce the cost of fire suppression. The Fiduciary Trust Responsibility, and the protection of Tribal natural, cultural and economic resources must be incorporated in all DOI Wildfire Funding Allocation systems and those trust resources must be paramount when allocations are made.

While Secretarial Orders such 3360 and 3336 have their place they do not exceed Executive Orders and Federal Court decisions supporting the Fiduciary Trust Responsibility owed to Tribes by the Federal Government.

Clearly we are concerned with the performance of the Federal Government “our Trustee” when funding allocation systems are developed. Systems recently developed including HFPAS and RBFMP have disregarded tribal goals and objectives and fallen way short of the requirements of a Trustee. We constantly have worked to undo what OWF has created. We want Tribes to have an opportunity to treat and protect Tribal trust lands at the least on par with the allocations other land managers receive.

Our lands are our home; the uniqueness of Indian Country is the sacrifice that has shaped the political boundaries we see today. We are left with remnants of our usual and accustomed areas that we know must be preserved for the future; it is all we have left, and the United States has a fiduciary obligation for its protection. When wildfire strikes, this protection must include our vital forest resources. To prioritize the sacrifice of this critical asset so that private structures or certain birds can be saved is a continuing injustice, and we look forward to working with the Congress on fashioning its correction.

The CHAIRMAN. Thank you so much for your testimony and for being here today.

We will start the questioning with Senator Daines.

Senator DAINES. Thank you, Mr. Chairman.

Ms. Lankford, CSKT has an award winning forestry department. In fact, Jim Hubbard mentioned that to me yesterday after we met. I think we both agreed the rest of the Federal Government could certainly learn from CSKT how to more effectively manage forests.

I understand the fact that tribes are managing forests that are tribal homelands contributes to tribes being able to do so very effectively and efficiently. Could you share a bit about that?

Ms. LANKFORD. That is a very good question. You are right, western Montana and parts of Idaho and Washington are the tribe’s homeland.

However, first and foremost, it is about the DNA we carry about taking care of the land. It is about being on the land with our people. We have a college that educates our young people and then they come to work for us.

Let me tell you a bit about my own family. Me and my now ex-husband worked in fire. His dad worked in fire. I have three boys who work in fire. Their children will go on to get forestry degrees. That is how important the resources are to Indian people. We protect it at all cost. It is not just the resource but everything around us, like our water, is so important to us.

I believe it is attributed to the love of the land and the love of our homeland. With this bill, I was so happy to see we are going to be able to have a chance to take care of land outside of the reservation so near and dear to my people and all tribes across this Nation that love the resources. Mother Earth, we take care of it. That is how we were brought up.

Senator DAINES. For a tribe, historical tribal homeland is significant whether on the Flathead Reservation or the Lolo National Forest. Is that right?

Ms. LANKFORD. Absolutely.

Senator DAINES. These lands have an equal amount of significance and meaning to a tribe?

Ms. LANKFORD. Yes.

Senator DAINES. The centerpiece of the Tribal Forest Participation and Protection Act, which we are discussing today, is the section which gives the Secretaries of the Interior and Agriculture the ability to treat Federal forestland as Indian forestland at the request of the tribe for purposes of forest restoration and fuels reduction projects through National Indian Forest Resources Management Act authorities.

As we saw in the examples of Chippy Creek and where there has been treatment, it has certainly been a very important preventer of wildfire spreading further. We know wildfires are not respecters of boundaries. They do not care whether it is on national forest or Indian lands. The bottom line is we need to be thinking beyond just where the boundaries are.

In Montana alone, we have over 7 million federally-controlled acres at high risk for wildfire. Ms. Lankford, would you agree that doing so would allow for active management projects to get done on Federal lands and faster?

Ms. LANKFORD. Absolutely. In the past, we had tried to do projects. I think some have been successful but we need to continue on. We have a reservation of 1.3 million acres and it is all pretty much surrounded by national forest lands.

Whatever we can do, absolutely, is just a good way to manage forests. If we have a way to do it, why not share that instead of reinventing the wheel. These agencies are so daunting to work through. You have a NEPA process and I found what works well for us in that process, I know that is not a part of your question, but it is about our disciplines coming together to say, yes, we have to get this done.

It is not about me and him fighting. It is about our people at home. We represent those people. We need to do the job that we are hired to do. Hopefully this bill will come together and make us able to do exactly that.

Senator DAINES. Mr. Hubbard, would you agree with that?

Mr. HUBBARD. Yes, sir. Working across that boundary is important, especially with the tribal lands that are so well managed. We would like to extend that where we can across that boundary.

Senator DAINES. Mr. Nicholson, how about you? Would you agree with that?

Mr. NICHOLSON. Absolutely, I would agree. We have had examples where the TFPA was working but was not fast enough. We did not have the flexibility that this legislation will provide.

Senator DAINES. Mr. Hubbard, I am running out of time. Would you elaborate on how you might see this new authority as beneficial to reducing the fire risk on Federal land?

Mr. HUBBARD. As you have heard, management of tribal lands is pretty important to the tribes. It means a lot more than just ecology. It means culture, livelihood and a lot of things. We would like to have that sense of land and land management come across the boundary onto the national forests, yes.

Senator DAINES. Thank you.

The CHAIRMAN. Thank you, Senator Daines.

Senator HEITKAMP.

Senator HEITKAMP. Thank you, Mr. Chairman. I am a little embarrassed but I will try and push through that embarrassment.

I am back to my question, Mr. Black. Has BIA done any studies in Indian Country relative to first response? If you have, can you get that information to us?

Literally, I was told at Fort Yates that if your house is burning, there is no 911 call that can be made to any fire authority to basically put out that fire.

Mr. BLACK. I take it when you say "first response," you are talking about structural type fires?

Senator HEITKAMP. Right.

Mr. BLACK. I do not know if there has been a study done but we do not have any robust structural fire program within BIA. There are very, very limited resources. A lot of times we rely on the local communities or counties to help provide those structural fire services to the reservations.

We do have some volunteer fire departments, kind of spotty at different reservations around the country. Let me get back and see if we have anything.

Senator HEITKAMP. That would be good. If you would, Mr. Black, get hold of FEMA and kind of talk about this issue because there may be an opportunity for training. We cannot leave a community the size of Fort Yates unprotected.

As I said earlier, the wildfire that ravished Standing Rock Sioux Nation basically crept in to Cannon Ball. There was a fire response there because it began as a grass fire but if that had begun as an explosion or some kind of fire in a structure, there would not have been a 911 response which I think is terrifying.

Back to the topic here, Deputy Hubbard's testimony mentions three workshops they have held with tribes. I am wondering, Mr. Black, has BIA been a part of these workshops in order to ensure coordination? If you have, are there plans to hold joint events in the future?

Anytime we end up in a situation where there is more than one agency involved, we always are concerned, number one, about con-

sultation with the tribes, making sure the tribes have input but also coordination across agencies.

Given that you are USDA and you are DOI, how does that work?

Mr. BLACK. I think Mr. Hubbard can probably confirm that we have been participating in those and coordinating with them in these different workshops, along with ITC, is my understanding. My understanding is our future ones will be planned.

We will continue to coordinate and collaborate with the Forest Service and ITC on those.

Senator HEITKAMP. I think that is good but I think we also are hearing the need for collaboration and then looking outside just the tribal lands. As Senator Daines expressed, wildfires and fires do not know boundaries.

Mr. Hubbard, you highlighted the Forest Service involvement with the Intertribal Timber Council. You mentioned a recent workshop expecting to generate at least one proposal from each of the ten tribes.

Can you elaborate on how many proposals have been submitted over the decade and how many were actually implemented based on tribal input?

Mr. HUBBARD. I will have to get those numbers for you but I can tell you since our session with ITC, about two years ago, there have been 23 proposals, 18 active, and that training is ongoing.

We found in trying to determine why the Tribal Forest Protection Act had not been used more than the attempts had been made both ways, the Forest Service to the tribe, the tribes to the Forest Service, but the connections were not happening.

We designed the training to make sure we had the right tribal leaders with the right Forest Service leaders, coming together and getting the training at the same time. That seems to be working a lot better.

Senator HEITKAMP. How would you grade the effort in terms of collaboration and coordination with the tribes?

Mr. HUBBARD. I would say they are doing a lot better in coordination. We need to do better in making that work on the ground. We still have some lessons to learn in the implementation.

Senator HEITKAMP. One of the things we are always going to ask about is consultation. It is the key to the relationship. When we do not have consultation and people on the ground who appreciate the need to consult, that is when we end up with duplication of services or the inability to deliver services.

Thank you and I look forward to continuing the discussion.

Mr. Black, I look forward to having ongoing discussions about first responder protection for Indian Country.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Heitkamp.  
Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI,  
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. Thank you for having this hearing.

I wish that I had been here from the beginning but as you know, we have been working on legislation in the Energy Committee to

address the issues of fire, fire borrowing, forest management and how we, quite honestly, are smarter in preventing these wildland fires that impact amazing parts of our States and across the country.

Alaska had the second worst fire year in our State's history last year. Over 5 million acres of land was consumed by fire. The statement was made that fire knows no boundaries. It is moving from Federal land to State land to Native allotment land. It is moving indiscriminately. We recognize that, at least in my State, the situation in front of us is likely to grow increasingly dire as we look at the forecast.

This afternoon, I wanted to raise the role that our tribal members, those in particularly Alaska Native villages, the roles they can play when it comes to fighting our fires. We are very, very proud of many of our hotshot crews that come from the villages. They clearly rely on the income they receive from fighting wild fires during the summer season.

It is more than just the income. These are really strong professionals in their field in terms of what they understand. They know how to fight fires, they know the region like nobody else does and they do extraordinary work. They bring great pride to the village.

Last year, we had a wildfire that threatened the Village of Nulato which is about 300 miles west of Fairbanks up on the Yukon River. The airstrip was closed by fire. Most of the residents had to evacuate by boat.

We were fortunate in that situation because as the fire was spreading to the village, we had a fire crew arrive and they were able to secure barriers, perform burnout operations and effectively secured and saved the village.

The irony here is that Nulato is a village that has been providing emergency firefighter crews to the Alaska Fire Service for about 50 years now. They are really good at what they do. During this fire, their crew was on assignment fighting another fire in another part of the State.

This crew would have had an additional 15 to 20 firefighters who could have stepped up to that job but they had not received their qualifications so they were not able to fight the fire. We had fires burning all over the State and had crews coming in from as far away as Pennsylvania, Georgia, Kentucky, Oregon and California. These fire crews were coming to us when we have extraordinary capability on the ground.

I bring this up because it is so important that we do what we can to increase our support for our local tribal crews. I understand in some years, we are not going to have the number of fires. I would like to think that we would not.

These firefighters are put in an on-call status, waiting to go to work. Sometimes they wait, sometimes they move on to other jobs. I think we recognize that in those years where they are not being called out for these fires, there are things they can be doing like the hazardous fuels reduction, mitigation, and making sure these crews are trained and ready to go when they are needed and called on.

Making sure we are doing that, making sure we are providing for increased certification and training, allowing the tribes to provide training when appropriate is something I would like to throw out.

I have consumed my whole time just kind of talking but I want to make sure that we are focused on what it is that we should be doing in ensuring that we are utilizing truly the experts on the ground. I do not know if we are focused on these types of training programs and the certifications necessary. If we are not, I would certainly hope that those in agencies would work with us on this.

I got a nod from Mr. Black. I take it that is an affirmative from the BIA and Mr. Hubbard as well from the Forest Service, a bit different there but I appreciate that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murkowski.

Senator Tester.

Senator TESTER. Thank you, Mr. Chairman.

Once again, I want to thank Senator Daines for his work on this bill.

I am going to start with you, Mike. Early in your testimony, you talked about it but do you have a ballpark figure about how much acreage would be eligible for management under this bill, how many acres?

Mr. BLACK. Right now, we do not, Senator. Our team and I am sure Mr. Hubbard's teams at the Forest Service are currently evaluating what the overall scope of the environment would be. Hopefully, we will be able to get back to you with that soon.

Senator TESTER. Could it be all the Forest Service land and all the BLM land?

Mr. BLACK. I do not know if it would be all. I think we need some clarity within the bill as to exactly what would qualify and would it be a certain zone outside the reservation.

Senator TESTER. I do not know if you can answer this or not. This is for any one of the three of you actually. What is a rough estimate on how many acres a forest project is? Mr. Hubbard, they are looking at you.

Mr. HUBBARD. It could be anything from 100 acres to 100,000 acres.

Senator TESTER. Aren't you kind of dealing with trying to deal with the ecosystems?

Mr. HUBBARD. You are. In this case, we are dealing with ecosystems and priorities within ecosystems and crossing that boundary. We would like to make it as large a scale as we can.

Senator TESTER. I agree with you.

We have heard from agencies there is potentially some confusion about their roles under Section 3 of S. 3014. I want to hear a little bit to see if you guys can flesh this out a bit. I will start with you, Jim.

Can you give us your impression of how the Forest Service, the Department of Interior and specifically the BIA would be involved in the implementation of Section 3?

Mr. HUBBARD. Our view of this is first, we subscribe to the cross boundary work. We subscribe to involving the tribes in that cross boundary work to increase our capacity to get that work done and to have some relief in process so that it can get done faster.

How would that work? Those details in the bill might need additional definition. Certainly we would start by sitting down together with the tribes and talking about where our priorities are, where we want to do the work together, and where it is the most important to protect the values that we are trying to protect.

Senator TESTER. At least around here, it does not matter if we are talking on committees or anywhere else, turf tends to be a big problem. Who would be the final decision-making authority?

Mr. HUBBARD. That is a sensitive point, as you well know. On national forests, the Forest Service would like to think they would have the final decision authority but that does not mean we cannot share a whole lot of process before we get to that decision.

Senator TESTER. Is that saying the Forest Service would be implementing the BIA regs?

Mr. HUBBARD. It is saying if we are authorized to use the BIA regs as part of our process and that is helpful, we would like to do that but the Forest Service would probably want to maintain that final decision authority.

Senator TESTER. Would this have any effect on public involvement?

Mr. HUBBARD. It could. I think some of those authorizations streamline the public involvement or narrow the public involvement.

Senator TESTER. Mr. Nicholson, how would the tribes be involved in forest management on national forests and public lands under the NIFRMA provision?

Mr. NICHOLSON. We have collaborated with the U.S. Forest Service on some TFPA projects. I believe this legislation would help us get more projects on the ground.

To answer your earlier question about how many acres a project would be, we focus on roughly a third of the watershed. That equals about 3,000 acres of project. We had two projects going at the same time, one in two different national forests.

I think this would help us manage lands especially bordering our reservations. As many have suggested, fires know no boundaries. However, we would like to protect our boundary. I think that would protect both the Forest Service and our reservation lands.

Senator TESTER. The watershed you are talking about is in your reservation or lands that border your reservation, correct?

Mr. NICHOLSON. Yes.

Senator TESTER. Correct me if I am wrong, do you see this bill as opening it up to land that is more than just land adjacent to the reservation?

Mr. NICHOLSON. We see it as opening it up. Our reservation is different. We sold roughly 1.5 million acres to the government, so we have about 1.5 million and still hunt and still gather on that. We hope that would open up that 1.5 million acres.

Senator TESTER. Excuse me for going over, Mr. Chairman.

So, who has the final decision-making authority from your perspective?

Mr. NICHOLSON. I think we need to collaborate with the U.S. Forest Service and the BIA and try to come to a conclusion we can all be happy with but I would like it to be the tribe.

Senator TESTER. I like your honesty.

Mr. Black, kind of the same thing. Confusion with agency roles, do you see this as an issue that needs to be ironed out? I think it can be ironed out, by the way.

Mr. BLACK. I agree. I think it can be ironed out but we probably have a lot of the same questions the Forest Service does regarding BLM and BIA's role and responsibilities within this process.

Senator TESTER. You want BIA to be the final decision maker, I would assume.

One last thing I would point out to Carole, if I may. Carole, your tribal college has a forestry program?

Ms. LANKFORD. Yes.

Senator TESTER. I think it is an incredible asset. Can you tell me how we can encourage other tribal colleges around the country that have a use for this to get that kind of curriculum going? I think it is critically important not only for tribal lands but for all lands that are forested.

Ms. LANKFORD. That is a very good question. I think all across our Nation and forest jobs, we can see we are losing people left and right. Whatever we can do, I am not sure what that is, but I would guess being a model as a tribe to show people that you can get it done.

We have the capabilities and can provide that for you, a degree to get that education, to have people come visit us, so do not reinvent the wheel. We will show you how to get it done. It is a very good program.

Senator TESTER. Yes, I think we can use you as a model for a lot of tribal colleges around the country.

Thank you all for your testimony. Thank you all for your frankness in your answers. Thanks for being here, Carole.

The CHAIRMAN. Thank you, Senator Tester.

Senator Daines.

Senator DAINES. Thanks, Mr. Chairman.

Mr. Hubbard, I am glad to hear that the Forest Service, in conjunction with the Intertribal Timber Council, has held a number of Tribal Forest Protection Act implementation workshops over the last year. As a result, additional projects are expected in coming years. That is good news.

What were the takeaways that came out of these workshops?

Mr. HUBBARD. The biggest takeaway was getting the alignment. We needed to be talking to each other and about what, our Forest Service line officer with the right member of the tribe who had responsibility for the land management who could take those decisions forward through the tribal decision process.

Getting those connections made and getting the right discussions to come forward for decisions for the tribe and the agency was key. We worked that out and things started to happen.

Senator DAINES. It was not so much TFFPA authority issues. It was an implementation issue?

Mr. HUBBARD. That is correct. Can we add to TFFPA authorities and do better and get more done? Sure, we can and your bill helps.

Senator DAINES. While it is good news that we see TFFPA starting to be utilized more, what do you see as the major barriers that prevented TFFPA from being fully utilized say over the last decade?

Mr. HUBBARD. I would say first of all it was that connection that people had different expectations. When they could not meet those expectations, they would walk away from the process and think it was not very workable. It was not very workable.

When we finally sat down together and said, what is going on and what can we do to fix it, that is when the training sessions came and the connections started to be made. Now that those connections have been made and projects are being implemented, we are learning lessons.

I think we have more to offer in terms of what we can use in terms of authorities to help us get the work done.

Senator DAINES. Ms. Lankford, I want to shift over to you and discuss the type of environmental work necessary for forest projects that also have Federal nexus. Would you say that tribes take protecting the environment under NEPA seriously?

Ms. LANKFORD. Yes, we have taken it seriously for probably about 20 to 25 years when we started doing the NEPA process. It seems to get easier as we go along. At first, there was a fight between each discipline within the tribal organization, but we have learned how to work through that because it is not about us, it is about the balance, about coordination and about making sure it is right for our homeland.

Senator DAINES. Would you mind sharing your thoughts on NEPA completed by the Federal Government compared to NEPA completed by tribes?

Ms. LANKFORD. I do not know too much about the Federal process but I know it is daunting. You have agencies with disciplines under them and they have to work through that process. I do not even know how they get anything done to tell you the truth, even though I do not know much about it.

I know we were not going to model our program after that because we know how to get it done. We have to work together. You cannot continue to fight between agencies and try to get things done for the American people. It just does not work.

Senator DAINES. How does developing more around the way you have worked your environmental reviews compare to the way the Federal Government completes NEPA based on your own experience?

Ms. LANKFORD. I do not know if I can make that comparison because I really do not know enough. If my forest manager was here, he probably could answer that. Maybe Mr. Nicholson can. I apologize.

Senator DAINES. Compare the amount of time it takes to get through your process versus the time it takes in the Federal process.

Ms. LANKFORD. For our process, it might take up to a year and a half or maybe a little longer but there are a lot of things you have to weigh in order to get to an end process. It is not just a few people talking; it is many disciplines.

Senator DAINES. Mr. Nicholson, do you have a thought on that too?

Mr. NICHOLSON. Our Land and Property Director is here. I would like to let him step in answer that question.

Mr. DESAUTEL. My name is Cody Desautel. I am the Natural Resource Director for the Colville Tribe.

The NEPA processes are exactly the same. We go through the exact same process as the Federal folks but our internal team is able to get through projects faster because one, we do so many and two, because those folks work cooperatively together, like Carole said, to do what is best for the landscape and what is best from an ecological standpoint.

We do not necessarily take a litigation approach to it. I think that is maybe the best way to describe the way the Federal NEPA process goes. They try to develop a document that is defensible in court whereas we are trying to actually evaluate the environmental impacts and how that will affect the tribal people versus what the legal litigation risk is.

Senator DAINES. Thank you.

Mr. Nicholson, can you share an example of the Colville Tribe's working with Federal agencies on forest health projects and how giving the tribes more authority and flexibility could have improved those projects?

Mr. NICHOLSON. Absolutely. The two TFPA projects we were working on that both burned in the fire we had last year, if those projects had been completed, we may not have had as bad a fire or that landscape may have been much more resilient and able to handle that fire.

We believe your legislation will help strengthen our ability to get these things done through TFPA projects and the ability to 638 some of the responsibilities.

Senator DAINES. Mr. Chairman, thank you for allowing me to go over. This is all great information to hear. These are reasons why other provisions of the Tribal Forest Participation and Protection Act establish a move toward helping get more projects done faster, using tribal authorities, while at the same time and very importantly upholding environmental safeguards.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Daines.

Mr. Black, the Indian Health Forest Management Assessment Team, the group of experts tasked by the Intertribal Timber Council to review the status of tribal forests, released a report regarding the 2015 fire season and the conclusions reached by the team about the Interior Department's new Risk Based Wildland Fire Management Funding Allocation Model.

They concluded, "No information has been provided to tribes about the consequences of the model and the BIA and several other agencies are opposing the Bureau of Land Management's efforts to finalize the model."

Despite this Committee's repeated requests for information about the model, nothing has been forthcoming from the Department. Has the Indian Forest Management Assessment Team correctly characterized the BIA's opposition to the department model? Can you explain a bit about the concerns the BIA may have regarding the model?

Mr. BLACK. Let me say myself personally and Acting Assistant Secretary Larry Roberts are both involved and engaged in this process. We are working with the department to ensure that a

number of the tribal concerns presented to us, as well as our own concerns regarding the components of any formula for distribution, fully address the tribal needs, the cultural and economic impacts of any formula in the distribution for fire would have.

We are currently in that process and are working with the department as well as the Interagency Fire Executive Council within the department to come together and look at the different components of the formula. We are currently in the process of addressing that. We have not reached a final conclusion yet.

The CHAIRMAN. As I said in my opening statement and to include it in the record, Intertribal Timber Council Board Member Nicholson is here on the witness panel today. He wrote to Secretary Jewel in December 2015 regarding concerns about the policies. I think you called them deeply flawed in the letter.

The Council further went on to state, "The model is based upon a set of values that are severely biased to favor BLM assets and acreage at the expense of bureaus and tribes." Correct me if I am not saying this correctly.

"The values being used have little or no relationship to current and future risk from wildfires and fail to account for Federal trust responsibilities and fiduciary obligations to protect the trust corpus of Indian beneficiaries."

In light of this, how is the Department of Interior addressing these concerns about this risk based wildland fire management funding allocation model?

Mr. BLACK. As I stated earlier, we are fully engaged with this. The Interagency Fire Executive Council has been working over the past two to three months on all the components of the formula, taking into account the concerns of ITC and the other tribes engaged to make sure the values important to the tribes and that really address their concerns are being included.

The CHAIRMAN. What would happen today? If there was a fire today, how would the department protect tribal trust assets versus other competing priorities under the new model?

Mr. BLACK. Right now, the model has not been implemented. We would address any current fire based on severity, priority of any geographical region, just as we have in the past. Right now our tribal trust lands are always going to be a priority due to our trust responsibility.

The CHAIRMAN. Following up on that letter from December 2015, the Secretarial Order states, "protecting, conserving and restoring the health of the sage brush ecosystem and in particular, the Greater Sage Grouse habitat while maintaining safe and efficient operations is a critical fire management priority for the department. Allocation of fire management resources and assets before, during and after wildland fire incidents will reflect this priority as well as investments related to restoration activities."

The Order states that this effort will include enhanced use of veteran fire crews, among other assets, adds the Assistant Secretary of Indian Affairs as part of the Rangeland Fire Task Force established by the Order.

The Order, at best, I think makes the Sage Grouse first among equals in terms of priority for firefighter funding and assets. At

worst, it appears to prioritize the protection of Sage Grouse over many other vital priorities.

I guess the question is, will the BIA and the Department of Interior actually divert critical resources such as veteran fire crews away from tribal lands and communities to protect Sage Grouse habitat pursuant to that Order? Is that what this says?

Mr. BLACK. I do not believe that is exactly what that would say, Senator. Again, I think we would be looking at the severity of any fire, the priorities of our resources and the effects on any communities, protection of life, safety and property. All of those things would factor into any decision to where the resources would be distributed.

The CHAIRMAN. Mr. Nicholson, are you aware BIA has its own Wildland Fire Management Program with assets and staff to address and respond to the threat of wildfires on tribal lands and during such emergencies, all resources are often called upon to respond as needed?

Mr. NICHOLSON. The BIA is on our reservation and we have a pretty good team that fights fire on our reservation. They are pretty quick.

The CHAIRMAN. Have you seen examples where the BIA assets have actually been pulled away from existing wildfires on tribal lands to fight fires on non-tribal lands because as you said, they are there and come pretty quickly?

If there is a push, have you seen such situations where things have been pulled away and what happened with tribal resources?

Mr. NICHOLSON. Last year, we did see some resources leave the biggest fire we have ever had on our reservation and go to protect second homes at Lake Chelan. I think that was very frustrating for everyone at home to see that happen. I do not know if that was necessarily BIA resources. I think that was from the whole team.

The CHAIRMAN. According to the Indian Forest Management Assessment Team regarding the fire on the Colville Reservation, it says "It will take most of two years to salvage 30 percent of the total burned timber and the 550 million board feet of burned timber remaining will not be worth much."

According to the report "Seventy percent of the burned timber essentially will not make to market." The team recommended establishment of a rapid reaction fund for post fire salvage and restoration activities for the tribes impacted by the wildfires."

How would such a fund benefit the tribal and even non-tribal economies including loggers, forest product infrastructure, sawmills and anyone else impacted by the wildfires? What do you think of that?

Mr. NICHOLSON. I think it would help us get the resources to the mills much faster if we had a fund we can fall back on to do the studies, to make sure we are not doing anything wrong and to work with the other agencies.

The BIA did a good job helping us get the salvage sales out the door. They definitely were not the bottleneck at that time. I think one of our bottlenecks was our capacity. Anytime you add all the salvage sales we were trying to do, we did not have enough loggers, truckers or the infrastructure to get all the logs out of the forest.

Unfortunately, last year, many fires were happening at the same time. Many reservations and others were trying to get the same limited resources to get their salvaged logs to mills.

The CHAIRMAN. I appreciate all of you being here to testify, share your thoughts and ideas. The hearing record will be open for two weeks and members of the Committee may have additional written questions. If you receive those, I would appreciate it if you could get your answers back to us very quickly.

Thank you very much again to each of you for being here today.

This hearing is adjourned.

[Whereupon, at 3:35 p.m., the Committee was adjourned.]



## A P P E N D I X

### PREPARED STATEMENT OF DEE RANDALL, FOREST MANAGER, SAN CARLOS APACHE TRIBE

My name is Dee Randall. I am the Forest Manager for the San Carlos Apache Tribe ("Tribe"). Thank you for the opportunity to testify before the Senate Indian Affairs Committee on this very important topic.

The San Carlos Apache Reservation covers approximately 1.8 million acres of land in Arizona, with over 950,000 forested acres. Our ponderosa pine forests and woodlands are an important part of San Carlos' cultural traditions by providing the habitat for wildlife, water and numerous medicinal and ceremonial plants. The forests also play a vital role in the economic health of the Reservation through timber harvest and other commercial activity.

The Tribe began contracting Forest Management in 1992, and Fire Prevention and Fire Use in 1998 from the Bureau of Indian Affairs under PL 10-638. The Bureau of Indian Affairs has maintained responsibility for Fire Suppression.

The Tribe manages our resources as close to the natural ecological process as possible. With direction from our Elders Council, the Tribe has developed Four Traditional Guiding Principles used to manage our natural resources, based on Tribal Ecological Knowledge ("TEK"), which stems from Apache knowledge, experience, and observation of our living treasures. These principles include respecting all aspects of the natural world and acting to ensure the long-term health of the natural world. Protecting the long-term health of our forests is vitally important to achieving these goals.

Most importantly, this is also our home. However, our home is being neglected. The lack of resources devoted to tribal forests has created an environment where effective forest management and a robust, rapid response to wildfire are unfeasible. The current system of funding wildfire suppression and prevention is inverted and misguided. Year after year, tribal forest managers and federal land management agencies are forced to fight more intense and longer wildfire seasons. The current system of funding these disasters forces federal agencies to drain critical funding that should be dedicated to preventing wildfires and maintaining healthy forests. This creates a vicious circle; without proper funding for fire prevention activities, the forests are more and more vulnerable to catastrophic wildfires in the future.

#### **Wallow Fire**

The 2011 Wallow Fire illustrates the inadequate and disproportionate response to wildfires on tribal lands. The fire began in the Bear Wallow Wilderness area by an abandoned campfire. The U.S. Forest Service manages the Wilderness, and the Incident Management Team refused to order the firefighters needed to prepare the most defensible containment line, close to the reservation boundary. Firefighters were finally ordered once the fire came onto the reservation. By that time it was too late to prepare the best line of defense, forcing firefighters to back off for miles to the next defendable ridgeline. High-value commercial forest and Mexican Spotted Owl habitat were unnecessarily destroyed.

The Wallow Fire injured 16 people and cost the Federal Government \$79 million to contain. Federal restoration funding for the Wallow fire amounted to approximately \$39 million for the U.S. Forest Service, while the Tribe received a mere \$14,000. It is unacceptable that tribal forests are treated differently and at a disadvantage compared to other federal lands.

#### **Funding Disparities**

Tribal forests are significantly underfunded when compared to other federal lands. Inadequate funding hinders the Tribe's ability to assemble a local Incident Management Team to manage fires on Tribal lands.

Tribes are often criticized for not providing their "fair share" of personnel and funding to interagency efforts such as Incident Management Teams and dispatch centers. Cooperating agencies do not realize that underfunding leaves the Tribe

stretched thin just trying to manage their own lands. A true fair share would be a very small contribution if the relative funding allocation between agencies was used to calculate Tribe's proportion of fair share.

The 2013 Indian Forest Management Assessment Team (IFMAT) III Report (the statutorily required (PL 101-630, Sec. 312) decadal independent review on tribal forests and forestry) found that chronically insufficient funding and understaffing threatens tribal forests and communities. The IFMAT III Report notes, "Indian forests are receiving much less forest management funding per acre than adjacent forest land owners." BIA allocations to tribes average \$2.82/acre, while U.S. Forest Service lands receive three times the amount per acre (\$8.57/acre) and state forests in the western U.S. average seven times the amount per acre than tribal forests (\$20.46/acre). In addition to greatly reducing wildfire hazard on reservations, tribal land managers have seen forest thinning treatments result in increased water yields despite the current extreme drought situation. The Tribe supports the Report's recommendation for a \$100 million increase in funding for tribal forests to achieve parity with other federal forestry programs.

In addition, the current system for budgeting for wildfires is costing taxpayers, and comes at the expense of preventing wildfires and managing forests. The result in the repeated destruction of tribal forests. Under the current system, federal land management agencies must borrow from non-fire accounts when fire suppression costs exceed annual budgets. This practice of "fire borrowing" prevents tribal forest managers and federal land agencies from doing needed hazardous fuels removal or timber harvests, which in turn create an environment ripe for catastrophic fires.

In the mid 1980s, 70 percent of the Forest Service's budget was dedicated to managing the national forests—thinning, timber harvesting, and removing hazardous fuels, all of which helped prevent disastrous wildfires. Today, only 30 percent of the budget is spent on these activities.

#### **Staffing/Southwest Fireland Program**

Interagency coordination is not adequately addressing firefighting or forest management staffing needs, on or off the reservation. The Southwest Wildland Fire Fighter (SWFF) Program is one of the largest firefighter programs in the country, covering Arizona, New Mexico, the Oklahoma panhandle and western Texas. SWFF activities represent a cooperative effort between the Bureau of Indian Affairs (BIA), Bureau of Land Management, Fish and Wildlife Service, National Park Service, and US Forest Service (USFS). SWFF crews are managed by the Southwest Coordination Center (SWCC) and the National Interagency Coordination Center (NICC).

Wildfire Management (WFM) appropriations are funded in the annual Interior, Environment, and Related Agencies appropriations bill. USFS and the Department of the Interior (DOI) are the primary supervisory agencies receiving WFM appropriations. USFS traditionally carries out wildfire response in national forests and national grasslands, and DOI traditionally carries out wildfire response in national parks, wildlife refuges and preserves, and Indian reservations, and other public lands. A majority of WFM appropriations goes to the Forest Service, receiving on average 75 percent of total WFM appropriations.

Three major subaccounts receive the bulk of the appropriations: preparedness, suppression, and hazardous fuels reduction. Funding for firefighting equipment and supplies, as well as personnel to manage the SWFF Program, is drawn from Preparedness funding. Training of SWFF personnel is funded entirely through the Suppression Account. While budgets for management, training and equipping SWFF crews are being cut nationally and across the board, these cuts disproportionately harm the SWFF Program and the tribal communities that it serves.

Families living on the San Carlos Apache Reservation rely heavily on the jobs provided by the SWFF. The San Carlos Apache Tribe has an unemployment rate of approximately 70 percent in a community of approximately 10,000 people. In 2012, there were 347 firefighters from San Carlos dispatched on SWFF crews, bringing home \$1.1 million in income to our community. In addition to firefighter and support staff salaries, these crews supported local food vendors and other service providers, bringing in approximately \$25,000. These are significant and vital contributions to the economy of our community.

Historically, 600 firefighters from San Carlos were trained to respond to fires across the region as part of Interagency Hotshot crews. Funding cuts in the last decade have brought that number down to approximately 50 trained personnel from San Carlos. Budget cuts allow for only short-term employment contracts consisting of 13 pay periods per season. It is nearly impossible to train and retain professional firefighters under these circumstances, and our tribal forests are suffering due to an inability to retain quality first responders. Positions are also being left unfilled across Indian country. The Tribe has been without a qualified local fire commander

for years, hampering our ability to react to wildfire situations quickly and efficiently.

The Federal Government has an obligation to maintain funding for our SWFF Program in order to meet its trust responsibilities. While overall fire budgets are shrinking, we are already funded significantly and shockingly less than our neighboring federal land management neighbors and partners. The current low funding levels that we are now experiencing already render maintaining our SWFF Program precarious at best, and make maintaining firefighter safety a challenge. Further cuts put our firefighters at real risk in an already dangerous job, but make maintaining our SWFF Program impossible.

The IFMAT III Report acknowledges that 800 additional BIA Forestry positions are needed, and essential existing positions are going unfilled. The Tribe supports the \$12.7 million increase proposed in the Report to create a program to attract, train, and retain qualified firefighters and forestry staff with BIA Forestry Programs.

Additionally, insufficient personnel constrain BIA Forestry's ability to process the annual timber harvest levels set by tribes. In FY 2014, tribal timber harvest benefits were 60 percent below what should have been realized, costing tribes \$41 million in lost revenue and a loss of over 15,000 jobs. Harvest targets are not being met, tribal forest health is suffering, and economic opportunities are being lost throughout Indian Country.

#### **Forest Management/Hazardous Fuels Reduction**

Resiliency and culturally competent management practices must be at the forefront of efforts to protect tribal forests. At the same time, we must prioritize investments in precommercial thinning and hazardous fuels reduction operations. Such functions will keep tribal forests healthy and resilient, and will prevent wildfires and associated environmental and economic consequences.

The BIA funds project work for thinning excess small trees while the Interior Department—through the WFM—funds hazardous fuels treatments which reduce both dead and live fuels. However, both the BIA funding for Fuels Management and the Interior Department's WFM appropriation are insufficient to reduce the Department's fuel backlog and allow for sound fire suppression efforts. Interior's Office of Wildland Fire—Fuels Management Program suffered significant budget cuts in FY11, which have not been recovered. The program must be restored to the FY10 level of \$206 million to reduce future costs of suppression and allow tribes to engage in proactive fuels and forest health projects.

#### **Road and Access Issues**

Frequently fire crews are unable to access fires due to a lack of usable roads within tribal forests. Federal appropriations for the BIA Road Maintenance Program have averaged only \$24.3 million annually for the last 30 years; an amount wholly inadequate to properly maintain 29,500 miles of BIA System roads, 17,950 miles of Tribally-owned roads and 930 BIA- and Tribally-owned bridges. Tribes across the country face chronic underfunding for roads and bridging, situations that create life-threatening conditions for first responders, firefighters, and those in the path of major fires.

#### **Recommendations to Improve Tribal Forests**

To address the shortfalls and concerns highlighted above, the Tribe supports the following existing federal legislative proposals.

##### *Wildfire Disaster Funding Act*

The Tribe joins the Intertribal Timber Council (ITC) in support of the Wildfire Disaster Funding Act (S. 235 and H.R. 167) to correct the current imbalance in funding wildfire suppression, which impedes funding for fire prevention and forest management.

To help restore and protect funding for fire prevention and forest management, Rep. Mike Simpson (RID) and Senator Ron Wyden (DOR) introduced the Wildfire Disaster Funding Act (H.R. 167 and S. 235 respectively). These bills would treat the most disastrous wildfires—which make up only 1 percent of fires, but 30 percent of the fire suppression costs—similar to other natural disasters such as floods, tornados, and hurricanes. The Federal Emergency Management Agency (FEMA) addresses these disasters pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985. H.R. 167 has 147 bipartisan cosponsors. S. 235 has 21 bipartisan cosponsors. While I realize that S. 235 has not been referred to the Senate Committee on Indian Affairs, I urge all Members of the Committee to cosponsor and help move this important bill.

*Full Implementation of the Tribal Forest Protection Act*

The Tribe joins the ITC in supporting the full implementation of the Tribal Forest Protection Act (TFPA) (P.L.108-278). The TFPA authorizes the Secretaries of Agriculture and Interior to give special consideration to tribally proposed Stewardship Contracting or other projects on Forest Service or BLM land bordering or adjacent to Indian trust land to protect the Indian trust resources from fire, disease, or other threat coming off of that Forest Service or BLM land. Congress enacted the TFPA in 2004. However, the Administration is only recently beginning to truly implement the provisions. I urge the Committee to increase oversight of the TFPA and to work with the Administration to ensure that this important law meets the stated goal of empowering tribal forest managers to protect nearby federal forest lands, which will in turn protect precious tribal trust resources.

*Resilient Federal Forests Act*

The Tribe also supports provisions in H.R. 2647, the Resilient Federal Forests Act, which passed the House and has been referred to the Senate Committee on Agriculture. Title VII of the bill addresses tribal forestry needs by amending TFPA and creating a tribal forest management demonstration project. The bill also amends Section 305 of the National Indian Forest Resources Management Act (25 U.S.C. 3104) to create a system whereby tribes can request that certain Federal forest land be treated as Indian forest land for the purposes of planning and conducting forest land management activities. The common sense proposals included in Title VII will empower tribal forest managers, and protect tribal trust resources. The Tribe also supports S.3014, the Tribal Forestry Participation and Protection Act. Among other beneficial provisions, the legislation authorizes the Secretaries of the Interior and Agriculture to treat Federal forest land as Indian forest land for the sole purpose of expediting forest health projects on federal lands that have a direct connection to the tribe. This would allow for more streamlined resource management across tribal and non-tribal forests. I urge the Committee to advance these measures either as a separate stand-alone package or as part of larger federal forest legislation that is scheduled to move this year.

If enacted, all of the above referenced federal proposals would greatly improve funding methods nationally, help address the disparities in funding tribal forests, and better empower tribal governments to manage our forests.

**Conclusion**

The Tribe and the Forest Service share a common vision of creating a healthy forest. The Tribe is surrounded by Forest Service land and “The vision of 4FRI (4 Forest Restoration Initiative, a federally funded Restoration project) is restored forest ecosystems that support natural fire regimes, functioning populations of native plants and animals, and forests that pose little threat of destructive wildfire to thriving forest communities, as well as support sustainable forest industries that strengthen local economies while conserving natural resources and aesthetic values”. Our original homelands are now part of Coconino, Tonto, Apache-Stigrales and Coronado National Forest. The four-strand barbed wire fence will not hold back wildfires, rain, insect and diseases or other pathogens. We need to work together for a healthy forest watershed for future generations.

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PREPARED STATEMENT OF LYDIA WEISS, DIRECTOR OF GOVERNMENT RELATIONS FOR  
LANDS, THE WILDERNESS SOCIETY

Thank you for the opportunity to testify on S. 3014, the Tribal Forestry Protection Act, by Senator Daines. On behalf of our 500,000 members and supporters, we offer the following testimony on the legislation.

S. 3014 requires significant modification in order to ensure that it fulfills its purpose of protecting Tribal resources, furthering restoration of national forest land adjacent to Tribal land, and not inadvertently affecting other uses of national forests. Necessary improvements include:

- Eliminating or modifying the “purposes” section which emphasizes Federal land management, not protection of Tribal land and resources.
- Clarifying the geographic scope of national forest land affected by the legislation. The introduced bill covers “a geographic area that presents a feature or involves circumstances principally relevant to that Indian tribe.” This language is incredibly broad and ambiguous.
- Requiring that forest management carried out under the bill:

- be focused on restoration of national forest land, as defined in 36 CFR 219.19;
  - retain old growth and large trees that further fire resiliency;
  - be based on the best available science;
  - not construct permanent roads and decommission permanent roads within three years.
- Clarifying that the Secretary of Agriculture and Secretary of the Interior retain the sole authority to ensure compliance with Federal environmental laws.
  - Clarifying that the Forest Service administrative objection process applies to projects under the Act.
  - Clarifying that the Act does not affect recreational use of public land.
  - Clarifying section 4, which is ambiguous, and difficult to comprehend. This will include clarifying specifically which authority may be delegated to a Tribe, and which authorities may not. The authority to ensure compliance with Federal environmental law, and manage activities not related to forest restoration may not be delegated. This section requires significant sideboards.

We appreciate your consideration of these comments. Thank you again for the opportunity to testify.

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PREPARED STATEMENT OF THE LAKE COUNTY COMMISSIONERS

Dear Committee Members:

The Lake County Commissioners, elected officials in Lake County, Montana with offices in Polson, MT, offer the attached comments for the record on S.3014 "The Tribal Forestry Participation and Protection Act of 2016. This Act seems to broaden tribal opportunities to plan and manage forest lands in our region. It does little to ensure local tax revenue, local employment opportunities, and local or regional economic growth or sustainable development for non-tribal and tribal businesses on or off the reservation.

If passed it will have an enduring effect on all Lake County citizens, tribal and non-tribal. After initial review of the proposed legislation, the Lake County Commissioners have significant reservations regarding some of the language contained in the act, and issues, or problems, arising from the same.

Attached is a draft summary of comments that we desire to have included in the record of testimony before the United States Senate Committee on Indian Affairs.

Please contact us if you have questions regarding our comments. We look forward to being involved in future discussions of this important legislation.

Lake County, a political subdivision of the State of Montana, submits these initial comments on S.3014, "The Tribal Forestry Participation and Protection Act of 2016". These issues are significant and more detail can be provided subsequent hereto, including suggested amendment language.

S.B. 3014 we believe creates numerous problems for local government units. It raises questions about opportunities for local jobs and revenue for local individuals and government units such as schools, roads, fire districts and counties.

In particular we would suggest:

- 1) Amend your Section 3, page 3 of 8, Section (C) (1) Purpose (B) to include language 1) that eliminates reductions to State or local tax revenues from this program, and 2) that ensures local access to employment or jobs without tribal hiring preference and 3) that ensures local contractors, etc. obtain work by eliminating tribal company preference for contract work done under this act.
- 2) Amend Section 3 on Authority "A" and Section '4 Requirements', both on page 5 of 8, to ensure that the action including "planning and conducting forest land management activities" is conducted in accord with existing "R M P" or "National Forest Plan" in effect or transition at the time the agreement with a Tribe is made. This matters to local government units as consistency with local plans is not required of tribal resource management plans, but is required of federal agency plans.
- 3) This is further complicated by paragraph 7, page 7 of 8, defining "Forest Management Plan" part 3 of 25 USC 3103, that definition of "Forest Management Plan" include "reflecting and consistent with a tribal resource management plan which provides for regulation" etc. while "meeting the objectives of the tribe." There is no mention of State or local land use or Resource Plans, no discussion of consistency, and no discussion of meeting local and or state objectives. We believe that there should be.
- 4) This is of greater concern since paragraph 7, page 7 of 8 specifies "All forest land management activities, conducted per definition 2 A b, page 4 of 8, are completed in respect to parts C, D, and E of the definition §3103(4). This cuts out local governments and leaves many problems such as:
  - 1) Who gets the fire equipment purchased?
  - 2) Who gets the jobs and employment?
  - 3) What mills or factories get the product "sustainably" produced?
  - 4) Who gets the reclamation work?
  - 5) What tax revenue gets paid?

- 6) Will available work contracts, subsequent labor, and jobs created or existing be tribal preference? Paragraph 4 of page 6 of 8 on timber "sold on a competitive bid" does not ensure who gets the product or other associated employment or revenue.
- 5) Paragraph 6 Consultation", page 6 should be broadened to include language that cites for example:
  - a) 36 CFR 221.3(a)(1) requiring the agency to consider community stability in its processes.
  - b) 36 CFR 219.7(f) requiring monitoring programs to determine effects on local communities.
  - c) 43 CFR 1610.3-1©(1) providing guidance to BLM employees "consistent as possible with existing plans, policies or programs of other state agencies, Indian Tribes and local governments that may be affected."
  - d) The sections of 16 USC relating to local government plans and economies
  - e) The Federal statutes attached should also be referenced as these provide local government and the state with an opportunity to participate.
- 6) Language on personal property taxes should also be included. Equipment that is utilized in this work may or may not be taxable by the state of local government, but we believe for this work it should be, such that tribal member owned is treated equally with all other persons.

These comments are not complete due to our not having a copy of the amendment but are a start for the record, of significant issues that need to be addressed.

SOIL AND WATER RESOURCES CONSERVATION ACT

16 U.S.C. Section 2003(b)

"Recognizing that the arrangements under which the federal government cooperates through conservation districts with other local units of government and land users have effectively aided in the protection and improvement of the nation's basic resources, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable"

16 U.S.C. Section 2008

"In the implementation of the Act, the Secretary [of Agriculture] shall utilize information and data available from other federal, state and local governments."

RURAL ENVIRONMENTAL CONSERVATION ACT

16 U.S.C. Section 1508

"The Secretary [of Agriculture] shall, in addition to appropriate coordination with other interested federal, state, and local agencies, utilize the services of local, county, and state soil conservation committees."

RESOURCE CONSERVATION ACT OF 1981

16 U.S.C. Section 3411 (5)

Congress finds solutions to "chronic erosion-related problems should be designed to address the local social, economic, environmental, and other conditions unique to the area involved to ensure that the goals and policies of the federal government are effectively integrated with the concerns of the local community .... "

16 U.S.C. Section 3432

"The local unit of government is encouraged to seek information from and the cooperation of ... (2) agencies of the Department of Agriculture or other federal agencies ...."

16 U.S.C. Section 3451

"It is the purpose of this subtitle to encourage and improve the capability of state and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development."

16 U.S.C. Section 3455

"In carrying out the provisions of this subtitle, the Secretary [of Agriculture] may (2) cooperate with other departments and agencies of the federal government, state, and local units of government and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans ...."

16 U.S.C. Section 3456 (a)(4)

The Secretary of Agriculture may provide technical and financial assistance only if "the works of improvement provided for in the area plan are consistent with any current comprehensive plan for such area."

CROW TRIBE OF INDIANS  
May 16, 2016

Dear Senator Daines:

I am writing, on behalf of the Crow Tribe, to express our support for the Tribal Forestry Participation and Protection Act of 2016 (the "Act"). The Act appears to present an improvement over existing federal legislation, which would more than likely present a "win-win" situation for all parties involved in the administration and management of tribal and federal forests by streamlining the process, providing clear deadlines for approval and denials of tribal proposals, and overall providing additional opportunities to tribes interested in managing forests to which they are culturally and historically connected.

The Crow Indian Reservation, located in southeastern Montana between Billings and Sheridan, Wyoming, covers an area of over 2,226,000 acres. The Tribe, in conjunction with the Bureau of Indian Affairs (BIA), cooperatively manages approximately 27,395 acres of managed forestland, 19,627 acres of woodlands, and over 60,000 acres of tribally reserved forest.

The Crow Tribe knows that tribal management of tribal forests is not only best practice, but an important expression of our tribal self-determination. It enhances our ability to stimulate the local tribal economy and provide employment opportunities, and income, for the Tribe as well as individual tribal members. The Act serves to provide additional opportunities to perform the above by authorizing tribal contracts with the federal government to manage federal forests within their former homelands as tribal forests.

As you are likely aware, according to the 2013 Indian Forest Management Assessment Team Report to Congress, Tribes have proven they are more capable of carrying out active forest management than their similarly situated federal counterparts. Specifically, the report indicated that Tribes were able to accomplish more, on their forests, with far less funding, than other federal managers, even while complying with the same federal laws that national forests are currently subject to.

As such, the Crow Tribe is happy to send this letter in support of the Tribal Forestry Participation and Protection Act of 2016.

Sincerely,

DARRIN OLD COYOTE, CHAIRMAN.

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 TRIBAL COUNCIL OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
*May 5, 2016*

Dear Senator Daines:

I write on behalf of the Tribal Council of the Confederated Salish and Kootenai Tribes in support of the Tribal Forestry Participation and Protection Act of 2016. As you know the Tribes manage forest resources on the Flathead Indian Reservation, along with many programs formerly operated by the United States. The Tribes promote keeping Indian forested land and nearby Federal forest land healthy by fostering greater cooperation between the Tribes and the Departments of Agriculture and Interior.

The proposed Tribal Forestry Participation and Protection Act of 2016 will provide additional opportunity for the Confederated Salish and Kootenai Tribes to manage culturally and geographically related Forest Service lands previously ceded by Treaty with the United States and to foster greater cooperation between the Tribes and the Departments of Agriculture and Interior. We understand there are some additional and fairly minor definitional changes being contemplated. As we understand those changes, we are comfortable with them.

We appreciate your efforts in supporting this legislation and look forward to working with you and your colleagues to ensure its swift passage.

Sincerely,

VERNON FINLEY, TRIBAL COUNCIL CHAIRMAN.

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 INTERTRIBAL TIMBER COUNCIL  
*May 17, 2016*

Dear Senator Daines:

On the behalf of the Intertribal Timber Council (ITC), I am writing to express the ITC's support for your legislation, the "Tribal Forestry Participation and Protection Act of 2016." This legislation will improve the ability of Indian tribes and the United States to protect tribal trust forest assets by establishing more certainty in the consideration and implementation of the 2004 Tribal Forest Protection Act (TFPA). Your bill will also allow tribes to more effectively participate in the holistic, active and landscape-based concepts that are increasingly guiding today's forest management activities. And your bill will enable tribes to directly conduct approved TFPA projects. All of these authorities are to be exercised working with and through the Secretaries of Agriculture and Interior.

Within the family of federal forests, and perhaps within the family of all American governmental forests, Indian forestry brings unique perspectives and capacities to forest management, and particularly the management of federal forests. Our forests are managed by and for our tribes, and our long history and experience of living in concert with the natural landscape informs and guides how we manage our forests both for today and far into the future. Indian forests are held in trust for our benefit by the United States, requiring the highest standard of fiduciary care by our federal trustee while also placing our forests within the broad scope of federal law. Pursuant to statute, tribal forests are also the only federal forests, and perhaps the only governmental forests in the United States, to be the subject of mandatory decadal independent reviews and assessments.

Management of Indian forests today is principally conducted under the National Indian Forest Resources Management Act of 1990, the most modern and flexible federal forest management law. In addition to its management provisions, the law directs the Secretary of the Interior to provide for the conduct of independent reviews and assessments of Indian forests and their management every ten years. To date, three Indian Forest Management Assessment Teams (IFMATs) have conducted their reviews and issued their reports (IFMAT reports of 1993, 2003 and 2013). These reports have consistently found that the U.S. underfunds and inadequately fulfills its fiduciary obligations for Indian forestry, but that tribal forest management nonetheless facilitates innovative and integrated forestry practices. The reports further find that Indian forestry has the potential to provide models for sustainable forestry and resource management, and that the influence and techniques of Indian forestry can find application on the federal forest estate.

Senator Daines, your legislation draws upon and enhances these unique aspects of Indian forestry. It strengthens the federal trust protection of tribal forests by providing tribes a clearer and timelier path for addressing fire, health and other con-

cerns on adjacent federal forests. It will allow tribes and the Secretaries of Agriculture and Interior, working in conjunction on a demonstration basis, to explore the potential benefits of applying tribal forest management on adjacent federal forests. Your legislation will also help alleviate burdens on federal forest managers by enabling tribal governments to apply their capabilities in the conduct of Tribal Forest Protection Act projects.

We believe that, as the concepts and practices of forest management broaden across the landscape, the protection and participation your legislation affords Indian tribes are sensible and offer new, innovative and beneficial opportunities for all parties. We thank you for your sponsorship of the Tribal Forestry Protection and Participation Act of 2016, and look forward to working with you and your Senate colleagues to advance this legislation.

Sincerely,

PHIL RIGDON, PRESIDENT.

BLACKFEET TRIBE  
*May 16, 2016*

Dear Senator Daines:

The Blackfeet Tribe supports the Tribal Forestry Participation and Protection Act which will greatly assist in fostering cooperative forestry management and planning on Tribal and Federal forest lands. The Tribe appreciates Senator Daines efforts to bring about such cooperation which will significantly increase protections for Tribal forest lands.

Sincerely,

HARRY BARNES, CHAIRMAN

