

**PENDING PUBLIC LANDS, FORESTS, AND MINING
LEGISLATION**

HEARING
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS,
FORESTS AND MINING
of the
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

ON

S. 132

S. 326

S. 1691

JULY 16, 2015



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The text for each of the bills which were addressed in this hearing can be found on the committee's website at: <https://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=B054D01C-6EDB-4662-B224-808F4F932A66>

PENDING PUBLIC LANDS, FORESTS, AND MINING LEGISLATION

Thursday, July 16, 2015

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:35 pm in Room SD-366, Dirksen Senate Office Building, Hon. John Barrasso, Chairman of the Subcommittee, presiding.

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

Senator BARRASSO. The Subcommittee will come to order.

The purpose of today's hearing is to receive testimony on three bills all on the important topic of forest management.

For decades our national forests and our rural and forested communities had a mutually beneficial relationship, largely focused on timber production. It created good paying jobs to support families. It reduced wildfire fuel loads and created wildlife habitat. It generated income that could be shared with communities to provide such essential services as roads, schools and law enforcement.

This all began to change in the late 1980s and 1990s. Across the United States timber harvests from Federal forested lands fell by more than eight billion board feet, a decline of more than 80 percent. This abrupt drop in production levels was the result of numerous constraints on harvesting timber, including timber sales litigation and the listing of threatened and endangered species.

Mills shuttered their operations and timber processing capacity in Wyoming and in other Western states was lost. Our once vibrant rural and forested communities were no more. Populations declined, schools closed and double digit unemployment became the new normal. The few mills that were able to survive continue to struggle to keep going given the uncertainty of supply.

I would like to welcome Jim Neiman, one of these mill owners, headquartered in Hulett, Wyoming, to the Committee.

We now have rural and forested communities across the West dependent upon Federal subsidies like Secure Rural Schools to provide basic services. Secure Rural Schools subsidies are not sustainable nor are they the long-term solution that rural counties need.

Reducing timber production also negatively impacted the health of our forests. The lack of active forest management coupled with a policy of fire exclusion created the perfect storm for catastrophic, unnatural wildfire. According to the Forest Service between 62 and

82 million acres are in need of treatment and at risk of catastrophic wildfire. That is over 40 percent of the entire national forest system and the number is growing.

I am not suggesting we turn back the clock to the so-called timber heydays. That is not realistic, but we cannot allow the status quo to continue. Congress must act for the health of our forests and for the survival of our communities. A number of actions are necessary.

We hear most often about the escalating costs of wildfire suppression and how year after year the agencies are forced to tap existing non-fire accounts. Congress must end the practice of fire borrowing. We cannot continue borrowing money to fight fires from the very accounts that help reduce the risk and the cost of wildfire. Instead, Congress must responsibly budget for wildfire management without resorting to budget gimmicks. The Senate Interior Appropriations bill provides a fiscally responsible approach that ends fire borrowing. I commend Senator Murkowski for advancing a reasonable solution on this difficult issue.

To be clear, our forest management problem is not simply a fire budgeting or money problem. It is a prioritization problem. Right now I see no higher priority for the Forest Service than treating our forests to make them healthy again. Treating our forests is the best medicine we have to reduce fire risk, to bring down the cost of fighting fire over time and to continue to provide recreation, clean water and quality habitat for wildlife. It is the only sustainable way to provide the jobs and economic activity our rural and forested communities desperately need.

My bill, S. 1691, makes treating our forests the priority it needs to be. Congress must help the Forest Service get treatments implemented at the same pace and scale fire and other disturbances are occurring.

A 2007 Forest Service NEPA Feasibility Analysis determined that the best estimated average for environmental review cost was \$365 million a year. In addition to the excess costs, these environmental reviews take far too long to complete, if they are completed at all. The Forest Service estimates that, on average, it takes over three years to prepare an environmental impact statement and nearly two years to prepare an environmental assessment.

Given the crisis situation in our forests this is wasted time, wasted taxpayer money and wasted staff hours that we cannot afford to spare. Excessive environmental analyses are only a lightning strike away from hurting, not helping, our national forests.

My bill would restore rationality to the NEPA process without eliminating environmental reviews or public involvement. It also provides categorical exclusions for certain types of needed forest projects to get them implemented more quickly.

To further address the ever present threat of litigation, the bill offers arbitration as an alternative dispute resolution tool. The use of arbitration by the Secretary would be totally discretionary and limited in scope.

S. 1691 would also deter extraneous lawsuits by requiring a bond to be posted covering the cost of the Forest Service to defend the lawsuit. This may seem harsh to some, but it has existed on tribal lands without incident.

I am hopeful we can work together, this Committee and this Administration, to enhance the legislation and end the status quo. The very health of our forests, our watersheds, our wildlife and our communities depend on it.

I also want to briefly touch on the other bills we have on the agenda.

S. 132 is Senator Wyden's Oregon and California Lands bill. I know that resolving the challenges associated with the management of the O and C lands is something that Senator Wyden is very committed to.

I do have some concerns with the bill as drafted. My concern is that it locks up nearly a million acres in various land conservation designations including wilderness, and I also understand it lacks the support from the local communities. I do want to work with Senator Wyden on O and C, and I am hopeful we can get there.

We also have S. 326, Senator Flake's Stewardship End Result Contracting Act. This Committee, in the 113th Congress, reported out S. 1300 which reauthorized and made improvements to the Stewardship Contracting Authority. The 2014 Farm bill included many of the provisions of S. 1300 but did not incorporate the cancellation ceiling modifications. Senator Flake's bill would address that issue. It is a bipartisan bill, and I am glad that we could include it in the hearing today. Senator Flake is chairing a hearing in the Foreign Relations Committee at this time and is unable to attend the hearing, so I ask unanimous consent that his statement be entered into the record.

With no objection, it is so ordered.

[The information referred to follows:]

Senator Jeff Flake
Statement for the Record
Energy and Natural Resources Subcommittee on Public Lands, Forests and Mining
Hearing on Various Forestry-Related Bills
July 16, 2015

I am pleased to have introduced S.326, the Stewardship End Result Contracting Improvement Act. Stewardship contracting allows the Forest Service and the Bureau of Land Management to treat forests, reduce fuels, and protect communities in a cost-effective manner by paying for services with products that the treatment projects harvest from the forest. S.326 has bipartisan sponsorship, including five members of this committee: Senators Barrasso, Daines, Gardner, Heinrich, and Risch; as well as Senators Bennet, Crapo, Enzi, Heller, McCain, Tester, and Udall.

The improvements to current stewardship contracting contained in this bipartisan bill address the obligation of funds for cancellation ceilings. A cancellation ceiling is the maximum amount of money an agency would be required to pay to a contractor in the event the government cancels a contract. In general, an agency must set aside the full amount when it signs the contract. A 2008 GAO report found that this requirement serves as an impediment to long-term landscape-level stewardship contracts – precisely the type of contracts that are most effective at reducing wildfire threats in a fiscally responsible manner.

S. 326 would allow agencies to set aside cancellation-ceiling funds “in stages that are economically or programmatically viable.” The bill would also require that any excess stewardship payments first be used to satisfy outstanding cancellation-ceiling liabilities. In 1998, then-acting director of OMB Jack Lew advocated cancellation ceiling flexibility for Energy Savings Performance Contracts. Additionally, the Department of Defense similarly uses multiyear cancellation-ceiling flexibility to enter into large contracts without immediately setting aside the full amount.

Last year the committee favorably reported by voice vote S.1300, The Stewardship Contracting Reauthorization and Improvement Act. Many of its provisions were incorporated into the 2014 Farm Bill (PL 113-79). This act contains those provisions that remain unaddressed legislatively. The House has also recently passed H.R.2647, the Resilient Federal Forests Act of 2015, Section 5 of which contains nearly the same language as S.326.

Arizona has witnessed the benefits of stewardship contracts and they have proven to be a valuable tool throughout the country. This act would continue to make improvements to the stewardship contracting program facilitating long-term large projects.

Senator BARRASSO. With that, I want to thank our witnesses for being here, and turn to Senator Wyden for his opening remarks.

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN Thank you very much, Mr. Chairman. I very much appreciate your holding the hearing, your typical courtesy with respect to Oregonians.

We have two witnesses here. I guess they are the Steves, Steve Ellis and Steve Swanson. Mr. Swanson, his mill burned down. He is rebuilding. It seems to me it is almost a microcosm of the challenge: rebuilding a mill, providing good paying jobs in rural areas in a tough, global economy. So we are really glad to have both the Steves. Steve Swanson, I think, personifies part of the picture that we are going to hear more about in the days ahead about how tough it is to compete in this tough, global economy.

Two quick comments with respect to issues that Chairman Barrasso touched on.

First, we authored the Safety Net Program in this room. This room saw that enacted in 2000. My own view is, and we have asked in the past for agencies to give us numbers to this effect, that the challenge in the days ahead is going to require both of these programs. There is no conceivable strategy and the Chief is here and he is nodding. Let the record show that the Chief started to nod. [Laughter.]

Senator WYDEN. There is no conceivable strategy where you get the harvest up so high that there is no need for a safety net, so my hope is that we can increase the harvest in a sustainable manner and also continue a program that began in this room in a bipartisan way. That is the Safety Net program. I just look at the numbers, and I do not see how we are going to be able to meet the needs of rural communities without both. That is point number one.

Point number two, picking up on something you and I have talked about, Mr. Chairman, increasing the harvest in a sustainable way is a hugely important forest health issue. Gosh do we need this right now, because we are looking at the prospect all over this country of a devastating fire season. It is incredibly dry. It gets hot. You have a lightning strike in our part of the world, and all of a sudden you have an inferno on your hands. It has produced a lot of other things like fire borrowing which Senator Crapo and I with 250 organizations are trying to stop. I am very much looking forward to this kind of discussion both as it relates to increasing harvest while we also have the safety net and the forest health issue.

A few comments with respect to the O and C land which, of course, is overseen by the Bureau of Land Management.

My constituents want a balanced solution, and they think it is urgent. As of today there is only one bill out there, one bill, on this subject, and that is the bill that we are going to be discussing today.

The bill applies updated forest management practices to about 2.8 million acres of truly unique O and C lands in my state. They have a story rich in history going back to the turn of the last cen-

tury with a highlight being the 1937 O and C Act which puts together, what we consider to be, sort of, a checkerboard of public lands mixed in with private lands across 18 Oregon counties. The lands are now managed under the 1994 Northwest Forest Plan. Obviously the landscape has changed plenty in the last 20 years, but over the last 20 years we still have some of the same concerns. We are still concerned about the harvest; we are still concerned about watershed health, wildlife habitat, wildfire prevention; and, our mills and the counties that host O and C lands are waiting for Federal, land-based logs and the revenue they generate.

This legislation we are going to discuss today, in my view, is going to jump start local economies, create certainty for mill owners in rural communities and lock in protections for some of Oregon's most treasured protections that almost every resident I see would like to protect. The legislation was originally introduced in 2013 after working with people from the timber industry, environmental leaders, scientists, and others. So it is, at least in my view, a place to begin to try to find common ground, identify the problems and find balanced solutions.

The bill protects 1.6 million acres as conservation emphasis areas as well as safeguards old growth trees and riparian protections. At the same time it designates about 1.2 million acres as forestry emphasis areas which will lead to a sustainable harvest of approximately 400 million board feet of timber a year for 50 years. We have worked with the Forest Service and the BLM on it, so we would like them to testify on that point today.

Over the past two years we have gotten a lot of feedback dealing with an issue like this. There are folks on the environmental side who say it cuts too much, and the people in the logging industry who say it doesn't cut enough.

My own view of tough natural resources issues, and the Chairman knows we've dealt with a lot of them in this room, is that in a tough contentious debate about natural resources nobody gets what they want. Nobody gets what they believe they ought to have. The question is can they get enough to essentially meet their needs? That is what we have sought to do in this legislation that we are considering today.

Unlike other forestry proposals, my approach would not only double the harvest compared to the average harvest over the last decade: it protects lands for conservation and bedrock environmental laws such as the Endangered Species Act. The best forestry scientists in the Northwest, Jerry Franklin and Norman Johnson, who know the woods about as well as anybody on the planet, have given us invaluable counsel on it.

We understand that it is not going to be unanimous when you take a vote on something like this, so we are continuing to have discussions with all concerned: forest products officials, conservation groups, local governmental leaders and recreational interests. Ideological extremes are not going to get the rural West and rural Oregon to a solution.

Without compromise our forests are going to continue to remain locked up due to lawsuit, after lawsuit. Management will be stalled, and the health of forests will continue to diminish. So my take on the bill we are going to discuss today is that it is

a true compromise. A compromise that can save jobs and create more. A compromise that gets you a reliable harvest. A compromise that gets you 87,000 acres of wilderness and provides the first ever legislative protections for old growth, O and C old growth, and O and C streams.

It also provides an opportunity to manage the forests sustainably and responsibly so we can enjoy them for generations. As the Chairman correctly said, my state and the rural West is not going to go back to the days of billion board foot clear cuts. The country does not want that. Rural communities do not want it.

It is time to take the management of forests out of the courtroom and put it back into the hands of forestry and conservation professionals. We are going to rely on the best available science. We want a bipartisan approach. We want a collaborative approach. The legislation we will discuss today starts us down the path.

Mr. Chairman, if I can just begin the apology-arama, the key plane to get to Oregon where I have to be in the rural part of the state to discuss what we are going to do about fire borrowing and the issues we are going to be talking about today leaves not too long from the time our friends have finished testifying, so I want to apologize in advance about the bad manners.

Westerners always know more about plane schedules. I am looking at Senator Heinrich and my colleague from Montana, why we know more about plane schedules than anybody around is simply because of the challenge of getting home, for example, at rural town meetings in Lake View and places like that, Steve. So I want to apologize to our guests for bad manners.

We are going to work very closely with you. The Chairman wants to work on this issue intensively, and I think that is very constructive. I look forward to doing it.

Thank you, Mr. Chairman.

Senator BARRASSO. Well, thank you.

Just following up on your comments, Senator Wyden, and those of us from the West try to get home just about every weekend and I know we are going to try to do it again this weekend. It is close. It is Frontier Days in Cheyenne, so I am looking forward to the Daddy of them all.

With that we have people here to testify, witnesses. Mr. Thomas Tidwell, Chief of the U.S. Forest Service; Mr. Steve Ellis, Deputy Director of Operations for the Bureau of Land Management; Mr. Mike Matz, the Director of Public Lands for the Pew Charitable Trust; Mr. Jim Neiman, Vice President and CEO of Neiman Enterprises; and Mr. Steve Swanson, President and CEO for the Swanson Group.

At the end of the witness testimony we will begin questions. Your full written testimony will be made part of the official record, so please try to keep your statements to five minutes so that we may have time for questions.

We look forward to hearing your testimony beginning with Chief Tidwell.

**STATEMENT OF THOMAS TIDWELL, CHIEF, U.S. FOREST
SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. TIDWELL. Chairman Barrasso, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to testify on these three bills today.

I'll start with Senate bill 1691. We welcome legislation that provides incentives for collaboration and expands our tool set to be able to restore and maintain ecological resiliency of our fires, but without eroding the public trust that we have been able to build over the years, those along with the assurance that's provided by environmental laws.

With this legislation as written, we oppose this bill primarily because of concerns with the bonding requirement, the mandated acreage targets and the design and scale of the categorical exclusions.

The bonding requirement is problematic, you know, and I'm not sure that it will actually meet your objectives. However, giving the Secretary the discretion to be able to use arbitration is something that we would like to work with you on to be able to use that, and I believe that that may have the opportunity to be able to address some of the concerns that drives this need for the bonding requirement.

There's no question we need to do more work. We're on record. You quote our numbers about the work that needs to be done to be able to restore our forests, but the last thing we need to do is create more controversy.

We have a great track record going. Year after year we continue to treat more acres, produce more outputs, and I want us to be able to build on that track record.

With mandating acres, and I definitely can understand the interest and the need for doing that, but just a mandate that doesn't necessarily mean we're going to get more work. And I'm worried that it will create more controversy and opposition with those that believe that we're doing it just because we're directed through legislation verses being able to do it because it's what the land needs.

With your CE categories, we use a lot of CEs. In fact, the majority of our work now is done through categorical exclusions (CE). And if we have the right scale with the right level of assurances around CEs similar to what you did with the Farm bill, the CE in the Farm bill, then we have a good track record of being able to work with our collaboratives to be able to get work done through those CEs. But it's absolutely essential that we find a way to be able to maintain the public trust otherwise what I'm concerned about is that we will just create more opposition, more conflict and that the use of CEs will either slow down the work or we will not be able to implement those projects.

I appreciate the interest here to be able to expand our tool set. I think there's some opportunities here where we can accomplish that, and we look forward to working with you to be able to address our concerns.

With Senate bill 132, Senator Wyden, the Department supports the bill's proposals for the wilderness designation and wild and scenic river designations with a few technical changes that we propose in our legislation. But I do have concerns about the conveyance of

the 308,000 acres of land. I understand the purpose for that, but I'm concerned that by—as I understand the criteria, the lands that would need to be identified could be spread all over multiple forests and actually create more of this checkerboard situation that we have. The other concern that I have is that we made the commitment with our communities to manage these lands and their multiple use through following through our forest plans, and this would shift that. And it's a concern that I have.

You know that we want to do more work. We want to be able to restore this. We want to be able to increase the acres treated. We want to be able to increase the amount of timber that's being produced to support jobs in these communities, so we want to work with you on how to be able to do that in a way that also addresses our concerns about this conveyance.

And then last on Senator Flake's bill on S. 326, we appreciate the efforts to be able to give us more flexibility with our end result stewardship contracting process. Where we—our current requirement around cancellation ceilings definitely is, it's creating a reluctance in our work force to be able to use this because the amount of money that has to be set aside for these type of projects. And I really appreciate the work around this; however, there are concerns with the impacts it would have on some key budget laws, the budgeting processes. So I would ask, if it's possible, if we could get our budget experts from the Administration to be able to sit down with the staff to be able to find a way to be able to address those concerns so that we can move forward and have the additional flexibility but at the same time, you know, honor the concerns they have with our budget processes.

In closing, just quickly, once again I appreciate the efforts here. But I have to stress the largest impediment that we have right now from being able to get more work done is around the cost of wild land fire suppression. I appreciate the support to stop the borrowing, the transfer of funds, but I also need to ask you to address the ten-year average situation. Senators Wyden and Crapo's bill does that. It slows down the growth of the ten-year average. It also provides a significant amount of free board in our budget constraint to allow us to be more proactive to this.

But I just need to share with you, just between FY'15 and FY'16 our ten-year average has gone up \$115 million. Over the next few years we have two more low years in that ten-year averages that are going to come off. And so over the next few years we're going to have to be looking for another couple \$100 million to come out of the rest of our budget. So thank you for taking this issue on. That is going to remain our number one priority is to be able to address both the ten-year average and borrowing.

Thank you.

[The prepared statement of Mr. Tidwell follows:]

**STATEMENT OF
TOM TIDWELL
CHIEF
U.S. FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING
CONCERNING
S.132, the "Oregon and California Land Grant Act of 2015"
JULY 16, 2015**

Section 101 of S. 132 would require the transfer of 308,000 acres of National Forest System (NFS) land to the Bureau of Land Management to be managed as covered O&C lands. That represents roughly half the size of the entire Siuslaw National Forest that would be transferred to the BLM. It is unclear exactly which lands from the NFS would be transferred – the referenced map is incomplete, and the bill provides that the first 102,000 acres must come from lands which are not “critical habitat,” which would be very difficult to find. However, all the lands to be transferred would have to come from national forests in western Oregon. This would, of course, have many significant effects on a broad range of the Agency’s conservation programs. While USDA is supportive of some of the technical changes outlined below, the Department has strong concerns about the loss of the commitment to the American public to manage these lands to provide the mix of multiple uses required under the Multiple Use Sustained Yield Act. We would like to continue to work with the subcommittee on the language of this bill.

Section 102(b) would amend the Wild and Scenic Rivers Act by adding additional segments in the Elk River watershed to the National Wild and Scenic Rivers System. These additions would increase the Elk’s designated wild and scenic river mileage from approximately 29 miles to 63.1 miles. The Department takes no position on these additional designated segments. None of the additional segments are currently identified as eligible or suitable for wild and scenic river designation under the 1990 Rogue River-Siskiyou National Forest Land and Resource Management Plan. However, the Department would be happy to work with the Subcommittee to provide additional relevant information concerning the Elk River segments identified in this bill. The Department would also like to work with the Subcommittee to make some technical corrections in Section 102(c) to ensure consistency with the current provisions of the Wild and Scenic Rivers Act.

Section 301(b) would expand the Wild Rogue Wilderness in Oregon by designating 56,100 acres of land currently managed by the Bureau of Land Management and the Forest Service as wilderness. The “Proposed USFS Wilderness” identified in this section and on the referenced “Wild Rogue Wilderness Additions” map is located along a “cherry stem” into the existing wilderness area. The “cherry stem” originally allowed for the existence of a Level II Forest System Road, part of the designated “Grave Creek to Marial Back Country Byway,” and the continuation of the Marial Lodge, a permitted resort. Marial Lodge accommodates hikers in the spring, rafters through the summer and commercial fishing trips in the fall. Proposed boundary adjustments in this area appear to be consistent with the continuation of the present and current use of the existing facilities.

Section 301(b)(1)(A) also includes language that turns back administration of a portion of the existing Wild Rogue Wilderness from Forest Service to BLM management. The Forest Service is currently authorized to manage this BLM area through a Memorandum of Understanding. The Department does not see management issues of concern caused by the proposed legislation and is supportive of its intent. However, the addition of an enlarged “inset map” to the existing legislative map would help to provide additional clarity and avoid potential future confusion concerning the boundary of the “Proposed USFS Wilderness.”

Section 301(e) would designate additional wild and scenic river segments in the Rogue River watershed in Oregon. All of these additions flow on BLM lands and would be administered by the Secretary of the Interior. Therefore, the Department defers to Department of the Interior on these proposed designations. However, the Department has identified one technical correction in this section that it would be happy to share with the Subcommittee.

Section 312 would designate an area known as the “Devil’s Staircase” as wilderness under the National Wilderness Preservation System. The proposed wilderness encompasses approximately 30,520 acres of NFS and BLM lands. Approximately 7,800 acres of the NFS lands are within the Wasson Creek Undeveloped Area under the Forest Plan for the Siuslaw National Forest and were evaluated for wilderness characteristics in the 1990 Siuslaw National Forest Land and Resource Management Plan. The proposed Devil’s Staircase Wilderness provides an outstanding representation of the Oregon Coast Range and would enhance the National Wilderness Preservation System. There is an existing road within the proposed boundary of this wilderness that would require decommissioning by heavy equipment prior to designation as wilderness or allowance for use of mechanized equipment for this purpose after the enactment. The Department supports the designation of the proposed Devil’s Staircase Wilderness.

Section 313 would designate approximately 10.4 miles of streams on National Forest System lands as part of the National Wild and Scenic Rivers System: 5.9 miles of Wasson Creek and 4.5 miles of Franklin Creek, both on the Siuslaw National Forest. The Department defers to the

Department of the Interior in regard to the proposal to designate the 4.2-mile segment of Wasson Creek flowing on lands administered by BLM.

The Forest Service conducted an evaluation of the Wasson and Franklin Creeks to determine their eligibility for wild and scenic river designation as part of the forest planning process for the Siuslaw National Forest. However, the Agency has not conducted a wild and scenic river suitability study, which provides the basis for determining whether to recommend a river as an addition to the National System. Wasson Creek was found eligible as it is both free-flowing and possesses outstandingly remarkable scenic, recreational and ecological values. The Department supports designation of the 1.7 miles of the Wasson Creek on NFS lands based on the segment's eligibility. At the time of the evaluation in 1990, Franklin Creek, although free flowing, was found not to possess river-related values significant at a regional or national scale and was therefore determined ineligible for designation. However, the Department does not oppose Franklin Creek's designation. We would also like to work with the Subcommittee on some potential amendments and map revisions that we believe would improve this section of the bill.

Section 321(b) officially changes the name of "Squaw Creek" to "Whychus Creek" to better reflect local usage and current geographic nomenclature standards. This section also updates the location description in the existing designation in section 3(a)(102) of the Wild and Scenic Rivers Act to incorporate several other name changes. The Department heartily supports the removal of offensive racial slurs from America's public lands.

Section 322 amends the existing designation in Section 3(a)(69) of the Wild and Scenic Rivers Act to change the starting and ending points of the three main segments of the Chetco River. The total length of the Chetco Wild and Scenic River would remain 44.5 miles. In addition, Section 322 would effectuate a mineral withdrawal of the Federal land within the boundary of the segments of the Chetco River designated as a wild and scenic river. Under the Wild and Scenic Rivers Act, only Federal lands within segments designated as wild are subject to a mineral withdrawal.

The Department is supportive of these technical changes as they provide a more appropriate naming convention in the first case, and better reflect management classifications and direction for the Chetco River in the second case.

The Department also supports Subtitle D, which establishes the "Frank Moore Wild Steelhead Sanctuary" and the USDA is supportive of this establishment. The area proposed for designation (Steamboat Creek) represents the major spawning tributary for wild steelhead in the North Umpqua River, and serves as an important sanctuary for conservation and long term persistence of this highly valued fisheries resource.

Scientific studies and data indicate this area provides an important thermal refuge for wild steelhead production in the basin. Its designation and associated watershed restoration activities will aid in promoting a resilient landscape for wild steelhead conservation into the future in the face of changing climate.

Frank Moore is a legendary fly angler, wild fish conservationist, and World War II veteran who stormed the beaches of Normandy, France in 1944 for the D-Day allied invasion. He survived and together with his wife of 70+ years, Jeanne, built and were the long-time proprietors of the world-renowned Steamboat Inn along the North Umpqua River. In 2010, Frank Moore was inducted into the Fresh Water Fishing Hall of Fame, and is also featured in the recent, critically acclaimed documentary “Mending The Line.”

This designation is a tribute to Frank Moore and his service to our country in more ways than one. In a TED Talk last year (TEDxPortland, May 15, 2014), one of the viewers commented: “Absolutely amazing... I am 19 and my generation needs role models like this man.”

Finally, the Department has concerns regarding the environmental reviews required under Title 1. For example, the Department believes that the mandated timber sale environmental impact statements (EISs) time periods would not provide for adequate consultation under the Endangered Species Act and would not allow sufficient flexibility to respond to large-scale, stochastic events such as fires. In addition, we have concerns with the time frames established in the bill for those EISs and whether we can meet the intent and comply with NEPA, the cornerstone law guiding environmental protection and public involvement in federal actions.

Many deadlines in the bill are not sufficient to allow for the necessary level of analysis, the public participation necessitated by the high level of public interest and involvement in these issues, the volume of pre-disturbance data that must be collected, and the complexity of the issues and information that must be analyzed. In our experience, mandatory deadlines can often result in incomplete or rushed analyses, increased litigation risk and delayed completion of final products.

More specifically, the Administration’s concerns with Title I of this bill include: (1) the temporal and spatial scale of the EIS, particularly given the mandated 5-year time period; (2) the requirement for the Department to select the EIS alternative with the highest timber production; (3) the limitation precluding consideration of impacts beyond specific authorized actions; (4) the limitations on the public’s ability to challenge the EISs and subsequent projects; and (5) the lack of clarity regarding the Landscape Prioritization Plan and project-specific environmental review. These concerns cut to the very core of the ability to prepare a reasoned and considered NEPA environmental review. We would like to work with the sponsor and the Committee to ensure

that implementation of the bill would still allow for the analyses and sequencing necessary to produce environmental reviews that lead to informed and defensible analyses and decisions.

The Service has a number of substantive and technical concerns, and would like to work with the sponsor on clarifying amendments.

This concludes my testimony and I would be happy to answer any questions.

STATEMENT OF
THOMAS TIDWELL, CHIEF
U.S. FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
JULY 16, 2015
CONCERNING

S. 326, THE STEWARDSHIP END RESULT CONTRACTING IMPROVEMENT ACT

S. 326 amends the Healthy Forests Restoration Act of 2003 to establish cancellation ceilings to limit up-front government obligations for stewardship contracting projects. While the USDA Forest Service values the flexibility provided by the stewardship contracting authority and appreciates Congress' support in permanently reauthorizing it, we have concerns about certain provisions in this bill and would like to work with the sponsor and Committee to resolve them.

S. 326, seeks to improve the stewardship contracting process and support the restoration of our nation's forests by amending section 604 of the Healthy Forests Restoration Act to require any cancellation ceiling in excess of \$25 million that does not have a funding plan to be presented to Congress and OMB. It also authorizes cancellation ceilings to be obligated in stages that are economically or programmatically viable. The current Forest Service cancellation ceiling reporting requirement is \$11.5 million and the Federal Acquisition Regulation ceiling reporting requirement is \$12.5 million, so this bill would more than double the ceiling amount before notification is required. To date the Forest Service has never had a cancellation ceiling that approached the agency limit of \$11.5 million.

The bill would also amend section 604 to provide that any timber receipts in excess of the resource improvement treatment costs must first be used to satisfy any outstanding liabilities for cancelled contracts or agreements and then for other stewardship projects.

We appreciate Congress' support in permanently reauthorizing stewardship contracting, but we have concerns about provisions of the bill that would provide broad waivers of laws that affect appropriations. Additionally, changing the requirement to obligate cancellation costs upfront is inconsistent with budgeting principles and would understate the Government's liability under the contract. In closing, we want to work with the Committee to ensure that we can accelerate restoration on Forest Service lands while adhering to core budgeting principles.

**STATEMENT OF
THOMAS TIDWELL, CHIEF
U.S. FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING
UNITED STATES SENATE
JULY 16, 2015
CONCERNING**

S. 1691, THE NATIONAL FOREST ECOSYSTEM IMPROVEMENT ACT OF 2015

Chairman Barrasso, Ranking Member Wyden, and members of the Subcommittee, thank you for inviting me here today to testify on the National Forest Ecosystem Improvement Act of 2015. With our many partners, Secretary Vilsack and the USDA Forest Service share your commitment to increase the pace and scale of forest restoration and management in our National Forests. Restored acres and timber volume is up on the National Forests and we must continue to invest in current management regimes and not lose focus on legislative changes that may only polarize and create more conflict.

The greatest impediment to effective and efficient management of our nation's forest system is the continuing rise in budget resources dedicated to fighting wildfire. The FY 2016 President's Budget proposes a solution to this problem, and we urge the committee to work with us to provide this necessary fix to the ever-growing costs related to fighting wildfire.

As a general matter, the Forest Service welcomes legislation that incentivizes collaboration and expands the toolset we can use to complete critical work on our nation's forests, without overriding environmental laws. However, the Administration does not support bonding requirements, or provisions that would mandate harvest levels or elevate one use over another on these multiple-use lands. For these reasons and others cited below, USDA opposes the bill as it is currently written. We look forward to continuing to work with the committee to develop legislation that will help increase the scale and pace of restoration within the scope of existing environmental law.

Brief Summary

Section 104 of the bill requires a minimum of 2 million acres of the National Forest System to be treated annually. Of that number, 1 million acres must be completed through mechanical treatment, and the remaining 1 million must be completed through prescribed fire. This title

presents a number of challenges including agency and industry capacity, current market realities, and competing priorities for project implementation.

Section 105 of the bill requires an environmental assessment for all ecosystem restoration projects. The requirement to prepare an Environmental Assessment for each project may significantly increase the field's workload and could slow progress on restoration work. The Forest Service has seen success encouraging larger analysis areas, allowing multiple projects to be covered in a single analysis.

Section 105 also eliminates the opportunity to consider reasonable alternatives and requires the no-action alternative to always include a description of the environmental effects on forest health; habitat diversity; wildfire potential; insect and disease potential; municipal water supplies; and other economic and social factors. Such an approach limits opportunities for collaboration and community input, and could add additional time to complete analyses by requiring an analysis of effects that may not be necessary in every case. Section 105 also requires that EAs be completed no later than 180 days after public notice has been published. While the agency may be able to finish an EA in 180 days, managing multiple project analyses and other pressing business cannot guarantee that each EA can be completed in that timeframe.

Section 106 of the bill requires establishing an arbitration program in lieu of litigation. We are willing to explore the use of non-binding, reviewable arbitration (through a collaborative approach) on a trial basis before implementing such a change nationwide.

Section 107 requires a plaintiff or plaintiffs seeking judicial review of an ecosystem restoration project to post a bond or other security equal to the estimated costs of the court proceedings. The requirement to provide a bond or other security poses an inappropriate barrier to parties interested in bringing suit against the Agency if the party or parties do not have the financial resources available to provide the bond or other security and would limit public participation in decision-making.

Section 108 requires a yearly report to Congress on acres treated per section 104, as well as a yearly report on the number of projects that have undergone arbitration per section 106.

Title II of the bill authorizes several categorical exclusions. Section 202 provides a categorical exclusion for certain forest management activities that would affect fuel loadings, water sources, insect or disease infestations, or critical habitat. A forest management activity under this categorical exclusion may not contain harvest units exceeding a total of 5,000 acres of treatment, except that an activity may cover harvest units totaling up to 15,000 acres if it is developed through a collaborative process, is proposed by a RAC, or is covered by a community wildfire protection plan. Section 203 provides a categorical exclusion to develop and carry out a salvage operation as part of the restoration of National Forest System land in response to a catastrophic event. The salvage operation may not contain harvest units exceeding a total of 5,000 acres in size, result in no permanent road construction, comply with stream buffers, and have a

reforestation plan. Section 204 provides a categorical exclusion of less than 5,000 acres for forest management activity on National Forest System land in any case in which the primary purpose of the forest management activity is to modify, improve, enhance, or create early successional forests for wildlife habitat improvement and other purposes, in accordance with the applicable forest plan. Compliance with the National Environmental Policy Act of 1969 (NEPA) and the appropriate design, scale, and use of categorical exclusions is important to our agency planning and decision-making given the ecological values we work to protect and the extensive work invested in collaboratively addressing the high public interest in them and these proposed as exceptions; consequently the department has substantial concerns with the categorical exclusions in Title II.

The mandated acreage targets, the bonding requirements, and the design and scale of the categorical exclusions are of greatest concern to the department, resulting in our opposition to this legislation. However, we agree with the intent of this bill to increase the pace and scale of restoration on National Forest System lands and look forward to working with the committee to meet those objectives.

While USDA supports efforts to provide new tools to support improved forest management, capacity constraints due to the present approach to budgeting for wildfire continue to be the greatest impediment to further improving the health and resiliency of the nation's forests. In fiscal year 1995, the Forest Service spent 16 percent of its budget on firefighting. Today the agency spends nearly half of its budget in fire management activities and has seen a corresponding decline in non-fire staffing of 39 percent since 1998. This has enormous implications for how the agency carries out its mission, including taking funding from the very programs that help reduce catastrophic fire in the first place. Notwithstanding these challenges, through an emphasis on collaboration, the Forest Service has consistently increased both the number of acres treated annually to improve watershed resilience and timber production—increasing timber harvest by 18 percent since 2008.

The frequency and intensity of wildfire, the rising cost of assets needed to deploy against the spread of wildfire, and the way that fire suppression is paid for constrain the agency's capacity to realize additional gains through efficiencies and partnerships alone. The most important action Congress can make now in advancing the pace and scale of forest restoration is to fix the fire funding problem.

We are again proposing a revised funding strategy for wildfire suppression. The FY 2016 President's Budget proposes discretionary funding for suppression at a level represented by 70 percent of the 10-year average of fire suppression costs. This level of funding provides for suppression of 99 percent of the fires we fight. In addition, up to \$855 million would be made available under a disaster funding cap adjustment to meet funding needs for fire suppression above the base appropriation. This strategy would provide increased certainty in addressing growing needs for fire suppression funding while better protecting non-suppression programs

from funding transfers that diminish their effectiveness. Moreover, it would allow us to stabilize our investments in restoring forested landscapes, helping forests adapt to the growing effects of climate change, and preparing communities in the wildland/urban interface for future wildfires.

Our National Forests and Grasslands are national treasures and provide a broad range of values and benefits, including biodiversity, recreation, clean air and water, forest products, erosion control, soil renewal and more. Covering a third of the country's landmass, forests store and filter more than half of the nation's water supply and absorb approximately 12 percent of the country's carbon emissions. Our mission of sustaining the health, resilience and productivity of our nation's forests is critically important to maintaining these values and benefits.

In 2014, we exceeded our targets by producing 2.9 billion board feet of timber. Our timber harvest has increased 18 percent since 2008. The agency is achieving these results despite the fact that since 1998, National Forest System staff was reduced by well over a third. We have achieved much of this by investing in collaborative approaches to forest restoration across the country as a way to develop better projects, to work across larger landscapes, to build public support for forest restoration and management, and to reduce the risk from litigation. Dozens of collaboratives across the country are enabling the Forest Service and our partners to get more work done. These collaboratives are locally led groups from local communities, environmental groups, forest industry, and others and are designing projects that address forest restoration, supply wood to local mills, conserve watersheds and provide a range of other benefits.

The health of the national forests and the communities we serve are our shared priority. The Forest Service is accelerating restoration and management of the national forests through innovative approaches and increased collaboration, though it is clear that more work needs to be done, and we welcome practical legislation that provides for expedient and responsible efficiencies in the execution of that work.

Efficiencies

In recent years, the Forest Service has made great strides in the pursuit of efficiencies, and we are generally supportive of provisions that will help us pursue treatment at the landscape scale quickly, efficiently, and in a reasonable time to address problems before they can worsen. We look forward to continuing to work with you on the language of this bill to find efficiencies within the scope of important existing environmental laws.

An important way to increase the pace and scale of forest restoration and management is to improve the efficiency of planning timber sales and stewardship contracts. We are working to identify and implement process improvements and efficiencies that help with increasing the pace

and scale of restoration, while also engaging the public and developing well-planned projects. Some strategies are discussed below.

The Forest Service is developing new approaches to NEPA in the wake of catastrophic fires. On the Rim Fire, which burned 257,000 acres in the summer of 2013, the Stanislaus National Forest finalized both an Environmental Assessment for hazard tree removal and an Environmental Impact Statement for restoration and salvage in one year. The EIS projects will lessen the potential for future catastrophic fire by reducing the fuel loading and, in addition, capture some of the perishable economic commodity value of the fire killed trees through timber salvage. The agency coordinated with the Council on Environmental Quality, which approved Alternative Arrangements to expedite the NEPA process. Overall, our partners and stakeholders appreciated the transparency while also enabling contracts to get awarded and work done on the ground.

Another innovative approach to environmental analysis under NEPA and stewardship contracting to increase the scale and pace of restoring forest health and to provide economic opportunities for local communities is the Mill Creek A to Z Stewardship Project on the Colville National Forest. This project was designed so that each step, from NEPA data collection to project implementation, where appropriate, will be performed and financed by the contractor, Vaagen Brother's Lumber Inc., under the supervision of the Forest Service. The Environmental Assessment for the first of the two planning areas was released for public comment recently. The contractor is planning vegetation treatments to begin after the decision is signed this fall.

The Forest Service is planning and implementing projects across larger areas, which increases NEPA efficiency and thereby spreads costs across more acres, and provides a longer term and more certain timber supply for local mills. For example, the Mountain Pine Beetle Response Project on the Black Hills National forest is implementing a landscape scale approach across 200,000 acres for treating current and future pine beetle outbreaks.

In the Southwest, the Forest Service signed the Final Record of Decision for the Four Forest Restoration Initiative's (4FRI) first EIS on April 17, which analyzed approximately one million acres in the Coconino and Kaibab National Forests. This project was one of the Council on Environmental Quality's NEPA Pilot Projects, which were projects nominated for employing innovative approaches to completing environmental reviews more efficiently and effectively. The Environmental Impact Statement covers approximately one million acres and proposes 586,110 acres of restoration activities: 355,708 acres on the Flagstaff, Mogollon, and Red Rock districts of the Coconino National Forest; and 230,402 acres on the Williams and Tusayan districts of the Kaibab National Forest.

4FRI involves the entire suite of restoration efforts including thinning; prescribed burning; watershed and road maintenance; grassland, spring, and stream channel restoration; and habitat

improvement. This milestone is the result of four national forests and more than 30 stakeholder groups joining together over five years to work on the largest landscape-scale restoration project ever analyzed in Forest Service history. 4FRI builds on many years of collaboration, research, and action since the mid-1990s. Over the past five years, the Forest Service has progressed toward accelerating restoration by implementing projects within the 4FRI landscape, using previous NEPA analyses. Progress continues with this final Record of Decision. The NEPA analyses for the Black Hills and 4FRI projects proceeded efficiently without limiting the alternatives considered to action / no action as the discussion draft would do.

The agency has established additional categorical exclusions for restoration work, has expanded the use of focused environmental assessments, is using adaptive management to allow our decisions to last longer, and is better training employees to take advantage of new efficiencies. The Forest Service is also developing efficiencies in NEPA through technology. For example, the Forest Service's investments in using electronic applications provide considerable cost and time savings, contributing to an efficient NEPA process by reducing the administrative workload in reporting, records management, electronic document filing, and managing public mailing lists, while making it easier for the public to comment on Forest Service projects.

Promoting Collaboration

The Forest Service generally supports legislation that incentivizes collaboration. Our emphasis on collaboration over the last decade has served us well. Simply put, collaboration works, and we have a number of collaborative projects and programs underway across the National Forest System that exemplify the success that can be achieved when diverse groups come together with a common cause of a healthy landscape.

Collaborative Forest Landscape Restoration Program

One way to support local collaboration has been through the Collaborative Forest Landscape Restoration Program (CFLRP), and we appreciate the Congress's support for this innovative program. The CFLRP encourages collaborative, science-based ecosystem restoration of priority landscapes. The program currently supports 23 large-scale projects with 10-year funding to implement priority restoration work on National Forest System lands while engaging local communities and leveraging partner resources through collaboration, implementation, and monitoring.

The CFLR program is on track to meeting its goals over its ten year timeframe, making substantial strides in the first five years to promote forest health and resilience and reduce the risk of catastrophic wildfire. In the five years since initial program implementation, the 23 projects collectively have treated over 1.45 million acres to reduce the risk of catastrophic fire, over 84,570 acres to improve forest health, over 1.33 million acres to improve wildlife habitat,

and over 73,600 acres to eradicate noxious weeds and invasive plants. In addition, these projects have exceeded their timber output goals, producing nearly 1.3 billion board feet.

These collaborative projects help rural communities by creating and maintaining jobs. Between 2011 and 2014 these projects generated \$661 million in local labor income and an average of 4,360 jobs per year. The FY 2016 President's Budget for the Forest Service includes a proposal to increase funding authority for the program from \$40 million to eventually \$80 million, with funding in FY 2016 requested at \$60 million. The funding increase will allow us to pursue up to 10 additional projects. Accordingly, the budget proposes extending authority for the program through 2024 to allow for full completion of new projects.

These collaboratives, and dozens of similar efforts, help maintain a robust forest industry with benefits flowing not only to local communities, but also to the Forest Service itself as the agency relies on local forest contractors and mills to provide the workforce to undertake a variety of restoration activities. A 2011 Forest Service study found that through work on National Forest System lands, the forest products industry supports about 42,000 jobs and contributes around \$2.7 billion to America's gross domestic product each year.

Chiefs' Joint Landscape Restoration Partnership

Our restoration efforts are not just confined to public lands. Recognizing that fire, insects, disease, wildlife and watersheds do not respect property lines, the Forest Service and USDA's Natural Resources Conservation Service are combining resources to expand our efforts across both public and private land. In FY 2014, Secretary Vilsack announced a multi-year partnership between the U.S. Forest Service and the Natural Resources Conservation Service (NRCS) to improve the health and resiliency of forest ecosystems where public and private lands meet across the nation. The Forest Service and NRCS Chiefs' Joint Landscape Restoration Partnership program aims to reduce wildfire threats to communities and landowners, protect water quality and supply, and improve wildlife habitat for at-risk species. By leveraging technical and financial resources and coordinating activities on adjacent public and private lands, conservation work by NRCS and the Forest Service will be more efficient and effective in these watersheds.

In FY 2014, the Landscape Restoration Partnership invested \$30 million in 13 projects in 12 states across the country. The priority projects selected for FY 2014 are continuing in FY 2015. \$27 million will be provided to continue work on these projects in 2015. Fifteen additional projects were selected in FY 2015 totaling \$10 million. The 2015 projects are located where private and public lands meet, and where restoration objectives cross ownership boundaries. For example:

In the Middle Klamath River Communities of northern California, the Partnership helped support efforts by the Karuk Tribe, the Mid-Klamath Watershed Council, the Salmon River Restoration Council, several local Fire Safe Councils, and the Northwest Youth Corps who are working

together to increase community safety by reducing hazardous fuels in the Wildland Urban Interface adjacent to communities along the Klamath River.

As another example, in Colorado, the San Juan Project addresses fuel hazard in the project area which is considered moderate to extreme. Treatments would reduce dense shrub cover through mastication and reduce tree density through selective thinning in order to mitigate uncharacteristic wildfire behavior and improve forest health. Partners include the San Juan Conservation District, the Colorado State Forest Service, the Pagosa Lakes Property Owners Association, San Juan Headwaters Forest Health Partnership, the Mountain Studies Institute, and Hidden Valley and Eagle Peak Ranch Subdivisions.

The watersheds of Lake Superior's coastal forests are home to tributaries that impact the water quality of The Great Lakes, among the most important natural resources in the world. With more than 20 percent of the earth's surface freshwater, they provide drinking water for 45 million people and habitat for a vast array of plants and wildlife, including more than 200 globally rare species. Spanning 295,000 square miles, the basin's immense network of streams, lakes, wetlands and forests provides critical ecological services, such as water filtration, flood control, and carbon storage. In addition, the region offers unmatched opportunities for industry, tourism and recreation. The Forest Service and NRCS are partnering with Sugarloaf: The North Shore Stewardship Association, Grand Portage Tribal Council, The Nature Conservancy, Soil and Water Conservation Districts and the state to expand current restoration efforts to protect the water quality of Lake Superior, provide critical wildlife habitat and develop a resilient ecosystem for the future.

The USDA fully supports collaboration with our partners and stakeholders from all interest areas as one way to be more efficient, through a shared understanding of the desired condition, across the landscape.

This concludes my testimony and I would be happy to answer any questions.

Senator BARRASSO. Thank you, Chief Tidwell.
Mr. Ellis?

STATEMENT OF STEVEN ELLIS, DEPUTY DIRECTOR FOR OPERATIONS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. ELLIS. Thank you, Chairman Barrasso, Ranking Member Wyden and members of the Subcommittee.

I'm here to present the Interior Department's testimony on Senate bill 132, the Oregon and California Land Grant Act of 2015, and Senate, S. 326, the Stewardship End Result Contracting Improvement Act. And my oral statements here will briefly summarize written testimony.

Senate 132 is a complex bill. It concerns BLM lands in Western Oregon, known as the O and C lands. It would establish new designations and principles for managing these O and C lands.

The transfer of lands into trust status for the benefit to tribes is another part of the legislation, amend the Coquille Restoration Act and establish new conservation designations in Western Oregon.

The Department of Interior appreciates the Ranking Member's work in developing this legislation. We support many goals of the bill, support Title III and would like to work with the sponsor and the Committee on some amendments to Title I and II.

We do have some concerns with the bill as it's currently drafted. We are committed to continuing to work with you, the sponsors, to address them as we further develop this proposal.

The 1937 O and C Act that placed 2.2 million checkerboard acres of Oregon/California Railroad and Coos Bay Wagon Road grants lands under the jurisdiction of the Department of Interior. In addition to the O and C lands the BLM manages over 200,000 acres of public domain forest. We call them our PD lands in Western Oregon.

The BLM's management involves complex and legislative frameworks and resource management goals including predictable and sustainable yield of timber, endangered species habitat, clean water and providing recreational opportunities.

We are currently revising the 1995 Resource Management Plans that govern management of the O and C lands. We have actively sought the engagement of stakeholders and the public, and we're going to continue to strive for a cooperative approach to the complex issues in managing these O and C lands.

Title I of Senate 132 provides guidance for managing forestry and conservation emphasis areas. We do share the goals of providing the sustained yield of timber while protecting older complex forests in support of conservation for threatened and endangered species.

While we support the many goals in Title I, we have concerns with the language and would like to work with you to address these.

Title I also provides for numerous conservation designations including the expansion of the Cascade Siskiyou National Monument, several wild and scenic rivers and a number of new designations.

We would like to work with you to clarify the management goals and the boundaries of these areas.

Title II would provide roughly 32,000 acres of BLM-managed lands to be held in trust for the benefit of two tribes. The BLM welcomes the opportunity to work with Congress on the transfer of lands into trust status and supports the goal of this Title. We would like to work with you to address these various issues including access rights and timber harvest. This Title would also amend the Coquille Restoration Act to provide for changes in management for the Coquille Forest, and we support this modification.

Title III would establish new wilderness and wild and scenic river designations in Oregon. The bill would enlarge the Wild Rogue Wilderness and extend the wild and scenic river, the Rogue Wild and Scenic River. It would establish the Devil's Staircase wilderness, and it would designate the Molalla River and Table Rock Fork as part of the wild and scenic river system. The Department supports this Title which would conserve and protect these special areas.

S. 326 amends the Healthy Forest Restoration Act of 2003 to establish cancellation ceilings to limit up front government obligations for stewardship contracting priorities. The Department values the flexibility provided by the Stewardship Contracting Authority and appreciates Congress' support in permanently reauthorizing it; however, we have concerns about certain provisions in this bill and would like to work with the sponsor and Committee to resolve them while adhering to core budget and acquisition principles.

And thank you. Happy to answer any questions you might have.
[The prepared statement of Mr. Ellis follows:]

Statement of
Steven A. Ellis
Deputy Director for Operations
Bureau of Land Management
Department of the Interior
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 132, Oregon and California Land Grant Act of 2015
July 16, 2015

Thank you for the opportunity to discuss the views of the Department of the Interior on S. 132, the Oregon and California Land Grant Act of 2015. The bill concerns 2.8 million acres of: Revested Oregon and California Railroad, Reconveyed Coos Bay Wagon Road Grant Lands (the O&C Lands), intermixed public domain lands, controverted O&C lands managed by the U.S. Forest Service (USFS), and some US Army Corps of Engineers lands in western Oregon, to be administered by the Bureau of Land Management (BLM).

S. 132 would establish new designations and principles for the management of forest lands in western Oregon (Title I), transfer certain lands into trust status on behalf of two tribes and amend the Coquille Restoration Act (Title II), and establish new conservation designations in western Oregon (Title III). Due to the complexity of the bill and the issues it addresses, the Department of the Interior's testimony summarizes the views of the Administration on each title of the bill.

The Department has previously testified on many of the ideas contained in the provisions of this bill and believes this legislation is a continuation of the ongoing discussion about providing predictability for the management of western Oregon lands. The Department appreciates the sponsor's work to include helpful modifications while developing the current legislation. Overall, the Department supports many of the goals of the bill, and fully supports Title III. We would like to work with the sponsor and the Committee on substantive, clarifying, and technical amendments to Titles I and II to resolve our outstanding concerns. We look forward to continuing to work with the sponsor and the Committee to further develop the proposal.

Management of O&C Lands / Background

Current BLM Management of O&C Lands

The O&C Lands Act of 1937 placed 2.2 million checkerboard acres of Oregon and California Railroad and Coos Bay Wagon Road grant lands under the jurisdiction of the Department of the Interior. Under the O&C Lands Act, the Department of the Interior manages the O&C lands for "the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities." The Act also provides that the 18 O&C counties receive yearly payments equal to 50 or 75 percent of receipts from timber harvests on O&C lands in these counties.

Timber harvests and the associated payments to counties decreased significantly in the mid-1990s, after the historic highs experienced in the late 1980s. The decrease was caused, in part, by the need for management measures to address the conservation and recovery of threatened

and endangered species such as the northern spotted owl, coho salmon, and marbled murrelet. The 1994 Northwest Forest Plan was developed by Federal agencies and scientists in consultation with the public and industry to be a balanced, long-term management plan striving for a predictable and sustainable supply of timber along with protection of fish and wildlife habitat for 24.5 million acres of Federal forest in western Oregon, western Washington, and northern California, most of which is managed by the U.S. Forest Service. The BLM's western Oregon Resource Management Plans were amended in 1995 (1995 RMPs) to incorporate the Northwest Forest Plan management guidelines and land use allocations.

In addition to the O&C lands in western Oregon, the BLM manages 212,000 acres of public domain forests and other acquired lands within the boundary of the Northwest Forest Plan. The Department of the Interior continues to manage the O&C lands under the 1995 RMPs and the guidance of the Northwest Forest Plan, along with management recommendations derived from the 2011 Northern Spotted Owl recovery plan and 2012 Final Critical Habitat Rule, as well as a number of court decisions. The BLM's timber management program involves complex legislative frameworks and resource management goals, including providing a predictable and sustainable yield of timber and other forest products vital to the economies of rural communities, maintaining endangered species habitat and recovering populations, providing clean water, restoring fire-adapted ecosystems, and providing recreational opportunities. In the last three years, the BLM in western Oregon has offered approximately 650 million board feet of timber from O&C lands generating over \$83 million dollars in timber receipts. In FY14 alone, BLM western Oregon timber sale program generated over \$500 million dollars in economic output. These and other BLM-managed lands in western Oregon also provide outstanding recreational opportunities, with over 5 million people visiting each year to enjoy hiking, camping, hunting, and fishing.

Collaborative Approaches

In western Oregon, the BLM strives to strike a balance between the need for a predictable and sustainable timber supply, provision of recreational opportunities and other non-timber products, and achieving conservation objectives, such as protecting older forests and aiding in the recovery of the Northern Spotted Owl and other threatened and endangered species. Despite decades of controversy surrounding these issues, many in Oregon continue to work hard to look for solutions that meet the needs of industry, rural communities, local governments, and the conservation of habitat, species, and water resources. The recently released 20 year Northwest Forest Plan monitoring report highlights the success the Forest Service and BLM have achieved in meeting multiple resource conservation objectives at the regional scale while providing a sustainable timber supply.

Resource Management Plans

In March of 2012, the BLM began the planning process to revise the 1995 RMPs that govern management of the O&C lands. The BLM has spent over three years engaging the public, key stakeholders, cooperators, and tribes conducting extensive public scoping and providing numerous opportunities for all parties to provide public input through design workshops, public meetings, and other venues as part of the National Environmental Policy Act (NEPA) process. The BLM has used this input, along with lessons learned from 20 years of experience implementing the Northwest Forest Plan, as well as threatened and endangered species recovery

plans and critical habitat designations from both the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS), to craft and publish a Draft Environmental Impact Statement (DEIS). The DEIS is currently available for public comment. The BLM has recently received a request for extension and has decided to grant an extension of 30 days. The comment period will now end on August 21st, 2015 and publication of a Revised RMP and Record of Decision is anticipated in Spring of 2016.

S. 132 Title I

Management of O&C Lands

Title I pertains to management of the O&C lands. This title allocates certain forest lands as “Forestry Emphasis Areas” and others as “Conservation Emphasis Areas” and provides guidance for the management of each area. The BLM shares the goals of S.132 to provide a sustained yield of timber, establish a large block network of older forest habitat, and protect older, more complex forests in support of improved conservation of threatened and endangered species. Another goal of S. 132 is to stabilize management direction and environmental analysis for the O&C lands and we also share that goal.

Although the BLM supports many of Title I’s broad policy goals and appreciates the sponsor’s helpful revisions from previous versions, we have concerns with the language of Title I and the impacts if it were to be implemented as written. We would like to highlight some of those concerns and we would like to continue to work with the sponsor and the Committee to resolve these issues.

The BLM’s management of intermixed O&C lands and public domain forests in western Oregon is currently governed by a number of statutory requirements, including the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Clean Water Act, the O&C Lands Act of 1937, the Federal Land Policy and Management Act (FLPMA), and the relevant implementing regulations and plans. Under current law, some statutory requirements are applied differently depending upon whether the lands are designated public domain or O&C. We note that this bill resolves those differences. The BLM appreciates the sponsor’s work to address our concerns about a lack of clarity in prior versions. There remain some provisions of the bill that we believe may not provide sufficient clarity about the relationship between the various statutory provisions in this legislation and other related laws and regulations. This could lead to duplicative analyses and planning efforts, disputes or confusion over appropriate BLM management actions, delayed compliance, and potentially increased costs of litigation, and we would like to work with the sponsor to address those issues.

The Department has concerns regarding the requirement for mandated 5 year timber sale environmental impact statements (EISs). For example, the Department believes that these mandated time periods would not provide for adequate consultation under the Endangered Species Act and would not allow sufficient flexibility to respond to large-scale, stochastic events such as fires. In addition, we have concerns with the time frames established in the bill for those EISs and whether we can meet the intent and comply with NEPA, the cornerstone law guiding environmental protection and public involvement in federal actions. Many deadlines in the bill are not sufficient to allow for the necessary level of analysis, the public participation necessitated by the high level of public interest and involvement in these issues, the volume of pre-

disturbance data that must be collected, and the complexity of the issues and information that must be analyzed. In our experience, mandatory deadlines can often result in incomplete or rushed analyses, increased litigation risk and delayed completion of final products.

More specifically, the Administration's concerns with Title I of this bill include: (1) the temporal and spatial scale of the EIS, particularly given the mandated 5-year time period; (2) the requirement for the Department to select the EIS alternative with the highest timber production; (3) the limitation precluding consideration of impacts beyond specific authorized actions; (4) the limitations on the public's ability to challenge the EISs and subsequent projects; and (5) the lack of clarity regarding the Landscape Prioritization Plan and project-specific environmental review. These concerns cut to the very core of the ability to prepare a reasoned and considered NEPA environmental review. We would like to work with the sponsor and the Committee to ensure that implementation of the bill would still allow for the analyses and sequencing necessary to produce environmental reviews that lead to informed and defensible analyses and decisions.

The Department has a number of substantive and technical concerns, and would like to work with the sponsor on clarifying amendments.

Revenue Distribution

The Administration has a number of concerns with the language regarding revenue distribution as drafted and we look forward to working with the sponsor on clarifying amendments. Title I would depart from the historic formula of sharing revenues from O&C timber sales with the O&C counties and Treasury's General Fund for the benefit of all taxpayers. Additionally, the bill caps receipts allocated to the General Fund at no more than \$4 million and provides that money be taken from the U.S. Treasury and BLM administrative payments if a minimum county payment threshold is not met. BLM takes seriously its responsibility to the public as stewards of our nation's natural resources and ensuring that public resources on Federal and Indian lands provide a fair return to the American people. As drafted, the bill may set an undesirable precedent by diverting receipts from the Treasury and thereby reducing the net return to taxpayers.

Conservation Designations

Title I establishes a total of approximately 690,000 acres as a "Conservation Network," for the purpose of creating forest reserves for wildlife habitat, old-growth forests, healthy ecosystems, recreation, and other purposes. Among these new designations are several that would be included in the BLM's National Landscape Conservation System. Section 10 proposes to add approximately 2,050 acres to the Cascade-Siskiyou National Monument in southwestern Oregon. The Monument was established by Presidential Proclamation on June 9, 2000, and was later modified with the addition of wilderness and additional management direction by P.L. 111-11, the Omnibus Public Lands Act. The Monument's nearly 53,000 acres are a place of great biological diversity due to its location at the confluence of three converging mountain ecoregions – the Cascade, Klamath, and Eastern Cascade. The proposed additions would enhance this biodiversity and provide important habitat connectivity. The BLM generally supports the proposed additions, and would like to work with the sponsor to ensure consistency in management across the entire Monument and to consider any minor boundary modifications.

Section 10 also establishes a protective corridor for sections of the Pacific Crest National Scenic Trail where it travels through and adjacent to Cascade-Siskiyou National Monument. While the BLM generally supports these provisions, we would like to work with the sponsor to improve consistency with the National Trails System Act, BLM policy, and BLM management objectives.

Title I also establishes a wide variety of designations, including two National Recreation Areas, four Drinking Water Special Management Units, Late Successional Old-Growth Forest Heritage Reserves, the Illinois Valley Salmon and Botanical Area Special Management Unit, the Kilchis Wild Salmon Refuge Area, the Smith River Salmon Restoration Unit, seven Primitive Backcountry Special Management Areas, numerous units of a Protected Environmental Zone Special Management Area, and the Cathedral Hills Natural and Recreation Area. Many of these designations are new to BLM and it is unclear whether they will meet their stated conservation objectives; however, the bill as drafted appears to provide the same management provisions for each of these areas. We would like to work with agency partners and the Committee on language that would clarify the management goals for the Conservation Network, particularly as they relate to other management provisions provided elsewhere in the bill. The BLM is not certain that all of these new management designations would be appropriate for inclusion in the NLCS and the BLM would appreciate the Committee's careful consideration of new designation types and purposes for this system. Likewise, we would like the opportunity to consider boundary modifications for manageability.

Finally, section 102 would protect over 50 miles of Oregon rivers with new designation as either recreational or scenic rivers under the Wild and Scenic Rivers Act. The BLM supports these designations.

Land Management Rationalization

Under the bill, the BLM would generally have the authority to exchange Federal land for non-Federal land under certain circumstances. The BLM would transfer administrative jurisdiction of 25,000 acres of land to the Forest Service, to be managed as part of the National Forest System, while the Forest Service would transfer administrative jurisdiction of 102,000 acres to the BLM to be managed as part of the Forestry Emphasis Area and 206,000 acres to be managed as part of the Conservation Emphasis Area. The Army Corps of Engineers would also transfer administrative jurisdiction of about 3,500 acres to the BLM. We would like to work with the sponsor on language to clarify the processes for these land exchanges. The bill would also establish a Legacy Roads and Trails program to conduct road decommissioning projects. The changes described in this section of the bill, which would require public input and would occur after passage of the bill, would lead to changes in management that could not be completed or analyzed within the bill's timelines for the EISs or Landscape Prioritization Plans.

S. 132 Title II, Tribal Land

Title II of S. 132 provides that approximately 14,804 acres of BLM-managed lands in western Oregon be held in trust for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and that approximately 17,826 acres of BLM-managed lands in western Oregon be held in trust on behalf of the Cow Creek Band of Umpqua Tribe of Indians. Title II also provides for an amendment to the Coquille Restoration Act.

Both the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and the Cow Creek Band of Umpqua Tribe of Indians have expressed their desire to acquire culturally significant tracts of land in the region as well as forest lands to be managed for the financial benefit of tribal members. The BLM strongly believes that open communication between the BLM and tribes is essential in maintaining effective government-to-government relationships, and the BLM has a positive working relationship with the tribes in the area. The Department welcomes opportunities to work with Congress on the transfer of lands into trust status and supports the goals of this title.

Because many of the lands to be taken into trust through this title have been identified for potential future timber sales in the BLM's out-year timber sale planning efforts, the BLM believes that while the transfer of these lands into trust status would provide financial benefit to the tribes, it would also reduce the land base from which the BLM could offer timber sales. This would reduce the quantity of timber that could be offered by the BLM in future timber sales and potentially result in a reduction of timber revenues to the United States and to the O&C counties; this could impact the BLM's implementation of the provisions in Title I. The Draft EIS does not analyze the impacts of this transfer in any of the alternatives. The BLM is concerned that if these bills became law, there may not be sufficient time to address these transfers and their impact to resources and uses in the Final EIS. The Final EIS Record of Decision is scheduled to be signed in spring 2016.

Subtitle A, Oregon Coastal Land Conveyance

The bill's Oregon Coastal Land Conveyance provisions provide that seven tracts of land currently managed by the BLM, totaling 14,804 acres, be held in trust for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (the Tribes). The bill directs all right, title, and interest of the United States to the identified lands, subject to valid existing rights, to be held in trust for the benefit of the Tribes. These parcels are located in western Oregon's Coos, Douglas, Benton, and Lane Counties, and include tracts such as the Coos Head, Talbot Allotment, and Umpqua Eden parcels, which are of particular cultural significance to the Tribes, as well as areas such as the Lower Smith River and Tioga tracts, managed for timber production. While the transfer would be subject to valid existing rights, we have concerns about access and withdrawal. Finally, the lands identified for transfer contain critical habitat for the northern spotted owl, as well as critical habitat for the marbled murrelet and other threatened species. The Department notes that transfer of these lands could impact recovery of these species, and would like to work with the sponsor to clarify language related to the protection of wildlife.

Subtitle B, Canyon Mountain Land Conveyance

The bill's Canyon Mountain Land Conveyance provisions provide that approximately 17,826 acres of BLM-managed land in Douglas County, Oregon, be held in trust for the benefit of the Cow Creek Band of Umpqua Tribe of Indians (Tribe). The bill directs all right, title, and interest of the United States to the identified lands, subject to valid existing rights, to be held in trust for the benefit of the Tribe. The lands identified for transfer would be used to restore and expand the historic and economic base for the Tribe in southwestern Oregon. The parcels are scattered and interspersed with private lands, and include many areas popular with hunters, anglers, and

campers. While the transfer would be subject to valid existing rights, the BLM has access concerns related to some parcels. These lands also include populations of the Federally-threatened Kincaid's Lupine and critical habitat for the northern spotted owl. The Department notes that transfer of these lands could impact recovery of these species. The BLM would like to work with the sponsor to clarify language related to the protection of wildlife and cultural resources.

Subtitle C, Coquille Restoration Act

Subtitle C of Title II would amend the Coquille Restoration Act (P.L. 101-42) to provide for a change in management direction for the Coquille Forest. The Department supports this modification to the Coquille Restoration Act.

S. 132 Title III, Oregon Treasures

The BLM also manages many extraordinary lands in western Oregon that are proposed for conservation designation under this legislation. Title III of S. 132 includes the following wilderness and wild and scenic river designations in Oregon: the Wild Rogue Wilderness Area in southwestern Oregon; the Devil's Staircase in southwestern Oregon; and the Molalla River in northern Oregon. It also makes technical corrections to the Wild and Scenic Rivers Act. The Department supports this title, which would conserve and protect these special places that are treasured both locally and nationally.

Wild Rogue Wilderness

Over millions of years, the Rogue River, one of the initial eight rivers recognized in the 1968 Wild and Scenic Rivers Act, has carved its way through western Oregon's mountains. Dense, old-growth forests flank the Rogue providing habitat for forest-dependent species. The cold, clear waters of the river provide a home for Pacific salmon, steelhead trout, and green sturgeon. Recreationists drawn to the Rogue River watershed are a critical economic engine for local economies and include fishing, rafting and boat tours, and hiking and backpacking.

The bill (Section 301) proposes to enlarge the existing Wild Rogue Wilderness by adding nearly 60,000 acres of land administered by the BLM and extend the existing Rogue Wild and Scenic River by adding approximately 120 miles of 37 tributaries to the National Wild and Scenic Rivers System. In addition, the bill withdraws 16 miles of 6 other Rogue River tributaries from land laws, mining laws, and mineral leasing laws and prohibits the Federal Energy Regulatory Commission (FERC) from licensing new water resource projects and associated facilities along these tributaries.

The BLM supports this section of the bill. This wild and rugged area is largely untrammelled and has been influenced primarily by the forces of nature with outstanding opportunities for primitive recreation or solitude. The BLM would like to work with the sponsor to ensure that the bill language is consistent with how BLM manages other congressionally designated Wilderness Areas.

Devil's Staircase Wilderness

The proposed Devil's Staircase Wilderness near the coast of southwestern Oregon is an example of what much of this land looked like hundreds of years ago. This area is a multi-storied forest

of Douglas fir and western hemlock that towers over underbrush of giant ferns and provides critical habitat for the threatened northern spotted owl and marbled murrelet. The remote and rugged nature of this area provides a truly wild experience for any hiker.

Subtitle B of Title III proposes to designate over 30,000 acres as wilderness, as well as portions of both Franklin Creek and Wasson Creek as components of the Wild and Scenic Rivers System. In previous testimonies, the U.S. Department of Agriculture has supported legislation to designate Devil's Staircase as Wilderness as well as Franklin and Wasson Creeks as components to the Wild and Scenic River System. Our understanding is that USDA continues to support these designations. The Department supports the transfer of administrative jurisdiction of 49 acres to the U.S. Forest Service but would like to work with the sponsor on minor technical corrections. Additionally, the Department supports the designations that would be managed by the BLM, including approximately 6,830 acres of the proposed Devil's Staircase Wilderness and 4.2 miles of Wasson Creek. The BLM would like to work with the sponsor to ensure that the bill language is consistent with how BLM manages other congressionally designated Wilderness Areas.

Molalla Wild & Scenic River

At an elevation of 4,800 feet, the Molalla River flows undammed for 49 miles west and north until it joins the Willamette River, providing drinking water for local communities and important spawning habitat for several fish species. Within an hour's drive of the metropolitan areas of Portland and Salem, the Molalla watershed provides significant recreational opportunities for fishing, canoeing, mountain biking, horseback riding, hiking, hunting, camping, and swimming and draws over 65,000 visitors annually.

Section 321 of the bill proposes to designate 15.1 miles of the Molalla River and 6.2 miles of the Table Rock Fork of the Molalla as components of the National Wild and Scenic Rivers System. The Department supports these designations.

Corrections to the Wild and Scenic Rivers Act

Section 322 of the bill pertains to lands managed by the U.S. Forest Service, and the Department defers to the Department of Agriculture on this provision.

Frank Moore Wild Steelhead Sanctuary

The Department of the Interior defers to the Department of Agriculture on the Frank Moore Wild Steelhead Sanctuary provision (Title III subtitle D) which affects lands administered by the U.S. Forest Service.

Conclusion

S. 132 would modify and direct the BLM's management of lands in western Oregon for timber harvest and conservation purposes, transfer certain lands into trust status for the benefit of tribes, and establish new conservation designations in western Oregon. The Department supports the goals of transferring lands into trust status and modifying management of certain lands for the benefit of tribes, and also supports the conservation designations that would be made under Title III. Additionally, the Department supports the goal of identifying a collaborative solution to conflicting management goals in western Oregon. The Department looks forward to continuing

to work with the sponsor, the Committee, and stakeholders to address concerns with the bill as drafted, to reconcile differences, and to accomplish our shared stewardship goals for BLM-managed lands in western Oregon.

**Statement of
Steve Ellis
Deputy Director, Operations
Bureau of Land Management
Department of the Interior
Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, & Mining
S. 326, Stewardship End Result Contracting Improvement Act
July 16, 2015**

Thank you for the opportunity to discuss the views of the Department of the Interior on S. 326, Stewardship End Result Contracting Improvement Act. The bill amends the Healthy Forests Restoration Act of 2003 to establish cancellation ceilings to limit up-front government obligations for stewardship contracting projects. The Department values the flexibility provided by the stewardship contracting authority and appreciates Congress' support in permanently reauthorizing it. However, we have concerns about certain provisions in this bill and would like to work with the sponsor and Committee to resolve them.

Background

Stewardship contracting authority was established for the BLM in the FY 2003 Omnibus Appropriations Act and was permanently authorized in the 2014 Farm Bill. The authority allows the BLM to award contracts for forest health and restoration treatments, including hazardous fuels reductions, for a period of up to ten years and to use the value of the timber or other forest products removed as an offset against the cost of services received. The BLM has enjoyed many successes in using stewardship contracting authority, achieving goals for forest and woodland restoration and conducting both hazardous fuels reductions and habitat restoration treatments. In addition, stewardship contracts help local communities by providing jobs, improved wildlife habitat and recreational opportunities, and protection from wildland fire. From 2003 through 2014, the BLM entered into over 400 stewardship contracts on approximately 228,000 acres. The BLM's future strategy for stewardship projects includes increasing the size and duration of these projects.

S. 326

S. 326 amends the Healthy Forests Restoration Act of 2003 to allow the government to fund cancellation ceilings for multi-year stewardship contracts incrementally. The bill also amends the Act to ensure that timber receipts in excess of the resource improvement treatment costs be applied to any unfunded cancellation ceiling before being used to fund other projects. Changing the requirement to obligate cancellation costs upfront is inconsistent with budgeting principles and would understate the Government's liability under the contract. We want to ensure that we can increase use of this valuable tool to accelerate restoration on BLM lands and want to work with the Committee in reducing barriers to doing so while adhering to core budgeting and acquisition principles.

The Department supports the provision in Section 2(a)(3) of the bill that would give the BLM Director authority to award best-value stewardship contracts for timber volumes over 250,000

board feet. The Forest Service already has similar authority, and this change is consistent with the BLM's goals of expanding and enhancing the use of stewardship contracts.

The Department would also like to work with the sponsor on minor technical corrections.

Conclusion

Thank you for the opportunity to testify in support of this legislation.

Senator BARRASSO. Thank you very much, Mr. Ellis.
Mr. Matz?

**STATEMENT OF MIKE MATZ, DIRECTOR, U.S. PUBLIC LANDS,
THE PEW CHARITABLE TRUSTS**

Mr. MATZ. Mr. Chairman, members of the Subcommittee, it's a real privilege to come before you today and offer our perspective on two pieces of legislation, S. 132 and S. 1961.

My name is Mike Matz, and I am Director of U.S. Public Lands at the Pew Charitable Trust. For many years now we have participated in various roundtable discussions with a variety of stakeholders to seek solutions to nettlesome land management issues on our national forests. Reaching agreement has proved challenging, yet in some cases achievable. Pragmatic solutions can be found when people understand they won't get everything they would like, but are able to get some of what's important to them, as you mentioned, Senator Wyden.

The path that has culminated in the introduction of S. 132 has taken a bit of time, almost three years now. We truly believe this is a step in the right direction. It protects lands and rivers while more than doubling current timber production according to some academic experts, and that benefits local economies directly by increasing the revenue stream to funding strapped counties and indirectly through job creation and amenities. The proposal is based on sound science thanks to your consultation with Dr. Norm Johnson and Dr. Jerry Franklin.

We greatly appreciate the inclusion of two wild places, Wild Rogue and Devil's Staircase which would be designated as part of the National Wilderness Preservation system and the establishment of four special management units to safeguard water resources is likewise vital since watersheds in these O and C lands supply drinking water to 1.8 million residents in that corner of Oregon. Wild and scenic river designations for 252 miles of waterways, safeguard clean water also and help protect and restore wild salmon habitat. Also worth highlighting here is the welcome protection of the ancient forests defined as stands with average age trees of at least 90 years, an increasingly rare forest type.

I need to mention some of the places not included in S. 132 which we hope to see added at some point in the process. Mt. Hebo, the headwaters of the McKenzie River, the Kalmiopsis and North Umpqua River all richly deserve wilderness protection.

Finally, we should note that we feel we've gone as far as we can go on the logging side of the equation to go beyond a doubling of timber harvest gets into uncharted science and will conceivably damage the health of these natural systems and cause harm to sensitive wildlife and plant species. We believe logging levels set forth in S. 132 will provide a steady and sustainable source of revenue to assist counties struggling to provide basic services and will create resource extraction jobs. Creating economic opportunities and improving the quality of life are important to us just as protecting water quality and conserving forests are.

We've been asked to provide our perspective on S. 1691, Mr. Chairman, and it's a real honor to be able to talk about your legislation, the National Forest Ecosystem Improvement Act of 2015.

Changes have been made to S. 1691 from the previous version, and we would like to express our appreciation to you and your staff for listening to some of the concerns enumerated by us and others in the conservation community. Gone are the forest management emphasis areas, replaced by national restoration treatment acreage, for instance, but proscribed logging targets are higher and bedrock environmental laws are undermined. We oppose S. 1691, and in our written testimony we delve into greater detail on the specific provisions which we see as problematic still in this version of the legislation.

Let me take a little time to lay out some of the overarching issues with forest management and put forward ideas that we have to address them.

The major one is budgetary. A lack of funding has hamstrung the agency, curbed staffing levels and hindered its ability to design and implement appropriate timber sales. The Forest Service hasn't the funding even to implement more recent legal changes such as those in last year's Farm bill.

Compounding the matter is the fact that the U.S. Forest Service in any given Fiscal Year has to divert substantial percentages of its budget to the steep costs associated with fighting fires which climatic conditions seemingly have exacerbated in recent years. Increasing the level of appropriations for the agency with transparency and reporting while taking the firefighting costs off budget and covering those disasters as we do floods or hurricanes, with emergency supplemental funding would go a long way toward ameliorating current difficulties with forest management.

The former ideas and simply throwing money at the problem because the limitations on the agency are real and being felt and the latter is essentially handling catastrophic fires like other natural disasters in this country. As a matter of America stepping up to assist those fellow citizens among us who need help, in this case, to protect lives and property in the wild land urban interface.

I'd like to make two more quick points. The first is that we believe in the efficacy and potential of collaboratives where there is no preordained outcome, where there exists incentives for people from all sides to sit at the table and discuss creative solutions to managing and protecting forests. And the second is that we do not think that opportunities for public participation and recourse should be unduly circumvented or short circuited. People can find common ground. And the logger in Darrington, Washington should have as much say as a conservationist in Boise, Idaho when it comes to decisions affecting our public lands.

Mr. Chairman, thank you very much for the opportunity to testify today.

[The prepared statement of Mr. Matz follows:]

Testimony by
 Mike Matz, Director, U.S. Public Lands
 The Pew Charitable Trusts
 Regarding
 S. 132, the Oregon and California Land Grant Act of 2015 & S.1691, National Forest Ecosystem
 Improvement Act of 2015
 U.S. Senate Public Lands, Forests, Mining Subcommittee
 July 16, 2015

I wish to thank you, Chairman Barrasso, Senator Wyden and members of the Subcommittee for the opportunity to testify today regarding the Oregon and California Land Grant Act of 2015 and the National Forest Ecosystem Improvement Act of 2015.

My name is Mike Matz and I am the Director of U.S. Public Lands at The Pew Charitable Trusts. Our U.S. public lands work is focused on achieving lasting protection for threatened wild lands. We proactively work to preserve some of the nation's last, best wild places in three ways:

1. Secure new legislatively protected designations for special areas on federal public lands across the country as a part of the National Wilderness Preservation System;
2. Secure legislative or administrative protection for other ecologically important areas as national monuments, national conservation areas or national recreation areas; and
3. Secure enhanced protection for critical ecological gems on Bureau of Land Management holdings through administrative procedures.

To conduct this work we partner with local organizations across the country to provide expertise in campaign planning and implementation. We are currently working with over 20 local groups in 12 states on more than 17 separate wilderness bills that are before Congress.

We engage in campaigns where we believe our expertise and efforts can help bring about balanced protections for the lands for which we care deeply, and needed stability for the local communities whose residents often depend on the natural resources around them for their livelihoods. We don't shy away from complex, or "tricky," issues. We have found that by talking these matters through with stakeholders, asking questions, and throwing out ideas, you can often find solutions where it was assumed none existed. We've discovered that one can simultaneously protect many thousands of acres of ecologically important wild lands while providing some economic stability for local communities and certainty for resource-based businesses.

S. 132, The Oregon and California Land Grant Act of 2015

It was with this balanced approach that we engaged in the Oregon and California Lands issue over three years ago. We are working with conservation partners—both local and national—as well as local business owners to ensure that any agreed-upon solution is balanced, protects water resources and sensitive old-growth habitat in western Oregon, *and* promotes the regional economy.

O&C Lands Background

Nestled throughout western Oregon are 2.8 million acres of federal lands—commonly referred to as O&C lands—rich with biodiversity and fraught with management challenges. These lands are some of the most unique landscapes in the world, harboring many distinct plant communities—temperate rain forests, ancient conifer forests, oak savannas—which include more than 300 plant species found nowhere else on Earth and which provide a home to a variety of endangered species, including wild salmon, steelhead, spotted owls, and marbled murrelets. At the same time, the ancient trees that once graced these lands were the economic backbone of many rural communities, and as such, for decades these lands have fallen into the all-too-familiar debate between species protection and timber production.

In 1866, Congress established a land-grant program to the Oregon & California (O&C) Railroad Company for the completion of the rail line between Portland and San Francisco. The grant required the company to sell the deeded land to settlers to promote economic prosperity. Forty years later, when the company failed to fully meet the terms of the agreement, the federal government reclaimed the remaining unsold lands. The lands are currently managed under the 1937 Oregon and California Revested Lands Sustained Yield Management Act (O&C Act of 1937) that reclaimed these mostly forested lands. As such, these lands are unique in the country—their management structure is based on a combination of the O&C Act of 1937 and the Northwest Forest Plan.

Prior to the development of the Northwest Forest Plan (NWFP) in 1994, timber production from O&C lands annually generated large amounts of revenues for the so-called O&C counties. Counties became dependent upon this revenue source and when it became clear that application of the NWFP would result in significantly less timber revenues for these counties, a short-term legislative “fix” was crafted as a transitional funding source to ease the financial pain to counties as they adjusted local tax policy and made other economic changes. Most counties did not make the necessary budget changes, hoping instead for further timber revenues, and Oregon’s tax structure made certain tax changes more difficult for these counties. As a result, many O&C counties have found themselves in financial trouble, with some likely to go insolvent in the next year if additional funding is not secured.

Through the late 1980s, during the height of logging in the Pacific Northwest, intensive cutting liquidated many vulnerable and ecologically valuable stands of old-growth habitat on O&C lands. Yet despite decades of timber harvest, the 2.8 million acres still harbor some of the best old-growth habitat in the western United States.

Moving forward on O&C

For decades the appropriate management regime for these lands has been debated. But the continued fighting has left rural communities in disarray, timber production uncertain and protections of our clean drinking water and precious landscapes at the whim of federal courts. It is time to find a solution to this decades-long issue and move forward—to find more certainty for all sides.

Senator Wyden, we believe that your bill, S.132, the Oregon and California Land Grant Act of 2015, is a step in the right direction in finding that balanced solution. We appreciate the leadership you have undertaken regarding this issue. This bill would protect some of the most unique landscapes and river resources in western Oregon while at the same time providing a more certain source of timber production than the status quo. In fact, the bill would more than double the current timber production on these lands, providing needed revenues to rural counties.

Engaging some of the original authors of the Northwest Forest Plan—Dr. K. Norman Johnson, of Oregon State University, College of Forestry, and Dr. Jerry F. Franklin, of the University of Washington, College of Forest Resources—to craft the timber management provisions in the bill has helped to ensure that your bill’s approach is thoughtful and scientific. The important effort made to reach out to the conservation community and other stakeholders to discuss the important ecological components of the landscape and the rivers that flow through these forests has ensured a vast array of conservation protections for some key areas in the O&C landscape.

Conservation Protections in S.132

In particular, Pew would like to highlight just a few of the important conservation protections that S.132 provides.

1. Wild Rogue and Devil’s Staircase Wilderness Areas – Title III of S. 132 sets out the protection of two of the region’s most important wild areas, the Rogue and Devil’s Staircase. We appreciate the work your office has done.

2. Rogue and Molalla National Recreation Areas – Sections 10(d) provides protection for two notable river systems in Oregon, the Rogue River and the Molalla River, respectively. These areas, while important ecologically, also provide important recreational and economic opportunities in the state. The protection of these places as National Recreation Areas illustrates the point that protecting the environment is also beneficial for the economic bottom line.
3. Wild and Scenic River Protections – Titles I and III designate more than 252 miles of wild and scenic river. These rivers are the bloodlines of Western Oregon, providing clean drinking water to more than 1.8 million Oregonians in rural and urban communities and the habitat necessary to protect and restore Oregon's fabled wild salmon populations.
4. Legacy Old Growth Protection Network – Section 10(b) legislates the protection of old growth forests on O&C lands. Preserving the remaining stands of old-growth forests on federal lands in the Northwest has long been recognized as essential to the long-term health of the forests and the plants and animals that depend on them for survival. Protecting these ancient forests on O&C lands ensures that these invaluable trees continue to play an important role in producing clean water, absorbing carbon, and providing refuge for flora and fauna alike.
5. Primitive Backcountry Areas – In Sections 10(e)(4)-(10), the bill identifies six Primitive Backcountry Areas—Grizzly Peak, Dakubetede, Wellington Wildlands, Mungers Butte, Brumitt Fir, and Crab-tree Valley—all of which contain large swatches of land identified by the Bureau of Land Management as lands with wilderness characteristics. These areas are respites for hunters and anglers alike, as well as important for plant and wildlife species. While we believe at least some of these areas could and should be protected as wilderness, we appreciate the current designations and look forward to working with your staff on refinements.
6. Special Environmental Zones – The O&C lands include more than 95,000 acres identified by the Bureau of Land Management and citizens as “Areas of Critical Environmental Concern”—habitats, resources, or landscapes in need of special management. These ecologically important locations, found in approximately 133 places, are scattered throughout western Oregon. They range in size from the 1,700-acre Bobby Creek Research Natural Area, with its rare plants and endangered stands of Port Orford cedar, to a 10-acre tract of land that is home to the northernmost grove of rare Baker cypress. The Valley of the Giants, a 1,300-acre tract in the central Oregon Coast Range, is valued for its scenic beauty, its fish and wildlife habitat, and as an example of a healthy, ancient-forest ecosystem. These are truly some of the most unique acres in the O&C landscape and we support and appreciate their protection as designated under Section 10(e)(11).
7. Illinois Valley Salmon and Botanical Area Special Management Unit – The Illinois River Valley in southern Oregon is renowned for its remarkable salmon runs and its spectacular and truly unique botanical resources. Visitors from around the globe come to fish these waters and to admire the beauty of this valley. Section 10(e)(1) ensures the protection of these resources for future generations.
8. Drinking Water Special Management Units – Section 10(c) identifies four special areas—McKenzie, Hillsboro, Clackamas, and Springfield/Eugene—dedicated to the protection of clean drinking water for various communities. The rivers that run through the O&C lands produce clean drinking water for more than 1.8 million Oregonians, and the protection of these key areas from contamination is both imperative to retain the high quality of clean drinking water available in the state while at the same time reducing secondary filtration costs otherwise necessary for delivering safe and affordable potable water to citizens across the state.
9. Salmon Refuges and Sanctuaries – Oregon is world-renowned for its crisp cool waters and fabled salmon runs. Sections 10(c)(2) and (3) and Title III ensure that three of these special salmon rivers are protected

for future generations, the Kilchis, the Smith, and portions of the North Umpqua River, named after one of Oregon's World War II hero's, Frank Moore.

10. Riparian Reserves & Watershed Protections – The Northwest Forest Plan's (NWFP's) Aquatic Conservation Strategy (ACS) has proven to be one of the most effective management strategies on federal lands. This provision has ensured the protection and restoration of aquatic resources throughout the Northwest. We are pleased that S.132 legislates the ACS's goals and objectives of the NWFP, protects Key Watersheds, and applies the NWFP's current riparian reserves on approximately two-thirds of the O&C landscape. This approach is critical for clean drinking water resources, and protections for wild salmon.

We commend you, Senator Wyden, for including these provisions and others I have not specifically listed above (including the expansion of the Cascade-Siskiyou National Monument, the protection of the Pacific Coast Trail, the protection of the Cathedral Hills Natural and Recreation Area, and the protection of critical habitat for fish and wildlife). These protections are essential to the balance we believe the bill's framework exhibits.

We know getting this far was not easy and we appreciate the time, dedication and leadership you have shown to craft a bill around these conservation pillars.

As you know, this bill was not easy for Pew to support at earlier stages. Even today, there are provisions that are troublesome for Pew. For example, the land rationalization provisions in section 11 incorporate more National Forest lands than we believe are necessary or prudent. At the same time, unique lands within the National Forest landscape, such as Mt. Hebo, McKenzie River headwaters, Kalmiopsis backcountry, and North Umpqua River roadless areas, go unprotected. As you know, Pew strongly supports making each of these four areas new wilderness areas in Oregon.

I do also want to make clear that Pew has compromised as far as it can on this legislation. As you know, we came to the table on this bill and worked for many months in good faith and with a strong willingness to find compromise. We believe this bill is that compromise. No one involved in these deliberations gets everything they might want, but everybody gets some of what is important to them. This is what we believe defines a compromise. But, with any compromise of this sort, there are fine lines that once crossed means the compromise dissolves. We believe that the balance this bill represents is a fair approach to addressing both the conservation and local county needs associated with these forests. And given the strong conservation elements of this bill, we come here today—as we have before—to support S.132.

S.1691, National Forest Ecosystem Improvement Act of 2015

I'd now like to move to a short discussion of S.1691, the National Forest Ecosystem Improvement Act of 2015. Mr. Chairman, I want to thank you and your staff for listening to concerns expressed by Pew and others in the conservation community regarding provisions of your earlier forestry bill, the "National Forest Jobs and Management Act" (S. 1966, 113th Congress). While I acknowledge and appreciate that some positive changes were made in S.1691, Pew is unable to support this new bill in its current form, for several reasons. S. 1691 would create unrealistic timber mandates on our federal lands—potentially diverting already insufficient resources from other U.S. Forest Service demands such as wildfire prevention. The legislation would undermine key provisions of the National Forest Management Act of 1976 (NFMA), the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA), as well as improperly expand categorical exclusions allowed under NEPA. And finally, it would inappropriately limit citizen access to the federal courts.

Summary of Issues with S.1691

Creates unrealistic timber mandates. S.1691 would significantly increase logging in our national forests while also reducing our environmental safeguards and opportunities for public involvement in national forest

management. The bill mandates annual minimum acreage requirements of 1 million acres of mechanical treatments and 1 million acres of prescribed fire (Sec. 104(a)). Currently, due largely to funding limitations, the Forest Service is able to harvest about 200,000 acres per year through mechanical treatments. Absent a major increase in congressional funding, the Forest Service could be required to divert its limited resources away from all other multiple-use activities in order to accomplish the bill's legally-required logging mandates. Thus the mandated logging minimums in the bill would undermine the multiple use provisions of the National Forest Management Act of 1976 (NFMA)

Undermines bedrock environmental laws. S. 1691 would undercut key provisions of the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). Section 105 eliminates NEPA's requirement to analyze a reasonable range of alternatives by requiring the agency to analyze only two options—a "no action" alternative and the proposed action. NEPA's reasonable range of alternatives was put in place to safeguard against agencies simply picking a proposed action and pushing those actions forward without true regard to the environmental consequences of the action. While there may be times when agencies do examine too many alternatives, and thus increase the time and costs involved in NEPA reviews, just two alternatives undermines the very purpose of NEPA.

Section 205 allows projects falling under three new categorical exclusions (CEs) to by-pass traditional ESA consultation, allowing the USFS to analyze its own actions and to craft its own biological opinions instead of consulting with U.S. Department of Fish and Wildlife Service (USFWS). Similar provisions under the Environmental Protection Agency's insecticide permitting regulations were struck down by a federal court in 2006 (see, *Washington Toxics Coalition v. Department of Interior (W.D. WA 2006)*). Trying now to legislate those illegal provisions on our federal forests cannot be supported by Pew.

Limits public access to federal courts. S. 1691 would establish two new requirements that would severely limit the public's access to judicial review of USFS decisions regarding logging in federal forests. First, section 106 eliminates judicial review and requires the USFS to establish a binding arbitration/alternative dispute resolution process for ecosystem restoration projects that have been collaboratively developed or identified in a community wildfire protection plan (Sec. 106(a) and (b)). The arbitrator is required to choose either the USFS project or the objector's alternative, which could be either more environmentally oriented or less so. The arbitrator is not allowed to propose his/her own proposal, is not allowed to propose a combination of the other proposals, and has no requirement to ensure that federal laws are carried out. The arbitrator's decision would not be subject to judicial review, except in instances of corruption, fraud, bias, or other misconduct by the arbitrator (Sec. 106(h)(3)). What's more, section 107 would require anyone who files a lawsuit challenging projects still subject to judicial review to post a bond equal to the anticipated costs, expenses, and attorneys' fees of the USFS as defendant in the case (Sec. 107(a)(2)). The bond would not be returned unless the plaintiffs prevailed on all of their legal claims in the lawsuit (Sec. 107(c)) or through a settlement determination if a settlement is ultimately reached in the case. Due to average government salaries and hours required for litigation, litigation costs can easily run in the tens of thousands of dollars. Requiring such a litigation bond would severely limit the individuals and organizations able to access judicial review on such matters. While Pew does not oppose the idea of an alternative dispute resolution process for some forestry proposals, and in fact, supports the concept, the ADR process set forth in S. 1691 is unacceptable in its current form.

Three new Categorical Exemptions under NEPA are too far-reaching. Title II of S. 1691 creates three new types of categorical exclusions (CEs) that exempt national forest logging activities up to 5,000 acres (or in some cases 15,000 acres) from complying with the requirements of the NEPA and with the normal consultation requirements of the ESA. Section 202 provides CE authority for "Critical Response" projects; forest management projects whose "primary purpose" is to address insect and disease infestations, reduce hazardous fuels, protect a municipal water source, protect critical habitat from catastrophic disturbance, or increase water yield (Sec. 202(a)). The projects generally can be up to 5,000 acres in size, but they can be as large as 15,000 acres if they are collaboratively developed, proposed by a Resource Advisory Committee, or covered by a community wildfire protection plan (Sec. 202(b)). This is a five-time increase over the CE for collaboratively-developed restoration projects under the 2014 Farm Bill. The Salvage Logging CE (section 203) at 5,000 acres is 20 times the size of

the USFS's current salvage logging limitation. And Early Successional Forest CE is all-together a new provision, allowing clear-cutting on up to 5,000 acres of our national forest with limited review of the water quality and terrestrial impacts. Pew understands the desire to expedite certain timber proposals and agrees that the expedition of those developed through collaborative processes might make sense. We believe this can be done without undermining our nation's bedrock environmental laws and look forward to working with you and your staff to find common ground in this respect.

Mr. Chairman, I am sorry to say that Pew cannot support S.1691 as currently drafted. We stand ready to work with you and others, however, to craft a forestry bill that more adequately balances the needs of our national forests and all the communities and wildlife that depend upon them.

Conclusion

On behalf of The Pew Charitable Trusts, I want to thank you for the opportunity to come before you today to voice our views on S.132 and S. 1691. We are committed to continuing to work with you, Chairman, Senator Wyden, and the Subcommittee to ensure we achieve bills that incorporate values we all hold dear—the protection of our natural environment and the economic vitality of rural communities.

I ask that my written statement and accompanying documents be submitted to the hearing record.

Senator BARRASSO. Thank you, Mr. Matz.
Mr. Neiman?

**STATEMENT OF JIM NEIMAN, VICE PRESIDENT AND CEO,
NEIMAN ENTERPRISES, INC**

Mr. NEIMAN. Thank you, Chairman Barrasso and Ranking Member Wyden, also recognize Senator Gardner which I have a mill out in Colorado.

Senator, I am Vice President and CEO of Neiman Enterprise. We own four sawmills, two in South Dakota, one in Colorado and our home state, our home office in Hulett, Wyoming. These mills create 475 direct jobs and support another 275 independent contract jobs.

I'm here today on behalf of the Federal Forest Resource Coalition, representing purchasers of forest service timber from 32 states. I'm here to thank you, Senator Barrasso, for introducing Senate bill 1691, the National Forest Ecosystem Improvement Act.

S. 1691 builds on recent congressional actions. These include the Healthy Forest Restoration Act, repeal of the Peel's Reform Act and the 2014 Farm bill. I hope the Senate will move quickly so Federal forestry reform legislation can be enacted this year.

In the intermountain west Forest Service is the primary forest land owner and principle supplier of timber. While our company purchases most of our timber sales from the Black Hills National Forest, we also purchase timber from the seven other national forests. Since the late 1990s we've seen catastrophic forest fires and insect epidemics devastate the national forest where we work and live. A solid body of science, scientific research, demonstrates that proactive forest management can have a significant influence on fire behavior, the detrimental effects of wildfire and bark beetle epidemics.

The underlying concept is simple, overstocked forests with little structural diversity are highly susceptible to fire and bugs. Reducing stock in and managing for diversity will reduce susceptibility. The Forest Service's 2012 restoration strategy acknowledges the need to increase the pace and scale for forest restoration, reduce hazards and increase resiliency of the national forest. While there has been progress, it has been agonizingly slow.

Unfortunately the Forest Service's environmental analysis and decisionmaking process is a procedural maze, made worse because of the activist litigation. In 2014 the GAO found that the Forest Service prepares more environmental impact statements than any other Federal agency and takes longer and spends more money in doing so. Once these NEPA documents are complete, litigation frequently follows. In the interim the beetles continue to spread and wildfires don't wait for environmental reviews. Frequently even when the Forest Service ultimately prevails the needed management project is rendered mute, the watershed is damaged and the opportunity for economic use of the timber land is lost.

S. 1691 addresses many of these issues by providing new authorities to complete NEPA and ESA consultation quickly, discouraging dilatory litigation and providing new categorical exclusions to shorten the planning horizon for needed management. We're particularly pleased with the bill, that the bill provides for arbitration option to the Chief as an alternative dispute resolution mechanism.

S. 1691 preserves opportunities for public involvement and requires documentation of the need for management objectives and the proposed categorical exclusions must comply with forest plan direction. The Obama Administration and the Forest Service, with the Chief to clear down to the crews on the ground, deserve praise for their efforts to expand management on our national forest. They have worked hard to move needed projects forward, but the current processes are an impediment to increasing the pace and scale.

The Federal Government must embrace a vision of efficient, proactive management and healthy forests and commit to the resources needed to implement the aggressive strategy on the ground. By providing new tools and addressing bottlenecks, S. 1691 sets the ground work for such a strategy.

Again, I am honored to testify today and look forward to working with you to move forestry reform legislation to the President's desk.

Thank you.

[The prepared statement of Mr. Neiman follows:]



FEDERAL FOREST RESOURCE COALITION

600 New Hampshire Ave., NW
Washington, DC 20037

Testimony of
Jim D. Neiman
Vice-President, CEO, Neiman Enterprises, Inc.
Board Member, Federal Forest Resource Coalition
Before the Public Lands, Forests and Mining Subcommittee
Committee on Energy & Natural Resources
July 16, 2015
On the National Forest Ecosystem Improvement Act of 2015

My name is Jim Neiman, and I am the Vice President and CEO of Neiman Enterprises, Inc. headquartered in Hulett, Wyoming. Our family has been in the ranching business for 5 generations and in the forest products business for 3 generations. We currently own and operate three sawmills and one pellet mill in the Black Hills of South Dakota and Wyoming, and one sawmill on the West Slope of Colorado. Our company directly supports about 750 families through our 475 employees and 275 local independent contractors, in the four states where we operate.

I currently serve on the Board of Directors of the Federal Forest Resource Coalition, the Intermountain Forest Association, the Black Hills Forest Resource Association, the Business Advisory Board for the Kansas City Federal Reserve Bank, Wyoming Gov. Matt Mead's Task Force on Forests, and the Hulett Airport. I have also served in the past on the Board of Trustees for the University of Wyoming, the Wyoming Occupational Health and Safety Commission, the Board of the Hulett National Bank, and the Wyoming Economic Development and Stabilization Board.

I am here testifying today on behalf of the Federal Forest Resource Coalition, a national non-profit organization representing purchasers of Federal timber, conservation groups, and county governments in 32 States. Collectively, our members employ over 390,000 people, and provide over \$19 billion in payroll. Our members purchase, harvest, transport, and process National Forest and BLM timber into renewable wood, paper, and biomass energy products. Moreover, we live and work in close proximity to our National Forests. It is a privilege to live and work in these beautiful settings.

On behalf of our members, we submit the following comments on S. 1691, the National Forests Ecosystem Improvement Act of 2015. We strongly support the bill, which provides

the Forest Service with new tools to manage the National Forests, which are showing the effects of inactive management, drought, overstocking, large wildfires and insect epidemics, and climate change. The tools provided by the bill would be immediately available for implementation, and address several key areas where the Forest Service struggles for timely project development and implementation. We urge the Committee to quickly pass it through the Senate and proceed to conference with the House, which recently adopted a similar reform package.

The Situation in the Black Hills and Colorado:

The Forest Service owns 70-80 percent of the timberland in the States where we operate. As for Neiman Enterprises, our mills rely very heavily on National Forest timber. We purchase timber from 8 national forests in the four states where we operate. Due to significant reductions in timber harvests from our National Forests, we have struggled to maintain timber supplies necessary to keep our mills viable.

We have experienced significant forest health problems in the three-state region where we operate. The National Forests in the Rocky Mountains and Black Hills have been suffering from extensive mortality due to bark beetles, which have killed trees on over 50 million acres of pine and spruce forests. These outbreaks, and the Forest Service's slow response to them, threaten the future of our forests and the viability of the wood products industry in the Mountain West.

The single most significant reason for the mountain pine beetle epidemic is the density or "stocking levels" of the forest. Reducing the risk of mountain pine beetle outbreaks in ponderosa pine forests isn't rocket science. Dr. John Schmid, arguably the world's foremost expert on mountain pine beetles, has maintained a series of research plots in the Black Hills for years. From his research, we know that the duration and intensity of mountain pine beetle infestations are primarily a function of the number and size of trees. The higher the density of trees, the higher the risk of mountain pine beetles. Conversely, thinned stands have a significantly lower risk of mountain pine beetles. While mountain pine beetle mortality won't be eliminated, mortality can be limited to a relatively low level through proactive thinning.

National Forests in other States have experienced similar catastrophic insect epidemics. These catastrophes have caused great harm to forests, communities, private landowners, residents, and family-owned businesses. The expansion of bark beetles to lodgepole pine forests and higher elevation spruce forests demonstrates that we must aggressively manage our forest to ensure that healthy, vigorous forests can withstand the impacts of drought, fires, and native insects.

The Forest Reserves were created in the late 1800s in response to public outcry about the destruction of forests, and the reduction of timberlands to barren wastes subject to flood and fire. Today, there's also a public outcry about the destruction of our forests and the risk of fires and floods, only now the problem is the failure of federal forest policies.

The Black Hills National Forest has been a leader in national forest policy since 1899, when Case No. 1, the very first timber sale from the national forests, was sold to Homestake Mining Company. The Black Hills National Forest was the first national forest to develop a forest plan in the mid-1980s, and the first national forest to revise a forest plan in the mid-1990s.

For most of the 20th century, the management of the Black Hills NF was generally very successful. However, the last 15 to 20 years have been extraordinarily challenging. All told, the Black Hills NF spent nearly 16 years completing a 10 to 15-year forest plan. Worst of all, after all that planning, the Forest Service has fallen short of achieving the Black Hills NF forest plan timber sale outputs, with detrimental effects to both the Forest and local forest products companies.

Historically, the Forest Service has demonstrated the ability to respond aggressively to mountain pine beetle outbreaks. In the early 1990s, the Forest Service moved quickly and aggressively in response to an outbreak near Bear Mountain, and quickly sold two timber sales to salvage bug-infested trees, before the infestation had a chance to grow. In contrast, a recent project on the Black Hills NF was the Vestal project, which was a high priority project due to its proximity to Custer and the high occurrence of mountain pine beetles. The Forest Service started the analysis in May, 2011 using HFRA authorities, but didn't finish the analysis and make a decision until June 2012. They finally began selling timber sales in the late summer of 2012. That meant two flights of beetles while the Forest Service was doing their analysis and making a decision.

In some parts of the country, the Forest Service routinely moves more quickly to recover downed timber and begin restoring the forests. For instance, the Forest Service did much better following Hurricane Katrina, which hit Mississippi on August 29, 2005. By December 5, 2005, the Forest Service had completed their analysis and signed a Decision Notice. On December 6, 2005, they sold the first salvage sale, ultimately selling 58 timber sales and salvaging nearly 300 million board feet of downed timber. We see forests in other regions that usually address urgent salvage operations more quickly than we are able to do in the Western U.S. We've even seen forests that have model NEPA documents ready for the types of disturbances they typically encounter.

The Obama administration and the Forest Service, from the Chief to the crews on-the-ground, deserve praise for their efforts to expand management on our National Forests. They have worked hard to move needed projects forward, but the current processes are an impediment to increasing the pace and scale of needed management.

There is no question that resources can and do constrain the Forest Service. We have consistently advocated for increases in management funding. In this fiscal climate, however, there are two major things Congress can do to stabilize and improve the fiscal condition of the Forest Service; first, Congress should enact a fire funding solution that will prevent disruptive "fire borrowing." Second, Congress can help restore order to the Appropriations process. Running the Forest Service on a series of short-term CR's prevents program planning and delays timber sales and other needed forest management.

These budgetary measures are simple, good government measures that anyone who cares about the Forest Service should support. I applaud all of the various measures intended to prevent fire borrowing, and the efforts of the appropriations committee to advance a Forest Service budget this year. Doing these things will help the Forest Service proactively manage the National Forest. Proactive management works in the Black Hills. Proactive management reduces the potential for mountain pine beetles and fires, puts people to work, saves money for the federal government, and forest products companies can produce American wood products for American consumers.

The Need for Reform:

Over 82 million acres of Forest Service lands are at elevated risk of catastrophic wildfires, insect, or disease outbreaks. These problems are often the most severe in the States which have lost most of their wood using industries, such as Arizona and New Mexico. Large scale wildfires cost billions annually to suppress, and cities such as Denver have been forced to spend tens of millions of dollars restoring damaged watersheds.

In other National Forests, such as those in the Lake States and New England, passive management has allowed forests to develop into closed canopy stands where little sunlight reaches the forest floor. These forests have limited value as wildlife habitat and are susceptible to fire and insects, while sensitive species which require early successional habitat, such as the ruffed grouse and Kirtland's Warbler, continue to disappear.

The extent of the problem is not in doubt. The Government Accountability Office recognized the urgency of the need to reduce hazardous fuels in 1991. The Forest Service acknowledges that over 73 million acres of their lands are a high priority for management and that "one time treatment of all high fire risk areas would not fully address the fuels problem, as landscapes continue to change over time and fuels would build up on many lands currently in historic condition, without periodic maintenance treatments." The Western Governors Association has adopted numerous resolutions acknowledging the extent and severity of the problem.

Current authorities do not allow the Forest Service to plan and implement needed management projects in a timely fashion. Badly needed projects to thin hazardous fuels can take years to plan, at which point groups opposed to management file lawsuits that cause further delays. Forests are woefully behind on meeting forest plan objectives, particularly those associated with young forests. At best, it takes the Forest Service at least a year to plan and begin implementing salvage projects in some regions.

FFRC supports fundamental reform of the National Forest System, including identification of a land base for timber production, with streamlined analytic and judicial review processes. Further, we believe that providing needed clarity to the Forest Service is needed if the Forest Service is to successfully tackle its management challenges. As FFRC has previously testified in front of this committee, a "trust" mandate with clear beneficiaries and fiduciary responsibilities – if implemented on the small portion of the National Forests suited for timber production – is the kind of mission clarity the Forest Service needs.

However, with due consideration of the difficulties of moving such a comprehensive bill in the current political climate, we believe S. 1691 represents a credible, implementable set of authorities that will enable implementation of needed management projects much more quickly than is currently possible.

I applaud S. 1691 for taking a hard look at the process requirements enacted by the Congress and interpreted by the Courts, which have allowed what should – at most – be disputes between different resource managers, to turn into points of law where judges invite themselves to second-guess agency expertise. S. 1691 provides new tools to streamline management, and to hold the Forest Service accountable for on-the-ground implementation.

Forest Service attempts to comply with the Gordian knot of laws draws frequent, intentionally dilatory litigation. Even projects carefully designed by collaborative groups are delayed. While these projects wend their way through the legal system, insects and fire continue to take their toll and render the projects moot before they can be implemented.

Specific Observations on S. 1691:

FFRC applauds the approach taken in the bill; by providing a new set of immediately usable management tools, discouraging dilatory litigation, and experimenting with alternative dispute resolution, the bill addresses several key areas where the Forest Service struggles to design and implement needed management projects in a timely fashion.

In particular; we support the bill's provisions which:

- Provide further categorical exclusions for a variety of projects, and to reduce the required analysis of projects designed to meet treatment targets;
- The experimental use of binding arbitration as a means to encourage dispute resolution for needed forest management projects.
- Provide expedited authority for salvage, reforestation, and recovery projects on NFS lands impacted by wildfires;
- Require the posting of a bond by litigants filing suit against ecosystem restoration projects;
- Setting concrete targets for mechanical treatments, and providing expedited NEPA timelines to help achieve them;
- Allowing use of alternative consultation processes under the Endangered Species Act, and setting deadlines to complete consultation.

The provisions identify and address the major “choke points” that create delays in needed forest management projects. The Forest Service struggles to get ahead of fast-moving insect infestations, and then has a hard time planning forest recovery projects in the wake of large catastrophic events. Because of the ever present threat of litigation, the Forest Service tends to try to bullet proof even modest forest management projects. Instead of opting for Environmental Assessments, for instance, the Forest Service tends to do more Environmental Impact Statements. .

This rarely achieves the desired results. Groups are not discouraged from litigating, either by efforts to reduce project size or by efforts to “armor” projects behind extensive analysis. The very few groups who litigate frequently seem to focus only on achieving delays, filing “cookie cutter” suits which simply attempt to compel further analysis.

It is worth noting that in many cases, litigation against forest management projects creates the appearance of legal deficiency, rather than “catching the Forest Service breaking the law,” as some would style it. In the case of the Colt Summit Project in Montana, for instance, the litigant threw over 14 allegations against the proposed project; a modest thinning project strongly supported by the local community, sportsmen, and conservation groups. The judge enjoined the project in order to require further analysis. Ultimately, the project went forward, very nearly in the exact same form as it was initially proposed. The actions on the ground were perfectly legal; the Forest Service was tripped up on purely analytic and procedural grounds.

To the extent that the bill diminishes the likelihood of success of these purely analytic and procedural suits, or discourages their filing in the first place, that would represent a key success for the Forest Service and their neighbors.

The streamlined NEPA processes, both for general ecosystem restoration projects and for specific categorical exclusions, are badly needed to allow shorter planning horizons and more rapid implementation of needed management projects.

There are a few issues the bill does not address. Many of these are included in HR 2647, which passed the House of Representatives with bi-partisan support last week. We particularly recommend adding provisions which:

- Adjust the uses of Secure Rural Schools Title II funds to create self-sustaining local advisory committees by focusing 50% of that funding to timber management projects, and to use proceeds from RAC projects to fund additional forest management;
- Require Stewardship contracts provide 25% revenue sharing with counties, create additional opportunities for restoration work, and address fiscal management issues which have disrupted the use of Stewardship contracting in the past;
- Create a revolving fund which can be used to develop forest management projects, the cost of which can be repaid from timber sale receipts back to the fund for additional project work.
- Expand the 2014 Farm Bill Forest Insect & Disease Treatment Area Categorical Exclusion to include Fire Regime IV lands, where large scale insect infestations and mortality are occurring.
- Clarifying that existing NEPA may be used in the wake of a catastrophic event to implement needed management measures. Too often, the Forest Service insists on re-initiating the NEPA process in the wake of fires or insect outbreaks, even if existing NEPA documentation adequately addresses the changed condition.

These provisions mesh neatly with the structure created in this bill, and help address some of the other major problems the Forest Service faces; we routinely hear that the cost of completing NEPA is a limiting factor as the agency attempts to expand the pace and scale of management. By allowing the use of retained receipts from Stewardship contracts, and creating a revolving fund to accept partnership funds, the legislation would greatly expand the resources available to expand needed management.

Conclusions:

Over the last several years, the Committee has heard from multiple stakeholders concerned about the safety of their communities, their ability to access forest lands to hunt and fish, the sustainability of their economies, and the protection of their drinking water supplies.

The Forest Service is attempting to address many of these concerns by accelerating the pace and scale of forest restoration of our National Forests. However, additional authorities are needed. We believe the authorities provided in the National Forest Ecosystem Improvement Act are a very positive step in this direction.

As many others have noted, one of the other significant challenges facing the Forest Service is the practice of underfunding fire suppression costs, leaving the Forest Service with no mechanism to cover the inevitable shortfalls except to transfer management funds to the fire accounts. Along with many others, we have supported the Wildfire Disaster Funding Act, which provides a bi-partisan basis for a solution to this widely acknowledged problem. The WDFA received a zero-score from CBO. You have championed a separate fire funding measure in the FLAME Act Amendments legislation. Recently, both the Senate Appropriations Committee and the House of Representatives have formulated alternative means of providing emergency fire funds which would stop the practice of fire borrowing. We urge Congress to work with the Administration to address this pressing problem, whether in the context of this legislation or elsewhere.

Thank you for the opportunity to share these thoughts on this important bill.

The Federal Forest Resource Coalition is a 501(c)(6) non-profit representing purchasers of Federal timber and biomass in 32 States. Our members harvest, transport, and process timber into wood products, pulp and paper, and biomass, and represent local governments, sportsmen's groups, and others who support better management of our national forests. Collectively, our members represent over 390,000 employees, and over \$19 billion in payroll.

Senator BARRASSO. Thanks so much, Mr. Neiman.
Mr. Swanson.

**STATEMENT OF STEVE SWANSON, PRESIDENT & CEO,
SWANSON GROUP, INC.**

Mr. SWANSON. Good afternoon, Chairman Barrasso, Ranking Member Wyden and members of the Subcommittee. I appreciate the opportunity to appear before you today. I am Steve Swanson, President and CEO of Swanson Group, a family-owned, forest products company in existence since 1951.

My testimony is primarily focused on the need and our continued support for a balanced, effective solution to break the paralysis surrounding the management of the statutorily unique BLM O and C lands. I know Senator Wyden has dedicated significant effort to finding that needed solution.

I'd also like to underscore the importance of adopting legislation to improve the health of our national forests and thank Senator Barrasso for his leadership in this effort.

The Swanson Group currently operates two sawmills, one plywood mill and we're rebuilding another plywood mill in the Eugene area that was completely lost to fire last summer, actually one year ago tomorrow. Our company currently employs 600 people in some of the economically distressed communities in rural Oregon, and with the rebuilt plant we'll increase that number to 850.

My testimony today will focus on the building blocks necessary to create an O and C solution that is supportable. The items I will focus on include certainty, creating a large enough, geographically distributed land base that the agreed upon volumes and timber revenues can be produced and protecting private lands which today are our industry's sole source of dependable wood fiber.

The cornerstone of any O and C solution is the level of certainty provided to meeting the timber harvest, conservation, county revenue and other management objectives. Put plainly, if a major part of the statutorily unique O and C lands are going to be preserved forever by an act of Congress, I don't think it's unreasonable to ask that some of the lands be designated and unencumbered for the purpose of responsible management to create jobs, revenues for rural counties and healthy, diverse forest types.

Current harvest levels are inadequate to meet the timber volume needs of the remaining industry infrastructure or forest health. The situation is particularly challenging in the drier forests of Southwest Oregon where the forests are at higher risk to catastrophic wildfires.

Senator Wyden, as you know from your recent trip to the seven wonders of Oregon, Oregon is a large state. Increased harvest levels in Salem and Eugene do nothing for the mills in Roseburg, Glendale and Medford. An effective O and C solution must produce sustainable timber harvest at levels that support local infrastructure and forest health up and down the I-5.

The size of the manageable land base is critical to achieving forest health goals and timber outputs. S. 132 designates only 31 percent of the BLM lands for timber output goals and 69 percent to permanent conservation allocations. Within the 31 percent dedicated to timber harvest there are extensive silvicultural prescrip-

tions and individual tree and stand prohibitions that restrict harvest. It is possible to take a lighter touch approach to managing but the available land base would need to be enlarged.

Conversely, we can manage a smaller portion of the O and C lands more intensively. It is not possible to increase harvest levels if we shrink the management land base and mandate lighter touch treatments.

Finally, in our state which is dominated by Federal land, well managed private forests are the thread that our mills have hung on. I appreciate your efforts to protect private land access but there also must be more done on the BLM lands to address the risk insects, disease and catastrophic wildfire pose to private land. Unfortunately these risks don't respect property lines or ownerships.

Our industry has come to the table and will continue to come to the table to find a durable, workable compromise for the O and C lands. In fact, the timber industry supported the House O and C proposal which dedicated more than half of the O and C lands to conservation purposes while dedicating less than half to sustained yield timber production with sufficient legal certainty.

Senator Wyden, despite our position on your bill I want to assure you that our industry remains totally and completely committed to working with you and the rest of the Oregon delegation to find an effective compromise O and C solution before we see further economic declines in our rural communities.

With regard to S. 1691, this legislation includes important provisions to address the primary factors limiting the management of our national forests today, namely the litigation and cost in time required for the Forest Service to satisfy the analysis paralysis that constrains forest managed projects. It sets reasonable goals for annual mechanical treatment levels and builds upon many existing authorities to streamline project planning and implementation for a limited subset of forestry projects including those developed by collaboratives. It also seeks to rein in the serial litigation that is holding back forest restoration efforts.

I hope this Congress can reach consensus on a reasonable package of national forestry forums to restore the health of forests and communities.

Thank you.

[The prepared statement of Mr. Swanson follows:]

Statement of

**Steve Swanson, President & CEO
Swanson Group, Inc.
Glendale, Oregon**

Before the

**Senate Energy & Natural Resources Committee
Subcommittee on Public Lands, Forests and Mining
United States Senate**

July 16, 2015

Concerning

**S. 132, Oregon and California Land Grant Act of 2015
S. 1691, National Forest Ecosystem Improvement Act of 2015**

Good afternoon Chairman Barrasso, Ranking Member Wyden, and members of the Subcommittee. I am Steve Swanson, President & CEO of Swanson Group, Inc., a family-owned forest products company that dates back to 1951 when my father and uncle established Superior Lumber Company in Glendale, Oregon. I appreciate the opportunity to appear before you today. My testimony is primarily focused on the need and our continued support for a balanced, effective solution to break the paralysis surrounding the management of the statutorily unique BLM O&C lands. I'd also like to underscore the importance of adopting legislation to improve the health of our national forests and thank Senator Barrasso for his leadership in this effort.

The Swanson Group currently operates two sawmills, one plywood mill, and we're rebuilding another plywood mill that was completely lost to fire last summer. Our company employs about 600 people in some of the most economically distressed communities in rural Oregon. Like most of the domestic industry we have invested heavily to upgrade all of our mills with state-of-the-art technology and retooled them to utilize the smaller diameter timber we were told would be coming from federal forests. Unfortunately, an adequate and reliable supply of timber from federal lands has not materialized – putting our forests, rural communities, milling capacity, and private investments at risk. Our industry can compete with anyone in the world, if – and it is a big if – we can secure the raw materials required to run our operations.

I am here today because I care deeply – as an employer, business owner, and resident – about the health of Oregon’s rural communities and forests. The reality is that today both are in serious jeopardy. Nowhere is this more evident than southwest Oregon, where the majority of the BLM O&C lands are located. Over the past 20 years we’ve watched as litigation, appeals, and conflicting federal regulations and law have resulted in a 90 percent reduction in the volume of timber harvested from federal forests, including the O&C lands. Thousands of jobs have been lost, mills have closed, and forest health has declined dramatically – to say nothing of the growing devastation of forest fires and their impact on taxpayer-funded budgets

Our rural communities have paid the price. The disparity in pay between Oregon’s metropolitan and rural counties, which was once modest, has quadrupled. Rural Oregon’s per-capita income, which used to be above the U.S. average, is now only 75 percent of the U.S. average. Oregon is frequently at or near the top of the nation in per capita food stamp usage, with one in five Oregonians receiving assistance. County governments in southwest Oregon are on the brink of insolvency due to reductions in federal timber receipt revenues and the lack of private sector employment.

Western Oregon’s rural, forested communities are in dire need of a durable, workable solution. We need a solution that provides the remaining critical milling infrastructure with a predictable supply of raw materials; we need a solution that is going to get Oregonians back in the woods **proactively** managing our forests to reduce disease, insect, and fire risks. And, we need a solution that reflects the unique legal mandate of the O&C Lands – which is to provide permanent, sustainable timber harvests in Western Oregon.

S. 132, Oregon and California Land Grant Act of 2015

I appreciate Senator Wyden’s recognition of the challenges facing Oregon’s timber communities and his commitment to finding a balanced, effective solution for the O&C lands. Unfortunately, our industry is united in the view that S. 132, as currently constructed, is not that solution. The affected county governments in Western Oregon share the same assessment. Our industry and the counties provided Senator Wyden’s office extensive comments, concerns, and recommendations ahead of last November’s committee markup of Senator Wyden’s O&C legislation (S. 1784). Most of those concerns remain valid today. Instead of outlining these again, I would like to focus primarily on the necessary components of an effective O&C solution.

Effective, equitable legal and regulatory certainty. The cornerstone of any O&C solution is the level of certainty provided for meeting the timber harvest, conservation, county revenue, and other management objectives. For example, environmentalists desire certainty in the form of legal protections of certain areas and forest types, including Wilderness designations, old growth reserves, and other special management areas. For timber harvests, certainty means clearly defining timber harvest volume

objectives and addressing the analysis paralysis, conflicting regulations and laws, and activist lawsuits that create a never-ending series of barriers to managing any harvestable land base to meet timber sale and county revenue objectives.

There are a number of approaches available to Congress to provide adequate certainty for meeting timber harvest objectives, including legislating a minimum timber sale volume and rationalizing the contribution of the O&C lands to endangered species recovery. I believe the unique statutory mandate, history, and geography of the O&C lands justify Congressional action to break decades of conflict and regulatory and legal uncertainty.

The industry's paramount concern with S. 132 is that while the legislation provides permanent legal certainty on the conservation side of the ledger through wilderness protection, reserves, and other legislative protections, S. 132 does not provide the same level of certainty to rural communities, county governments and Oregon millworkers. If part of the statutorily-unique O&C Lands are going to be preserved **forever** by an act of Congress, I don't think it's unreasonable to ask that some of the lands be designated and unencumbered for the sole purpose of responsible management to create jobs and revenues for rural communities. I strongly feel that's the kind of balance and equity Oregonians want in a legislative solution.

Harvest levels: adequate, sustainable, economic, and geographically distributed. Current harvest levels are inadequate to meet the timber volume needs of the remaining industry infrastructure, the revenue needs of local governments, and the need to reverse declines in forest health. The situation is particularly challenging in the drier forests of Southwest Oregon, where the forests are at higher risk to catastrophic wildfires, federal timber harvest levels have declined the furthest, and the loss of mills has been most acute. Our company's two manufacturing facilities in Glendale are among the handful of mills left in the 866,000-acre Medford District, the largest BLM district in Western Oregon.

The key factor for addressing the needs of the forests, industry, and communities across Western Oregon is the portion of the land base made available for sustained harvests and the intensity of harvest permitted in those areas. For example, S. 132 designates about 31 percent of the BLM lands to ongoing, sustainable management. 69 percent of the lands are dedicated to conservation allocations, including extensive set-asides where harvest is prohibited. In Southwest Oregon's drier forests, only 28 percent would be open to timber management. Complex and burdensome silvicultural prescriptions would likely further limit the sustainable harvest levels in both "moist" and "dry" forest types. BLM's projections show that Southwest Oregon's Medford and Roseburg Districts would experience declines in harvest levels under this bill – and that's the best case scenario. More realistic projections indicate that the harvest reductions would be significant and widespread across Western Oregon.

While it would be important to consider the effect of any management approach on likely county timber revenues, there are limited options for increasing timber harvest volumes consistent with meeting other important objectives. Generally speaking, yes, it is possible to take a **lighter-touch approach** to managing a **larger portion** of the O&C lands. Or we can manage a **smaller portion** of the O&C lands **more intensively**. But, it is impossible to increase harvest levels by both reducing the size of the land base available for harvests AND placing further restrictions on managing those areas.

We must also ensure that any harvest plan is sustainable over the long term, 100 years or more. That's the very definition of sustainability and it is a principle our industry is founded on. Any plan that produces more volume now, say in the next 20 years, at the expense of future generations is not something our industry can accept. Not only would such a plan be unfair and irresponsible to the next generation of businesses, long term sustainability and predictability is essential to encouraging investments in milling and logging infrastructure today. I mentioned earlier that our company is currently rebuilding our Springfield, Oregon plywood facility that was completely destroyed by an accidental fire last summer. With confidence, I can say that had we lost our Glendale plywood facility, which directly employs 250, we would not be rebuilding due to the lack of available timber supply in southwest Oregon.

As an avid recreationalist and frequent rider in the annual Cycle Oregon bicycling tours, I can tell you that outdoor recreation and sustainable timber harvests are not mutually exclusive. Don't buy the claims that we have to choose between the economic benefits of outdoor recreation and having a vibrant forest products industry because they are entirely compatible with one other. For many rural communities the timber industry provides the necessary year-round economic base to support local amenities and services that are needed to attract recreationists. The recreation economy is actually being harmed by the lack of active management on the BLM lands and the resulting frequent catastrophic wildfires, reduced habitat diversity to support a variety of wildlife species, and insufficient funding to maintain access and essential services in many communities, including law enforcement.

Private lands: do no harm.

Finally, to those of you who may not be familiar with land ownership in the West: the federal government, through the Forest Service and BLM, owns and manages approximately 60 percent of Oregon's forestland. Yet currently, these lands provide only 13 percent of Oregon's annual timber harvest. I want to say that again because it's an important point: the Federal Government owns 60 percent of the forestlands in the state but only produces 13 percent of the timber. 78 percent of Oregon's timber harvests are derived from private forest lands, which comprise just 34 percent of Oregon's forestland.

Given the heavy reliance of our industry on private timberland harvests, a long-term O&C solution must not infringe on the management of private lands. I appreciate

Senator Wyden's efforts to protect private land access in S. 132. There also must be more attention paid to addressing the risks posed to private lands by insects, disease, and catastrophic wildfire originating from overstocked federal lands. Unfortunately, these threats don't respect property lines or ownerships.

Our industry has come to the table – and will continue to come to the table –to find a durable, workable compromise for the O&C Lands. In fact, the timber industry supported the House O&C proposal, which dedicated more than half of the O&C Lands to conservation purposes while dedicating less than half to sustained yield timber production with sufficient legal certainty. While that was a difficult negotiation, it was the right thing to do for our communities and federal forests.

Senator Wyden, despite our position on your bill, I want to assure you that our industry remains totally and completely committed to working with you and the rest of the Oregon delegation to find an effective, compromise O&C solution before we see further economic declines in our rural communities. Most rural communities that are dominated by federal forest ownership can't simply create alternative industries that defy the realities of their geography. With some of the most productive forestland in the entire world we would be foolish to even suggest it. Instead we should be taking steps to ensure that we restore active, sustainable management to the BLM O&C lands. We are excited to work with you in order to accomplish that mutual goal.

S. 1691, National Forest Ecosystem Improvement Act of 2015

The U.S Forest Service owns and manages nearly half of Oregon's forestlands. The 17 million acres of Forest Service land in Oregon is larger than nine U.S. States, ranking just above the state of West Virginia. Over the past two decades, Oregon's national forests lands have seen drastic declines in forest health and resiliency due to a lack of active management. These years of neglect have shattered many rural communities and left our forests unnaturally overgrown and vulnerable to catastrophic events.

We appreciate Chairman Barrasso's leadership in bringing forward his comprehensive national forest reform proposal. S. 1691 includes important provisions to address the primary factors limiting the management of our national forests today, namely litigation and cost and time required for the Forest Service to satisfy the analysis paralysis that constrains forest management projects. With at least 65 million acres of national forest at risk to insects, disease, and catastrophic wildfire, S. 1691 includes an important – albeit modest – mandate to accomplish at least 1 million acres of mechanical restoration treatments annually. The legislation seeks to address analysis paralysis by placing reasonable limits on the size scope of the analysis required for these ecosystem restoration projects.

S. 1691 also builds upon existing authorities, including Categorical Exclusions under the National Environmental Policy Act (NEPA) and Counterpart Regulations for Endangered Species Act (ESA) consultations, to streamline project planning and implementation for a limited subset of forestry projects, including those developed by collaboratives. The legislation would also adopt reasonable reforms to level the playing field for the activist groups that currently game the legal system to delay and stop collaborative projects, often on procedural grounds. S. 1691 also includes a pilot for resolving legal challenges to ecosystem restoration projects outside of the courtroom through binding arbitration.

On a bipartisan basis, last week the House passed H.R. 2647, which shares a number of provisions with S. 1691. Both of these proposals would provide federal land managers new tools to make our forests less vulnerable to insects, disease, and catastrophic wildfires. In addition to improving the health of federal forests across the nation, federal forest management legislation would create thousands of jobs in forested communities. I hope this Congress will come together to pass comprehensive forestry legislation for the benefit of our forests and communities and appreciate Senator Barrasso's commitment to getting this done.

Thank you for the opportunity to testify today.

Senator WYDEN. Mr. Chairman?

Senator BARRASSO. Yes, Senator Wyden?

Senator WYDEN. Thank you very much. Again with apologies to our guests because after this quick comment I am going to make the sprint to the plane.

Mr. Swanson, I very much appreciate the kind of constructive tone that you have offered today in your desire to get a compromise. Part of the approach on the harvest I want to make clear because, as you know, there have been strong differences of opinion with respect to the industry and the environmental community with respect to how much was devoted to harvest, how much was devoted for environmental protection and these kinds of issues.

That is why the number I have used is the number that was furnished by the government agencies, the people that we pay to give us an objective calculation. What the agencies said is that this would double the harvest on a sustainable basis on average for the next 50 years. Now I know there continues to be disagreement on that between industry people and environmental people and the like, so I want the record to show that I understand that difference of opinion. I am very anxious to continue to work with industry people and environmental people.

The reason I look to the agencies is I thought at least that was a starting off point because those are people that we pay, the people in this room and taxpayers all across the country, to give us an objective analysis. So a big thanks.

As you can tell I have enormous admiration for the fact that after a fire you said, "I'm still going to be part of rural Oregon. I'm going to come right back and build a larger mill." We want to see that prosper, and we want to see those communities prospering. That is where I am off to, to be in Lakeview in not too long now. I look forward to working with you.

Thank you, Mr. Chairman. I appreciate your letting me do this. I know you have a tight schedule as well.

Senator BARRASSO. Thank you, Senator Wyden.

Senator DAINES.

Senator DAINES. Thank you, Chairman Barrasso, and thank you for your continued leadership in offering a forum designed to improve the management of our national forests.

Chief Tidwell, I want to start by highlighting some recent visits to Montana National Forest that I have made in the last couple weeks with the local Forest Service as well as county leaders. I received a firsthand perspective of how responsible harvesting can be used to be a vital tool to improve our watersheds. We looked up there at the Chessman Reservoir there behind Helena, Montana to reduce the risk of wildfire and to respond to beetle kill.

I want to publicly thank and give thanks to Lolo and Helena, Lewis and Clark Forest Supervisors, Tim Garcia and Bill Avey. They are doing a wonderful job back in Montana. Their staffs, they spent time leading us and in viewing these most important projects. Thank you.

These site visits, I will tell you that it is something that reinforced for me that restoring the health of forests through active management is absolutely vital to conserving our forests and their many benefits for future generations.

As we all know the situation right now out West is dire. We have got a potentially devastating wildfire season on our hands at the moment. It is already underway. Millions of acres of Montana's national forests are in an unacceptably dangerous condition. For these reasons I am determined. I am very motivated to pass legislation that gives your agency additional tools and authorities to compete and complete more forest health restoration projects and do them faster.

I have a few questions I would like to go through. First of all, regarding categorical exclusions which you talked about in your testimony, particularly for collaborative developed projects and I am one who believes in and stands behind these collaborative efforts back in the West and particularly in Montana. I know from your testimony that there are considerations that should be discussed regarding size and scope of CEs. You made that clear. But broadly speaking when the Forest Service uses categorical exclusions, including that 3,000 acre CE that is provided for in the 2014 Farm bill, could you describe how your agency takes into account both public input and analyzes environmental impacts to ensure that CEs are used to enhance rather than hurt the environment?

Mr. TIDWELL. When we have the opportunity to use that, a CE, when we have those categories we start by working with our local collaboratives. So that there's a sense of what needs to be done. There's support for that and we move forward. And a CE does not eliminate our requirements to be able to analyze the project and to ensure that we're not having unnecessary impact. It does reduce the amount of documentation, of written documentation. But because CEs are at a scale that's much smaller than what we usually do in EA or an EIS so that it does take less time to be able to do it.

But the key, the key part of it, is to have that public support so that you can go ahead and use this process where we still have public comment. We still address all the environmental concerns, but there's less documentation.

So if it's the right scale and it has the assurances that some of the public needs, similar to what we did with the Farm bill about roads, etcetera, it's been a very useful tool.

Senator DAINES. I think just to clarify for everybody here around CEs, make sure I have this straight, so I am just going to go through three quick points to make sure I am doing this correctly and you can answer.

A categorical exclusion cannot be used if there is a potential adverse impact on an endangered species or watershed. Is that correct?

Mr. TIDWELL. That's correct with our regulations.

Senator DAINES. Right. Likewise a categorical exclusion must be consistent with the local forest plan, correct?

Mr. TIDWELL. Correct.

Senator DAINES. And mass clear cuts would not be allowed under CEs, correct?

Mr. TIDWELL. Correct. The size of clear cuts regeneration harvest, it's governed by the National Forest Management Act that limits it to 40 acres in most of the country. And we have a few situ-

ations on the West Coast where we can use up to an 80 acre clear cut.

Senator DAINES. Lastly, as I am running out of time, Chief Tidwell. If Congress did three things, if they expanded the responsible use of categorical exclusions; if they ended fire borrowing; and if it reduced the effectiveness of obstructionist's litigation which the House has done with their recently passed legislation and we are working to do the same thing here in the Senate, could you describe how these reforms would help increase the pace and the scale of the Forest Service projects that improve the health of the forests?

Mr. TIDWELL. I would have to go a little bit further to see a change in the amount of work we could get accomplished.

If by adding additional CEs that maintain the public trust that we can continue to be able to use that to get more work done. If we eliminate fire borrowing and at the same time address the ten-year average situation to provide a consistent full level of funds for the agency and if we can find a way to address the concerns that drive litigation, we can be able to increase the pace and scale of the work that needs to be done. We have that track record. We've been doing it, and it's driven by the collaborative efforts that you've commented on.

Senator DAINES. Alright, thank you, Chief Tidwell, I appreciate it.

Senator BARRASSO. Senator Heinrich?

Senator HEINRICH. Thank you, Mr. Chairman.

I want to say how much I respect and appreciate the effort that you have made to improve this bill from the previous Congress' version. I appreciate that watershed health and wildlife are now part of the purposes of your legislation, but the fact remains that quadrupling commercial timber projects on national forests would take resources. It would take money. It takes staff. It would take time. As it stands now, the Forest Service is short on all three.

We all have things that we would like to see the Forest Service do better, do faster, do more of. In fact Senator Flake and I introduced a bill just yesterday to improve watershed restoration projects on our national forests. We should hold all our public lands' agencies accountable when they do not fulfill their missions.

But the fact is that fire suppression has grown from 16 percent of the Forest Service budget in 1995 to over 40 percent in 2014. We have all heard the testimony of Chief Tidwell on what the ten-year rolling averages impacts are going to be in the next couple of years. That's simply not sustainable.

So I'm glad we're having this conversation about forest policy, and I absolutely look forward to working with all of you as we look for ways to improve the health and the resiliency of these Western forests, in particular. But I think any solution is going to have to include fixing the fire budget so that forest staff can spend time and resources making our forests healthier and more accessible to the public instead of racing from one catastrophic wildfire to the next.

I point out, Mr. Chairman, that several of our members and witnesses have paraphrased the Mick Jagger principle today. As you know that is a very long-recognized public land management prin-

ciple that, accurately articulated, says, “you can’t always get what you want, but if you try sometimes, you can get what you need.” I think that is the needle we have to thread here in front of us over the rest of this Congress.

Senator BARRASSO. As opposed to, “I can’t get no satisfaction?”

Senator HEINRICH. Exactly. Yes. [Laughter.]

So yes, you just threw my logic out the window there. [Laughter.]

Mick Jagger was all over the place on public land management it turns out. [Laughter.]

That said, Chief Tidwell, S. 1691. As you know it mandates substantially higher levels of timber production than we see today, about 460,000 acres per year compared to the 100,000 acres we saw last year. I don’t disagree with the goal of reasonable timber sale increases, but I want to ask you under the current budget pressures, does the service have the human and financial resources to process permits for that level of production? If you did, what would the impact be on the Forest Service’s other missions, particularly hazardous fuel reduction and wildfire suppression?

Mr. TIDWELL. We currently do not have that level of capacity in the agency to do the work. And once again, what we accomplish each year is driven by the appropriations that we receive each year for the variety of budget line items for them. We follow the direction of Congress to do that.

There’s no question we need to continue to increase our pace and scale. The tools we have with the Farm bill, the work we’re doing now to get additional capacity from the states to be able to use the Good Neighbor Authority. These are things that will continue to be able to build with that. We have a lot of places where NEPA is no longer a barrier.

Senator HEINRICH. Right.

Mr. TIDWELL. We have places where we have a lot of NEPA-ready projects but we lack the personnel to be able to move forward getting more projects implemented, be able to set those up. We’re looking at all of our processes to be able to eliminate some of the time consuming work around timber marking and using some innovative processes to be able to do that, to be able to continue.

But just the consequence of the fire suppression, the cost of wildfire suppression, you know, I too, have lived through this, as it’s just gradually increased year after year. And to the point today when we look at 39 percent fewer employees that work in our national forest system, only 49 percent of the foresters that we had about 12 years ago. We just lack that capacity.

So it’s going to take a combination of new tools, being able to implement the new authorities we have. But we need to address, you know, the cost of wildfire suppression and do it in a way so that we have a consistent level of resources that we can be able to rely on. And I worry about where the rest of the ten-year average, as it keeps increasing year after year, where is that funding going to come from?

Senator HEINRICH. Thank you, Mr. Chair.

Senator BARRASSO. Well, thank you very much, Senator Heinrich.

Chief Tidwell, you have been before this Committee on numerous occasions to discuss critical issues facing our forests and talk about

the great need to get more work done in a timely manner, the road blocks to making our forests healthy. In response to previous questions you and the agency have confirmed several things.

One, you've confirmed the Forest Service is spending northward of \$350 million a year on NEPA and other regulatory compliance. In 2014 the average environmental impact statement took about 37 months, over three years, to complete and the average environmental assessment, 19 months. After nearly six years of agency efforts to find time and cost savings in NEPA it really appears the agency continues to struggle under the heavy burden. In a previous hearing you expressed an interest in seeing Congress find some solutions to help try to ease that burden. I assume that is still your position?

I am going to ask you about litigation. You have lamented in the past that lawsuits that threaten needed forest restoration work, particularly those efforts developed by the collaboratives. I think at our hearing to examine the Forest Service Fiscal 2016 budget you said the litigation definitely does impact. You said it is not just the litigation when we get a Temporary Restraining Order where we have to stop and wait, but every time we get a lawsuit that same staff that would be preparing for the next project they have, then they have to prepare to go to court. We win a majority of the cases that go to court, you said, but even when we win it still has the impact because it slows down the development of the next project.

You also highlighted a collaboratively-developed project in Cold Summit that was sued and the ensuing delays. I think you said we went through the process, yes, and we finally implemented the project, but it took another year or so to get it done.

If we continue to see these rogue activist groups block these consensus projects, do you believe that collaboratives will begin to just fall apart as people become discouraged or we lose the last mills in some key areas of the country? I mean, it is a concern.

Mr. TIDWELL. From what I'm seeing from our collaboratives is that there's a desire to actually do more of it.

There's no question that there's that level of frustration after they've done the heavy work. They've all come together on agreement, the agency moves forward, does the adequate analysis, makes a decision and then we're sued. It's very, it's frustrating at best.

So we want to continue to work on what is those issues that drive the litigation, and your idea of giving the Secretary the discretion for arbitration is something we'd like to give that a try.

I've testified before. I have some questions about how it would work and would it actually provide better decisions, but I think it gives us something to build, to move forward with that and try it on a system at the Secretary's discretion that I do think that it may get at the issue.

The concern, with the bonding requirement, I'm not sure that that will—it won't stop the litigation. Definitely those that have the financial means will be able to do it, and I'm concerned that it may actually create more.

I don't have any data to support this, but it's just—it'll—I'm worried that it will create more controversy and more opposition. Those folks that think we're out there to not care for the land and

not be able to follow the collaborative projects. I'm just worried that they will be able to use it as a way to generate more litigation that will be even more difficult for us to deal with.

I'm also concerned that it does cut out the person that doesn't have those financial capabilities. Litigation is part of our system in this country. I'm as frustrated as anybody when we've done the work, we've done the job, we get litigated a year later and the judge says, "Yes, you're okay, go ahead."

But I do think we need to find a way to work through this. I do think your arbitration proposal, and I really appreciate the changes you made with the bill this year versus last year, but I think that has, you know, some merit that we'd like to move forward and work with you to give that a try.

Senator BARRASSO. Thank you, Chief.

Mr. Neiman, in previous hearings before the Committee Chief Tidwell has recognized the forest products industry is an essential partner in restoring the health of our nation's forests. I know you see your business in that very light.

How can the Forest Service incentivize and encourage investments in mills and can you share with the Committee the scope of some of those investments?

Mr. NEIMAN. Thank you, Senator.

You speak to essential partnerships. I had a chance a few years ago to set down in Colorado at a conference with Chief Tidwell and a number of other Forest Service and industry. When you really focus on partnerships instead of this buy/sell relationships and you focus on forest health and how do you get an efficient, viable forest, we're on the same page. So there's a real tone of working on the partnership.

In answer to your question, industry needs an adequate, consistent and predictable supply. Our industry is faced with huge investments now. It takes millions and millions of dollars of investments. It's sometimes \$20, \$30, \$40, \$50 million. In the case of a plywood plant you might be \$100 million plus. It's very expensive.

Our company last year, just in trying to stay up with times and upgrade the Colorado mill, invested \$15 million; \$3 million for an auto grater and \$6 million to put in new equipment trying to get efficient and eliminate with the bug, with fire suppression issues. So there's a big burden. It's very capital intensive, but it all comes back. We can do that. It all comes back to an adequate supply, and we need a resilient forest.

If it's dead you're not going to get people to invest. You need a resilient forest and you have to have a constant supply, Senator.

Senator BARRASSO. So an adequate, consistent and predictable supply? Are those the three criteria?

Mr. NEIMAN. Yes.

Senator BARRASSO. Okay.

I have additional questions. Senator Heinrich would like a second round, so we can go with you now and then I will follow up some more.

Senator HEINRICH. Great, thank you very much, Mr. Chairman.

I want to take just a moment and mention Senator Flake's bill that is on today's agenda as well. I think it is probably a good indication that we have not really heard any testimony against it.

The Stewardship End Result Contracting Improvement Act is something I am an original co-sponsor on. I think it is an important reform. It makes a number of important changes to the stewardship contracting process which has been incredibly important in New Mexico's forests over the last decade.

Mr. Neiman, I wanted to ask whether or not you use stewardship contracts in your work on national forests?

Mr. NEIMAN. Yes, we do.

Senator HEINRICH. Great. Could you talk a little bit about why they are an important tool, slightly different, obviously, than traditional timber sales, but an important tool in the tool box and why we need to make them as easy to administer as we can?

Mr. NEIMAN. Well, historically and we still do support traditional timber sales. I think they're more efficient for industry. They're more efficient for the Forest Service. There are circumstances where stewardship is important, and we support that. But when you get down into the different types of stewardship we've seen some that are just a drain on the budget for the Forest Service. So it can be inefficient process of treating acres, but they both have their place, Senator.

Senator HEINRICH. Well I am going to have to, we may have to, agree to disagree on a couple things simply because, at least in my home state, we have seen very small, effective utilization of commercial timber sales. Part of that is because we just do not have a large DBH, straight up and down trees anymore, but we have seen really quite effective utilization of stewardship contracts.

I would point to places like the Zuni Mountains where we have seen not only the contractors be able to get in and do a really incredible job, but it also brought a number of other actors to the table who are willing to have some skin in the game from the single species advocacy groups like whether it's Rocky Mountain Elk Foundation or the Wild Turkey Foundation or others who really have seen both the benefits to habitat as well. It has made it easier to work through those processes which, as we all know, can be challenging.

Mr. Max or Mr. Matz, I want to switch to you real quick because one of my concerns moving back to S. 1691 is the provisions that eliminate public notice and participation in some of the Forest Service decision-making processes.

If there is one thing that is a certainty in New Mexico it is that my local forest communities want to play a very active role in the management of their local national forest. They attend meetings. They submit comments. They actually provide an enormous amount of critical, local expertise to inform an agency in their decisions.

The CE provisions in this bill are a lot larger than what we have seen in terms of their trip wires than current law or in the Farm bill, and one of the things I am hearing is that there is a concern over the public being able to participate in those decisions. Most of our national forest projects right now are well under the acreage caps in those CEs. You work with a lot of forest communities around the country. What kind of reaction do you expect to this effort that would at least move some of those decisions behind closed doors?

Mr. MATZ. First, thank you for the question, Senator.

I think that there would be considerable concern. I think that decisions that are made here affecting public lands benefit from community involvement, from guidance of decision-makers and the expertise of scientists. To exclude that kind of input in this decision-making process not only doesn't get buy in for the decisions, but creates some of the problems that, I think, the Chief mentioned too.

But it tends to limit people's ability and then their support for these decisions. So it's problematic to expand it. I think that there are particular instances, limited instances, where they can be utilized effectively.

Senator HEINRICH. Well I do think that buy in is probably the single biggest hedge we have against litigation. There are obviously process things we can take on, but when you have people who have bought into the outcome it makes it much harder to do an end run at the end of the game.

Thank you again, Mr. Chairman, for holding this hearing.

Senator BARRASSO. Thank you, Senator Heinrich.

Mr. Neiman, follow up. Would you summarize the benefits of S. 1691 for the forest where you operate?

Mr. NEIMAN. Thank you, Senator, Chairman, I appreciate it.

From my end, I've had a number of opportunities to meet with my staff and different forest supervisors in the Black Hills in South Dakota and Colorado. One of the main common threads is that each one, our team and the Forest Service, wants to figure out how to treat more acres, particularly those acres that are dense stands recognize they're subject to bugs and/or fire. I constantly hear there's lack of adequate funding and/or personnel to solve those problems or they would be in trying to treat more of those acres.

I want to step to the big picture for a second, if I could. The National Forest System is growing 22 billion board feet a year, and we're cutting, we're just sneaking back up to three. I give the Forest Service credit. They've been growing that volume, but we're back to three out of 22.

We're continuing to add volume to our forest every year. We're overstocking our forest. It's getting denser each and every year, and 1691 helps give some remedies so we can increase that volume and help solve that problem, Senator.

Senator BARRASSO. You talk about the importance of more rapid implementation of needed management projects and how litigation is one of the "choke points." I think your phrase was choke points to timely forest management. Can you talk about how litigation has prevented needed projects from going forward in your experience?

Mr. NEIMAN. Well, if I could, if I could talk about one particular example. The cement project near Sundance, Wyoming, while the Forest Service was doing further review and there was serial litigants that stopped the process and delayed it and the timber sale was burned and we lost it.

The opportunity was there to treat that and we lost it due to the fire, and those were centered around wildlife objectives for mule deer habitat. They went backward and lost and did not accomplish the original goals.

Senator BARRASSO. Okay. Would arbitration be useful to get these projects implemented in a more timely fashion? Do you think it would have made a difference in this specific case related to Sundance?

Mr. NEIMAN. If I—I have some concerns about arbitration. I'm clearly willing to try it. Clearly it has to be better than litigation. Litigation stopped that fire. I can give you other examples in Montana where timber was lost to fires due to litigation.

There's two or three examples in the Custer National Forest and in Wyoming where, hopefully, arbitration would have sat us all down and where sensible people could sit around the table and find solutions quicker than litigation that drags out after NEPA took three years and then the three years of litigation would not help us.

Senator BARRASSO. Just one final question for you. You know Wyoming has been hard hit by the Mountain Pine Beetle and continues to have to deal with the problem. In your experience what was the primary factor leading up to the Mountain Pine Beetle outbreak and what were the challenges associated with the Forest Service's response to that outbreak?

Mr. NEIMAN. Senator, from my end, and I have a lot of experience, and the Black Hills is a real good example. Overstocking is the issue.

If people would look back, the Black Hills National Forest in 1899 had 1.5 billion board feet of timber; in 1999, a hundred years later, 6.2 billion board feet. Now we've lost a few hundred thousand. We're back down to 5.5, but that forest, the reason the beetles have been on a rampage.

If you look up the history, the first Roosevelt brought in an entomologist. They identified the bug in the Black Hills, so the pine beetle is called the Black Hills Pine Beetle before it was called the Mountain Pine Beetle. You've got 110 years of history and science. Let's use that to help us out, Senator.

Senator BARRASSO. Thank you very much, Mr. Neiman.

Mr. Ellis, there seems to be a significant debate over the level of timber harvest likely under S. 132. The staff from your Oregon State office with the assistance of Norm Johnson, a university professor, provided one estimate late last year. Meanwhile a 31-year veteran, retired analyst from your agency doing work for the affected counties authored another analysis finding those estimates were unrealistic and predicting volumes less than half of those that were provided for by your Oregon office. So there are some discrepancies there. What is your view of the likely harvest volumes under S. 132, and how confident are you that they can be achieved under the legislation?

Mr. ELLIS. Mr. Chairman, yeah, the retiree, I understand the retiree did come up with some different numbers, but I don't know what calculations he used—

Senator BARRASSO. Yes.

Mr. ELLIS. There's various numbers around.

If you look at our staff in Oregon, they worked with some of the staff in trying to come up with some numbers on the earlier bill, and those numbers ranged from 310 to 320 million board feet.

Senator BARRASSO. Okay.

Mr. Swanson, I wanted to ask you about these estimates for the likely harvest under S. 132. What is your view of the likely harvest under the bill and do you have any recommendations for how we could get greater clarity because it's a pretty important issue here?

Mr. SWANSON. Well the BLM lands grow about 1.2 billion feet a year. The legislation would reduce the number of acres by 71 percent. I'm not a forester, but the math is pretty simple. If you reduce the acreage that much and still apply restrictive harvest policies, it just doesn't add up and certainly can't be sustained.

Senator BARRASSO. Thank you, Mr. Swanson.

Well, I want to thank all the witnesses for your time and your testimony. Some of the members were here and had to leave before they were able to ask questions. They may want to submit written questions. They are going to have time to do that so we will keep the hearing record open for two weeks.

I want to thank all of you for being here today to participate.

Mr. Neiman?

Mr. NEIMAN. Can I add one comment?

Senator BARRASSO. Sure.

Mr. NEIMAN. I'd like to clarify or add to your question about the overstocked, my answer on the overstocked.

Part of the public perceives that part of our bug issue is tied to climate change. I don't want to debate that issue, I just want to accept and get people to think in terms of if we do have climate change we could have a lower—a longer growing season. We could then have more growth. If you have longer growing season and have more drought you should have less carrying capacity.

So my concern is when you combine overstocked forests with and overlay that with climate change which is a secondary factor to it, we have to really focus on what is the carrying capacity of these forests and look at the bigger picture instead of microcosm or one animal or one species and look at the big picture.

I would encourage people to look out 75, 100 years and not just for our self interest now.

Thank you, Senator.

Senator BARRASSO. Well thank you.

I want to thank all the witnesses for your time and testimony.

The hearing is adjourned.

[Whereupon, at 3:52 p.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

114TH CONGRESS
1ST SESSION

S. 132

To improve timber management on Oregon and California Railroad and Coos Bay Wagon Road grant land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 8, 2015

Mr. WYDEN (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To improve timber management on Oregon and California Railroad and Coos Bay Wagon Road grant land, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Oregon and California Land Grant Act of 2015”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MANAGEMENT ON OREGON AND CALIFORNIA RAILROAD
AND COOS BAY WAGON ROAD GRANT LAND

- Sec. 101. Management of Oregon and California Railroad and Coos Bay Wagon Road grant land.
- Sec. 102. Designation of wild and scenic rivers.

TITLE II—TRIBAL LAND

Subtitle A—Oregon Coastal Land Conveyance

- Sec. 201. Definitions.
- Sec. 202. Conveyance.
- Sec. 203. Map and legal description.
- Sec. 204. Administration.
- Sec. 205. Forest management.

Subtitle B—Canyon Mountain Land Conveyance

- Sec. 211. Definitions.
- Sec. 212. Conveyance.
- Sec. 213. Map and legal description.
- Sec. 214. Administration.
- Sec. 215. Forest management.

Subtitle C—Amendments to Coquille Restoration Act

- Sec. 221. Amendments to Coquille Restoration Act.

TITLE III—OREGON TREASURES

Subtitle A—Wild Rogue Wilderness Area

- Sec. 301. Wild Rogue Wilderness area.

Subtitle B—Devil's Staircase Wilderness

- Sec. 311. Definitions.
- Sec. 312. Devil's Staircase Wilderness, Oregon.
- Sec. 313. Wild and scenic river designations, Wasson Creek and Franklin Creek, Oregon.

Subtitle C—Additional Wild and Scenic River Designations and Technical Corrections

- Sec. 321. Designation of wild and scenic river segments, Molalla River, Oregon.
- Sec. 322. Technical corrections to the Wild and Scenic Rivers Act.

Subtitle D—Frank Moore Wild Steelhead Sanctuary

- Sec. 331. Definitions.
- Sec. 332. Frank Moore Wild Steelhead Sanctuary, Oregon.

1 **TITLE I—MANAGEMENT ON OR-**
2 **EGON AND CALIFORNIA RAIL-**
3 **ROAD AND COOS BAY WAGON**
4 **ROAD GRANT LAND**

5 **SEC. 101. MANAGEMENT OF OREGON AND CALIFORNIA**
6 **RAILROAD AND COOS BAY WAGON ROAD**
7 **GRANT LAND.**

8 (a) IN GENERAL.—The Act of August 28, 1937 (43
9 U.S.C. 1181a et seq.), is amended—

10 (1) by redesignating sections 2, 4, and 5 (43
11 U.S.C. 1181b, 1181d, 1181e) as sections 13, 14,
12 and 15, respectively; and

13 (2) by striking the first section and inserting
14 the following:

15 **“SECTION 1. SHORT TITLE.**

16 “This Act may be cited as the ‘Oregon and California
17 Land Grant Act’.

18 **“SEC. 2. DEFINITIONS.**

19 “In this Act:

20 “(1) 80 YEAR OLD AGE CLASS.—The term ‘80
21 year old age class’, following the common usage by
22 the Bureau of Land Management, means a group of
23 trees of which the average age of the dominant trees
24 is 75 to 85 years old, comprising part of or an entire
25 stand.

1 “(2) 90 YEAR OLD AGE CLASS.—The term ‘90
2 year old age class’, following the common usage by
3 the Bureau of Land Management, means a group of
4 trees of which the average age of the dominant trees
5 is 85 to 95 years old, comprising part of or an entire
6 stand.

7 “(3) ADJACENT PRIVATE LAND.—The term ‘ad-
8 jacent private land’ means any privately owned land
9 that is—

10 “(A) contiguous to covered land as defined
11 in this Act; or

12 “(B) situated so that it is reasonably nec-
13 essary to use covered land as defined in this
14 Act to access the privately owned land.

15 “(4) AGENCY ACTION.—The term ‘agency ac-
16 tion’ has the meaning given the term in section 551
17 of title 5, United States Code.

18 “(5) ARCHEOLOGICAL SITE.—The term ‘archeo-
19 logical site’ means any district, site, building, struc-
20 ture, or object that is included, or eligible for inclu-
21 sion, in the National Register under chapter 3021 of
22 title 54, United States Code.

23 “(6) CONSERVATION EMPHASIS AREA.—The
24 term ‘Conservation Emphasis Area’ means the land
25 allocated for various purposes in section 10, except

1 for subsection (f), and generally depicted on the map
2 entitled ‘O & C Land Grant Act of 2014: Conserva-
3 tion Emphasis Areas’ and dated November 3, 2014
4 and the land generally depicted on the map entitled
5 ‘O & C Land Grant Act of 2014: Late Successional
6 Old-Growth Forest Heritage Areas’ and dated No-
7 vember 3, 2014.

8 “(7) COVERED AGENCY ACTION.—The term
9 ‘covered agency action’ means an agency action car-
10 ried out by the Secretary, through the U.S. Bureau
11 of Land Management or U.S. Fish and Wildlife
12 Service, relating to the management of vegetation on
13 covered land.

14 “(8) COVERED CIVIL ACTION.—The term ‘cov-
15 ered civil action’ means a civil action seeking judicial
16 review of a covered agency action.

17 “(9) COVERED LAND.—The term ‘covered land’
18 means the approximately 2,800,000 acres of land
19 designated as ‘Oregon and California Railroad and
20 Coos Bay Wagon Road grant land’, generally de-
21 picted as ‘covered land’ on the map entitled ‘O & C
22 Land Grant Act of 2014’ and dated November 3,
23 2014, which includes the approximately 410,000
24 acres of the Public Domain and acquired land in
25 section 3(d), the approximately 72,000 acres of the

1 reconveyed Coos Bay Wagon Road grant land that
2 is under the jurisdiction of the Department, and the
3 approximately 311,500 acres of final BLM land, for-
4 merly Forest Service and Army Corps of Engineers
5 land, denoted in section 11 of this Act entitled
6 ‘Land Management Rationalization’ all to be des-
7 ignated O&C land; provided further any land later
8 acquired by the Secretary surrounding the area gen-
9 erally depicted on this map shall also be covered
10 land and designated O&C land; and further provided
11 that any land otherwise intended to be accepted into
12 the O&C land base also be considered ‘covered land’
13 by this Act.

14 “(10) DECOMMISSION.—The term ‘decommis-
15 sion’, with respect to a road, means to restore any
16 natural drainage, watershed function, or other eco-
17 logical process that has been disrupted or adversely
18 impacted by the road by—

19 “(A) removing or hydrologically dis-
20 connecting the road prism;

21 “(B) reestablishing vegetation on the
22 former road prism; and

23 “(C) using the best available science to re-
24 store the integrity and form of associated hill
25 slopes, channels, and floodplains.

1 “(11) DEPARTMENT.—The term ‘Department’
2 means the Department of the Interior.

3 “(12) DRY FOREST EMPHASIS AREAS.—The
4 term ‘Dry Forests’ means the land that is labeled as
5 ‘Dry Forest’ on the map entitled ‘O & C Land Grant
6 Act of 2014: Moist Forests and Dry Forests’ and
7 dated November 3, 2014 and that is located within
8 the area labeled as ‘Forestry Emphasis Area’ on the
9 map entitled ‘O & C Land Grant Act of 2014: For-
10 estry Emphasis Areas’ and dated November 3, 2014.

11 “(13) FOREST HEALTH.—The term ‘forest
12 health’ means conditions that enable forested land—

13 “(A) to be durable, resilient, and less
14 prone to uncharacteristic wildfire, insect, or
15 pathogen events, while—

16 “(i) supporting ecosystem services and
17 populations of native species; and

18 “(ii) allowing for natural disturb-
19 ances; and

20 “(B) to maintain or develop species com-
21 position, ecosystem function and structure, hy-
22 drologic function, and sediment regimes that
23 are within an acceptable range that considers—

24 “(i) historic variability; and

25 “(ii) anticipated future conditions.

- 1 “(14) FOREST MANAGEMENT.—The term ‘for-
2 est management’, with respect to the activities of ad-
3 jacent private land owners, means any activity or
4 plan reasonably necessary for the prudent manage-
5 ment, upkeep, and use of forested land, including—
6 “(A) timber harvesting, thinning, reforest-
7 ation, vegetation and pest management, and
8 other silvicultural activities;
9 “(B) development and harvest of other for-
10 est resources and products;
11 “(C) fire prevention and suppression ac-
12 tivities; and
13 “(D) installing, constructing, maintaining,
14 improving, and reconstructing—
15 “(i) roads;
16 “(ii) landings;
17 “(iii) yarding corridors and wedges;
18 “(iv) guyline supports; and
19 “(v) tail holds for permanent or tem-
20 porary use that are reasonably necessary
21 for prudent land management.
22 “(15) LATE SUCCESSIONAL OLD-GROWTH FOR-
23 EST.—The term ‘late successional old-growth forest’
24 means a stand of trees equal to or greater than $\frac{1}{4}$
25 acre in size and with a 90-year or older age class of

1 trees as of the date of enactment of the Oregon and
2 California Land Grant Act of 2015.

3 “(16) LEGACY TREE.—The term ‘legacy tree’
4 means a live tree that is determined to be equal to
5 or greater than 150 years of age, or a dead tree that
6 is estimated to have been 150 years or older when
7 it died.

8 “(17) MOIST FORESTRY EMPHASIS AREA.—The
9 term ‘Moist Forestry Emphasis Area’ means the
10 land that is labeled as ‘Moist Forest’ on the map en-
11 titled ‘O & C Land Grant Act of 2014: Moist For-
12 ests and Dry Forests’ and dated November 3, 2014
13 and that is located within the area labeled as ‘For-
14 estry Emphasis Area’ on the map entitled ‘O & C
15 Land Grant Act of 2014: Forestry Emphasis Areas’
16 and dated November 3, 2014, excluding the land
17 generally depicted on the map entitled ‘O & C Land
18 Grant Act of 2014: Late Successional Old-Growth
19 Forest Heritage Areas’ and dated November 3,
20 2014.

21 “(18) PLACE INTO STORAGE.—The term ‘place
22 into storage’, with respect to a road, means—

23 “(A) to maintain the road in order to pre-
24 vent resource damage; but

1 “(B) to alter the road to eliminate all ve-
2 hicular traffic—

3 “(i) for purposes of controlling ero-
4 sion—

5 “(I) by installing appropriate
6 water control structures, such as
7 water bars; or

8 “(II) by ensuring the surface of
9 the road slopes such that water quick-
10 ly drains off the surface of the road;

11 “(ii) for purposes of preventing access
12 by vehicles—

13 “(I) by blocking the entrance of
14 the road; and

15 “(II) by scattering slash atop the
16 road surface; and

17 “(iii) for purposes of restoring native
18 vegetation—

19 “(I) by scarifying lightly the sur-
20 face of the road;

21 “(II) by seeding the surface of
22 the road, as needed; and

23 “(III) by treating noxious weeds.

24 “(19) RESIDENCE.—The term ‘residence’
25 means a privately owned, permanent structure that

1 is maintained for habitation as a dwelling or work-
2 place.

3 “(20) SALMON.—The term ‘salmon’ means any
4 of the wild *Oncorhynchus* species that occur in the
5 State of Oregon.

6 “(21) SECRETARY.—The term ‘Secretary’
7 means the Secretary of the Interior, acting through
8 the Director of the Bureau of Land Management, or
9 her designee.

10 “(22) SITE-POTENTIAL TREE.—The term ‘site-
11 potential tree’ means the average dominant tree,
12 modeled at 200 years of age, for a given site class.

13 “(23) SOURCE WATER EMPHASIS AREA.—The
14 term ‘Source Water Emphasis Area’ means the
15 areas identified as Source Water Emphasis Area on
16 the map entitled ‘O&C Land Grant Act of 2014:
17 Source Water Emphasis Areas’ and dated November
18 3, 2014.

19 “(24) SUSTAINED YIELD.—The term ‘sustained
20 yield’ means the definition of sustained yield under
21 the Federal Land Policy and Management Act of
22 1976 (43 U.S.C. 1701 et seq.) applying the ecologi-
23 cal forestry principles and other provisions of this
24 Act.

1 “(25) TIMBER-BYPRODUCT.—The term ‘timber-
2 byproduct’ means timber produced as a consequence
3 of vegetative treatments or other management ac-
4 tions undertaken solely to achieve ecological goals.

5 “(26) TREE TIPPING AND TREE FELLING AC-
6 TIVITY.—The term ‘tree tipping and tree felling ac-
7 tivity’ means any activity relating to the intentional
8 felling and placement of a tree in a stream or on the
9 forest floor during a timber harvest operation for the
10 purposes of fish or stream or riparian habitat im-
11 provement.

12 “(27) VEGETATION MANAGEMENT PROJECT.—
13 The term ‘vegetation management project’ means an
14 activity carried out on covered land that involves the
15 cutting of vegetation to achieve the purposes of this
16 Act.

17 **“SEC. 3. LAND MANAGEMENT.**

18 “(a) IN GENERAL.—Notwithstanding the Act of June
19 9, 1916 (39 Stat. 218, chapter 137), and the Act of Feb-
20 ruary 26, 1919 (40 Stat. 1179, chapter 47), any portion
21 of the revested Oregon and California Railroad grant land
22 or the reconveyed Coos Bay Wagon Road grant land that
23 is under the jurisdiction of the Department, heretofore
24 part of the covered land as defined in this Act, shall be
25 managed in accordance with this Act.

1 “(b) MANAGEMENT.—The purposes of land managed
2 through this Act are to provide collectively certainty and
3 economic stability for local communities and industries,
4 fish and wildlife benefits, improved ecological and
5 hydrological function and health, improved forest health,
6 municipal and community drinking water, permanent for-
7 est production for identified forestry areas, protection of
8 watersheds and regulation of stream flow, and recreational
9 opportunities.

10 “(c) APPLICABILITY OF SURVEY AND MANAGE RE-
11 QUIREMENTS UNDER THE NORTHWEST FOREST PLAN.—
12 The document entitled ‘Northwest Forest Plan Survey and
13 Manage Mitigation Measure Standard and Guidelines’
14 shall not apply to any—

15 “(1) Dry Forestry Emphasis Area; or

16 “(2) Moist Forestry Emphasis Area.

17 “(d) PUBLIC DOMAIN AND ACQUIRED LAND, COOS
18 BAY WAGON ROAD LAND, AND LAND MANAGEMENT RA-
19 TIONALIZATION LAND.—Any Federal public land gen-
20 erally depicted as ‘covered land’ on the map entitled ‘O
21 & C Land Grant Act of 2014’ and dated November 3,
22 2014, that is not designated as Oregon and California
23 Railroad grant land under this Act, as of the date of en-
24 actment of the Oregon and California Land Grant Act of
25 2015 shall be designated as Oregon and California Rail-

1 road grant land and managed as covered land under this
2 Act.

3 “(e) RESTRICTIONS REGARDING LATE SUCCESSIONAL OLD GROWTH FOREST AND LEGACY TREES.—

5 “(1) IN GENERAL.—The Secretary may not cut
6 or remove late successional old-growth forests within
7 any land designated under section 4(a)(3)(A) and
8 (B), section 8, within the Late Successional Old
9 Growth Heritage Forest Reserve or section 10 of
10 this Act, allowing action—

11 “(A) for public safety purposes; or

12 “(B) to fulfill existing obligations pursuant
13 to agreements affecting adjacent private land.

14 “(2) FOREST MANAGEMENT OF LEGACY
15 TREES.—

16 “(A) IN MOIST FORESTS.—(i) Legacy trees
17 shall not be cut in areas designated under section 4(a)(3)(A) and (B), allowing action for—

18 “(I) safety purposes; or

19 “(II) tree tipping and felling activities.
20 ties.

21 “(ii) When legacy trees are located within
22 a Moist Forest Emphasis Area the Secretary
23 shall, to the greatest extent practicable, protect
24

1 legacy trees by using them to meet the reten-
2 tion requirements applicable under section 8.

3 “(B) IN DRY FORESTS.—When legacy trees
4 are located within a Dry Forest Emphasis Area
5 the Secretary shall where appropriate protect
6 legacy trees by using trees to meet the retention
7 requirements applicable under section 9.

8 “(f) COMPLIANCE WITH EXISTING LAWS.—Nothing
9 in this Act modifies any obligation—

10 “(1) of the Secretary to prepare or implement
11 a land use plan in accordance with section 202 of
12 the Federal Land Policy and Management Act of
13 1976 (43 U.S.C. 1712);

14 “(2) under the Endangered Species Act of 1973
15 (16 U.S.C. 1531 et seq.);

16 “(3) under the Federal Water Pollution Control
17 Act (33 U.S.C. 1251 et seq.); or

18 “(4) under other law, except as expressly pro-
19 vided in this Act in regard to other law.

20 “(g) EFFECT ON PREVIOUS DESIGNATIONS.—If
21 there is a conflict between any portion of this Act and
22 land protection designations included in the National
23 Landscape Conservation System or boundaries for such
24 designations, the more protective provision shall control.

1 “(h) ADJACENT PRIVATE LAND LANDOWNER AC-
2 TIONS.—

3 “(1) IN GENERAL.—Without a permit from the
4 Secretary, a person may enter and treat adjacent
5 Federal land in a Dry or Moist Forestry Emphasis
6 Area that is located within 100 feet of the residence
7 of that person if—

8 “(A) the residence is in existence on the
9 date of enactment of the Oregon and California
10 Land Grant Act of 2015;

11 “(B) the treatment is carried out at the
12 expense of the person;

13 “(C) the person notifies the Secretary of
14 the intent to treat that land; and

15 “(D) the Secretary has adequate super-
16 visory, monitoring, and enforcement resources
17 to ensure that the person carries out the treat-
18 ment activities in accordance with paragraph
19 (3).

20 “(2) NOTICE.—

21 “(A) IN GENERAL.—Not less than 30 days
22 before beginning to treat land described in
23 paragraph (1), the person shall notify, in writ-
24 ing, the Secretary of the intention of that per-
25 son to treat that land.

1 “(B) ADDITIONAL NOTIFICATION.—The
2 person shall also notify the Secretary not less
3 than 14 days before beginning the treatment.

4 “(C) COMMENCEMENT.—On receiving a
5 notification to treat land under paragraph (h),
6 the Secretary, if the requirements of paragraph
7 (1)(D) are satisfied, shall inform the person of
8 the treatment requirements in paragraph (3).

9 “(3) TREATMENT.—A person treating land de-
10 scribed in paragraph (1) shall carry out the treat-
11 ment in accordance with the following requirements:

12 “(A) No dead tree, nest tree, legacy tree,
13 or tree greater than 16 inches in diameter shall
14 be cut.

15 “(B) No herbicide or insecticide applica-
16 tion shall be used.

17 “(C) Vegetation shall be cut so that—

18 “(i) less flammable species are favored
19 for retention; and

20 “(ii) the adequate height and spacing
21 between bushes and trees are maintained.

22 “(D) Any residual trees shall be pruned—

23 “(i) to a height of the lesser of 10 feet
24 or 50 percent of the crown height of the
25 tree; and

1 “(ii) so that all parts of the tree are
 2 at not less than 10 feet away from the res-
 3 idence.

4 “(E) All slash created from treatment ac-
 5 tivities under this subparagraph shall be re-
 6 moved or treated not later than 60 days after
 7 the date on which the slash is created.

8 “(F) Any material of commercial value
 9 generated by the activity authorized in para-
 10 graph (1) is the property of the United States.

11 “(i) REDESIGNATIONS OF MOIST FORESTRY EMPHA-
 12 SIS AREA AND DRY FORESTRY EMPHASIS AREA LAND.—

13 “(1) AUTHORIZATION TO REDESIGNATE.—

14 “(A) EVALUATION REQUIRED.—Not later
 15 than 5 years after the date of enactment of the
 16 Oregon and California Land Grant Act of 2015
 17 and every 5 years thereafter, the Secretary—

18 “(i) shall evaluate the initial assign-
 19 ments of ‘Dry Forest’ and ‘Moist Forest’
 20 on the map entitled ‘O&C Land Grant Act
 21 of 2014: Moist Forest and Dry Forest’ and
 22 dated November 3, 2014, and

23 “(ii) may, as the Secretary determines
 24 to be necessary and in accordance with the
 25 criteria described in paragraph (2)—

1 “(I) redesignate Moist Forestry
2 Emphasis Area land as Dry Forestry
3 Emphasis Area land; and

4 “(II) redesignate Dry Forestry
5 Emphasis Area land as Moist For-
6 estry Emphasis Area land.

7 “(B) FIELD EXAMINATION.—In addition to
8 adjustments authorized under subparagraph
9 (A), the Secretary may adjust dry and moist
10 forest assignments in specific locations within a
11 vegetation management project based on an on-
12 the-ground field examination by the Secretary.

13 “(2) CRITERIA.—

14 “(A) IN GENERAL.—In redesignating land
15 as Moist Forestry Emphasis Area or Dry For-
16 estry Emphasis Area, the Secretary shall use
17 the criteria described in this paragraph.

18 “(B) MOIST FORESTRY EMPHASIS AREA.—
19 For purposes of this subsection, land in the
20 Moist Forestry Emphasis Area generally—

21 “(i)(I) would have historically experi-
22 enced infrequent wildfires at intervals that
23 are greater than 100 years; and

1 “(II) these wildfires would have in-
 2 cluded significant areas of partial or com-
 3 plete stand-replacement intensity; and

4 “(ii) dominated by 1 or more of the
 5 following plant association groups:

6 “(I) The Western Hemlock
 7 (*Tsuga heterophylla*) series.

8 “(II) The Sitka Spruce (*Picea*
 9 *sitchensis*) series.

10 “(III) The Western Red cedar
 11 (*Thuja plicata*) series.

12 “(IV) The Pacific Silver Fir
 13 (*Abies amabilis*) series.

14 “(V) The Mountain Hemlock
 15 (*Tsuga mertensiana*) series.

16 “(VI) The Subalpine Fir-
 17 Engelmann Spruce (*Abies lasiocarpa*-
 18 *Picea engelmannii*) series.

19 “(VII) The Tanoak (*Lithocarpus*
 20 *densiflorus*) series.

21 “(VIII) The Moist Grand Fir
 22 (*Abies grandis*) plant association
 23 group.

1 “(IX) The Moist White Fir
2 (Abies concolor) plant association
3 group.

4 “(C) DRY FORESTRY EMPHASIS AREA.—
5 For purposes of this subsection, land in the Dry
6 Forestry Emphasis Area generally—

7 “(i)(I) would have historically experi-
8 enced relatively frequent wildfires; and

9 “(II) these wildfires would have been
10 predominantly low or mixed in severity;
11 and

12 “(ii) dominated by 1 or more of the
13 following plant association groups:

14 “(I) The Moist Grand Fir (Abies
15 grandis) plant association group.

16 “(II) The Moist White Fir (Abies
17 concolor) plant association group.

18 “(III) The Ponderosa Pine
19 (Pinus ponderosa) series.

20 “(IV) The Oregon White Oak
21 (Quercus garryana) series.

22 “(V) The Douglas-fir
23 (Pseudotsuga menziesii) series.

24 “(VI) The Jeffrey Pine (Pinus
25 jeffreyi) series.

1 “(VII) The Dry Grand Fir
2 (Abies grandis) plant association
3 group.

4 “(VIII) The Dry White Fir
5 (Abies concolor) plant association
6 group.

7 “(D) MIXED FORESTS.—

8 “(i) IN GENERAL.—For purposes of
9 this subsection, the Secretary may consider
10 land that contains a Moist Grand Fir or a
11 Moist White Fir plant association group as
12 Moist Forestry Emphasis Area or Dry
13 Forestry Emphasis Area based on the con-
14 dition of the land, landscape context, or
15 management goals.

16 “(ii) MIXED FORESTS.—For land that
17 meets criteria under both subparagraphs
18 (B) and (C), the Secretary may choose to
19 categorize the land as either Moist For-
20 estry Emphasis Area or Dry Forestry Em-
21 phasis Area to align with the designations
22 of adjacent covered land.

23 “(3) PUBLIC COMMENT.—In carrying out sub-
24 section (i)(1)(A), the Secretary shall provide the

1 public a period of not less than 60 days to comment
2 on a proposed redesignation of land.

3 “(j) EXISTING RIGHTS.—Notwithstanding any other
4 section of this Act, nothing in this Act—

5 “(1) affects any private ownership or rights, in-
6 cluding rights-of-way and reciprocal rights-of-way
7 agreements, tail hold agreements, permits, easement
8 obligations, and tribal treaty rights; or

9 “(2) affects the ability or process under which
10 the Secretary can grant new permissions or termi-
11 nates any valid existing lease, permit, patent, agree-
12 ment, or other right of authorization, including new
13 permissions for an existing lease, permit, patent,
14 agreement, or other right of authorization con-
15 cerning access to or for forest management activities
16 on adjacent private land, upon enactment of the Or-
17 egon and California Land Grant Act of 2015.

18 “(k) JURISDICTION.—Nothing in this Act affects the
19 jurisdiction of the State of Oregon with respect to the
20 management of fish and wildlife on public land in the
21 State.

22 “(l) PESTICIDE USE AND FIRE PROTECTION.—

23 “(1) Pesticides may be used within the covered
24 land, if the use—

1 “(A) is limited to plants listed by the Or-
2 regon Department of Agriculture as invasive
3 plants;

4 “(B) is part of an integrated pest manage-
5 ment plan; and

6 “(C) is restricted to the use of various
7 ground-based systems that are designed to tar-
8 get only invasive plants.

9 “(2) The Secretary and the State of Oregon
10 shall develop an agreement to provide fire protection
11 on the covered land, renegotiable every 5 years after
12 the date of enactment to reassess fire protection
13 needs.

14 “(m) SPECIAL MANAGEMENT AND RESEARCH
15 AREAS.—

16 “(1) IN GENERAL.—The Secretary shall des-
17 ignate 50,000 acres across 2 to 5 sites in the cov-
18 ered land to include moist forests and dry forests, as
19 generally depicted on the map entitled ‘O&C Land
20 Grant Act of 2014: Moist Forest and Dry Forest’
21 and dated November 3, 2014, to be managed by the
22 Secretary in consultation and coordination with Or-
23 egon State University as agreed to through a memo-
24 randum of understanding as special management

1 and research areas in accordance with the criteria
2 described in paragraph (2).

3 “(2) CRITERIA.—In designating land as special
4 management and research areas under paragraph
5 (1), the Secretary shall designate—

6 “(A) land that is designated as ‘Forestry
7 Emphasis Areas’ on the map described in para-
8 graphs (12) and (17) of section 2;

9 “(B) land, to the maximum extent prac-
10 ticable, contiguous to other land designated
11 under paragraph (1);

12 “(C) land within close proximity of other
13 land designated under paragraph (1);

14 “(D) land located within 150 miles of the
15 main campus of Oregon State University in
16 Corvallis, Oregon; and

17 “(E) land selected in consultation with Or-
18 egon State University.

19 “(3) AUTHORIZED PROJECTS.—Land des-
20 ignated under paragraph (1) shall be used by insti-
21 tutions of higher education, primarily in the State of
22 Oregon, for the conduct of research projects and
23 demonstration projects that address—

24 “(A) increasing social awareness and
25 knowledge of the environmental, social, and eco-

1 nomic impacts on the implementation of eco-
2 logical forestry on public land;

3 “(B) improving the health of rural commu-
4 nities and citizens;

5 “(C) reducing uncharacteristic fires and
6 the degradation of ecosystem health;

7 “(D) increasing conservation with a land-
8 scape approach;

9 “(E) relative to the retention requirements
10 at variable retention harvest, half of the Moist
11 Forestry Emphasis Area will be managed under
12 section 8(b)(4)(E) and half will be managed as
13 under section 8(b)(2)(c); and

14 “(F) understanding and conducting re-
15 search on riparian reserve approaches author-
16 ized under this Act.

17 “(4) MONITORING.—Work performed on land
18 designated under paragraph (1) shall include pre-
19 and post-treatment monitoring on the land.

20 “(5) INSTITUTIONS OF HIGHER EDUCATION.—
21 Not less than 10 percent of the authorized projects
22 conducted annually under this subsection shall be
23 conducted by an institution of higher education
24 other than Oregon State University.

25 “(6) MINIMUM ACREAGE.—

1 “(A) IN GENERAL.—Not less than 3,750
2 acres of the land designated under paragraph
3 (1) shall be treated during each 5-year period.

4 “(B) FAILURE TO TREAT.—If the min-
5 imum acreage under subparagraph (A) is not
6 treated for 2 5-year periods during a 20-year
7 period, management of the land designated
8 under paragraph (1) shall revert to manage-
9 ment by the Secretary.

10 “(7) REVIEW.—The Secretary shall—

11 “(A) review and decide whether to permit
12 each proposed treatment to be conducted as
13 part of an authorized project under this sub-
14 section; and

15 “(B) review for adequacy the documenta-
16 tion required to be prepared for each treatment.

17 “(8) CALCULATION.—The Secretary shall esti-
18 mate—

19 “(A) the quantity of timber that can be
20 produced in the sustained yield base from the
21 Moist Forestry Emphasis Area, not including
22 riparian reserves established under section 4,
23 late successional old-growth forest reserves and
24 other reserves; and

1 “(B) the quantity of timber-byproduct
2 from the Moist Forestry Emphasis Area, in-
3 cluding riparian reserves established under sec-
4 tion 4, and the portions of the Dry Forest Em-
5 phasis Area covered by this section.

6 “(n) TRANSITION.—

7 “(1) IN GENERAL.—During the period begin-
8 ning on the date of enactment of the Oregon and
9 California Land Grant Act of 2015 and ending 90
10 days after the date on which the record of decision
11 is completed under section 6, a transition period
12 shall be in effect in accordance with this section.

13 “(2) MANAGEMENT.—

14 “(A) EXISTING CONTRACTS.—Any timber
15 sale or agreement to perform work on covered
16 land that was entered into by the Secretary be-
17 fore the date of enactment of the Oregon and
18 California Land Grant Act of 2015 shall remain
19 binding and effective according to the terms of
20 the contract.

21 “(B) PENDING TIMBER SALES.—Timber
22 sales for which review under the National Envi-
23 ronmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.) has been completed or will be completed
25 not later than 90 days following the date of en-

1 actment of the Oregon and California Land
2 Grant Act of 2015 shall continue as planned.

3 “(C) INTERIM PROJECTS.—The Secretary
4 may conduct vegetation management projects
5 on the covered land during the transition period
6 on the conditions that the vegetation manage-
7 ment projects—

8 “(i) comply with the designations and
9 requirements of this Act; and

10 “(ii) are reviewed pursuant to the Na-
11 tional Environmental Policy Act of 1969
12 (42 U.S.C. 4321 et seq.), outside of the
13 process described in section 7.

14 “(D) ADMINISTRATION.—The Secretary
15 shall seek to make such accommodations as are
16 necessary to avoid interfering with the perform-
17 ance of a timber sale or work agreement de-
18 scribed in paragraph (1) or (2).

19 “(3) SPECIAL ADMINISTRATIVE REVIEW PROC-
20 ESS.—The procedures established under section 105
21 of the Healthy Forests Restoration Act of 2003 (16
22 U.S.C. 6515) shall be the only process to adminis-
23 tratively challenge projects during the transition pe-
24 riod.

1 “SEC. 4. AQUATIC AND RIPARIAN PROTECTION.

2 “(a) AQUATIC CONSERVATION STRATEGY.—

3 “(1) IN GENERAL.—The Secretary shall carry
4 out the Aquatic Conservation Strategy incorporated
5 in its entirety by reference for covered land as set
6 forth in the Northwest Forest Plan 1994 Record of
7 Decision for Amendments to Forest Service and Bu-
8 reau of Land Management Planning Documents
9 Within the Range of the Northern Spotted Owl,
10 (hereinafter ‘NWFP’ and its Standards and Guide-
11 lines in Attachment A to the 1994 Record of Deci-
12 sion (hereinafter referred to as ‘Aquatic Conserva-
13 tion Strategy’), and as modified herein.

14 “(2) PROGRAM COMPONENTS MODIFIED.—In
15 addition to those program components contained in
16 the Aquatic Conservation Strategy of the NWFP,
17 the aquatic conservation strategy under paragraph
18 (1) shall also incorporate provisions for watershed
19 analysis in accordance with paragraph (2)(A), and
20 riparian reserve establishment and management
21 within the Moist Forestry Emphasis Area or Dry
22 Forestry Emphasis Area but that are not within
23 Source Water Emphasis Areas or within Key Water-
24 sheds designated in the Aquatic Conservation Strat-
25 egy in accordance with paragraph (3).

26 “(A) WATERSHED ANALYSIS.—

1 “(i) The Secretary shall develop ap-
2 propriate management actions for a water-
3 shed, including adjustment of riparian re-
4 serve widths under subsection (b)(3)(A)(ii);
5 and

6 “(ii) Within 90 days and via a con-
7 tractor if necessary, determine the ecologi-
8 cal importance of streams in the covered
9 area using the following criteria:

10 “(I) The importance of the
11 streams to salmonid and other native
12 aquatic species.

13 “(II) The potential impacts of
14 thermal loading.

15 “(III) The presence of areas of
16 high erosion potential.

17 “(IV) The potential for the deliv-
18 ery and deposition of sediment and
19 wood from upslope sources.

20 “(B) VEGETATION MANAGEMENT.—Vege-
21 tative management projects undertaken in ri-
22 parian reserves or vegetative management
23 projects or harvest undertaken in the outer ri-
24 parian zone shall not cut or harvest trees in the
25 90 year age class or above.

1 “(3) ESTABLISHMENT AND ACTIVITIES WITHIN
2 1 SITE-POTENTIAL TREE HEIGHT OF STREAMS WITH-
3 IN FOREST EMPHASIS AREAS AS VARIATIONS ON
4 SECTION 4(a).—

5 “(A) RIPARIAN RESERVE.—

6 “(i) IN GENERAL.—The Secretary
7 shall establish within Forestry Emphasis
8 Areas described in paragraph (2)(A) ripar-
9 ian reserves in accordance with clause (ii).

10 “(ii) WIDTHS.—The widths of a ripar-
11 ian reserve established under clause (i)
12 shall be as follows:

13 “(I) 1 site-potential tree or 150-
14 feet slope distance, whichever is great-
15 er, from a fish-bearing stream of
16 great ecological importance, as deter-
17 mined by the Secretary.

18 “(II) 1 site-potential tree or 150-
19 feet slope distance, whichever is great-
20 er, from a nonfish-bearing stream of
21 great ecological importance, as deter-
22 mined by the Secretary

23 “(III) 100-feet slope distance
24 from a fish-bearing stream that is not

1 a stream described in subclauses (I)
2 and (II).

3 “(IV) 50-foot slope distance from
4 a nonfish-bearing stream that is not a
5 stream described in subclauses (I) and
6 (II).

7 “(iii) FOREST MANAGEMENT ACTIVITIES.—The ecological forestry practices es-
8 tablished in sections 8 and 9 of this Act
9 shall apply the riparian reserves estab-
10 lished in clause (ii) and the riparian man-
11 agement of section 4 of this Act.

12 “(B) OUTER RIPARIAN ZONES.—

13 “(i) ESTABLISHMENT AND MANAGE-
14 MENT OF THE OUTER RIPARIAN ZONE.—

15 “(I) IN GENERAL.—The outer ri-
16 parian zone is the area between the ri-
17 parian reserve established in clause
18 (A)(ii) and 1 site-potential tree
19 height.
20

21 “(II) MANAGEMENT.—The Sec-
22 retary may carry out harvest in areas
23 in the outer riparian zones using the
24 standards for ecological forestry in
25 Forestry Emphasis Areas subject to

1 section 4(a)(3)(D) and other relevant
2 provisions of this Act.

3 “(C) TREE-TIPPING AND TREE FELLING
4 ACTIVITIES.—When harvesting timber within
5 the outer riparian zone, the Secretary shall em-
6 ploy tree tipping and tree felling activities dur-
7 ing the harvest to maintain wood recruitment to
8 adjacent streams.

9 “(D) TREE RETENTION LEVELS IN AQUAT-
10 IC AREAS.—Not later than 60 days after the
11 date of enactment of the Oregon and California
12 Land Grant Act of 2015, the Secretary, in con-
13 sultation with the Director of the United States
14 Fish and Wildlife Service, the Administrator of
15 the National Oceanic and Atmospheric Admin-
16 istration, the Director of the United States Ge-
17 ological Survey and the Administrator of the
18 Environmental Protection Agency, shall estab-
19 lish minimum live and dead tree retention levels
20 for thinning and other vegetation management
21 projects consistent with the goals identified in
22 subsection (a)(1).

23 “(4) MANAGEMENT ACTIVITIES FOR CONSERVA-
24 TION AREA RIPARIAN RESERVES, KEY WATERSHEDS
25 & SOURCE WATER EMPHASIS AREAS.—Riparian re-

1 serves and reserve widths within the Conservation
2 Emphasis Areas, source water emphasis areas, and
3 Key Watersheds shall be managed to carry out the
4 Aquatic Conservation Strategy as set forth in sub-
5 section (a)(1) without modifications set forth in sub-
6 section (a)(2).

7 “(5) ADJUSTMENT OF RIPARIAN RESERVE
8 WIDTHS AND MANAGEMENT.—

9 “(A) IN GENERAL.—Not earlier than 5
10 years after the date of enactment of the Oregon
11 and California Land Grant Act of 2015, and
12 not more frequently than once each 5 years
13 thereafter, the Secretary may adjust the ripar-
14 ian reserve widths established under paragraph
15 (1), as well as the size of designated key water-
16 sheds, subject to the advice of the scientific
17 committee established under subparagraph (B).

18 “(B) SCIENTIFIC COMMITTEE.—

19 “(i) ESTABLISHMENT.—The Secretary
20 shall establish a scientific committee made
21 up of scientific and land management ex-
22 pertise to determine whether the riparian
23 reserve widths and management should be
24 adjusted to better attain the goals and ob-

1 jectives of the Aquatic Conservation Strat-
2 egy.

3 “(ii) OUTSIDE MEMBERSHIP.—In ad-
4 dition to not more than 6 representatives
5 of the Federal Government (including 1
6 representative of each of the Bureau of
7 Land Management, the National Oceanic
8 and Atmospheric Administration, the
9 United States Geological Survey, the Envi-
10 ronmental Protection Agency, the United
11 States Forest Service, and the United
12 States Fish and Wildlife Service), the sci-
13 entific committee shall include 6 individ-
14 uals, to be appointed by the Secretary,
15 who—

16 “(I) are not full-time employees
17 of the Federal Government; and

18 “(II) have expertise relating to
19 aquatic and riparian ecosystems, as
20 demonstrated by—

21 “(aa) an advanced degree in
22 a related field; and

23 “(bb) subsequent relevant
24 work experience.

1 “(iii) DUTIES.—The scientific com-
2 mittee shall make recommendations re-
3 garding whether the riparian reserve
4 widths and management should be ad-
5 justed on individual bodies of water, and
6 submit said recommendations to the Sec-
7 retary in a report, taking into consider-
8 ation—

9 “(I) the criteria listed in section
10 4(a)(2)(A)(ii);

11 “(II) additional criteria deemed
12 appropriate;

13 “(III) new scientific information
14 and understanding; and

15 “(IV) the need to manage cov-
16 ered land per section 3(b).

17 “(iv) PUBLIC REVIEW & COMMENT.—
18 On receipt of the report under clause (iii),
19 the Secretary shall—

20 “(I) make the report available to
21 the public; and

22 “(II) provide a period of not less
23 than 60 days for public comment re-
24 garding the recommendations con-
25 tained in the report.

1 “(v) DECISION TO ADJUST.—After
2 taking into consideration the report under
3 clause (iii) and any public comments re-
4 ceived under clause (iv)(II), the Secretary
5 may adjust the riparian reserve width—

6 “(I) taking into consideration the
7 recommendations included in the re-
8 port, and the public comments; and

9 “(II) if the Secretary determines
10 that the adjustment meet the aquatic
11 goals established in the Aquatic Con-
12 servation Strategy under paragraph
13 (a)(1) and would be in the public in-
14 terest.

15 “(b)ROADS.—

16 “(1) IN GENERAL.—Except as provided in sec-
17 tions 3(e) and 3(j) of this Act, and paragraph (2)
18 of this subsection, the Secretary shall not construct
19 a road inside a riparian reserve.

20 “(2) EXCEPTIONS.—

21 “(A) TEMPORARY ROADS.—The Secretary
22 may construct a temporary road to enter a ri-
23 parian reserve, including crossing a stream
24 where necessary, to complete a vegetation man-
25 agement project, if—

1 “(i) there is no existing road system
2 that can be used;

3 “(ii) it is not possible to construct a
4 road outside of the riparian reserve;

5 “(iii) the temporary road is decommis-
6 sioned no more than 2 years after it is
7 constructed or and the project for which it
8 was constructed is completed, whichever
9 comes first; and

10 “(iv) any significant potential adverse
11 impacts from the construction of any tem-
12 porary road do not persist more than 1
13 year after the temporary road is decommis-
14 sioned.

15 “(B) PERMANENT ROADS.—The Secretary
16 may realign an existing road permanently inside
17 a riparian reserve, including the replacement of
18 stream crossings, if the Secretary determines
19 that the realignment will maintain, restore, or
20 improve aquatic or riparian ecosystems and
21 water quality.

22 “(c) STREAM IMPROVEMENT WORK.—

23 “(1) IN GENERAL.—The Secretary may conduct
24 certain activities on the covered land in accordance
25 with this subsection.

1 “(2) PERMITTED ACTIVITIES.—

2 “(A) TREE TIPPING AND FELLING ACTIVI-
3 TIES.—During a vegetation management
4 project, the Secretary may carry out tree tip-
5 ping and tree felling activities within the ripar-
6 ian reserves in Dry Forestry Emphasis Areas or
7 Moist Forestry Emphasis Areas as the Sec-
8 retary determines necessary to improve habitat
9 for aquatic species.

10 “(B) WOODY DEBRIS AUGMENTATION.—
11 The Secretary shall annually, subject to appro-
12 priations, use not less than \$1,000,000, indexed
13 for inflation, of amounts made available under
14 section 12(c) to transport and place large trees
15 in streams on Federal, State, or private land to
16 improve fish habitat.

17 “(C) NATIVE VEGETATION.—Within ripar-
18 ian reserves, the Secretary may only plant vege-
19 tation that is native to the site.

20 “(D) CULVERT REPLACEMENT.—The Sec-
21 retary may replace a culvert that impedes the
22 passage of fish or is unable to withstand a 100-
23 year flood event.

24 “(3) ACTIVITIES CATEGORICALLY EXCLUDED
25 FROM REVIEW.—Except as provided in paragraph

1 (4), each activity described in paragraph (2) shall
2 be—

3 “(A) considered an action categorically ex-
4 cluded from review under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C. 4321 et
6 seq.) or section 1508.4 of title 40, Code of Fed-
7 eral Regulations (or a successor regulation);
8 and

9 “(B) exempt from administrative review.

10 “(4) EXCLUSION OF CERTAIN AREAS.—Para-
11 graph (3) does not apply to any activity located in—

12 “(A) a component of the National Wilder-
13 ness Preservation System;

14 “(B) a component of the National Wild
15 and Scenic Rivers System;

16 “(C) land with wilderness characteristics
17 as defined in the Bureau of Land Management
18 Manual provisions 6310 and 6320; or

19 “(D) a Conservation Emphasis Area estab-
20 lished by section 10 if the activity would be in-
21 consistent with the purposes and values for
22 which the area was established.

23 “SEC. 5. NOTICE OF INTENT.

24 “(a) IN GENERAL.—Not later than 30 days after the
25 date of enactment of the Oregon and California Land

1 Grant Act of 2015, and every 5 years thereafter the Sec-
2 retary shall publish in the Federal Register a notice of
3 intent to prepare—

4 “(1) the landscape prioritization plan; and

5 “(2) the draft comprehensive environmental im-
6 pact statements required under section 6(g)(2).

7 “(b) PUBLIC COMMENT.—During the 45-day period
8 beginning on the date of publication of the notice of intent
9 under subsection (a), the Secretary shall solicit public
10 comments regarding—

11 “(1) the scope and content of the documents
12 described in subsection (a); and

13 “(2) the impacts that the Secretary should ana-
14 lyze regarding the alternatives in the draft com-
15 prehensive environmental impact statements de-
16 scribed in subsection (a)(2).

17 “(c) COORDINATION WITH PREPARATION OF LAND
18 USE PLANS.—The Secretary shall include the notice of
19 intent in the development or revision of a land use plan
20 required under section 202 of the Federal Land Policy and
21 Management Act of 1976 (43 U.S.C. 1712) for the cov-
22 ered land or shall amend the land use plan required under
23 section 202 of the Federal Land Policy and Management
24 Act of 1976 (43 U.S.C. 1712) for the covered land.

1 “(d) INITIATION OF EARLY PLANNING AND CON-
2 SULTATION AGREEMENT.—Not later than 30 days after
3 the date on which a notice of intent is published under
4 subsection (a), the Secretary of the Interior, the Secretary
5 of Commerce, and the Administrator of the Environmental
6 Protection Agency shall—

7 “(1) enter into an early planning and consulta-
8 tion agreement, including timelines, regarding the
9 development of information, data and documents re-
10 quired to carry out this Act with—

11 “(A) the United States Fish and Wildlife
12 Service;

13 “(B) the National Oceanic and Atmos-
14 pheric Administration;

15 “(C) the Environmental Protection Agen-
16 cy; and

17 “(D) the U.S. Geological Survey; and

18 “(2) invite to serve as cooperating agencies or
19 to provide comments regarding the notice of in-
20 tent—

21 “(A) the State of Oregon;

22 “(B) Federally recognized Indian tribes
23 with ancestral land or officially ceded land in
24 the covered land; and

25 “(C) affected units of local government.

1 “SEC. 6. LANDSCAPE PRIORITIZATION PLANS.

2 “(a) IN GENERAL.—Not later than 270 days after
3 the date of enactment of the Oregon and California Land
4 Grant Act of 2015, and every 5 years thereafter the Sec-
5 retary, shall develop and make available to the public a
6 landscape prioritization plan, which shall prioritize vegeta-
7 tion management projects and describe activities to be per-
8 formed and areas to be established to satisfy landscape-
9 related needs in the covered land—

10 “(1) as a part of the development or revision of
11 a land use plan required under section 202 of the
12 Federal Land Policy and Management Act of 1976
13 (43 U.S.C. 1712) for the covered land; and

14 “(2) implement the landscape prioritization
15 plan required in this section through the comprehen-
16 sive environmental impact statements regardless of
17 whether a revision of that land use plan has been
18 completed.

19 “(b) COORDINATION.—The Secretary shall develop
20 the landscape prioritization plan under this section under
21 the agreement entered into under section 5(d) in coordina-
22 tion with the Director of the United States Fish and Wild-
23 life Service and the Administrator of the National Oceanic
24 and Atmospheric Administration to ensure that the land-
25 scape prioritization plan complies with the Endangered
26 Species Act of 1973 (16 U.S.C. 1531 et seq.) and in co-

1 ordination with the State of Oregon to ensure compliance
2 with water quality standards adopted under the Federal
3 Water Pollution Control Act (33 U.S.C. 1251 et seq.).

4 “(c) COMPONENTS.—

5 “(1) PROJECTS IN MOIST FORESTRY EMPHASIS
6 AREA.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graph (B), the Secretary shall identify the loca-
9 tions of the vegetation management projects
10 that the Secretary proposes to conduct in the
11 Moist Forestry Emphasis Area for the length of
12 each Landscape Prioritization Plan.

13 “(B) REQUIREMENTS.—

14 “(i) IN GENERAL.—For each consecu-
15 tive 5-year period during the period de-
16 scribed in subparagraph (A), the Secretary
17 shall plan to conduct—

18 “(I) variable retention harvest
19 consistent with this Act across stands
20 that comprise 4 to 6 percent of the
21 Moist Forestry Emphasis Area, sub-
22 ject to clause (ii); and

23 “(II) thinning activities con-
24 sistent with this Act across stands in
25 Moist Forest Emphasis Area.

1 “(ii) VEGETATION MANAGEMENT
2 PROJECTS.—The locations of the proposed
3 vegetation management projects under
4 clause (i)(I) shall be distributed across the
5 Bureau of Land Management districts, to
6 the extent practicable.

7 “(2) PROJECTS IN DRY FORESTRY EMPHASIS
8 AREA.—The Secretary shall identify the locations of
9 the vegetation management projects consistent with
10 ecological forestry principles the Secretary proposes
11 to conduct in the Dry Forestry Emphasis Area for
12 each consecutive length of the Landscape
13 Prioritization Plan beginning on the date of enact-
14 ment of the Oregon and California Land Grant Act
15 of 2015.

16 “(3) PROJECTS IN CONSERVATION EMPHASIS
17 AREA.—The Secretary shall identify the locations of
18 vegetation management projects, including habitat
19 protection or restoration projects, the Secretary pro-
20 poses to conduct in the Conservation Emphasis Area
21 consistent with section 10 for the length of each
22 Landscape Prioritization Plan beginning on the date
23 of enactment of the Oregon and California Land
24 Grant Act of 2015.

25 “(4) SPECIFIC INFORMATION FOR PROJECTS.—

1 “(A) IN GENERAL.—For each vegetation
2 management project proposed by the Secretary,
3 the Landscape Prioritization Plan shall include
4 an identification of—

5 “(i) the location of forest stands to be
6 treated;

7 “(ii) the approximate size and timing
8 of the treatment in those stands;

9 “(iii) the specific vegetation treatment
10 recommended for each forest stand; and

11 “(iv) the goals and objectives for any
12 habitat protection or restoration projects.

13 “(B) ONSITE REVIEWS.—In addition to
14 identifying forest stands under subparagraph
15 (A), the Secretary shall conduct onsite reviews
16 to verify, at a minimum—

17 “(i) riparian and aquatic parameters
18 and assessments;

19 “(ii) any streams or aquatic resources
20 within the specific stands;

21 “(iii) water quality;

22 “(iv) the presence of sensitive or spe-
23 cial status species and habitats;

24 “(v) road conditions and information;
25 and

1 “(vi) forest stand boundaries.

2 “(d) PUBLIC COMMENT.—The Secretary shall solicit
3 public comments regarding the Landscape Prioritization
4 Plan for a period of not less than 60 days after the date
5 on which the Secretary makes the landscape prioritization
6 plan available to the public.

7 “(e) REVISED PLAN.—The Secretary shall revise the
8 Landscape Prioritization Plan as the Secretary considers
9 to be necessary, based on public comments received under
10 subsection (d).

11 “(f) MONITORING AND LONG-TERM EVALUATION.—
12 “(1) IN GENERAL.—Each Landscape
13 Prioritization Plan implementation shall be mon-
14 itored annually, and evaluated every 5 years as a
15 part of the development or revision of a resource
16 management plan required under section 202 of the
17 Federal Land Policy and Management Act of 1976
18 (43 U.S.C. 1712) for the covered land, with oppor-
19 tunity for public comment prior to finalizing the
20 monitoring assessments.

21 “(2) COMPONENTS OF THE MONITORING AS-
22 SESSMENT.—In preparing the monitoring assess-
23 ment, the Secretary shall include assessments and
24 reports on—

1 “(A) changes in the volume and quality of
2 timber sold;

3 “(B) changes in water quality;

4 “(C) changes in recreation;

5 “(D) the effectiveness of fish and wildlife
6 protections;

7 “(E) the effectiveness of measures to pre-
8 vent uncharacteristic wildfire; and

9 “(F) changes in forest health and fish and
10 wildlife habitat.

11 “(3) COMPONENTS OF LANDSCAPE
12 PRIORITIZATION PLAN TO BE MONITORED AND
13 EVALUATED.—Each Landscape Prioritization Plan
14 shall include for monitoring and evaluation a de-
15 scription of the Moist Forest Emphasis Areas and
16 Dry Forest Emphasis Areas—

17 “(A) for Moist Forestry Emphasis Areas—

18 “(i) landscape-level plans depicting
19 areas of the moist forest landscape that
20 would result in a distribution of variable
21 retention regeneration harvests to ensure
22 the desired placement and the appropriate
23 scale of vegetation management projects;
24 and

1 “(ii) areas that will accelerate the de-
2 velopment of complex forest structure, in-
3 cluding opportunities to create spatial het-
4 erogeneity (such as creating skips and
5 gaps), in a young stand that has a canopy
6 that has closed and been simplified
7 through past forest management;

8 “(B) for Dry Forestry Emphasis Areas—

9 “(i) a landscape-level plan depicting
10 areas of dry forest landscape that will be
11 left over the length of the Landscape
12 Prioritization Plan in a denser condition
13 beginning on the date of enactment of the
14 Oregon and California Land Grant Act of
15 2015; and

16 “(ii) areas that will minimize and re-
17 duce the risk of uncharacteristic fire and
18 insect events, and improve fire resiliency
19 particularly if critical components and val-
20 ues are at risk, including—

21 “(I) communities in the wildland-
22 urban interface (as defined in section
23 101 of the Healthy Forests Restora-
24 tion Act of 2003 (16 U.S.C. 6511));
25 and

1 “(II) valuable forest structures,
2 such as legacy trees and oak savannas
3 that are in need of restoration or in
4 danger from a potential fire risk; and

5 “(C) for Conservation Emphasis Areas the
6 Secretary shall describe and evaluate the land-
7 scape-level plan depicting areas of the Con-
8 servation Emphasis Areas that will be left in a
9 more natural condition over the length of the
10 Landscape Prioritization Plan beginning on the
11 date of enactment of the Oregon and California
12 Land Grant Act of 2015.

13 “(g) ANNUAL MONITORING.—The Secretary shall an-
14 nually use not less than \$1,000,000, adjusted for inflation,
15 of the amounts made available under section 13(c) to mon-
16 itor short-term and long-term changes in forest health,
17 water quality, and fish and wildlife habitat.

18 “(h) ENVIRONMENTAL COMPLIANCE.—

19 “(1) IN GENERAL.—The Secretary shall imple-
20 ment the Landscape Prioritization Plan, including
21 priorities and vegetation management projects iden-
22 tified in a landscape prioritization plan under section
23 6(a), in accordance with the National Environmental
24 Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the
25 requirements of this section.

1 “(2) DRAFT COMPREHENSIVE ENVIRONMENTAL
2 IMPACT STATEMENTS.—Not later than 18 months
3 after the date of enactment of the Oregon and Cali-
4 fornia Land Grant Act of 2015, and every 5 years
5 thereafter the Secretary shall publish notice in the
6 Federal Register of the availability for public review
7 of 2 draft comprehensive environmental impact
8 statements for the vegetation management projects
9 proposed to be carried out during the 5-year period,
10 of which—

11 “(A) 1 shall cover the Moist Forestry Em-
12 phasis Area and, of the Conservation Emphasis
13 Areas designated under section 10—

14 “(i) the Conservation Network that is
15 predominantly moist forest;

16 “(ii) the Late Successional Old-
17 Growth Forest Heritage Reserves;

18 “(iii) the Drinking Water Special
19 Management Units;

20 “(iv) the Molalla National Recreation
21 Area;

22 “(v) the Crabtree Valley Primitive
23 Backcountry Area;

24 “(vi) the Brummit Fir Primitive
25 Backcountry Area;

- 1 “(vii) the Kilchis Wild Salmon Refuge
2 Area; and
3 “(viii) the Protected Environmental
4 Zones that are predominantly moist forest;
5 and
6 “(B) 1 shall cover the Dry Forestry Em-
7 phasis Area and, of the Conservation Emphasis
8 Areas designated under section 10—
9 “(i) the Conservation Network that is
10 predominantly dry forest;
11 “(ii) the Rogue Canyon National
12 Recreation Area;
13 “(iii) the Illinois Valley Salmon and
14 Botanical Area;
15 “(iv) the Grizzly Peak Primitive
16 Backcountry Area;
17 “(v) the Dakubetede Primitive
18 Backcountry Area;
19 “(vi) the Wellington Wildlands Primi-
20 tive Backcountry Area;
21 “(vii) the Mungers Butte Primitive
22 Backcountry Area;
23 “(viii) the Pacific Crest Trail Cor-
24 ridor;

1 “(ix) the Applegate Primitive
2 Backcountry Area; and

3 “(x) the Protected Environment Zones
4 that are predominantly dry forest.

5 “(3) ALTERNATIVES.—Each draft comprehen-
6 sive environmental impact statement under this sub-
7 section shall analyze different locations for the rel-
8 evant vegetation management projects under—

9 “(A) the no-action alternative; and

10 “(B) 3 other alternatives that are con-
11 sistent with this Act.

12 “(4) INTERAGENCY COORDINATION AND CO-
13 OPERATION.—The Secretary shall require the Direc-
14 tors of the Bureau of Land Management and the
15 United States Fish and Wildlife Service to coordi-
16 nate and cooperate between their agencies, and shall
17 coordinate and cooperate with the Secretary of Com-
18 merce in developing each draft comprehensive im-
19 pact statement under this subsection to ensure com-
20 pliance with the Endangered Species Act of 1973
21 (16 U.S.C. 1531 et seq.).

22 “(5) PUBLIC COMMENT.—The Secretary shall
23 solicit public comment regarding the draft com-
24 prehensive environmental impact statements under
25 subsection (b) during the 60-day period beginning

1 on the date on which the Secretary makes the draft
2 comprehensive environmental impact statements
3 available to the public.

4 “(6) FINAL COMPREHENSIVE ENVIRONMENTAL
5 IMPACT STATEMENTS.—Not later than 27 months
6 after the date of enactment of the Oregon and Cali-
7 fornia Land Grant Act of 2015, and 9 months after
8 publication of subsequent draft comprehensive envi-
9 ronmental impact statements the Secretary—

10 “(A) shall prepare 2 final comprehensive
11 environmental impact statements for the vege-
12 tation management projects that have been
13 identified in the draft comprehensive environ-
14 mental impact statements in paragraph (2);

15 “(B) shall publish in the Federal Register
16 a notice of availability for public review of the
17 final comprehensive environmental impact state-
18 ments; and

19 “(C) may publish the final comprehensive
20 environmental impact statements in conjunction
21 with the environmental impact assessments re-
22 lating to the land use plan developed by the Bu-
23 reau of Land Management for the covered land.

24 “(7) RECORDS OF DECISION.—Except as pro-
25 vided in section 7(a), not later than 60 days after

1 the date on which a notice of availability of the final
2 comprehensive environmental impact statements is
3 published in the Federal Register, the Secretary
4 shall issue a record of decision relating to the vege-
5 tation management projects analyzed in the final
6 comprehensive environmental impact statements.

7 **“SEC. 7. OBJECTIONS; O&C ADMINISTRATIVE REVIEW**
8 **PROCESS; JUDICIAL REVIEW.**

9 **“(a) O&C ADMINISTRATIVE REVIEW PROCESS.—**

10 **“(1) IN GENERAL.—**During the 60-day period
11 described in section 6(h)(7), an eligible person may
12 file an objection to the final comprehensive environ-
13 mental impact statement, or during the first 15 days
14 of the 90-day period described in section 7(b) an eli-
15 gible person may protest a proposed vegetation man-
16 agement project. This objection or protest must be
17 used in lieu of any other appeal that may be avail-
18 able. A protest will be considered and treated as an
19 objection in this subsection.

20 **“(2) ELIGIBILITY.—**To be eligible to file an ob-
21 jection to the final environmental impact statement
22 or a protest for a proposed vegetation management
23 project under paragraph (1), a person shall have
24 submitted to the Secretary during the 60-day period
25 described in section 6(h)(5) written comments that

1 describe the objections to the action proposed under
2 the final comprehensive environmental impact state-
3 ment.

4 “(3) ELIGIBLE PROJECT LEVEL OBJECTIONS.—
5 An objection to an individual vegetation manage-
6 ment project may only be filed under paragraph (1)
7 if the objector can show—

8 “(A)(i) a proposed activity under the vege-
9 tation management project is inconsistent with
10 a record of decision; and

11 “(ii) the likely impacts of that activity are
12 inconsistent with the impacts analyzed in the
13 final comprehensive environmental impact state-
14 ment;

15 “(B) the vegetation management project
16 violates the Endangered Species Act of 1973
17 (16 U.S.C. 1531 et seq.) or the Federal Water
18 Pollution Control Act (33 U.S.C. 1251 et seq.);
19 or

20 “(C)(i) in the circumstance of new infor-
21 mation, changed circumstances, or changed con-
22 ditions on a particular project that may result
23 in significant negative environmental impacts
24 that were not encompassed in the analysis in

1 the applicable final comprehensive environ-
2 mental impact statement; and

3 “(ii) those circumstances were not consid-
4 ered in the final comprehensive environmental
5 impact statement.

6 “(4) RESPONSE.—The Secretary shall respond
7 in writing to an objection filed under paragraph (1)
8 not later than 30 days after the date on which the
9 objection is filed.

10 “(5) SUPPLEMENT.—In response to an objec-
11 tion filed under paragraph (1), the Secretary may
12 supplement the final comprehensive environmental
13 impact statement or the draft Record of Decision to
14 reflect the objection.

15 “(6) TIMING OF RECORD OF DECISION.—If a
16 person files an objection under section 7(a)(1) relat-
17 ing to a final comprehensive environmental impact
18 statement, the Secretary shall publish a record of
19 decision for that final comprehensive environmental
20 impact statement—

21 “(A) immediately after the Secretary re-
22 sponds to the objection; or

23 “(B) as soon as practicable after the date
24 on which the Secretary supplements the final

1 comprehensive environmental impact statement
2 to reflect that objection under section 7(a)(4).

3 “(b) DELAY OF IMPLEMENTATION.—The Secretary
4 shall not offer for a bid or implementation a vegetation
5 management project pending the disposition of the objec-
6 tion. Not less than 90 days prior to actual commencement
7 of the project, notice of a bid or implementation shall be
8 published in the Federal Register and mailed electronically
9 to each person that submitted comments on a comprehen-
10 sive environmental impact statement and requested a
11 reply.

12 “(c) JUDICIAL REVIEW.—

13 “(1) IN GENERAL.—A person may only chal-
14 lenge a covered agency action in a United States dis-
15 trict court by bringing a covered civil action.

16 “(2) VENUE.—Venue for any covered civil ac-
17 tion shall lie in the United States District Court for
18 the District of Oregon or the United States District
19 Court for the District of Columbia.

20 “(3) ADDITIONAL STANDING REQUIREMENTS
21 FOR NEPA.—A person shall only have standing to
22 bring a covered civil action under paragraph (1) for
23 claims under the National Environmental Policy Act
24 of 1969 (42 U.S.C. 4321 et seq.), if that person
25 filed an objection under subsection (a)(1).

1 “(4) ELIGIBILITY.—A reviewing court under
2 this subsection shall not consider any issue in a cov-
3 ered civil action unless the issue has previously been
4 raised, in the discretion of the court, in writing in
5 the administrative review process described in sec-
6 tion 7(a) or through other judicial notice provisions
7 required by Federal law.

8 “(5) LIMITATION OF ACTIONS.—A covered civil
9 action shall not be maintained unless the covered
10 civil action commenced not later than 75 days after
11 the date on which the covered agency action to
12 which the covered civil action relates is final.

13 “(6) EXPEDITED PROCEEDINGS.—

14 “(A) IN GENERAL.—Congress expects that
15 judicial review of covered actions will be based
16 on review of the administrative record prepared
17 by the Secretary.

18 “(B) DISPOSITION.—The disposition of the
19 complaint, by summary judgment or any other
20 mechanism, shall commence not later than 190
21 days after the date on which the covered civil
22 action is commenced.

23 “(C) EXPEDITIOUS COMPLETION OF JUDI-
24 CIAL REVIEW.—Congress encourages a court of
25 competent jurisdiction to expedite, to the max-

1 imum extent practicable, the proceedings in a
 2 covered civil action with the goal of rendering
 3 a final determination on the merits of the cov-
 4 ered civil action as soon as practicable after the
 5 date on which a complaint or appeal is filed to
 6 initiate the action.

7 “(7) APPLICABILITY.—Except as otherwise pro-
 8 vided in this section, judicial review of a covered
 9 agency action shall be conducted in accordance with
 10 subchapter II of chapter 5, and chapter 7, of title
 11 5, United States Code (commonly known as the ‘Ad-
 12 ministrative Procedure Act’).

13 **“SEC. 8. MOIST FORESTRY EMPHASIS AREA.**

14 “(a) IN GENERAL.—

15 “(1) CONFORMITY WITH PRINCIPLE OF SUS-
 16 TAINED YIELD.—Timber from the Moist Forestry
 17 Emphasis Area shall be sold, cut, and removed in
 18 conformity with the principle of sustained yield as
 19 defined by the Federal Land Policy and Manage-
 20 ment Act of 1976 (43 U.S.C. 1701 et seq.) and in
 21 accordance with the provisions of this Act.

22 “(2) PRODUCTION LEVELS.—The Secretary
 23 shall maintain the highest consistent timber produc-
 24 tion levels that can be sustained under ecological

1 forestry principles and other provisions described in
2 this Act.

3 “(3) CALCULATION.—

4 “(A) IN GENERAL.—The Secretary shall
5 calculate—

6 “(i) the sustained yield and identify
7 the quantity of timber the Secretary can
8 produce as part of the draft comprehensive
9 environmental impact statement required
10 under this Act for the Moist Forestry Em-
11 phasis Area, not including riparian re-
12 serves established under section 4; and

13 “(ii) the quantity of timber as a by-
14 product the Secretary can produce, as part
15 of the Moist Forestry Emphasis Area, in-
16 cluding riparian reserves established under
17 section 4, and the portions of the Con-
18 servation Emphasis Area, as described in
19 the draft comprehensive environmental im-
20 pact statement under section 6(h)(2).

21 “(B) REQUIREMENTS.—The Secretary
22 shall—

23 “(i) calculate the quantities under
24 clauses (i) and (ii) of subparagraph (A) in
25 5-year increments; and

1 “(ii) in calculating that quantity, clas-
2 sify the volume of timber that could be of-
3 fered from the various areas defined in
4 subparagraph (A).

5 “(b) MANAGEMENT OF MOIST FORESTRY EMPHASIS
6 AREA.—

7 “(1) IN GENERAL.—Moist Forestry Emphasis
8 Areas shall be managed in accordance with the prin-
9 ciples of ecological forestry.

10 “(2) ECOLOGICAL FORESTRY PRINCIPLES FOR
11 MOIST FORESTRY EMPHASIS AREAS.—The ecological
12 forestry principles referred to in paragraph (1) re-
13 late to variable retention regeneration harvests and
14 include—

15 “(A) the retention of legacy trees;

16 “(B) the acceleration of the development of
17 structural complexity, including spatial hetero-
18 geneity, through the use of diverse silvicultural
19 approaches, such as variable density and clump-
20 based thinning prescriptions;

21 “(C) the implementation of variable reten-
22 tion regeneration harvesting activities that re-
23 tain approximately $\frac{1}{3}$ of the live basal area of
24 the forest within the harvest area, primarily but
25 not exclusively in aggregates, provided that

1 non-fish bearing stream riparian reserves within
2 the harvest unit count towards retention, but
3 other reserves, including riparian reserves on
4 fish bearing streams, do not count;

5 “(D) the development and maintenance of
6 early seral ecosystems with diverse species fol-
7 lowing harvesting activities through the use of
8 less intense approaches to site preparation and
9 tree regeneration and nurturing of diverse early
10 seral ecosystems; and

11 “(E) the long-term establishment of a sil-
12 vicultural system that includes the development
13 and management of multiaged, mixed-species
14 stands.

15 “(3) VARIABLE RETENTION REGENERATION
16 HARVEST.—

17 “(A) IN GENERAL.—The Secretary shall
18 designate not less than 4 percent and not great-
19 er than 6 percent of the moist forests described
20 in paragraph (1) as land on which the Sec-
21 retary shall carry out during each 5 year period
22 variable retention regeneration harvesting ac-
23 tivities, consistent with—

24 “(i) this section and other provisions
25 of this Act;

1 “(ii) the Endangered Species Act (16
2 U.S.C. 1531 et seq.); and

3 “(iii) the environmental impact state-
4 ment required under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C.
6 4321 et seq.) as described in section 6.

7 “(4) NORTHWEST FOREST PLAN APPLICA-
8 TION.—The Secretary shall identify 50,000 acres of
9 Moist Forest Emphasis Area that—

10 “(A) have been previously subject to forest
11 management;

12 “(B) whose trees are in the 80 year age
13 class or younger;

14 “(C) are not within 1 site-potential tree
15 height of any stream, or within a source water
16 emphasis area or a key watershed under the
17 NWFP;

18 “(D) are not within critical habitat; and

19 “(E) apply the implementation of variable
20 retention regeneration harvesting activities that
21 retain approximately $\frac{1}{4}$ of the live basal area of
22 the forest within the harvest area, provided that
23 non-fish bearing stream riparian reserves within
24 the harvest unit count towards retention, but
25 other reserves, including riparian reserves on

1 fish bearing streams, do not. In total, not less
 2 than 15 percent of the live basal area in the
 3 stand, excluding all reserves, must be retained.

4 “(c) ROADS.—

5 “(1) IN GENERAL.—The Secretary shall not in-
 6 crease the total quantity of mileage of permanent,
 7 system and non-system roads that are operational in
 8 the Moist Forestry Emphasis Area to a quantity
 9 greater than the quantity of mileage in existence on
 10 the date of enactment of the Oregon and California
 11 Land Grant Act of 2015, excluding roads con-
 12 structed pursuant to reciprocal rights of way agree-
 13 ments, easement obligations or other access rights of
 14 non-Federal parties in effect as of enactment of the
 15 Oregon and California Land Grant Act of 2015,
 16 subject to the rights of the owner of adjacent private
 17 land as set forth in sections 3(e) and 3(j) of this
 18 Act.

19 “(2) SYSTEM ROADS.—The Secretary—

20 “(A) may construct new system roads out-
 21 side of the riparian reserves to carry out a vege-
 22 tation management project under this Act; and

23 “(B) subject to the availability of appro-
 24 priations and to the maximum extent prac-
 25 ticable, shall reduce the quantity of mileage of

1 system roads by decommissioning roads, subject
2 to the rights of the owner of adjacent private
3 land as set forth in sections 3(e) and 3(j) of
4 this Act, provided that decommissioning shall
5 be done with an adjacent private landowner if—

6 “(i) the adjacent private landowner is
7 a party to a reciprocal right-of-way agree-
8 ment covering an area which includes the
9 road in question; or

10 “(ii) the decommissioning would re-
11 move or increase the cost of vehicular ac-
12 cess to the adjacent private land.

13 “(3) NON-SYSTEM ROADS.—Subject to the
14 availability of appropriations, the Secretary shall an-
15 nually reduce the total quantity of mileage of non-
16 system roads.

17 “(4) TEMPORARY ROADS.—If the Secretary
18 constructs a temporary road as part of a vegetation
19 management project, the Secretary shall close and
20 decommission the temporary road not later than the
21 earlier of—

22 “(A) the date that is 2 years after the date
23 on which the activity for which the temporary
24 road was constructed is completed; and

1 “(B) the date that is 1 year after the date
2 on which the vegetation management project is
3 completed.

4 **“SEC. 9. DRY FORESTRY EMPHASIS AREA.**

5 “(a) IN GENERAL.—

6 “(1) The Secretary shall manage the Dry For-
7 estry Emphasis Area to increase the resiliency of the
8 stands by reducing the risk from uncharacteristic
9 wildfires, droughts, and insect or disease events
10 while maintaining consistent timber production levels
11 that can be sustained under ecological forestry prin-
12 ciples and other provisions described in this Act.

13 “(2) CONFORMITY WITH PRINCIPLE OF SUS-
14 TAINED YIELD.—Timber from the Dry Forestry Em-
15 phasis Area shall be sold, cut, and removed in con-
16 formity with the principle of sustained yield as de-
17 fined by the Federal Land Policy and Management
18 Act of 1976 (43 U.S.C. 1701 et seq.) and in accord-
19 ance with the provisions of this Act.

20 “(3) PRODUCTION LEVELS.—The Secretary
21 shall maintain the highest consistent timber produc-
22 tion levels that can be sustained under ecological
23 forestry principles and other provisions described in
24 this Act.

25 “(4) CALCULATION.—

1 “(A) IN GENERAL.—The Secretary shall
2 calculate—

3 “(i) the sustained yield and identify
4 the quantity of timber the Secretary can
5 produce as part of the draft comprehensive
6 environmental impact statement required
7 under this Act for the Dry Forestry Em-
8 phasis Area, not including riparian re-
9 serves established under section 4; and

10 “(ii) the quantity of timber as a by-
11 product the Secretary can produce, as part
12 of the Dry Forestry Emphasis Area, in-
13 cluding riparian reserves established under
14 section 4, and the portions of the Con-
15 servation Emphasis Area, as described in
16 the draft comprehensive environmental im-
17 pact statement under section 6.

18 “(b) REQUIREMENTS.—The Secretary shall main-
19 tain, restore, or improve conditions of tree density, tree
20 composition, and tree size distribution that will result in
21 a stand with a high level of resistance and resilience to
22 uncharacteristic wildfires, droughts, and insect events.

23 “(c) PRIORITY.—In carrying out vegetation manage-
24 ment projects, the Secretary shall give priority to areas
25 that contain important components, including—

1 “(1) communities in the wildland-urban inter-
2 face (as defined in section 101 of the Healthy For-
3 ests Restoration Act of 2003 (16 U.S.C. 6511)); and

4 “(2) valuable forest structures, such as legacy
5 trees and oak savannas that are in need of restora-
6 tion or are in danger from uncharacteristic fire.

7 “(d) MANAGEMENT OF DRY FORESTRY EMPHASIS
8 AREAS.—

9 “(1) IN GENERAL.—Dry Forestry Emphasis
10 Areas shall be managed in accordance with ecologi-
11 cal forestry principles described in paragraph (2).

12 “(2) ECOLOGICAL FORESTRY PRINCIPLES IN
13 DRY FORESTS.—The ecological forestry principles re-
14 ferred to in paragraph (1) include—

15 “(A) the retention and improvement of the
16 survivability of legacy trees through the reduc-
17 tion of adjacent fuels and competing vegetation
18 to promote resilience against mortality from in-
19 sects, disease, and fire;

20 “(B) the retention and protection of impor-
21 tant structures such as large hardwoods, snags,
22 and logs;

23 “(C) the reduction of overall stand den-
24 sities through partial cutting in an effort—

- 1 “(i) to reduce basal areas to desired
2 levels, particularly in overstocked stands;
3 “(ii) to increase the mean stand di-
4 ameter; and
5 “(iii) to shift the composition of
6 stands to fire- and drought-tolerant spe-
7 cies;
8 “(D) the restoration of spatial hetero-
9 geneity through the variation of the treatment
10 of stands, such as by leaving untreated patches,
11 creating openings, and establishing tree clumps
12 and isolated single trees;
13 “(E) the establishment of new tree cohorts
14 of shade-intolerant species in created openings;
15 “(F) the harvesting of timber during the
16 restoration process;
17 “(G) the maintenance of sustainable and
18 fire-resilient conditions in perpetuity through
19 both passive and active management of the dry
20 forests in accordance with this subsection, in-
21 cluding the treatment of activity fuels and other
22 surface and ladder fuels and understory vegeta-
23 tion using prescribed fire, natural fire or me-
24 chanical activities; and

1 “(H) the retention of a basal area after a
2 partial cut that is not less than 35 percent of
3 the initial basal area of the sale.

4 “(e)ROADS.—

5 “(1) IN GENERAL.—The Secretary shall not in-
6 crease the total quantity of mileage of system roads
7 that are operational in the Dry Forestry Emphasis
8 Area to a quantity greater than the quantity of mile-
9 age in existence on the date of enactment of the Or-
10 egon and California Land Grant Act of 2015, ex-
11 cluding roads constructed pursuant to reciprocal
12 rights of way agreements, easement obligations or
13 other access rights of non-Federal parties in effect
14 as of enactment of the Oregon and California Land
15 Grant Act of 2015, subject to the rights of the
16 owner of adjacent private land as set forth in sec-
17 tions 3(e) and 3(j) of this Act.

18 “(2) SYSTEM ROADS.—The Secretary—

19 “(A) may construct new system roads to
20 carry out a vegetation management project; and

21 “(B) subject to the availability of appro-
22 priations, shall decommission or place into stor-
23 age all system roads that the Secretary has not
24 planned to use in the next 5 years for vegeta-
25 tion management projects or administrative

1 purposes, subject to the rights of the owner of
2 adjacent private land as set forth in sections
3 3(e) and 3(j) of this Act, provided that decom-
4 missioning shall be done with an adjacent pri-
5 vate landowner if—

6 “(i) the adjacent private landowner is
7 a party to a reciprocal right-of-way agree-
8 ment covering an area which includes the
9 road in question; or

10 “(ii) the decommissioning would re-
11 move or increase the cost of vehicular ac-
12 cess to the adjacent private land.

13 “(3) NONSYSTEM ROADS.—Subject to the avail-
14 ability of appropriations, the Secretary shall annu-
15 ally reduce the total quantity of mileage of non-
16 system roads by decommissioning.

17 “(4) TEMPORARY ROADS.—If the Secretary
18 constructs a temporary road as part of a vegetation
19 management project, the Secretary shall close and
20 decommission the temporary road not later than the
21 earlier of—

22 “(A) the date that is 2 years after the date
23 on which the activity for which the temporary
24 road was constructed is completed; and

1 “(B) the date that is 1 year after the date
2 on which the vegetation management project is
3 completed.

4 “SEC. 10. CONSERVATION EMPHASIS AREAS.

5 “(a) CONSERVATION NETWORKS.—The approxi-
6 mately 690,000 acres of land managed by the Secretary,
7 as generally depicted as ‘Conservation Network’ on the
8 map entitled ‘O&C Land Grant Act of 2014: Conservation
9 Network’ and dated November 3, 2014, which is des-
10 ignated as the Conservation Network, the purpose of
11 which is to create forest reserves providing ecological bene-
12 fits and protect conservation values, including providing
13 late successional old-growth forest complex habitat, com-
14 plex early successional habitat, aquatic and riparian pro-
15 tection, fish and wildlife benefits, recreational and edu-
16 cational opportunities and other natural processes needed
17 for the healthy functioning of the ecosystem, shall be man-
18 aged in accordance with subsection (h).

19 “(b) LATE SUCCESSIONAL OLD-GROWTH FOREST
20 HERITAGE RESERVES.—The approximately 510,000 acres
21 of land managed by the Secretary, as generally depicted
22 on the map entitled ‘O & C Land Grant Act of 2014: Late
23 Successional Old-Growth Forest Heritage Reserves’ and
24 dated November 3, 2014, which is designated as the ‘Late
25 Successional Old-Growth Forest Heritage Reserves’, the

1 purpose of which is to protect and preserve Moist Forest
 2 stands that, as of the date of enactment of the Oregon
 3 and California Land Grant Act of 2015, contain a 90 year
 4 or above age class, shall be managed by the Secretary in
 5 a manner that does not allow harvesting of any tree within
 6 the area.

7 “(c) SPECIAL MANAGEMENT UNITS.—

8 “(1) DESIGNATION.—For the purposes of en-
 9 suring the protection of the watersheds as a source
 10 of clean drinking water, to safeguard the water qual-
 11 ity and quantity in the areas, and to allow visitors
 12 to enjoy the special scenic, natural, cultural, and fish
 13 and wildlife values of the watersheds, the following
 14 areas in the State of Oregon are designated as spe-
 15 cial management units for special management by
 16 the Secretary in accordance with subsection (h) and
 17 this subsection:

18 “(A) MCKENZIE DRINKING WATER SPE-
 19 CIAL MANAGEMENT UNIT.—The approximately
 20 12,042 acres of land managed by the Secretary,
 21 as generally depicted on the map entitled ‘O&C
 22 Land Grant Act of 2014: McKenzie Source
 23 Water Emphasis Area’ and dated November 3,
 24 2014, which is designated as the ‘McKenzie
 25 Drinking Water Special Management Unit’.

1 “(B) HILLSBORO DRINKING WATER SPE-
2 CIAL MANAGEMENT UNIT.—The approximately
3 1,243 acres of land managed by the Secretary,
4 as generally depicted on the map entitled ‘O&C
5 Land Grant Act of 2014: Hillsboro Source
6 Water Emphasis Area’ and dated November 3,
7 2014, which is designated as the ‘Hillsboro
8 Drinking Water Special Management Unit’.

9 “(C) CLACKAMAS DRINKING WATER SPE-
10 CIAL MANAGEMENT UNIT.—The approximately
11 416 acres of land managed by the Secretary, as
12 generally depicted on the map entitled ‘O&C
13 Land Grant Act of 2014: Clackamas Source
14 Water Emphasis Area’ and dated November 3,
15 2014, which is designated as the ‘Clackamas
16 Drinking Water Special Management Unit’.

17 “(D) SPRINGFIELD DRINKING WATER SPE-
18 CIAL MANAGEMENT UNIT.—The approximately
19 3,161 acres of land managed by the Secretary,
20 as generally depicted on the map entitled ‘O&C
21 Land Grant Act of 2014: Springfield Source
22 Water Emphasis Area’ and dated November 3,
23 2014, which is designated as the ‘Springfield
24 Drinking Water Special Management Unit’.

1 “(2) LIVESTOCK.—The grazing of livestock
2 shall not be allowed within a special management
3 unit designated by paragraph (1).

4 “(d) NATIONAL RECREATION AREAS.—For the pur-
5 poses of protecting, conserving, and enhancing the unique
6 and nationally important recreational, ecological, scenic,
7 cultural, watershed, and fish and wildlife values of the
8 areas, the following areas in the State of Oregon are des-
9 ignated as recreation areas for management by the Sec-
10 retary in accordance with subsection (h):

11 “(1) ROGUE CANYON NATIONAL RECREATION
12 AREA.—The approximately 94,700 acres of Bureau
13 of Land Management land, within the boundary gen-
14 erally depicted on the map entitled ‘O&C Land
15 Grant Act of 2014: Rogue Canyon National Recre-
16 ation Area’ and dated November 3, 2014, which is
17 designated as the ‘Rogue Canyon National Recre-
18 ation Area’.

19 “(2) MOLALLA NATIONAL RECREATION AREA.—
20 The approximately 24,100 acres of Bureau of Land
21 Management land, within the boundary generally de-
22 picted on the map entitled ‘O&C Land Grant Act of
23 2014: Molalla National Recreation Area’ and dated
24 November 3, 2014, which is designated as the
25 ‘Molalla National Recreation Area’.

1 “(e) SPECIAL MANAGEMENT AREAS.—For the pur-
2 poses of protecting, preserving and enhancing the natural
3 character, scientific use, and the botanical, recreational,
4 ecological, fish and wildlife, scenic, drinking water, or cul-
5 tural values of the areas or to preserve opportunities for
6 primitive recreation, the following areas in the State of
7 Oregon are designated for special management by the Sec-
8 retary in accordance with subsection (h):

9 “(1) ILLINOIS VALLEY SALMON AND BOTANICAL
10 SPECIAL MANAGEMENT AREA.—The approximately
11 15,000 acres of Bureau of Land Management land,
12 as generally depicted on the map entitled ‘O&C
13 Land Grant Act of 2014: Illinois Valley Salmon and
14 Botanical Area’ and dated November 3, 2014, which
15 is designated as the ‘Illinois Valley Salmon and Bo-
16 tanical Special Management Area’.

17 “(2) KILCHIS WILD SALMON REFUGE AREA.—
18 The approximately 9,000 acres of Bureau of Land
19 Management land, as generally depicted on the map
20 entitled ‘O&C Land Grant Act of 2014: Kilchis Wild
21 Salmon Refuge Area’ and dated November 3, 2014,
22 which is designated as the ‘Kilchis Wild Salmon Ref-
23 uge Area’.

24 “(3) SMITH RIVER SALMON RESTORATION
25 UNIT.—The purpose of this restoration unit is to en-

1 sure the protection, maintenance and restoration of
2 the salmonid resources of these rivers segments. The
3 riparian areas along the mainstem of the Smith
4 River, from the confluence of Spencer Creek (Smith
5 River mile 22.8), upstream to Clabber Creek (Smith
6 River mile 60.5), which flows through the covered
7 land and the mainstem of the West Fork of the
8 Smith River, from the confluence of W. Fork Smith
9 river with the main stem Smith River (Smith River
10 mile 34.5) upstream along the West Fork of the
11 Smith River to the junction of Upper W. Fork
12 Smith River Road (W. Fork Smith River mile
13 12.43), which flows through the covered land, will be
14 managed to under section 4(a)(1 of this Act without
15 modifications under 4(a)(2).

16 “(4) GRIZZLY PEAK PRIMITIVE BACKCOUNTRY
17 SPECIAL MANAGEMENT AREA.—The approximately
18 2,100 acres of Bureau of Land Management land,
19 as generally depicted on the map entitled ‘O&C
20 Land Grant Act of 2014: Grizzly Peak Primitive
21 Backcountry Area’ and dated November 3, 2014,
22 which is designated as the ‘Grizzly Peak Primitive
23 Backcountry Special Management Area’.

24 “(5) DAKUBETED PRIMITIVE BACKCOUNTRY
25 SPECIAL MANAGEMENT AREA.—The approximately

1 21,200 acres of Bureau of Land Management land,
2 as generally depicted on the map entitled ‘O&C
3 Land Grant Act of 2014: Dakubetede Primitive
4 Backcountry Area’ and dated November 3, 2014,
5 which is designated as the ‘Dakubetede Primitive
6 Backcountry Special Management Area’.

7 “(6) WELLINGTON WILDLANDS PRIMITIVE
8 BACKCOUNTRY SPECIAL MANAGEMENT AREA.—The
9 approximately 5,700 acres of Bureau of Land Man-
10 agement land, as generally depicted on the map enti-
11 tled ‘O&C Land Grant Act of 2014: Wellington
12 Wildlands Primitive Backcountry Area’ and dated
13 November 3, 2014, which is designated as the ‘Wel-
14 lington Wildlands Primitive Backcountry Special
15 Management Area’.

16 “(7) MUNGERS BUTTE PRIMITIVE
17 BACKCOUNTRY SPECIAL MANAGEMENT AREA.—The
18 approximately 10,200 acres of Bureau of Land Man-
19 agement land, as generally depicted on the map enti-
20 tled ‘O&C Land Grant Act of 2014: Mungers Butte
21 Primitive Backcountry Area’ and dated November 3,
22 2014, which is designated as the ‘Mungers Butte
23 Primitive Backcountry Special Management Area’.

24 “(8) BRUMMIT FIR PRIMITIVE BACKCOUNTRY
25 SPECIAL MANAGEMENT AREA.—The approximately

1 2,000 acres of Bureau of Land Management land,
2 as generally depicted on the map entitled ‘O&C
3 Land Grant Act of 2014: Brummit Fir Primitive
4 Backcountry Area’ and dated November 3, 2014,
5 which is designated as the ‘Brummit Fir Primitive
6 Backcountry Special Management Area’.

7 “(9) CRABTREE VALLEY PRIMITIVE
8 BACKCOUNTRY SPECIAL MANAGEMENT AREA.—The
9 approximately 2,100 acres of Bureau of Land Man-
10 agement land, as generally depicted on the map enti-
11 tled ‘O&C Land Grant Act of 2014: Crabtree Valley
12 Primitive Backcountry Area’ and dated November 3,
13 2014, which is designated as the ‘Crabtree Valley
14 Primitive Backcountry Special Management Area’.

15 “(10) APPLGATE PRIMITIVE BACKCOUNTRY
16 SPECIAL MANAGEMENT AREA.—The approximately
17 9,000 acres of Bureau of Land Management land,
18 as generally depicted on the map entitled ‘O&C
19 Land Grant Act of 2014: Crabtree Valley Primitive
20 Backcountry Area’ and dated November 1, 2014,
21 which is designated as the ‘Crabtree Valley Primitive
22 Backcountry Special Management Area’.

23 “(11) PROTECTED ENVIRONMENTAL ZONE SPE-
24 CIAL MANAGEMENT AREA.—The approximately
25 95,767 acres of land administered by the Secretary,

1 as generally depicted on the map entitled ‘O&C
2 Land Grant Act of 2014: Special Environmental
3 Zones’ and dated November 3, 2014, which is des-
4 ignated as the ‘Special Environmental Zone Special
5 Management Area’.

6 “(12) CATHEDRAL HILLS NATURAL AND
7 RECREATION AREA.—The approximately 560 acres
8 of land administered by the Secretary, as generally
9 depicted on the map entitled ‘Cathedral Hills Nat-
10 ural and Recreation Area’ and dated January 5,
11 2015, which is designated as the ‘Cathedral Hills
12 Natural and Recreation Area’.

13 “(f) CASCADE-SISKIYOU NATIONAL MONUMENT EX-
14 PANSION.—Subject to valid existing rights, the Secretary
15 shall administer the approximately 2,050 acres of land ad-
16 ministered by the Director of the Bureau of Land Man-
17 agement generally depicted on the map entitled ‘O&C
18 Land Grant Act of 2014: Cascade-Siskiyou National
19 Monument Expansion’ and dated November 3, 2014, as
20 part of the Cascade-Siskiyou National Monument and sub-
21 ject to the same proclamation, regulations, rules and poli-
22 cies that apply to the rest of the national monument.

23 “(g) PACIFIC CREST TRAIL PROTECTION COR-
24 RIDOR.—

1 “(1) ESTABLISHMENT.—There is designated in
2 the State of Oregon a protective corridor for the Pa-
3 cific Crest National Scenic Trail, to be known as the
4 ‘Pacific Crest Trail Protection Corridor’, consisting
5 of all Bureau of Land Management land located
6 within approximately ¼ mile on either side of the
7 Pacific Crest National Scenic Trail, beginning at the
8 west boundary of Section 23, T.40.S, R.7.W, W.M.
9 at the border of the Klamath National Forest in the
10 Siskiyou Mountains, continuing approximately 45
11 miles and ending at the eastern boundary Section
12 13, T.38.S, R.4.E, W.M near the southern boundary
13 of the Rogue River National Forest in the Cascade
14 Range, to be managed by the Secretary in accord-
15 ance with subsection (h).

16 “(2) PURPOSES.—The purposes of the Pacific
17 Crest Trail Protection Corridor are to protect and
18 enhance the recreational, scenic, historic, and wild-
19 life values of the Pacific Crest National Scenic Trail
20 in as natural and undeveloped a state as practicable.

21 “(3) FOREST ROADS.—Forest roads crossing
22 the Pacific Crest Trail Protection Corridor or within
23 the Pacific Crest Trail Protection Corridor shall be
24 limited to those necessary for the proper use and ad-

1 ministration of adjacent public land, as determined
2 by the Secretary in applicable management plans.

3 “(h) ADMINISTRATION.—

4 “(1) MAPS AND LEGAL DESCRIPTIONS.—

5 “(A) IN GENERAL.—As soon as practicable
6 after the date of enactment of the Oregon and
7 California Land Grant Act of 2015, the Sec-
8 retary shall a prepare a map and legal descrip-
9 tion of each Conservation Emphasis Area.

10 “(B) EFFECT.—The maps and legal de-
11 scriptions prepared under subparagraph (A)
12 shall have the same force and effect as if in-
13 cluded in this Act, except that the Secretary
14 may correct any minor errors in the maps and
15 legal descriptions.

16 “(C) PUBLIC AVAILABILITY.—The maps
17 and legal descriptions prepared under subpara-
18 graph (A) shall be available for public inspec-
19 tion in the appropriate offices of the Bureau of
20 Land Management.

21 “(2) ADMINISTRATION.—

22 “(A) APPLICABLE LAW.—The Secretary
23 shall administer each Conservation Emphasis
24 Area—

1 “(i) in a manner that furthers the
2 purposes for which the Conservation Em-
3 phasis Area was established; and

4 “(ii) in accordance with—

5 “(I) this subsection;

6 “(II) the Federal Land Policy
7 and Management Act of 1976 (43
8 U.S.C. 1701 et seq.); and

9 “(III) any other applicable Fed-
10 eral laws.

11 “(B) USES.—The Secretary shall only
12 allow uses of a Conservation Emphasis Area
13 that are consistent with the purposes and val-
14 ues for which the Conservation Emphasis Area
15 is established.

16 “(C) WITHDRAWAL.—Subject to valid ex-
17 isting rights, all Federal surface and subsurface
18 land within a Conservation Emphasis Area is
19 withdrawn from—

20 “(i) all forms of entry, appropriation,
21 or disposal under the public land laws;

22 “(ii) location, entry, and patent under
23 the mining laws; and

24 “(iii) operation under the mineral
25 leasing and geothermal leasing laws.

1 “(3) ADJACENT MANAGEMENT.—Nothing in
2 this section creates any protective perimeter or buff-
3 er zone around an area designated under this sec-
4 tion.

5 “(4) USE OF MOTORIZED VEHICLES.—The use
6 of motorized vehicles within the Conservation Em-
7 phasis Areas shall be limited to roads allowed by the
8 Secretary for such use, provided that the Secretary
9 may allow off-road vehicle use in designated portions
10 of the areas designated by this section if such use
11 is consistent with the purposes and values for which
12 the area was designated.

13 “(5) FOREST MANAGEMENT.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), in the Conservation Emphasis Area
16 (other than a special management area des-
17 ignated by subsection (e)), the cutting, sale, or
18 removal of timber may be permitted—

19 “(i) to the extent necessary to im-
20 prove forest health in ways that also—

21 “(I) improve the habitats of
22 threatened or endangered species or
23 species considered sensitive by the
24 Secretary over the long term after

1 completion of the vegetation manage-
2 ment project; or
3 “(II) in the case of harvests in
4 moist forest sites, is conducted—
5 “(aa) through variable den-
6 sity and clump based thinning;
7 “(bb) in a manner that re-
8 tains legacy trees; and
9 “(III) in the case of dry forests,
10 through partial cutting in a manner
11 that retains legacy trees;
12 “(ii) is also in furtherance of the pur-
13 poses for which the Conservation Emphasis
14 Area was established; or
15 “(iii) for de minimis personal or ad-
16 ministrative use within a Conservation
17 Emphasis Area established in subsection
18 (a), if the use would not impact the pur-
19 poses for which the Conservation Network
20 was established.
21 “(B) EXCEPTIONS.—Notwithstanding sub-
22 paragraph (A), forest thinning and vegetation
23 treatments may be permitted in a special man-
24 agement area designated by subsection (e), if
25 the purpose of the treatments is—

1 “(i) to improve forest health in a case
2 in which the forest is threatened by
3 uncharacteristic fire, an insect event, or
4 disease;

5 “(ii) to improve or maintain rec-
6 reational facilities and opportunities; or

7 “(iii) to protect public health or safe-
8 ty.

9 “(C) CALCULATION.—The Secretary shall
10 calculate the quantity of timber that the Sec-
11 retary would produce from the Conservation
12 Emphasis Areas as a byproduct of the con-
13 servation management, not including riparian
14 reserves established under section 4 and Late
15 Successional Old-Growth Heritage Reserves.

16 “(i) ROADS.—

17 “(1) IN GENERAL.—The Secretary, to the max-
18 imum extent practicable, shall decrease the total
19 mileage of system roads that are operational in the
20 Conservation Emphasis Areas to a quantity less
21 than the quantity of mileage in existence on the date
22 of enactment of the Oregon and California Land
23 Grant Act of 2015. The Secretary shall prioritize de-
24 creasing the mileage of the road network in order to

1 reduce impacts to water quality from sediment deliv-
2 ered to streams by forest roads.

3 “(2) TEMPORARY ROADS.—If the Secretary
4 constructs a temporary road as part of a vegetation
5 management project, the Secretary shall close and
6 decommission the temporary road not later than the
7 earlier of—

8 “(A) the date that is 2 years after the date
9 on which the activity for which the temporary
10 road was constructed is completed; and

11 “(B) the date that is 1 year after the date
12 on which the vegetation management project is
13 completed.

14 “(3) NO NEW ROADS.—The Secretary shall pro-
15 hibit any new system or nonsystem road within the
16 Conservation Emphasis Areas and key watersheds
17 under the NWFP after the date of enactment of the
18 Oregon and California Land Grant Act of 2015 ex-
19 cept as necessary, where no practicable alternative
20 exists and subject to the availability of appropria-
21 tions. The Secretary shall also prohibit the construc-
22 tion of any new road in any roadless area or areas
23 with wilderness characteristics.

1 “(4) ROADS IN RIPARIAN AREAS.—Require-
2 ments in section 4(b) apply to riparian reserves in
3 the Conservation Emphasis Areas.

4 “SEC. 11. LAND MANAGEMENT RATIONALIZATION.

5 “(a) IN GENERAL.—The Secretary may exchange
6 Federal land in the Moist Forestry Emphasis Area or the
7 Dry Forestry Emphasis Area or the Conservation Empha-
8 sis Area or interests in the Federal land in the Emphasis
9 Areas for adjacent non-Federal land or interests in the
10 non-Federal land if—

11 “(1) the Federal land does not contain critical
12 habitat for a species listed under the Endangered
13 Species Act of 1973 (16 U.S.C. 1531 et seq.);

14 “(2) the Federal land is not identified in the
15 landscape prioritization plan developed under section
16 6(a);

17 “(3) the Secretary determines that the land ex-
18 change would facilitate the administration of the
19 Moist Forestry Emphasis Area or Dry Forestry Em-
20 phasis Area or the Conservation Emphasis Area;
21 and

22 “(4) the Secretary determines that the land ex-
23 change is in the public interest, including, but not
24 limited to, the acknowledgment that the consolida-
25 tion of Federal land and non-Federal land and the

1 enhancement of conservation values are in the in
2 public interest.

3 “(b) BUREAU OF LAND MANAGEMENT LAND TO THE
4 FOREST SERVICE.—

5 “(1) IN GENERAL.—The approximately 25,000
6 acres of land, as generally depicted as ‘BLM to
7 USFS’ on the map entitled ‘O & C Land Grant Act
8 of 2014: Land Management Rationalization’ and
9 dated November 3, 2014, are transferred to the ad-
10 ministration of the Forest Service in the Depart-
11 ment of Agriculture from the administration of the
12 Department of the Interior Bureau of Land Man-
13 agement.

14 “(2) MANAGEMENT.—The Secretary of Agri-
15 culture, through the Chief of the Forest Service,
16 shall manage the land described in paragraph (1):

17 “(A) as other National Forest Systems
18 land and subject to the same statutes, regula-
19 tions and policies;

20 “(B) as they have been generally managed
21 under the Northwest Forest Plan and the ap-
22 propriate Bureau of Land Management re-
23 source management plan at least until revised
24 in a land and resource management plan revi-
25 sion; and

1 “(C) under any specific statutes that may
2 apply to any of the land.

3 “(3) NATIONAL FOREST BOUNDARIES.—The
4 Secretary of Agriculture, through the Chief of the
5 Forest Service, shall adjust the official boundaries of
6 the relevant national forests to accommodate the in-
7 clusion of the land described in paragraph (1).

8 “(c) FOREST SERVICE LAND TO THE BUREAU OF
9 LAND MANAGEMENT.—

10 “(1) LAND FOR MANAGEMENT RATIONALIZA-
11 TION BETWEEN BUREAU OF LAND MANAGEMENT
12 AND FOREST SERVICE.—Not later than 30 days
13 after the date of enactment of the Oregon and Cali-
14 fornia Land Grant Act of 2015, the Secretary of Ag-
15 riculture shall identify for transfer to the Secretary
16 of the Interior approximately 102,000 acres of U.S.
17 Forest Service land, some of which is identified on
18 the map entitled ‘O&C Land Grant Act of 2014:
19 Land Management Rationalization’ and dated No-
20 vember 3, 2014, with the following criteria—

21 “(A) adjacent to existing Bureau of Land
22 Management covered land under this Act;

23 “(B) facilitates management by reducing
24 fragmentation and creating more contiguous

1 parcels of land for both the U.S. Forest Service
2 and Bureau of Land Management land;

3 “(C) appropriate for designation into Moist
4 or Dry Forestry Emphasis Areas as identified
5 in this Act; and

6 “(D) not within—

7 “(i) inventoried roadless areas;

8 “(ii) wilderness or other designated
9 conservation areas; or

10 “(iii) critical habitat.

11 “(2) MANAGEMENT.—The Secretary shall man-
12 age the land described in subparagraph (1) under
13 this Act, including section 4(a)(1) without modifica-
14 tion under section 4(a)(2).

15 “(3) LAND MANAGEMENT RATIONALIZATION
16 WITHIN THE BUREAU OF LAND MANAGEMENT.—Not
17 later than 30 days after completion of actions re-
18 quired under paragraph (1), the Secretary of Agri-
19 culture and the Secretary of the Interior shall iden-
20 tify for transfer to the Secretary of the Interior not
21 less than 206,000 acres of Forest Service land eco-
22 logically associated with the acres identified in para-
23 graph (1) and other covered land, suitable for con-
24 servation protection.

25 “(4) LAND ALLOCATION.—

1 “(A) FOREST EMPHASIS AREAS.—The Sec-
2 retary shall allocate, as most appropriately con-
3 sistent with this Act, the land described in
4 paragraph (1) into—

5 “(i) moist forestry emphasis area sub-
6 ject to the provisions of section 8; or

7 “(ii) dry forestry emphasis area sub-
8 ject to the provisions of section 9.

9 “(B) CONSERVATION EMPHASIS AREAS.—
10 The Secretary shall designate the land de-
11 scribed in paragraph (3) as Conservation Em-
12 phasis Areas to be managed under section 10
13 and section 4(a)(1) without modification under
14 section 4(a)(2) of this Act.

15 “(5) REPORT TO CONGRESS.—

16 “(A) IN GENERAL.—Within 1 year of the
17 date of enactment of the Oregon and California
18 Land Grant Act of 2015, the Secretary shall
19 submit to the Committee on Energy and Nat-
20 ural Resources of the Senate and the Com-
21 mittee on Natural Resources of the House of
22 Representatives a report detailing how, after
23 consideration of public comment in subpara-
24 graph (B), the land described in paragraph (1)
25 were allocated pursuant to paragraph (3).

1 “(B) PUBLIC COMMENT.—Before submit-
2 ting the report as required in subparagraph
3 (A), the Secretary shall make a draft available
4 for public comment for no less than 60 days.

5 “(d) ARMY CORPS OF ENGINEERS LAND TO THE BU-
6 REAU OF LAND MANAGEMENT.—

7 “(1) IN GENERAL.—The approximately 3,502
8 acres of land, as generally depicted as ‘USACE to
9 BLM’ on the map entitled ‘O & C Land Grant Act
10 of 2014: Land Management Rationalization’ and
11 dated November 3, 2014, are transferred to the ad-
12 ministration of the Bureau of Land Management in
13 the Department of the Interior from the administra-
14 tion of the United States Army Corps of Engineers.

15 “(2) MANAGEMENT.—

16 “(A) BUREAU OF LAND MANAGEMENT.—
17 The Secretary shall—

18 “(i) allocate as appropriate the trans-
19 ferred land that are not within the Elk
20 Creek Wild and Scenic River management
21 corridor, to the Dry Areas Conservation
22 Network or the Moist Areas Conservation
23 Network established in Sec. 10(a); and

24 “(ii) manage the transferred land con-
25 sistent with this Act.

1 “(B) U.S. ARMY CORPS OF ENGINEERS.—
2 The Secretary of the Army, through the Corps
3 of Engineers, will continue to have the obliga-
4 tion to maintain the safe condition of the Elk
5 Creek Dam structure, rock piles and associated
6 components, in an area of approximately 147.1
7 acres of the transferred land.

8 “(e) LEGACY ROADS AND TRAILS PROGRAM.—

9 “(1) IN GENERAL.—The Secretary shall estab-
10 lish a program to be known as the ‘Legacy Roads
11 and Trails’ program to provide—

12 “(A) urgently needed road decommis-
13 sioning, road and trail repair and maintenance
14 and associated activities, and removal of fish
15 passage barriers, especially in areas in which
16 roads may be contributing to water quality
17 problems in streams and water bodies that sup-
18 port threatened, endangered, or sensitive spe-
19 cies or community water sources;

20 “(B) urgently needed road repairs required
21 due to recent storm events; or

22 “(C) the decommissioning of unauthorized
23 roads that are not part of the transportation
24 system.

25 “(2) PROJECT SELECTION.—

1 “(A) IN GENERAL.—The Secretary shall—

2 “(i) consider public input in the selec-
3 tion of projects; and

4 “(ii) publish the selection process of
5 the Secretary on the website of the Bureau
6 of Land Management.

7 “(B) PRIORITIES.—In selecting projects
8 under this subsection, the Secretary shall give
9 priority to decommissioning and repairing roads
10 and trails in—

11 “(i) environmentally sensitive areas;
12 and

13 “(ii) areas in which roads may be con-
14 tributing to water quality problems in
15 streams and water bodies that support
16 threatened or endangered species, or spe-
17 cies considered sensitive by the Secretary.

18 “(3) REPORT TO CONGRESS.—Not later than
19 120 days after the end of each fiscal year, the Sec-
20 retary shall submit to Congress a report on the sta-
21 tus of the projects selected for completion in the pre-
22 vious 2 fiscal years.

23 “(4) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated to carry out

1 this subsection \$5,000,000 adjusted for inflation for
2 each of fiscal years 2015 through 2025.

3 **“SEC. 12. DISTRIBUTION OF FUNDS.**

4 “(a) IN GENERAL.—Effective for fiscal year 2015
5 and each fiscal year thereafter, all receipts generated from
6 activities on covered land shall be collected, deposited in
7 a separate fund in the Treasury designated the ‘Oregon
8 and California Railroad Grant Land Fund’, and distrib-
9 uted annually in accordance with this section and title II
10 of the Oregon and California Land Grant Act (43 U.S.C.
11 1181f) and sections 1 through 4 of the Act of May 24,
12 1939 (43 U.S.C. 1181f–1 through 1181f–4), as applica-
13 ble.

14 “(b) GENERAL FUND.—Subject to subsection (d)(4),
15 as soon as practicable after the end of each fiscal year
16 described in subsection (a), \$4,000,000 of all amounts re-
17 ceived by the Secretary for the applicable fiscal year from
18 the covered land shall be transferred to the general fund
19 of the Treasury.

20 “(c) ADMINISTRATIVE COSTS.—

21 “(1) IN GENERAL.—Subject to paragraph (2)
22 and subsection (d)(4), all amounts received for the
23 applicable fiscal year by the Secretary from the cov-
24 ered land shall be used to pay for the management
25 of, administrative expenses for, and capital improve-

1 ment costs for the covered land, including the pro-
2 tection or restoration of fish and wildlife habitat on
3 the covered land.

4 “(2) LIMITATIONS.—The amount of revenue
5 that is used to pay for expenses and costs for a fis-
6 cal year under paragraph (1) shall not exceed—

7 “(A) 25 percent of all amounts received for
8 the applicable fiscal year by the Secretary from
9 the covered land during the fiscal year; or

10 “(B) \$20,000,000 in 2015 dollars indexed
11 for inflation.

12 “(d) PAYMENTS TO COUNTIES.—

13 “(1) IN GENERAL.—All amounts received for
14 the applicable fiscal year by the Secretary from the
15 covered land during a fiscal year that is in excess of
16 the amount necessary to carry out subsections (b)
17 and (c) shall be provided to the counties that con-
18 tain covered land (referred to in this subsection as
19 a ‘covered county’) in the form of annual payments.

20 “(2) TIMING.—Payments shall be made avail-
21 able to covered counties under this subsection as
22 soon as practicable following the end of each fiscal
23 year.

1 “(3) OTHER COUNTY FUNDS.—Payments made
2 to covered counties under this subsection shall be
3 used as other county funds.

4 “(4) MINIMUM AMOUNT.—

5 “(A) IN GENERAL.—Subject to clauses (ii)
6 and (iii), the annual payment paid to a covered
7 county under this subsection, to the extent
8 practicable, shall not be less than the payment
9 that the covered county would have received
10 solely under this Act (as in effect on the day
11 before the date of enactment of the Oregon and
12 California Land Grant Act of 2015) for fiscal
13 year 2015 if the covered county had elected to
14 receive payment under this Act and not under
15 any other law.

16 “(B) USE OF GENERAL FUND SHARE.—If
17 the portion of revenues to be provided to a cov-
18 ered county for a fiscal year is less than the
19 amount described in clause (i), the payment
20 made to the Treasury for the fiscal year under
21 subsection (b) shall be reduced by an amount
22 necessary to provide the minimum payments re-
23 quired under clause (i) for the covered county.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) NATIONAL LANDSCAPE CONSERVATION SYS-
2 TEM ADDITIONS.—Section 2002(b)(2) of the Omni-
3 bus Public Land Management Act of 2009 (16
4 U.S.C. 7202(b)(2)) is amended—

5 (A) in subparagraph (D), by striking
6 “and” after the semicolon;

7 (B) by redesignating subparagraph (E) as
8 subparagraph (F); and

9 (C) by inserting after subparagraph (D)
10 the following:

11 “(E) public land designated as Oregon and
12 California Land grant land in the State of Or-
13 egon, administered by the Bureau of Land
14 Management as conservation emphasis areas;
15 and”.

16 (2) SETTLEMENT OF CONTROVERTED LAND
17 STATUS.—The first section of the Act of June 24,
18 1954 (68 Stat. 270, chapter 357; 43 U.S.C. 1181g)
19 is amended in subsection (a)—

20 (A) by striking “are hereby declared to be
21 revested Oregon and California Railroad grant
22 lands; and said lands”; and

23 (B) by striking “: Provided, That” and all
24 that follows through the end of the subsection
25 and inserting a period.

1 SEC. 102. DESIGNATION OF WILD AND SCENIC RIVERS.

2 (a) DESIGNATION OF WILD AND SCENIC RIVER SEG-
3 MENTS.—

4 (1) IN GENERAL.—Section 3(a) of the Wild and
5 Scenic Rivers Act (16 U.S.C. 1274(a)) is amended
6 by adding at the end the following:

7 “(208) NESTUCCA RIVER, OREGON.—The ap-
8 proximately 15.5-mile segment from its confluence
9 with Ginger Creek downstream until it crosses T. 4
10 S., R. 7 W., sec. 7, Willamette Meridian, to be ad-
11 ministered by the Secretary of the Interior as a rec-
12 reational river.

13 “(209) WALKER CREEK, OREGON.—The ap-
14 proximately 2-mile segment from the headwaters in
15 T. 3 S., R. 6 W., sec. 20 downstream to the con-
16 fluence with the Nestucca River in T. 3 S., R. 6 W.,
17 sec. 15, Willamette Meridian, to be administered by
18 the Secretary of the Interior as a recreational river.

19 “(210) NORTH FORK SILVER CREEK, OR-
20 EGON.—The approximately 6-mile segment from the
21 headwaters in T. 35 S., R. 9 W., sec. 1 downstream
22 to the edge of the Bureau of Land Management
23 boundary in T. 35 S., R. 9 W., sec. 17, Willamette
24 Meridian, to be administered by the Secretary of the
25 Interior as a recreational river.

1 “(211) JENNY CREEK, OREGON.—The approxi-
2 mately 17.6-mile segment from the Bureau of Land
3 Management boundary located at the north bound-
4 ary of the southwest quarter of the southeast quar-
5 ter of T. 38 S., R. 4 E., sec. 34, Willamette Merid-
6 ian, downstream to the Oregon State border, to be
7 administered by the Secretary of the Interior as a
8 scenic river.

9 “(212) SPRING CREEK, OREGON.—The approxi-
10 mately 1.1-mile segment from its source at Shoa-
11 t Springs in T. 40 S., R. 4 E., sec. 34, Willamette
12 Meridian, downstream to the confluence with Jenny
13 Creek in T. 41 S., R. 4 E., sec. 3, Willamette Merid-
14 ian, to be administered by the Secretary of the Inte-
15 rior as a scenic river.

16 “(213) LOBSTER CREEK, OREGON.—The ap-
17 proximately 5-mile segment from T. 15 S., R. 8 W.,
18 sec. 35, Willamette Meridian, downstream to the
19 edge of the Bureau of Land Management boundary
20 in T. 15 S., R. 8 W., sec. 15, Willamette Meridian,
21 to be administered by the Secretary of the Interior
22 as a recreational river.

23 “(214) ELK CREEK, OREGON.—The approxi-
24 mately 7.3-mile segment from its confluence with
25 Flat Creek near river mile 9, to the southern edge

1 of the Army Corps of Engineers boundary in T. 33
 2 S., R. 1 E., sec. 30, Willamette Meridian, near river
 3 mile 1.7, to be administered by the Secretary of the
 4 Interior as a scenic river.”.

5 (2) ADMINISTRATION.—

6 (A) LATERAL BOUNDARIES.—Notwith-
 7 standing section 3(b), the lateral boundaries of
 8 the scenic river area along Elk Creek shall in-
 9 clude an average of not more than 640 acres
 10 per mile measured from the ordinary high water
 11 mark on both sides of the river.

12 (B) DEAUTHORIZATION.—The Elk Creek
 13 Project, authorized by the Flood Control Act of
 14 1962 (Public Law 87–874, 21 September 1962)
 15 is deauthorized.

16 (b) ELK RIVER SALMON EMPHASIS AREA, ELK
 17 RIVER, OREGON.—Section 3(a) of the Wild and Scenic
 18 Rivers Act (16 U.S.C. 1274(a)) is amended by striking
 19 paragraph (76) and inserting the following:

20 “(76) ELK, OREGON.—The 63.1-mile segment
 21 to be administered by the Secretary of Agriculture
 22 in the following classes:

23 “(A) MAINSTEM.—The 17-mile segment
 24 from the confluence of the North and South

1 Forks of the Elk to Anvil Creek as a rec-
2 reational river.

3 “(B) NORTH FORK.—

4 “(i) The approximately 0.6 mile seg-
5 ment of the North Fork Elk from its
6 source in sec.21, T. 33 S., R. 12 W., Wil-
7 lamette Meridian, downstream to 0.01
8 miles below Forest Service Road 3353, as
9 a scenic river.

10 “(ii) The approximately 5.5-mile seg-
11 ment of the North Fork Elk from 0.01
12 miles below Forest Service Road 3353 to
13 its confluence with the South Fork Elk, as
14 a wild river.

15 “(C) SOUTH FORK.—

16 “(i) The approximately 0.9-mile seg-
17 ment of the South Fork Elk from its
18 source in the southeast quarter of sec. 32,
19 T. 33 S., R. 12 W., Willamette Meridian,
20 downstream to 0.01 miles below Forest
21 Service Road 3353, as a scenic river.

22 “(ii) The approximately 4.2-mile seg-
23 ment of the South Fork Elk from 0.01
24 miles below Forest Service Road 3353 to

1 its confluence with the North Fork Elk, as
2 a wild river.

3 “(D) OTHER TRIBUTARIES.—

4 “(i) ROCK CREEK.—The approxi-
5 mately 1.7-mile segment of Rock Creek
6 from its headwaters to its confluence with
7 Elk River, as a wild river.

8 “(ii) BALD MOUNTAIN CREEK.—The
9 approximately 8-mile segment of Bald
10 Mountain Creek from its headwaters, in-
11 cluding Salal Spring to its confluence with
12 Elk River, as a recreational river.

13 “(iii) SOUTH FORK BALD MOUNTAIN
14 CREEK.—The approximately 3.5-mile seg-
15 ment of South Fork Bald Mountain Creek
16 from its headwaters to its confluence with
17 Bald Mountain Creek, as a scenic river.

18 “(iv) PLATINUM CREEK.—The ap-
19 proximately 1-mile segment of Platinum
20 Creek from—

21 “(I) its headwaters to 0.01 miles
22 above Forest Service Road 5325, as a
23 wild river; and

1 “(II) 0.01 miles above Forest
2 Service Road 5325 to its confluence
3 with Elk River, as a wild river.

4 “(v) PANTHER CREEK.—The approxi-
5 mately 5.0-mile segment of Panther Creek
6 from—

7 “(I) its headwaters, including
8 Mountain Well, to 0.01 miles above
9 Forest Service Road 5325, as a wild
10 river; and

11 “(II) 0.01 miles above Forest
12 Service Road 5325 to its confluence
13 with Elk River, as a scenic river.

14 “(vi) EAST FORK PANTHER CREEK.—
15 The approximately 3.0-mile segment of
16 East Fork Panther Creek from its head-
17 waters, to the confluence with Panther
18 Creek, as a wild river.

19 “(vii) WEST FORK PANTHER
20 CREEK.—The approximately 3.0-mile seg-
21 ment of West Fork Panther Creek from its
22 headwaters to the confluence with Panther
23 Creek as a wild river.

1 “(viii) LOST CREEK.—The approxi-
2 mately 1.0-mile segment of Lost Creek
3 from—

4 “(I) its headwaters to 0.01 miles
5 above Forest Service Road 5325, as a
6 wild river; and

7 “(II) 0.01 miles above Forest
8 Service Road 5325 to its confluence
9 with the Elk River, as a scenic river.

10 “(ix) MILBURY CREEK.—The approxi-
11 mately 1.5-mile segment of Milbury Creek
12 from—

13 “(I) its headwaters to 0.01 miles
14 above Forest Service Road 5325, as a
15 wild river; and

16 “(II) 0.01 miles above Forest
17 Service Road 5325 to its confluence
18 with the Elk River, as a scenic river.

19 “(x) BLACKBERRY CREEK.—The ap-
20 proximately 5.0-mile segment of Black-
21 berry Creek from—

22 “(I) its headwaters to 0.01 miles
23 above Forest Service Road 5325, as a
24 wild river; and

1 “(II) 0.01 miles above Forest
2 Service Road 5325 to its confluence
3 with the Elk River, as a scenic river.

4 “(xi) MCCURDY CREEK.—The ap-
5 proximately 1.0-mile segment of McCurdy
6 Creek from—

7 “(I) its headwaters to 0.01 miles
8 above Forest Service Road 5325, as a
9 wild river; and

10 “(II) 0.01 miles above Forest
11 Service Road 5325 to its confluence
12 with the Elk River, as a scenic river.

13 “(xii) BEAR CREEK.—The approxi-
14 mately 1.5-mile segment of Bear Creek
15 from headwaters to the confluence with
16 Bald Mountain Creek, as a recreational
17 river.”.

18 (c) WITHDRAWAL.—Subject to valid existing rights,
19 the Federal land within the boundaries of the river seg-
20 ments designated by paragraphs (76) and (208) through
21 (215) of section 3(a) of the Wild and Scenic Rivers Act
22 (16 U.S.C. 1274(a)) is withdrawn from all forms of—

23 (1) entry, appropriation, or disposal under the
24 public land laws;

- 1 (2) location, entry, and patent under the mining
 2 laws; and
 3 (3) disposition under all laws relating to min-
 4 eral and geothermal leasing or mineral materials.

5 **TITLE II—TRIBAL LAND**
 6 **Subtitle A—Oregon Coastal Land**
 7 **Conveyance**

8 **SEC. 201. DEFINITIONS.**

9 In this subtitle:

10 (1) **FEDERAL LAND.**—The term “Federal land”
 11 means the approximately 14,804 acres of Federal
 12 land, as generally depicted on the map entitled “Or-
 13 egon Coastal Land Conveyance”, and dated March
 14 27, 2013.

15 (2) **PLANNING AREA.**—The term “planning
 16 area” means land—

17 (A) administered by the Director of the
 18 Bureau of Land Management; and

19 (B) located in—

- 20 (i) the Coos Bay District;
 21 (ii) the Eugene District;
 22 (iii) the Medford District;
 23 (iv) the Roseburg District;
 24 (v) the Salem District; or

1 (vi) the Klamath Falls Resource Area
2 of the Lakeview District.

3 (3) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (4) TRIBE.—The term “Tribe” means the Con-
6 federated Tribes of Coos, Lower Umpqua, and
7 Siuslaw Indians.

8 SEC. 202. CONVEYANCE.

9 (a) IN GENERAL.—Subject to valid existing rights,
10 including rights-of-way and reciprocal rights-of-way, all
11 right, title, and interest of the United States in and to
12 the Federal land, including any improvements located on
13 the Federal land, appurtenances to the Federal land, and
14 minerals on or in the Federal land, including oil and gas,
15 shall be—

16 (1) held in trust by the United States for the
17 benefit of the Tribe; and

18 (2) part of the reservation of the Tribe.

19 (b) SURVEY.—Not later than 180 days after the date
20 of enactment of this Act, if the Secretary determines a
21 survey to be necessary, the Secretary shall complete a sur-
22 vey of the boundary lines to establish the boundaries of
23 the land taken into trust under subsection (a).

1 SEC. 203. MAP AND LEGAL DESCRIPTION.

2 (a) IN GENERAL.—As soon as practicable after the
3 date of enactment of this Act, the Secretary shall file a
4 map and legal description of the Federal land with—

5 (1) the Committee on Energy and Natural Re-
6 sources of the Senate; and

7 (2) the Committee on Natural Resources of the
8 House of Representatives.

9 (b) FORCE AND EFFECT.—The map and legal de-
10 scription filed under subsection (a) shall have the same
11 force and effect as if included in this subtitle, except that
12 the Secretary may correct any clerical or typographical er-
13 rors in the map or legal description.

14 (c) PUBLIC AVAILABILITY.—The map and legal de-
15 scription filed under subsection (a) shall be on file and
16 available for public inspection in the Office of the Sec-
17 retary.

18 SEC. 204. ADMINISTRATION.

19 (a) IN GENERAL.—Unless expressly provided in this
20 subtitle, nothing in this subtitle affects any right or claim
21 of the Tribe existing on the date of enactment of this Act
22 to any land or interest in land.

23 (b) PROHIBITIONS.—

24 (1) EXPORTS OF UNPROCESSED LOGS.—Fed-
25 eral law (including regulations) relating to the ex-
26 port of unprocessed logs harvested from Federal

1 land shall apply to any unprocessed logs that are
2 harvested from the Federal land.

3 (2) NON-PERMISSIBLE USE OF LAND.—Any real
4 property taken into trust under section 202(a) shall
5 not be eligible, or used, for any gaming activity car-
6 ried out under Public Law 100–497 (25 U.S.C.
7 2701 et seq.).

8 **SEC. 205. FOREST MANAGEMENT.**

9 (a) APPLICABLE LAW.—Any commercial forestry ac-
10 tivity that is carried out on the Federal land shall be man-
11 aged in accordance with all applicable Federal laws, in-
12 cluding the National Indian Forest Resources Manage-
13 ment Act (25 U.S.C. 3101 et seq.).

14 (b) AGREEMENTS.—The Tribe shall consult with the
15 Secretary and other parties as necessary to develop agree-
16 ments to provide for access to the land taken into trust
17 under section 202(a) that provide for—

18 (1) honoring existing reciprocal right-of-way
19 agreements;

20 (2) administrative access by the Bureau of
21 Land Management; and

22 (3) management of the parcels of the land
23 taken into trust under section 202(a) that are ac-
24 quired or developed under chapter 2003 of title 54,

1 United States Code, consistent with section
2 200305(f)(3) of title 54.

3 (c) LAND USE PLANNING REQUIREMENTS.—On con-
4 veyance of the Federal land to the Tribe under section
5 202, the Federal land shall not be subject to the land use
6 planning requirements of the Federal Land Policy and
7 Management Act of 1976 (43 U.S.C. 1701 et seq.) or the
8 Act of August 28, 1937 (50 Stat. 874, chapter 876; 43
9 U.S.C. 1181a et seq.).

10 **Subtitle B—Canyon Mountain Land** 11 **Conveyance**

12 **SEC. 211. DEFINITIONS.**

13 In this subtitle:

14 (1) FEDERAL LAND.—The term “Federal land”
15 means the approximately 17,826 acres of Federal
16 land, as generally depicted on the map entitled
17 “Canyon Mountain Land Conveyance”, and dated
18 June 27, 2013.

19 (2) PLANNING AREA.—The term “planning
20 area” means land—

21 (A) administered by the Director of the
22 Bureau of Land Management; and

23 (B) located in—

24 (i) the Coos Bay District;

25 (ii) the Eugene District;

- 1 (iii) the Medford District;
2 (iv) the Roseburg District;
3 (v) the Salem District; or
4 (vi) the Klamath Falls Resource Area
5 of the Lakeview District.

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of the Interior.

8 (4) TRIBE.—The term “Tribe” means the Cow
9 Creek Band of Umpqua Tribe of Indians.

10 SEC. 212. CONVEYANCE.

11 (a) IN GENERAL.—Subject to valid existing rights,
12 including rights-of-way and reciprocal rights-of-way, all
13 right, title, and interest of the United States in and to
14 the Federal land, including any improvements located on
15 the Federal land, appurtenances to the Federal land, and
16 minerals on or in the Federal land, including oil and gas,
17 shall be—

18 (1) held in trust by the United States for the
19 benefit of the Tribe; and

20 (2) part of the reservation of the Tribe.

21 (b) SURVEY.—Not later than 180 days after the date
22 of enactment of this Act, the Secretary shall complete a
23 survey of the boundary lines to establish the boundaries
24 of the land taken into trust under subsection (a).

1 SEC. 213. MAP AND LEGAL DESCRIPTION.

2 (a) IN GENERAL.—As soon as practicable after the
3 date of enactment of this Act, the Secretary shall file a
4 map and legal description of the Federal land with—

5 (1) the Committee on Energy and Natural Re-
6 sources of the Senate; and

7 (2) the Committee on Natural Resources of the
8 House of Representatives.

9 (b) FORCE AND EFFECT.—The map and legal de-
10 scription filed under subsection (a) shall have the same
11 force and effect as if included in this subtitle except that
12 the Secretary may correct any clerical or typographical er-
13 rors in the map or legal description.

14 (c) PUBLIC AVAILABILITY.—The map and legal de-
15 scription filed under subsection (a) shall be on file and
16 available for public inspection in the Office of the Sec-
17 retary.

18 SEC. 214. ADMINISTRATION.

19 (a) IN GENERAL.—Unless expressly provided in this
20 subtitle, nothing in this subtitle affects any right or claim
21 of the Tribe existing on the date of enactment of this Act
22 to any land or interest in land.

23 (b) PROHIBITIONS.—

24 (1) EXPORTS OF UNPROCESSED LOGS.—Fed-
25 eral law (including regulations) relating to the ex-
26 port of unprocessed logs harvested from Federal

1 land shall apply to any unprocessed logs that are
2 harvested from the Federal land.

3 (2) NON-PERMISSIBLE USE OF LAND.—Any real
4 property taken into trust under section 212 shall not
5 be eligible, or used, for any gaming activity carried
6 out under Public Law 100–497 (25 U.S.C. 2701 et
7 seq.).

8 (c) EFFECT ON TIMBER SALE CONTRACTS.—Noth-
9 ing in this subtitle affects any timber sale contracts
10 awarded as of the date of enactment of this Act.

11 **SEC. 215. FOREST MANAGEMENT.**

12 (a) APPLICABLE LAW.—Any commercial forestry ac-
13 tivity that is carried out on the Federal land shall be man-
14 aged in accordance with all applicable Federal laws, in-
15 cluding the National Indian Forest Resources Manage-
16 ment Act (25 U.S.C. 3101 et seq.).

17 (b) AGREEMENTS.—The Tribe shall consult with the
18 Director of the Bureau of Land Management and other
19 parties as necessary to develop agreements to provide for
20 access to the land taken into trust under section 212(a)
21 that provide for—

22 (1) honoring existing reciprocal right-of-way
23 agreements; and

24 (2) administrative access by the Bureau of
25 Land Management.

1 (c) LAND USE PLANNING REQUIREMENTS.—On con-
 2 veyance of the Federal land to the Tribe under section
 3 212, the Federal land shall not be subject to the land use
 4 planning requirements of the Federal Land Policy and
 5 Management Act of 1976 (43 U.S.C. 1701 et seq.) or the
 6 Act of August 28, 1937 (50 Stat. 874, chapter 876; 43
 7 U.S.C. 1181a et seq.).

8 **Subtitle C—Amendments to**
 9 **Coquille Restoration Act**

10 SEC. 221. AMENDMENTS TO COQUILLE RESTORATION ACT.

11 Section 5(d) of the Coquille Restoration Act (25
 12 U.S.C. 715c(d)) is amended—

13 (1) by striking paragraph (5) and inserting the
 14 following:

15 “(5) MANAGEMENT.—

16 “(A) IN GENERAL.—Subject to subpara-
 17 graph (B), the Secretary of the Interior, acting
 18 through the Assistant Secretary for Indian Af-
 19 fairs, shall—

20 “(i) manage the Coquille Forest in ac-
 21 cordance with the laws pertaining to the
 22 management of Indian trust land; and

23 “(ii) distribute revenues in accordance
 24 with the National Indian Forest Resources
 25 Management Act (25 U.S.C. 3101 et seq.).

1 “(B) ADMINISTRATION.—

2 “(i) UNPROCESSED LOGS.—Unproc-
3 essed logs harvested from the Coquille For-
4 est shall be subject to the same Federal
5 statutory restrictions on export to foreign
6 nations that apply to unprocessed logs har-
7 vested from Federal land.

8 “(ii) SALES OF TIMBER.—Notwith-
9 standing any other provision of law, all
10 sales of timber from land subject to this
11 subsection shall be advertised, offered, and
12 awarded according to competitive bidding
13 practices, with sales being awarded to the
14 highest responsible bidder.”;

15 (2) by striking paragraph (9); and

16 (3) by redesignating paragraphs (10) through
17 (12) as paragraphs (9) through (11), respectively.

18 **TITLE III—OREGON TREASURES**

19 **Subtitle A—Wild Rogue Wilderness** 20 **Area**

21 **SEC. 301. WILD ROGUE WILDERNESS AREA.**

22 (a) DEFINITIONS.—In this section:

23 (1) COMMISSION.—The term “Commission”
24 means the Federal Energy Regulatory Commission.

1 (2) MAP.—The term “Map” means the map en-
2 titled “Wild Rogue Wilderness Additions” and dated
3 June 12, 2013.

4 (3) SECRETARY.—The term “Secretary”
5 means—

6 (A) the Secretary of the Interior, with re-
7 spect to public land administered by the Sec-
8 retary of the Interior; or

9 (B) the Secretary of Agriculture, with re-
10 spect to National Forest System land.

11 (4) WILDERNESS ADDITIONS.—The term “Wil-
12 derness additions” means the land added to the Wild
13 Rogue Wilderness under subsection (b)(1).

14 (b) EXPANSION OF WILD ROGUE WILDERNESS
15 AREA.—

16 (1) EXPANSION.—The approximately 56,100
17 acres of Federal land in the State of Oregon gen-
18 erally depicted on the map as “BLM Proposed Wil-
19 derness” and “Proposed USFS Wilderness” shall be
20 added to and administered as part of the Wild
21 Rogue Wilderness in accordance with the Endan-
22 gered American Wilderness Act of 1978 (16 U.S.C.
23 1132 note; Public Law 95–237), except that—

24 (A) the Secretary of the Interior and the
25 Secretary of Agriculture shall administer the

1 Federal land under their respective jurisdiction;
2 and

3 (B) any reference in that Act to the Sec-
4 retary of Agriculture shall be considered to be
5 a reference to the Secretary of Agriculture or
6 the Secretary of the Interior, as applicable.

7 (2) MAP; LEGAL DESCRIPTION.—

8 (A) IN GENERAL.—As soon as practicable
9 after the date of enactment of this Act, the Sec-
10 retary shall prepare a map and legal description
11 of the wilderness area designated by paragraph
12 (1).

13 (B) FORCE OF LAW.—The map and legal
14 description filed under subparagraph (A) shall
15 have the same force and effect as if included in
16 this section, except that the Secretary may cor-
17 rect typographical errors in the map and legal
18 description.

19 (C) PUBLIC AVAILABILITY.—The map and
20 legal description filed under subparagraph (A)
21 shall be on file and available for public inspec-
22 tion in the appropriate offices of the Bureau of
23 Land Management and Forest Service.

24 (3) CORRECTION.—Section 3(b) of the Endan-
25 gered American Wilderness Act of 1978 (16 U.S.C.

1 1132 note; Public Law 95–237) is amended by strik-
2 ing “3(a)(5)” and inserting “3(a)(5)(A)”.

3 (4) WITHDRAWAL.—Subject to valid existing
4 rights, the Wilderness additions are withdrawn from
5 all forms of—

6 (A) entry, appropriation, or disposal under
7 the public land laws;

8 (B) location, entry, and patent under the
9 mining laws; and

10 (C) disposition under all laws pertaining to
11 mineral and geothermal leasing or mineral ma-
12 terials.

13 (5) TRIBAL RIGHTS.—Nothing in this sub-
14 section alters, modifies, enlarges, diminishes, or ab-
15 rogates the treaty rights of any Indian tribe.

16 (c) POTENTIAL ADDITION TO WILDERNESS AREA.—

17 (1) DESIGNATION.—Subject to paragraph (3)
18 and in furtherance of the purposes of the Wilderness
19 Act (16 U.S.C. 1131 et seq.), certain public land in
20 the State of Oregon administered by the Secretary
21 of the Interior, comprising approximately 600
22 acres, as generally depicted on the map as “Poten-
23 tial Wilderness”, shall be added to and administered
24 as part of the Wild Rogue Wilderness.

1 (2) INTERIM MANAGEMENT.—Subject to valid
2 existing rights, the Secretary shall manage the land
3 described in paragraph (1) to protect its suitability
4 for designation as wilderness until the date on which
5 the land is designated as wilderness in accordance
6 with paragraph (3).

7 (3) WILDERNESS DESIGNATION.—

8 (A) IN GENERAL.—The land described in
9 paragraph (1) shall be designated as wilderness
10 and added to and administered as part of the
11 Wild Rogue Wilderness on the date on which
12 the Secretary publishes in the Federal Register
13 notice that the conditions in the potential wil-
14 derness area that are incompatible with the
15 Wilderness Act (16 U.S.C. 1131 et seq.) have
16 been removed.

17 (B) ADMINISTRATION.—On designation as
18 wilderness under paragraph (1), the land de-
19 scribed in that paragraph shall be administered
20 in accordance with this Act, the Wilderness Act
21 (16 U.S.C. 1131 et seq.), and the Endangered
22 American Wilderness Act of 1978 (16 U.S.C.
23 1132 note; Public Law 95–237).

1 (4) WITHDRAWAL.—Subject to valid existing
2 rights, the land described in paragraph (1) is with-
3 drawn from all forms of—

4 (A) entry, appropriation, or disposal under
5 the public land laws;

6 (B) location, entry, and patent under the
7 mining laws; and

8 (C) disposition under all laws pertaining to
9 mineral and geothermal leasing or mineral ma-
10 terials.

11 (d) WITHDRAWAL AREA PROTECTIONS.—

12 (1) IN GENERAL.—The Secretary shall manage
13 the Federal land described in paragraph (2) in a
14 manner that preserves the natural and primitive
15 character of the land for recreational, scenic, and
16 scientific use.

17 (2) DESCRIPTION OF THE LAND.—The Federal
18 land referred to in paragraph (1) is the approxi-
19 mately 4,000 acres generally depicted on the map as
20 “Withdrawal Area”.

21 (3) MAPS AND LEGAL DESCRIPTIONS.—

22 (A) IN GENERAL.—As soon as practicable
23 after the date of enactment of this Act, the Sec-
24 retary shall prepare a map and legal description
25 of the land described in paragraph (2).

1 (B) FORCE OF LAW.—The map and legal
2 description filed under subparagraph (A) shall
3 have the same force and effect as if included in
4 this section, except that the Secretary may cor-
5 rect typographical errors in the map and legal
6 description.

7 (C) PUBLIC AVAILABILITY.—The map and
8 legal description filed under subparagraph (A)
9 shall be on file and available for public inspec-
10 tion in the appropriate offices of the Bureau of
11 Land Management.

12 (4) USE OF LAND.—

13 (A) IN GENERAL.—Subject to valid exist-
14 ing rights, with respect to the Federal land de-
15 scribed in paragraph (2), the Secretary shall
16 only allow uses that are consistent with the pur-
17 poses described in paragraph (1).

18 (B) PROHIBITED USES.—The following
19 shall be prohibited on the Federal land de-
20 scribed in paragraph (2):

21 (i) Permanent roads.

22 (ii) Commercial enterprises.

23 (iii) Except as necessary to meet the
24 minimum requirements for the administra-

1 tion of the Federal land and to protect
2 public health and safety—

3 (I) the use of motor vehicles; or

4 (II) the establishment of tem-
5 porary roads.

6 (5) WITHDRAWAL.—Subject to valid existing
7 rights, the Federal land described in paragraph (2)
8 is withdrawn from—

9 (A) all forms of entry, appropriation, or
10 disposal under the public land laws;

11 (B) location, entry, and patent under the
12 mining laws; and

13 (C) disposition under all laws relating to
14 mineral and geothermal leasing or mineral ma-
15 terials.

16 (e) WILD AND SCENIC RIVER DESIGNATIONS, ROGUE
17 RIVER AREA.—

18 (1) AMENDMENTS.—Section 3(a) of the Wild
19 and Scenic Rivers Act (16 U.S.C. 1274(a)) is
20 amended by striking paragraph (5) and inserting the
21 following:

22 “(5) ROGUE, OREGON.—

23 “(A) IN GENERAL.—The segment of the
24 river extending from the mouth of the River
25 downstream to the Lobster Creek Bridge, to be

1 administered by the Secretary of the Interior or
2 the Secretary of Agriculture, as agreed to by
3 the Secretaries of the Interior and Agriculture
4 or as directed by the President.

5 “(B) ADDITIONS.—In addition to the seg-
6 ment described in subparagraph (A), there are
7 designated the following segments in the Rogue
8 River:

9 “(i) KELSEY CREEK.—The approxi-
10 mately 6.8-mile segment of Kelsey Creek
11 from the Wild Rogue Wilderness boundary
12 in T. 32 S., R. 9 W., sec. 25, Willamette
13 Meridian, to the confluence with the Rogue
14 River, as a wild river.

15 “(ii) EAST FORK KELSEY CREEK.—

16 “(I) SCENIC RIVER.—The ap-
17 proximately 0.2-mile segment of East
18 Fork Kelsey Creek from headwaters
19 downstream to the Wild Rogue Wil-
20 derness boundary in T. 33 S., R. 8
21 W., sec. 5, Willamette Meridian, as a
22 scenic river.

23 “(II) WILD RIVER.—The ap-
24 proximately 4.6-mile segment of East
25 Fork Kelsey Creek from the Wild

- 1 Rogue Wilderness boundary in T. 33
- 2 S., R. 8 W., sec. 5, Willamette Merid-
- 3 ian, to the confluence with Kelsey
- 4 Creek, as a wild river.
- 5 “(iii) WHISKY CREEK.—
- 6 “(I) RECREATIONAL RIVER.—
- 7 The approximately 0.6-mile segment
- 8 of Whisky Creek from the confluence
- 9 of the East Fork and West Fork to
- 10 0.1 miles downstream from road 33-8-
- 11 23, as a recreational river.
- 12 “(II) WILD RIVER.—The ap-
- 13 proximately 1.9-mile segment of Whis-
- 14 ky Creek from 0.1 miles downstream
- 15 from road 33-8-23 to the confluence
- 16 with the Rogue River, as a wild river.
- 17 “(iv) EAST FORK WHISKY CREEK.—
- 18 “(I) SCENIC RIVER.—The ap-
- 19 proximately 0.9-mile segment of East
- 20 Fork Whisky Creek from its head-
- 21 waters to Wild Rogue Wilderness
- 22 boundary in T. 33 S., R. 8 W., sec.
- 23 11, Willamette Meridian., as a scenic
- 24 river.

1 “(II) WILD RIVER.—The ap-
2 proximately 2.6-mile segment of East
3 Fork Whisky Creek from the Wild
4 Rogue Wilderness boundary in T. 33
5 S., R. 8 W., sec. 11, Willamette Me-
6 ridian., to 0.1 miles downstream of
7 road 33-8-26 crossing, as a wild river.

8 “(III) RECREATIONAL RIVER.—
9 The approximately 0.3-mile segment
10 of East Fork Whisky Creek from 0.1
11 miles downstream of road 33-8-26 to
12 the confluence with Whisky Creek, as
13 a recreational river.

14 “(v) WEST FORK WHISKY CREEK.—
15 The approximately 4.8-mile segment of
16 West Fork Whisky Creek from its head-
17 waters to the confluence with the East
18 Fork Whisky Creek, as a wild river.

19 “(vi) BIG WINDY CREEK.—

20 “(I) SCENIC RIVER.—The ap-
21 proximately 1.5-mile segment of Big
22 Windy Creek from its headwaters to
23 0.1 miles downstream from road 34-9-
24 17.1, as a scenic river.

1 “(II) WILD RIVER.—The ap-
 2 proximately 5.8-mile segment of Big
 3 Windy Creek from 0.1 miles down-
 4 stream from road 34-9-17.1 to the
 5 confluence with the Rogue River, as a
 6 wild river.

7 “(vii) EAST FORK BIG WINDY
 8 CREEK.—

9 “(I) SCENIC RIVER.—The ap-
 10 proximately 0.2-mile segment of East
 11 Fork Big Windy Creek from its head-
 12 waters to 0.1 miles downstream from
 13 road 34-8-36, as a scenic river.

14 “(II) WILD RIVER.—The ap-
 15 proximately 3.7-mile segment of East
 16 Fork Big Windy Creek from 0.1 miles
 17 downstream from road 34-8-36 to the
 18 confluence with Big Windy Creek, as
 19 a wild river.

20 “(viii) LITTLE WINDY CREEK.—

21 “(I) SCENIC RIVER.—The ap-
 22 proximately 1.2-mile segment of Little
 23 Windy Creek from its headwaters to
 24 the Wild Rogue Wilderness boundary

1 in T. 33 S., R. 9 W., sec. 34, Willam-
 2 ette Meridian, as a scenic river.

3 “(II) WILD RIVER.—The ap-
 4 proximately 1.9-mile segment of Little
 5 Windy Creek from the Wild Rogue
 6 Wilderness boundary in T. 33 S., R.
 7 9 W., sec. 34, Willamette Meridian to
 8 the confluence with the Rogue River,
 9 as a wild river.

10 “(ix) HOWARD CREEK.—

11 “(I) SCENIC RIVER.—The ap-
 12 proximately 0.3-mile segment of How-
 13 ard Creek from its headwaters to 0.1
 14 miles downstream of road 34-9-34, as
 15 a scenic river.

16 “(II) WILD RIVER.—The ap-
 17 proximately 6.9-mile segment of How-
 18 ard Creek from 0.1 miles downstream
 19 of road 34-9-34 to the confluence with
 20 the Rogue River, as a wild river.

21 “(x) MULE CREEK.—

22 “(I) SCENIC RIVER.—The ap-
 23 proximately 3.5-mile segment of Mule
 24 Creek from its headwaters down-

1 stream to the Wild Rogue Wilderness
2 boundary as a scenic river.

3 “(II) WILD RIVER.—The ap-
4 proximately 7.8-mile segment of Mule
5 Creek from the Wild Rogue Wilder-
6 ness boundary in T. 32 S., R. 9 W.,
7 sec. 29, Willamette Meridian, to the
8 confluence with the Rogue River, as a
9 wild river.

10 “(xi) ANNA CREEK.—The approxi-
11 mately 3.5-mile segment of Anna Creek
12 from its headwaters to the confluence with
13 Howard Creek, as a wild river.

14 “(xii) MISSOURI CREEK.—

15 “(I) SCENIC RIVER.—The ap-
16 proximately 3.1-mile segment of Mule
17 Creek from its headwaters down-
18 stream to the Wild Rogue Wilderness
19 boundary in T. 33 S., R. 10 W., sec.
20 24, Willamette Meridian, as a scenic
21 river.

22 “(II) WILD RIVER.—The ap-
23 proximately 1.6-mile segment of Mis-
24 souri Creek from the Wild Rogue Wil-
25 derness boundary in T. 33 S., R. 10

1 W., sec. 24, Willamette Meridian, to
 2 the confluence with the Rogue River,
 3 as a wild river.

4 “(xiii) JENNY CREEK.—

5 “(I) SCENIC RIVER.—The ap-
 6 proximately 3.1-mile segment of
 7 Jenny Creek from its headwaters
 8 downstream to the Wild Rogue Wil-
 9 derness boundary in T. 33 S., R. 9
 10 W., sec. 28, Willamette Meridian, as a
 11 scenic river.

12 “(II) WILD RIVER.—The ap-
 13 proximately 1.8-mile segment of
 14 Jenny Creek from the Wild Rogue
 15 Wilderness boundary in T. 33 S., R.
 16 9 W., sec. 28, Willamette Meridian, to
 17 the confluence with the Rogue River,
 18 as a wild river.

19 “(xiv) RUM CREEK.—

20 “(I) SCENIC RIVER.—The ap-
 21 proximately 2.2-mile segment of Rum
 22 Creek from its headwaters to the Wild
 23 Rogue Wilderness boundary in T. 34
 24 S., R. 8 W., sec. 9., Willamette Merid-
 25 ian, as a scenic river.

1 “(II) WILD RIVER.—The ap-
 2 proximately 2.2-mile segment of Rum
 3 Creek from the Wild Rogue Wilder-
 4 ness boundary in T. 34 S., R. 8 W.,
 5 sec. 9, Willamette Meridian, to the
 6 confluence with the Rogue River, as a
 7 wild river.

8 “(xv) EAST FORK RUM CREEK.—

9 “(I) SCENIC RIVER.—The ap-
 10 proximately 0.8-mile segment of East
 11 Fork Rum Creek from its headwaters
 12 to the Wild Rogue Wilderness bound-
 13 ary in T. 34 S., R. 8 W., sec. 10.,
 14 Willamette Meridian, as a scenic river.

15 “(II) WILD RIVER.—The ap-
 16 proximately 1.3-mile segment of East
 17 Fork Rum Creek from the Wild
 18 Rogue Wilderness boundary in T. 34
 19 S., R. 8 W., sec. 10, Willamette Me-
 20 ridian, to the confluence with Rum
 21 Creek, as a wild river.

22 “(xvi) WILDCAT CREEK.—The ap-
 23 proximately 1.7-mile segment of Wildcat
 24 Creek from its headwaters downstream to

1 the confluence with the Rogue River, as a
2 wild river.

3 “(xvii) MONTGOMERY CREEK.—The
4 approximately 1.8-mile segment of Mont-
5 gomery Creek from its headwaters down-
6 stream to the confluence with the Rogue
7 River, as a wild river.

8 “(xviii) HEWITT CREEK.—

9 “(I) SCENIC RIVER.—The ap-
10 proximately 1.4-mile segment of Hew-
11 itt Creek from its headwaters to the
12 Wild Rogue Wilderness boundary in
13 T. 33 S., R. 9 W., sec. 19, Willamette
14 Meridian, as a scenic river.

15 “(II) WILD RIVER.—The ap-
16 proximately 1.2-mile segment of Hew-
17 itt Creek from the Wild Rogue Wil-
18 derness boundary in T. 33 S., R. 9
19 W., sec. 19, Willamette Meridian, to
20 the confluence with the Rogue River,
21 as a wild river.

22 “(xix) BUNKER CREEK.—The approxi-
23 mately 6.6-mile segment of Bunker Creek
24 from its headwaters to the confluence with
25 the Rogue River, as a wild river.

1 “(xx) DULOG CREEK.—

2 “(I) SCENIC RIVER.—The ap-
3 proximately 0.8-mile segment of
4 Dulog Creek from its headwaters to
5 0.1 miles downstream of road 34-8-
6 36, as a scenic river.

7 “(II) WILD RIVER.—The ap-
8 proximately 1.0-mile segment of
9 Dulog Creek from 0.1 miles down-
10 stream of road 34-8-36 to the con-
11 fluence with the Rogue River, as a
12 wild river.

13 “(xxi) QUAIL CREEK.—The approxi-
14 mately 1.7-mile segment of Quail Creek
15 from the Wild Rogue Wilderness boundary
16 in T. 33 S., R. 10 W., sec. 1, Willamette
17 Meridian, to the confluence with the Rogue
18 River, as a wild river.

19 “(xxii) MEADOW CREEK.—The ap-
20 proximately 4.1-mile segment of Meadow
21 Creek from its headwaters to the con-
22 fluence with the Rogue River, as a wild
23 river.

24 “(xxiii) RUSSIAN CREEK.—

1 “(I) SCENIC RIVER.—The ap-
2 proximately 0.1-mile segment of Rus-
3 sian Creek from its headwaters to the
4 Wild Rogue Wilderness boundary in
5 T. 33 S., R. 8 W., sec. 20., Willam-
6 ette Meridian, as a scenic river.

7 “(II) WILD RIVER.—The ap-
8 proximately 2.5-mile segment of Rus-
9 sian Creek from the Wild Rogue Wil-
10 derness boundary in T. 33 S., R. 8
11 W., sec. 20, Willamette Meridian, to
12 the confluence with the Rogue River,
13 as a wild river.

14 “(xxiv) ALDER CREEK.—The approxi-
15 mately 1.2-mile segment of Alder Creek
16 from its headwaters to the confluence with
17 the Rogue River, as a wild river.

18 “(xxv) BOOZE CREEK.—The approxi-
19 mately 1.5-mile segment of Booze Creek
20 from its headwaters to the confluence with
21 the Rogue River, as a wild river.

22 “(xxvi) BRONCO CREEK.—The ap-
23 proximately 1.8-mile segment of Bronco
24 Creek from its headwaters to the con-

1 fluence with the Rogue River, as a wild
2 river.

3 “(xxvii) COPSEY CREEK.—The ap-
4 proximately 1.5-mile segment of Copsey
5 Creek from its headwaters to the con-
6 fluence with the Rogue River, as a wild
7 river.

8 “(xxviii) CORRAL CREEK.—The ap-
9 proximately 0.5-mile segment of Corral
10 Creek from its headwaters to the con-
11 fluence with the Rogue River, as a wild
12 river.

13 “(xxix) COWLEY CREEK.—The ap-
14 proximately 0.9-mile segment of Cowley
15 Creek from its headwaters to the con-
16 fluence with the Rogue River, as a wild
17 river.

18 “(xxx) DITCH CREEK.—The approxi-
19 mately 1.8-mile segment of Ditch Creek
20 from the Wild Rogue Wilderness boundary
21 in T. 33 S., R. 9 W., sec. 5, Willamette
22 Meridian, to its confluence with the Rogue
23 River, as a wild river.

24 “(xxxi) FRANCIS CREEK.—The ap-
25 proximately 0.9-mile segment of Francis

1 Creek from its headwaters to the con-
 2 fluence with the Rogue River, as a wild
 3 river.

4 “(xxxii) LONG GULCH.—

5 “(I) SCENIC RIVER.—The ap-
 6 proximately 1.4-mile segment of Long
 7 Gulch from its headwaters to the Wild
 8 Rogue Wilderness boundary in T. 33
 9 S., R. 10 W., sec. 23, Willamette Me-
 10 ridian, as a scenic river.

11 “(II) WILD RIVER.—The ap-
 12 proximately 1.1-mile segment of Long
 13 Gulch from the Wild Rogue Wilder-
 14 ness boundary in T. 33 S., R. 10 W.,
 15 sec. 23, Willamette Meridian, to the
 16 confluence with the Rogue River, as a
 17 wild river.

18 “(xxxiii) BAILEY CREEK.—

19 “(I) SCENIC RIVER.—The ap-
 20 proximately 1.4-mile segment of Bai-
 21 ley Creek from its headwaters to the
 22 Wild Rogue Wilderness boundary on
 23 the west section line of T. 34 S., R.
 24 8 W., sec. 14, Willamette Meridian, as
 25 a scenic river.

1 “(II) WILD RIVER.—The ap-
2 proximately 1.7-mile segment of Bai-
3 ley Creek from the west section line of
4 T. 34 S., R.8 W., sec.14, Willamette
5 Meridian, to the confluence of the
6 Rogue River, as a wild river.

7 “(xxxiv) SHADY CREEK.—The ap-
8 proximately 0.7-mile segment of Shady
9 Creek from its headwaters to the con-
10 fluence with the Rogue River, as a wild
11 river.

12 “(xxxv) SLIDE CREEK.—

13 “(I) SCENIC RIVER.—The ap-
14 proximately 0.5-mile segment of Slide
15 Creek from its headwaters to 0.1
16 miles downstream from road 33-9-6,
17 as a scenic river.

18 “(II) WILD RIVER.—The ap-
19 proximately 0.7-mile section of Slide
20 Creek from 0.1 miles downstream of
21 road 33-9-6 to the confluence with the
22 Rogue River, as a wild river.

23 “(xxxvi) QUARTZ CREEK.—The ap-
24 proximately 3.3-mile segment of Quartz
25 Creek from its headwaters to its confluence

1 with the North Fork Galice Creek., as a
2 scenic river.

3 “(xxxvii) NORTH FORK GALICE
4 CREEK.—The approximately 5.7-mile seg-
5 ment of the North Fork Galice Creek from
6 its headwaters to its confluence with Galice
7 Creek, as a recreational river.”.

8 (2) MANAGEMENT.—Each river segment des-
9 ignated by subparagraph (B) of section 3(a)(5) of
10 the Wild and Scenic Rivers Act (16 U.S.C.
11 1274(a)(5)) (as added by paragraph (1)) shall be
12 managed as part of the Rogue Wild and Scenic
13 River.

14 (3) WITHDRAWAL.—Subject to valid existing
15 rights, the Federal land within the boundaries of the
16 river segments designated under subparagraph (B)
17 of section 3(a)(5) of the Wild and Scenic Rivers Act
18 (16 U.S.C. 1274(a)(5)) (as added by paragraph (1))
19 is withdrawn from all forms of—

20 (A) entry, appropriation, or disposal under
21 the public land laws;

22 (B) location, entry, and patent under the
23 mining laws; and

1 (C) disposition under all laws pertaining to
2 mineral and geothermal leasing or mineral ma-
3 terials.

4 (f) ADDITIONAL PROTECTIONS FOR ROGUE RIVER
5 TRIBUTARIES.—

6 (1) LICENSING BY COMMISSION.—The Commis-
7 sion shall not license the construction of any dam,
8 water conduit, reservoir, powerhouse, transmission
9 line, or other project works on or directly affecting
10 any stream described in paragraph (4).

11 (2) OTHER AGENCIES.—

12 (A) IN GENERAL.—No department or
13 agency of the United States shall assist by loan,
14 grant, license, or otherwise in the construction
15 of any water resources project on or directly af-
16 fecting any stream segment that is described in
17 paragraph (4), except to maintain or repair
18 water resources projects in existence on the
19 date of enactment of this Act.

20 (B) EFFECT.—Nothing in this paragraph
21 prohibits any department or agency of the
22 United States in assisting by loan, grant, li-
23 cense, or otherwise, a water resources project—

24 (i) the primary purpose of which is ec-
25 ological or aquatic restoration; and

1 (ii) that provides a net benefit to
2 water quality and aquatic resources.

3 (3) WITHDRAWAL.—Subject to valid existing
4 rights, the Federal land located within ¼ mile on ei-
5 ther side of the stream segments described in para-
6 graph (4), is withdrawn from all forms of—

7 (A) entry, appropriation, or disposal under
8 the public land laws;

9 (B) location, entry, and patent under the
10 mining laws; and

11 (C) disposition under all laws pertaining to
12 mineral and geothermal leasing or mineral ma-
13 terials.

14 (4) DESCRIPTION OF STREAM SEGMENTS.—The
15 following are the stream segments referred to in
16 paragraph (1):

17 (A) KELSEY CREEK.—The approximately
18 2.5-mile segment of Kelsey Creek from its
19 headwaters to Wild Rogue Wilderness boundary
20 in T. 32 S., R. 9 W., sec. 25.

21 (B) GRAVE CREEK.—The approximately
22 10.2-mile segment of Grave Creek from the
23 confluence of Wolf Creek downstream to the
24 confluence with the Rogue River.

1 (C) CENTENNIAL GULCH.—The approxi-
 2 mately 2.2-mile segment of Centennial Gulch
 3 from its headwaters to its confluence with the
 4 Rogue River.

5 (D) QUAIL CREEK.—The approximately
 6 0.8-mile segment of Quail Creek from its head-
 7 waters to the Wild Rogue Wilderness boundary
 8 in T. 33 S., R. 10 W., sec. 1., Willamette Me-
 9 ridian.

10 (E) DITCH CREEK.—The approximately
 11 0.7-mile segment of Ditch Creek from its head-
 12 waters to the Wild Rogue Wilderness boundary
 13 in T. 33 S., R. 9 W., sec. 5., Willamette Merid-
 14 ian.

15 (F) GALICE CREEK.—The approximately
 16 2.2-mile segment of Galice Creek from the con-
 17 fluence with the South Forest Galice Creek
 18 downstream to the confluence with the Rogue
 19 River.

20 **Subtitle B—Devil’s Staircase**
 21 **Wilderness**

22 **SEC. 311. DEFINITIONS.**

23 In this subtitle:

1 (1) MAP.—The term “map” means the map en-
2 titled “Devil’s Staircase Wilderness Proposal” and
3 dated June 15, 2010.

4 (2) SECRETARY.—The term “Secretary”
5 means—

6 (A) with respect to land under the jurisdic-
7 tion of the Secretary of Agriculture, the Sec-
8 retary of Agriculture; and

9 (B) with respect to land under the jurisdic-
10 tion of the Secretary of the Interior, the Sec-
11 retary of the Interior.

12 (3) STATE.—The term “State” means the State
13 of Oregon.

14 (4) WILDERNESS.—The term “Wilderness”
15 means the Devil’s Staircase Wilderness designated
16 by section 312(a).

17 **SEC. 312. DEVIL’S STAIRCASE WILDERNESS, OREGON.**

18 (a) DESIGNATION.—In accordance with the Wilder-
19 ness Act (16 U.S.C. 1131 et seq.), the approximately
20 30,540 acres of Forest Service land and Bureau of Land
21 Management land in the State, as generally depicted on
22 the map, is designated as wilderness and as a component
23 of the National Wilderness Preservation System, to be
24 known as the “Devil’s Staircase Wilderness”.

25 (b) MAP; LEGAL DESCRIPTION.—

1 (1) IN GENERAL.—As soon as practicable after
2 the date of enactment of this Act, the Secretary
3 shall prepare a map and legal description of the Wil-
4 derness.

5 (2) FORCE OF LAW.—The map and legal de-
6 scription prepared under paragraph (1) shall have
7 the same force and effect as if included in this Act,
8 except that the Secretary may correct clerical and
9 typographical errors in the map and legal descrip-
10 tion.

11 (3) AVAILABILITY.—The map and legal descrip-
12 tion prepared under paragraph (1) shall be on file
13 and available for public inspection in the appropriate
14 offices of the Forest Service and Bureau of Land
15 Management.

16 (c) ADMINISTRATION.—Subject to valid existing
17 rights, the area designated as wilderness by this section
18 shall be administered by the Secretary in accordance with
19 the Wilderness Act (16 U.S.C. 1131 et seq.), except
20 that—

21 (1) any reference in that Act to the effective
22 date shall be considered to be a reference to the date
23 of enactment of this Act; and

24 (2) any reference in that Act to the Secretary
25 of Agriculture shall be considered to be a reference

1 to the Secretary that has jurisdiction over the land
2 within the Wilderness.

3 (d) FISH AND WILDLIFE.—Nothing in this section
4 affects the jurisdiction or responsibilities of the State with
5 respect to fish and wildlife in the State.

6 (e) ADJACENT MANAGEMENT.—

7 (1) IN GENERAL.—Nothing in this section cre-
8 ates any protective perimeter or buffer zone around
9 the Wilderness.

10 (2) ACTIVITIES OUTSIDE WILDERNESS.—The
11 fact that a nonwilderness activity or use on land out-
12 side the Wilderness can be seen or heard within the
13 Wilderness shall not preclude the activity or use out-
14 side the boundary of the Wilderness.

15 (f) PROTECTION OF TRIBAL RIGHTS.—Nothing in
16 this section diminishes any treaty rights of an Indian
17 tribe.

18 (g) TRANSFER OF ADMINISTRATIVE JURISDIC-
19 TION.—

20 (1) IN GENERAL.—Administrative jurisdiction
21 over the approximately 49 acres of Bureau of Land
22 Management land north of the Umpqua River in sec.
23 32, T. 21 S., R. 11 W, is transferred from the Bu-
24 reau of Land Management to the Forest Service.

1 (2) ADMINISTRATION.—The Secretary shall ad-
 2 minister the land transferred by paragraph (1) in
 3 accordance with—

4 (A) the Act of March 1, 1911 (commonly
 5 known as the “Weeks Law”) (16 U.S.C. 480 et
 6 seq.); and

7 (B) any laws (including regulations) appli-
 8 cable to the National Forest System.

9 **SEC. 313. WILD AND SCENIC RIVER DESIGNATIONS,**
 10 **WASSON CREEK AND FRANKLIN CREEK, OR-**
 11 **EGON.**

12 Section 3(a) of the Wild and Scenic Rivers Act (16
 13 U.S.C. 1274(a)) (as amended by section 102(a)) is amend-
 14 ed by adding at the end the following:

15 “(215) FRANKLIN CREEK, OREGON.—The 4.5-
 16 mile segment from its headwaters to the line of
 17 angle points within sec. 8, T. 22 S., R. 10 W.,
 18 shown on the survey recorded in the Official Records
 19 of Douglas County, Oregon, as M64–62, to be ad-
 20 ministered by the Secretary of Agriculture as a wild
 21 river.

22 “(216) WASSON CREEK, OREGON.—The 10.1-
 23 mile segment in the following classes:

24 “(A) The 4.2-mile segment from the east-
 25 ern boundary of sec. 17, T. 21 S., R. 9 W.,

1 downstream to the western boundary of sec. 12,
 2 T. 21 S., R. 10 W., to be administered by the
 3 Secretary of the Interior as a wild river.

4 “(B) The 5.9-mile segment from the west-
 5 ern boundary of sec. 12, T. 21 S., R. 10 W.,
 6 downstream to the eastern boundary of the
 7 northwest quarter of sec. 22, T. 21 S., R. 10
 8 W., to be administered by the Secretary of Ag-
 9 riculture as a wild river.”.

10 **Subtitle C—Additional Wild and**
 11 **Scenic River Designations and**
 12 **Technical Corrections**

13 **SEC. 321. DESIGNATION OF WILD AND SCENIC RIVER SEG-**
 14 **MENTS, MOLALLA RIVER, OREGON.**

15 (a) IN GENERAL.—Section 3(a) of the Wild and Sce-
 16 nic Rivers Act (16 U.S.C. 1274(a)) (as amended by sec-
 17 tion 313) is amended by adding at the end the following:

18 “(217) MOLALLA RIVER, OREGON.—

19 “(A) IN GENERAL.—The following seg-
 20 ments in the State of Oregon, to be adminis-
 21 tered by the Secretary of the Interior as a rec-
 22 reational river:

23 “(i) MOLALLA RIVER.—The approxi-
 24 mately 15.1-mile segment from the south-
 25 ern boundary line of T. 7 S., R. 4 E., sec.

1 19, downstream to the edge of the Bureau
 2 of Land Management boundary in T. 6 S.,
 3 R. 3 E., sec. 7.

4 “(ii) TABLE ROCK FORK MOLALLA
 5 RIVER.—The approximately 6.2-mile seg-
 6 ment from the easternmost Bureau of
 7 Land Management boundary line in the
 8 NE ¼ sec. 4, T. 7 S., R. 4 E., down-
 9 stream to the confluence with the Molalla
 10 River.

11 “(B) WITHDRAWAL.—Subject to valid ex-
 12 isting rights, the Federal land within the
 13 boundaries of the river segments designated by
 14 subparagraph (A) is withdrawn from all forms
 15 of—

16 “(i) entry, appropriation, or disposal
 17 under the public land laws;

18 “(ii) location, entry, and patent under
 19 the mining laws; and

20 “(iii) disposition under all laws relat-
 21 ing to mineral and geothermal leasing or
 22 mineral materials.”.

23 (b) TECHNICAL CORRECTIONS.—Section 3(a)(102) of
 24 the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(102))
 25 is amended—

- 1 (1) in the paragraph heading, by striking
- 2 “SQUAW CREEK” and inserting “WHYCHUS CREEK”;
- 3 (2) in the matter preceding subparagraph (A),
- 4 by striking “McAllister Ditch, including the Soap
- 5 Fork Squaw Creek, the North Fork, the South
- 6 Fork, the East and West Forks of Park Creek, and
- 7 Park Creek Fork” and inserting “Plainview Ditch,
- 8 including the Soap Creek, the North and South
- 9 Forks of Whychus Creek, the East and West Forks
- 10 of Park Creek, and Park Creek”; and
- 11 (3) in subparagraph (B), by striking
- 12 “McAllister Ditch” and inserting “Plainview Ditch”.
- 13 **SEC. 322. TECHNICAL CORRECTIONS TO THE WILD AND**
- 14 **SCENIC RIVERS ACT.**
- 15 Section 3(a)(69) of the Wild and Scenic Rivers Act
- 16 (16 U.S.C. 1274(a)(69)) is amended—
- 17 (1) by redesignating subparagraphs (A), (B),
- 18 and (C) as clauses (i), (ii), and (iii), respectively,
- 19 and indenting appropriately;
- 20 (2) in the matter preceding clause (i) (as so re-
- 21 designated), by striking “The 44.5-mile” and insert-
- 22 ing the following:
- 23 “(A) DESIGNATIONS.—The 44.5-mile”;
- 24 (3) in clause (i) (as so redesignated)—

1 (A) by striking “25.5-mile” and inserting
2 “27.5-mile”; and

3 (B) by striking “Boulder Creek at the
4 Kalmiopsis Wilderness boundary” and inserting
5 “Mislatah Creek”;

6 (4) in clause (ii) (as so redesignated)—

7 (A) by striking “8-mile” and inserting
8 “7.5-mile”; and

9 (B) by striking “Boulder Creek to Steel
10 Bridge” and inserting “Mislatah Creek to
11 Eagle Creek”;

12 (5) in clause (iii) (as so redesignated)—

13 (A) by striking “11-mile” and inserting
14 “9.5-mile”; and

15 (B) by striking “Steel Bridge” and insert-
16 ing “Eagle Creek”; and

17 (6) by adding at the end the following:

18 “(B) WITHDRAWAL.—Subject to valid
19 rights, the Federal land within the boundaries
20 of the river segments designated by subpara-
21 graph (A), is withdrawn from all forms of—

22 “(i) entry, appropriation, or disposal
23 under the public land laws;

24 “(ii) location, entry, and patent under
25 the mining laws; and

1 “(iii) disposition under all laws per-
 2 taining to mineral and geothermal leasing
 3 or mineral materials.”.

4 **Subtitle D—Frank Moore Wild**
 5 **Steelhead Sanctuary**

6 SEC. 331. DEFINITIONS.

7 In this subtitle:

8 (1) MAP.—The term “Map” means the map en-
 9 titled “O&C Land Grant Act of 2014: Frank Moore
 10 Wild Steelhead Sanctuary” and dated November 3,
 11 2014.

12 (2) SECRETARY.—The term “Secretary” means
 13 the Secretary of Agriculture acting through the
 14 Chief of the Forest Service.

15 (3) STATE.—The term “State” means the State
 16 of Oregon.

17 SEC. 332. FRANK MOORE WILD STEELHEAD SANCTUARY,
 18 OREGON.

19 (a) DESIGNATION.—The approximately 104,000
 20 acres of Forest Service land in the State, as generally de-
 21 picted on the map, is designated as the “Frank Moore
 22 Wild Steelhead Sanctuary”.

23 (b) MAP; LEGAL DESCRIPTION.—

24 (1) IN GENERAL.—As soon as practicable after
 25 the date of enactment of this Act, the Secretary

1 shall prepare a map and legal description of the
2 Frank Moore Wild Steelhead Sanctuary.

3 (2) FORCE OF LAW.—The map and legal de-
4 scription prepared under paragraph (1) shall have
5 the same force and effect as if included in this Act,
6 except that the Secretary may correct clerical and
7 typographical errors in the map and legal descrip-
8 tion.

9 (3) AVAILABILITY.—The map and legal descrip-
10 tion prepared under paragraph (1) shall be on file
11 and available for public inspection in the appropriate
12 offices of the Forest Service.

13 (c) ADMINISTRATION.—Subject to valid existing
14 rights, the area designated as the Frank Moore Wild
15 Steelhead Sanctuary by this section shall be administered
16 by the Secretary in accordance with all laws (including
17 regulations applicable to the National Forest System), and
18 in addition for the purposes of protecting, preserving and
19 enhancing the natural character, scientific use, and the
20 botanical, recreational, ecological, fish and wildlife, scenic,
21 drinking water, and cultural values of the areas and to
22 preserve opportunities for primitive recreation and espe-
23 cially to protect and enhance the wild salmonid resources
24 of this area and maintain the watershed as a thermal ref-
25 uge for native salmonids.

1 (d) FISH AND WILDLIFE.—Nothing in this section
2 affects the jurisdiction or responsibilities of the State with
3 respect to fish and wildlife in the State.

4 (e) ADJACENT MANAGEMENT.—

5 (1) IN GENERAL.—Nothing in this section cre-
6 ates any protective perimeter or buffer zone around
7 the Frank Moore Wild Steelhead Sanctuary.

8 (2) ADJACENT MANAGEMENT.—Nothing in this
9 section creates any protective perimeter or buffer
10 zone around an area designated under this section.

11 (f) PROTECTION OF TRIBAL RIGHTS.—Nothing in
12 this section diminishes any treaty rights of an Indian
13 tribe.

14 (g) WITHDRAWAL.—Subject to valid existing rights,
15 the Federal land within the boundaries of the Frank
16 Moore Wild Steelhead Sanctuary river segments des-
17 igned by subsection (a) is withdrawn from all forms of—

18 (1) entry, appropriation, or disposal under the
19 public land laws;

20 (2) location, entry, and patent under the mining
21 laws; and

22 (3) disposition under all laws relating to min-
23 eral and geothermal leasing or mineral materials.

24 (h) USES.—The Secretary shall only allow uses of the
25 Frank Moore Wild Steelhead Sanctuary that are con-

1 sistent with the purposes and values for which the Frank
2 Moore Wild Steelhead Sanctuary is established.

3 (i) USE OF MOTORIZED VEHICLES.—The use of mo-
4 torized vehicles within the Frank Moore Wild Steelhead
5 Sanctuary shall be limited to roads allowed by the Sec-
6 retary for such use, provided that the Secretary may allow
7 off-road vehicle use in designated portions of the areas
8 designated by this section if such use is consistent with
9 the purposes and values for which the area was des-
10 ignated.

11 (j) ROADS.—

12 (1) IN GENERAL.—The Secretary, to the max-
13 imum extent practicable, shall decrease the total
14 mileage of system roads that are operational in the
15 Frank Moore Wild Steelhead Sanctuary to a quan-
16 tity less than the quantity of mileage in existence on
17 the date of enactment of the Oregon and California
18 Land Grant Act of 2015. The Secretary shall
19 prioritize decreasing the mileage of the road network
20 in order to reduce impacts to water quality from
21 sediment delivered to streams by forest roads.

22 (2) TEMPORARY ROADS.—If the Secretary con-
23 structs a temporary road as part of a vegetation
24 management project, the Secretary shall close and

1 decommission the temporary road not later than the
2 earlier of—

3 (A) the date that is 2 years after the date
4 on which the activity for which the temporary
5 road was constructed is completed; and

6 (B) the date that is 1 year after the date
7 on which the vegetation management project is
8 completed.

9 (3) NO NEW ROADS.—The Secretary shall pro-
10 hibit any new system or nonsystem road within the
11 Frank Moore Wild Steelhead Sanctuary and key wa-
12 tersheds under the NWFP after the date of enact-
13 ment of the Oregon and California Land Grant Act
14 of 2015 except as necessary, where no practicable al-
15 ternative exists and subject to the availability of ap-
16 propriations. The Secretary shall also prohibit the
17 construction of any new road in any roadless area.

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114TH CONGRESS
1ST SESSION

S. 326

To amend the Healthy Forests Restoration Act of 2003 to provide cancellation ceilings for stewardship end result contracting projects, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2015

Mr. FLAKE (for himself, Mr. MCCAIN, Mr. CRAPO, Mr. RISCH, Mr. HEINRICH, Mr. HELLER, Mr. BARRASSO, Mr. BENNET, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Healthy Forests Restoration Act of 2003 to provide cancellation ceilings for stewardship end result contracting projects, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stewardship End Re-
5 sult Contracting Improvement Act”.

1 SEC. 2. STEWARDSHIP END RESULT CONTRACTING
2 PROJECTS.

3 (a) CANCELLATION CEILINGS.—Section 604(d) of
4 the Healthy Forests Restoration Act of 2003 (16 U.S.C.
5 6591c(d)) is amended—

6 (1) by redesignating paragraphs (5), (6), and
7 (7) as paragraphs (6), (7), and (8), respectively;

8 (2) by inserting after paragraph (4) the fol-
9 lowing:

10 “(5) CANCELLATION CEILINGS.—

11 “(A) IN GENERAL.—The Chief and the Di-
12 rector may obligate funds to cover any potential
13 cancellation or termination costs for an agree-
14 ment or contract under subsection (b) in stages
15 that are economically or programmatically via-
16 ble.

17 “(B) NOTICE.—

18 “(i) SUBMISSION TO CONGRESS.—Not
19 later than 30 days before entering into a
20 multiyear agreement or contract under
21 subsection (b) that includes a cancellation
22 ceiling in excess of \$25,000,000, but does
23 not include proposed funding for the costs
24 of cancelling the agreement or contract up
25 to the cancellation ceiling established in
26 the agreement or contract, the Chief and

1 the Director shall submit to the Commit-
2 tees on Energy and Natural Resources and
3 Agriculture, Nutrition, and Forestry of the
4 Senate and the Committees on Natural Re-
5 sources and Agriculture of the House of
6 Representatives a written notice that in-
7 cludes—

8 “(I)(aa) the cancellation ceiling
9 amounts proposed for each program
10 year in the agreement or contract;
11 and

12 “(bb) the reasons for the can-
13 cellation ceiling amounts proposed
14 under item (aa);

15 “(II) the extent to which the
16 costs of contract cancellation are not
17 included in the budget for the agree-
18 ment or contract; and

19 “(III) a financial risk assessment
20 of not including budgeting for the
21 costs of agreement or contract can-
22 cellation.

23 “(ii) TRANSMITTAL TO OMB.—At least
24 14 days before the date on which the Chief
25 and Director enter into an agreement or

1 contract under subsection (b), the Chief
2 and Director shall transmit to the Director
3 of the Office of Management and Budget
4 a copy of the written notice submitted
5 under clause (i).”.

6 (3) in paragraph (6) (as redesignated by para-
7 graph (1)), by striking “, the Chief may” and insert-
8 ing “and section 2(a)(1) of the Act of July 31, 1947
9 (commonly known as the ‘Materials Act of 1947’)
10 (30 U.S.C. 602(a)(1)), the Chief and the Director
11 may”.

12 (b) EXCESS OFFSET VALUE.—Section 604(g)(2) of
13 the Healthy Forests Restoration Act of 2003 (16 U.S.C.
14 6591c(g)(2)) is amended, by striking subparagraphs (A)
15 and (B) and inserting the following:

16 “(A) use the excess to satisfy any out-
17 standing liabilities for cancelled agreements or
18 contracts; or

19 “(B) if there are no outstanding liabilities
20 under subparagraph (A), apply the excess to
21 other authorized stewardship projects.”.

22 (c) REPORTING.—Section 604(i) of the Healthy For-
23 ests Restoration Act of 2003 (16 U.S.C. 6591c(i)) is
24 amended, by striking “Committee on Agriculture, Nutri-
25 tion, and Forestry of the Senate and the Committee on

1 Agriculture of the House of Representatives’’ and insert-
2 ing ‘‘Committees on Energy and Natural Resources and
3 Agriculture, Nutrition, and Forestry of the Senate and the
4 Committees on Natural Resources and Agriculture of the
5 House of Representatives’’.

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114TH CONGRESS
1ST SESSION

S. 1691

To expedite and prioritize forest management activities to achieve ecosystem restoration objectives, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2015

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To expedite and prioritize forest management activities to achieve ecosystem restoration objectives, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Forest Ecosystem Improvement Act of 2015”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—FOREST MANAGEMENT ACTIVITIES

Sec. 101. Purposes.

Sec. 102. Definitions.
 Sec. 103. Ecosystem restoration projects.
 Sec. 104. National restoration treatment acreage.
 Sec. 105. Environmental review for ecosystem restoration projects.
 Sec. 106. Alternative dispute resolution.
 Sec. 107. Bonding requirements for judicial review.
 Sec. 108. Performance measures; annual reports.

TITLE II—CATEGORICAL EXCLUSIONS

Sec. 201. Definitions.
 Sec. 202. Categorical exclusion to expedite certain critical response actions.
 Sec. 203. Categorical exclusion to expedite salvage operations in response to catastrophic events.
 Sec. 204. Categorical exclusion to meet forest plan goals for early successional forests.
 Sec. 205. Alternative agency consultation procedures.

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) COMMUNITY WILDFIRE PROTECTION
 4 PLAN.—The term “community wildfire protection
 5 plan” has the meaning given the term in section 101
 6 of the Healthy Forests Restoration Act of 2003 (16
 7 U.S.C. 6511).

8 (2) NATIONAL FOREST SYSTEM.—

9 (A) IN GENERAL.—The term “National
 10 Forest System” has the meaning given the term
 11 in section 11(a) of the Forest and Rangeland
 12 Renewable Resources Planning Act of 1974 (16
 13 U.S.C. 1609(a)).

14 (B) EXCLUSION.—The term “National
 15 Forest System” does not include—

16 (i) any forest reserve not created from
 17 the public domain; or

1 (ii) any national grassland or land uti-
2 lization project administered under title III
3 of the Bankhead-Jones Farm Tenant Act
4 (7 U.S.C. 1010 et seq.).

5 **TITLE I—FOREST MANAGEMENT**
6 **ACTIVITIES**

7 **SEC. 101. PURPOSES.**

8 The purposes of this title are—

- 9 (1) to establish a reliable and predicable timber
10 supply from the National Forest System that can be
11 harvested, processed, and sold as wood products to
12 help fund ecosystem restoration; and
13 (2) to expedite and prioritize forest manage-
14 ment activities to achieve ecosystem restoration ob-
15 jectives.

16 **SEC. 102. DEFINITIONS.**

17 In this title:

18 (1) **RESTORATION.**—

19 (A) **IN GENERAL.**—The term “restora-
20 tion”, with respect to an ecosystem, means to
21 carry out any activity that helps to recover, es-
22 tablish, or maintain the resilience or adaptive
23 capacity of an ecosystem.

1 (B) INCLUSIONS.—The term “restoration”
2 includes any activity described in subparagraph
3 (A) relating to—
4 (i) timber harvesting;
5 (ii) thinning;
6 (iii) prescribed fire; or
7 (iv) other vegetation manipulation in
8 the National Forest System.

9 (2) SECRETARY.—The term “Secretary” means
10 the Secretary of Agriculture, acting through the
11 Chief of the Forest Service.

12 **SEC. 103. ECOSYSTEM RESTORATION PROJECTS.**

13 (a) IN GENERAL.—Subject to subsection (b), the Sec-
14 retary shall identify, prioritize, and carry out ecosystem
15 restoration projects on National Forest System land in ac-
16 cordance with applicable land and resource management
17 plans prepared by the Secretary for units of the National
18 Forest System under section 6 of the Forest and Range-
19 land Renewable Resources Planning Act of 1974 (16
20 U.S.C. 1604), if any, to accomplish 1 or more of the fol-
21 lowing objectives:

- 22 (1) To restore terrestrial habitat.
23 (2) To sustain water quality, water flows, or
24 watershed health and function.

1 (3) To create, improve, or increase early seral
2 habitat.

3 (4) To carry out a needed timber stand im-
4 provement.

5 (5) To reduce the risk or extent of insect or dis-
6 ease infestation.

7 (6) To reduce wildland fire severity potential.

8 (7) To implement a community wildfire protec-
9 tion plan.

10 (8) To establish, recover, or maintain ecosystem
11 resiliency.

12 (b) EXCLUSIONS.—The Secretary may not carry out
13 an ecosystem restoration project under this section on any
14 area of National Forest System land—

15 (1) that is a component of the National Wilder-
16 ness Preservation System; or

17 (2) on which removal of vegetation is prohibited
18 by law.

19 SEC. 104. NATIONAL RESTORATION TREATMENT ACREAGE.

20 (a) IN GENERAL.—For fiscal year 2017 and each fis-
21 cal year thereafter, the Secretary shall accomplish restora-
22 tion treatments, at a minimum, on the following acreage
23 throughout the National Forest System:

(a) APPLICABILITY OF NATIONAL ENVIRONMENTAL
POLICY ACT OF 1969.—The Secretary shall prepare an
environmental assessment in accordance with the National

1 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.) for each ecosystem restoration project that accom-
3 plishes 1 or more of the objectives identified in section
4 103(a).

5 (b) PUBLIC NOTICE AND COMMENT.—In preparing
6 an environmental assessment for an ecosystem restoration
7 project under subsection (a), the Secretary shall provide
8 public notice of, and an opportunity to comment regard-
9 ing, the applicable project.

10 (c) CONSIDERATION OF ALTERNATIVES.—The Sec-
11 retary shall study, develop, and describe in each environ-
12 mental assessment under subsection (a)—

13 (1) the ecosystem restoration project as the
14 proposed action; and

15 (2) a no-action alternative, the analysis of
16 which shall include a description of the resulting en-
17 vironmental effects of taking no action on—

18 (A) forest health;

19 (B) habitat diversity;

20 (C) wildfire potential;

21 (D) insect and disease potential;

22 (E) municipal water supplies; and

23 (F) other economic and social factors.

1 (d) LIMITATIONS.—The Secretary shall limit each en-
2 vironmental assessment under this section to a length of
3 not more than 100 pages.

4 (e) DEADLINE FOR COMPLETION.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date on which the Secretary publishes a no-
7 tice regarding an ecosystem restoration project in
8 accordance with subsection (b), the Secretary shall
9 complete the environmental assessment for the eco-
10 system restoration project.

11 (2) NO SUPPLEMENTAL ANALYSIS REQUIRED.—
12 No supplemental analysis of an ecosystem restora-
13 tion project that is the subject of an environmental
14 assessment under paragraph (1) shall be required
15 after the date on which that environmental assess-
16 ment is complete.

17 **SEC. 106. ALTERNATIVE DISPUTE RESOLUTION.**

18 (a) ARBITRATION.—

19 (1) IN GENERAL.—The Secretary shall establish
20 within the Forest Service an arbitration program as
21 an alternative dispute resolution process in lieu of
22 judicial review for the projects described in sub-
23 section (b).

24 (2) NOTIFICATION TO OBJECTORS.—On
25 issuance of an appeal response to an objection filed

1 with respect to an ecosystem restoration project sub-
2 ject to an objection at the project level under part
3 218 of title 36, Code of Federal Regulations (as in
4 effect on the date of enactment of this Act), the Sec-
5 retary shall notify each applicable individual or enti-
6 ty that submitted the objection (referred to in this
7 section as the “objector”) that any further appeal
8 may be subject to arbitration in accordance with this
9 section.

10 (b) DESCRIPTION OF PROJECTS.—The Secretary, at
11 the sole discretion of the Secretary, may designate the fol-
12 lowing types of ecosystem restoration projects for arbitra-
13 tion:

14 (1) Projects developed through a collaborative
15 process (within the meaning of section 603(b)(1)(C)
16 of the Healthy Forest Restoration Act of 2003 (16
17 U.S.C. 6591b(b)(1)(C))).

18 (2) Projects identified in a community wildfire
19 protection plan.

20 (3) For each applicable calendar year, not more
21 than 2 other types of ecosystem restoration projects
22 for each region of the Forest Service.

23 (c) ARBITRATORS.—

24 (1) APPOINTMENT.—The Secretary shall de-
25 velop and publish a list of not fewer than 20 individ-

1 uals eligible to serve as arbitrators for the program
2 under this section.

3 (2) QUALIFICATIONS.—In order to be eligible to
4 serve as an arbitrator under this subsection, an indi-
5 vidual shall be currently certified by the American
6 Arbitration Association.

7 (d) INITIATION OF ARBITRATION.—

8 (1) IN GENERAL.—Not later than 7 days after
9 the date of receipt of a notice of intent to file suit
10 challenging an ecosystem restoration project, the
11 Secretary shall notify each applicable objector and
12 the court of jurisdiction that the project has been
13 designated for arbitration in accordance with this
14 section.

15 (2) DEMAND FOR ARBITRATION.—

16 (A) IN GENERAL.—An objector that sought
17 judicial review of an ecosystem restoration
18 project that has been designated by the Sec-
19 retary for arbitration under this section may
20 file a demand for arbitration in accordance
21 with—

22 (i) sections 571 through 584 of title
23 5, United States Code; and

24 (ii) this paragraph.

1 (B) REQUIREMENTS.—A demand for arbitra-
2 tion under subparagraph (A) shall—

3 (i) be filed not later than the date
4 that is 30 days after the date of the notifi-
5 cation by the Secretary under paragraph
6 (1); and

7 (ii) include an alternative proposal to
8 the applicable ecosystem restoration
9 project that describes each modification
10 sought by the objector with respect to the
11 ecosystem restoration project.

12 (e) SELECTION OF ARBITRATOR.—For each arbitra-
13 tion commenced under this section, the Secretary and each
14 applicable objector shall agree on a mutually acceptable
15 arbitrator from the list published under subsection (c)(1).

16 (f) RESPONSIBILITIES OF ARBITRATOR.—

17 (1) IN GENERAL.—An arbitrator selected under
18 subsection (e)—

19 (A) shall address each demand filed for ar-
20 bitration with respect to an ecosystem restora-
21 tion project under this section; but

22 (B) may consolidate into a single arbitra-
23 tion all demands for arbitration by all objectors
24 with respect to an ecosystem restoration
25 project.

1 (2) SELECTION OF PROPOSALS.—An arbitrator
2 shall make a decision regarding each applicable de-
3 mand for arbitration under this section by select-
4 ing—

5 (A) the ecosystem restoration project, as
6 approved by the Secretary; or

7 (B) an alternative proposal submitted by
8 the applicable objector.

9 (3) LIMITATIONS.—

10 (A) ADMINISTRATIVE RECORD.—A decision
11 of an arbitrator under this subsection shall be
12 based solely on the administrative record for
13 the ecosystem restoration project.

14 (B) NO MODIFICATIONS TO PROPOSALS.—
15 An arbitrator may not modify any proposal con-
16 tained in a demand for arbitration of an objec-
17 tor under this section.

18 (g) DEADLINE FOR COMPLETION OF ARBITRA-
19 TION.—Not later than 90 days after the date on which
20 a demand for arbitration is filed under subsection (d)(2),
21 the arbitration process shall be completed.

22 (h) EFFECT OF ARBITRATION DECISION.—A decision
23 of an arbitrator under this section—

24 (1) shall not be considered to be a major Fed-
25 eral action;

1 (2) shall be binding; and

2 (3) shall not be subject to judicial review, ex-
3 cept as provided in section 10(a) of title 9, United
4 States Code.

5 **SEC. 107. BONDING REQUIREMENTS FOR JUDICIAL RE-**
6 **VIEW.**

7 (a) BOND REQUIREMENT.—

8 (1) IN GENERAL.—The judicial review of an ac-
9 tion challenging an ecosystem restoration project
10 under this title (referred to in this section as an “ac-
11 tion”) shall be subject to the bonding requirements
12 of this section.

13 (2) BOND OR SECURITY.—

14 (A) IN GENERAL.—As soon as practicable
15 after the date on which a complaint or appeal
16 is filed to initiate an action, each plaintiff shall
17 post a bond or other security acceptable to the
18 court in an amount equal to the anticipated
19 costs, expenses, and attorney fees of the Sec-
20 retary as a defendant in the action, in accord-
21 ance with a reasonable estimate of the Sec-
22 retary.

23 (B) REQUIREMENT.—All proceedings in an
24 action shall be stayed until the bond or security
25 required under subparagraph (A) is posted.

1 (b) RECOVERY OF LITIGATION COSTS, EXPENSES,
2 AND ATTORNEY FEES.—

3 (1) MOTION FOR PAYMENT.—If the Secretary
4 prevails in an action, the Secretary shall submit to
5 the court a motion for payment from the bond or
6 other security posted under subsection (a), of the
7 reasonable costs, expenses, and attorney fees in-
8 curred by the Secretary as a defendant in the action.

9 (2) MAXIMUM RECOVERY.—The total amount of
10 costs, expenses, and attorney fees recovered by the
11 Secretary under paragraph (1) may not exceed the
12 amount of the bond or other security posted in the
13 action.

14 (3) RETURN REMAINDER.—Any funds remain-
15 ing from the bond or other security posed under
16 subsection (a) after the payment of costs, expenses,
17 and attorney fees under paragraph (1) shall be re-
18 turned to the plaintiff that posted the bond or secu-
19 rity in the action.

20 (c) RETURN OF BOND TO PREVAILING PLAINTIFF.—
21 If the applicable court rules, in a final enforcement judg-
22 ment, in favor of a plaintiff on all causes of each action
23 of the plaintiff, the court shall return to the plaintiff any
24 bond or security posted by the plaintiff under subsection

1 (a), plus any interest accruing during the period beginning
2 on the date on which the bond or security was posted.

3 (d) EFFECT OF SETTLEMENT.—

4 (1) IN GENERAL.—If an action in which a bond
5 or security was posted is resolved by settlement be-
6 tween the Secretary and the plaintiff, the settlement
7 agreement may provide for sharing of the costs, ex-
8 penses, and attorney fees incurred by the parties to
9 the action.

10 (2) DEFERRAL.—A settlement agreement under
11 paragraph (1) may defer the resolution of costs, ex-
12 penses, and attorney fees to—

13 (A) further negotiation; or

14 (B) decision by the court.

15 **SEC. 108. PERFORMANCE MEASURES; ANNUAL REPORTS.**

16 (a) PERFORMANCE MEASURES.—The Secretary shall
17 annually evaluate the degree to which the Secretary is
18 achieving—

19 (1) the purposes of this title, including—

20 (A) the number of acres covered by eco-
21 system restoration projects;

22 (B) the number of acres treated by me-
23 chanical methods under ecosystem restoration
24 projects;

1 (C) the number of acres treated using
2 stewardship contracts and stewardship agree-
3 ments under ecosystem restoration projects;

4 (D) the number of acres treated using tim-
5 ber sales under ecosystem restoration projects;

6 (E) the number of acres treated by pre-
7 scribed fire, mowing, and other noncommercial
8 product producing activities under ecosystem
9 restoration projects; and

10 (F) to the extent practicable, a summary
11 of acres receiving more than 1 type of treat-
12 ment; and

13 (2) the acreage requirements established under
14 section 104(a).

15 (b) ANNUAL REPORTS.—Not later than 1 year after
16 the date of enactment of this Act, and annually thereafter,
17 the Secretary shall submit to the Committee on Energy
18 and Natural Resources of the Senate and the Committee
19 on Natural Resources of the House of Representatives—

20 (1) a report that describes, with respect to the
21 preceding year, the results of evaluations using the
22 performance measures described in subsection (a);
23 and

24 (2) a report that describes, with respect to the
25 preceding year—

1 (A) the number and substance of eco-
2 system restoration projects that are subject to
3 arbitration under section 106; and

4 (B) the outcomes of the arbitrations under
5 that section.

6 **TITLE II—CATEGORICAL**
7 **EXCLUSIONS**

8 **SEC. 201. DEFINITIONS.**

9 In this title:

10 (1) CATASTROPHIC EVENT.—The term “cata-
11 strophic event” means any natural disaster (such as
12 hurricane, tornado, windstorm, snow or ice storm,
13 rain storm, high water, wind-driven water, tidal
14 wave, earthquake, volcanic eruption, landslide,
15 mudslide, drought, or insect or disease outbreak), or
16 any fire, flood, or explosion, regardless of cause.

17 (2) CATEGORICAL EXCLUSION.—The term “cat-
18 egorical exclusion” means an exception to the re-
19 quirements of the National Environmental Policy
20 Act of 1969 (42 U.S.C. 4321 et seq.) for a project
21 or activity relating to the management of National
22 Forest System land.

23 (3) COLLABORATIVE PROCESS.—The term “col-
24 laborative process” means a process relating to the
25 management of National Forest System land by

1 which a project or activity is developed and imple-
2 mented by the Secretary through collaboration with
3 interested persons, as described in section
4 603(b)(1)(C) of the Healthy Forests Restoration Act
5 of 2003 (16 U.S.C. 6591b(b)(1)(C)).

6 (4) FOREST MANAGEMENT ACTIVITY.—The
7 term “forest management activity” means a project
8 or activity carried out by the Secretary on National
9 Forest System land, consistent with the forest plan
10 covering that land.

11 (5) FOREST PLAN.—The term “forest plan”
12 means a land and resource management plan pre-
13 pared by the Forest Service for a unit of the Na-
14 tional Forest System pursuant to section 6 of the
15 Forest and Rangeland Renewable Resources Plan-
16 ning Act of 1974 (16 U.S.C. 1604).

17 (6) SALVAGE OPERATION.—The term “salvage
18 operation” means a forest management activity car-
19 ried out in response to a catastrophic event, the pri-
20 mary purpose of which is—

21 (A) to prevent wildfire as a result of the
22 catastrophic event, or, if the catastrophic event
23 was wildfire, to prevent a reburn of the fire-im-
24 pacted area;

1 (B) to provide an opportunity for use of
2 forest materials damaged as a result of the cat-
3 astrophic event; or

4 (C) to provide a funding source for refor-
5 estation and other restoration activities for the
6 National Forest System land impacted by the
7 catastrophic event.

8 (7) SECRETARY.—The term “Secretary” means
9 the Secretary of Agriculture (acting through the
10 Chief of the Forest Service).

11 **SEC. 202. CATEGORICAL EXCLUSION TO EXPEDITE CER-**
12 **TAIN CRITICAL RESPONSE ACTIONS.**

13 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
14 categorical exclusion is available to the Secretary to de-
15 velop and carry out a forest management activity on Na-
16 tional Forest System land in any case in which the pri-
17 mary purpose of the forest management activity is—

- 18 (1) to address an insect or disease infestation;
19 (2) to treat land at risk of insect or disease in-
20 festation;
21 (3) to reduce hazardous fuel loads;
22 (4) to protect a municipal water source;
23 (5) to maintain, enhance, or modify critical
24 habitat to protect the habitat from catastrophic dis-
25 turbances;

1 (6) to increase water yield; or
2 (7) any combination of the purposes specified in
3 paragraphs (1) through (6).

4 (b) ACREAGE LIMITATIONS.—

5 (1) IN GENERAL.—Except in the case of a for-
6 est management activity described in paragraph (2),
7 a forest management activity covered by the categor-
8 ical exclusion granted by subsection (a) may not
9 contain harvest units exceeding a total of 5,000
10 acres.

11 (2) LARGER AREAS AUTHORIZED.—A forest
12 management activity covered by the categorical ex-
13 clusion granted by subsection (a) may not contain
14 harvest units exceeding a total of 15,000 acres if the
15 forest management activity is—

16 (A) developed through a collaborative proc-
17 ess;

18 (B) proposed by a resource advisory com-
19 mittee (as defined in section 201 of the Secure
20 Rural Schools and Community Self-Determina-
21 tion Act of 2000 (16 U.S.C. 7121)); or

22 (C) covered by a community wildfire pro-
23 tection plan.

1 SEC. 203. CATEGORICAL EXCLUSION TO EXPEDITE SAL-
2 VAGE OPERATIONS IN RESPONSE TO CATA-
3 STROPHIC EVENTS.

4 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
5 categorical exclusion is available to the Secretary to de-
6 velop and carry out a salvage operation as part of the res-
7 toration of National Forest System land following a cata-
8 strophic event.

9 (b) ACREAGE LIMITATIONS.—A salvage operation
10 covered by the categorical exclusion granted by subsection
11 (a) may not contain harvest units exceeding a total of
12 5,000 acres.

13 (c) ADDITIONAL REQUIREMENTS.—

14 (1) ROAD CONSTRUCTION.—A salvage operation
15 covered by the categorical exclusion granted by sub-
16 section (a) may not include any permanent road con-
17 struction.

18 (2) STREAM BUFFERS.—A salvage operation
19 covered by the categorical exclusion granted by sub-
20 section (a) shall comply with the standards and
21 guidelines for stream buffers contained in the appli-
22 cable forest plan, unless the standards and guide-
23 lines are modified for a specific salvage operation as
24 part of a categorical exclusion by the Regional For-
25 ester.

1 (3) REFORESTATION PLAN.—A reforestation
2 plan shall be developed under section 3 of the Act
3 of June 9, 1930 (commonly known as the “Knutson-
4 Vandenberg Act”) (16 U.S.C. 576b), as part of a
5 salvage operation covered by the categorical exclu-
6 sion granted by subsection (a).

7 **SEC. 204. CATEGORICAL EXCLUSION TO MEET FOREST**
8 **PLAN GOALS FOR EARLY SUCCESSIONAL**
9 **FORESTS.**

10 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
11 categorical exclusion is available to the Secretary to de-
12 velop and carry out a forest management activity on Na-
13 tional Forest System land in any case in which the pri-
14 mary purpose of the forest management activity is to mod-
15 ify, improve, enhance, or create early successional forests
16 for wildlife habitat improvement and other purposes, in
17 accordance with the applicable forest plan.

18 (b) ACREAGE LIMITATIONS.—A forest management
19 activity covered by the categorical exclusion granted by
20 subsection (a) may not contain harvest units exceeding a
21 total of 5,000 acres.

22 **SEC. 205. ALTERNATIVE AGENCY CONSULTATION PROCE-**
23 **DURES.**

24 (a) FOREST MANAGEMENT ACTIVITIES.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 for each forest management activity covered by a
3 categorical exclusion granted by this title, the Sec-
4 retary shall satisfy the applicable interagency con-
5 sultation obligations under section 7 of the Endan-
6 gered Species Act of 1973 (16 U.S.C. 1536) by
7 achieving compliance with the alternative consulta-
8 tion procedures established in subpart D of part 402
9 of title 50, Code of Federal Regulations (or suc-
10 cessor regulations).

11 (2) REFERENCES.—For purposes of this sub-
12 section, all references contained in subpart D of part
13 402 of title 50, Code of Federal Regulations (or suc-
14 cessor regulations)—

15 (A) to the term “U.S. Environmental Pro-
16 tection Agency” or “EPA” shall be considered
17 to be a reference to the Secretary; and

18 (B) to the term “FIFRA action” shall be
19 considered to be a reference to a forest manage-
20 ment activity covered by a categorical exclusion
21 granted by this title.

22 (b) INTERIM TIMELINES.—Until the date on which
23 an alternative consultation agreement under subpart D of
24 part 402 of title 50, Code of Federal Regulations (or suc-

1 cessor regulations), is entered into with respect to a forest
2 management activity under subsection (a)—

3 (1) any formal or informal interagency con-
4 sultation regarding the forest management activity
5 shall be completed by not later than the date that
6 is 30 days after the date on which the Secretary
7 submits a written request for consultation; and

8 (2) a biological opinion or letter of concurrence,
9 as appropriate, shall be issued by not later than the
10 date that is 10 days after the date of completion of
11 that consultation.

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Questions from Senator John Barrasso

Question 1: In your written statement on S. 1691, you say the Administration opposes the bonding requirement because it “poses an inappropriate barrier to parties interested in bringing suit against the Agency if the party or parties do not have the financial resources available to provide the bond or other security and would limit public participation in decision-making.” Yet a bonding requirement currently exists on tribal lands administered by the Bureau of Indian Affairs.

Does the Administration view the tribal bonding requirement as an inappropriate barrier to public participation in decision-making?

Yes, the Forest Service does find the Tribal bonding requirement cost-prohibitive for complainants. Having a similar bonding requirement for Forest Service lands would be contrary to the public participation process we encourage in our Planning Rule. It also would not allow for meaningful Tribal consultation on Agency actions that may impact Tribes.

Question 2: In your written statement, you say the agency sold 2.9 Billion Board Feet in Fiscal Year 2014. How much of this volume:

- 1) Was personal use firewood? Or firewood sold by permit?

In FY2014, 268.5 million board feet (mmbf) of firewood was sold using personal use permits. These permits, which are considered contracts, have no restrictions on resale and are sometimes used for commercial purposes by the purchasers. In addition, 9.3 mmbf was sold using commercial permits, for a total of 277.8 mmbf of firewood sold by permit.

- 2) Was “awarded” volume in Stewardship contracts counted towards this number?
Does this included awarded volume in 4FRI? If so, how much of the volume is attributable to 4FRI? Of this amount, how much was actually harvested and removed from the forest?

The agency reports timber volume sold as the sum of all awarded volume under timber sale contracts, stewardship contracts and agreements, and permits. This includes awarded volume in 4FRI and other long term stewardship contracts. In FY2014, 815 million board feet (mmbf) was sold as part of stewardship contracts across the Agency. During that same time, 87.2 mmbf was awarded in 4FRI. A total of 23.5 mmbf was harvested in 4FRI in FY2014.

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Question 3: In your testimony, you mention that the agency is attempting to be more efficient in implementing NEPA. You cite the Rim Fire Salvage and the Mill Creek A to Z project as examples.

The Rim Fire and Mill Creek analysis processes each have attributes worth further consideration. The agency has been making significant strides in improving the efficiency in which we carry out our NEPA analysis processes in other ways. Within the past few years we stood up internal learning teams focusing on such topics as focusing the Environmental Assessment (EA) analysis process and better integration of the Adaptive Management concept. As a result we are finding more and more examples of EAs that limit the number of alternatives to one or two that specifically address real trade-off considerations. This focus saves time in the NEPA process by conducting effects analysis on fewer alternatives. The integration of adaptive management concepts in some of our decisions is allowing us to complete the NEPA process with one decision covering larger areas over longer time periods with increased outputs. These are just a couple of examples of how we are becoming more efficient in administering the NEPA process.

Will you contrast the timelines from scoping to completion for the Rim Fire Salvage and the Hurricane Katrina salvage effort on the DeSoto National Forest in 2005 – 2006?

Scoping for the Hurricane Katrina Environmental Assessment was initiated on September 28, 2005 and the Decision Notice for the Desoto National Forest portion was signed December 2, 2005. Scoping for the Roadside Salvage Environmental Assessment for the Rim Fire was initiated on November 13, 2013 with a Decision Notice being signed on April 25, 2014. Scoping for the Rim Fire Restoration Environmental Impact Statement was initiated on December 6, 2013 and the Record of Decision was signed August 28, 2014. For the Hurricane Katrina EA it took approximately 64 days to go from Scoping to DN. For the Rim Fire EA it took approximately 163 days and for the larger Rim Fire Restoration EIS it took approximately 265 days, to go from scoping to decision.

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Will you provide the timeline for the Mill Creek A to Z project as it currently stands.

Mill Creek A to Z timelines:

The project area is comprised of two planning areas; North Fork Mill Creek and Middle/South Fork Mill Creek of the Colville National Forest. Planning was started first in the North Fork planning area.

North Fork Mill Creek A to Z Project

- The 45-day objection period for the review of the Environmental Assessment and draft Decision Notice began on February 17, 2016.
- If not objections are filed, the final Decision Notice could be signed as early as April 11, 2016.
- If an objection is filed, there is a 45-day objection resolution period that would end on May 23, 2016
- The first implementation task order could be signed as early as May 23, 2016.

Middle/South Fork A to Z Project

- The third party NEPA subcontractor is currently completing analyses and drafting conclusions. The specialist reports and the draft Environmental Assessment are expected to be ready for Forest Service review by April, 2016.
- Once reviewed and any corrections are made, the draft Environmental Assessment would go out for the 30-day public review and comment period in May, 2016
- The 45-day objection period for the review of the Environmental Assessment and draft Decision Notice could start as early as July, 2016
- If there are no objections, a signed final Decision Notice could be completed as early as September of 2016.
- The first Implementation order could begin as early as September 2016

Please provide a timeline for the NEPA work on the 4FRI project, including: 1) Date of scoping, 2) Date of DEIS, 3) Date of FEIS, and 4) Date of ROD.

Four Forest Restoration Initiative:

Scoping for the 4FRI project began January 25, 2011. The Draft Environmental Impact Statement was made available April 4, 2013. The Final Environmental Impact Statement was released December 5, 2014 and a Record of Decision was signed April 17, 2015.

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Question 4: You mention the CFLRA program as an example of collaboration. Please provide the committee with a list of CFLRA projects on which lawsuits have been filed or on which there is currently a notice of intent to sue, seeking to block or remand the project for further analysis.

Collaboration and actively engaging communities in natural resource management provides opportunities to get work done on the ground and enhances our effectiveness in achieving desired ecological, social, and economic outcomes. Bringing multiple perspectives together to work towards a shared vision for the landscape creates strong partnerships and provides vital capacity for implementation, monitoring, and adaptive management. Partners that are fully engaged have a shared understanding of how and why projects are being implemented and provide needed long-term support for project success. Furthermore, by working with partners from the beginning, collaborative efforts help avoid issues that could have resulted in litigation.

However, some litigation - brought by detractors outside of the collaborative efforts - still exists. As of December 2015, two of the 23 projects have ongoing litigation.

Project Name	Ongoing litigation	Plaintiff(s)	Are the plaintiffs part of the collaborative?	Status
SW Crown	3	Colt Summit - Friends of the Wild Swan, Alliance for the Wild Rockies, Montana Ecosystem Defense Council, Native Ecosystem Defense council. Glacier Loon -	No	Colt Summit - Affirmed in District Court of Montana, denied in both District/9th circuit, appealed to Ninth Circuit Court decision pending. Glacier Loon - Decision enjoined. Timber sale contracts suspended. Motion to

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		Swan View Coalition, Alliance for the Wild Rockies, Native Ecosystem Council. Flathead National Forest Pre-commercial Thinning Project - Alliance for the Wild Rockies, Friends of the Wild Swan, Native Ecosystems Council.		lift injunction before District Court. Flathead - Decision affirmed in district court; PI in district court denied; plaintiffs appealed decision to the 9th where all briefing is concluded and we are awaiting decision from the 9th.
Weiser-Little Salmon Headwaters CLFRP	1	Alliance for Wild Rockies, Native Ecosystems Council, Idaho Sporting Congress	No	Motion for summary judgement expected spring 2016

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During the question and answer period, you indicated that there were “many” places where the agency had NEPA-ready projects but lacked the resources to implement the projects.

Will you provide the committee with some examples of these projects?

Examples of NEPA ready projects range from small to large-scale and include:

- **Across multiple national forests in California, Oregon, Washington, Idaho and Montana there are approximately 1,600 miles of hazard tree removal on roads, trails and other areas that need to be removed after fire damage and 334,000 acres of reforestation work needed.**
- **Work to correct multiple failed road and trail stream crossings on the Chequamegon-Nicolet National Forest in Wisconsin. The engineering and hydrology designs have been completed but funding is lacking to purchase culverts, pay for equipment and operator time, or to contract the work out.**
- **Work on the White Mountain National Forest in New Hampshire to repair damage to bridges, roads and culverts damaged by Tropical Storm Irene.**
- **Treatment of invasive species to improve wildlife habitat on the Bridger-Teton National Forest in Wyoming.**
- **Range improvement, wildlife habitat rehabilitation, reforestation and hazard tree removal on the Apache-Sitgreaves, Gila, and Sante Fe National Forests in Region 3.**

How many are in Region 2?

There were no specific examples reported for Region 2.

How many projects have completed NEPA but are awaiting consultation with the U.S. Fish and Wildlife Service?

Regions reported they had few if any projects where the completion of Fish and Wildlife Service consultation was holding up completion of environmental analysis requirements. Other constraints were listed as more important, such as staff capacity and funding to implement projects.

Question 5: As you know, S. 132 includes a proposal to transfer 308,000 acres of Forest Service land to the BLM. Some of these lands are then designated as forestry emphasis

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areas. Has Region Six provided an estimate of the possible future annual harvest from these lands? If so, what is that level of harvest?

They have not.

How will the transfer of those lands impact the Forest Service's future timber sale program?

It is unclear exactly which lands from the NFS would be transferred – the map referenced in S. 132 is incomplete, and the bill provides that the first 102,000 acres must come from lands which are not “critical habitat,” which would be very difficult to find. The Forest Service would like to continue to work with your office on this issue.

What level of harvest would be possible under continued Forest Service management?

That is also unclear, for the reasons referenced above.

Question 6: Your testimony references the planning efficiencies the Forest Service has achieved over the past several years. Please provide the Committee with non-anecdotal metrics of these efficiencies. For example, has the amount of time required to complete an EIS, EA, or CE decreased since 2009? If so, please provide specific data. Has the costs the Forest Service expends on regulatory compliance (NEPA, etc) decreased since 2009? If so, please provide specific data.

Because NEPA is integrated into agency decision making, the length of time from proposal to a decision is influenced by many factors, including NEPA compliance. This makes it impossible to track time associated with only NEPA compliance. However, between fiscal years 2009-2015 there was a reduction of approximately 40% in the number of NEPA decisions signed, all the while on the ground management has remained active and our timber volume sold has risen a little over 11%. Also, since 1998 there has been over a 35% reduction in NFS staffing, many of whom performed functions in NEPA compliance. While some measures might show it takes longer to perform a NEPA analysis, we are meeting our program goals with significantly fewer NEPA analyses/decisions and fewer resources.

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Question 7: Wildlife abundance and quality habitat for wildlife are characteristics of a healthy forest. In comments submitted to the committee on behalf of the Boone and Crocket Club on S.1691, Mr. Mealey states:

“Research on elk habitat and populations at the U.S. Forest Service Starkey Experimental Forest and Range in Northeast Oregon shows overgrown and overdense “dry” forests as the key contributor to declining elk herds in many western states.” Mr. Mealey continues... “where early seral habitat for deer and elk has declined, game populations have also dropped leading to a decrease in hunters and hunting. This decrease impacts license sales, and thereby impacts state game and fish department revenue, thus jeopardizing the cornerstone of wildlife conservation and management in America.”

One of the purposes of S. 1691 is to improve the quality and quantity of early seral habitat by allowing more acres to be actively managed. Chief Tidwell, do you share the concerns expressed by the Boone and Crocket Club regarding declining elk herds and the resulting implications which jeopardize wildlife conservation in America?

The Forest Service mission of sustaining the health, resilience and productivity of our nation’s forests and grasslands is vitally important to maintaining viable populations of wildlife, including elk. The Forest Service has increased the pace and scale of restoration of our nation’s forests through landscape-scale, collaborative efforts, such as the Collaborative Forest Landscape Scale Restoration Program and the Chief’s Joint Landscape Restoration Partnership. Significant investments in restoration have been made through these programs with outcomes that have benefited many wildlife species, including elk.

As we continue to implement projects across the landscape that provide for resilient, healthy, and representative forests and grasslands, we also ensure the variety of habitats necessary to support a full assemblage of wildlife species. Elk are an important wildlife species on many national forests, and in these areas, the Forest Service has a long history of working with state wildlife agencies to ensure that our projects enhance all necessary habitat components for elk. In addition, the Forest Service has a longstanding partnership with the Rocky Mountain Elk Foundation partnering on conserving and enhancing elk habitat.

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Questions from Senator Jeff Flake

Question 1: It has been reported that the Good Earth Power AZ is no longer subcontracting timber operations to Campbell Global. What steps is the Forest Service taking to evaluate the effects of this decision on Good Earth Power's ability to complete the 4FRI contract?

Currently the contractor is fulfilling the terms and conditions of the contract. In FY2015, Good Earth Power AZ accomplished more thinning than they had in the previous two fiscal years combined. In December 2015, they reported their most productive month to date, with over 500 acres treated, and they continue to expand infrastructure and capacity. In FY16, the FS plans to issue task orders in association to equivalent work completed by GEPAZ. This performance base allotment process will enable offering more acres in regular timber sales and stewardship contracts outside of GEPAZ's contract, if needed, to ensure accomplishment of restoration acres at an accelerated pace. The 4FRI 5-year timber harvest plan focuses on offering more timber sales and stewardship contracts outside of the Phase 1 Stewardship Contract with GEPAZ to support and expand industry capacity.

In FY2015, 28% of the offerings were offered as regular timber sales and stewardship contracts outside of the 4FRI Phase 1 Contract. In FY16 this number will grow to 68% (26,166 acres) offered as regular timber sales and stewardship contracts outside of the Phase 1 Contract.

Question 2: What effect would extending the allowable length of a stewardship contract to 20 years have on the Forest Service's ability to conduct landscape scale restoration?

It is unlikely that extending the allowable length of a stewardship contract to 20 years would have much effect on the Forest Service's ability to conduct landscape scale restoration. In fact, in some circumstances it could be very beneficial. It is possible in some locations that 20-year contracts would spur private investment in harvesting and manufacturing capacity to utilize forest products that would not occur without that length of commitment. In some situations, though, it could pose problems. 20-year contracts would exceed the life expectancy of both project plans (NEPA) and Land Management (Forest) plans, potentially putting the contract requirements at odds with subsequent land management and project plans.

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Question 3: On July 10, the National Park Service returned the National Register of Historic Places Traditional Cultural Property nomination for *Chi'chil Bildagoteel* Historic District to the Forest Service, because the nomination needs “some technical corrections.” What are the technical corrections that caused the NPS to return the nomination?

In January 2012, the Tonto National Forest initiated a process, in consultation with the four Western Apache Tribes, for formal nomination of approximately 4,557 acres of National Forest encompassing Oak Flat and Apache Leap, as a Traditional Cultural Property (TCP). Although determined “eligible” the nomination package submitted to the National Register was returned to the Forest for technical corrections and additional tribal consultation. Most of the text in the nomination remains unchanged. The changes made included: The general location description was changed to “east and northeast of Superior, AZ “ to be more accurate; the ecological and cultural integrity of the area was clarified; a statement was included that the role Oak Flat plays in Western Apache culture in no way diminishes its importance to other cultures or ethnic groups; a brief section on research methodologies was added; The justification for the boundary of the nomination was revised; the contributing and non-contributing elements that are not archaeological sites was better described; the recently completed ethnographic study was referenced in the nomination and some information from the study was included; evidence for the long term use of the area by the Western Apache and the overall importance of the area to the Western Apache was clarified; and typographic errors were fixed. A new nomination package that addressed the technical errors was re-submitted on December 23, 2015.

Question 4: Does the Forest Service intend to publish notice that the nomination has been withdrawn until it has resolved all of these issues? If not, why not?

Please see the above answer.

Question 5: What type of consultation does the Forest Service intend to undertake with the State Historic Preservation Office, Native American communities, and other interested parties before resubmitting the nomination to the Park Service?

Please see the above answer.

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Question 6: Once the Forest Service resubmits the nomination, how long will the public comment period be?

The resubmitted Federal Register Notice, published on January 21, 2016, indicated that comments should be submitted by February 5, 2016. At the request of Representatives Paul Gosar and Ann Kirkpatrick, the comment period for the Chi'chil Bildagoteel (Oak Flat) Traditional Cultural Property Historic District has been extended for 30 days. The comment period now ends on March 4, 2016. It is important to note that this process is controlled by the National Park Service. Information on nomination packages to the National Register must go to the Keeper of the National Register. Following is her contact information, as well as that of their Chief.

Stephanie Toothman, Keeper of the National Register of Historic Places, (202) 208-7625 (Stephanie_Toothman@nps.gov)

Paul Loether, National Register Chief, (202) 354-2211 (paul_loether@nps.gov)

Question 7: Because the errant nomination included redactions and incorrectly listed "Kearney" [sic] as the location of the nominated area, it was difficult for interested parties to understand the nomination or determine whether any private property was included. You previously confirmed that the nomination would not include private property. Can you re-confirm that the redacted nomination dated May 20, 2015 and published in the Federal Register on June 9, 2015 does not include private property?

Yes. The area being considered for listing as a Traditional Cultural Property Historic District is approximately 4,557 acres on National Forest System land in the Tonto National Forest to the east of Superior, Arizona.

Question 8: How would the listing, if finalized, affect the provisions included in Section 3003 of Public Law No. 113-291?

If finalized, this should not impact the provisions included in Section 3003 of Public Law No. 113-291. Federal agencies are required by law to locate, inventory, and nominate to the National Register historic properties in Federal ownership or control. Proposed projects that may affect a property listed in or eligible for the National Register must allow the Advisory Council on Historic Preservation (an independent Federal agency that provides a forum for influencing Federal activities,

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programs, and policies as they affect historic resources) an opportunity to comment prior to funding, licensing or granting assistance on such projects. The law does not mandate preservation by the Federal agency and its purpose is not to impede or halt development. This process assures that the value of historic properties is given direct consideration in project planning decisions. The area under consideration for listing as a Traditional Cultural Property is roughly 4,500 acres of National Forest System Lands in the Tonto National Forest to the east of Superior.

Information on nomination packages to the National Register must go to the Keeper of the National Register. Following is her contact information, as well as that of their Chief.

Stephanie Toothman, Keeper of the National Register of Historic Places, (202) 208-7625 Stephanie_Toothman@nps.gov

Paul Loether, National Register Chief, (202) 354-2211 paul_loether@nps.gov

U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Public Lands, Forests, and Mining
July 16, 2015
S. 132 Oregon and California Land Grant Act of 2015
S. 326 Stewardship End Result Contracting Improvement Act

Questions from Senator John Barrasso

Question 1: In response to a question about the debate that exists over the likely harvest volumes under S. 132, you referenced the estimate of approximately 320 million board feet (mmbf) from the BLM lands prepared by the BLM's Oregon office under the direction of Dr. Norm Johnson.

What level of annual appropriations would be required to accomplish this 320 mmbf annual sale program?

Response:

Given uncertainties in exactly how the bill would be implemented, it is not possible to speculate about costs or cost savings and the level of appropriations necessary for the BLM to accomplish a specific volume range. In addition to harvest offerings, the BLM's annual appropriations for the management of O&C lands also fund the management of other resources essential and integral to western Oregon communities including: maintenance of and improvements to recreational facilities that accommodate over five million recreational visits annually; restoring miles of fish habitat; monitoring endangered species and water quality; and restoring and reducing hazardous fuels on thousands of acres of forest lands to increase resiliency to wildfires, insects, and climatic variables.

Question 2: How many acres of the lands identified as forestry emphasis areas under S. 132 are designated as critical habitat for the spotted owl, marbled murrelet, or salmonid species?

Response:

Within the Forestry Emphasis Area, a total of 610,000 acres are designated as critical habitat for the marbled murrelet and northern spotted owl. That area is comprised of approximately 566,000 acres of critical habitat for the northern spotted owl, and 218,000 acres of critical habitat for the marbled murrelet, with an overlap of 174,000 acres that covers critical habitat for both species. For salmonid species, the assumption is that the treatments in the Riparian Reserves, as defined in the bill, would result in minimal impacts to salmonids and other aquatic resources.

Question 3: How many of acres of the type of regeneration harvest envisioned in S. 132 for Moist Forests (variable retention harvest) have been implemented on the BLM lands over the past decade? How many acres of this type of harvest have been implemented in critical habitat?

Response:

In 2011, the BLM began implementing pilot projects in Dry and Moist Forests in western Oregon that incorporated various ecological principles proposed by Dr. Norm Johnson and Dr. Jerry Franklin, some of these principles are described in S. 132. The BLM has planned and offered a total of five Moist Forest timber sales that resulted in 869 acres of sold timber sales. Of the 869 acres of sold timber sales, 470 acres are in northern spotted owl critical habitat.

Question 4: Your written testimony notes the following:

“There remain some provisions of the bill that we believe may not provide sufficient clarity about the relationship between the various statutory provisions in this legislation and other related laws and regulations. This could lead to duplicative analyses and planning efforts, disputes or confusion over appropriate BLM management actions, delayed compliance, and potentially increased costs of litigation.”

Please provide the Committee more specific information related to the BLM’s concerns.

Response:

There are certain provisions of S.132 that we believe are duplicative, unclear, or could result in confusion or delays in implementing treatments. The BLM looks forward to working with the sponsor to help address these issues. Some examples include:

- S.132 requires two Environmental Impact Statements (Moist and Dry) to be completed. As the western Oregon Draft EIS has recently demonstrated, a single EIS that analyzes both Moist and Dry Forest designations can be completed instead of two separate analyses.
- S.132 requires a Watershed Analysis as stipulated in the Northwest Forest Plan. The BLM in western Oregon is already completing landscape level NEPA analysis at the watershed scale or larger. These NEPA documents analyze the impacts to all resources within the watershed from the proposed treatments. A watershed analysis is often a duplicative review of the same area.
- Section 3 – Survey and Manage Requirement. Under S.132, Survey and Manage requirements are exempt for proposed treatments in the Forestry Emphasis Areas, but are still required in the Conservation Emphasis Areas. Because S. 132 already includes management objectives for Conservation Emphasis Areas to improve or maintain certain habitat, the survey and manage guidelines provide duplicative protections that are difficult and time-consuming to implement.
- Section 3 – Transition Timber Sale Language. Once enacted, S.132 only allows 90 days during which timber sales and other treatments could still proceed in compliance with the 1995 RMPs. After 90 days, all treatments must be compliant with S.132. The Final EISs

mandated by S. 132 would be completed approximately 27 months after enactment, leaving a period of over two years during which compliant timber sales could not be executed.

- Section 6 – Onsite Reviews. For purposes of developing the five-year timber harvesting plan (i.e. Landscape Prioritization Plan), S.132 requires specific parameters of all forest stands proposed for harvest to be verified. These parameters are site-specific and extensive on-the-ground field work will be required to gather the necessary data. Compiling this level of data up front will be difficult or impossible within the timeframes required by the bill.
- Section 7 – S.132 requires a 90 day Federal Register Notice for all proposed treatments. The bill is unclear whether this requirement is just for the initial Landscape Prioritization Plan or if it includes all subsequent individual treatment proposals once the Environmental Impact Statements and Landscape Prioritization Plans are completed. This process appears to duplicate BLM’s existing NEPA policy for public notification of proposed treatments.

Question 5: Last year you testified concerning Title II of the O&C bill that you would like to “address issues related to the bill, including access rights, utility and facility encumbrances, and timber harvest.” Yet, in the recent hearing on July 16, 2015, there was no concern mentioned on these issues. Does the BLM still have concerns about access rights, utility and facility encumbrances, and timber harvest? If it does, what are they?

Response:

As noted in the BLM testimony, the BLM still has concerns pertaining to lands identified for potential future timber sales that have also been proposed for conveyance. The BLM appreciates the change from prior versions of this bill that provides for the development of an agreement to address many of the access concerns raised in testimony on previous versions. The BLM has historic rights-of-ways agreements and easements with adjoining landowners and utility companies to various facilities, recreation sites, and other lands. These agreements are essential to effectively administer the checkerboard ownership pattern in western Oregon. In any conveyance of BLM lands in western Oregon, it is essential to maintain these valid existing reciprocal access rights. Also, the BLM would like to continue to work with the sponsor as stated in our testimony to address access concerns for certain parcels.

Question 6: The 1937 O&C Act is fairly unique in that it does identify sustained-yield timber production as the dominant use for these 2-plus million acres of forest land. Mr. Swanson pointed out in his testimony that S. 132 would set aside approximately 70 percent of these lands from sustained-yield management in conservation allocations. I understand that the BLM is developing new resource management plans for these lands that would set aside as much as or even more of the land from ongoing timber management.

Do you believe this is consistent with the original Congressional intent for these lands?

Response:

As stated in our testimony, the BLM is striving to strike a balance between compliance with the O&C Act and providing for non-timber products while also supporting conservation objectives, such as protecting older forests and aiding in the recovery of the Northern Spotted Owl and other

threatened and endangered species. The BLM strives to successfully implement Congressional intent from various laws such as the 1937 O&C Act, Federal Land Policy and Management Act, Endangered Species Act, and the Clean Water Act. The Northwest Forest Plan, S.132, the BLM's existing 1995 RMPs, and the recently released Draft EIS all strive to meet Congressional intent for managing these lands through various statutes. In meeting the various requirements for managing the O&C lands, the Secretary of the Interior has discretion under the O&C Act to determine how to manage the forest to provide for permanent forest production on a sustained yield basis, including harvest methods, rotation length, silvicultural regimes under which these forests would be managed, or minimum level of harvest. These management objectives are reflected in the western Oregon 1995 RMPs and will be addressed through the current western Oregon Draft EIS planning effort.

How do these set-asides impact the need to manage these forests to reduce the risk of catastrophic events?

Response:

One common theme that is acknowledged in S.132, the 2012 Northern Spotted Owl Critical Final Critical Habitat Plan, the Draft EIS, and the 20-year Northwest Forest Plan Monitoring Report is the recognition and need for active management in forests, particularly drier forests at risk of catastrophic events. Under current and draft plans (Northwest Forest Plan, BLM's 1995 RMP's and Draft EIS) and under S. 132, active management would not be precluded in areas that are set aside to be managed for conservation purposes provided it is consistent with these purposes. For example, Section 10 of S.132 allows certain forest management treatments in the Conservation Emphasis Areas as long as the treatments align with the objectives for those areas. Similarly, the purpose and need for the BLM's Draft EIS to restore fire-adapted ecosystems is reflected in the draft alternatives allowing active management, including an estimated harvest level, within set-aside lands. The bill and the BLM's planning effort recognize the need to reduce the risk of catastrophic events by reducing hazardous fuel conditions and increasing forest resiliency.

Question 7: I understand that required analysis and litigation related to NEPA and ESA consultation compliance are the biggest limiting factors for the BLM's O&C timber program. It is Senator Wyden's intent to streamline some of these processes, including the NEPA process, but S. 132 appears to add new procedural requirements for the BLM while leaving many of the current barriers in place.

Does the BLM share this concern?

Response:

The amount of controversy regarding timber sales in western Oregon is a clear indication of the wide range of values associated with these lands and their importance to the people who care about them. The BLM appreciates the committee's efforts to help provide clarity and predictability for managing these lands. Some of the BLM's continuing concerns regarding new procedural requirements are detailed in the response to Question 4. The BLM would like to ensure that the bill can provide clarity and avoid ambiguity in how the bill is interpreted.

Does the BLM have an estimate of the level of funding it will need to comply with the legislation?

Response:

As stated above, given uncertainties in exactly how the bill would be implemented, it is not possible to speculate about the level of funding the BLM would need to comply with the legislation. In addition to harvest offerings, the BLM's annual appropriations for the management of O&C lands also fund the management of other resources essential and integral to western Oregon communities including: maintenance and improvements to recreational facilities that accommodate over 5 million recreational visits annually; restoring miles of fish habitat; monitoring endangered species and water quality; and restoring and reducing hazardous fuels on thousands of acres of forest lands to increase resiliency to wildfires, insects, and climatic variables.

Question from Senator Jeff Flake

Question: In your written testimony you state that "the BLM's future strategy for stewardship projects includes increasing the size and duration of these projects." Please elaborate on the BLM's strategy. Would a change allowing twenty-year stewardship contracts facilitate the strategy?

Response:

The BLM has been implementing a landscape approach to managing public lands through a number of national strategies and policies. As the BLM analyzes resource conditions at the landscape scale, BLM is looking for opportunities using stewardship contracting to further address vegetation treatment needs.

The BLM has used the provision in existing stewardship contracts that increases the limit on multiyear contracts from 5 years to 10 years. Although the BLM welcomes greater flexibility, the contract term limit of 10 years has not been identified as a barrier to improved implementation of stewardship contracting.

One measure that would help the BLM increase the size of projects is Section 2(a)(3) of S. 326, which would give the BLM authority to award best-value stewardship contracts for timber volumes over 250,000 board feet.

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Questions for the Record Submitted to Mr. Mike Matz**

Questions from Senator John Barrasso

Question 1: Your written testimony describes Pew's involvement in the development of S. 132 and describes it as the product of compromise, an agreement between conservationists and local business owners, and as meeting the local county needs in rural Oregon. Please provide the Committee with a list of specific individuals or organizations representing the Oregon forest products industry and the counties that were involved, and their involvement level, in the development of the legislation.

The development of S. 132 was led by the office of Senator Ron Wyden (D-OR). While Pew did answer questions and provided comments regarding our positions on various sections of the bill, we are not privy to the list of all the individuals, organizations, businesses, or county and state officials that were involved in the Wyden process.

Question 2: Wildlife abundance and quality habitat for wildlife are characteristics of a healthy forest. In comments submitted to the committee on behalf of the Boone and Crockett Club on S. 1691, Mr. Mealey states:

"Research on elk habitat and populations at the U.S. Forest Service Starkey Experimental Forest and Range in Northeast Oregon shows overgrown and overdense "dry" forests as the key contributor to declining elk herds in many western states." Mr. Mealey continues... "where early seral habitat for deer and elk has declined, game populations have also dropped leading to a decrease in hunters and hunting. This decrease impacts license sales, and thereby impacts state game and fish department revenue, thus jeopardizing the cornerstone of wildlife conservation and management in America."

One of the purposes of S. 1691 is to improve the quality and quantity of early seral habitat by allowing more acres to be actively managed.

Mr. Matz, do you share the concerns expressed by the Boone and Crockett Club regarding declining elk herds and the resulting implications which jeopardize wildlife conservation in America?

Pew has no position regarding elk herd populations or any resulting implications.

Question 3: Becky Humphries with the National Wild Turkey Federation provided written comments and her views with respect to S. 1691. She writes:

Wildlife managers consider active management the best solution to meet the habitat requirements of the largest variety of species. Active management creates young forest habitat, which provides adequate food sources, nesting habitat, and hiding places for forest wildlife. Throughout the United States we are losing this

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diversity on a landscape-level scale, in many cases because our forests are becoming more homogenized and over-mature. This has resulted in a precipitous decline in species that are dependent on young forest habitat. For example, in the eastern United States, 59% of bird species dependent on young forests have declined in the last few decades, including songbirds like the golden winged warbler, which is a candidate for Endangered Species Act (ESA) listing. Ruffed grouse have nearly disappeared from several national forests across the east and Midwest, and the wild turkey has experienced population declines in many areas, often associated with the lack of young forest habitat for nesting and raising their young.

As someone who spends a good deal of time in our national forests, have you observed on the ground Ms. Humphries' correlation of declining wild turkey, ruffed grouse, or other wildlife populations with the loss of young forest habitat?

Mr. Chairman, as someone who spends a good deal of time in our national forests and on other public lands in this country, I cannot say that I have observed the on-the-ground correlation that Ms. Humphries suggests. Diverse and intact habitat is what many scientists conclude is necessary for avian species.

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Questions for the Record Submitted to Mr. Jim Neiman**

Questions from Senator John Barrasso

Question 1: In your experience with NEPA analysis for projects in the Black Hills, do you see instances where there may be duplication in the process?

My first observation is that NEPA documents are often very lengthy, even for relatively simple projects. An example is the Hell Canyon Maintenance Burn project in the Black Hills NF that primarily proposes to conduct prescribed burning on approximately 17,000 acres of previously burned area within the Jasper Fire, which burned in 2000. The Forest Service used an Environmental Assessment for their NEPA analysis versus a more onerous Environmental Impact Statement. Even so, the Environmental Assessment, including appendices and separate specialist reports, totals about 700 pages. That level of analysis and documentation represents a significant expenditure of staff resources, especially for a relatively simple project. To be clear, this problem is not limited to the Black Hills. Instead, examples like this are a product of how the Forest Service implements the NEPA throughout the country and exemplifies the dire need to streamline this process.

My second observation is the various surveys that the Forest Service conducts for archeological sites, rare plants, and wildlife are very time-consuming and require lengthy, time-consuming documentation. These surveys are sometimes conducted in area that may have undergone forest management in the last 10-20 years. Additionally, in the case of archeological surveys, the Forest Service keeps revising their survey protocols, which means they have to conduct more archeological surveys every time they propose management, even though they may have just surveyed that area a few years previously. Importantly, the Forest Service describes the level of detail and length of reports associated with these surveys to be the same regardless of whether the project is large or small in area proposed for treatment.

Question 2: Becky Humphries, with the National Wild Turkey Federation provided written comments and her views with respect to S. 1691. She writes:

“Wildlife managers consider active management the best solution to meet the habitat requirements of the largest variety of species. Active management creates young forest habitat, which provides adequate food sources, nesting habitat, and hiding places for forest wildlife. Throughout the United States we are losing this diversity on a landscape-level scale, in many cases because our forests are becoming more homogenized and over-mature. This has resulted in a precipitous decline in species that are dependent on young forest habitat. For example, in the eastern United States, 59% of bird species dependent on young forests have declined in the last few decades, including songbirds like the golden winged warbler, which is a candidate for Endangered Species Act (ESA) listing. Ruffed grouse have nearly disappeared from several national forests across the east and Midwest, and the wild turkey has experienced population declines in many areas, often associated with the lack of young forest habitat for nesting and raising their young.

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As someone who spends a good deal of time in our national forests, have you observed on the ground Ms. Humphries' correlation of declining wild turkey, ruffed grouse, or other wildlife populations with the loss of young forest habitat?

Without a doubt, wildlife populations, including wild turkey and ruffed grouse, flourish in managed forests that provide varying forest structure. Ms. Humphries and her colleagues are experts on this topic and rely on data from multiple regions. What I can offer from the Black Hills are my own observations. In the Black Hills region, I consistently see more turkeys, deer, elk, and other wildlife in managed forest stands versus over-stocked, undermanaged stands. Those managed forest stands not only provide the forest structure that promotes growth of understory vegetation, but also increase the presence of other tree species such as oak and aspen that many species of wildlife depend upon. Having grown up in the Black Hills, I have witnessed many changes in wildlife as the forest has become overly dense. I have seen the winter range of deer and other wildlife move almost exclusively to areas that have undergone recent forest management. Currently, the largest population of elk in the Black Hills is actually in an area that experienced significant overstory tree loss from a wildfire event and now provides the forage those populations need but can't find in many areas of the forest due to overly dense stands.

For many years, the Forest Service was much more focused on late-successional habitat than early-successional habitat in the national forests in the Rocky Mountain Region. Not only did that harm wildlife populations but it also increased the risk of major insect and disease epidemics in our forests. In particular, and throughout the west, that focus contributed to a reduction in forest diversity and helped set the stage for the current bark beetle epidemics. The current mountain pine beetle epidemic has affected more than 430,000 acres in the Black Hills and more than 45 million acres have succumbed to bark beetles across the western United States.

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Questions for the Record Submitted to Mr. Steve Swanson**

Questions from Senator John Barrasso

Question 1: Your testimony focuses on the importance of equity in certainty in any O&C solution, both an equitable level of legal certainty for conservation in terms of land designations or for timber production in terms of harvest levels.

Why is an equitable level of legal certainty so important and what do you think is the best way to get there?

The O&C issue has often been described as an effort to find a compromise between the key interest groups that meets the needs of industry, local communities, county governments, and environmentalists. I believe this is a laudable goal and that compromise is possible, but isn't it reasonable to expect that whatever deal is struck will actually be implemented? Is it really a compromise if it provides a high level of certainty for one interest's desires, but leaves the needs of others in doubt or even highly vulnerable to obstruction from other parties to the compromise?

S. 132 provides clear, permanent legal protection for individual old growth trees (something that in practical terms is quite cumbersome and will have long-term effects on harvestability of all forested stands), older forests, conservation emphasis areas, and various other set-asides amounting to about 70 percent of the BLM land base. This certainty is provided at the expense of the dominant use mandate for timber production under the O&C Act of 1937 and can only be changed by a future act of Congress. In other words, the "protection" of these areas is highly certain.

On the other hand, our ability to meet the needs of counties, the industry, and the communities is highly uncertain under the legislation. Current barriers to timber management projects, including litigation, NEPA compliance, and ESA compliance, remain largely untouched. The legislation also includes new restrictive silvicultural prescriptions and additional planning requirements without providing a clear mandate for sustainable timber management on the remaining 30 percent of the land base identified as forestry emphasis areas.

There are a number of alternatives for providing more certainty for the timber and revenue needs of local communities. One simple approach might be to include an unambiguous, non-discretionary legislative mandate for the BLM to sell a certain volume of timber each year. With a minimum harvest level outlined in statute, the debate would shift from if we should achieve a very reasonable harvest level to how we go about achieving it in a balanced manner.

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Other possible approaches to providing certainty for timber harvests may include placing meaningful limits on lawsuits and providing streamlined environmental reviews for projects that meet certain legislated criterion. Congress could also address ESA compliance by providing regulatory certainty for achieving a certain harvest level from the forest management areas based on the benefits to listed species of placing large portions of the O&C lands off-limits to timber production. This approach is similar to Habitat Conservation Plans developed for private and state lands.

Question 2: Becky Humphries, with the National Wild Turkey Federation provided written comments and her views with respect to S. 1691. She writes:

“Wildlife managers consider active management the best solution to meet the habitat requirements of the largest variety of species. Active management creates young forest habitat, which provides adequate food sources, nesting habitat, and hiding places for forest wildlife. Throughout the United States we are losing this diversity on a landscape-level scale, in many cases because our forests are becoming more homogenized and over-mature. This has resulted in a precipitous decline in species that are dependent on young forest habitat. For example, in the eastern United States, 59% of bird species dependent on young forests have declined in the last few decades, including songbirds like the golden winged warbler, which is a candidate for Endangered Species Act (ESA) listing. Ruffed grouse have nearly disappeared from several national forests across the east and Midwest, and the wild turkey has experienced population declines in many areas, often associated with the lack of young forest habitat for nesting and raising their young.

As someone who spends a good deal of time in our national forests, have you observed on the ground Ms. Humphries’ correlation of declining wild turkey, ruffed grouse, or other wildlife populations with the loss of young forest habitat?

In the Pacific Northwest, we’ve had two decades of experience with a single-species approach to forest management under the Northwest Forest Plan (NWFP). This approach has largely failed the species it was designed to save (the northern spotted owl) while also reducing the overall diversity of habitat and species on our forests. Early seral habitat for deer, elk, and other dependent species has declined by 90 percent on federal lands since the adoption of the NWFP. The Oregon Department of Fish and Wildlife has commented that “a major factor in this decline is decreased quality and quantity of forage on summer range, principally as a result of fire exclusion and reduced timber harvest.”

The reduced forage habitat has driven reductions in elk and deer populations. Recent research shows that nutrition and forage is much important than

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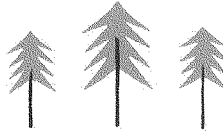
previously thought while thermal and hiding cover is less important. It is clear that we must create more habitat diversity on federal forests if we want to maintain a diversity of wildlife species. This will require more intensive forest management in some areas, including even-aged, regeneration harvests to create the necessary open space.

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July 20, 2015

Senator Barrasso, Chairman
Subcommittee on Public Lands, Forests and Mining
304 Dirksen Senate Building
Washington D.C. 20510

Re: Senator Wyden's Oregon and California Land Grant Act of 2015, S. 132


Dear Chairman Barrasso:

The Association of O&C Counties (AOCC) represents the interests of Counties in Western Oregon within which lie the BLM managed O&C lands and Coos Bay Wagon Road (CBWR) lands. The AOCC has represented County interests in the management of these lands for nearly 90 years. We are writing to comment briefly regarding S. 132, Senator Wyden's Oregon and California Land Grant Act of 2015. S. 132 is virtually identical to S. 1784, which was originally introduced by Senator Wyden in 2013 and heard by the Committee late last year. S. 132 was discussed at the Committee hearing on July 16th, and we understand the record will remain open for two weeks following the hearing. Please include this letter in the record for that hearing.

The AOCC appreciates Senator Wyden's continuing recognition that the 2.2 million acres of O&C and CBWR lands are in need of congressional action to restore rational management to them. These are unique lands, dedicated in the O&C Lands Act of 1937 to sustained yield timber production for the benefit of local communities. They are among the most productive conifer forestlands in the world and were in private ownership for more than 30 years before they were returned to federal ownership in 1916 (O&C lands) and 1919 (CBWR lands). Courts have recognized that these lands have, by federal statute, timber production as their dominant use, and that the O&C Act was intended by Congress to produce revenue for the 18 Counties in which they are located. Nevertheless, the BLM over the last 25 years has reduced timber harvests to less than 20 percent of the sustained yield capacity of the lands, resulting in harvest revenues dropping by more than 80 percent. These management failures have left the forestlands in a poor state and done grievous harm to local, timber-dependent economies and the financial ability of Counties to function.

Senator Wyden's persistence in seeking a correction of the current situation is applauded by the Counties. Unfortunately, the AOCC cannot support S. 132 in its current form. The AOCC commented on the specific issues of concern in S. 1784 last year, and those specific concerns remain with regard to S. 132. Nevertheless, we think it is appropriate for S. 132 to have been discussed at the July 16th hearing, so that the underlying management problems that it seeks to correct are addressed again in this Congress. The AOCC has pledged to Senator Wyden that we will work closely with his office in finding acceptable solutions to the problems that have stymied rational management of the O&C lands for more than two decades.

Association of O&C Counties

By: 
Rocky McVay, Executive Director

cc: Senator Ron Wyden

Tillamook County



Land of Cheese, Trees and Ocean Breeze

Board of Commissioners
Tim Josi, Mark Labhart, Bill Baertlein
201 Laurel Avenue
Tillamook, Oregon 97141
Phone 503-842-3403
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TTY Oregon Relay Service

July 22, 2015

Senator Barrasso
Chairman
Subcommittee on Public Land, Forests & Mining
304 Dirksen Senate Office Building
Washington DC 20510

RE: S. 1691 – National Forest Ecosystem Improvement Act

Dear Chairman Barrasso:

Oregon's federal forests and our rural communities are in danger due to a lack of active management.

According to the Forest Service, over 65 million acres of national forest lands are in need of treatment due to poor forest health associated with insects, disease, a century of fire suppression and the resulting build-up of hazardous fuels. The lack of early successional forests has degraded wildlife habitat, and the decline of logging and other forest management activities have cost thousands of Oregon family-wage jobs.

Today the Forest Service spends more than 40 percent of its budget on fire suppression, and more than \$350 million on environmental analysis and regulatory compliance. These rising costs are associated with excessive litigation that allows some activist organizations to obstruct projects and profit at the expense of American taxpayers.

The status quo is not working. On July 9, 2015 the U.S. House of Representatives approved H.R. 2647 to give the Forest Service and the Bureau of Land Management policy and legal tools to make federal forests less vulnerable to catastrophic wildfire, insects and disease while putting more Americans back to work in the woods. We hope the Senate will act on this legislation or pass similar legislation to restore the health of our forests and communities.

The National Forest Ecosystem Improvement Act (S. 1691) is an encouraging proposal that builds on past bipartisan efforts to implement restoration projects to contain insect and disease infestations, reduce hazardous fuels, protect watersheds and improve wildlife habitat.

AN EQUAL OPPORTUNITY EMPLOYER

Senator Barrasso, Chairman
July 22, 2015
Page 2

S. 1691 would address key factors limiting the management of our federal forests today, including litigation and the cost and time required for the Forest Service to satisfy the analysis paralysis that constrains forest restoration projects. It also sets reasonable acreage goals for annual mechanical treatment levels and builds upon many existing authorities to streamline project planning and implementation for a limited subset of forestry projects, including those developed by collaboratives. It also seeks to reign in the serial litigation that is holding back forest restoration efforts.


We urge the Senate to take up legislation to address the threats facing our forests and communities. We strongly support S. 1691, which brings meaningful measures to restore our federal forests and put more Americans back to work in the woods.

Sincerely,

BOARD OF COMMISSIONERS FOR
TILLAMOOK COUNTY, OREGON



Tim Josi, Chairperson



Mark Labhart, Vice Chairperson



Bill Baertlein, Commissioner

**SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, FORESTS AND MINING
HEARING ON LEGISLATIVE BILLS
JULY 16, 2015**

COMMENTS ON S. 1691

DINAH BEAR

My comments focus on those provisions in S. 1691 related to the National Environmental Policy Act (NEPA). By way of background, I served for a year and a half as Deputy General Counsel and for twenty-three years as General Counsel of the Council on Environmental Quality. The Council on Environmental Quality (CEQ) is the federal agency created by Congress in NEPA, has the responsibility for overseeing implementation of NEPA, and promulgates the regulations interpreting the procedural provisions of NEPA that are binding on all federal agencies in the executive branch. The U.S. Supreme Court has directed lower courts to accord “substantial deference” to CEQ’s interpretation of NEPA, *Department of Transportation v. Public Citizen*, 541 U.S. 754 (2004); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 (1989), *Andrus v. Sierra Club*, 442 U.S. 347 (1979). While at CEQ, I also served on the National Environmental Conflict Resolution Advisory Committee established by the U.S. Institute for Environmental Conflict Resolution, which has relevance to Section 106 of this bill.

This bill is riddled with provisions that undermine the purpose and intent of NEPA. It is important to recall that NEPA is intended to inform decisionmaking, not merely document possible impacts of a decision already made. The NEPA process is

also the primary vehicle for public and interagency involvement in federal agency decisionmaking. The provisions below undermine both of these purposes.

Title I, “Forest Management Activities”

Predecisional structure in treatment acreage requirements: Section 104 requires the Secretary, acting through the Chief of the Forest Service, to assign annual acreage for restoration treatments by National Forest System region within three months of the passage of the Act and thereafter annually. In the provision for environmental reviews of these projects, there is a timeline of 180 days, or six months, for completing the required environmental assessment (EA). Thus, the Forest Service is being put in the position of assigning specific acreage per region prior to the completion of the NEPA process, contrary to the most fundamental tenants of NEPA – “look before you leap”.

Assumption that an EA is the appropriate level of analysis for each proposed project: Section 105(a) predetermines the level of NEPA analysis needed for each project by requiring preparation of an EA for those projects falling within the scope of Section 103(a). While it plausible that a number of proposed actions falling within this scope would require an EA, it is also plausible that the Forest Service might wish to propose a project that, given its site specific characteristics, would normally require preparation of an environmental impact statement (EIS) per the Forest Service’s NEPA regulations interpreted in the light of professional judgment. This provision is consistent with a theme running throughout the bill of predetermining both the level and scope of analysis and the eventual outcome.

Limitation on consideration of alternatives: Section 105(c) limits alternatives in the EA to the no action alternative and the proposed action. Per the discussion above,

the bill makes it clear that selection of the “no action” alternative is not favored and in some situations, might be impossible given the acreage requirements and time restraints.

Alternatives are the “heart” of the NEPA process; indeed, they are the only statutory requirement to appear twice in NEPA because of their importance. Without the requirement for an agency to analyze reasonable alternatives that meet its purpose and need, the NEPA process merely documents the impacts of a decision rather than informing that decision. Oddly, the bill anticipates the possibility that another reasonable alternative to the proposed action might exist by providing for that possibility in the course of an arbitration process. Why eliminate the opportunity that currently exists for the Forest Service to consider such an alternative during the administrative process rather than waiting until after the initial decision?

Timeline: Section 105(e) requires that each of these EAs be completed within 180 days of a required notice. While that may be a reasonable timeline for many projects, it is a “one size fits all” prescription that likely will not fit all proposed projects, especially if the project is one that would typically require an EIS.

Prohibition on supplemental analysis: Making matters worse, Section 105(e) also prohibits any supplemental analysis once those 180 days have expired. So no matter what new circumstances occur or what new information is available, if this bill becomes law, the Forest Service is required to put on blinders and march ahead to an ill-informed decision.

Exclusion of alternative proposed during arbitration from the NEPA process: Section 106 (f) and (h) requires an arbitrator to make a decision as between the Forest Service’s proposed action and an alternative proposal submitted by an objector. In doing

so, it eliminates the possibility of the arbitrator choosing the “no action” alternative, forbids the arbitrator from making any modification to those two alternatives, so that a even an alternative that combines elements of both alternatives and that might, in a given situation, make the most sense is forbidden. The bill then exempts the alternative proposal submitted by an objector from NEPA even if the arbitrator chooses that alternative as the decision. This scheme, significantly restricting the arbitrator’s authority and introducing an unanalyzed alternative into the process, is contrary to NEPA, to creative arbitration and dispute resolution, and to good decisionmaking (see summary of report from Environmental Conflict Advisory Committee at <https://www.udall.gov/OurPrograms/Institute/NEPA.aspx>).

Title II, “Categorical Exclusions”

Definition of “categorical exclusion: Section 201(2) defines a categorical exclusion as meaning an “exception” to the requirements of NEPA for a project or activity relating to the management of National Forest System land (note that it is not confined in scope to the projects falling within the scope of S. 1691). This definition of “categorical exclusion” is directly contrary to the regulatory definition and to CEQ’s consistent interpretation of it throughout its regulatory history. The definition of a categorical exclusion under CEQ’s regulation is not that it is an exception to NEPA but rather that it is a part of the NEPA process, specifically a categorical exclusion is defined as:

“a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (Sec. 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for

the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.” 40 C.F.R. §1508.4.

The Forest Service already has numerous categorical exclusions applying to forest management activities [cite] and it is free to pursue additional ones as it believes appropriate. There were (and are) categorical exclusions associated with President George W. Bush’s Healthy Forest Initiative, which as then CEQ Chairman James L. Connaughton, President George W. Bush’s environmental advisor, explained:

“In fact, a categorical exclusion is based on the administrative record that demonstrates through reasoned analysis and consideration of past activities that certain classes of actions typically do not individually or cumulatively have significant effects on the human environment. This application of NEPA requires that the analysis be done up front to identify those forest hazardous fuel reduction activities that merit exclusion from further analysis in an environmental assessment or environmental impact. Of course, under CEQ’s NEPA regulations, agencies must allow for “extraordinary circumstances in which a normally excluded action may have a significant environmental effect” when applying a categorical exclusion to a specific proposal. Use of categorical exclusions allows agencies to focus on activities that do have the potential for significant environmental impacts.” Testimony of James L. Connaughton before the House Committee on Resources, November 17, 2005; Oversight hearing on NEPA.

What this bill does in the context of categorical exclusions is to remove both the safeguard of review by CEQ, other agencies, and the public of the record regarding a particular type of action and the implementation safeguard that requires preparation of an EA or possibly an EIS if there are extraordinary circumstances associated with a particular proposed action. Rather, S. 1691, with no record or rationale, exempts a wide variety of salvage and other forest management projects, including forest management actions that typically involve clearcutting, from NEPA all together. Calling it a “categorical exclusion” does not change the fact that the bill provides a statutory exemption, not a categorical exclusion as defined and implemented since 1979. No

matter what extraordinary circumstances might exist in the context of a particular proposal, no environmental analysis or public input under NEPA would be required. When combined with the twisted and truncated NEPA process mandated in Title I of the bill, the end result would be the elimination of the normal NEPA process for virtually all Forest Service forest management actions except for actions specifically styled as sales solely for commercial value.

STATEMENT OF
STEPHEN P. MEALEY
VICE PRESIDENT CONSERVATION, BOONE AND CROCKETT CLUB
Before the Public Lands, Forests and Mining Subcommittee
Committee on Energy and Natural Resources
July 16, 2015
On the National Forest Ecosystem Improvement Act of 2015
(S.1691)

Chairman Barrasso, Ranking Member Wyden, and Members of the Committee, my name is Stephen P. Mealey, Vice President for Conservation, Boone and Crockett Club, America's oldest hunting/conservation organization founded by Theodore Roosevelt in 1887. I appreciate the opportunity to provide written comments on the Club's behalf in support of S.1691, the National Forest Ecosystem Improvement Act of 2015.

In addition to the Boone and Crockett Club, I am a member of the Society of American Foresters, The Wildlife Society, the Rocky Mountain Elk Foundation and former member of the Sporting Conservation Council, federal advisory council. My professional career in natural resources management and research has spanned nearly 40 years and included employment as a grizzly bear researcher, U. S. Forest Service Forest Supervisor and Assistant Chief, State Fish and Game Director and manager of ecology for a major private timber corporation. Most of my career was devoted to the Forest Service.

THE PROBLEM

As Forest Supervisor of the Shoshone National Forest in Wyoming, I experienced the Shoshone's 186,000-acre Clover/Mist fire, part of the 1988 Yellowstone Complex of fires. Idaho's 250,000-acre Foothills Fire occurred in 1992 during my time as Forest Supervisor on the Boise National Forest. These uncharacteristic wildfires and others like them led to the publication in 1994 of *Assessing Forest Ecosystem Health in the Inland West: Papers from the American Forests Workshop November 14-20, 1993, Sun Valley, Idaho* (Sampson and Adams, eds.) a federal/state/private, management/research collaborative effort to draw attention to the deteriorating health of many Inland West forests.

The abstract of the book's Overview states in part:

The forests of the Inland West are, over wide regions, not healthy. Remedial, restorative and preventative treatment and management—particularly on the nonfederal lands—is urgently needed. A brief window of opportunity, perhaps 15-30 years in length, exists. Without timely management intervention, the region is threatened by major ecological setbacks—pest epidemics and uncontrollable wildfires—that will damage resources and convert large areas into new even-aged forest systems that set the stage for a repeat of the current problems far into the 21st Century. The scientific tools to understand these problems and

mitigate them exist today, but are not being applied on the federal forests rapidly enough to meet the urgency of the situation. The current legal and procedural requirements on federal land management agencies impose time delays which, combined with public opposition to timber harvesting, prevent timely management, doom major forest areas to needless loss and damage, and impose large (and perhaps, preventable) costs to both local and national economies.

Nearly 15 years ago a significant portion of the federal forests and rangelands in the lower 48 states were judged to be at high risk of large-scale insect or disease epidemics and catastrophic (uncharacteristic) wildfire due to deteriorating ecosystem health and drought. In response, the Healthy Forests Initiative of 2002 and the Healthy Forests Restoration Act of 2003 (P.L. 108-148) were implemented by the U.S. Forest Service and BLM on portions of their fire-prone forests and rangelands to reduce hazardous fuels contributing to increasing uncharacteristic wildfires and to restore fire-adapted ecosystems.

The number of large (100,000 acres) wildland fires in the West continues to increase. Further, in the 11 western states, 53 million acres of ponderosa pine, Douglas fir and mixed conifers are in fire regime condition class 3, meaning the risk of losing key ecosystem components from uncharacteristic wildfire (unusual size, intensity, severity, and landscape pattern) is high/extreme. The implications for wildlife and big game in particular are very serious. Research on elk habitat and populations at the USFS Starkey Experimental Forest and Range in NE Oregon shows overgrown and overdense "dry" forests as the key contributor to declining elk herds in many western states. Low nutrition on summer ranges strongly linked to fire-prone forest habitat is seen as a key-limiting factor for elk habitat.

Unhealthy, over dense "at risk" forests present problems for other wildlife including deer and ground/shrub nesting birds dependent on early seral (very young forest) habitat. Many studies show that fire-prone forests can be safely restored through thinning and prescribed burning that improves forest health and resilience while creating early seral habitat beneficial to dependent wildlife. Such restoration forestry generates nutritious forage for big game and a diversity of habitats including cover for other wildlife. The common element necessary for effective restoration forestry is management commitment to science-based active forest management.

The problem of declining quality forest and wildlife habitat spans not only forests across the West, but also those in the upper mid-west and portions of the Appalachian region as well, where the area of young-forest habitat for deer, elk and upland game created each year through active forest management has precipitously declined. Data demonstrates how this problem threatens hunting-based conservation throughout all affected states. In general, where early seral habitat for deer and elk has declined, game populations have also dropped leading to a decrease in hunters and hunting. This decrease impacts license sales, and thereby impacts state game and fish department revenue, thus jeopardizing the cornerstone of wildlife conservation and management in America.

THE FOREST SERVICE NEEDS ADDITIONAL TOOLS

The Forest Service estimates there are 82 million acres of forestland in need of active restoration management to improve forest health and habitat quality and reduce the risk of uncharacteristic wildfire. A quick look at the Forest Service FY 2015 Budget Justification shows plans to spend roughly \$650 million in forest restoration and related survey and monitoring programs for both federal and qualifying state lands. High priority hazardous fuels treatment was planned for nearly 2 million acres mostly through the Hazardous Fuels Program and the Collaborative Forest Landscape Restoration Program. Insect and disease surveys and related monitoring was planned for more than 400 thousand acres.

Planned and funded activities should be carried out as expeditiously and as effectively as possible. It's here that the Forest service needs additional authorities. S.1691 would provide needed help. In the fall 2011 issue of *Fair Chase*, the Boone and Crockett Club quarterly publication, Jack Ward Thomas, former Forest Service Chief addressed the future of the Forest Service. In it he describes the "Gordian knot" (an intricate problem insoluble in its own terms) burdening the Forest Service resulting from a tapestry of conflicting and contradictory federal law (and resulting case law) rendering national forest planning and management prohibitively costly and ineffective. Background for S.1691 properly acknowledges some components of the Gordian knot: the high cost of compliance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) along with burdensome litigation that impacts Forest Service resources and delays needed forest health projects; S. 1691 properly targets these choke-points in policy that must be released in order to pick up the pace of forest restoration.

The cost of planning and implementing forest restoration projects must be reduced and S. 1691 does that. The "Categorical Exclusion" provided by the NEPA should have a different name. It means that for projects already analyzed and capable of close reproduction, that analysis can be included in future similar projects. By quickly replicating a known approach to forest restoration the Forest Service is categorically expediting restoration.

Another choke point is litigation. The Boone and Crockett Club supports giving collaboration legal weight when collaborative projects are challenged, including experimenting with binding arbitration as a way of providing incentive for all parties to reach accord.

TWO SUGGESTED ADDITIONS

The Boone and Crockett Club supports further refinements to the analysis framework. The first refinement we suggest is to make clear in law that forest dynamics have effects from both management action and inaction in the short- and the long-term. I suggest the committee consider making clear, by adapting language from Sec. 106 (c) (3) of HFRA, that the Forest Service must assess both the short term effects of proposed management actions and long term effects of inaction. This would help add crucial

information, should projects be challenged, to the equation of balancing the short-term effects of action against the long-term effects of inaction.

Another suggestion is to add a requirement for coordination with state fish and wildlife agencies to provide compatibility of projects with state fish and wildlife population goals and objectives. National Forests being federal lands are nevertheless integral to the state responsibility to manage the wildlife populations living on them. A requirement for these authorities to complement each other would sharpen the purpose and effectiveness of forestry projects and also give additional legal weight to the imperative of active forest management to improve conditions for both the forest and the dependent wildlife.

CLOSE

I point out the National Wild Turkey Federation (NWTF) and the Mule Deer Foundation (MDF) and congratulate each on their success as an agent of forest restoration. Each organization is a close ally of the Boone and Crockett Club in the mission of hunter-conservationists. What they have done with the Stewardship End-Results Contracting authority is a good example of the future we can make for forest conservation if we enact laws such as S. 1691. Because the value of forestry is so high for the management of wildlife, and because stewardship contracting helps pick up the pace of restoration, NWTF and MDF have become major contractors in forest restoration. In closing, the Boone and Crockett Club supports S. 1691 as a very good way to help "cleave the Gordian knot" and assist the Forest Service in more effectively restoring forests and wildlife populations and habitat—as hoped for by participants in the 1993 Sun Valley, Idaho Conference.



July 15, 2015

The Honorable John Barrasso, Chair
Subcommittee on Public Lands, Forests, and Mining
Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden, Ranking Member
Subcommittee on Public Lands, Forests, and Mining
Senate Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Wyden:

The National Association of State Foresters (NASF) writes to commend your leadership for holding a hearing on the National Forest Ecosystem Improvement Act of 2015 (S. 1691). State Foresters have a strong interest in the health and productivity of all forests – public and private. NASF is concerned that the current level of active management on USDA Forest Service (USFS) National Forest System (NFS) lands is insufficient to address the scope, scale, and pace needed to restore these forests to a more resilient condition.¹ NASF is comprised of the heads of the state forestry agencies in all fifty states, the District of Columbia and the U.S. territories. State Foresters directly manage more than 63 million acres of publicly-owned land and provide technical and financial assistance to more than 10 million family forest landowners who are the stewards of 264 million acres of forest land.

Our national forests face many threats to their long-term health and sustainability across the spectrum of social, economic, and ecological impacts. The USFS estimates that 65 to 82 million acres of NFS lands are in need of treatment to address - among other issues - wildland fire risk, watershed health, insect and disease mortality, and invasive species.² Despite the best efforts of the USFS, the backlog of on-the-ground NFS acreage in need of forest management only continues to grow under the current policy and appropriations realities. Moreover, rural forested

¹ For more information, see National Association of State Foresters Resolution Number 2013-4, available at <http://www.stateforesters.org/federal-forests-resolution>

² Increasing the Pace of Restoration and Job Creation on Our National Forests, USDA Forest Service, February 2012, <http://www.fs.fed.us/publications/restoration/restoration.pdf>

Executive Director Jay Farrell	2014-15 Executive Committee			
	<i>President</i>	Jim Karels, Florida	<i>Northeastern Representative</i>	Peter Church, Massachusetts
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communities and counties near federal forest lands continue to experience high levels of poverty and unemployment and struggle to meet the demand for public services.

We applaud your efforts to identify and directly address the barriers preventing the USFS from doing more to proactively manage our nation's forests, and NASF encourages the Subcommittee to continue the dialogue around the solutions suggested in the National Forest Ecosystem Improvement Act of 2015. While the USFS works to deliver critically needed NFS management, the Agency is hampered in many cases by cumbersome and conflicting regulation and policy that was established at an earlier date to meet a different set of management needs, issues, budgets, and costs. Congress needs to act now to change the current trajectory of NFS lands by making reforms needed to ensure that federal forests are managed sustainably to provide the full suite of social, economic, and ecological benefits. The benefits such as clean air, clean water, jobs from a viable forest products business sector, recreation opportunities, wildlife habitat, and homegrown commodities for our nation's economy remain at risk if Congress does not act.

Finally, State Foresters continue to support the critical need for a bi-partisan wildland fire funding solution that will prevent future transfers from non-fire programs, such as forest management, to pay for fire suppression. NASF supports the bipartisan Wildfire Disaster Funding Act (S. 235) sponsored by Ranking Member Wyden. We believe that Congress needs to address both the serious administrative and legal process barriers and the broken federal wildfire funding mechanism in order for the USFS to succeed in fully implementing publicly vetted Forest Plans.

The time for Congress to act is now. NASF remains committed to working to find a bi-partisan solution to break the current management gridlock on federal forests across the entire country to improve forest health and ensure continued delivery of the social, economic, and ecological benefits that forest provide.

Sincerely,



Jim Karels
Florida State Forester
NASF President

Statement of

Becky Humphries
Chief Conservation Officer
The National Wild Turkey Federation



on
S. 1691 The National Forest Ecosystem
Improvement Act of 2015

Before the
Committee on Energy and Natural Resources
United States Senate

June 16, 2015

Chairwoman Murkowski, Ranking Member Cantwell, I am Becky Humphries, Chief Conservation Officer of the National Wild Turkey Federation, and I appreciate the opportunity to submit this statement on the issue of active forest management on federal lands. Founded in 1973, the National Wild Turkey Federation is a national non-profit wildlife conservation organization dedicated to the conservation of the wild turkey and preservation of our hunting heritage. The National Wild Turkey Federation is 230,000 members strong and maintains local chapters in every state. With the successful restoration of the wild turkey complete, the National Wild Turkey Federation has focused its efforts on our "Save the Habitat. Save the Hunt." initiative, which connects both parts of our mission by recognizing the importance of quality habitat for wildlife conservation and our hunting tradition. Through this initiative, our "Save the Habitat" efforts are largely focused on creating and maintaining healthy forests through active management.

We are appreciative that the committee is expeditiously considering the issue of active forest management and we find much favor with most aspects of the discussion draft from Sen. Barrasso. We provide herein recommendations for an alternative approach to those aspects of the bill with which we have concerns. We appreciate the thoughtful approach of Sen. Barrasso's bill and look forward to working with him and the Committee to improve the bill as it advances through the legislative process.

Professionally trained wildlife biologists know that forest diversity at the landscape level is the key to proper management to achieve species diversity and robustness. There are four fundamental criteria each forest species needs for survival: food, water, shelter, and space. Depending on how a forest is managed, various amounts of these criteria become available to the animals living there. Wildlife managers consider **active management** the best solution to meet the habitat requirements of the largest variety of species. Active management creates young forest habitat, which provides adequate food sources, nesting habitat, and hiding places for forest wildlife. Throughout the United States we are losing this diversity on a landscape-level scale, in many cases because our forests are becoming more homogenized and over-mature.

This has resulted in a precipitous decline in species that are dependent on young forest habitat. For example, in the eastern United States, 59% of bird species dependent on young forests have declined in the last few decades, including songbirds like the golden winged warbler, which is a candidate for Endangered Species Act (ESA) listing. Ruffed grouse have nearly disappeared from several national forests across the east and Midwest, and the wild turkey has experienced population declines in many areas, often associated with the lack of young forest habitat for nesting and raising their young. In western forests, like the Willamette, current forest management for mature forests benefits 14 species dependent on these forests while 71 species solely dependent on young forest, and another 116 generalists, suffer as young forest habitat declines. The U.S. Forest Service has recognized the need for young forest habitat and they allocate funding and guidance to provide such habitat for threatened and endangered species such as the golden-winged warbler, New England cottontail, gopher tortoise, and red-cockaded woodpecker. However, the pace of creating young forest habitat for these and hundreds of other wildlife species needs to be greatly increased.

The management of healthy forests is made economically viable through the harvest and sale of forest products and timber, which help offset the costs associated with other forest and wildlife management activities such as reforestation, invasive species control, prescribed fire, timber stand improvements, etc. Without the funding that sustainable forest management provides the landowner (including the federal government), we are likely to see less forest management, which, in turn, will exacerbate the problems of wildfire, decreased forest health, endangered species, and water quality. Additionally, without the revenue that active forest management provides, we are likely to see increased land conversion to non-forested uses and the loss of the basic operational capacity (i.e., loggers and mills) to accomplish on-the-ground, sustainable forest management that results in healthy, resilient forests important for a wide variety of ecological benefits.

We can't rely solely on state and private lands to continue to supply the timber industry with the fiber necessary to meet our forest product needs. Our nation's federal lands

also play a vital role in maintaining healthy forests that are resilient to threats at a landscape level. In many areas of the country, federal forestland has the potential to provide a consistent and reliable source of forest products to keep the mills open. The sustainability of this industry is critical for us to economically maximize the benefits of a healthy forest and fight the threats of wildfire, insects, and disease. Furthermore, if the health and vitality of our federal forests are not addressed, devastating wildfires and insect and disease epidemics will spread to adjacent state and private forestlands, thereby undermining other efforts to maintain healthy forests. Without the forest products provided by our federal lands, the ability to manage for healthy forests across a landscape, regardless of ownership (i.e. federal, state, or private), is severely threatened. We believe the legislation this committee is considering will help to ensure that timber harvest, and the creation of young forest habitat for wildlife, remains viable on both federal and non-federal lands.

Our current funding model for fighting catastrophic wildfires helps illustrate this point. Over the last 30 years the length of the fire season has increased by more than 2 months. In addition, the intensity of many fires has increased largely due to an increased fuel load that is a result of less timber harvested and reduced active forest management. During the same time period, the cost of wildfire suppression has increased an average of more than 22% annually and now accounts for half of the U.S. Forest Service's annual budget. Hundreds of millions of dollars are spent annually to fight forest fires. Unfortunately, these fires often result in scorched earth that all agree is not good for wildlife, water quality, recreation, or local economies and jobs. Alternatively, we could and should increase the pace of sustainable forest management. Active forest management to prevent wildfires costs less than suppression and is proven to be extremely effective at preventing wildfire, as well as helping with fire containment and suppression efforts. By reducing the obstacles to sustainable forest management on our federal lands not only can we reduce the likelihood of wildfires and the costs of fighting them, but we can also realize additional benefits of improved public safety, the protection of private and public property,

quality wildlife habitat, improved water quality, fewer invasive species, enhanced recreational opportunities, and more robust local economies.

The National Wild Turkey Federation believes that many administrative policies and processes continue to slow the rate of implementation to an unacceptable pace, greatly increasing the cost of implementation. We are thankful to this committee for tackling the job of updating forest policy to address the long understood concerns of the forestry and conservation community. I'd like to highlight a few thoughts that the National Wild Turkey Federation has concerning the bill.

1. National Treatment Acreage – While the National Wild Turkey Federation agrees that the pace of forest management needs to be increased, and progress needs to be measured, we are concerned that requiring acreage targets may be divisive among potential collaborators and could be viewed only as logging targets for economic gain, rather than mechanical treatment being used as a cost effective tool to deliver quality wildlife habitat and create healthy forests. Alternatively, we suggest that the desired future conditions, as outlined in the forest plans, be used to measure progress. For example, young forest habitat in the Nantahala-Pisgah National Forest in North Carolina accounts for about 0.4% of the current land cover. The forest plan calls for a minimum of 5%, and up to 10% of the forest to be in young forest. Unfortunately, this seems to be the rule, as opposed to the exception, on many of our nation's forests. We believe that holding the forests accountable to achieving the management objectives outlined in their forest plans that were developed through a public process will be more acceptable than acreage targets for harvest. Further, we believe that if the administrative and litigation barriers are reduced, as proposed elsewhere in this bill, that mechanical treatment and commercial harvest of timber will again become a more viable tool to achieve these objectives.
2. Two alternatives approach - The National Wild Turkey Federation supports the approach of only allowing two alternatives for collaborative, Resource Advisory

Committee, and CWPP projects. Limiting the number of alternatives will speed up the development of environmental assessments and allow work to get done on the ground more quickly. We also support the requirement to look at the consequences of a no-action alternative. A decision to not actively manage is a management decision, and therefore still has an impact on the resource.

3. Alternative Dispute Resolution / Bonding - Recently, former U.S. Forest Service Chief Dale Bosworth stated in written testimony, *"While many environmental laws were originally passed for good reason at a time when more checks and balances were needed, the situation has dramatically changed. Now communities are coming together at unprecedented levels to find common ground and to address the increasing threats of insects, disease, invasive species and wildfire. Unfortunately, the sheer multitude of laws, and their expansion by the courts have led to processes almost unintelligible to reasonable people. All of us understand that significantly more restoration needs to occur through aggressive active management."* The National Wild Turkey Federation agrees with former Chief Bosworth that reform is needed and we applaud this Committee for tackling this complex and sensitive issue.

The National Wild Turkey Federation supports the establishment of an arbitration program as an alternative to litigation. This should serve to expedite challenges, and also result in substantial cost savings to the taxpayer. We also support the efforts to limit litigation on projects by requiring those challenging the U.S. Forest Service in court to post bond to cover the government's legal expenses. We believe this will dissuade groups from litigating only for the sake of delaying action.

4. Categorical Exclusion Expansion - The National Wild Turkey Federation supports any actions that will help streamline the process and speed up the pace of work. We believe that there are certain actions that clearly deserve categorical exclusions in order to deal with issues like pests and disease;

hazardous fuels; critical habitats for threatened or endangered species; salvage facilitation; protection of municipal water sources; increased water yield; and for activities that improve, enhance, or create early successional forests for wildlife habitat and other purposes specified within the forest plan. Collectively, the U.S. Forest Service and its resource managers have a long history and considerable experience managing our forest resources. The treatments mentioned above are routine, reoccurring activities with known, minor impacts and therefore fall under the purpose of categorical exclusions and should not require the typical extensive environmental assessments. We believe these categorical exclusions are necessary and will help increase the pace and scale of management and restoration of our nation's forests. The acreage size limits in the bill should allay any concerns about the potential for overtreatment. We are especially pleased with the categorical exclusion for meeting forest plan goals relative to early successional forests. Such forests provide habitats that are critical for many wildlife species, including the wild turkey.

5. Wildfire still needs addressing - The National Wild Turkey Federation has concerns that this effort does not address the wildfire issue. Until federal agencies are freed from the burden of fighting catastrophic wildfire through their annual budgets and the resulting "fire-borrowing," we will be unable to make meaningful progress towards proactive forest management, which is our most effective and cost efficient way to reduce the number, size and intensity of wildfires. For us this is not a "deal-breaker," but we urge the Committee to address fire borrowing as they move the legislation forward. The House of Representatives ultimately addressed wildfire funding in their forest reform bill and the Senate should do the same and solve this problem once and for all.
6. Collaboration - The National Wild Turkey Federation appreciates the emphasis on collaboration within this bill. In our experience, projects with strong collaboration are often larger, get implemented more quickly, include more financial partners, and are less likely to be challenged through litigation.

To close, the National Wild Turkey Federation has shown through its continued partnership with the U.S. Forest Service and restoration efforts through our "Save the Habitat. Save the Hunt." initiative, that we are a strong proponent of active, sustainable forest management. The benefits to numerous wildlife species, their habitats, and forest health are matched with economic benefits that contribute to local economies and social benefits that contribute to strong communities and public recreational opportunities. Additionally, increased active forest management on federal lands will help prevent wildfires and make it easier and less costly to fight fires when they do occur. For all of these reasons, the National Wild Turkey Federation thanks the Committee for this legislation and urges passage of a bipartisan forestry reform bill. Members of this Committee have much to be proud of by beginning the process. Thank you for your time and consideration and your desire to address these critical issues.



July 14, 2015

The Honorable John Barrasso
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
221 Dirksen Senate Office Building
Washington, DC 20510

RE: S. 1691, the *National Forest Ecosystem Improvement Act*

Dear Chairman Barrasso and Ranking Member Wyden:

The Public Lands Council (PLC), and the National Cattlemen's Beef Association (NCBA) strongly support the (S. 1691), *the National Forest Ecosystem Improvement Act*. PLC is the only national organization dedicated solely to representing the roughly 22,000 ranchers who operate on federal lands. NCBA is the beef industry's largest and oldest national marketing and trade association, representing American cattlemen and women who provide much of the nation's supply of food and own or manage a large portion of America's private property.

S. 1691, introduced by Senator John Barrasso (R-Wyo.) would establish a reliable timber supply, and would prioritize restorative forest management projects such as timber thinning or harvesting and prescribed fires to the benefit of the ecosystem. If passed, this bill will improve forest and watershed health, increase wildlife habitat, reduce the risk of catastrophic wildfires and support rural economies.

The severe mismanagement of federally-owned forests has created devastating economic hardship and danger for our members. The livestock industry, and rural economies as a whole will spend decades attempting to recover from the millions of dollars' worth of infrastructure damage and forage loss that have been the result of catastrophic wildfire in recent years, not to mention the loss of valuable wildlife habitat. PLC and NCBA believe that actively managed forests through proper timber management and range management through grazing is the key to maintaining healthy forests and preventing catastrophic wildfire.

PLC and NCBA appreciate the opportunity to provide our input on behalf of our members – the nation's food and fiber producers. We encourage members of Congress to support this positive and proactive piece of legislation.

Sincerely,

Brenda Richards
President
Public Lands Council

Philip Ellis
President
National Cattlemen's Beef Association



United States
Department of
Agriculture

Forest
Service

Pacific
Northwest
Region

1220 SW Third Avenue (97204)
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Portland, OR 97208-3623
503-808-2468

File Code: 2410/1510
Date: NOV 12 2014

The Honorable Ron Wyden
United States Senator
221 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden,

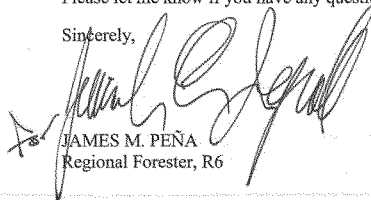
This letter is in response to additional information your staff requested today and reflects the newest version of the proposed legislation. Specifically, you asked the Forest Service to identify the amount of timber which could theoretically be removed from 100,000 acres of National Forest System lands within close proximity to Bureau of Land Management (BLM) Oregon and California Land Grant Act Lands.

Our prior analysis from our letter dated November 6, 2014 displayed that about 44.4 mmbf could be harvested annually for 50 years on 75,000 acres of treatment. We see that the legislation now reflects the 102,000 acres. Using a simple extrapolation for 102,000 acres of plantations needing variable retention harvesting, approximately 60 mmbf could be expected annually. The newest proposed legislation also adds an additional 204,000 acres for Conservation Emphasis Areas where it is likely some restoration forestry is needed that could add another 9 to 10 mmbf per year. Based on these analyses, it is estimated that a total of approximately 70 mmbf annually for the next 50 years could come from National Forest System land proposed for conveyance under the terms outlined in your proposed legislation. My understanding is that the Bureau of Land Management has provided you with an estimate of up to 340.3 mmbf annually for the next five decades from BLM administered and tribal lands.

This information is being provided to you solely at the request for information from your office. The Forest Service has taken no official position on the proposed bill. We are concerned about efficiently managing around the proposed 306,000 acres of proposed conveyance lands. Transferring these acres could perpetuate challenges associated with checkerboard ownership. We would like to continue to work with you and your staff to refine how the acres will be identified.

Please let me know if you have any questions or further information needs.

Sincerely,


JAMES M. PEÑA
Regional Forester, R6



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United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Oregon State Office
P.O. Box 2965, Portland, Oregon 97208
<http://www.blm.gov/or>



November 12, 2014

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senator Wyden:

In your August 27, 2014, letter, you requested technical assistance from the Bureau of Land Management (BLM) to undertake a modeling effort of your proposed O&C Land Grant legislation to estimate the timber harvest potential in board feet per year. Oregon BLM staff worked with assistance from Oregon State University Professor Norm Johnson on an analysis to determine the potential timber harvest output, in board feet per year, based on the parameters outlined in the revised version of your bill.

Based on our calculations, we estimate that a sustained annual timber sale harvest of approximately 310 to 320 million board feet (MMBF) per year could occur for the first five decades on lands administered by the BLM. These calculations are different from previous efforts for the following important reasons: (a) the moist forestry emphasis included variable retention harvest in stands less than 90 years old, (b) the moist conservation area was improved by recent data on stand management history that was not available in prior calculations, and (c) the dry forestry emphasis area was recalculated with changed assumptions regarding access and feasibility.

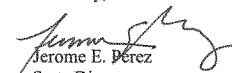
A separate analysis utilizing data provided by tribal representatives on the proposed conveyance lands for tribal interests determined that between 8.9 and 15.7 MMBF/year for five decades could result from timber harvesting on those lands. In addition, the Coquille Tribe provided information that, in general, they are harvesting approximately 4.6 MMBF from their lands annually, thus making the total contribution from tribal interests from 13.5 to 20.3 MMBF/year.

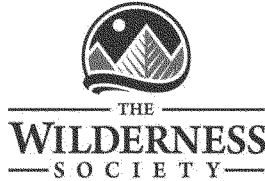
Based on these analyses, it is estimated that between 323.5 and 340.3 MMBF/year for the next five decades could be produced under the terms outlined in your proposed legislation from BLM-administered and tribal lands. In addition, lands conveyed from the U.S. Forest Service to the BLM under the land rationalization concept contained in your bill could provide additional timber volume on an annual basis. My understanding is that the U.S. Forest Service has provided you with an estimate of the potential timber (up to 70 MMBF/year) that could be harvested in the future from these proposed conveyance lands.

This information is the result of a purely technical analysis to assist you in your discussions on your proposed legislation. It does not represent a formal position on your proposed legislation by the agency or the Department of the Interior. Other agencies (U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration Fisheries, and the Environmental Protection Agency) were not engaged in the analysis of your bill. Site-specific factors and input from these agencies could move the estimates up or down.

Thank you for your continued interest in the future of the O&C lands of western Oregon.

Sincerely,


Jerome E. Perez
State Director
Oregon/Washington



July 15th, 2015

The Honorable John Barrasso, Chairman
U.S. Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests and Mining
304 Dirksen Senate Building
Washington, DC 20510

The Honorable Ron Wyden, Ranking Member
U.S. Senate Committee on Energy & Natural Resources
Subcommittee on Public Lands, Forests and Mining
304 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Wyden,

The Wilderness Society, on behalf of our 500,000 members and supporters from across the country, appreciates the committee's interest in addressing national forest management and we respectfully request that the following comments be included in the hearing record for July 16th, 2015.

S. 1691 – National Forest Ecosystem Improvement Act

We recognize the changes that were made to this legislation in response to concerns raised with S. 1966 of the 113th Congress, including removal of some of the objectionable language and an emphasis on forest restoration, instead of simply timber production. Although the mandated harvest level, environmental review, and arbitration sections have been modified, we still have significant concerns about those and other sections in S. 1691. For the reasons outlined below The Wilderness Society strongly opposes S. 1691.

One overarching concern is that S. 1691 fails to include a conservation component. The U.S. Forest Service has recommended millions of acres of national forest land be designated as wilderness, and communities across America have worked together to develop proposals that include wilderness protections. Despite this, S. 1691 fails to include a single acre of wilderness—or any other permanent protective designation. Such an omission means that this proposal is imbalanced from the outset.

S. 1691 would greatly increase logging of national forest lands, while reducing environmental safeguards and opportunities for public involvement in national forest management. This legislation applies a one-size-fits-all approach to forest management that fails to take into account local conditions. Annual

acreage mandates for mechanical treatments would compel the Forest Service to prioritize logging over all other uses and resources. Large expanses of forest up to 15,000 acres in size could be logged with no consideration of the impacts to water quality, wildlife habitat, or recreational opportunities. Under this proposal, the legality of Forest Service management activities would be essentially unchallengeable in court, removing an essential check on federal agency compliance with the law. It would also undermine two bedrock environmental laws – the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).

A detailed analysis of S. 1691 follows. In sum, the bill poses a serious threat to environmental stewardship, public involvement, wildlife conservation, and the rule of law in our national forests.

Title I – Forest Management Activities

Purposes and Definitions. The two purposes of Title I are to “establish a reliable and predictable timber supply from the National Forest System...to help fund ecosystem restoration” and to “expedite and prioritize forest management activities to achieve ecosystem restoration objectives” (Sec 101).

Utilizing commercial timber harvest to fund ecosystem restoration is often counterproductive, as the timber harvest can exacerbate unhealthy forest conditions, thus creating the need for additional restoration. Section 102 defines “restoration” to mean “any activity that helps to recover, reestablish, or maintain the resilience or adaptive capacity of an ecosystem” (Sec. 102(1)(A)). Restoration activities are defined as timber harvesting, thinning, prescribed fire, or other types of vegetation manipulation (Sec. 102(1)(B)).

Ecosystem Restoration Projects. Section 103 directs the Forest Service to implement “ecosystem restoration projects” to accomplish eight broad objectives, ranging from restoring terrestrial habitat to reducing the risks of insect and disease infestations and wildland fire severity potential (Sec. 103(a)). Included in the objectives of ecosystem restoration projects are timber stand improvement and creating “early seral” habitat (i.e. clearcuts).

These activities are not restoration, and may well undermine legitimate restoration activities. The bill excludes such projects from Wilderness areas and other areas where removal of vegetation is prohibited by law (Sec. 103(b)).

Mandatory Treatment Acreages. Section 104 requires the Forest Service to accomplish national restoration treatment acreages each year, starting in 2017. The annual minimum acreage requirements are 1 million acres of mechanical treatments and 1 million acres of prescribed fire (Sec. 104(a)). The bill specifies that the 1 million acres of mechanical treatments must include at least 400,000 acres of commercial thinning and 60,000 acres of even-aged management (i.e., clearcutting) (Sec. 104(a)(1)). Each Forest Service region would be assigned a portion of the required acreage of restoration treatments (Sec. 104(b)).

Section 104 is highly problematic because it would impose unrealistic logging mandates and require the Forest Service to prioritize logging over all other uses of the national forests. First, due primarily to funding limitations, the Forest Service has only been able to implement commercial thinning on approximately 100,000 acres per year and all types of mechanical treatments on about 200,000 acres

per year.¹ Thus, the bill would require the Forest Service to increase logging and other mechanical treatments by four to five times more than recent amounts.

Second, unlike other recent bills that have included acreage targets or goals for mechanical treatment for specific areas,² S. 1691 appears to create an inescapable legal mandate to achieve the timber targets on the entire National Forest System. Thus, absent a major increase in congressional funding, the Forest Service could be required to divert resources away from all other multiple-use activities in order to accomplish the legally-required amount of logging and other mechanical treatments.

Finally, by requiring 60,000 acres of clearcuts every year, which can create significant future fire risks and increase treatment costs, the legislation would exacerbate the risks of catastrophic wildfire in the future.

NEPA. Section 105 requires the Forest Service to prepare an environmental assessment (EA) for each ecosystem restoration project (Sec. 105(a)). The EA would only need to consider the proposed action and the no-action alternative, including the effects of taking no action on forest health, habitat diversity, wildfire potential, etc. (Sec. 105(c)). The bill would limit the length of the EA to 100 pages, would require the EA to be completed within 180 days, and would require no supplemental analysis (Sec. 105(d) and (c)).

This section is problematic because it would undermine a bedrock environmental law -- the National Environmental Policy Act (NEPA). It would eliminate NEPA's requirement to consider a reasonable range of alternatives and would impose artificial limits on the size of NEPA documents and the time to complete the NEPA process. It would also eliminate environmental impact statements, even where required by NEPA. In combination with the bill's NEPA categorical exclusions in Title II, these provisions would significantly reduce environmental safeguards and public involvement opportunities in national forest management.

Binding Arbitration. Section 106 requires the Forest Service to establish a binding arbitration/alternative dispute resolution process for ecosystem restoration projects that have been collaboratively developed or identified in a community wildfire protection plan (Sec. 106(a) and (b)). For these types of projects, no judicial review would be allowed. Anyone who filed an administrative objection to such a project could file a "demand for arbitration" within 30 days after the Forest Service notified the objector that the project is subject to the arbitration process (Sec. 106(d)). The demand for arbitration must include an alternative proposal for the project (Sec. 106(d)(2)(B)(ii)). The objector and the Forest Service would select the arbitrator from a list of at least 20 certified arbitrators developed by the agency (Sec. 106(c) and (e)). The arbitrator would select either the Forest Service's project or the objector's alternative proposal (Sec. 106(f)(2)). The entire arbitration process would be completed within 90 days after the filing of a demand for arbitration (Sec. 106(g)). The arbitrator's decision would not be subject to judicial

¹ For data on commercial thinning acreage, see USDA Forest Service, Harvest Trends on National Forest System Lands 1984 to Present, http://www.fs.fed.us/forestmanagement/documents/harvesttrends/NFS_HarvestHistory1984-2014.pdf. For data on mechanical treatment acreage, see USDA Forest Service, 2012, "Increasing the Pace of Restoration and Job Creation on Our National Forests," pp. 4-5, <http://www.fs.fed.us/publications/restoration/restoration.pdf>.

² For example, S. 1301, the "Oregon Eastside Forests Restoration, Old Growth Protection, and Jobs Act of 2013," sets mechanical treatment targets, but only requires them to be implemented "to the maximum extent practicable" (Sec. 103(b)(1)).

review, except in instances of corruption, fraud, bias, or other misconduct by the arbitrator (Sec. 106(h)(3)).

The proposed arbitration process is seriously flawed because it provides no means to ensure that the Forest Service is actually following environmental laws, or even the requirements of S. 1691. The arbitrator would not be able to consider and rule on the legal adequacy of the process by which the agency arrived at its decision. Conceivably, a local district ranger or forest supervisor could entirely skip normal public involvement and Endangered Species Act requirements in order to achieve their legally-mandated mechanical treatment targets.

Litigation Bonding. Section 107 would require anyone who files a lawsuit challenging an ecosystem restoration project to post a bond equal to the anticipated costs, expenses, and attorneys' fees of the Forest Service as defendant in the case (Sec. 107(a)(2)). The bond would not be returned unless the plaintiffs prevailed on all of their legal claims in the lawsuit (Sec. 107(c)). This section of Title I is similar to the litigation bonding requirement contained in Title III of H.R. 2647, except that it does not limit prevailing plaintiffs' ability to obtain reimbursement of costs and attorneys' fees under the Equal Access to Justice Act.

The proposed bonding requirement is totally contrary to the current legal requirements for civil actions in the United States, where parties to litigation are required to pay their own costs. Having to post a bond to cover the Forest Service's and U.S. attorneys' staff time and expenses would create an insurmountable financial barrier for all but a few organizations and individuals. Even adjacent landowners would have to pay a hefty bond in order to go to court to challenge Forest Service management activities that affect their lands. The bill's requirement for the plaintiff to prevail on all of their claims in order to recover their bond is also manifestly unfair since it would mean that a plaintiff would lose the entire bond even if the plaintiff prevailed on all claims except one.

Title II – Categorical Exclusions

Title II of S. 1692 creates three new types of categorical exclusions (CEs) that exempt national forest logging activities up to 5,000 acres (or in some cases 15,000 acres) from complying with the requirements of the National Environmental Policy Act. It also provides an alternative to the Endangered Species Act's interagency consultation process.

“Critical Response” CE. Section 202 provides CE authority for forest management projects whose “primary purpose” is to address insect and disease infestations, reduce hazardous fuels, protect a municipal water source, protect critical habitat from catastrophic disturbance, or increase water yield (Sec. 202(a)). The projects generally can be up to 5,000 acres in size, but they can be as large as 15,000 acres if they are collaboratively developed, proposed by a Resource Advisory Committee, or covered by a community wildfire protection plan (Sec. 202(b)).

In contrast, the 2014 Farm Bill created a CE for collaboratively-developed restoration projects within the wildland urban interface or specified high-risk forest areas up to 3,000 acres in size that preserve old-growth forests and focus on scientifically sound ecological restoration. S. 1691 would authorize a five-fold increase in the Farm Bill's maximum size of CE projects and would eliminate any requirement to protect old-growth forests or focus on scientifically sound ecological restoration.

Salvage Logging CE. Section 203 provides CE authority to expedite salvage operations up to 5,000 acres in size that are carried out in response to fire or other “catastrophic event” (Sec. 203(a), 203(b), and Sec. 201(6)). Salvage logging is defined to include projects designed to provide funding for other forest projects (Sec. 201(6)(C)). The bill disallows permanent road construction but places no restriction on temporary road building, and it allows stream buffer protection to be modified by the Regional Forester (Sec. 203(c)).

This is 20 times larger than the Forest Service’s current 250-acre size limitation for salvage logging CEs, which was adopted by the Bush Administration. Furthermore, the bill would allow an unlimited amount of temporary road building to occur in post-fire salvage logging projects up to 5,000 acres with no assessment of environmental effects, despite strong scientific evidence that temporary road building can have extremely harmful impacts on soils and water quality in burned landscapes. Even without road building, salvage logging can have significant environmental effects if it is not carefully planned. Weakening stream buffer protection for salvage logging could put water quality at risk.

Early Successional Forests CE. Section 204 provides CE authority for logging projects up to 5,000 acres in size whose primary purpose is to create early successional forests for “wildlife habitat improvement and other purposes.” Projects must be carried out “in accordance with the applicable forest plan” (Sec. 204(a)).

Creation of early successional forests is commonly accomplished by clearcutting. The breadth of this language suggests that CEs for up to 5,000-acre clearcutting projects would be permissible. Current Forest Service NEPA policy does not allow the use of CEs for clearcutting, regardless of purpose. Unless specifically disallowed by the local forests plan, this CE could authorize eight square miles of clearcutting with no consideration of environmental impacts on scenery, water quality, etc.

ESA Consultation. Section 205 adopts streamlined Endangered Species Act (ESA) consultation procedures for Forest Service projects covered by any of the three new CEs created by S. 1691. For those CE projects, ESA consultation would be satisfied by complying with “alternative consultation procedures” that were adopted by the Bush Administration in 2004 to simplify the ESA consultation process used by the U.S. Environmental Protection Agency (EPA) in registering new pesticides. The practical effect of Section 205 would be that, for those CE projects, the Forest Service (1) would no longer be required to obtain the concurrence of the U.S. Fish and Wildlife Service (USFWS) that the projects are not likely to adversely affect a threatened or endangered species, and (2) would take over responsibility from USFWS for preparing ESA biological opinions. In addition, Section 205 imposes interim time deadlines, requiring the alternative consultation process to be completed within 40 days after the Forest Service initiates the process (Sec. 205(b)).

This proposal undermines a bedrock environmental law, the ESA. It would authorize a special “self-consultation” process for the Forest Service that largely bypasses the ESA’s interagency consultation process. Furthermore, the proposed ESA streamlining process for Forest Service CEs is illogical because the process was specifically designed to complement the EPA’s pesticide registration process, which is far different in scope and scientific rigor than the Forest Service’s forest management process. A similar “self-consultation” process was administratively put in place in 2004 for projects on national forests and

BLM lands implemented under the National Fire Plan. The program was scrapped in 2011 because the "USFS failed to fulfill the standards" required by the agreement.³

S. 132 – Oregon and California Land Grant Act

The Wilderness Society applauds Senator Wyden for his leadership in navigating the complex and important issues associated with the management of approximately 2.6 million acres of Oregon forests. This legislation strikes a delicate balance between the conservation needs of this ecologically rich landscape and the economic needs of the relevant Oregon communities.

The Wilderness Society heralds the enduring protection this legislation provides to old growth trees on this land and the protective conservation designations it provides to important wildlands like the Wild Rogue and Devil's Staircase wilderness areas.

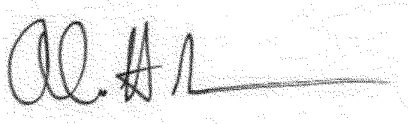
Furthermore, we are pleased that the legislation leaves the Endangered Species Act intact. This legislation presents a reasonable compromise and The Wilderness Society supports its advancement by the committee. We remain concerned about how this bill impacts application of the National Environmental Policy Act and will continue to seek improvements as the legislation moves forward.

S. 326 – Stewardship End Result Contracting Improvement Act

The Wilderness Society supports stewardship contracting to achieve land management objectives while meeting the needs of local communities. We support the common sense technical corrections to the Healthy Forests Restoration Act in S. 326.

Thank you for considering our views.

Sincerely,



Alan H. Rowsome
Senior Director of Government Relations for Lands
The Wilderness Society

³ National Marine Fisheries Service and U.S. Forest Service, "Use of the ESA Section 7 Counterpart Regulations for Projects that Support the National Fire Plan; Program Review 2005-2008."