

**S. ___, THE WILDFIRE PREVENTION
AND MITIGATION ACT OF 2017**

HEARING
BEFORE THE
COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

OCTOBER 25, 2017

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COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

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C O N T E N T S

	Page
OCTOBER 25, 2017	
OPENING STATEMENTS	
Barrasso, Hon. John, U.S. Senator from the State of Wyoming	1
Carper, Hon. Thomas R., U.S. Senator from the State of Delaware	2
WITNESSES	
Crapser, Bill, State Forester, Wyoming State Forestry Division	4
Prepared statement	7
Responses to additional questions from Senator Barrasso	19
Moretti, Miles, President/CEO, Mule Deer Foundation	21
Prepared statement	23
Response to an additional question from Senator Barrasso	29
Kruse, Dylan, Policy Director, Sustainable Northwest	30
Prepared statement	33
Responses to additional questions from Senator Carper	40
LEGISLATION	
The text of S. __, the Wildfire Prevention and Mitigation Act of 2017	134

S. __, THE WILDFIRE PREVENTION AND MITIGATION ACT OF 2017

WEDNESDAY, OCTOBER 25, 2017

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The Committee met, pursuant to notice, at 11 a.m. in room 406, Dirksen Senate Office Building, Hon. John Barrasso (Chairman of the Committee) presiding.

Present: Senators Barrasso, Carper, Boozman, Whitehouse, Merkley, and Harris.

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

Senator BARRASSO. Now that the markup is completed, I call this hearing to order.

Today we are having a hearing on Wildfire Prevention and Mitigation, the Act of 2017. It is a discussion draft. The discussion draft we consider today focuses specifically on issues that have been referred to this Committee. It combines tools for habitat conservation for mule deer, sage grouse, and other wildlife, and streamline processes for addressing specific areas that need immediate attention.

The three titles include bipartisan initiatives from six different members and represent many months—if not years—of work to give land managers the tools that they need to prevent catastrophic wildfires.

It does not include a budget fix for the simple reason the budget issues are outside the jurisdiction of this Committee. Ultimately, a budget fix should be paired with tools to reduce forest density for improved wildlife habitat and healthier forests, and the ability to react quickly to mitigate environmental harms after a fire.

On September 27 this Committee held its first hearing on the catastrophic damage caused by wildfires across the country. We heard testimony of homes burned, children unable to attend schools because of poor air quality, damaged city water supplies, and historic forest destruction.

Since that hearing, fires have continued to burn in California and across the West, with devastating effect. According to the latest numbers from the USDEA, “Year to year, there have been 52,277 fires, covering 8.82 million acres across all jurisdictions, 2.3 million of which are on national forests.” To put this into perspective, that is nearly 7 times the State of Delaware, 12 times the State of Rhode Island.

The cost of these fires is real: lives are lost and family history and livelihoods are destroyed in an instant. The communities and ecosystems will be needing rebuilding for years. We must ask ourselves what kind of future are we leaving for the next generation when we fail to conserve Federal forests that overwhelm the sky with thick smoke and ash when they burn.

As a physician, I see many parallels between human health and forest health. These catastrophic fires are a symptom, not the underlying problem. I believe we have to take a holistic approach. On the one hand, we must take preventive action so that, when fires occur, they don't burn so hot, so long, and so fast and destroy everything in their path. Additionally, we must also enable restoration to ensure that, when fires do occur, agencies have the tools they need to restore and improve wildlife habitat, access for recreation and whole forest ecosystems. Both of these things must be paired with a comprehensive budget fix.

Before hearing from our witnesses today, I would like to turn to Ranking Member Carper for his remarks.

**OPENING STATEMENT OF HON. THOMAS R. CARPER,
U.S. SENATOR FROM THE STATE OF DELAWARE**

Senator CARPER. Thank you, Mr. Chairman.

To our witnesses, I had a chance to welcome you all personally, but in public I want to say, welcome. We are glad you are here.

Since the last time we met to discuss wildfires, just about a month ago right here, 21 major wildfires have ravaged the State of California. These fires have destroyed over 8,000 homes and buildings, scorched more than 245,000 acres, and tragically taken some 42 lives. More than 11,000 firefighters from I think about 18 States and Australia are still working to contain these fires.

My wife and I were out in California about a week and a half ago, and from San Francisco down to San Jose we were struck by the haze, the smoke that was still in the air, especially in the northern part of the Bay area. A lot of people were wearing masks almost 100 miles from where the fires were taking place.

Challenging fire conditions persist throughout California, but now that the October fires are waning, cleanup begins. Chemicals present in burned out homes and buildings may cause new health and human safety concerns. We need to act to address wildlife risk now more than ever. We also need to be thoughtful and strategic as we do that.

During our September hearing our colleagues and witnesses seemed to agree on several issues, ranging from the urgent need for Federal funds to address fire to the possibility that narrowly tailored policy solutions should also be considered.

Unfortunately, that bipartisan consensus is not well reflected in the draft legislation that we are considering today. The Wildfire Prevention and Mitigation Act does incorporate two bipartisan bills, but it also includes broad changes to the National Environmental Policy Act. I am concerned about the negative implications of these proposed reforms which would be layered on top of existing underutilized forest management authorities.

This management reform-only approach is not going to solve our nation's wildfire problem. The draft bill does not acknowledge or

address root causes for increasingly severe wildfire seasons, such as climate change or increased development near forestlands. It also fails to provide adequate funding resources to the Forest Service.

I have mentioned the Forest Service's funding challenges before, but the facts are worth reiterating. In 1995 only 16 percent—16 percent of the Fire Service's budget was dedicated to fire suppression. Since 2015 the Forest Service has been spending more than half of its annual budget fighting fires. More than half.

In order to meet fire suppression needs, the Forest Service borrows money from other important programs, including those focused on forest management and restoration. This practice, known as fire borrowing, is not sustainable. We have to get ahead of this problem. It is not getting better; it is getting worse, and it prevents the agency from taking necessary action to prevent fire.

According to Secretary Perdue, firefighting activities will likely consume two-thirds—two-thirds of the Forest Service budget by 2021. Two-thirds by 2021. When Secretary Perdue announced these projections at a bipartisan press event last month with our Senate colleagues, he asked Congress to focus on a permanent funding fix. He also reported that the Forest Service is cooperating well with local communities and does not necessarily need legislative management reforms.

I look forward to hearing from our witnesses. We look forward to hearing from each of you this morning who have traveled, in some cases long ways, to share your expertise, your counsel with us today.

Mr. Chairman, I do hope we will also be able to refocus our efforts and develop a truly bipartisan approach to better prevent and address wildfires across our nation. Thank you so much.

Senator BARRASSO. Thank you very much, Senator Carper.

We have today with us three individuals who will be testifying. We will hear from our witnesses. Today we have Mr. Bill Crapser, who is the State Forester for the State of Wyoming; Mr. Miles Moretti, who is the President and CEO of the Mule Deer Foundation; and Mr. Dylan Kruse, who is the Policy Director for Sustainable Northwest.

I want to first introduce Mr. Crapser, who serves as Wyoming's State Forester and recently served as the President of the National Association of State Foresters.

I am very pleased, Bill, that you join us today. You have served as the Wyoming State Forester since 2003. As part of your leadership of the Wyoming State Forestry Division, you know that collaborative work across the many private, State, and Federal boundaries is the key to healthy forests across Wyoming.

As a key member of Governor Mead's Task Force on Forests, Bill helped to develop a series of recommendations to reduce the threat of destructive wildfire through vegetation management, to enhance forest health and wildlife habitat across migration corridors, and to expand outdoor recreation opportunities in healthy forests.

Bill provides critical expertise and is a valuable resource when addressing challenging issues like those we will discuss today.

So I appreciate you making the trip, Bill, to be with us. And before asking you to testify, I would like to recognize Senator Merkley to introduce his constituent who is here as well.

Senator MERKLEY. Thank you, Mr. Chairman. It is a pleasure to be able to welcome Dylan Kruse, who has made the trip from Oregon to testify. He serves as the Policy Director for Sustainable Northwest, an organization focused on resolving conflict by developing solutions that improve community and economic well being, while preserving healthy forests.

Mr. Kruse also serves as a member of the Real Voices for Conservation Coalition, where he works with people across the western United States in a collaborative manner to develop solutions to challenges facing our public lands and our natural resources.

I know that Mr. Kruse has been a great resource for my staff. His work on natural resources and public land issues will provide insight to this Committee as we discuss the Wildfire Prevention and Mitigation Act.

Thank you, Mr. Kruse, for making the trip out here and for your work to bring people together from across a broad array of perspectives.

Senator BARRASSO. Thank you very much, Senator Merkley.

I also note that Mr. Moretti, who is here, you were born in Evanston, Wyoming, I understand, and grew up in the Bridger Valley. So we welcome you as well.

With that, I would like to remind the witnesses that your full written testimony will be made part of the official hearing record, so please try to keep your statements to 5 minutes so we may have time for questions.

Mr. Crapser, please begin.

STATEMENT OF BILL CRAPSER, STATE FORESTER, WYOMING STATE FORESTRY DIVISION

Mr. CRAPSER. Thank you, Chairman Barrasso, Ranking Member Carper, members of the Committee. My name is Bill Crapser. I serve as the Wyoming State Forester. I am also the immediate past President of the National Association of State Foresters.

Through the 2008 Farm Bill, State foresters were tasked with developing State forest assessments and action plans for all ownerships, including Federal. In 2013, our Governor, Governor Mead, commissioned the Task Force on Forests. This was a diverse group of Wyomingites who worked collaboratively for over a year to create a vision for our forests. The Task Force's No. 1 recommendation was to endorse and implement the strategies and direction laid out by our State Forest Action Plan.

In Wyoming, our State Forest Action Plan identifies the areas of greatest risk for catastrophic wildfire, as well as insects and disease. Much of these at risk forest areas are on Federal land managed by the USDEA Forest Service. For a variety of reasons, the Forest Service has not treated the majority of at risk forested areas as identified in our plan. Much of the challenge for Federal managers is due to overly burdensome environmental regulations that are, in many cases, doing more harm than good to Wyoming's forests. Frankly, we are quite frustrated.

It is not just Federal lands that are impacted by this lack of active management. Wildfires and insects and disease know no boundaries, and virtually all catastrophic wildfires in Wyoming burn through multiple ownerships.

The Wildfire Prevention and Mitigation Act of 2017 addresses many of the regulatory challenges our Federal partners face. Arbitration to resolve disputes would be helpful. The use of categorical exclusions for forests at risk, or wildfire and forest needing habitat improvement would also be helpful. The ability to use CEs, or categorical exclusions, for making decisions on salvaging burned and beetle killed timber so that the wood will still have value when sold would be most helpful. Expansion of the Good Neighbor Authority that has been a huge success so far would really be helpful. There is increasing opportunity through this Authority for States to implement federally approved projects, NEPA completed, with State personnel. We applaud the bill's sponsors for this thoughtful piece of legislation.

NASF has a policy platform with specific and detailed Federal forest reform—a copy is attached to my written testimony—as well as a Forest Resource Committee and Fire Management Committee comprised of State foresters from around the nation, and could offer assistance to these important issues. We believe we can help the Committee in fine tuning the details of this bill. In addition, we would ask that the Committee consider language which would encourage Federal managers to consult their State Forest Action Plans and work closely with State foresters to ensure Federal resources are focused on the highest priorities.

While regulatory reform is a significant part of today's challenge in addressing our overgrown and insect and disease prone forests, there are other factors that would help as well. We need a solution to the way Federal wildfire suppression is funded. This fire season has been one of the most devastating in history. The Forest Service's budget for fire suppression has grown from less than 20 percent to more than 50 percent of the agency's total budget. This will have repercussions not only on Federal land, but for the funding of State and private forestry programs across the country. These programs include State Fire Assistance and Volunteer Fire Assistance, which fund much of the nation's initial attack on Federal lands.

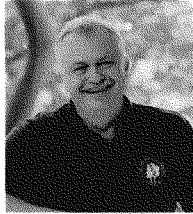
In Wyoming and across the nation, a private forest landowner who works with our staff and with the forest stewardship program is almost three times as likely to manage his forest as a landowner without a management plan. Helped by State Fire Assistance and Volunteer Fire Assistance, every county in Wyoming now has a Community Wildfire Protection plan. Also, much of our wildland fire equipment and training which we use to respond to both private and Federal fires comes from this program. In addition, through the support of community forestry programs, half of Wyoming's communities are designated as "Tree City USAs." This has a huge impact on the quality of life, stormwater control, air quality, and carbon capture in these communities.

Again, we applaud the Chairman and the Environment and Public Works Committee for making the health of our Federal forests

a top priority. I know the nation's State foresters stand ready to work with you to address these most important challenges.

Thank you.

[The prepared statement of Mr. Crapser follows:]



Bill Crapser
Wyoming State Forester

Bill graduated from the University of Montana in 1980 with a B.S. degree in Forest Management. After graduating from college in 1980 Bill spent 23 years working for the forest products industry in various positions from logging foreman to Natural Resource Manager, in Montana, Oregon, Washington, and Wyoming.

In October of 2003 the Wyoming Board of Land Commissioners appointed Bill State Forester of Wyoming. In this position Bill leads the Wyoming State Forestry Division. The division is responsible for the management of forested state trust lands, fire management on state and private lands, and provides assistance forestry programs to landowners and communities across the state.

Throughout his career Bill has been involved in many organizations and groups, serving as the Vice President of the Montana Wood Products Association, chairman of the Central Rockies Sustainable Forestry Committee, and chairman of the National Association of State Foresters Forest Health Committee. Bill is a past chairman of the Council of Western State Foresters, and is currently the Past President of the National Association of State Foresters.

**Testimony of Bill Crapser, Wyoming State Forester
Submitted to the U.S. Senate Committee on the Environment and Public Works
for a hearing on the
Wildfire Prevention and Mitigation Act of 2017
October 25, 2017**

Chairman Barrasso, Ranking Member Carper, and Members of the Environment and Public Works Committee. My name is Bill Crapser. I serve as Wyoming's State Forester and Administrator of the Wyoming State Forestry Division. I am also the immediate past President of the National Association of State Foresters (NASF). While I am not officially representing NASF today, my views are aligned with NASF policy positions and I believe they are reflective of the views of the nation's state foresters. I appreciate the opportunity to submit written testimony as the Committee considers important opportunities to streamline the environmental analysis processes and encourage more active management of our nation's federal forests.

As State Forester of Wyoming I have responsibility for planning for *all of Wyoming's forests* irrespective of ownership. Through the 2008 Farm Bill, State Foresters were tasked with developing state forest assessments and action plans for all ownerships including federal ownerships. In 2013, Governor Mead commissioned the Task Force on Forests. This was a diverse group of Wyomingites who worked collaboratively for over a year, to create vision for the future of our forests. The Task Force's number one recommendation was to endorse and implement the strategies and direction laid out in the State's Forest Action Plan. In Wyoming our state forest action plan identifies the areas of greatest risk for catastrophic wildfire as well as insects and disease. Much of these at risk forested areas are on federal lands managed by the USDA Forest Service (Forest Service). For a variety of reasons the Forest Service has not

treated the majority of at risk forested areas as identified in our plan. Much of the challenge for federal managers is due to overly burdensome environmental regulations that are, in many cases, doing more harm than good to Wyoming's forests. Frankly, we have been quite frustrated. Federal managers are not aggressively thinning or using prescribed burning or other tools on our state's federal forests in large measure because of expensive and time-consuming environmental analysis processes. We can cite examples where while waiting for additional studies or decisions to be made, we watch at risk federal forests burn in catastrophic wildfires.

It is not just federal lands that are impacted by this lack of active management. Wildfires and insects and disease know no boundaries and virtually all of the catastrophic wildfires in Wyoming burn through multiple ownerships. If state land managers or private landowners treat their forested lands and the federal forests are still overgrown, fire-prone thickets, we have not addressed the problem.

The "Wildfire Prevention and Mitigation Act of 2017" addresses many of the regulatory challenges our federal partners face. Streamlining the implementation of the Endangered Species Act will be helpful. Arbitration to resolve disputes will be helpful. Restoration targets will be helpful. The expansion of the use of categorical exclusions (CE's) for forests at risk to wildfire or forests needing habitat improvement, will be helpful. CE's are environmental documents which the agency can complete in months instead of years. The ability to use CE's for making decisions on salvaging burned and beetle killed timber so that the wood will still have value when sold, will be most helpful. Receipts from salvage sales provide the main source of funding for reforestation of Wyoming's burned federal forests. If the wood loses its value

awaiting environmental studies, then the wood is not sold and there is no funding for reforestation of our federal forests. Expansion of Good Neighbor Authority is also very helpful. There are increasing opportunities through this authority for the state to implement federally approved projects (NEPA completed) with state personnel. We applaud the bill sponsors for this thoughtful piece of legislation.

NASF has a policy platform with specific and detailed ideas for federal forest reform (copy attached) as well as a Forest Resource Committee and a Fire Management Committee, comprised of State Foresters from around the nation that can offer assistance on this important issue. We believe we can help the Committee in fine tuning the details of this bill. In addition, we would ask that the Committee consider language which would encourage federal managers to consult their state's forest action plan and work closely with State Foresters to ensure federal resources are focused on the highest priorities.

While regulatory reform is a significant part of today's challenge in addressing our overgrown and insect and disease prone forests, there are other factors which will help as well. We need a solution to the way federal wildfire suppression is funded. Nationally, this fire season has been one of the most devastating in recent memory. First and foremost, our thoughts and prayers are with those who have lost loved ones. Some 50,000 wild fires have burned almost 9 million acres across our country causing untold damage to communities and forests. Federal wildfire suppression costs in Fiscal Year 2017 have exceeded \$2 billion dollars, making 2017 the most expensive year on record. Over the last few decades, the Forest Service's budget for fire suppression has grown from less than 20 percent to more than 50 percent of the agency's total

budget. If trends continue, the vast majority of the Forest Service budget will be consumed fighting fires leaving limited funding available to improve forest resiliency, which reduces the risk of wildfire and the costs of suppression. This will also have repercussions for the funding for state and private forestry programs (which address national priorities). These programs include State Fire Assistance (SFA) and Volunteer Fire Assistance (VFA), which fund much of the nation's initial attack on federal forest lands. These state and private forestry programs also include funding for insect and disease treatment programs, community forest programs and our work with private landowners to manage their forests. All of these are critical for rural America.

In Wyoming and across the nation, a private forest owner who works with our staff through the Forest Stewardship Program, is almost three times more likely to manage his forest than a landowner who does not have a plan. Helped by State Fire Assistance and Volunteer Fire Assistance, every county in Wyoming now has a Community Wildfire Protection plan. Also much of our wild land fire equipment and training which we use to respond to federal fires, comes from this program. In addition, through the support of community forestry programs half of Wyoming's communities are designated "Tree City USA's". This has huge impacts on the quality of life, storm water control, and air quality and carbon capture in these communities.

Again we applaud the Chairman and the Environment and Public Works Committee for making the health of our federal forests a top priority. While this bill focuses on federal forests, it will also significantly help all of the nation's forests and the communities which depend upon them. I know the nation's state foresters stand ready to work with you to address these most important challenges.

This policy position was approved by the NASF Executive Committee on February 9, 2016 and expires on February 9, 2021 unless renewed, updated, or otherwise acted upon by the NASF Executive Committee or NASF membership.



**National Association of State Foresters
Preferred Reforms to Federal Forest Land Policy
Approved February 9, 2016**

* Federal lands reforms recommended in this document focus on Forest Service and Bureau of Land Management lands.

Introduction

Of the approximately 750 million acres of forest land in the United States, 20 percent are managed by the USDA Forest Service (USFS). Another six percent are managed by the Department of the Interior (DOI) Bureau of Land Management (BLM). The amount of federally owned forest in each state varies from very high percentages in the Pacific Northwest and Intermountain Regions to relatively lower amounts in the East.

Federal forest land holdings can have significant impacts on surrounding ownerships and on a state in general. Wildfire spread and insect and disease infestations do not recognize ownership boundaries. Where forests have lost vigor and resilience, often due to a lack of management, a catastrophic event on federal lands can quickly become a damaging event on other properties. In addition, over one-half of the nation's water supply originates in federal forest headwaters and that supply can be negatively impacted by catastrophic events occurring on federal forest lands.

Where federal forest lands dominate the landscape, they have a significant effect on forest markets and forest products industry infrastructure. In geographies where federal forest lands account for the majority of the forested acres, and given that federal timber supplies have sharply declined from historic levels, forest markets and industry infrastructure have diminished to the point where private landowners have difficulty marketing their timber and thus managing their forests. Federal lands can have tremendous socio-economic benefits for adjacent communities and broader geographical regions.

Our federal forest lands are under serious threat. Entire landscapes continue to experience deteriorating health problems and uncharacteristic landscape change as a result of insect and disease epidemics, invasive species, catastrophic wildfire and more. Intentional management actions are necessary to improve the resilience of federal forest lands. In regions with a mixture of ownerships, the varying objectives of different owners lead to provision of a well-rounded suite of forest-related benefits. A prerequisite for success is landscape level coordination that include the full participation of federal partners, as well as federal managers that are capable of and empowered to implement the on-the-ground actions identified within collaborative planning efforts.

As administrators of the forestry agencies of all 50 states, the US territories and the District of Columbia, the members of the National Association of State Foresters (NASF) are responsible for the health, well-being and socio-economic benefits of non-federal forest resources within their jurisdictions. State

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forestry agencies and federal agencies already work together in many places, engaging in productive dialogue, cooperation, and partnerships; nevertheless, a variety of opportunities to enhance these efforts exist. What occurs on federal lands can impact the ability of NASF members to carry out their responsibilities in an efficient and successful manner.

In light of these potential impacts, NASF has adopted a statement of general principles regarding reforms to federal land management policy. The statement reads:

- Significant changes in federal policy for forest land management under the authority of the USFS and BLM are needed to ensure the provision of a range of benefits from federal forests.
- Federal forest lands provide critical goods and services, such as forest products and jobs, clean air and water, recreational opportunities, wildlife habitat and numerous other forest-based amenities.
- Only by accelerating the scope, scale and pace of on-the-ground management, consistent with approved management plans, will we be able to restore our federal forests to a more sustainable, resilient condition.
- Without a viable forest products sector, ongoing forest management activities to maintain long-term sustainability of social, economic and ecological benefits across forestlands of all ownerships will not be possible.

This policy statement serves to build on these principles – providing background on the issue, outlining concerns more specifically and providing a checklist of potential reforms.

Legislative Background

An estimated 80 different laws regulate the management of federal lands. A subset of those principal laws include:

- Forest Service Organic Administration Act of 1897
- Twenty-Five Percent Fund Act of 1908
- The Weeks Law, Act of 1911
- Sustained Yield Forest Management Act of 1944
- Administrative Procedures Act of 1946
- Multiple Use and Sustained Yield Act of 1960
- Wilderness Act of 1964
 - Roadless Area Conservation Rule – 2001
- Multiple Use and Land Classification Act of 1964
- National Forest Roads and Trails Act of 1964
- National Environmental Policy Act of 1969
- Clean Water Act Amendments of 1972
- Federal Advisory Committee Act of 1972
- Endangered Species Act of 1973
- Eastern Wilderness Act of 1975
- Federal Land Policy and Management Act of 1976
- National Forest Management Act of 1976
 - USFS Planning Rule – 2012

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- The National Historic Preservation Act Amendments of 1980
- Secure Rural Schools and Community Self-Determination Act of 2000
- Healthy Forests Restoration Act of 2003
- Agricultural Act of 2014

The laws and regulations governing the management of federal forest lands reflect society's evolving values, needs, and demands. The complex interactions and multiple effects created by federal legislation and rule-making, subsequent interpretation by courts and risk-averse agency analyses has caused federal forest lands to fall short in the delivery of a balanced and sustainable set of benefits.

NASF Concerns with Federal Forest Land Policy

NASF believes federal lands should deliver a robust array of environmental (biodiversity, clean water, wildlife habitat, etc.), social (stable communities, recreation, aesthetic values, etc.) and economic (forest products, jobs, payments to counties, etc.) benefits. Currently they do not do so sufficiently. We describe our concerns more specifically below.

Environmental –

- Current and past approaches to wildfire suppression and a largely hands-off approach to forest management have led to widespread insect and disease infestations and fuels build-up that drastically alter or eliminate landscape-scale swaths of forest ecosystems
- Stresses caused by long-term drought and other climate factors are, in some instances, amplifying these conditions
- Landscape-scale forest health decline and fuels build-up have led to substantial increases in the severity and magnitude of catastrophic wildfire; in some cases:
 - Altering soil structure,
 - Emitting increased levels of carbon and other air pollutants,
 - Damaging habitat, including endangered species critical habitat, and
 - Impacting water quality and quantity through erosion and sedimentation; this is especially problematic when it leads to the acceleration of water supply reservoirs sedimentation
 - Damaging private structures and causing human fatalities
- A lack of budget support for vegetation management and restoration programs, as well as a lack of alignment in views about appropriate management and response approaches among stake holders hampers utilization of damaged trees and reforestation efforts after catastrophic fire
- A significant back-log of roads and trails maintenance projects creates threats to water quality and public safety, hampers management, and reduces recreational opportunities
- A lack of active management creates a significant imbalance in forest age classes which is manifested in:
 - A lack of early successional habitat for species dependent on that forest type, and later,
 - A risk of wholesale alterations in forest ecosystems as large blocks of forest reach their natural lifespan in more highly condensed timeframes, creating large blocks of dead and dying trees.

Socio-Economic –

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- Increasingly high wildfire suppression costs continue to erode federal agency non-fire program budgets and divert resources away from other national and state priorities, such as:
 - Implementing vegetation management (pre-commercial thinning, timber sales, restoration projects, fuels mitigation) to reduce the risk of future catastrophic wildfire;
 - Funding Cooperative Forestry Programs that assist non-federal landowners, address state priorities enumerated in State Forest Action Plans, and implement actions that address forest health and wildfire risks across boundaries;
 - Maintaining roads, trails and facilities; and
 - Conducting research.
- Diverting fiscal resources from programs that complete the critical preventive forest management work leads to substantially higher direct and indirect costs associated with wildfire (suppression, ecosystem service costs, post fire impacts, etc.)
- Reductions in federal forest timber harvesting has weakened or eliminated local and regional forest products markets, which has in turn made it more difficult for private forest landowners to manage their properties
- Rural counties dominated by federal forest lands are suffering severe financial hardships because these lands fail to provide sufficient in-lieu-of-property tax revenues and adequate raw materials to support taxpaying industries and employees
- Federal land management agencies operate at a net loss financially, as federal forest land management recoups only a small portion of the costs through revenue generating activities. In contrast, many state forest management operations (e.g. Oregon, Idaho, and others) cover their costs and generate a positive flow of income back to beneficiaries.
- A lack of federal forest management is a missed opportunity for creating a range of jobs through contracting and direct employment
- The many restrictions, limitations and uncertainties related to federal forest management tend to lead to an inability to realize the full potential of partnerships and their resources – including funding and manpower – to complete active management on federal lands. Often this results from projects developed over a number of years by collaborators acting in good faith, only to see their efforts immediately halted by litigation from outside interests.
- Communities in landscapes dominated by federal forest lands have experienced economic declines with multiple negative repercussions, such as:
 - Financial stress, increased poverty levels and dependence on social welfare, and
 - An inability to support local institutions and infrastructure (e.g. hospitals, schools, libraries, road maintenance, and water-treatment systems)
- A lack of budget support has resulted in recreational facilities on federal lands being closed or poorly maintained, and cultural and historic resources left unprotected
- Inability and/or perceived inability to provide the multitude of benefits federal lands could optimally offer has diminished local community support for the federal agencies entrusted with management

Institutional –

- The Endangered Species Act (ESA), the National Environmental Policy Act (NEPA) and the Clean Water Act (CWA) are used by narrow interests to marginalize the delivery of a broad and balanced set of environmental, social and economic benefits

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- As currently implemented, compliance with federal regulations requires substantial time and financial investment before any on-the-ground management can occur, greatly reducing the ability to manage federal forest lands at a scale necessary to catch up with the needs to improve forest health
- Litigation, or the threat of litigation, has created a risk-averse agency culture and tends to bias managers towards low-risk projects that may not necessarily be the highest priority for achieving the goal of creating resilient, sustainable forests
- The current Forest Service National Forest System Land Management Planning Rule (planning rule) does not direct the delivery of a balanced set of environmental, social and economic benefits and instead treats economic and social benefits as by-products and less of a priority than environmental benefits
- There is an urgent need for increased investment and action on federal lands to meet the agencies' forest management, policy, and multiple-use missions

NASF Desired Policy Reforms

Reforms that would deliver a more balanced set of social, environmental and economic benefits –

- Provide specific internal agency direction on planning rule implementation to emphasize a balanced delivery of social, environmental and economic benefits
- Provide specific internal agency direction on planning rule implementation to place greater emphasis on the need for National Forest Plans to address priorities identified in State Forest Action Plans
- Update the policy statements of key federal forest laws to establish:
 - that their purpose is to deliver and continuously improve upon the delivery of a balanced set of social, environmental and economic benefits;
 - that any subsequent language in any of these laws cannot be construed to suggest that any one set of benefits is more unilaterally important than the others;
 - that balance is considered achieved when the mix of social, environmental and economic benefits has been optimized at a landscape-scale:
 - Where the process of optimization recognizes
 - that each of the desired goods and services to be provided has a practical upper and lower limit,
 - that delivered goods and services have interdependent relationships that can be generally described (providing more of one may lower or increase the ability to provide another)
 - that the ultimate goal is to provide the maximum amount of all goods and services desired given these limits and relationships; and
 - that much of the information that can be applied to estimate a balanced set of optimized benefits is more subjective than quantifiable and therefor subject to value-based decisions
 - that when found to be delivering a balanced set of social, environmental and economic benefits, federal forest management plans and the actions that flow from them are considered in compliance with other relevant federal laws (ESA, NEPA, CWA)

This policy position was approved by the NASF Executive Committee on February 9, 2016 and expires on February 9, 2021 unless renewed, updated, or otherwise acted upon by the NASF Executive Committee or NASF membership.

- Pass new legislation that permanently funds a “payment in lieu of taxes” (PILT) program for local governments based on the property tax rates imposed on surrounding private forest land
- Embed community scale economic development more deeply in the objectives of National Forest plans.
- Monitor the application of the Good Neighbor Authority (GNA) as states and the USFS enter into GNA agreements and implement projects. Direct the USFS to complete periodic review of the application of the tool to identify areas for improvement.

Reforms that would lower costs of agency administration, planning, regulatory compliance and litigation –

- Implement NEPA in ways that are more productive; i.e., 1) utilizing landscape scale planning, or 2) developing desired condition documents with smaller scale projects meeting CE (categorical exclusion) requirements tiered to those documents, or 3) implement other strategies which produce more on-the-ground results.
- Ensure that the option to only use two project alternatives – “Action” and “No Action” in an Environmental Assessment (EA) is used effectively to create greater efficiency and better decision-making
- Amend ESA to allow the USFS and BLM to make Section 7 determinations
- Eliminate the concept of planning cycles and establish a process whereby plans and their implementation are continuously evaluated and revised
- Encourage interagency collaboration early and throughout project planning cycles
- Ensure that the implementation of Federal Advisory Committee Act (FACA) rules allow broad-based, active and collaborative participation by stakeholders and state agencies in the development of national forest plans
- Ensure that the process for administratively challenging USFS projects (currently the “objections” process) supports:
 - Clear standards for who can be at the table as the USFS considers altering challenged decisions, and that this can include:
 - Parties who challenge a decision
 - Parties who defend a decision, and
 - Collaborative groups if they submitted recommendations on the project adopted formally by the collaborative group
 - Limits on the scope of what can be challenged
 - Restrictions to the timeframe under which challenges can be presented and decisions made
- Ensure that the legal process for challenging agency decisions supports:
 - Limits to the scope of what can be heard in court,
 - Requiring that those who bring forward legal challenges are more financially responsible for the costs of litigation; and
 - Creating alternatives to judicial review that are less time consuming, costly and precedent setting
- Incentivize collaboratives and establish specified processes and formal mechanisms for project planning and judicial review for projects developed through a local collaborative.

This policy position was approved by the NASF Executive Committee on February 9, 2016 and expires on February 9, 2021 unless renewed, updated, or otherwise acted upon by the NASF Executive Committee or NASF membership.

This would include making them substantially more difficult to litigate given the good-faith effort on the part of diverse interests that goes into these projects

Reforms that would enable vegetation management to be carried out at a scope, scale and pace sufficient to create more sustainable and resilient landscape conditions –

- Install a funding mechanism and ensure adequate financial support for fire suppression activities, including through the use of emergency funds, such that other budget items will not have to be accessed to pay for shortages in suppression dollars
- Authorize greater involvement in federal forest management activities by state and local governments
- Fully utilize existing federal authorities to enter into long-term agreements in order to strengthen forest industries and assure sufficient supply to amortize new investment
- Encourage federal agencies to consult with the State Forester and document the results of State Forester consultation to coordinate an all-lands approach during all phases of forest management, fuels reduction, and land transfer plan development and implementation; this should include how federal forest management plans consider and respond to State Forest Action Plans
- Streamline all administrative processes in cases that would allow timely salvage of fire damaged trees and quick reforestation
 - Establish this function as a vegetation management priority
- Retain all earned revenue from forest management within the USFS and/or as payment to counties
- Simplify, clarify and realign current land-use allocations at a broad level to more appropriately meet project activities and priorities in defined areas.
- Expand the appropriate use of large-scale (15,000 acres +) Categorical Exclusions for:
 - Actions and activities agreed upon by local collaboratives,
 - Reducing wildfire risk,
 - Responding to insect and disease outbreaks; and
 - Addressing a shortage of early successional wildlife habitat and ensuring the creation and maintenance of a diverse range of habitat.

Senate Committee on Environment and Public Works
Hearing entitled, "S. _____, the Wildfire Prevention and Mitigation Act of 2017"
October 25, 2017
Questions for the Record for Mr. Bill Crapser

Chairman Barrasso:

1. Mr. Crapser, can you recall situations in Wyoming where wildfires or insects and disease spread to Wyoming state lands, private lands and communities because the Forest Service was unable to treat affected federal forest lands?

Yes. Scenarios as you mention are commonplace in forest management now across Wyoming and much of the west. Dense and over-stocked forests stands that have not have active management over the past few decades have become prone to both wildfire and insect epidemics.

- In the Black Hills of Wyoming, the Black Hills National Forest has a large interface with state and private landowners, both where it borders these lands on the periphery and as numerous private inholding throughout. The most recent mountain pine beetle epidemic had large impacts to these state and private landowners and resulted in the need for increased resources.
- On the Medicine Bow National Forest in southeast Wyoming, there has been a history of forest management from the early 1900's up until the early 90's when a number of forest policies were put in place that significantly limited the scope and scale of forest management activities. This reduction in management ability allowed the Medicine Bow National Forest to grow into an overstocked and unmanaged condition that set the stage for one of the largest bark beetle epidemics the forest has ever seen. Today the aftermath of the epidemic remains and is contributing to erratic fire behavior that has never before been seen on the forest.

2. Mr. Crapser, do you think the categorical exclusions in this draft bill would help your federal partners to improve management of high-risk acreages in federal forests in Wyoming?

Yes. While the National Environmental Policy Act (NEPA) is well intentioned, it typically requires extensive time and resources before a project can be implemented. Sometimes things get overlooked or are not considered during the planning process by a federal agency. Categorical Exclusions have the potential to help fill these gaps or provide a more appropriate review on smaller projects. Having larger categorical exclusions would provide a more comprehensive tool and allow agencies better flexibility to address conditions on the ground in a meaningful and timely manner.

3. Mr. Crapser, please describe the level of coordination you and your staff have with your federal partners? How often do federal agencies confer with you about fuels priorities and potential for cross-boundary opportunities? Are there ways to improve coordination between federal managers and you and your state staff?

At the Wyoming State Forestry Division, my staff communicates with federal partners almost regularly, often times on a daily basis. I feel we make good progress in our outreach efforts to actively engage with these partners, recognizing that each entity (federal and state) may have different strengths. When we are able to coordinate and look across-boundaries, it becomes evident that we can get more work done in a more efficient manner together, rather than working alone.

Coordinating with the numerous federal partners we have can be challenging though. Federal project planning and implementation needs to have coordination with good communication, but given the large turnover and detail or temporary positions in staffing these agencies have, it can be challenging or sometimes frustrating building and coordinating new relationships over and over.

Opportunities and tools that give State Forestry Agencies the ability to leverage existing resources that benefit our federal partners, allows the state agencies to be more relevant. Examples like the Good Neighbor Authority and Forest Action Plans are tools that require strong coordination but have the ability to pay dividends to both sides in progress and results.

4. Mr. Crapser, the 9th Circuit's *Cottonwood* decision requires the Forest Service and Bureau of Land Management to reinstate consultation as required under section 7 of the Endangered Species Act at the individual plan-level following the listing of a species or the designation of critical habitat. As the State Forester for Wyoming, you are responsible for forest management and protection throughout the state on all lands. How would you foresee such a consultation requirement impacting forest management in Wyoming and across the United States?

While the decision wouldn't directly affect State or private lands, I'm very concerned about the potential effects on federal forest management. The effects would be proportional to the number of listing or critical habitat decisions by the US Fish and Wildlife Service (USFWS) for species on federal lands. For each USFWS listing or critical habitat decision, the consultation process would take an estimated 6 to 12 months, including both Forest Service and BLM time to prepare a Biological Assessment and USFWS time to prepare a Biological Opinion. This would create a significant additional workload for the Forest Service and BLM and would divert staff from ongoing project environmental analyses, would delay project decisions, would delay implementation of forest management projects, and would significantly affect forest products companies that rely on the Forest Service or BLM for their timber supply. This would also create a significant additional workload for the USFWS and would divert staff from species recovery projects or project consultation, including forest management projects.

5. Mr. Crapser, in your written testimony you mention forest action plans. What role should forest action plans play in making decisions on federal lands in the future?

Forest Action Plans are an important document produced by each state with input and feedback from our federal and local partners. I believe Forest Action Plans can act as a larger, state-wide view towards focusing management efforts where they are needed. While a National Forest or BLM District may only focus on a specific forest or area of the state, Forest Action Plans can help link management efforts across boundaries and produce a coordinated management response.

Senator BARRASSO. Thank you, Mr. Crapser.
Mr. Moretti.

**STATEMENT OF MILES MORETTI, PRESIDENT/CEO,
MULE DEER FOUNDATION**

Mr. MORETTI. Thank you, Chairman Barrasso and Ranking Member Carper and members of the Committee. My name is Miles Moretti. I am the President and CEO of the Mule Deer Foundation. We are the premier wildlife conservation group working on mule deer, black-tailed deer, and their habitat. I also am a proud professional member of the Boone and Crockett Club, and have served as a past Chair and current Board Member of the Intermountain West Joint Venture.

I appreciate the opportunity to testify today in support of the draft Wildfire Prevention and Mitigation Act of 2017. The draft legislation is an important step toward the enactment of bipartisan solutions to address a national forest health crisis which addresses the threat of catastrophic wildland fires in a manner that yields significant benefits for wildlife populations and their habitat.

In particular, the Foundation appreciates the inclusion of the Sage Grouse and Mule Deer Habitat Conservation and Restoration Bill, which was coauthored by the senior Senator from the State of Utah—Senator Hatch—and Senator Heinrich, in cooperation with sportsmen’s conservation organizations, the private sector, and other stakeholders.

And I would like to say that when we put this bill together with Senator Hatch and Senator Heinrich, and we had groups like Boone and Crockett, National Wildlife Federation, and the American Petroleum Institute all give quotes in a press release, I had people call me and say, I don’t know what is in your bill, but if you can get all those people to help sponsor this bill and support this bill, I am for it.

So, with that, in order to achieve our mission, the Foundation works with a diverse cross-section of Federal and State government partners, nonprofit conservation organizations, and the private sector, particularly the oil and gas industry, to undertake projects to create, restore, and protect sage habitat.

While the motivation for engaging in these projects may differ across these partnerships, the model of working together to achieve our shared goal of reversing declining trends in the populations of sage dependent species has proven successful time and again.

A primary impediment to replicating the successful collaborative model is the onerous and unnecessary and duplicative requirements of a full National Environmental Policy Act review of projects that would be better allowed to proceed under a categorical exclusion.

While we have moved forward on many projects in the West, we have three projects that are being held up by the lack of NEPA being conducted by BLM. In my experience, time delays resulting from current NEPA requirements stem not only from a lack of human and financial resources, but from the fact that a full NEPA review, when applied to projects for which NEPA was intended to apply, are inherently time consuming. We are not asking to pass this bill to circumvent the process, but to expedite the process on

projects using proven practices that we know will have net conservation benefits.

My ask of you today is that you help us restore our forests and rangelands to a healthy condition by giving us the tools and flexibility to accomplish that tool, and we believe that whatever form that takes, we need action now. There is just so many wildfires in the West, and they are becoming such catastrophic events that we need to get proactive. The hands off approach has not worked. We need a hands on approach to working with our partners in restoring healthy forests and rangelands.

Thank you for your time and allowing me to testify before you today. I look forward to answering any questions you may have.

[The prepared statement of Mr. Moretti follows:]



Miles Moretti
President/CEO
Mule Deer Foundation

Miles Moretti became President/CEO of the Mule Deer Foundation in October 2006. MDF's president serves as chief executive officer and is charged with implementing policies and programs of the Foundation for the benefit of mule deer and black-tailed deer. Since, Miles has been in the position of President/CEO, MDF has become one of the fastest growing wildlife conservation groups in the United States.

Previously, Miles worked 30 years for the Utah Division of Wildlife Resources in various positions. When he retired, Miles was the Deputy Director and had served as Acting Director of the agency.

Miles has extensive experience in working with a diverse array of conservation groups, sportsman, industry and private landowners on many difficult wildlife issues. Miles career has been one of believing in working collaboratively.

Miles has served on several national committees and is currently on the Wildlife Hunting Heritage Council. Miles is past Board Chairman of Intermountain West Joint Venture. Miles is past Chairman of the American Wildlife Conservation Partners (AWCP). Miles is a current Board member of the North American Grouse Partnership. Miles is a member of the Theodore Roosevelt Conservation Partnership's Policy Council and past board member of California Outdoor Heritage Council. Miles has also served as a member of the Pacific Flyway Council and served as chair. Miles has served as a member and chair of the Colorado Fish & Wildlife Council. Miles served on the Association of Fish & Wildlife Agencies Federal Budget & Legislative committee as its Vice-Chair for several years.

Miles is a Life Member of the Mule Deer Foundation and a Life Member of NRA, a member of the Wildlife Society, a professional member of the Boone & Crockett Club and a member of the National Wild Turkey Federation.

Miles is also a published author, recently writing a chapter for Boone & Crockett's book "A Retrospective of Mule Deer". Miles also writes articles for MDF, the member magazine for the Mule Deer Foundation.

Miles grew up in Southwest Wyoming and developed a passion for hunting, fishing and wildlife at an early age. This passion for wildlife led Miles to a career in Wildlife Management.

Miles has a B.S. in Wildlife Management from Utah State University and an M.S. in Range/Wildlife Resources from Brigham Young University. Miles and his wife, Julie, have two daughters and reside in North Salt Lake City, Utah.

Testimony for the Record of

**Miles Moretti
President and CEO
Mule Deer Foundation**

Before the

**Committee on Environment and Public Works
United States Senate**

Regarding

Committee Draft of the Wildfire Prevention and Mitigation Act of 2017

October 25, 2017

Dear Chairman Barrasso and Ranking Member Carper and Members of the Committee:

My name is Miles Moretti, and I am the President and CEO of the Mule Deer Foundation (MDF), the only wildlife conservation organization dedicated to ensuring the conservation of mule deer, black-tailed deer and their habitat. I appreciate the opportunity to testify today in support of the draft *Wildfire Prevention and Mitigation Act of 2017* (WPMA). The WPMA seeks to address the existing forest health crisis on National Forest System land, and expedite and prioritize forest management activities to achieve wildlife habitat and ecosystem restoration objectives. In particular, MDF appreciates the inclusion of Title II and its provisions on Sage Grouse and Mule Deer Habitat Conservation and Restoration on Public Lands administered by the Bureau of Land Management.

I have served as the President and CEO of MDF since October 2006 and in that time MDF has been one of the fastest growing wildlife conservation groups in the United States. I am also a professional member of the Boone and Crockett Club. Founded by Theodore Roosevelt, the Boone and Crockett Club is America's founding sportsmen-conservation organization and I am proud to offer the Club's shared support of the important legislation being considered here today. Finally, I am also the past chair and a current Board Member of the Intermountain West Joint Venture. The Mule Deer Foundation is an active partner on many of the Joint Venture's Sage Habitat Initiative which unites a diverse cross section of partners from federal and state government agencies, non-profit organizations and industry behind a shared goal of achieving healthy populations of sage grouse and sage dependent species through on the ground projects.

Previously, I served thirty years for the Utah Division of Wildlife Resources, retiring as Deputy Director. Additionally, I have served on several committees such as the California Outdoor Heritage Alliance, Pacific Flyway, the Colorado Fish & Wildlife Council, and the Association of Fish & Wildlife Agencies Federal Budget & Legislative Committee. While I currently reside in Utah, I am a native of the Chairman's great state of Wyoming. I have a B.S. in Wildlife Management from Utah State University and an M.S. in Range/Wildlife Resources from Brigham Young University.

I've been involved in forest health, wildlife and land management projects and related policy efforts my entire career, and I can say without question that I have never seen a time when bipartisan and bicameral collaboration to enact natural

resources legislation was more urgently needed than the draft bill the Committee is considering here today. I state this conclusion for the following reasons:

The devastation resulting from catastrophic wildfires still burning in California and other states is making it clear to all Americans that “forest health” policy has far reaching impacts beyond just wildlife habitat, the forest products industry and outdoor recreation. Addressing the health of our forests is also vital to the very existence of countless businesses that drive local and regional economies, the protection of homes and, most importantly, addressing threats to human health and safety.

Forest Management

MDF supports the adoption of policy changes proposed in this draft legislation that seek to remove unnecessary impediments to deploying the active management practices needed to improve the health of our forests while also ending the vicious cycle that continues to erode funding available for forest health projects as a result of “fire borrowing.” Together, these bipartisan provisions will improve forest health, save lives, protect communities, enhance fish and wildlife habitat and improve the rural economy.

MDF is also encouraged that the draft bill focuses on wildlife habitat benefits and other ecological results. We support providing federal land management agencies tools to accelerate the pace of restoration projects by improving the efficiency of environmental review processes, such as action/no action alternatives for collaborative projects, a minor fix to the highly-regarded Good Neighbor Authority, and improvements to restoration-based categorical exclusions.

Additionally, MDF supports meaningful litigation reforms that ensure that the time, money, and effort expended in the courts is focused on substantial issues and informed by substantial evidence. Today the courts can be used to delay projects in protest utilizing claims later to be found inconsequential. We support provisions that will take steps on this issue.

Title II—Sage Grouse and Mule Deer Habitat Conservation and Restoration

MDF strongly supports Title II of the Wildfire Prevention and Mitigation Act on Sage-Grouse and Mule Deer Habitat Conservation and Restoration. This Title will allow conservation partners to move quickly on landscape habitat restoration projects that have a tremendous benefits for reversing declines in the populations

of mule deer, sage-grouse and other species dependent on sagebrush rangelands. MDF greatly appreciates Senator Hatch and Senator Heinrich for working together and with a broad cross section of stakeholders including sportsmen conservation organizations and the oil and gas industry to craft this important provision which has also been introduced as stand-alone legislation.

According to the Fish and Wildlife Service, Piñon and Juniper forests have been encroaching on key sagebrush habitat at a rapid rate. This invasion erodes and fragments sagebrush habitat and provides artificial roosting and nesting sites for sage-grouse predators. Wildlife managers in the West have long worked to convert Piñon and Juniper stands to sagebrush because doing so increases forage and soil water availability, which benefits big game populations, particularly mule deer.

Sage-grouse and mule deer populations are suffering from the encroachment of invasive Piñon and Juniper trees into their primary habitat. To help safeguard and reinvigorate sagebrush habitats, we need to cut down the lengthy, cumbersome review process for vegetation management projects that use proven practices to restore sage habitat through Piñon and Juniper removal. This draft legislation would allow the Bureau of Land Management, wildlife organizations and the private sector to more effectively partner together to restore sagebrush habitat as a means to ensure healthy populations of these iconic Western species into the future.

Thank you again for the opportunity to testify today. The Mule Deer Foundation greatly appreciates the Committee for working together to craft this important legislation and we look forward to working with you to move the bill through the Senate.

Background

Mule Deer Foundation

Since 1988, MDF has been dedicated to restoring, improving and protecting mule deer habitat (including land and easement acquisitions) resulting in self-sustaining, healthy, free ranging and huntable deer populations. The Mule Deer Foundation is the only conservation group in North America dedicated to restoring, improving and protecting mule deer and black-tailed deer and their habitat, with a focus on science and program efficiency. MDF is a strong voice for hunters in access, wildlife management and conservation policy issues. MDF acknowledges regulated hunting as a viable management component and is committed to

recruitment and retention of youth into the shooting sports and conservation. We encourage and support responsible wildlife management with government agencies, private organizations and landowners and encourages responsible and ethical behavior and awareness of issues among those whose actions affect mule deer.

Boone and Crockett Club

As the oldest wildlife conservation organization in North America, it is the mission of the Boone and Crockett Club to promote the conservation and management of wildlife, especially big game, and its habitat, to preserve and encourage hunting and to maintain the highest ethical standards of fair chase and sportsmanship in North America. Founded in 1887 by Theodore Roosevelt and George Bird Grinnell, the Boone and Crockett Club was the champion of the earliest science-based wildlife management efforts and legislation and the first legislations funding wildlife conservation, including the Wildlife Restoration Act (Pittman-Robertson), and the Federal Duck Stamp Act. The Club was also an initiator and champion of the first National Parks, including Yellowstone, Glacier, Denali, and Grand Canyon as well as the first legislation for wildlife, including the Timberland Reserve Bill, Yellowstone Protection Act, Lacey Act, Migratory Bird Treaty Act, and Alaskan Game Laws

Intermountain West Joint Venture (IWJV)

As the largest of the U.S. Habitat Joint Ventures, the IWJV was established in 1994 to catalyze bird habitat conservation through the collaborative power of diverse public-private partnerships. My fellow Board members and I share a common passion for bird and other wildlife habitat, as well as a strong desire to nurture and grow partnerships with other entities in order to accomplish significant and meaningful conservation work in the Intermountain West.

The IWJV operates across all or parts of 11 western states and encompasses some of the most diverse and intact landscapes in the West. Important habitats in this region include wetlands, sagebrush-steppe, cottonwood-lined riparian galleries, grasslands, aspen woodlands, and Ponderosa pine woodlands and savannahs.

Senate Committee on Environment and Public Works
Hearing entitled, “S. _____, the Wildfire Prevention and Mitigation Act of 2017”
October 25, 2017
Questions for the Record for Mr. Miles Moretti

Chairman Barrasso:

1. Mr. Moretti, according to your foundation’s website, the greatest single factor in the declining mule deer population is “loss and degradation of habitat.” Can you explain the role junipers and pinon pines play when it comes to the destruction of mule deer habitat? What has been the overall impact on the species?

Answer:

Thank you Chairman Barrasso for your question. The number one reason for the decline of Mule Deer in the West is loss of habitat. Mule Deer depend on Sagebrush habitat in the winter months. Throughout the West due to a variety of causes we have lost millions of acres of Sagebrush. One major factor in this loss is with the invasion of Pinyon-Juniper into the Sagebrush habitat. PJ is a very aggressive invader species and will quickly choke out the Sagebrush and other desirable plants basically leaving a PJ Forest with little or no nutritional value to Mule Deer, Sage Grouse, Livestock and other wildlife. As a result, many wildlife species do not have enough food to carry them through the long cold winters.

Pinyon-Juniper also depletes the water table as they mature and invade other habitat types. This results in a very xeric environment where nothing else can grow or be reestablished. Today, many mule deer herds in the West are near their historic low in numbers. With aggressive programs like; State Wildlife Mule Deer Initiatives, Federal Healthy Rangeland programs, the NRCS’s Sage Grouse Initiative working with the Mule Deer Foundation’s Stewardship Habitat program great progress is being made.

Senator BARRASSO. Thank you very much for your testimony, Mr. Moretti.

Mr. Kruse.

**STATEMENT OF DYLAN KRUSE, POLICY DIRECTOR,
SUSTAINABLE NORTHWEST**

Mr. KRUSE. Chairman Barrasso, Ranking Member Carper, members of the Committee, thank you for the opportunity to testify. My name is Dylan Kruse, and I am the Policy Director at Sustainable Northwest. We are a regional nonprofit located in Portland, Oregon, developing solutions to natural resource challenges that maintain working lands and promote environmental stewardship. I appreciate the chance to speak with you all today, as the subject matter could not be more urgent.

Sustainable Northwest is a strong supporter of active forest management that sustains ecosystem resiliency, supports natural resource livelihoods, and protects life and property. Unfortunately, the Wildfire Prevention and Mitigation Act will do little to address the underlying challenges affecting the health of our Federal forests, and omits critical opportunities to address the rising costs and threats of wildfire.

We are troubled by proposals that shortcut environmental laws, create bureaucracy, and introduce unnecessary authorities likely to cause increased tension in land management planning and decisionmaking.

Regarding Title I of the bill, we recognize the need for a legislative fix to conflicting court decisions about consultation with the Fish and Wildlife Service. We commend the Committee for swift resolution on this matter, but urge you to work with interested parties to improve the legislation based on two principles: that forest restoration projects should be permitted to proceed in a timely fashion, and that we should not diminish the integrity of the Endangered Species Act.

We are particularly troubled by Title III of the bill. Section 311, on Environmental Assessments. Discretion and timely decisionmaking are imperative in the production of any environmental review, and we expect agencies to exercise prudence to satisfy sufficiency. However, the Forest Service should retain independent decisionmaking authority that relies on its technical and scientific expertise when selecting the appropriate criteria and level of detail to be incorporated into analysis.

In Section 314, on an Alternative Dispute Process, introducing a binding arbitration process with agencies and restricting the ability of the public to file legal challenges undermines essential tenets of our democratic process. We appreciate the intent to reduce litigation and expedite legal resolution, but have not seen evidence proving that arbitration will result in a different outcome than judicial review. It also prohibits case law for future precedent and is vague on expectations and qualifications for arbitrators.

And Section 332 to 336 on Categorical Exclusions, we agree that there is a pressing need to increase the pace and scale of restoration, but the Forest Service already has at least 25 internal categorical exclusions, as well as 5 additional authorities in statute. CEs and streamlined options already exist for insect and disease

treatments, hazardous fuels reduction, protection of water sources, and salvage logging. This is not to say that review of NEPA is not warranted.

We are pleased to note that the Forest Service experts are already reviewing environmental authorities and opportunities for efficiency. We urge the Committee to let the agency complete this process and propose new approaches based on data driven analysis.

So, as far as alternatives for success, in contrast to the broad reforms in the proposed legislation, we suggest a more targeted approach that addresses the causes of extreme wildfire, reforms budgets, and utilizes existing authorities.

First of all, we must fix fire funding. Unlike other natural disasters, the Forest Service and Department of Interior are required to pay for wildfire response out of their annual budgets and transfer funds when they exceed their allocation. More than 50 percent of the Forest Service budget is consumed by wildfire suppression. By 2021 it will be 67 percent. We must address this now.

We need to seek a comprehensive solution. Alternative bipartisan proposals such as the Wildland Fires Act of 2017 more effectively address the causes of wildfire and provide resources to prepare for and prevent future wildfires. This includes funding to at risk communities, investment in forest products infrastructure and work force, and incentives for cost savings to complete restoration.

We need to use the tools we already have. The 2014 Farm Bill authorized stewardship contracting, Good Neighbor Authority, insect and disease designations, and designation by prescription and description in timber sales. These tools have been embraced by partners, as you have heard, but have just recently been adopted.

We need to support collaboration. Oregon and Washington are home to 33 forest collaboratives. A recent academic review of the Collaborative Forest Landscape Restoration Program showed that 75 percent of respondents said the program resulted in decreased conflict, and 61 percent had seen decreased litigation. Federal agencies should adopt collaborative recommendations to the maximum extent possible.

We need to get ahead of the problem. We continue to take a reactive approach to wildfire, instead of proactively addressing its causes. In Oregon and Washington alone, there are over 2 million acres of forests that have already completed NEPA but have yet to be carried out due to funding. These projects will reduce fuel loads, improve forest health, and allow fire to return in a controlled and beneficial way. But Congress must be willing to pay for them.

And thus we must invest accordingly. Landscape restoration will only be implemented with appropriate investment from Congress. This includes funding for collaborative initiatives and programs that cut across ownership boundaries, leverage resources, and achieve integrated outcomes. However, funding levels in President Trump's fiscal year 2018 budget propose a dire and austere vision for our Federal lands and rural communities. Instead, we should sustain land management agency funding levels as included in the fiscal year 2017 appropriations bill.

In closing, with these conditions in place, significant gains could be made to improve the health of our landscapes, create natural resource jobs, and secure the safety of rural and urban communities.

Thank you.

[The prepared statement of Mr. Kruse follows:]



Dylan Kruse
Policy Director
Sustainable Northwest

Dylan is responsible for state and federal legislative activity and agency engagement, and represents the organization's broad market and public policy priorities. He is also coordinator of the Western Juniper Alliance, a 50 member partnership to accomplish rangeland restoration, produce sustainable wood products, and create jobs in juniper supply and market chains along the West Coast. In addition, he is the organization's bioenergy lead, and works on wood biomass utilization and energy projects across the Northwest. Dylan is co-chair of the Oregon Forest Biomass Working Group, is on the board of the Biomass Thermal Energy Council, and holds a seat on the steering committee of the National Rural Assembly. Before joining Sustainable Northwest, he attended Lewis & Clark College in Portland, OR and received a B.A. in International Affairs. His work at Sustainable Northwest has linked his diverse interests of resource management, conservation, renewable energy production and economic development.

**Testimony of Dylan Kruse, Policy Director, Sustainable Northwest
U.S. Senate Committee on Environment and Public Works
Hearing on the Wildfire Prevention and Mitigation Act of 2017
October 25, 2017**

Chairman Barrasso, Ranking Member Carper, members of the committee, thank you for the opportunity to testify today. My name is Dylan Kruse, and I am the Policy Director at Sustainable Northwest, as well as a member of the leadership team of the Rural Voices for Conservation Coalition. Sustainable Northwest is a regional non-profit located in Portland, Oregon working on forest, range, energy, and water-related initiatives to resolve conflict and maintain healthy working landscapes that are good for community and economic well-being. The Rural Voices for Conservation Coalition is a West-wide network of practitioners committed to collaborative, equitable, long-lasting solutions to natural resource challenges that are grounded in people and place. Both organizations are committed to enhancing the quality of life in rural communities and the continuation of a natural resource-based economy in the West.

I appreciate the opportunity to speak with you all today about wildfire, forest management, and ecosystem restoration, as the subject matter could not be more relevant or urgent. Nearly nine million acres have burned on federal lands in 2017. Ash and smoke have made air quality unsafe across the West. Almost \$3 billion in taxpayer dollars have been spent on fire suppression this year -- a historical record. And the tragic loss of life and homes in California reminds us again what's at stake. This shift to more severe and expensive fire seasons has been called the new normal, and that is a terrifying prospect. It is indeed time for action.

Sustainable Northwest is a strong supporter of active management and wildfire risk reduction that sustains ecosystem resiliency, supports natural resource livelihoods, and protects human life and property. We were instrumental in the creation of some of the nation's first forest collaboratives, and proudly continue our work today to develop solutions to natural resource challenges that maintain working lands and promote responsible environmental stewardship.

Unfortunately, the concepts proposed in the Wildfire Prevention and Mitigation Act will do little to address the underlying challenges affecting the health of our federal forestlands, and omit critical opportunities to address the rising costs of wildfire management and threats to communities. We are troubled by proposals that short cut environmental laws, create additional levels of bureaucracy, and introduce unnecessary and redundant new authorities that are likely to cause increased tension and threats of litigation in land management planning and decision-making.

Areas of Concern

First and foremost, we recommend considering the three titles in the bill independently, as they address disparate issues, and any bipartisan and productive solutions that they may contain are compromised in an otherwise controversial package.

Regarding Title I of the bill, we recognize the need for a legislative solution to conflicting court decisions about consultation with the U.S. Fish and Wildlife Service under the Endangered Species Act at the programmatic level following the listing of a new species or designation of new critical habitat. We commend the committee for prompting a swift resolution to this matter, but believe the title can be improved from its present form. We urge the Committee to work with interested parties to improve the legislation based on two principles: 1) That forest restoration projects should be permitted to proceed in

a timely manner, and; 2) That we should not diminish the integrity of the Endangered Species Act. We believe that it is possible to retain the agency's obligation to reinitiate consultation, but not allow for projects to be enjoined while consultation is being completed. Plan level consultations have been demonstrated to have both conservation and efficiency benefits, but agencies should not be required to conduct them when they are unnecessary or redundant.

We are particularly troubled by the following provisions in Title III of the bill:

- **Section 311. Environmental Assessments:** Discretion and timely decision-making are imperative in the production of any environmental review, and we expect federal agencies to exercise prudence and responsibility in the deployment of staff and financial resources. However, we believe the Forest Service should retain independent decision-making authority that relies on its technical and scientific expertise when selecting the appropriate criteria and level of detail to be incorporated into an analysis. Elimination of the ability to conduct Environmental Impact Statements and examine a range of alternatives when it may be warranted is particularly concerning. A greater emphasis on efficiency and satisfying minimum thresholds of sufficiency are encouraged in preparation of environmental reviews, but arbitrary page limits and deadlines for document production are unnecessary.
- **Section 313. Stewardship End Result Contracting Projects:** Changes in this section would undermine the fundamental purpose, intent, and benefits of stewardship contracting authority, and propose a revenue sharing model that will provide little to no financial benefit to the majority of the nation's rural counties. A recent analysis showed that sharing 25% of retained receipts with counties would generate just \$4.3 million nationwide, while resulting in less partner match, fewer management outcomes, and reduced direct investment in service work and jobs in forest and watershed restorationⁱ. Rural public lands counties need a permanent and sufficient funding solution to resolve their fiscal needs, and this proposal provides minimal relief.
- **Section 314. Pilot Alternative Dispute Process:** Introducing a binding arbitration process with agencies and restricting the ability of the public to file formal legal challenges undermines long-standing and essential tenets of our democratic process. While we appreciate the intent to reduce the threat of litigation and expedite legal resolution, we have yet to see meaningful evidence to suggest that arbitration will result in an outcome different or more efficient than existing judicial review. Furthermore, the prevalence and impact of litigation is often exaggerated. A recent Government Accountability Report showed that only two percent of fuel reduction projects from 2006 - 2008 were litigated, affecting approximately one percent of acres proposed for management.ⁱⁱ Litigation and threat of a challenge to a forest management project is extremely frustrating for many partners, but it should not serve as justification to alter core judicial principles.
- **Section 332 – 336. Categorical Exclusions:** While we agree there is a pressing need to increase the pace, scale, and quality of federal forest restoration, the federal land management agencies already have extensive tools and authorities to complete necessary management objectives. This is certainly not for a lack of streamlined review mechanisms. The Forest Service handbook lists at least 25 existing categorical exclusions, as well as five additional authorities provided in statuteⁱⁱⁱ. Despite the range of exclusions already available to agencies, they are used sparingly due to the need for more detailed analyses, an appropriate focus on larger landscape scale

planning, and increased threats of legal scrutiny and challenges. Proposed Categorical Exclusions in the bill could also be considered redundant. Categorical Exclusions already exist for insect and disease infestation treatments of up to 3,000 acres in the 2014 Farm Bill. Reduction of hazardous fuels and protection of municipal water sources is addressed in the Healthy Forests Restoration Act of 2004. Finally, the Forest Service already has a Categorical Exclusion for salvage logging of up to 250 acres.

This is not to say that periodic review of management tools and opportunities to improve the efficiency of the NEPA process is not warranted. We are pleased to note that Forest Service NEPA experts have already initiated a comprehensive review of existing environmental review authorities, opportunities for increased efficiency, and recommendations for additional management tools that will eliminate burdensome review and expedite the NEPA process. Our recommendation is to let agency experts complete this procedure and propose new categorical exclusions and NEPA efficiencies based on experience and data driven analysis.

More planning work is needed to address the extent of our management needs, but it is also worth noting that we are failing to fully implement projects that have already completed the NEPA process. As a result, there is a massive backlog of fuels reduction and forest health improvement actions that are cleared for implementation, but have yet to be carried out due to inadequate funding. It is imperative that we focus our attention on using the extensive options already available, and implement projects that are currently sitting on the shelf.

Alternatives for Success

In contrast to the broad reform concepts in the proposed legislation, we suggest a more targeted approach that directly addresses the causes of extreme wildfire, budgets and incentives, and bipartisan solutions to restore the health and resilience of our federal forests. This can be done by more effectively utilizing existing Congressional authorities, embracing the concept of shared stewardship, supporting local knowledge and innovation, and providing adequate investment in the agencies that are tasked with management and protection of our federal lands. I would propose to the committee that we already have the tools needed to address these challenges, and that we must support implementation with a corresponding investment to get the work done. We offer the following recommendations for consideration by the Committee as it continues to debate these issues.

Fix the fire funding problem

The most urgent and immediate opportunity for Congress is to change the way we fund wildfire suppression. This dilemma has been examined at length for several years, but it bears repeating, as a solution is needed more urgently than ever. Unlike other natural disasters, the Forest Service and Department of Interior are required to plan and pay for wildfire response out of their annual budgets. But longer fire seasons, increased development in the wildland-urban interface, and millions of forest acres with saturated fuel loads are leading to skyrocketing costs of wildfire response. In recent years, more than 50 percent of the Forest Service budget has been consumed by wildfire suppression, and by 2025, it could be upwards of 67 percent^{iv}. To make matters worse, in bad years like 2017 when the agencies exceed their annual allocation, they are forced to borrow from other programs to cover costs. This includes some of the very programs that help restore forests and make them resilient to future wildfires. This is a counterproductive and outdated mechanism that needs to be changed immediately. Unfortunately, the Wildfire Prevention and Mitigation Act of 2017 fails to address this core deficiency.

Seek a comprehensive solution

Alternative bipartisan proposals, such as the recently introduced Wildland Fires Act of 2017, more effectively address the causes and effects of extreme wildfire, and provide corresponding resources to prepare for and prevent future costly wildfires. This includes funding to at-risk communities to plan and prepare for wildfires, investment in forest products infrastructure and workforce to complete land management, and incentives for cost savings and authorization of surplus funds to complete additional restoration and wildfire risk reduction.

Use the tools we already have

There is no shortage of policies, authorities, and tools that facilitate working in partnership across ownership boundaries. The 2014 Farm Bill permanently authorized the Stewardship Contracting Authority, Good Neighbor Authority, state insect and disease designations with an accompanying Categorical Exclusion, and designation by description and designation by prescription in timber sales. These tools have been readily embraced by federal, state, and non-governmental partners, but have just recently been adopted and have ample room for expansion.

For example, over 30 states have signed Master Stewardship Agreements to utilize Good Neighbor Authority, but nearly all of them were executed in just the past two years. Furthermore, 57 million acres of National Forest System lands have been designated as at risk for insect and disease infestations under the 2014 Farm Bill authority, and are permitted to use a Categorical Exclusion to treat up to 3,000 acres of a landscape. As of January 2017, 74 projects have already been proposed, and 63 are using the Categorical Exclusion.

The takeaway is that there is significant room for creativity, flexibility, and innovation within existing policies, programs, and authorities to unlock efficiencies and improved outcomes. Rather than rushing towards further policy reform, it is best to first use the tools we have, develop a track record of performance, and then make amendments as necessary.

Support collaboration and shared stewardship

The past decade has seen a demonstrable shift in federal agencies' embrace of collaboration in the project planning and decision-making process. Today, Oregon and Washington are home to 33 forest collaboratives, including at least one group on each of the region's 17 national forests. This philosophy has expanded to rangelands, culminating in comprehensive partnerships between landowners, local, state and federal governments, and non-governmental organizations addressing issues like Sage Grouse conservation.

We have ample evidence that collaboration is working across the West. For example, in eastern Oregon's dry forest ecosystems, 63% of acres with signed Forest Service NEPA decisions in the past five years have incorporated input from local collaborative groups. Since 2009, the average NEPA decision area with collaborative involvement is 24,000 acres, and just 10,000 acres without collaborative involvement. Collaboration has also contributed to a 45% increase in the annual average of acres with signed NEPA decisions between 2012 and 2015 compared to 2009 – 2011.

This success is not limited to Oregon. The Collaborative Forest Landscape Restoration Program showcases national examples of how collaborative, landscape scale restoration produces diverse and outsized results for its level of investment. The acreage across the 23 CFLRP landscapes represents roughly 11% of total National Forest System lands not in wilderness or roadless area designation. However, in 2016, these acres provided 20% of the Forest Service's hazardous fuels reductions accomplishments, 15% of the timber volume sold, 16% of the terrestrial habitat enhanced, and 30% of

the forest vegetation improved. A recent academic review of internal and external CFLRP partners showed that 75% of respondents said the program resulted in decreased conflict, 61% said they had seen decreased litigation, and 27% said they had found ways to make consultation under the Endangered Species Act more efficient.

As we seek to increase the pace and scale of restoration, federal agencies should adopt collaborative recommendations to the maximum extent possible, especially when consensus can be attained. State – federal partnerships also require agencies to move beyond bureaucratic constraints and seek creative solutions for enhanced outcomes. This means fostering a culture where agency staff are empowered to take risks and are rewarded for behavior that results in innovation, efficiency, and enhanced results.

Get ahead of the problem

We have an opportunity and obligation in the West to reduce the impact of future events. For too long Congress has fallen back on a reactive approach to uncharacteristic wildfire instead of proactively addressing the causes. In Oregon and Washington alone, there are over 2 million acres of forestland that have already received environmental review and approval for restoration, but have yet to be carried out due to inadequate funding^v. These projects will reduce fuel loads, improve forest and watershed health, and allow fire to return in a way that can be controlled and as a benefit to the land. But doing so would require \$350 million distributed over several appropriations cycles^{vi}. We have shovel ready work and landscape level solutions, but Congress must be willing to pay for them. Doing so will protect fire fighters and communities, put people to work in the woods, and decrease the massive costs of future wildfire suppression. It's time to stop playing catch up, and get ahead.

Invest accordingly

Implementation of the landscape level planning and collaborative agreements that have been facilitated in recent years is imperative, but will only be accomplished with appropriately scaled investment from Congress. This includes full funding for collaborative large landscape initiatives and programs that cut across ownership boundaries, leverage private resources, and achieve integrated outcomes. However, the suggested funding levels for the Department of Interior and Department of Agriculture in President Trump's FY 2018 budget propose a dire and unnecessarily austere vision for our federal lands and rural communities. If adopted, these funding levels would jeopardize the ability of state and federal agencies to implement commercial and restoration activities on public lands. Rather, we should sustain land management agency funding levels as included in the FY 2017 omnibus appropriations bill. In particular, this should include full funding for collaborative, all lands management programs, including the Collaborative Forest Landscape Restoration Program, continued investment in the Joint Chief's Restoration Partnership, and support for implementation of state Sage Grouse conservation plans.

Coupled with surge funding to address the backlog of forest restoration, infrastructure, and wildfire risk reduction needs, significant gains could be made in the next decade to improve the health of our federal landscapes, create good paying jobs in natural resource industries, and secure the safety and well-being of rural and urban communities across the West.

ⁱ <http://www.ruralvoicescoalition.org/issue-papers/#stewardship>

ⁱⁱ U.S. Government Accountability Office, "Information on Appeals, Objections, and Litigation Involving Fuel Reduction Activities, Fiscal Years 2006 through 2008," GAO-10-337, Report to Congressional

Requesters, March 2010), available at <http://www.gao.gov/assets/310/301415.pdf>

ⁱⁱⁱ https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3826583.pdf

^{iv} <https://www.fs.fed.us/sites/default/files/2015-Fire-Budget-Report.pdf>

^v Forest Service communication, October 2017

^{vi} Forest Service communication, October 2017

Senate Committee on Environment and Public Works
Hearing entitled “S. _____, the Wildfire Prevention and Mitigation Act of 2017”
October 25, 2017
Questions for the Record for Mr. Dylan Kruse

Ranking Member Carper:

1. *In your testimony, you recommended that the Forest Service better utilize existing tools for active forest management. Would you elaborate on which authorities you believe to be most underutilized and why? What can be done to encourage the Forest Service to fully utilize its existing authorities?*

In my opinion, the most underutilized authorities are those provided by the Healthy Forests Restoration Act (HFRA), which was passed with the intent of expediting fuels reduction and protecting communities and watersheds. HFRA provides NEPA streamlining tools (action/no action alternative analysis), a Categorical Exclusion for silvicultural assessment, as well as judicial review relief in the form of expedited timelines, shift in balance of harms analysis, and limited duration of injunctions. Many of the same tools and new authorities proposed in recent federal forest reform legislation are already authorized under HFRA. According to U.S. Forest Service data, the agency has used this authority just 215 times between 2011 and 2016. This was bipartisan and broadly supported legislation intended to be used significantly more by its sponsors and proponents.

The Forest Service may not be using certain authorities for a number of reasons. They could be perceived as controversial and likely to increase the threat of legal challenge. It is also possible that agencies simply choose to use alternative tools that are more suited for the scale of restoration need and to satisfy the recommended prescription. Because a CE is not used does not mean an action is not being conducted; it may simply be at a larger scale or with an alternative preferred outcome. This does not, however, guarantee that the most efficient decision is being made by the agency to implement the project, and is worth further examination.

In my opinion, it is more critical to inquire how the agency can accelerate its program of work, increase management activities, and capture efficiencies in planning and implementation. For that reason, we are pleased that the agency is already conducting an internal review of use of its authorities and planning processes. The intended result is a comprehensive, national approach to reforming agency culture, policies, and procedures for implementing laws and regulations with the realities of current and future on-the-ground resource objectives and public benefits by winter 2018/spring 2019. The outcome of this assessment will ideally lead to recommendations to encourage the Forest Service to more fully utilize its existing authorities, as appropriate.

2. *At our previous hearing about wildfires on September 27th, both members of this Committee and our witnesses expressed a strong interest in forest collaboratives. You mentioned in your testimony that Sustainable Northwest was instrumental in the creation of some of the nation's first forest collaboratives. Would you share with the Committee your perspective on why forest collaboratives are effective? What can Congress, federal agencies and industries do to help bolster national forest collaboratives?*

Collaboratives are instrumental in developing social license and agreement to increase the pace, scale, and quality of forest restoration in partnership with federal land management agencies. They are laboratories of innovation, implement new authorities, take risks with new techniques, and leverage financial and in-kind resources to contribute to land management planning and monitoring. By working with forest collaboratives, agencies can receive real time input on project planning, feedback on local stakeholder priorities, and establish zones of agreement and consensus on decision-making that can foster efficiencies and increased performance in future project development.

Opportunities for Congress: Congress can support forest and rangeland collaboratives by funding large landscape initiatives and programs that cut across ownership boundaries, leverage private resources, and achieve integrated outcomes. This includes programs like the Collaborative Forest Landscape Restoration Program, Joint Chiefs Initiative, and state Sage Grouse conservation plans.

A key point of emphasis is that implementation of the landscape level planning and collaborative agreements that have been facilitated in recent years will only be accomplished with appropriately scaled investment from Congress. However, the suggested funding levels for the Department of Interior and Department of Agriculture in President Trump's FY 2018 budget propose a dire and unnecessarily austere vision for our federal lands and rural communities. If adopted, these funding levels would jeopardize the ability of state and federal agencies to implement commercial and restoration activities on public lands. Rather, we recommend sustaining land management agency funding levels as included in the FY 2017 omnibus appropriations bill, adopting a comprehensive wildfire funding fix, and pursuing increased proactive investments to address the significant restoration backlog on the national forest system.

Opportunities for Agencies: The past decade has seen a demonstrable shift in federal agencies' embrace of collaboration in the project planning and decision-making process. As we seek to increase the pace and scale of restoration, federal agencies should adopt collaborative recommendations to the maximum extent possible, especially when consensus can be attained. State – federal partnerships also require agencies to move beyond bureaucratic constraints and seek creative solutions for enhanced outcomes. This means fostering a culture where agency staff are empowered and encouraged to take risks and are rewarded for behavior that results in innovation, efficiency, and enhanced results.

To support collaboration, we recommend timely and efficient completion of the U.S. Forest Service forest plan revision process. These plan revisions serve as the foundation and establish sideboards for project planning and collaborative engagement. We also recommend including regulatory agencies in the collaborative process as landscape scale projects are developed and proposed, as opposed to on the back-end of project design. Project planning should also incorporate adaptive management and monitoring components to sustain the trust of partners and build further zones of agreement.

3. *In your testimony, you suggested a targeted approach that directly addresses the causes of extreme wildfire. Would you provide the Committee with your perspective on those causes, and specifically why wildfires are becoming faster, more frequent, more intense and costlier?*

There is widespread consensus that climate change is a contributing factor to extreme wildfire seasons that we have been increasingly experiencing. Recent studies have shown that human-caused climate change has caused over half of the documented increases in fuel aridity since the 1970s and doubled the

cumulative forest fire area since 1984¹. These longer, hotter seasons and increased drought are now interacting with extensive fuel build up from 100 years of fire suppression to create more extreme wildfire events that are costlier and more dangerous to contain. Not only are we fighting fire longer each year, but the fires we are fighting are more complex and require more sophisticated containment strategies.

The other major factor leading to increased fire suppression costs is the significant increase in population living in the wildland urban interface (WUI). The percent of homes in the WUI increased by over five percent between 2000 and 2010. As of 2010, the WUI of the lower 48 states includes about 44 million houses, or one in every three houses in the country. The highest WUI concentrations are in California, Texas and Florida². Protecting life and property is the top priority for fire managers. Therefore, significantly more resources are deployed to ensure these outcomes across a rapidly increasing WUI geography. Preparedness and suppression costs increase accordingly.

4. *As your testimony mentions, the Forest Service now has explicit authority to use categorical exclusions to undertake forest management actions on up to 3,000 acres. I understand they have used this authority approximately 40 times, on average, for only about 1,000 acres. We heard testimony last month that the Forest Service has not fully utilized this authority. Why do you believe this is the case? The Wildfire Prevention and Mitigation Act of 2017 proposes increasing these categorical exclusions to 6,000 acres. Would you talk about the possible unintended consequences of implementing such a broad expansion, particularly before the Forest Service has fully implemented its existing authorities and before Congress has addressed the agency's funding needs?*

The Forest Service may not be using this authority to a greater extent for a number of reasons. First of all, its authorization was relatively recent, and also included a state-led landscape designation process before CEs were to be proposed and implemented. A learning curve and delays due to a required geographic designation process is not unexpected. It's also possible that CEs are simply the wrong tool for ecosystem need and the ecological prescription. CEs are intended to have no significant direct, indirect, or cumulative impacts. There is fairly widespread agreement that to address the scale of forest health need across the National Forest System, we should be implementing projects across tens or hundreds of thousands of acres that do indeed have significant impacts, albeit positive ones. For these landscape level challenges, it's often more appropriate to use tools like a programmatic Environmental Impact Statement and programs like the Collaborative Forest Landscape Restoration Program. Adequate agency funding and staffing to complete these analyses would do significantly more than small CEs to improve forest health and reduce wildfire risks. Rather than failing to use the authority, the agency may be choosing to use tools better suited for the job.

The unintended consequences of expanding this authority to 6,000 acres (and eliminating cumulative impacts analysis), is that we are pushing the tool well beyond its intended purposes and setting concerning precedent. Again, CEs are designed for projects that have no direct, indirect, or cumulative effects. However, it is extremely difficult to identify 6,000 acres where management actions wouldn't have such impacts. Management actions at that scale are essentially categorical exclusions in name only, and represent a fundamental departure from the expected environmental review process. Furthermore,

¹ B. Harvey, Proceedings of the National Academy of Sciences, Vol. 113, no. 42 (October 2016).

² <https://www.nrs.fs.fed.us/pubs/48642>

it is possible that major expansions of already controversial tools like CEs create a disincentive for collaboration. Many stakeholders, especially environmental organizations, participate in collaborative groups to pursue improved management outcomes within an agreed upon regulatory framework. The introduction of drastically expanded CEs without bipartisan support sends a top down message that these authorities are to be implemented more frequently and at problematic scales. This could be perceived as an attempt to change the “rules of the game” and potentially increase the likelihood of skepticism and tension in collaborative groups that have worked to build cooperation and trust.

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

I thank all of you for your testimony. We will now turn to some questions.

Mr. Crapser, how would this legislation before us today lead to increased programmatic efficiency and effectiveness in what you do?

Mr. CRAPSER. Mr. Chairman, I think any tools in the Forest Service's toolbox potentially help with their efficiency. If you look at the CE language, there has been some hesitancy on the agency's part to utilize some of the CEs under the current Farm Bill. I think the big thing that it does, it gives them more tools, it gives them more options when they look at any management concerns.

Senator BARRASSO. When we talk about tools, the Good Neighbor Authority can be an important tool that allows the Forest Service to work with States so they can perform watershed restoration, forest management services. Congress enacted two different Good Neighbor Authorities under the Department of Interior a couple of years ago. Do you see benefits in a single national Good Neighbor Authority as provided by this Wildfire Prevention and Mitigation Act?

Mr. CRAPSER. Mr. Chairman, yes, I do. I think any time we have conflicting authorities, even though they are relatively the same, it causes confusion. As I understand it, the current Authorities, one that was in the Appropriations Bill, will actually expire a year from now. I believe the other one is long term, the one that was in the Farm Bill. There are some issues with road construction and road reconstruction in the two. Having one that is consistent would be helpful for both States and for the Federal agencies.

Senator BARRASSO. Mr. Moretti, kind of a two part question about NEPA. Do you believe that the existing NEPA structure is sufficiently effective and flexible in terms of promoting effective forest management? And then the second part is why do you think it is necessary to have categorical exclusions, which we outline in this Wildfire Prevention and Mitigation Act of 2017, to help expedite the forest management projects?

Mr. MORETTI. Well, overall, the NEPA process as the law is good, but it has been interpreted so many different ways, and it is holding up our projects and has become so cumbersome. And what we are also finding is the agencies no longer have the budget and the manpower to deal with NEPA on these projects that we are working on that are projects that are probably going back into an area that had NEPA done on them over 20 years ago, 30 years ago.

We are doing maintenance in a lot of these areas. We are trying to reduce this invasion of pinyon-juniper that is coming in and invading sage habitat and mule deer habitat. So we believe that the categorical exclusions can help us expedite this process, get this going as you see what is going on in the West, whether it is on BLM land. People forget that over 2 million acres of sage grouse habitat burned up this year, and a lot of that was pinyon-juniper country that just burned into the sage habitat. So it is more that we need expedited, to have the flexibility to get out there and get these projects done.

Senator BARRASSO. It seems that environmental laws and regulations affecting forest management projects do play an important

role in protecting wildlife and habitat, but projects are often halted; not over compliance issues, but by litigation and appeals of the litigation. This Wildfire Prevention and Mitigation Act would establish a pilot arbitration process to conduct alternative dispute resolutions over forest management activities.

Do you see value in this legislation's arbitration provision in terms of solving some of the disputes that basically have an impact on the work that is trying to be done?

Mr. MORETTI. Well, I think anything that brings the parties to the table to work it out, and hopefully they would be able to work it out before there is a decision, so there isn't a winner and a loser. But believing that getting people face to face around a table and working things out, and finding those touchpoints that are causing the conflict. I think when reasonable people get together, they can make reasonable decisions.

Senator BARRASSO. And Mr. Crapser, the Wildfire Prevention Act makes several references to collaboration. Can you provide the Committee with maybe a couple of examples of collaboration in our State that have benefited Wyoming's natural resources? And as a State forester, how do you think of the term collaboration?

Mr. CRAPSER. Mr. Chairman, I think we have had some great successes on both recreation collaboratives and on forest management vegetative collaboratives across the State, in the Big Horns. In the western part of the State, on the Bridger-Teton we have an active collaborative working right now that I think will come up with some good solutions, some community based solutions.

I think collaboration, like a lot of buzz words, we love to throw the term collaboration around and collaboratives around, and I think a lot of times it requires us to just old fashion work together and roll up our sleeves and talk to one another to see what is the best for our forests.

Senator BARRASSO. Thank you.

Thank you all.

Senator Carper.

Senator CRAPSER. Let me just ask my Democratic colleagues, anybody on a tight timeline? If so, I will yield to you. Anybody? I see none. OK, good. In that case, I will take 15 minutes. Not really. All right, here we go.

My colleagues know one of the things I always search for when we have a hearing on an issue about which there is not unanimity is that I like to use a panel like you to help us find the common ground where it is missing.

Let me just ask this multi-part question, but first, ask each of you to briefly mention three things we talked about here today where you think there is agreement among the three of you. Three things. Important points.

Mr. Crapser.

Mr. CRAPSER. Listening to my colleagues on the panel, I would think we would be in agreement that collaboration and folks working together is a good thing; you can make better decisions. I think utilizing the Good Neighbor Authority and the Federal agencies working closer with the State, with the State Forest Action Plans, with the State Wildlife Plans, I think we would probably all be in agreement that that is a positive thing. And I think at the end of

the day the other thing we all would find in agreement, we probably all want what is best for the forests, for the wildlife, and for the folks that recreate and live around our forests.

Senator CARPER. All right. Thank you.

How do you pronounce your name, Miles?

Mr. MORETTI. Moretti.

Senator CARPER. Moretti. Thank you so much. Mr. Moretti.

Mr. MORETTI. Ranking Member Carper, I appreciate that question because I think we all agree that what we have done in the past has not worked, and that we are facing some extreme conditions that we have never faced before, and we need to be proactive and we need to be aggressive, and that is everything in funding, fixing those administrative barriers to getting the job done. And I think as my friend from Wyoming says, I think we can all agree that—bottom line—we want to see a healthy forest and healthy rangelands.

We may disagree on how we get there, but I think our end goals are all the same.

Senator CARPER. All right. Thanks.

Mr. KRUSE. Senator Carper, I definitely agree with my colleagues on the panel. We certainly want to see active management for improved forest, watershed, and community conditions. I think we all agree on the need for a comprehensive wildfire funding fix; I think we all see a clear and defined role for collaboration to help get us to those outcomes; and I think we all agree on the need to invest in our Federal land management agencies to get the work done.

Senator CARPER. That is quite a bit of agreement.

Let me just ask you a follow up question. Where is the most significant disagreement, the most significant disagreement that we face, from your perspective, and how would you recommend that we address that disagreement to reach our differences?

Very briefly, Mr. Crapser.

Mr. CRAPSER. Senator, I think the devil being in the details, as the old saying goes, is probably—

Senator CARPER. I have never heard that before.

Mr. CRAPSER [continuing]. Where most of the disagreement would come. I think on how we get there, I think there is, for whatever reason, lack of trust between different communities involved in natural resources on trusting that other parts of the community are really out for the same thing that they are and are trying to do the right thing. So I think the biggest area of disagreement is understanding or misunderstanding of the trail we want to follow to get to where we need to go.

That is kind of—I didn't really answer your question, I feel, but that is, I think, the biggest issue we face.

Senator CARPER. OK. And again, there is a second part to the question. That is the biggest. How do we bridge that.

But go ahead, Mr. Moretti. What I am really interested in is how do we go about bridging the major difference that you see. The 800 pound gorilla in the room, if you will; how do we bridge that?

Mr. MORETTI. Well, I have always found that the way you bridge and get together with disagreements is you sit around the table and look each other in the eye. And everybody is going to come to the table with their agenda, and I think that the trust has to be

there, and if you don't have the trust that people are there trying to do the right thing, and everybody thinks that you have some hidden agenda, I think if we can put that on the table and sit down and hammer it out, again I go back to reasonable people can come up with a reasonable solution, and we need that out there.

I mean, we are literally dying out there. Our forests are dying; we are having catastrophic fires that are taking human toll, and we need help. So we have to get serious people to the table to figure out how to fix this.

Senator CARPER. Good.

Same question, Mr. Kruse.

Mr. KRUSE. Senator Carper, trust is certainly the operative word there. I think for certain members of the natural resources community this distrust is fostered by the notion that we are changing the rules of the game, when we begin to look at certain reforms especially to bedrock environmental policy like NEPA. Our recommendation as far as overcoming that distrust is, again, to focus on all of the authorities that we have.

What can we do with stewardship contracting? What can we do with Good Neighbor Authority? What can we do with our categorical exclusions, with the Healthy Forest Restoration Act? We already have lots of tools to do action, no action, alternatives, to expedite judicial review, and those have been passed by Congress in a bipartisan fashion. This is a question of leadership, and it is a question of investment and funding.

And if we are creating the conditions for success, and we have already enabled a playing field where we can succeed, it is about direction from this Congress to those agencies and to the general public about what we are trying to accomplish. But we certainly have the tools and the resources available to us as far as the mechanisms to meet the rule of the law, to meet environmental stewardship and get work done, but we have to invest in it, and we have to foster that bipartisan spirit, rather than change and move the goal posts.

Senator CARPER. Excellent. Thank you so much.

Senator BARRASSO. Thank you, Senator Carper.

Senator BOOZMAN.

Senator BOOZMAN. Thank you, Mr. Chairman, and thank you all for being here. I think Senator Carper's question about what we can agree on was really very, very good, and that is what we try and do, and those are the things that we ought to be able to get done. I think everybody in this room, listening to you all, listening to your testimony, agrees that we can't continue to spend 50 percent of the dollars that we spend on fire suppression. It just makes no sense at all.

So I would like for you to talk, whoever wants to jump out, and then we will go down the panel, tell me about when you are spending that many dollars on that and you don't have any money to really do the job on managing things, tell me the impact of that. Tell me why that is such a huge problem.

Mr. MORETTI. Well, Senator, I can tell you from our standpoint what happens a lot of times, we are out on the forests, around the BLM, we are doing projects, doing active management, and a lot

of times we will get shut down come the fire season because everybody is gone, and then they are having to pull their budget back.

So, you know, projects that we have, we have contractors on the ground, and we are ready to go, and we just can't move forward; we have to shut down, and then we may not get started until the next year; it may be delayed. So those are the kinds of things that affect us, and the agency gets shut down, and basically they do nothing but fight fires during that fire season, and there needs to be a better way of conducting business.

Senator BOOZMAN. And in not managing the ecosystem, doing the management because of what you describe, you are pulling this off all over the country; what is the effect of that?

Mr. MORETTI. Well, we don't get the projects done that can help alleviate the problem we are talking about. So with some active management and being proactive in these areas, we can go in and we can make sure that the forest is in a good, healthy condition. We have actually had projects in Arizona where some large wildfires have happened, and when they have gotten to one of these projects that we have done, mostly for wildlife, the fire has slowed down; it has not gone out, but it has slowed down. And a lot of times these projects that we are doing serve as kind of a fire break and are really helpful.

Senator BOOZMAN. Mr. Kruse, before you do, it is sad, we have heard testimony here about people in fire prone areas, people who have had devastating fires and talking about the managed areas, many of them private areas that are managed well, and then you have the areas that we are managing, and they are raging infernos compared to the other and really part of the problem.

Mr. Kruse.

Mr. KRUSE. Senator Boozman, I agree with Mr. Moretti, certainly. The challenge associated with the funding budget situation is that we are unable to do the work on the ground because it is consumed by fire funding. The Forest Service has become the Fire Service. And a comprehensive wildfire funding fix includes access to disaster funding; it minimizes the need to do those transfers, so the agency doesn't halt its work during fire season, and it freezes or minimizes the cannibalization of the agency's budget because of the rising cost of the 10 year average. The result of that is potentially hundreds of millions of additional dollars that are freed up to do this management work on the ground; to do that thinning, to do that fuels reduction, to do those prescribed burns to protect communities.

I mentioned 2 million acres of forestland in Oregon and Washington that have already been approved for NEPA to go through that management process. With money we could save from a fire funding fix, we could get that work done.

Senator BOOZMAN. Very good.

Yes, sir.

Mr. CRAPSER. Senator, kind of as my colleagues have already talked about, it is almost a self-fulfilling prophecy that we are in right now. We have high fuel loadings, poor forest conditions, large fires. The Fire Service uses all their money to fight fires, so they don't do their hazardous fuels work, and we just keep going down

the road. It impacts the Forest Service's ability to do Federal land management.

It also impacts, where we are at with wildland fires now, the State's ability to help private landowners. As you know, large parts of State Forestry's budgets come from the Forest Service for State and private projects. Those funds are somewhat up for grabs during fire borrowing. Also, our folks are helping the Forest Service on fires, so we have the same issues during the summer. So it ends up being a self-fulfilling prophecy again, just that we keep moving into a worse and worse situation.

Senator BOOZMAN. Good. Thank you. And we do appreciate all of your all's hard work very much.

Senator BARRASSO. Thank you, Senator Boozman.

The order I have based on arrival of the Democratic members is Senator Merkley next, then Senator Harris, and then Senator Whitehouse, if that is agreeable to you in the order in which you have arrived.

Senator Merkley.

Senator MERKLEY. Thank you, Mr. Chairman.

I appreciate your testimony.

Mr. Moretti, I believe you were speaking to the fact that when thinning and hazardous fuels are reduced, the forest can become much more naturally resistant to fires. Did I understand that correctly?

Mr. MORETTI. Yes.

Senator MERKLEY. And Mr. Crapser, would you agree with that?

Mr. CRAPSER. Yes, Senator, I think I would.

Senator MERKLEY. And Mr. Kruse?

Mr. KRUSE. Yes, Senator.

Senator MERKLEY. So I was very struck. I was visiting eastern Oregon this last weekend, and central Oregon, and I went up to a forest outside of Sisters, where the fires had raged, and they were coming toward the town, and they stopped. And why did they stop? Well, because this forest had been thinned, it had had its hazardous fuels removed, some many years ago, and it had a 15 year or so prescription burn done that had reduced the grass and brush that had grown up over those years. And it really helped the Forest Service get in and fight the fire, also, because it was much easier to move about in this forest that had been thinned.

So it seems like we have several things that I think everyone agrees with, and I will just say them out loud. We need to fix fire funding so that we are not continuously draining all the other programs in the Forest Service; that thinning and hazardous fuels reduction has a positive outcome both for forests as timber stands, as healthier ecosystems that supply saw logs to the mill, and it makes the forest more resistant.

Are there any of those points that any of you would disagree with?

[All witnesses shook their head in the negative.]

Senator MERKLEY. So we have, just in Oregon and Washington, as you pointed out, Mr. Kruse, 2 million acres. I know we have 1.6 million acres in Oregon, so I guess a smaller number in Washington State, that have already gone through the environmental process. The only thing that stops us from adopting this strategy

which produces saw logs, makes the forest healthier, makes it fire resistant is funding. So why not concentrate on getting the funding to do these things and the fire borrowing, and get the funding to do the work up front?

My concern about some of the proposals is when there is that easily available and very effective solution, as soon as many of us hear, well, let's authorize no environmental review and clear cuts, it is just the timber wars of the past, instead of actually a strategy to make the forests healthier, supply saw logs. Why go back to the timber wars of the past if we have the solution sitting right in front of us?

Mr. Kruse.

Mr. KRUSE. Senator Merkley, I agree strongly with what you are suggesting. I think part of the challenge that we have here is a series of categorical exclusions that have expanded beyond what the intent of a categorical exclusion should, by definition, be, which is having no direct impact, no indirect impact, or no cumulative impacts. So we are taking a tool that can and appropriately be used in certain situations and being expanded to something that it should not be.

More importantly, as you mentioned, we should be focusing on those existing authorities to actually address these challenges at a landscape scale. We should be investing in programs like the Collaborative Forest Landscape Restoration Program. We should be doing programmatic environmental impact statements.

We want to have an impact on the land, as you noted. That is not accomplished with the category of exclusion that has no impact. We shouldn't be treating 1 or 3 or 6,000 acres at a time; we should be treating hundreds of thousands of acres. And with adequate funding and authorization of those programs and utilization of all of our existing authorities, we can and should be able to do that without returning to the rhetoric and the conflict of the timber wars.

Senator MERKLEY. I do think many of you or maybe all of you have spoken to the cycle we are trapped in of we are just depleting the funding on the front end to do the hazardous fuels and the thinning, and then we are spending it on the back end. And breaking that cycle is something I think Democrats, Republicans, and everyone on every side of this could agree with.

We have a mill up in John Day, Oregon, that was going to go out of business, and I met with the millworkers and said I would do everything I could to help keep that mill open. But you couldn't do it through a timber sale because that didn't give the at least 10 year horizon that the owner needed to be able to invest in equipment for the mill.

So we were able to do it through a stewardship agreement. And that meant that the forest was healthier, they got a steady supply of saw logs, so they employed more people at the mill. In a small town, that is a really big deal.

And I am out of time, but you are welcome to respond if the Chair will allow it. Why not focus on these tools that are right before us that everyone on this panel agrees with?

Mr. CRAPSER. Senator, I think there is a lot of good tools out there that we can already use; however, not all the West, not all

the Forest Service is as far ahead on NEPA documents as I think Washington and Oregon obviously are. One advantage that I see in categorical exclusions, or one of the advantages I see in categorical exclusion is, first, to clarify, a CE is an environmental document, it is part of NEPA, it is covered under NEPA. And it takes about 7 months to put together the analysis for a CE; it takes about 2 and a half years for an EA or an environmental assessment.

While I think a lot of our tools are very good that we have, I think we have had a tendency, because of fire borrowing, because of lots of other reasons that you have talked to that we do have to address, to not have a sense of urgency. On some of the mountain pine beetle areas, some of the fire salvage areas, I think in those areas, in particular, there is a need of urgency to try to get things done in a fairly rapid form.

Mr. KRUSE. Senator Merkley, I don't want to belabor the point because I certainly and strongly agree with your comments. I do just want to thank you. To the point we have had a lot of great successes in Oregon and Washington, and that is a testament to the leadership that we have had in our region, so thank you for your continued advocacy to identify and pacify our funding fix.

Thank you for your advocacy to fight for surge funding in this Congress to get additional investments to help our communities recover from the devastating fires we have seen this year, including the Chetco Bar and the Eagle Creek fire in Oregon. We are reeling from that. We need to help rebuild our communities, and we need to get additional investments to start to get ahead of the problem. So thank you for your leadership on that.

Senator MERKLEY. Thank you.

Senator BARRASSO. Thank you very much, Senator Merkley.

I am going to introduce letters and testimony in support of the Wildfire Prevention and Mitigation Act of 2017. There are 78 testimonies and letters received from a diverse group of stakeholders representing conservation and sportsmen's group, farmers, ranchers, counties, water and irrigation organizations, forestry job creators, all in support for the staff draft bill into the record. Without objection.

[The referenced information follows:]

October 23, 2017

The Honorable John Barrasso
Chairman
Committee on Environment
& Public Works
U.S. Senate
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment &
& Public Works
U.S. Senate
Washington, DC 20510

Chairman Barrasso and Ranking Member Carper:

As you know, our nation is experiencing another catastrophic wildfire season. Over 8.8 million acres have already burned this year and we may break the record that was set just two years ago. Some of the worst devastation has occurred on overstocked, unhealthy federal forests, where wildfires have affected millions of Americans living in nearby communities and polluted the air with toxic smoke. We need Congress to reform the federal forest management policies that are a key cause of the worsening wildfire seasons and deteriorating forest health, as well as addressing the broken and unsustainable fire funding model.

At a recent hearing before your Committee, you heard from a wide array of industry, conservation, and state government interests in support of a comprehensive approach to these significant – but solvable – problems.

We commend you for taking some of the best ideas from the bills discussed at your September 27th hearing and incorporating them into the draft bill under consideration at this weeks' hearing. These provisions include meaningful policy and legal reforms to increase federal forest management and thinning activities.

The legislation will prevent unnecessary litigation against needed forest management projects, expediting NEPA analysis while preserving public input and involvement, and provide an array of new tools to expedite projects designed to meet a variety of forest management objectives. Reducing fuels, particularly in our Western forests, and creating a variety of habitat ages and types, are critical to the long term health of our public forests and rangelands.

Our organizations applaud your efforts to address both crises facing our National Forests and public lands. This legislation represents a significant step towards addressing the management questions. We urge you to rapidly conclude bipartisan negotiations so that this Congress can enact both fire funding and forest management reform legislation this year.

Sincerely,

American Farm Bureau Federation
American Forest Resource Council
American Loggers Council
Allegheny Hardwood Utilization Group
Associated California Loggers
Associated Logging Contractors of Idaho
Associated Oregon Loggers
Association of O&C Counties
Black Hills Forest Resource Association
Black Hills Regional Multiple Use Coalition
California Forestry Association

Colorado Timber Industry Association
Federal Forest Resource Coalition
Forest Resources Association
Great Lakes Timber Professionals Association
Hardwood Federation
Healthy Forests, Healthy Communities
Idaho Forest Group
Intermountain Forest Association
Michigan Forest Products Council
Minnesota Forest Industries
Minnesota Timber Producers Association

Missouri Forest Products Association
Montana Logging Association
Montana Wood Products Association
National Alliance of Forest Owners
National Cattlemen's Beef Association
New Mexico Forest Industry Association
Pennsylvania Forest Products Association
Professional Logging Contractors of Maine
Public Lands Council

Sierra Cascade Logging Conference
Sierra Pacific Industries
Southern Oregon Timber Industries Association
Treated Wood Council
Washington Forest Protection Association
Washington Hardwoods Commission
West Virginia Loggers Council



WYOMING STOCK GROWERS ASSOCIATION

Guardian of Wyoming's Cow Country since 1872

President- Dennis Sun, *Casper*

Region I Vice President- JD Hill, *Ranchester*

Region III Vice President- Mantha Philips, *Casper*

Region V Vice President- Reg Philips, *Dubois*

First Vice President- Scott Sims, *McFadden*

Region II Vice President- Steve Paisley, *Wheatland*

Region IV Vice President- Bill Resor, *Jackson*

Executive Vice President- Jim Magagna, *Cheyenne*

October 23, 2017

Senator John Barrasso
Chairman
Committee on Environment & Public Works
United States Senate

Dear Chairman Barrasso:

RE: Wildfire Prevention & Mitigation Act of 2017

The Wyoming Stock Growers Association (WSGA) has represented the ranching industry of Wyoming for over 145 years. The vast majority of our members hold grazing permits or leases on National Forests and/or BLM managed public lands. The ability to graze these lands is essential to maintaining the viability of their ranching operations.

Grazing on forested lands precedes establishment of the National Forest System and remains one of the most wide-spread multiple uses of these lands today. However, the reliability of grazing on National Forests has continually diminished due to failure to properly manage our forest resources and the inability to have timely dependable decisions on grazing-related matters. WSGA believes that your proposed legislation takes major steps to address both of these factors.

Appropriately and timely vegetative management is critical to maintaining healthy resilient forests. Vegetative management includes both the timber resource and the forage resource. Today our national forest managers have the skills and access to the scientific knowledge needed to maintain resilient forests. Through partnerships with the forest products industry and the ranching industry they have the tools necessary to achieve proper management.

Unfortunately, today the vast majority of timber removal contracts and grazing permit renewals are met with litigation. These decisions are challenged even though they are well within the parameters of resource management plans that have been developed with full public input. Title I of this Act would provide significant relief from litigation that directly contributes to the degradation of our forest resources and the proliferation of wildfires.

When wildfires sweep through forests, affected livestock grazing allotments are lost for several seasons. Infrastructure, including fences and water developments, is destroyed and often must be rebuilt at the expense of the permittee. Resulting fallen timber can make it difficult for livestock to move through the allotment even after forage has regrown.

"Shaping and Living The Code of The West"

P.O. Box 206, CHEYENNE, WY 82003 • PH: 307.638.3942 • FX: 307.634.1210

EMAIL: INFO@WYSGA.ORG • WEBSITE: WWW.WYSGA.ORG • BLOG: WWW.REALRANCHERS.COM

Barrasso
Wildfire Prevention & Mitigation Act
Page 2

Title III of the Act provides essential relief from the “analysis paralysis” that routinely plagues decision-making on forest projects. In Subtitle A this is accomplished by providing for the use of Environmental Assessments in lieu of full Environmental Impact Statements, limiting alternatives to the proposed action and a no action alternative, limiting the size of these documents and providing a firm time frame for their completion. These are all important steps in restoring “common sense” to the decision-making process.

WSGA is particularly pleased with the broad definition given to “ecosystem restoration” in Subtitle B of Title III. Grazing permittees are beneficiaries of many of the restoration activities identified in this Subtitle. In addition, livestock grazing can be a valuable contributor to many of these restoration activities.

Subtitle C Categorical Exclusions will provide a clear incentive to the Forest Service to act in a timely manner to restore resources damaged by a broad array of natural events. Currently, the delay in taking actions to remediate these impacts is often delayed for years pending completion of environmental documents.

Implementation of many of the provisions of this Act will be dependent on development of partnerships between the Forest Service and private sector enterprises including timber and grazing. WSGA is committed to working with the Forest Service to foster these relationships.

We appreciate this opportunity to provide our input.

Sincerely,



Jim Magagna
Executive Vice President

“Shaping and Living The Code of The West”

P.O. BOX 206, CHEYENNE, WY 82001 • PH: 307.638.3942 • FX: 307.634.1210

EMAIL: INFO@WYSGA.ORG • WEBSITE: WWW.WYSGA.ORG • BLOG: WWW.REALRANCHERS.COM

October 24, 2017

The Honorable John Barrasso
Chairman
Committee on Environment & Public Works
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment & Public Works
513 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

As Congress continues to consider a response to the wildfires that defined the summer of 2017 for much of the American West, the undersigned sportsmen's conservation organizations—who collectively represent many American hunters, anglers and outdoor enthusiasts—write today in support of the draft Wildfire Prevention and Mitigation Act of 2017 (WPMA).

The most recent loss of life and property in California shows that we are not talking only about "forest health" here but also about human lives. A confluence of factors is driving record-setting wildfire seasons, including hotter and drier conditions, longer duration fire seasons, lack of consistent active management of our national forests, litigation and inadequate funding levels for the US Forest Service's forest health and restoration accounts. Catastrophic wildfire is the most high profile symptom of the issue of forest health, but millions more acres of our nation's forests are at severe risk from fires, insects and disease. It would be worse to do nothing for five or ten years than it would be to try almost anything during the same period of time.

Since the 2014 Farm Bill, various proposals for further improving forest management and finally fixing the wildfire funding framework have come up just short of enactment in Congress. We believe it is time to agree on as many as possible to accelerate the urgent work needed in the National Forests.

Federal land management agencies need new authority to accelerate the pace of restoration projects by improving the efficiency of environmental review processes, such as action/no action alternatives for collaborative projects, a minor fix to the highly-regarded Good Neighbor Authority, and improvements to restoration-based categorical exclusions modeled after the bipartisan provisions of the 2014 Farm Bill.

The fire crisis has refocused forest policy on to the restoration of wildlife habitat benefits and other ecological conditions. We urge the committee to find agreement on such details as acreage-limits on projects (which we believe is secondary to the imperative of completing more restoration projects of any size).

Additionally, our organizations support meaningful litigation reforms that ensure that the time, money, and effort expended in the courts is focused on substantial issues and supported by substantial evidence. Toward this end, we support the pilot authority to evaluate the effectiveness of litigation alternatives such as arbitration. We also support focusing Endangered

Species Act consultation requirements at the project-level rather than having to redevelop entire forest plans.

Our organizations also strongly support Title II of the WMPA on Sage Grouse and Mule Deer Habitat Conservation and Restoration. This title will allow conservation partners to move quickly on landscape habitat restoration projects that are proving to have a tremendous impact for mule deer, sage grouse and other species dependent on sagebrush rangelands.

We urge Congress to come together in the next weeks to adopt these sensible and well-vetted provisions that will enhance the health of our national forests.

Sincerely,

American Woodcock Society
 Archery Trade Association
 Boone and Crockett Club
 Campfire Club of America
 Congressional Sportsmen's Foundation
 Delta Waterfowl
 Houston Safari Club
 Mule Deer Foundation
 National Shooting Sports Foundation
 National Wild Turkey Federation
 North American Grouse Partnership
 Pheasants Forever
 Quail Forever
 Rocky Mountain Elk Foundation
 Ruffed Grouse Society
 Theodore Roosevelt Conservation Partnership
 Whitetails Unlimited
 Wild Sheep Foundation
 Wildfire Forever
 Wildlife Management Institute
 Wildlife Mississippi



October 24, 2017

The Honorable John Barrasso
Chairman
Committee on Environment & Public Works
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment & Public Works
513 Hart Senate Office Building
Washington, DC 20510

Re: Wildfire Prevention and Mitigation Act (WPMA) of 2017

Dear Chairman Barrasso and Ranking Member Carper:

I am writing today on behalf of the Tennessee Wildlife Federation. Our organization represents hunters, anglers, outdoor enthusiasts, and conservationists. We strongly support the draft Wildfire Prevention and Mitigation Act (WPMA) of 2017.

Catastrophic wildfire is a symptom of compromised forest health and millions more acres of our nation's forests are at severe risk from fires, insects and disease. Across our nation, several factors are driving longer, record-setting wildfire seasons, including hotter and drier conditions, lack of consistent active management of our national forests. Inadequate funding levels for the US Forest Service's forest health and restoration accounts are compounding the issue. We must take action to address these issues before more irreparable damage is done, and additional lives and property lost.

Notably, proposals for further improving forest management and addressing the wildfire funding framework have failed to be enacted in Congress. The Federation believes that everything possible should be done to accelerate the urgent work needed to best manage forests, fire and wildlife in our National Forests. The fire crisis has refocused forest policy on to the restoration of wildlife habitat benefits and other ecological conditions. Giving federal land management agencies new authority to improve the efficiency of the environmental review process can help accelerate the pace of restoration projects processes. Focusing Endangered Species Act consultation requirements at the project-level, rather than having to redevelop entire forest plans can also help with the timely facilitation of landscape habitat restoration projects by conservation

partners nationwide that are proving to have a tremendous impact for a variety of wildlife species.

We urge Congress to support this important legislation and help preserve, protect and enhance the health of our national forests for years to come.

Mike Butler
CEO
Tennessee Wildlife Federation



Brian Sandoval
Governor of Nevada
Chair

Steve Bullock
Governor of Montana
Vice Chair

Scott D. Pattison
Executive Director and CEO

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, D.C. 20510

Dear Speaker Ryan, Minority Leader Pelosi, Majority Leader McConnell and Minority Leader Schumer:

The nation's governors continue to urge Congress to reform the federal wildfire suppression funding formula and provide stability for long-term planning and wildfire mitigation practices. The practice of using Department of Interior and U.S. Forest Service 10-year average suppression costs for budgeting continues to constrain non-suppression program resources and no longer provides accurate funding estimates for wildfire suppression activities.

According to the Department of Agriculture, we just experienced the most expensive wildfire year on record with wildfire suppression costs surpassing \$2.3 billion and more than 8.5 million acres burned. As fire suppression activities continue to rise as a percentage of the Forest Service's budget, resources to responsibly manage forests are impacted.

Disruptions to funding undermine long-term wildfire mitigation strategies. Federal agencies have been forced to transfer funds from non-suppression programs to fill gaps in fire suppression appropriations nine times since 2002. Perhaps more significantly, the rising costs of the 10-year average formula are shifting approximately \$100 million annually from non-fire accounts to meet fire needs. Programs and staffing critical to manage timber, mitigate fires, restore ecosystems, provide recreation, administer livestock grazing, and ensure other multiple uses across the landscape continue to be diminished. Governors believe a comprehensive fix must address both the challenges of the rising costs of fire suppression, and the complicating challenges of mid-season fire transfers.

Governors urge Congressional action this year to enact comprehensive budgetary reform that addresses budget erosion and minimizes transfers. Thank you for your attention to this critical issue, we look forward to working together.

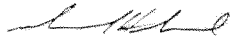
Sincerely,



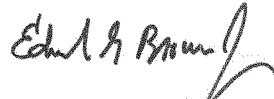
Governor Brian Sandoval, Nevada
Chair, National Governors Association



Governor Steve Bullock
Vice Chair, National Governors Association



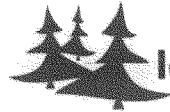
Governor Matthew H. Mead, Wyoming
Chair, Natural Resources Committee



Governor Edmund G. Brown Jr., California
Vice Chair, Natural Resources Committee

Cc:

Director Mick Mulvaney, Office of Management and Budget
Secretary Sonny Perdue, U.S. Department of Agriculture
Secretary Ryan Zinke, U.S. Department of Interior



Idaho Forest Restoration Partnership

Collaborative Forest Restoration in Idaho Assessment and Recommendations

October 14, 2017

Idaho Forest Restoration Partnership

IFRP was established in 2010 to strengthen collaborative national forest restoration efforts across Idaho. We believe active management is needed in areas of our national forests to restore their resilience and ecological health. IFRP members include:

Slope River Chapter
Society of American
Foresters

Trout Unlimited

Idaho Conservation
League

The Nature Conservancy

Woody Biomass
Utilization Project

<http://www.idahoforestpartners.org/main.html>

Idaho Forests Face Unprecedented Risks.

Wildfire seasons are getting longer and hotter. Insects and disease outbreaks have affected millions of acres of western forests. We are experiencing more "mega-fires" – huge conflagrations that can disrupt normal ecosystem processes, threaten lives and property, and degrade the many benefits we derive from our public forests.

These conditions arise from a warming climate, greater forest tree density and build-up of hazardous fuels due to a century of fire suppression, past management practices, and more development at the wildland-urban interface.

Ten Collaborative Groups Work to Restore the Resilience of Idaho National Forests.

Locally-driven collaborative groups have formed across Idaho to advocate for active management to restore Idaho's national forests lands. These groups typically include the timber industry, conservation groups, local communities, local elected officials, and other interests.

Despite their different viewpoints, participants are united in calling for action to make our forests more resilient to severe fire and other disturbances. They also see forest restoration as a tool to improve water quality, fish and wildlife habitat, ecosystem health, community safety, recreation and jobs.

These collaborative groups play a critical role in providing local knowledge, helping the Forest Service balance competing values and supporting positive action. Despite occasional setbacks, they have shown remarkable staying power given their diverse membership.

Idaho Collaborative Forest Restoration Groups

Idaho Panhandle National Forest • Panhandle Forest Collaborative • Shoshone Benewah Forest Collaborative • Kootenai Valley Resource Initiative	Sawtooth National Forest • Sawtooth Wildland Fire Collaborative • 5B Restoration Coalition
Nez Perce-Clearwater National Forest • Clearwater Basin Collaborative	Salmon-Challis National Forest • Lemhi Forest Restoration Group
Payette National Forest • Payette Forest Coalition	Caribou-Targhee National Forest • Island Park Sustainable Fire Community
Boise National Forest • Boise Forest Coalition	

The pace of collaborative restoration in Idaho is accelerating. Projects developed with collaborative support grew from 19 in 2013 to 35 in 2017. Projects with completed environmental reviews more than doubled over the same period – from 11 to 28. Three Idaho groups – the Clearwater Basin Collaborative, Payette Forest Coalition and the Kootenai Valley Restoration Initiative – participate in the Collaborative Forest Landscape Restoration Program. The Idaho Forest Restoration Partnership tracks collaborative restoration projects at http://idahoforestpartners.org/sof_intro.html.

The “Zone of Agreement” Allows Groups to Move Beyond the Timber Wars.

Collaborative groups in Idaho have arrived at a “Zone of Agreement” – a set of shared principles that build trust and allow them to work productively together despite their members’ differing interests. Although each group is unique, they agree on the following points.

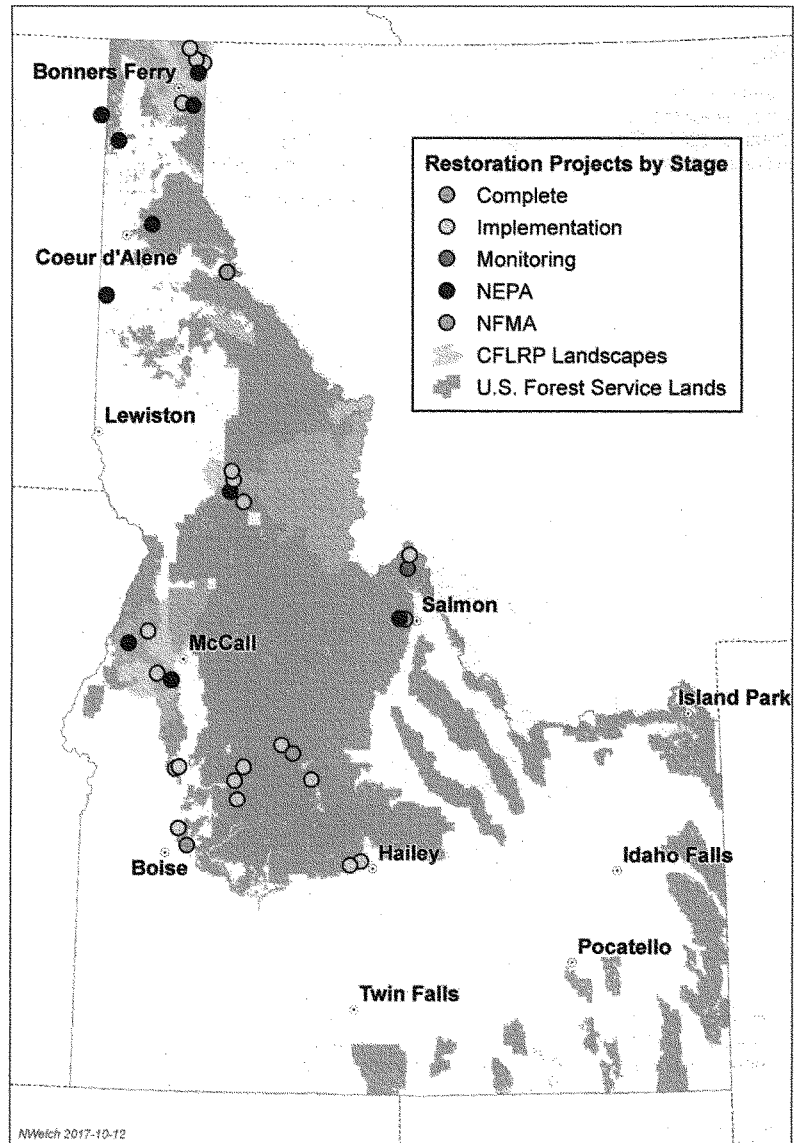
Conditions in Idaho’s national forests have changed. Many areas are denser, more uniform and thus more vulnerable to altered fire patterns, insects, and disease. Groups agree on moving forests closer to their natural conditions to improve their resilience.

Well-designed restoration actions improve the health of forests ecosystems, reduce fire risk, and sustain local economies. These actions make forests more resilient by moving them closer to their natural conditions.

The timber industry is an ally in ecosystem restoration. Forest practices and mill infrastructure have evolved, and conservationists have more confidence that appropriately designed projects can avoid impairing – and can improve – the ecological health of certain forest types. Timber sale revenue can also help pay for restoration.

The Idaho Roadless Rule helps focus efforts. The rule sets clear objectives that steer action to the roaded front country and helps groups avoid past disputes.

Multi-faceted restoration projects enhance water quality, wildlife habitat, and recreation. Serving a wide range of interests strengthens the zone of agreement.

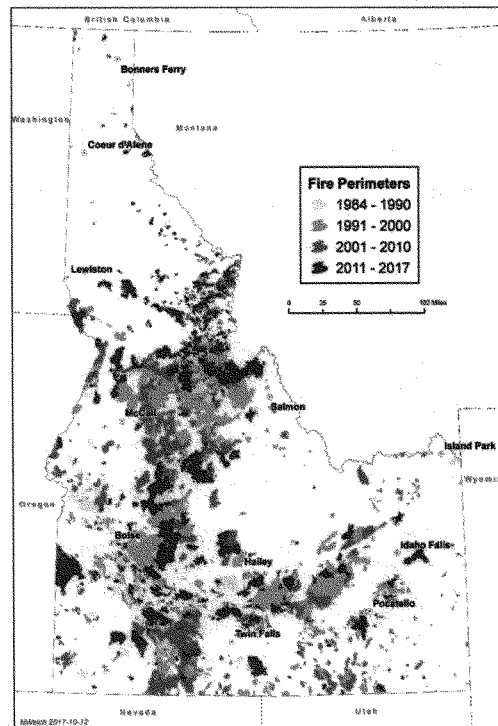
National Forest Restoration Projects Developed with Collaborative Group Engagement

IDAHO TRENDS: THREATS GROW AND NEW TOOLS SHOW PROMISE

Mega-Fires and Their Costs Continue to Escalate.

Idaho's national forests and rangelands are burning at a stunning rate. In just the last three years, so-called "mega-fires" – those exceeding 100,000 acres – included the Clearwater Complex (2015), Teepee Springs Fire (2015) and the Pioneer Fire (2016). These fires occurred in fire seasons that were longer and hotter than normal, and all involved severe fire behavior.

Idaho Fire Perimeters – 1984-2017



A warming climate means that Idaho is likely entering a new era of mega-fires. Western fire seasons are now 60-80 days longer than historic averages. Since 1985, over half of the area burned in western wildfires is attributable to climate change.¹

¹ Abatzoglou JT, Williams AP (2016) Impact of anthropogenic climate change on wildfire across western US forests. *Proc Natl Acad Sci USA* 113(42):11770–11775.

The ever-escalating costs of fighting these fires are eroding the Forest Service's ability to manage public lands.² The agency's overall non-fire staff has fallen by 39% since 1998. In Idaho, the full-time employees on the Idaho Panhandle National Forest declined from 375 in 2000 to 242 in 2015. On the Nez Perce-Clearwater National Forest staff fell from 371 to 258 over the same period. This trend has real consequences. The agency charged with managing 40% of Idaho is seeing its capacity to reduce hazardous fuels and conduct restoration efforts undercut precisely when threats to national forests are increasing.

Science Highlights the Need for Landscape-Scale Restoration.

Recent scholarship has focused on moving beyond restoration of individual forest stands to "landscape prescriptions" that seek to restore resilience across larger areas. This body of scientific work recognizes that the fire-adapted Inland Northwest forests were more diverse or "heterogeneous" than today's forests. Historically, forests were composed of an interlocking mosaic of different ages and types of forest stands – from open areas to low density stands to mature, closed-canopy forests. Fires occurred in these landscapes regularly, but were less likely to burn as large and hot as they do in today's denser, more uniform stands.³

The purpose of landscape restoration is not to halt fire or other disturbances. That would be both unachievable and counter-productive given the historic role of fire in Idaho forests. Fire – prescribed, managed, or wild – will continue to play a key role in shaping public forests. But strategic restoration can protect communities and alter fire severity so forests recover faster.

New Agency Legal Authorities Are Making a Difference on the Ground.

The 2014 Farm Bill established two new legal authorities that are being actively implemented in Idaho: the Good Neighbor Authority (GNA) and a categorical exclusion for restoration projects in areas at risk of insect and disease outbreaks.

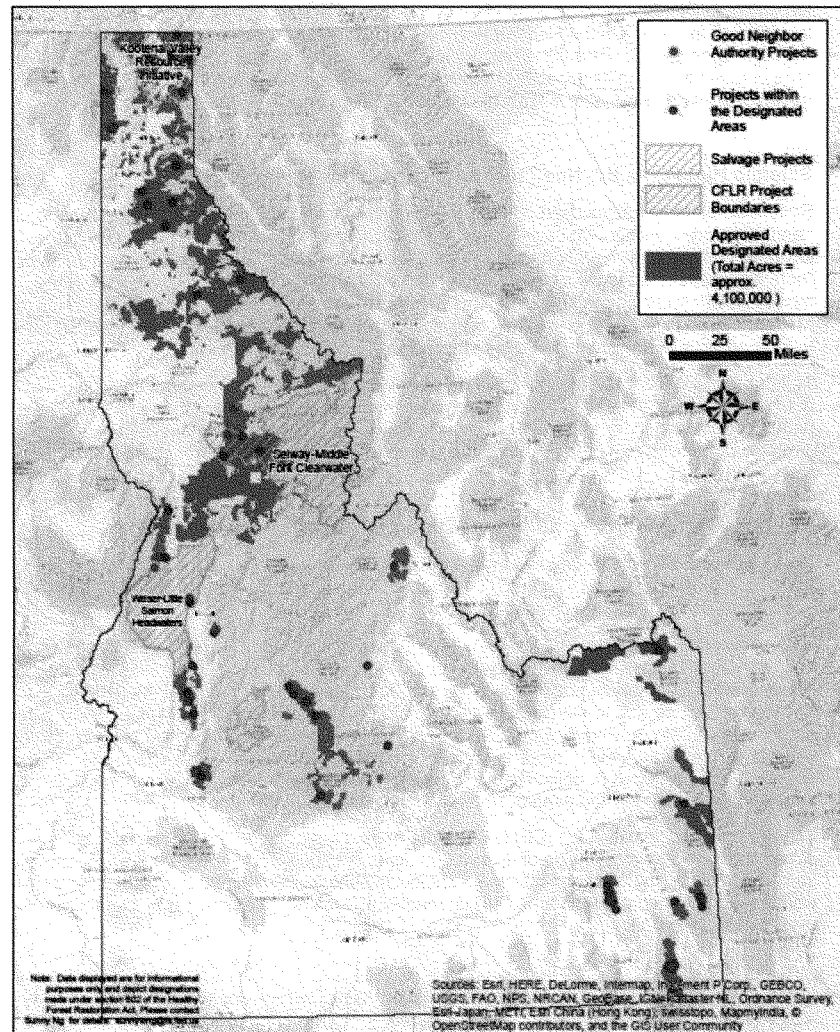
GNA allows the Forest Service to enter agreements with state agencies for forest, rangeland, and watershed restoration. The Forest Service oversees the environmental review and makes the decisions. The state agency helps with contracting, sale preparation, and implementation. The Forest Service and Idaho Department of Lands (IDL) have signed a GNA master agreement and are moving forward quickly to put projects on the ground. Over the next three years, they plan a total of ten projects on four national forests. The first projects are already underway. The 3-to-5-year objective is to develop a financially self-sustaining program that will substantially increase – and even double – national forest acres treated yearly.

The new categorical exclusion (CE) is also accelerating restoration. The CE provides a streamlined process for projects of up to 3,000 acres in Landscape Treatment Areas identified as being at risk from insect and disease – subject to specific sideboards. The Forest Service is working on over 45 projects in these areas; roughly two-thirds are using or may use the streamlined CE process.

² USDA Forest Service, *The Rising Cost of Wildfire Operations: Effects on the Forest Service's Non-Fire Work*, <http://wildfiretoday.com/documents/RisingWildfireCosts2015.pdf>

³ Hessburg P.F., Churchill D.J., Larson A.J., Haugo R.D., Miller C., Spies T.A., North M.P., Povak N.A., Belote R.T., Singleton P.H., Gaines W.L., Keane R.E., Aplet G.H., Stephens S.L., Morgan P., Bisson P.A., Rieman B.E., Salter, R.B., Reeves G.H. 2015. Restoring fire-prone Inland Pacific landscapes: Seven core principles. *Landscape Ecology* 30(10): 1805-1835. doi:10.1007/s10980-015-0218-0.

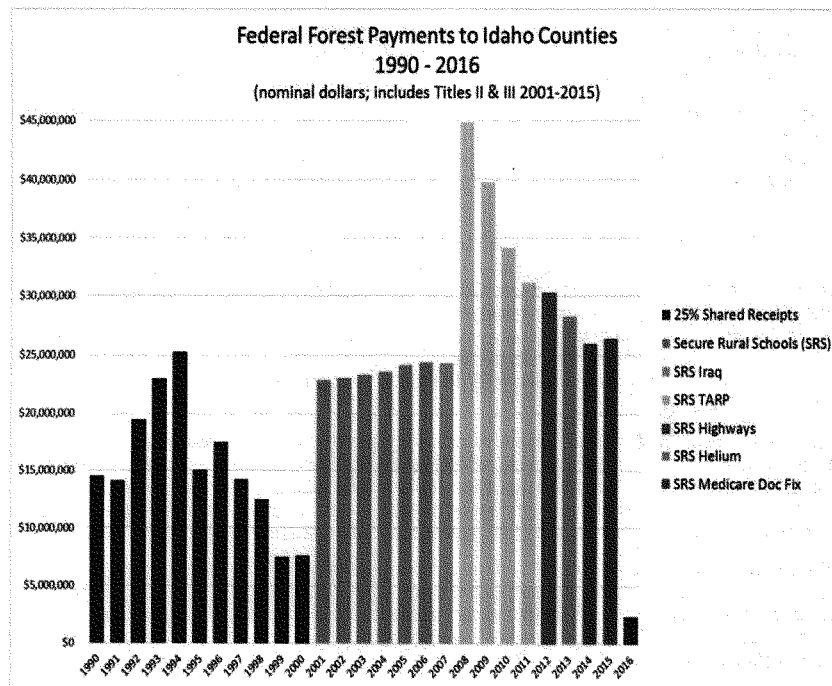
2014 Farm Bill: Good Neighbor Authority and Landscape Treatment Area Project Locations
With Collaborative Forest Landscape Restoration Program Boundaries and Salvage Projects



Compromised Funding Stability for Counties Undercuts Collaborative Efforts.

Congress' failure to reauthorize the Secure Rural Schools Act (SRS) and appropriate county payments in 2017 has affected many rural counties in Idaho. Without SRS funds, county payments revert to the 1908 Act that allocates 25 percent of gross receipts from national forest revenues to the counties. The "25 percent funds" do not come close to replacing the lost SRS revenue; 2017 payments are 89% less than in 2016.

Some local elected officials are now expressing reservations about use of stewardship contracting because stewardship projects do not directly contribute to 25% percent funds. One proposal would take the 25% "off the top" of stewardship projects. Either outcome would put collaborative groups in an awkward situation by pitting county revenue against the restoration that helps bind collaborative groups together, provides local jobs, and builds "social license" for timber harvest.



ISSUES AND RECOMMENDATIONS

This section draws extensively from a series of discussions with collaborative groups about the state of forest restoration in Idaho during the 2017 IFRP statewide conference.⁴ Conference participants by and large held the view that the current pace of restoration is not fast enough to respond to ecological challenges, risks to communities, and local economic needs.

The conference included break-out groups that addressed three key issues:

- Defining restoration objectives;
- Addressing limitations on agency capacity to conduct restoration; and
- Reviewing the role of the National Environmental Policy Act.

Restoration Objectives Should Be Clearly Defined in Project Decisions.

Recent severe fire seasons have built political momentum for more active restoration treatments on national forests. As public support – and pressure – for action builds, it becomes even more essential that collaborative groups state clearly what they mean by “restoration,” which forest values are influenced by restoration actions, and how they intend to achieve desired outcomes.

Restoring forest resilience calls for a disciplined, science-driven approach. It should focus on what restored sites look like after treatment – what trees are left in the forest stand and how restoration sites contribute to more diverse and resilient forest landscapes. This differs from commodity-based timber management. Not all logging is restoration, and not all restoration requires logging.

That said, vegetation treatment – including both commercial logging and non-commercial thinning – is an important restoration tool at many sites. As explained above, Idaho’s national forests have become denser and, as a result, fire conditions have become more extreme. Given these changes, it is difficult or impossible to reintroduce fire in a significant percentage of national forest lands because unnaturally severe fire threatens nearby development, timber values, and natural resources. Therefore, mechanical treatments are needed to meet restoration objectives or, in some instances, to reduce fuels before fire can be used as a management tool.

Even where prescribed fire is employed, smoke management rules, coupled with a limited “burn window” when vegetation is safe to burn, often restrict the prescribed burning that can be accomplished. Prescribed fires and mechanical treatments in Idaho national forests average roughly 75,000 acres annually, far less than is needed to alter regional fire trends. Natural fires can contribute to resilience in backcountry settings such as roadless and wilderness areas.

Collaborative groups and the Forest Service can play essential roles in educating the public and policy makers about the value of prescribed fire and, under appropriate conditions, natural fire to reduce the risk that a mega-fire will cause dangerous air quality conditions. They can underscore the trade-off of prescribed fire – a bit of smoke now in exchange for a lot less smoke and a healthier forest later.

⁴ The agenda and presentations for the 2017 conference are available at <http://idahoforestpartners.org/reference-library.html>

Recommendations:

1. All decisions should explicitly state the objectives of restoration projects by forest type and explain how the project will increase forest resilience.
2. Restoration should evolve from treating individual stands to the development of larger landscape-scale prescriptions as the foundation for restoration planning.⁵
3. Collaborative groups and the Forest Service should step up public education on the role and consequences of fire in Idaho national forests. Projects should address the role of prescribed or managed fire in achieving restoration objectives. The Forest Service should convene air quality regulators to reduce barriers to prescribed fire while reducing overall health effects from smoke.

Address the Forest Service's Limited Capacity to Implement Restoration

IFRP conference participants have been virtually unanimous that the Forest Service needs to accelerate forest restoration. Though the agency is making noteworthy progress, it faces major obstacles that constrain its ability to act at the needed scale.

The root causes for the Forest Service's difficulties in putting sound restoration projects on the ground are multiple, interwoven, and complex. The erosion of the Forest Service's non-fire staff is clearly a major factor. So is the agency's culture, which does not always provide clear incentives for the agency's local leaders to innovate, take measured risks, and scale up on-the-ground actions. The agency's rapid rate of turn-over in local leadership and retirement of expert staff make it harder to engage with collaborative groups. The time and expense of conducting environmental reviews adds to the problem. Litigation is a factor. Solutions to these challenges must increase the agency's capacity to implement projects and strengthen its ties to collaborative groups.

Recommendations:

1. Enact the Wildfire Disaster Funding Act to address the erosion of the Forest Service's capacity to manage resources due to escalating fire suppression costs.
2. Extend the authorization and increase funding for the Collaborative Forest Landscape Restoration Program.
3. Support the Good Neighbor Authority to expand the Forest Service's capacity. Amend the Good Neighbor Authority to allow cooperative agreements to address road construction, repair or restoration as part of larger multi-faceted restoration projects.

⁵ Hessburg P.F., Churchill D.J., Larson A.J., Haugo R.D., Miller C., Spies T.A., North M.P., Povak N.A., Belote R.T., Singleton P.H., Gaines W.L., Keane R.E., Aplet G.H., Stephens S.L., Morgan P., Bisson P.A., Rieman B.E., Salter, R.B., Reeves G.H. 2015. Restoring fire-prone Inland Pacific landscapes: Seven core principles. *Landscape Ecology* 30(10): 1805-1835. doi:10.1007/s10980-015-0218-0.

4. Reauthorize and fund SRS or develop a new revenue source to counties with significant national forest lands that allows continued broad support for stewardship contracting.
5. Launch a Forest Service-wide initiative to improve engagement with collaborative groups and delivery of on-the-ground projects.
 - a. Develop transition strategies to manage agency personnel changes without losing the momentum with collaborative groups and projects.
 - b. Create training courses for agency engagement with collaborative groups.
 - c. Find opportunities and incentives to retain people in a location longer through a career ladder that does not rely on moving for advancement.
 - d. Work with local communities and collaborative groups to build a local community support system for employees, especially in more remote locations.
 - e. To improve continuity, identify long-time employees in one location as "local knowledge" so that new employees know where to turn for history or background on certain topics, past decisions.

Increase NEPA's Efficiency without Sacrificing Its Benefits.

Many participants in the National Environmental Policy Act (NEPA) discussion group at the 2017 Conference acknowledged having views akin to a love-hate relationship with a law that pervades the Forest Service's resources management. Despite the complexity of the issues, a handful of clear themes emerged from the group's conversation.

It was immediately clear that none of the participants advocated getting rid of NEPA or sought to systematically circumvent its goals of thoughtful, informed, and public decisions. The public expects a wide range of benefits from its national forests, from wood products to clean water, wildlife, recreation and more. NEPA helps ensure that the agency analyzes and discloses how its actions balance those diverse objectives.

That said, many participants also expressed the view that NEPA documents can become lengthy, overly detailed, and more focused on process than outcomes on the ground. The difficult issue facing the Forest Service is to distinguish between NEPA work that adds rigor and value to its decisions versus work that simply adds pages to the administrative record and does little to illuminate the choices facing the agency.

The Idaho experience with NEPA has produced several noteworthy innovations and lessons that bear directly on how to improve implementation of the act.

- The Lost Creek Boulder Creek Project on the Payette National Forest is a model for large-scale restoration. An environmental impact statement (EIS) covering an 80,000-acre project area was completed in just 18 months. Project actions include timber harvest, prescribed fire, watershed restoration, and recreation improvements. Factors for success include: early engagement with the collaborative Payette Forest Coalition, strong forest and ranger district leadership, and an innovative NEPA approach that highlights the most important issues,

focused routine inventory to key action areas, and created design features to ensure compliance in the post-NEPA phase.

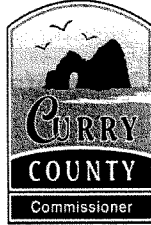
- The Forest Service developed additional alternatives during the NEPA process for two vegetation treatment projects (Bottom Canyon and Upper North Fork HFRA) that addressed stakeholder concerns and built support for the project. These experiences illustrate potential problems with limiting the range of alternatives to action-no action.
- Collaborative groups intervened in court challenges to the LCBC Project and Tower and Grizzly salvage and reforestation projects. The projects were upheld. The district court in the LCBC case cited the collaborative group's involvement as a public interest factor weighing against issuance of a temporary restraining order.

Recommendations:

1. Recognize and retain the value that NEPA provides for designing sound forest restoration projects and engaging the public.
2. Use categorical exclusions (CEs) for smaller projects using well-established practices in places where there are no novel or complex issues. CEs have limited utility for large landscape-scale restoration.
3. Develop a large landscape-scale (e.g., 100,000+ acres) approach to NEPA analysis using EISs to engage the public in assessing landscape restoration needs, achieve economies of scale, and provide for a longer-term implementation.
4. Develop strategies and guidance at the national, regional, and forest levels to overcome the tendency to produce risk-averse and overly detailed documents that do not contribute to NEPA's goals of involving the public and fostering excellent decisions.

CONCLUSION

Idaho's collaborative groups have served as a proving ground for forest restoration that creates ecological, economic, and social benefits. As Congress and the Forest Service contemplate new reforms and initiatives, they should reach out to these groups and seek solutions that strengthen the zone of agreement among their diverse members.



Court Boice, Commissioner

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October 23, 2017

RE: Support Letter to the Environment and Public Works Committee, U.S. Senate, Washington D.C. 20510

The Honorable Chairman Barrasso and Ranking Member Carper:

My name is Court Boice, and I'm a Curry County Commissioner on the southwest Oregon coast. As you know, we experienced a catastrophic wildfire event this past summer called the 'Chetco Bar Fire'. For three weeks it was the No.1 priority fire in the U.S. It started in the Kalmiopsis Wilderness of the Rogue-Siskiyou National Forest from a lightning strike July 12th. Over 191,000 acres burned threading our coastal town of Brookings. This Fire roared out of the wilderness on August 18th, burning in its path homes and thousands of acres of private timber. For over a month, our communities were subjected to unhealthy living conditions with the air filled with toxic smoke. We came close to losing a community of 7,000 citizens, plus nearby neighborhoods. We need Congress to reform the federal forest management and wildland firefighting policies that are a key cause of the worsening wildfire seasons and deteriorating forest health. Future fire prevention is crucial for our entire country.

We are a small County that has been dependent on shared receipts from timber harvested from the National Forest that covers more than half of our land base. To see this valuable resource burn and then learn that perhaps less than 2% will be salvaged is criminal. As a county we are forced to provide access and emergency services to an absent-tee landlord with little to nothing currently in return. Shared receipts from salvage in a timely manner, while there is still value in the burned timber resource can not only help offset the cost of rehabilitation but also provide funding for County services and education.

Curry County commends you for taking steps towards a meaningful policy to address the lack of federal forest management on Public Lands demonstrated by your drafts under consideration at this week's hearings. We grow some of the fastest growing, highest quality timber anywhere. The provisions in the proposal and aggressively salvaging that resource in the Chetco Bar Fire will aid our economic recovery and landscape rehabilitation. Included along with an understanding of the impacts on counties and school revenues, it will further provide for endangered species protection, recover damaged watersheds - riparian areas for fish habitat, improved air quality as well as future recreation opportunities for our beautiful area.

Thank you for taking this opportunity to do the right thing for the benefit of our National Forest and Public Lands. Wanton waste is a crime! We urge Congress to rapidly enact new National Forest wildfire fighting policies and funding for meaningful forest management reform legislation as found in this staff draft. Thank You.

Sincerely,

Court Boice,
Oregon

Commissioner, Curry County



Protecting Water for Western Irrigated Agriculture

**P.O. Box 216
Klamath Falls, Oregon 97601
www.familyfarmalliance.org**

October 23, 2017

The Honorable John Barrasso
Chairman, Environment and Public Works Committee
United States Senate
410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Barrasso:

On behalf of the Family Farm Alliance (Alliance), I am writing in support of the draft "Wildfire Prevention and Mitigation Act of 2017" (draft bill). The draft bill is intended to discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects, require the Secretary of the Interior to develop a categorical exclusion under the National Environmental Policy Act (NEPA) for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer, address the forest health crisis on National Forest System land, and expedite and prioritize forest management activities to achieve ecosystem restoration objectives, among other purposes.

The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in 16 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. We are also committed to the fundamental proposition that Western irrigated agriculture must be preserved and protected for a host of economic, sociological, environmental, and national security reasons – many of which are often overlooked in the context of other national policy decisions.

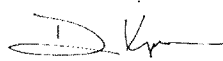
In the world of Western water, a massive wildfire in the headwaters of a watershed can devastate the water supply – both quantity and quality – so important to the many beneficial uses in that river basin, including the irrigation of farms and ranches that produce some of our Nation's high-quality food and fiber. The Alliance believes that the draft bill would help actually implement some important forest management projects on federal lands to ward off these disastrous wildfires and protect some of our most vulnerable Western water supplies in the process.

The draft bill does not waive or ignore existing federal environmental laws; it would simply make them work better. The draft bill would streamline the application of environmental laws by allowing landscape-level land management plans to guide individual actions on the ground without duplicative administrative process under federal environmental laws, and would direct the creation and use of categorical exclusions already allowed under NEPA in preventing wildfires and restoring forest habitat and ecosystems more effectively and on a timely basis. By eliminating duplicative or unnecessary processes, using streamlining tools already allowable under the law, and promoting actions instead of litigation, we believe these provisions could help these agencies use their limited resources to actually implement land management actions designed to prevent wildfires and improve habitat for priority, endangered and/or threatened species, instead of spending those resources on more bureaucratic process and litigation.

The Family Farm Alliance believes enactment of the draft “Wildfire Prevention and Mitigation Act of 2017” would improve our Western landscapes, protect our valuable water supplies from the devastating effects of wildfires, and allow agencies to improve habitat and restore ecosystems for the benefit of federally important species to allow continued agricultural use of our public lands.

Please do not hesitate to contact me at dankeppen@charter.net if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Keppen', with a stylized flourish at the end.

Dan Keppen
Executive Director



November 8, 2017

The Honorable John Barrasso
 Chair, Senate Committee on Environment and Public Works
 U.S. Senate
 Washington, DC 20510

The Honorable Tom Carper
 Ranking Member, Senate Committee on Environment and Public Works
 U.S. Senate
 Washington, DC 20510

Re: Comments of Trout Unlimited to the Senate Committee on Environment and Public Works (EPW) Committee Hearing on S. 2068, the Wildfire Prevention and Mitigation Act.

Chairman Barrasso, Ranking Member Carper, and Committee Members:

I offer the following comments for the Committee's October 25, 2017 hearing on the above referenced bill on behalf of Trout Unlimited (TU) and its 300,000 members and supporters nationwide. TU's mission is to conserve, protect and restore North America's trout and salmon fisheries and the watersheds on which they depend. Much of this work occurs on federal lands — including through a very productive partnership with the Forest Service on National Forest lands nationwide and with the Bureau of Land Management (BLM) on BLM lands in the West.

Love of our public lands is deeply rooted in millions of Americans and especially among TU members. Forest Service and BLM managed lands are immensely important to TU members as 50 percent of the nation's blue-ribbon fisheries cross federal lands, and native trout, in many cases, find their last and best remaining habitats on these lands.

The goals of S. 2068, and the other wildfire management bills, are to improve wildfire management and increase the pace of forest restoration. In pursuit of these worthy goals we must be equally committed to improve the many natural values of our federal lands in the process. The challenge as defined by Gifford Pinchot is to manage for the "greatest good for the greatest number for the longest time." The Organic Act of the Forest Service made water and watershed protection a primary objective for the Forest Service. The critical role that our BLM and National Forests play in the carbon cycle and moderating climate change is a more recent value we must take seriously. The record-setting 2017 fire season, severe drought in California and other parts of the West and other extreme weather patterns are reminders that

maintaining and protecting forests and their sound management is of the utmost importance to our own health and well-being.

Our national forests and BLM lands remain a valuable source of clean water for communities across the country; these forests provide habitat for fish and wildlife, recreational opportunities for hunters, anglers and outdoor enthusiasts and, when properly managed, a sustainable source of jobs and revenue for local communities. The guiding principle of the federal government's action regarding wildfire—and all other management activities—should be stewardship that ensures the long-term ecological health of the lands and waters upon which we all depend. Active vegetation management can play an important role in stewardship, but it should not be an end unto itself.

The Wildfire Prevention and Mitigation Act focuses on wildfire management on Forest Service and BLM lands. The EPW Committee, as well as the Energy and Natural Resources, Agriculture, and Appropriations Committees, are right to focus on these issues. Wildfires are becoming increasingly larger and more severe. Contributing factors include changing climate conditions - hotter, drier summers, variations and unpredictability in precipitation, longer more severe droughts, increasing development in fire-prone areas, and a legacy of past timber management and fire suppression policies that, despite good intentions, have left some of our forested acres vulnerable to uncharacteristic wildfires.

Several bills have been introduced into the Senate in recent weeks to address federal land wildfire management. In this letter we offer comments on key aspects of other bills in addition to comments on S. 2068, including S. 1991, the Wildland Fires Bill of 2017 (led by Senator Cantwell and cosponsored by a bipartisan group of Senators), and the bipartisan Wildfire Disaster Funding Act (S. 1842), in order to provide our views on the type of well-rounded, comprehensive legislation needed to address the wildfire management issues that should pass the Senate.

Based on experience of the past several decades, we urge the Committee to provide sufficient funding to allow the federal land managers to be effective. The Committee should keep the focus of federal land managers on doing sound collaborative stewardship; engaging stakeholders early in the decision-making process; enhancing local collaboratives; emphasizing transparency; ensuring monitoring and maintenance of treatments; and keeping hazardous fuels treatments focused largely on wildland urban interface areas and avoiding controversial places such as roadless areas, critical watersheds, and old growth forests.

The Committee should ensure that federal land managers make good use of the many tools that they already possess, such as stewardship contracting that allow the forest to maintain the receipts of timber sales and to plow them into restoration work; utilizing existing tools that streamline NEPA; the Collaborative Forest Landscape Restoration Program (CFLRP) which is demonstrating good progress in Idaho and across the west; and using the Wyden authority to expand restoration onto adjacent private lands.

Again, most importantly, the purpose of all federal land forestry activities should be to maintain the health, diversity, and productivity of the land. Timber harvest, where suitable, should be viewed as an appropriate outcome of managing for healthy, diverse, and productive watersheds, not as specific goal or target that supersedes all others.

Provide adequate funding to the land management agencies to support strong management work.

High levels of wildfire spending, including wholesale borrowing from other National Forest and BLM budget items are substantially undermining the ability of the agencies to manage our federal forests. First and foremost, TU recommends that the Senate committees work to provide adequate funds to the federal land agencies and their key partners, such as the counties, to allow for the fundamental, science-based management for watersheds, fisheries, wildlife, and timber production

Support the Wildfire Disaster Funding Act (WDFA).

S. 1842 is the right solution to solve the problem of fire borrowing. The bill has 10 bipartisan co-sponsors and should be a keystone element of any wildfire management legislation.

Reauthorize and fund SRS or develop a new revenue source to counties with significant national forest lands that allows continued broad support for stewardship contracting.

Congress' failure to reauthorize the Secure Rural Schools Act (SRS) and appropriate county payments in 2017 has affected many rural counties in the West. Without SRS funds, county payments revert to the 1908 Act that allocates 25 percent of gross receipts from national forest revenues to the counties; this is unacceptable. The "25 percent funds" do not come close to replacing the lost SRS revenue; 2017 payments are 89% less than in 2016. Some local elected officials are now expressing reservations about use of stewardship contracting because stewardship projects do not directly contribute to 25% percent funds. S. 2068's Section 313 would take the 25% "off the top" of stewardship projects. TU opposes this section because it would put collaborative groups in an awkward situation by pitting county revenue against the watershed restoration work that helps bind collaborative groups together, provides local jobs, and builds "social license" for timber harvest.

Extend the authorization and increase funding for the Collaborative Forest Landscape Restoration Program.

The CFLRF program is working well in Idaho and in other places throughout the West. Congress should enhance this tool by reauthorizing it and increasing its funding level.

Support the Wildland Fires Bill (S. 1991) – Section 4. Additional accountability.

This section requires a cost review of every wildfire over 100,000 acres; e.g., reviewing the effectiveness of decisions and comparing cost to comparable wildfires to increase the cost-effectiveness of wildfire management in the long run. This is particularly necessary in light of the skyrocketing cost of fighting fires that threaten the wildland urban interface and how hazardous fuel treatments in these areas can help to moderate these costs.

Support the Wildland Fires Bill (S. 1991) – Section 5. Incentive for cost savings.

This section authorizes the Secretaries to re-purpose unused wildfire suppression funds to conduct wildfire risk reduction projects, a common sense measure to help fund worthwhile projects.

Support the Wildland Fires Bill (S. 1991) – Sections 6 and 7.

This section authorizes preparation assistance to at-risk communities by directing the Forest Service and the BLM to publish a list of communities that are at-risk to wildfires, update the national map of the wildland-urban interface, and provide funding to these communities for planning and preparing for wildfires. In doing so, resources will be directed where they will do the most good.

Improve project development by enhancing collaborative solutions, improving federal agency capacity, and not undercutting NEPA.

TU strongly believes that the durable solutions provided by stakeholders working in collaboration is a key element of improving forest management and increasing the pace of restoration on our federally-managed public lands. TU has participated in a number of successful collaborative efforts on our federally-managed public lands, including the development of the Forest Jobs and Recreation Act bill for Montana National Forests, local project-level collaboratives, the development of the Idaho and Colorado Roadless Rules, and the designation of insect and disease treatment areas under the 2014 Farm Bill. We are now working in Idaho with the Idaho Forest Restoration Partnership and in Arizona with the Four Forest Restoration Initiative process.

I urge the EPW and other committees to review the Idaho Forest Restoration Partnership recommendations from their October 14, 2017 document (attached). This partnership is a model of collaboration, achieving landscape scale results in Idaho while retaining adequate environmental review and facilitating meaningful public involvement.

TU is skeptical of the value of major legislative changes to NEPA, such as multiple new large acre, broad-scale and loosely defined categorical exclusions (CE) proposed in Title III of S. 2068. Agencies already have CEs at their disposal to implement vegetation management activities, including provisions under the 2014 Farm Bill and Healthy Forests Restoration Act of 2003, and we question the need for the kinds of broad-scale CEs in Title III of S. 2068. These CEs will further curtail meaningful public involvement, reduce transparency, limit informed public land

management and may in fact undermine collaborative stewardship instead of enhancing it. The new Title III CEs included in S. 2068 will likely lead to more controversy on the ground among stakeholders, consuming greater amount of the agency's diminishing resources, and ultimately hinder the kinds collaborative projects will lead to healthier forests.

Conversely, the CE proposed in Title II for sage grouse and mule deer habitat conservation and restoration is the type of focused, purpose-driven, science-based restoration CE that is an appropriate tool for increasing the pace and scale of restoration without undermining the fundamental benefits of NEPA. The mule deer and sage grouse CE also require a 20-year monitoring and maintenance plan, shall require an extraordinary circumstance review and the CE would not be available for construction of permanent roads or trails. Together, these are essential elements missing in the CEs being considered under Title III.

TU supports the use of categorical exclusions in certain situations, but the Title III CEs lack necessary sideboards to ensure that their use will expedite restoration without leading to impacts that impair forest and watershed health or inhibiting public involvement.

Additionally, Section 336, Expansion of Categorical Exclusion for Insect and Disease Infestation, is particularly troublesome because it would upend the 2014 Farm Bill CE by eliminating the requirement that projects be developed using a collaborative process. It would also expand the scope of the CE to include all forest condition classes and fire regimes groups (not just those scientifically classified as in need of restoration), while also eliminating the requirement for projects to be focused on the wildland urban interface.

Congress should direct the federal land managers to launch a Forest Service and BLM-wide initiative to improve engagement with collaborative groups and delivery of on-the-ground projects.

We find wide variability within the agencies on abilities of staff to assist effective partnerships. Some field and regional staff embrace the concept and conduct helpful collaborative stakeholder projects. Others do not. Although the trend within the agencies are positive, there is still a lot of room for improvement. The following are excellent suggestions from the Idaho Forest Restoration Partnership which, if implemented well, may do as much or more to improve forest restoration as any legislative provisions because of the increased agency staff capacity they could yield:

- a. Develop transition strategies to manage agency personnel changes without losing the momentum with collaborative groups and projects.
- b. Create training courses for agency engagement with collaborative groups.
- c. Find opportunities and incentives to retain people in a location longer through a career ladder that does not rely on moving for advancement.
- d. Work with local communities and collaborative groups to build a local community support system for employees, especially in more remote locations.

- e. To improve continuity, identify long-time employees in one location as “local knowledge” so that new employees know where to turn for history or background on certain topics, past decisions.

Maintain Protections for Inventoried Roadless Area

While active management is an important tool for forest management, it is not a tool that is appropriate everywhere. Forest treatments and legislation must be consistent with the Roadless Area Conservation Rule, as well as the Idaho and Colorado Roadless Rules, to ensure that our backcountry roadless lands remain protected and to respect the carefully crafted compromises that lead to the adoption of the Idaho and Colorado Roadless Rules. Sections 322 and 331 of S. 2068 should be amended to explicitly state that ecosystem restoration projects and forest management activities cannot be located within a national or State-specific inventoried roadless area established by the Secretary of Agriculture through regulation.

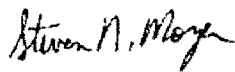
Support Title 1 of the S. 2068: Litigation Relief for Forest Management Projects.

TU previously supported this same language in the bill introduced by Senators Daines, Tester, Risch and Crapo regarding the federal district court “Cottonwood” decision, S. 605. TU supports these provisions because they reduce redundant Endangered Species Act review while still protecting imperiled species. The section will allow several cooperatively-developed forest restoration projects to move forward in Montana and elsewhere.

Conclusion

Our national forests remain a valuable source of clean water for communities across the country; these forests provide habitat for fish and wildlife, recreational opportunities for hunters, anglers and outdoor enthusiasts and, when properly managed, a sustainable source of jobs and revenue for local communities. We know that you share those values and that perspective. We urge you to pass holistic legislation that improves all aspects of federal land wildlife management, and ensures that our Federal agencies have the resources necessary to effectively manage our public lands.

Sincerely,



Steve Moyer
Vice President, Government Affairs
Trout Unlimited

- c. The Honorable Lisa Murkowski
The Honorable Maria Cantwell

The Honorable Pat Roberts
The Honorable Debbie Stabenow

October 24, 2017

The Honorable John Barrasso
Chairman
Committee on Environment & Public Works
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment & Public Works
513 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

As Congress continues to consider a response to the wildfires that defined the summer of 2017 for much of the American West, the undersigned sportsmen's conservation organizations—who collectively represent many American hunters, anglers and outdoor enthusiasts—write today in support of the draft Wildfire Prevention and Mitigation Act of 2017 (WPMA).

The most recent loss of life and property in California shows that we are not talking only about "forest health" here but also about human lives. A confluence of factors is driving record-setting wildfire seasons, including hotter and drier conditions, longer duration fire seasons, lack of consistent active management of our national forests, litigation and inadequate funding levels for the US Forest Service's forest health and restoration accounts. Catastrophic wildfire is the most high profile symptom of the issue of forest health, but millions more acres of our nation's forests are at severe risk from fires, insects and disease. It would be worse to do nothing for five or ten years than it would be to try almost anything during the same period of time.

Since the 2014 Farm Bill, various proposals for further improving forest management and finally fixing the wildfire funding framework have come up just short of enactment in Congress. We believe it is time to agree on as many as possible to accelerate the urgent work needed in the National Forests.

Federal land management agencies need new authority to accelerate the pace of restoration projects by improving the efficiency of environmental review processes, such as action/no action alternatives for collaborative projects, a minor fix to the highly-regarded Good Neighbor Authority, and improvements to restoration-based categorical exclusions modeled after the bipartisan provisions of the 2014 Farm Bill.

The fire crisis has refocused forest policy on to the restoration of wildlife habitat benefits and other ecological conditions. We urge the committee to find agreement on such details as acreage-limits on projects (which we believe is secondary to the imperative of completing more restoration projects of any size).

Additionally, our organizations support meaningful litigation reforms that ensure that the time, money, and effort expended in the courts is focused on substantial issues and supported by substantial evidence. Toward this end, we support the pilot authority to evaluate the effectiveness of litigation alternatives such as arbitration. We also support focusing Endangered

Species Act consultation requirements at the project-level rather than having to redevelop entire forest plans.

Our organizations also strongly support Title II of the WMPA on Sage Grouse and Mule Deer Habitat Conservation and Restoration. This title will allow conservation partners to move quickly on landscape habitat restoration projects that are proving to have a tremendous impact for mule deer, sage grouse and other species dependent on sagebrush rangelands.

We urge Congress to come together in the next weeks to adopt these sensible and well-vetted provisions that will enhance the health of our national forests.

Sincerely,

American Woodcock Society
 Archery Trade Association
 Boone and Crockett Club
 Campfire Club of America
 Congressional Sportsmen's Foundation
 Delta Waterfowl
 Houston Safari Club
 Mule Deer Foundation
 National Shooting Sports Foundation
 National Wild Turkey Federation
 North American Grouse Partnership
 Pheasants Forever
 Quail Forever
 Rocky Mountain Elk Foundation
 Ruffed Grouse Society
 Theodore Roosevelt Conservation Partnership
 Whitetails Unlimited
 Wild Sheep Foundation
 Wildfire Forever
 Wildlife Management Institute
 Wildlife Mississippi

October 23, 2017

The Honorable John Barrasso
Chairman
Committee on Environment
& Public Works
U.S. Senate
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment &
& Public Works
U.S. Senate
Washington, DC 20510

Chairman Barrasso and Ranking Member Carper:

As you know, our nation is experiencing another catastrophic wildfire season. Over 8.8 million acres have already burned this year and we may break the record that was set just two years ago. Some of the worst devastation has occurred on overstocked, unhealthy federal forests, where wildfires have affected millions of Americans living in nearby communities and polluted the air with toxic smoke. We need Congress to reform the federal forest management policies that are a key cause of the worsening wildfire seasons and deteriorating forest health, as well as addressing the broken and unsustainable fire funding model.

At a recent hearing before your Committee, you heard from a wide array of industry, conservation, and state government interests in support of a comprehensive approach to these significant – but solvable – problems.

We commend you for taking some of the best ideas from the bills discussed at your September 27th hearing and incorporating them into the draft bill under consideration at this weeks' hearing. These provisions include meaningful policy and legal reforms to increase federal forest management and thinning activities.

The legislation will prevent unnecessary litigation against needed forest management projects, expediting NEPA analysis while preserving public input and involvement, and provide an array of new tools to expedite projects designed to meet a variety of forest management objectives. Reducing fuels, particularly in our Western forests, and creating a variety of habitat ages and types, are critical to the long term health of our public forests and rangelands.

Our organizations applaud your efforts to address both crises facing our National Forests and public lands. This legislation represents a significant step towards addressing the management questions. We urge you to rapidly conclude bipartisan negotiations so that this Congress can enact both fire funding and forest management reform legislation this year.

Sincerely,

American Farm Bureau Federation
American Forest Resource Council
American Loggers Council
Allegheny Hardwood Utilization Group
Associated California Loggers
Associated Logging Contractors of Idaho
Associated Oregon Loggers
Association of O&C Counties
Black Hills Forest Resource Association
Black Hills Regional Multiple Use Coalition
California Forestry Association

Colorado Timber Industry Association
Federal Forest Resource Coalition
Forest Resources Association
Great Lakes Timber Professionals Association
Hardwood Federation
Healthy Forests, Healthy Communities
Idaho Forest Group
Intermountain Forest Association
Michigan Forest Products Council
Minnesota Forest Industries
Minnesota Timber Producers Association

Missouri Forest Products Association
Montana Logging Association
Montana Wood Products Association
National Alliance of Forest Owners
National Cattlemen's Beef Association
New Mexico Forest Industry Association
Pennsylvania Forest Products Association
Professional Logging Contractors of Maine
Public Lands Council

Sierra Cascade Logging Conference
Sierra Pacific Industries
Southern Oregon Timber Industries Association
Treated Wood Council
Washington Forest Protection Association
Washington Hardwoods Commission
West Virginia Loggers Council



October 24, 2017

The Honorable John Barrasso
Chairman
United States Senate Committee on Environment
and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Thomas R. Carper
Ranking Member
United States Senate Committee on Environment
and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Ranking Member Carper:

On behalf of the National Association of Counties (NACo) the only organization representing the nation's 3,069 counties, parishes, and boroughs, I write to express support for recent draft legislation to discourage litigation against land management projects, to promote the active management of our nation's federal lands and forests, reduce the risk of catastrophic wildfire and ensure equitable sharing of forest revenues with county governments.

For the 62 percent of counties across the United States that are home to federal lands, the health of our national forests has a direct impact on the health and safety of county residents. Healthy forests are less prone to disease, insect infestation and wildfire. While the causes of catastrophic wildfire are complex, the *status quo* of inaction has exacerbated present forest conditions, which now present a great risk to both communities and the environment.

Counties believe that active management of federal lands and forests must be done in a sustainable, collaborative manner that ensures healthy landscape for generations to come. One way to help ensure a balanced approach to address natural resource management challenges is to authorize limited and reasonable categorical exclusions for collaborative projects and active management projects that improve forest health, such as the treatment of insect and disease infestation, salvage operations after a catastrophic event and the improvement of wildlife habitat. Counties support your efforts to ensure reasonable management projects can move forward through streamlined regulations and less red tape.

In addition to improving forest health and reducing wildfire risk for forest communities, increased active management will generate more revenue for the federal treasury and critical services provided by counties, and promote job creation and economic growth across the nation. The increase in stewardship contracting in recent years has shown that a market-driven approach to forest management projects can work to achieve both forest management goals and greater forest production.

Counties support and are active partners in stewardship contracting initiatives across the United States. NACo supports provisions of the draft legislation that authorize the equitable sharing of stewardship contracting revenues with counties consistent with historic practices. Forest revenue sharing payments support critical county services such as transportation, infrastructure and education. America's counties

look forward to working with Congress to further strengthen forest revenue sharing between counties and the federal government.

NACo stands ready to work with you to promote locally supported, consensus-driven solutions to address forest management challenges, reduce the risk of catastrophic wildfire and increase economic activity on our federal lands. We appreciate your committee's efforts in support of legislation that promotes healthy landscapes and protects federal lands communities.

Sincerely,



Matthew D. Chase
Executive Director
National Association of Counties



Joel Bousman
President
Western Interstate Region



October 24, 2017

The Honorable John Barrasso, Chair
Senate Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tom Carper, Ranking Member
Senate Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Barrasso and Senator Carper,

I write as CEO of the National Wild Turkey Federation (NWTF) to strongly support the Discussion Draft of the Wildfire Prevention and Mitigation Act of 2017. Founded in 1973, the NWTF is a national, non-profit, wildlife conservation organization that is dedicated to the conservation of the wild turkey and the preservation of our hunting heritage. The NWTF is 230,000 members strong and maintains local chapters in every state.

The NWTF has been intimately involved in the issues of federal forest management reform and a legislative, permanent fix to remedy the wildfire funding problem for the last 3 Congresses. I have testified several times before the various committees of jurisdiction in both the House and Senate on bills, Discussion Drafts, and oversight hearings. We have come to the conclusion that federal forest management reform and a legislative wildfire funding fix must be enacted in the same bill. Wildfires, litigation, inadequate funding, and project delays are having significant impacts on other critical functions of both the US Forest Service (USFS) and the Bureau of Land Management (BLM), including delays in project implementation addressing fire prevention, infrastructure maintenance, wildlife conservation, research, and recreation. I understand that a wildfire funding fix is outside of this Committee's jurisdiction. However, I respectfully urge you to collaborate with the leadership of the other committees of jurisdiction to draft a forest management reform and wildfire funding fix bill that will garner 60 votes in the Senate, pass the House, and will be signed by the President.

The Discussion Draft contains federal forest management reforms that are science-based, common sense, direly needed, and readily implementable without reducing or constraining the opportunity for public review. Many of these provisions have bipartisan support, and we believe that there may be an opportunity to negotiate and revise those that lack bipartisan support. The NWTF stands ready to assist the Committee in appropriately considering revisions to the Discussion Draft so that it can be reported out of the Committee with a strong bipartisan vote.

The NWTF strongly supports science-based categorical exclusions (CE) to address specific forest management needs, such as meeting objectives for early successional forest habitat; to salvage dead (from fire, disease or insect damage) timber while it is still of marketable value; to control forest insect and disease damage; to salvage timber damaged by catastrophic natural events; to address the needs of specific at-risk species as sage grouse; and to allow for temporary roads to achieve these management objectives. It is important to affirm that CEs are not exemptions from the National Environmental

Protection Act (NEPA). The Council on Environmental Quality (CEQ) has promulgated comprehensive regulations (36 CFR 220) and guidance under which CEs should be utilized by the federal agencies within the statutory boundaries of NEPA. Only those actions that have already undergone the NEPA review process and are routine, reoccurring activities with known minor impacts are eligible for CEs. Therefore, these actions should not require the typical extensive environmental assessment. 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 federal-state conservation plan for the sage grouse is the largest, most comprehensive habitat conservation plan ever implemented in the United States. Sagebrush steppe habitat supports over 350 vertebrate species, including popular game species such as mule deer. Threats to the vitality of this habitat include invasive species such as cheat grass; the expansion of juniper, pinon pine, or other conifers; and the lack of managed fire. A CE for certain prescriptive management techniques on USFS lands such as manual cutting and removal of conifers, prescribed fire, and other techniques will greatly enhance and expand quality sagebrush steppe habitat, helping to preclude the need to list species under the Endangered Species Act (ESA) by providing the life needs and habitat requirements for these species. The NWTF strongly supports affirmation of this CE in statute.

The NWTF strongly supports the CE for early successional forest habitat. Forest diversity at the landscape level is the key to proper management to achieve wildlife species diversity and robustness. Active management creates young forest habitat, which provides adequate food sources, nesting habitat, and shelter for forest wildlife. We are losing this diversity throughout the United States on a landscape-level scale, in many cases because our forests have become homogenized and over-mature. The USFS has not been able to meet its targets for early forest successional habitat, estimating that 65-82 million acres of National Forest habitat is in need of restoration. The USFS has recognized the need for young forest habitat and has allocated funding and guidance to provide such habitat for threatened, endangered or at-risk species such as the golden-winged warbler, gopher tortoise, red cockaded woodpecker, and New England cottontail. However, studies have estimated that populations of 59% of the bird species that are dependent on early forest successional habitat have declined over the last 2 decades. Ruffed grouse have been nearly extirpated from many parts of their range due to the lack of active forest management, and wild turkey populations have declined by about 15% in the last decade, due in part to a lack of this habitat type. The NWTF strongly supports affirmation of this CE in statute.

The NWTF prefers that the application of a certain CE be tied to meeting the future desired condition of the habitat for wildlife, regardless of acreage. We do believe the acreage limits provide assurance that the actions will not be over-utilized. Additionally, it is important to understand that USFS forest management plans do not allow for forest management treatments to improve wildlife habitat of the size contemplated in some of the bill provisions. The most likely management scenario is several smaller blocks of timber harvest would make up an aggregate CE of accumulated acreage for this management protocol. While the NWTF is supportive of the proposed CE acreage caps, we believe that the acreage limits are secondary to providing the ability for more young forest habitat to be created in a timely manner and at a scale that is meaningful to the dependent wildlife species.

Title I of the bill is a common-sense, bipartisan supported remedy to the Cottonwood decision which has ground timber harvest to a halt in the Upper Rocky Mountain West USFS region. Both the US Fish and Wildlife Service (USFWS) and the Department of Justice under the Obama Administration argued that if additional species are listed or additional acres of critical habitat are designated in an already approved Forest Plan (FP) or Resource Management Plan (RMP), only that newly listed species, and those new acres, are subject to a section 7 consultation under the Endangered Species Act. The NWTF agrees with this opinion. Litigants argued, and the federal court supported, that the entire FP or RMP must be

reviewed again under a section 7 consultation. The NWTF strongly supports Title I of the Discussion draft which remedies the unnecessary process required by the Cottonwood decision.

The NWTF supports the provision of the Discussion Draft that expedites NEPA review of forest projects by limiting review to the action and no-action alternatives. The USFS is increasing its' use of collaborative-developed projects which bring together interested parties around the spectrum, from environmentalists to mill owners, to thoroughly deliberate and draft a science-based forest management project that achieves the desired wildlife conservation, forest restoration, outdoor recreation and other multiple-use objectives desired under the Forest Plan. The process is exhaustive in considering all options, often takes years to complete, and it makes sense that the NEPA review should consider only the option of the selected action of the proposed project compared with the consequences of taking no action. Requiring a NEPA review of all options alternative to the option selected inordinately delays project implementation, and invites litigation that compels the courts to deliberate over an option that has already been thoroughly considered and rejected. The NWTF strongly endorses this expedited NEPA review process.

The NWTF welcomes the provision of a pilot program offering binding arbitration as an alternative to litigation. The loss of years of effort, and the delays in implementation of conservation actions under an approved forest project, from frivolous lawsuits has significantly contributed to increasing fuel loads and greater risks of catastrophic fire; additional species listings under the ESA, some of which may have been avoided by timely implementation of habitat improvements to address the life needs and habitat requirements of species known to be in decline; and failure to provide recreational access to our federal forests. As an example, in Region 1 of the USFS, 5.8 million board feet of timber have been withheld from harvest as a result of litigation just this year. This cries out for a remedy that is alternative to litigation so that we can manage the forests, rather than the forests managing us, as we see with the current wildfire situation. The NWTF strongly supports the pilot program of binding arbitration as an alternative to litigation while continuing to provide public challenge of decisions. This will greatly expedite the process so that the important management of our forests can be implemented.

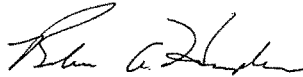
The National Wild Turkey Federation generally supports the language in section 313 to allow a percentage of the gross receipts in stewardship contracting projects to be paid to the counties. We understand the budget concerns facing counties and certainly don't have all the answers for how to replace lost timber revenue to counties due to lack harvest. That said, we recognize that not treating timber revenues generated from Integrated Resource Timber or Service Contracts the same as regular timber sales has led to unintended consequences on county budgets. As one of the larger users of Stewardship Contracting Authorities, we believe this change will remove one impediment to using Stewardship Contracting Authorities and help garner and/or maintain support for the Authority.

The National Wild Turkey Federation is, however, concerned that paying a portion of the gross receipts to counties could negatively impact the outcomes and/or willingness of partners to enter into Stewardship Agreements with the USFS. Stewardship Agreements, a specific type of project authorized under the Stewardship Contracting Authorities, are uniquely different from Integrated Resource Timber or Service Contracts. Stewardship Agreements, unlike Stewardship Contracts, are awarded via a non-competitive process, require mutual benefit and mutual interest, and the partner is required to contribute a minimum of 20% matching funds in order to expand the scope and scale of the project. Stewardship Agreements are often applied in situations with limited timber value, in places where there aren't viable markets, or where the U.S. Forest Service lacks capacity to administer or implement the project. As a result, the partner's match is required to make the project feasible and to enable the timber harvest and related wildlife/habitat service work to be completed. The NWTF has partnered with the USFS on over 100 stewardship contracts and agreements. We have seen firsthand how our match was used to expand the scope/scale of the project beyond what would have been possible via a

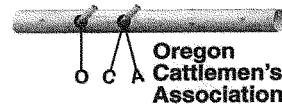
regular timber sale or Stewardship Contract. Diverting a portion of the gross timber receipts to the counties, would decrease the dollars available for on-the-ground work and place a disproportionate strain on the partner match. For these reasons the NWTF suggests that payments to counties be incorporated into the Integrated Resource Timber or Service Contracts but not into Stewardship Agreements.

Thank you very much for consideration of the NWTF perspectives on the Discussion Draft which we strongly support. The NWTF stands ready to work with the Committee to report out a bill with robust bipartisan support.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rebecca A. Humphries', with a stylized, flowing script.

Rebecca A. Humphries
Chief Executive Officer



October 24, 2017

The Honorable John Barrasso
Chairman
Committee on Environment &
Public Works
U.S. Senate
Washington, DC 20510

The Honorable Tom Carper
Ranking Member
Committee on Environment &
Public Works
U.S. Senate
Washington, DC 20510

Chairman Barrasso and Ranking Member Carper:

This year in Oregon, wildfires consumed more than 600,000 acres, impacting timber and grazing resources, fish and wildlife habitat, a National Scenic Area, private homes and public health. Majority of the of these fires started on federal land, where they were allowed to become established and spread. Attached is an Oregon Department of Forestry map highlighting the fires across our state.

Nationally, 8.5 million acres have already burned this year, and the devastating fires in California continue to be front page news. It is time for Congress to reform the federal forest management policies that allow for overstocked and unhealthy federal forests.

We appreciate your Committee's actions to focus on Federal land management. We are supportive of the concepts in the staff draft under consideration this week. We see this concept as the first step in bipartisan negotiations for meaningful federal forest reforms.

In the West, litigation of public land management has become a barrier in land management objectives. We believe the language in the draft will give projects increased certainty and relief from crippling litigation. The draft expedites NEPA analysis while preserving public input and involvement.

The categorical exclusion for certain sage grouse and mule deer habitat vegetation projects is important to our membership. The State of Oregon and our ranching community has committed significant resources to support voluntary habitat projects on both public and private land. The provisions in this legislation are important to continue to encourage these projects.

The projects promoted in the draft to reduce fuels are critical to the future of our public forests and rangelands. These lands cannot withstand the continued catastrophic fires that overloading and mismanagement produces. Additionally, the expanded categorical

exclusions for insect and disease are an important element in achieving appropriate management objectives.

Many of the elements of the draft are needed to improve conditions on Bureau of Land Management lands, which are a significant portion of Western forests.

Our organizations appreciate the Committee's efforts to address needed changes in Federal forest management. The concepts in the staff draft are important elements in improving forest health and communities surrounding public lands.

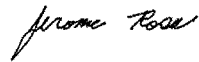
Sincerely,

A handwritten signature in cursive script, appearing to read "Katie Fast".

Katie Fast
Oregonians for Food & Shelter

A handwritten signature in cursive script, appearing to read "Barry Bushue".

Barry Bushue
Oregon Farm Bureau

A handwritten signature in cursive script, appearing to read "Jerome Rosa".

Jerome Rosa
Oregon Cattlemen's Association



ROCKY MOUNTAIN ELK FOUNDATION

October 25, 2017

The Honorable John Barrasso, MD
Chairman
Environment & Public Works Committee
US Senate
410 Senate Dirksen Office Building
Washington, D.C. 20510

The Honorable Thomas Carper
Ranking Member
Environment & Public Works Committee
US Senate
456 Senate Dirksen Office Building
Washington, D.C. 20510

Chairman Barrasso and Ranking Member Carper,

The Rocky Mountain Elk Foundation (RMEF) stands in full support of the comprehensive legislation before the Senate Environment & Public Works Committee to expedite forest management activities on public lands, discourage litigation that has needlessly stopped necessary forest management projects and improve habitat for greater sage grouse and mule deer.

RMEF is a national sportsmen and conservation organization based in Missoula, MT with over 222,000 members and 11,000 volunteers nationwide. Our mission is to ensure the future of elk, other wildlife, their habitat and our hunting heritage. One of our core functions is to partner with state and federal land and wildlife management agencies to secure and improve habitat for elk and other wildlife. Our resources and volunteers have helped conserve more than 7.1 million acres for elk and other wildlife. One of our proudest accomplishments is our managed lands initiative, which has utilized forest thinning, prescribed burning, noxious weed control, aspen restoration and wildlife water source development to improve habitat across 28 states. We have completed more than 4,000 of these projects with the U.S. Forest Service, Bureau of Land Management and state wildlife agencies.

Our experience with our managed lands initiative has solidified our belief that federal public lands, outside of national parks and wilderness areas, should be actively managed to benefit wildlife habitat, mitigate wildfire, improve forest and rangeland health, and improve the economies of forest and rangeland dependent communities. Unfortunately, numerous federal land management agency projects—including some of our partnership projects—have been needlessly delayed or stopped altogether by baseless litigation brought by organizations with no incentive to benefit public lands or wildlife, but rather only to impede the process and have their attorney fees be reimbursed from the U.S. Treasury.

It's time to stop the frivolous litigation, inefficient and ineffective environmental review process and lack of common sense that has left our national forests with record high acreages of



ROCKY MOUNTAIN ELK FOUNDATION

dead standing timber, record high numbers of catastrophic wildfires and acreage burned, degraded wildlife habitat and decimated local economies. It's well past time to pass this legislation to give federal land management agencies and their state, nonprofit organizations and industry partners a chance to implement projects to improve forest health, wildlife habitat and local economies while mitigating catastrophic wildfire.

We offer the following comments about specific sections of this bill.

- 1) **Title I. Litigation Relief for Forest Management Projects.** This Title directly addresses the 2015 case, *Cottonwood Environmental Law Center v. United States Forest Service*, 789 F.3d 1075 (9th Cir. 2015), that required federal land management agencies to initiate consultation with the U.S. Fish & Wildlife Service at the programmatic level when new critical habitat is designated or a new species is listed. The impact of this decision is significant. Nearly every agency decision or project, whether or not it included any ground disturbance, would require consultation and result in delays and increased costs. RMEF strongly supported stand-alone legislation to overturn this ruling and remains in support of this provision.
- 2) **Title II. Sage-Grouse and Mule Deer Habitat Conservation and Restoration.** The threats to greater sage-grouse and mule deer habitat are well-established. Among these are encroachment of conifers, invasive vegetation, wildfire, and soil and water degradation. Federal land management agencies have been prevented by litigation and obstructions to the environmental review process from carrying out projects to address these threats. This Title would establish a categorical exclusion to expedite projects to improve sage-grouse and mule deer habitat as well as require development of long-term monitoring and maintenance plans to ensure their effectiveness. Studies demonstrate over 40 million acres support both sage grouse and elk habitat. Any on-the-ground improvements to benefit sage grouse and mule deer will also benefit elk.
- 3) **Title III. Forest Management Improvement.** Lack of active forest management has created a situation on significant acreages throughout the National Forest System where once diverse ecosystems have become monocultures of diseased and dead timber, ripe for catastrophic wildfire. Elk and other wildlife cannot thrive in these areas. They require a diversity of forest stands, in terms of age, species and canopy cover.

This Title will help federal land management agencies overcome needless delays in the environmental review process by creating an "action-no action alternative" that will ensure a project's potential impacts on forest health, habitat diversity, wildfire, insects and disease, water quality and economic and social factors are thoroughly evaluated without delay. Another beneficial feature of this Title is coordination of Good Neighbor Authority between the Departments of Agriculture and the Interior. This program has



ROCKY MOUNTAIN ELK FOUNDATION

been significantly beneficial for projects involving cooperative partnerships between federal and state land management agencies. This Title also makes improvements to the Forest Service's Stewardship Contracting program by keeping a percentage of the gross project receipts in local communities to help retain existing wood products infrastructure—which is critical for accomplishing wildlife habitat projects.

RMEF also supports this Title's establishment of a 5-year pilot arbitration program to provide an alternative to litigation. We believe this program will demonstrate there will be ample time and opportunity for all parties interested in a project to make sure their concerns are addressed completely and expeditiously.

This Title's Ecosystem Restoration section is critical to help federal land management agencies address the significant challenges they face in trying to restore forest health and make forests more resilient. These challenges cannot be met without implementation of timber harvesting, including thinning and creation of openings, prescribed fire, insect and disease treatments, hazardous fuel load reductions, timber salvage and a variety of vegetation manipulation tactics. This Title establishes minimum targets for restoration treatment on the National Forest System and categorical exclusions to get them done. Perhaps the most important section of this Title from RMEF's perspective, is establishment of the categorical exclusion to meet forest plan goals for early seral and early successional forests. These forest types are critical for elk and a wide diversity of other wildlife.

We encourage the members of the Committee to approve this important legislation and thank you for the opportunity to submit comments.

Sincerely,

David Allen
President & CEO

**Testimony of Brent A. Rudolph, Ph.D., National Director of Conservation Policy
Ruffed Grouse Society and American Woodcock Society
To the Senate Committee on Environment and Public Works
Hearing on the Wildfire Prevention and Mitigation Act of 2017
Wednesday, October 25, 2017**

Chairman Barrasso, Ranking Member Carper, and Members of the Committee,

Thank you for the opportunity to testify to the Committee on Environment and Public Works regarding the critical need to facilitate scientific management of our nation's forests. Preventing and mitigating impacts on human life, property, and the health of our environment and natural resources all stand to benefit from common-sense steps your committee can advance. The Ruffed Grouse Society and American Woodcock Society (RGS/AWS) greatly appreciate your attention to this issue.

The Ruffed Grouse Society was established in 1961. With the formation of our sister organization the American Woodcock Society in 2014, we have continued to grow the organization and broaden public awareness of the important conservation work in which we have engaged for over 50 years. We have a simple mission – commitment to sustaining healthy forests, abundant wildlife, and sporting traditions. We pursue this mission by working with private landowners and government agencies at all levels to utilize scientific management practices to develop critical forest habitat.

RGS/AWS express our deepest gratitude for the women and men that put their lives on the line – particularly to those who have made the ultimate sacrifice – protecting lives and property of other while working to contain the conflagrations so devastating to western states in recent years. It is understandable that your committee would wish to focus on efforts at forest management reform most likely to prevent future catastrophic wildfires and their tragic consequences. At the same time, these efforts can address the dramatic impacts on forest habitat and wildlife that have accumulated across the entire National Forest system. While attention is being given to the dire need to revise the system for funding catastrophic wildlife response, actions are needed to provide practical approaches for land managers to proactively restore forest health.

I. The Overdue Need for Action

Scientifically sound forest management does not happen without careful planning and execution, and does not happen overnight. Like any natural system, forests are dynamic, and successful management requires both planning and adaptation. The direct impacts of wildfire have been most pronounced in the western U.S., but the depletion of budgets through “fire borrowing” and a 39% decrease in staff positions that work to manage National Forest System lands in favor of fire personnel have had widespread impacts.ⁱ Costly and cumbersome processes and serial

litigation have further burdened the U.S. Forest Service (USFS) and stifled responsible, scientific forest management across the nation.

The inability to actively manage our National Forests has produced a loss of age diversity in forest regions far removed from the most dramatic and direct wildfire impacts. The National Forests in the Eastern and Southern Regions of the USFS have seen nearly a 50% decrease in young forest stands, and substantial increases in the oldest classes of greater than 80 years of age over approximately the past decade and a half. This aging of the forests has been counter to the forest plans that were developed across all eastern National Forests (USFS Regions 8 and 9) by resource management staff with substantial public input. Data indicate that the even age habitat treatments needed to regenerate these young forests have been accomplished on average over only 24% of the acreage needed to meet *minimum* goal treatment levels established in forest management plans.ⁱⁱ These impacts are felt in combination with the increased fragmentation, parcelization, and loss of active forest management on private lands. As a result, population declines since 1980 have been documented among 53% of the bird species that breed in shrub-dominated or young forest habitats across in the eastern United States and Canada.ⁱⁱⁱ Over the same regions and time period, declines have been documented among just 34% of those bird species that breed in mature forests.

In the face of the numerous interacting factors driving the increased occurrence of catastrophic wildfire seasons, reforms must continue to provide important environmental safeguards while proactively rejuvenating forest health and exerting what control we are able to have to curb future fires. Without action, this widespread decline of healthy forest habitats and associated wildlife species will also continue to occur. RGS/AWS strongly support the Discussion Draft of the Wildfire Prevention and Mitigation Act of 2017 that includes several important measures to address these dilemmas.

II. Facilitating More Efficient Management Dispute Resolution

It is critical to maintain the opportunity for citizens, communities, and organizations to hold USFS managers accountable to their obligation for responsibly carrying out their multiple-use mission on National Forest lands. For this reason, RGS/AWS support the steps the Wildfire Prevention and Mitigation Act would take to establish a pilot program to evaluate the effectiveness of arbitration as an alternative to litigation. In recent decades, USFS has faced an average of more than 56 lawsuits filed per year.^{iv} These lawsuits delay and disrupt active management even though (as litigants are well aware) USFS prevailed in nearly two of every three (64.0%) cases decided by judges. Over 40% of USFS lawsuits are brought to halt vegetative management, and the even-age forest management practices that are critical to provide habitat for ruffed grouse, American woodcock, golden-winged warblers, and many other declining game and nongame young forest species have been hardest hit. This serial litigation (and aversion to prompting even more) has allowed entities opposed to all forest treatments to effectively hijack management through legal manipulation rather than based on substantive resource management problems.

The arbitration process the Discussion Draft would establish eliminates the proposal included in a prior bill to require plaintiffs to post a bond. The process would also allow qualified arbitrators to decide in favor of a Secretary-approved restoration project, an alternative proposal submitted by the objector, or reject both proposals. This approach represents an important compromise to promote management accountability without allowing excessive litigation to continue to preoccupy management and the courts.

Depleted budgets and staff are further burdened by excessive and costly analysis requirements. More than 40% of the time of USFS employees at the National Forest level is spent conducting planning and analysis, slowing the pace at which they can accomplish actual restoration and management to benefit the resources for which they are responsible.^v The Wildfire Prevention and Mitigation Act would focus the conservation benefits of the Endangered Species Act (ESA) by ensuring consultation occurs on any listed endangered species during creation of forest management plans, and then allow those plans – which require a considerable level of effort and public engagement in addition to any consultation with the Fish and Wildlife Service – to continue to provide broad management guidance. Future consultation on any species listed or critical habitat designated at the time of plan completion or at any future date would still be required at the project level. This is appropriate, given these project decisions regarding on-the-ground actions are those with the potential “to jeopardize the continued existence”^{vi} of a listed species, unlike the broad guidance provided by management plans that do not directly authorize or commit to specific management actions. The Wildfire Prevention and Mitigation Act would eliminate one cause of growing frustration with the ESA and maintain ESA benefits for endangered species while preventing courts and litigation from forcing full plan-level ESA consultation that delays rather than benefits conservation.

III. Further Consideration of Categorical Exclusions and Stewardship Contracting Revisions

The creation of categorical exclusions for managing early seral or early successional forest, improvement of wildlife habitat, and for insect and disease infestation represents important consideration of the need to restore wildlife habitat and resilience of our National Forests. Several recent bills have explored similar approaches to facilitate larger projects to help achieve landscape-level restoration, and the acreage limits the Discussion Draft proposes for categorical exclusions are not the largest that have been proposed. Some critics of creating additional and/or larger categorical exclusions argue against further expansion given the existing USFS authority has not been used to the extent possible. The reasons for this limited use likely vary regionally, including that management in general has been stifled by the funding and other bureaucratic problems noted herein, public opposition to large projects in some regions, and that some areas require restoration work on an even larger scale such that existing categorical exclusion authority provides insufficient benefits. However justified the facilitation of these larger-scale projects may be, it is more important to find agreement and bipartisan support for moving forward with

facilitation of restoration than to pursue additional and larger categorical exclusions if sufficient support is lacking.

The Discussion Draft would also modify Stewardship End Result Contracting to require 25% of any gross receipts from a project be disbursed to the county in which the project is located. Stewardship Contracting projects are currently allowed to direct all such revenue back into additional local project expenditures without appropriation. This change would bring the Stewardship Contracting program in line with the 25% allocation made to counties for other timber harvesting activities on federal lands. This would address what in some areas has been a perception that federal and other public lands do not adequately support local schools and other services, and address the decline in timber revenue in counties where harvest overall has been lagging.

However, we caution against eroding capacity to implement Stewardship Agreements – a specific type of project also authorized under the Stewardship Contracting Authorities. Stewardship Agreements, unlike Stewardship Contracts, are awarded non-competitively, with partners required to contribute a minimum of 20% matching funds. By finding compatible, willing partnerships and leveraging matching funds, Stewardship Agreements can accomplish habitat management through projects where timber of limited value requires harvest, where there are no viable markets, or where USFS staff have limited capacity to administer contracts and projects. RGS/AWS have made use of Stewardship Agreements to facilitate non-commercial treatments to achieve land management goals for the national forests aligned with RGS/AWS priorities that also meet local and rural community needs. Local communities already stand to benefit from employment opportunities created and outcomes produced by such agreements, and thus a case can be made that it would be preferable to continue to allow (though certainly not require) reinvestment of gross receipts into furthering the impact of projects except in cases where direct sharing would be critical to gain local support.

IV. Conclusion

With catastrophic wildfires again producing dire impacts in the west, the public will look to their leaders for action. Active forest management represents the best short-term proactive approach to address some of the factors likely to continue to drive future dramatic conflagrations. Evidence shows that the lack of and opportunities to proactively engage in scientific forest management. The resulting widespread and lasting impacts on forest health and wildlife habitat present entirely different but also quite crucial considerations. The actions before you represent important steps to ensure resource managers and partners can appropriately apply tools for both fire prevention and conservation. Small compromises to achieve the necessary support for advancing these efforts would be well worth the time invested, and have positive impacts on our public trust resources for generations to come.

RGS/AWS will continue to work towards sustaining healthy forests, abundant wildlife, and sporting traditions, but your action can aid the efficiency and effectiveness of reaching these

goals. Thank you very much for your attention to this issue and for the opportunity to share our perspective. We will happily address any questions you have to aid in these important deliberations.

ⁱ USDA Forest Service. 2015. The Rising Cost of Fire Operations: Effects on the Forest Service's NonFire Work.

ⁱⁱ Petition for Rulemaking re: Implementation of Management Measures to Maintain the Viability of Early Successional Forest Habitats and Associated Wildlife on National Forests in Regions 8 and 9 - filed April 30, 2015, by the Ruffed Grouse Society Before the Secretary of the United States Department of Agriculture and the Chief of the United States Forest Service.

ⁱⁱⁱ Dessecker, D. R., et al. 2007. Ruffed Grouse Conservation Plan Executive Report.

^{iv} Miner, A. M. A., et al. 2014. Twenty Years of Forest Service Land Management Litigation. *Journal of Forestry* 112(1):32-40.

^v USDA Forest Service. 2002. The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management.

^{vi} 16 U.S.C. § 1536(a)(2)

Established in 1961, the Ruffed Grouse Society/American Woodcock Society is North America's foremost conservation organization dedicated to preserving our sporting traditions by creating healthy forest habitat for ruffed grouse, American woodcock and other wildlife. RGS/AWS works with landowners and government agencies to develop critical habitat utilizing scientific management practices.

RGS/AWS is designated as a Charity Navigator Four-Star charity, for recognition as a financially healthy, accountable, and transparent organization. Information on RGS/AWS, its mission, management projects and membership can be found on the web at:
www.RuffedGrouseSociety.org.



TESTIMONY
Presented to the
Committee on Environment and Public Works
U.S. Senate
by
Ken Hamilton, E.V.P.
The Wyoming Farm Bureau Federation

RE: *Wildfire Prevention and Mitigation Act of 2017*

Distinguished members of the Committee; the Wyoming Farm Bureau Federation would like to provide comments on the *Wildfire Prevention and Mitigation Act of 2017* being considered by this Committee.

The Wyoming Farm Bureau Federation represents over 2,600 farmers and ranchers within the state of Wyoming as well as approximately 11,000 associate members who have an interest in a strong agricultural sector. Our agricultural members are family ranchers and farmers who utilize private and federal land to produce food and fiber utilized by the citizens in this nation.

Wyoming's land ownership is a mixture of private lands and federal lands. The eastern side of our state is predominately (approximately 50 percent) private lands with smaller in-holdings of federally managed lands. On the western side the pattern reverses itself with more federal lands and the private lands along water sources. These water sources can be utilized to grow livestock feed during the short growing season which is used to support and supplement forage consumed on federal lands through Forest Service (FS) and Bureau of Land Management (BLM) grazing. Generally speaking the private irrigated areas have greater amounts of forage per acre than the federal lands. Roughly 48 percent of Wyoming's surface estate is managed by the FS or BLM. Private and federal land in the western half is intermingled. Both livestock and wildlife utilize these lands with the private lands providing important forage sources during winter months.

Wildfire prevention and mitigation are important for both private and federal lands. Wildfires have no respect of property lines. Efforts to mitigate fuel buildups help reduce resource damages by fires and benefit both private and federal lands.

Fire can be used as a tool to reduce fuel loads in forests, but it is a dangerous tool which frequently grows beyond its intended purpose. Less volatile tools are needed which are easier to control. Unfortunately, the use of these tools are restricted by litigation an issue this bill seeks to address.

Both the FS and BLM are beset with "paralysis by analysis", but the FS has been particularly subject to this problem. Revitalizing and implementing tools which can help alleviate wildfire potential, enhance wildlife habitat, protect private property and reduce costs associated with wildfire control makes sense.

The need for a federal land management agency to respond to natural disasters is paramount. Often times the window for measures to be taken by private industry in order to mitigate or enhance our landscapes after a significant event, such as a bark beetle epidemic, or high altitude tornado, is short. This is where the paralysis by analysis works against good management practices. In Wyoming we've seen hundreds of thousands of acres of trees killed by bark beetles. This has resulted in many of those areas becoming unusable for many previous uses such as recreation, hunting or hiking. It has increased the danger to livestock which can utilize the fringes of these areas. Many of these trees which could have been utilized by the private sector, if they had been harvested shortly after they were killed. Unfortunately, the window for this was a narrow two to three year period before the trees began to rot to the extent they could not be useful. Delays in implementing salvage timber sales has resulted in very few of these dead tree's being used.

Once the trees begin to rot there are basically two outcomes. The first would be catastrophic fires. The impacts on the environment, adjacent communities and users from this outcome can be significant. The second outcome is trees decomposing to the extent they fall into an impenetrable mass which will ensure many wildlife species cannot utilize these areas as they have in the past. In arid areas like Wyoming it will take decades, if not centuries, for these trees to decompose enough for these areas to once again be utilized by wildlife.

In the case of the first alternative, wildfire; being able to respond with effective habitat restoration efforts can prevent future problems. This same ability to respond in the forests is also necessary on range lands. After any fire on both forest and range lands, the concern of invasive species invasion is a manager's greatest fear. Being able to effectively, efficiently and proactively address these possible invasions is paramount in ensuring we have a recovered landscape that supports natural species. If not we risk having a landscape that is a natural species desert.

On range lands, the prime example of this is invasion by a non-native grass we call cheatgrass (*Bromus tectorum*) which has taken over millions of acres in the Great Basin region of the western U.S. This species has created its own ecosystem, which in turn has impacted the Greater Sage-grouse and other native species.

Addressing these problems – particularly after a fire, requires quick action. The cost of addressing these problems can be significant too. Therefore, anything which will reduce those costs can only result in more acres being treated in a more timely fashion.

What are some of these actions which can help?

Utilization of a Categorical Exclusion, or CE, on those actions would provide a faster beginning for mitigation measures. In areas where CEs are not appropriate, utilization of Environmental Assessments or EAs would be beneficial. The appeals process which has beset NEPA documentation has been a major contributor to the paralysis by analysis syndrome. A mechanism to allow for quicker action is sorely needed. Whether an arbitration process is the answer is difficult to assess, but the conditions of million's of acres of federal lands argue that some solution must be sought. This may be the answer, or it may not, but something has to be tried.

Ability to access impacted areas. In areas where access to perform mechanical treatments is important, adequate roads to get access to those areas will contribute to decreased costs and greater efficiency. More dollars to more environmental enhancements will help mitigate the impacts.

Because of the scale of the problem, cost effective processes need to be used. No one tool will address the problem. There are very few silver bullets, if any, which can be utilized in this process. Both the BLM and FS are limited by their ability to address problems because of budget constraints.

Vegetative manipulation needs to be utilized, not only on areas which have had a catastrophic event, but more importantly, in areas which **haven't** had a catastrophic event.

An Associated Press article in the *Casper Star-Tribune* on Sunday, October 22 talks about a process which has been utilized in Oregon in timbered country, where groups representing various interests came up with a process to thin and remove brush mechanically which saved homes from wildfires (see *Casper Star-Tribune*, October 22, 2017 page C4 "*Project saved homes from fires, but can it be duplicated?*").

The size of these problems will only grow if actions aren't taken today to address them. Costs continue to escalate, leading to fewer feasible solutions to on-the-ground problems. Our members, who use these areas, are directly and increasingly impacted when these problems are not addressed.

In conclusion we urge the Committee to support these efforts. Time is not our friend when it comes to addressing these issues, so action to seek solutions is critical. Action to address the problems is even more critical – one which Congress can address by this proposed legislation.

Thank you for the consideration of our comments.



Adam Trupp, Chief Executive Officer
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and Intergovernmental Relations
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October 20, 2017

Chairman John Barrasso
U.S. Senate Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510-6175

RE: Wildfire Prevention and Mitigation Act of 2017

Dear Chairman Barrasso:

The Utah Association of Counties supports the Wildfire Prevention and Mitigation Act of 2017 because it provides flexibility and good management policy to public forest management. We believe that good forest management is driven by scientific data and credible economic study. Lawsuits have dictated too much forest management policy in recent decades. Our counties applaud the flexibility the bill provides in managing habitat for wildlife species that are under the state's jurisdiction. Flexibility and science should be the backbone of management.

Utah's counties have long been calling for forest management that will protect our communities from catastrophic wildfires. We have watched in bewilderment as trees killed by insects and disease were protected from logging by lawsuits. We predicted hazardous fire conditions if standing dead timber wasn't removed. For decades we have clamored for better management that would allow the harvest of dead trees. We all knew that removing the trees would be beneficial to our economies as well as forest health. We all knew that if a fire ever caught in the dead timber, it would be difficult to control. Despite the obvious nature of the threat, the dead timber has remained on our mountains. This year we have had the enormous fires that have long been predicted.

The Wildfire Prevention and Mitigation Act of 2017 would prevent the repetition of the mistakes that led to the tragic 2017 wild fire season. We support the bill because it will limit the management by lawsuit so that forests can be managed with best practices. We also support the bill because it allows a more efficient decision making process for proven management practices that urgently need to be implemented. Finally, we support the bill because it protects the sustainability of the wildlife and vegetation that make up our public forests.

Sincerely,

Celeste Maloy
Utah Association of Counties' Public Lands Policy Advisor

October 23, 2017

The Honorable John Barrasso
Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Thomas Carper
Ranking Member
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Wildfire Prevention and Mitigation Act of 2017

Dear Chairman Barrasso and Ranking Member Carper:

Like many American's our thoughts are with the people and communities that have been struck by one of the nation's most catastrophic wildfire seasons. We appreciate Congress' interest in improving the health of our nation's forests and agree that addressing this issue is of critical importance. As entities responsible for delivering sustainable water supply and renewable hydropower for millions of citizens throughout the Western U.S., we are writing in support of the need to pass, this year, comprehensive legislation providing meaningful forest management and wildfire funding reforms.

National Forest lands are the largest single source of water in the U.S. and in some regions of the west contribute nearly 50% of the overall water supply that supports our farms and cities. The current, unhealthy state of these forests, which contain some of the nation's most valuable watersheds, increases the threat of catastrophic wildfires. These high intensity wildfires jeopardize the reliability, volume and quality of water for tens of millions of Americans, along with the wildlife, recreational, and multi-purpose value of these lands.

We support reforms that enable collaborative, active forest management, streamline the environmental review process, address the unsustainable practice of fire borrowing, and provide an alternative to the current unworkable litigation process. We believe it is critical that both forest management reforms and resolution of the fire borrowing issue are addressed in any legislation to ensure on-the-ground forest restoration activities can proceed at the pace and scale of the problem. We recognize and appreciate that these elements are addressed in the draft Wildfire Prevention and Mitigation Act of 2017. We support the need for the forest management and ecosystem restoration activities identified in this legislation and encourage the Committee to continue this laudable effort.

We appreciate your leadership on this important issue and urge prompt passage of comprehensive wildfire funding and management legislation to protect our nation's vital watersheds.

Sincerely,

National Water Resources Association

Agribusiness and Water Council of Arizona

Association of California Water Agencies

Colorado River Water Conservation District

Placer County Water Agency

Salt River Project

South Tahoe Public Utility District



Wyoming Association of Conservation Districts
517 E. 19th Street - Cheyenne, WY 82001 - Phone: 307-632-5716 - Fax: 307-638-4099
www.conservewy.com

October 24, 2017

The Honorable John Barrasso, Chair & The Honorable Thomas R. Carper, Ranking Member
US Senate Committee on Environment & Public Works
410 Dirksen Senate Office Building
Washington, DC 20510-6175

RE: *Wildfire Prevention and Mitigation Act of 2017*

Dear Chairman Barrasso, Ranking Member Carper, and Committee Members,

On behalf of the Wyoming Association of Conservation Districts, thank you for considering legislation that will allow our natural resources and wildlife habitat to be managed in a responsible and responsive manner by reducing the continued threat of litigation.

Wyoming's 34 local conservation districts are statutorily charged with natural resource conservation, including water, soil, and range and wildlife habitat. §§ 11-16-101 *et. seq.* Further, the conservation districts participate, pursuant to the National Environmental Policy Act, as cooperating agencies and partners with our federal land management agencies both a Forest and Resource Management Planning level as well as the project level. We are the boots on the ground working with our state and federal land managers to ensure a healthy resilient natural resource base that provides economic opportunity and quality of life values that our state enjoys and relies upon.

Specifically, the Association believes that Title I will allow our land managers, after extensive planning and coordination that occurs throughout the planning process, are able to move forward with on-the-ground resource enhancement and improvement projects. These provisions in some aspect mirror the agreement between the US Fish & Wildlife Service and the USDA Natural Resource Conservation Service in terms of advance recognition of the benefits of land management practices to species conservation allowing private landowners to move forward without extensive consultation and delays. It is a relationship that has worked and worked well.

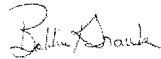
The Association supports as well the intent of Section II in terms of allowing management and treatments of invasive and other threats to Sage Grouse and Mule Deer habitats to occur without the lengthy, often detrimental delays often encountered as a result of litigation. Invasive species impact's to habitat is one of the US Fish & Wildlife Service's identified threats to Sage Grouse habitat. Specifically, Cheat Grass management is paramount not only to providing healthy habitats for Sage Grouse but many other species as well. Successful management requires timeliness, adaptability and flexibility. Providing the ability to implement in this manner will allow the land management agencies to proactively manage the resource rather than wait until infestations have decimated habitat conditions. The Association believes further conversations and language to ensure that certain provisions of this section do not become abused, such as

eliminating certain land use activities such as grazing. Some additional sideboards to this section are recommended to guard against that potential.

Section III of the draft contains measures absolutely imperative to advancing preventative treatment of our forest lands, to advance healthy forests, protect against catastrophic wildfires and protect those watersheds upon which our communities and citizens depend for their water supplies. An example of just how successful these types of proactive management measures are is the Northeast Wyoming Forest Resilience partnership in the Black Hills area of Wyoming. Work between local, state, federal and private industry and landowners, has resulted in positive impacts to forest health through management of Pine Beetle infestations. The results speak for themselves. Where there would otherwise be a red dead and dying forest susceptible to catastrophic wildfire and threatening habitats and watershed health, there is rather a reduced level of pine beetle devastation in comparison to other forests.

The Association urges the Committee to advance the legislation and provide our federal agency partners with the tools necessary to manage our forest resources, wildlife habitat and enhance collaborative resource management opportunities. Increasing certainty will go to great lengths warding off catastrophic fires and helps ensure a health forest, maintain viable wildlife habitats and protect our very critical watersheds and water supplies.

Sincerely,



Bobbie K. Frank
Executive Director



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 Executive Director: Amy W. Hendrickson

October 24, 2017

U.S. Senate
 Committee on Environment and Public Works
 410 Dirksen Senate Office Building
 Washington, DC 20510-6175

Dear Chairman Barrasso, Ranking Member Carper and Members of Committee:

On behalf of the Wyoming Wool Growers Association (WWGA), we wish to lend our support for the proposed Wildfire Prevention and Mitigation Act. We appreciate this opportunity to share our views on this important legislation.

Founded in 1905, the Wyoming Wool Growers Association is one of the oldest livestock producer associations in Wyoming. We advocate for sheep and livestock producers throughout the state and for the businesses, communities, and families that support the agricultural industry in Wyoming. Wildfire presents a tremendous threat to our members and their communities, and to the land and wildlife that surround them. Unfortunately, current federal land management policies often hinder, more than help, the effort to prevent, reduce and mitigate wildfire risk. We welcome this legislation and the Congressional recognition it represents that policy changes are needed to adequately address the increasing threat of wildfire in our country.

After careful examination and study of the provisions in this proposed bill, we believe it will help our federal land management agencies in their efforts to prevent and mitigate wildfire on public lands. We believe the bill provides increased flexibility and options to federal land managers and unlocks a variety of proven wildfire prevention and mitigation tools and approaches, such as reducing fuel loads through livestock grazing or forest thinning, removing trees that are dead or dying from insect infestation and controlling rampant expansion of undesirable plant species. Central to this are the provisions for categorical exclusions for covered vegetative management activities. This policy will encourage federal agencies to utilize a variety of tools to manage lands with the goal of reducing wildfire risk. Further, the bill contains provisions that lessen administrative burdens on land management agencies, which have often been the root of litigation and a restriction on the ability of agencies to manage effectively. These provisions are key policy changes that we support.

The Wyoming Wool Growers Association greatly appreciates the opportunity to weigh in on this important legislation. We enthusiastically support the proposed Wildfire Prevention and Mitigation Act and encourage members of the Committee to also support this bill. If additional information is needed, please don't hesitate to contact me. I may be reached by email at amy@wyowool.com or by phone at 307-265-5250.

Sincerely,

Amy W. Hendrickson
 Executive Director

President:	Vice President:	Treasurer:	AUX President:	Directors:					
Kay Neves	Vance Broadbent	Lisa Keeler	Marcia Federer	Jim Dona	Mike Curuchet	Makayla Mette	Tommy Moore	Regan Smith	
Emblem, WY	Evanston, WY	Kaycee, WY	Cheyenne, WY	Glenrock, WY	Kaycee, WY	Casper, WY	Midwest, WY	Powell, WY	

Senator BARRASSO. Senator Harris.

Senator HARRIS. Thank you, Mr. Chairman.

As has been mentioned and I think is widely known, the recent wildfires in my home State have been devastating to California. I was there last week. For hundreds of miles surrounding the wildfire devastation and disaster, you could see and smell the smoke. It has presented health issues to surrounding communities that will linger.

When I went there, I actually flew over in a Black Hawk with the Governor and others to survey the scene from the air and see the path of the wildfire. I then walked the neighborhoods that had been devastated, and I will tell you seeing those neighborhoods, all of the houses had been destroyed. They were gone. Ash. The only thing standing were the chimneys. And I will tell you when I looked at it, what I saw, it looked like a graveyard, and the chimneys looked like tombstones.

I met with the residents of those communities in the evacuation centers. They are devastated. And the impact, the trauma, the emotional, the physical; we lost 42 lives. I met firefighters who lost their own homes and were battling the fire knowing they had nothing to return to. I met one firefighter who was at one of the centers. He was wearing sweatshirt and sweatpants that someone loaned him because he had been fighting the fires but he had nothing to change into because his home had been destroyed.

So the devastation is very real, and I think this Committee understands in a very bipartisan way that we need to address the issue, and we need to address the issue, as my colleagues have discussed. It includes understanding that, for example, in California we have over 245,000 acres that have been destroyed. That is about 5 times the size of DC. Eighty-four hundred homes and buildings have been destroyed. So it is true devastation.

So, Mr. Kruse, I have a question for you. After speaking with California Fire Chief Ken Pimlott, I have become very aware and it has become clear to me that Congress needs to reform our outdated budgetary practices, and in particular, those that do not treat wildfires like other disasters.

Do you agree that wildfires are in fact disasters and should be treated as such?

Mr. KRUSE. Senator Harris, thank you for the question. Wildfires are certainly a natural part of the ecosystem and part of our forested landscapes, but unfortunately, because of the effects of climate change, longer, hotter, drier fire seasons, extensive fuel build up in 100 years of fire suppression, we are seeing increasing numbers of these wildfires becoming extreme disasters, and they should absolutely be categorized as such.

Senator HARRIS. Thank you. Currently, more than 50 percent of the Forest Service's budget is dedicated to fire suppression, leaving little money for forest management, which has been the discussion here. Do you believe we have dedicated enough Federal funding to the Forest Service to help prevent and mitigate the likelihood of a wildfire before it happens?

Mr. KRUSE. Senator Harris, we certainly have not, and we have shovel ready projects to invest in both planning and implementation right now. We desperately need additional investment.

Senator HARRIS. My colleagues and I have cosponsored a bipartisan bill that is known as the Wildfire Disaster Funding Act. This bill would allow for wildfires to be treated like other disasters and allow States to access emergency funding through FEMA. Do you think that this bill would help mitigate the harm and the damage caused by wildfires?

Mr. KRUSE. Senator Harris, absolutely. In fact, when the Wildfire Disaster Funding Act was introduced in the last Congress, it was the most bipartisan bill of the Congress. Over 150 bipartisan, bicameral cosponsors and over 200 organizations from environmental communities, industry, counties, and recreation and wildlife groups all support that legislation. It is imperative that we pass it. We should be able to do it immediately.

Senator HARRIS. I appreciate your expertise on this panel.

Mr. Crapser, the Forest Service estimated last year that there are nearly 102 million dead trees in California forests. This is especially concerning right now because it contributes, obviously, to wildfires. Are you familiar with tree mortality issues?

Mr. CRAPSER. Yes.

Senator HARRIS. And California fire officials have told me that our State uses its own resources to remove dead trees on Federal lands like national forests, which should be, I believe, an obligation of the United States Forest Service. Are you aware of other States that have had to use their own resources to remove dead trees from Federal land?

Mr. CRAPSER. Senator, in Wyoming, which we are a small State, we have about 4.5 million acres of mountain pine beetle impacted areas. In the last 6 years, the legislature has actually appropriated probably a total of about \$7 million for us to use for bark beetle projects on private, State, and on Federal lands. So we have used State money on Federal land, and I know other States have done the same.

Senator HARRIS. And then my final question, I know my time has expired, but would you agree that Federal funds managed by the U.S. Forest Service should be used to remove dead trees from Federal lands?

Mr. CRAPSER. Senator, I think Federal funds with the managed Forest Service should be used for managing our Federal lands. There are some places where dead trees are probably appropriate to leave. They should be used for the effective management of our lands.

Senator HARRIS. And would removal of dead trees be included in that?

Mr. CRAPSER. Yes.

Senator HARRIS. Thank you.

Thank you. I have nothing else.

Senator BARRASSO. Thank you very much, Senator Harris.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Chairman. Let me first ask unanimous consent to enter into the record a number of letters from concerned stakeholders, including Center for Justice and Democracy, Public Citizen, and the Wilderness Society.

Senator BARRASSO. Without objection.

[The referenced information follows:]

Alliance for Justice * American Association for Justice *
 Center for Justice & Democracy * Earthjustice *
 The Impact Fund * Public Citizen

June 26, 2017

Chairman Rob Bishop
 Committee on Natural Resources
 1324 Longworth House Office Building
 Washington, DC 20515

Ranking Member Raul Grijalva
 Committee on Natural Resources
 1324 Longworth House Office Building
 Washington, DC 20515

RE: Please Defend Citizen Enforcement and the Rule of Law – Oppose H.R. 2936 -- the so-called “Resilient Federal Forest Act of 2017”

Dear Chairman Bishop and Ranking Member Grijalva:

For decades, Congress has recognized the critical role the public plays in enforcing our most fundamental federal laws. Under many statutes—including those protecting civil rights, consumers, the environment, government transparency, people with disabilities, private property, public health, and workers—Congress has authorized the filing of enforcement actions by Americans of all political persuasions seeking justice under the law. Access to justice through access to the federal courts is a fundamental principle in our American democracy. Unfortunately, Representative Westerman’s bill, H.R. 2936, the poorly named “Resilient Federal Forest Act of 2017,” not only fails to improve the quality of public forests by promoting potentially harmful and destructive logging projects, but tramples on access to justice principles by stifling citizens’ ability to seek redress through our courts. Taken together, the provisions of this legislation would severely compromise the “overriding objective of the Forest Service’s forest management program [which] is to ensure that the National Forests are managed in an ecologically sustainable manner.”¹ We therefore urge you to oppose H.R. 2936.

Specifically, Title III, Section 321 of the bill forces many management challenges through an internal and “binding” agency arbitration process that completely eliminates the possibility of judicial review in federal courts. The bill’s language implies it creates only a “discretionary” arbitration pilot program limited to no “more than 10” legal challenges a year, which is incredibly misleading. The public, in fact, has no discretion on whether to have their concerns heard by a federal court or submit to binding arbitration. The agency would have “sole discretion” to decide which challenges are forced into this binding arbitration process, and that decision would not be judicially reviewable. Moreover, the agency could circumvent judicial review for up to ten challenges a year in each of the nine Forest Service Regions and each of the fourteen state regions of the Bureau of Land Management. This broad one-sided discretion would imbue the agency with the power to shield itself from whichever legal challenges it finds most problematic.

Private actions are essential to the laws they enforce and more generally as a “check and balance” to the failure of executive branch to enforce the law as Congress intended. As the Supreme Court has emphasized, a citizen who brings an enforcement action “does so not for himself alone but also as a ‘private attorney general,’ vindicating a policy that Congress considered of the highest priority” (*Newman v. Piggie Park Enterprises, Inc.*, 390 U.S. 400, 402 (1968)). Shielding agency actions from review by

¹ <https://www.fs.fed.us/forestmanagement/aboutus/index.shtml> (web site visited June 22, 2017)

independent federal courts, as section 321 of this bill allows, violates this access to justice principle and is simply undemocratic.

Further weakening access to justice principles, Title III, Section 311 of the bill essentially eliminates the ability for most of the public to participate at all by eliminating the possibility of recovering legal fees under both the Equal Access to Justice Act and the Claims and Judgment Fund of the U.S. Treasury. It is often not enough to simply allow a case to be brought in federal court. In order to ensure citizens have the resources required to fulfill the role of vindicating an important public policy (in this case, the sustainable management of our public lands) Congress has long allowed those who file successful suits to recover their litigation costs—including “reasonable” attorneys’ fees, based on prevailing market rates.² The importance of these fee-recovery provisions lies beyond dispute. If a citizen “does not have the resources” to pursue an enforcement action, “his day in court is denied him; the congressional policy which he seeks to assert and vindicate goes unvindicated; and the entire Nation, not just the individual citizen, suffers” (*City of Riverside v. Rivera*, 477 U.S. 561, 575 (1986) (quoting 122 Cong. Rec. 33,313 (1976))). Section 311 of this bill only further tips the scales of justice in favor of deep-pocketed corporations and against the public’s ability to enforce the intent of Congress and the rule of law.

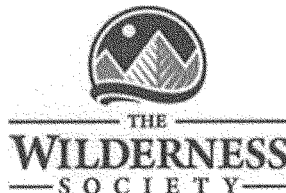
Finally, Title II, Section 203 and Title II, Section 312 of the bill hollow out the ability to win justice through the courts by restricting the ability of courts to enjoin agency actions that may do irreparable harm. Title II, Section 203 specifically eliminates any possibility of stopping certain management actions, including salvage operations, pending court review. This provision overrides a long-standing judicial rule -- Rule 65 of the Federal Rules of Civil Procedures -- and eliminates the ability of federal judges to apply an appropriate balancing test and independently determine if an injunction is warranted. In this instance, justice delayed equals justice denied since irreparable damage may be done to a forest ecosystem before a court can properly review the action and issue a final ruling. In addition, Section 312 of Title III imposes unnecessary additional balancing tests that would interfere with a court’s review under Rule 65 -- to the extent such a review is still allowed.

In sum, H.R. 2936 is a dangerous and reckless attack on every day citizens’ ability to enforce the law. On behalf of our millions of members and supporters, we ask that you defend the principle of citizen enforcement and the rule of law by opposing H.R. 2963.

Sincerely,

Alliance for Justice
American Association for Justice
Center for Justice & Democracy
Earthjustice
The Impact Fund
Public Citizen

² See, e.g., 5 U.S.C. § 552(a)(4)(E)(i) (freedom of information); 15 U.S.C. § 2060(c) (consumer-product safety); 29 U.S.C. § 794a(b) (disability rights); 29 U.S.C. § 2617(a)(3) (workers’ rights); 42 U.S.C. § 1988(b) (civil rights); 42 U.S.C. § 5207(c)(3) (gun rights); 42 U.S.C. § 7604(d) (clean air).



October 24, 2017

The Honorable John Barrasso
Chairman
Environment and Public Works Comm.
U.S. Senate
410 Dirksen Senate Office Bldg.
Washington, D.C. 20510

The Honorable Thomas R. Carper
Ranking Member
Environment and Public Works Comm.
U.S. Senate
456 Dirksen Senate Office Bldg.
Washington, D.C. 20510

RE: Wildfire Prevention and Mitigation Act, Title III – OPPOSE

Dear Chairman Barrasso and Ranking Member Carper:

The Wilderness Society strongly opposes Title III of the “Wildfire Prevention and Mitigation Act.” In our view, the proposed legislation poses a serious threat to environmental stewardship, public involvement, and the rule of law in the national forests. It would greatly increase the amount of logging on national forest lands that could occur with minimal environmental safeguards and opportunities for public participation. The legislation removes essential checks on Forest Service compliance with the law and significantly undermines the National Environmental Policy Act, a bedrock environmental law.

We respectfully request that this letter be included in the Committee’s hearing record for the October 25 hearing on this legislation.

Reducing Public Involvement in National Forest Management through New and Expanded Categorical Exclusions

Subtitle C of Title III would exempt several types of national forest logging projects up to 6,000 acres (9.4 square miles) in size from the public involvement and environmental analysis requirements of the National Environmental Policy Act (NEPA). Specifically, the bill would create four new legislative Categorical Exclusions (CEs) from NEPA:

- *Logging to create early successional forest habitat.* Section 333 would allow up to 6,000 acres of clearcutting to occur with no analysis of the environmental consequences and very limited public involvement. The size of this CE is orders of magnitude larger than the ecologically appropriate size of created wildlife habitat openings.
- *Logging to improve wildlife habitat.* Section 334 is unnecessary because the Forest Service already has an administrative CE for wildlife habitat improvement

projects.¹ If the legislative CE in Section 334 replaced the agency's existing CE in 36 CFR 220.6(e)(6), it could allow the Forest Service to spray herbicides and build an unlimited amount of road as part of habitat improvement projects, with scant public notice or environmental analysis.

- *Commercial thinning on timberland*, including construction of up to one mile of temporary road. Current Forest Service regulations limit the size of commercial thinning projects that can be categorically excluded to 70 acres.² Section 335 would vastly increase the size of such logging projects by 85 times.
- *Salvage logging and other "critical response" actions*. Section 332 would require the Forest Service to establish a CE for projects that address situations that either Congress or the Forest Service has already addressed, such as post-fire salvage logging.

Furthermore, Sections 333, 334, and 335 would exempt the Forest Service from analyzing the cumulative effects of logging projects that are categorically excluded from NEPA by those sections. This means that the agency could undertake multiple 6,000-acre logging projects in the same vicinity without considering their combined impacts on the area's water quality, wildlife, and recreational resources.

In addition, Section 336 of Title III would create a fifth CE for logging projects up to 6,000 acres that are designed to reduce the risk of insect and disease infestations. This would effectively expand and replace a CE authorized by the 2014 Farm Bill for collaboratively developed insect and disease treatment projects up to 3,000 acres.³ Besides increasing the maximum size of the CE by 3,000 acres (5 square miles), S. 1731 would eliminate several of the 2014 Farm Bill's limitations on the use of the insect and disease CE. Specifically, under Section 336, projects using the insect and disease CE –

- would not have to retain old-growth and large trees that are resilient to insects and disease,
- would not have to consider the best available science to maintain or restore ecological integrity, and
- would not have to be developed collaboratively.

Other NEPA Loopholes for Logging

For Forest Service timber sales that are not categorically excluded from NEPA, Section 311 of Title III would add several loopholes in the agency's NEPA process. Specifically, environmental assessments would only need to consider the proposed action and the no-action alternative, regardless of public input urging consideration of other alternatives. Section 311 would also 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.

¹ See 36 CFR 220.6(e)(6).

² See 36 CFR 220.6(e)(12).

³ See 16 USC 6591b.

Section 311 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 arbitrary 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 Subtitle C, these provisions would significantly reduce environmental safeguards and public involvement opportunities in national forest management.

Compared to the Healthy Forest Restoration Act of 2003 (HFRA)⁴, Section 311 would impose even more extreme limitations on the Forest Service's NEPA process. For projects that require an EA, HFRA requires the Forest Service to consider (1) the agency's proposal, (2) a no-action alternative, and (3) an additional action alternative if one is proposed during scoping or a collaborative process and meets the purpose and need of the project. HFRA also requires the Forest Service to hold a public meeting and to facilitate collaboration among state and local governments and tribes and participation by interested citizens regarding the project. In contrast, Section 311 provides no comparable opportunities for analysis of alternatives or public involvement.

Eliminating Judicial Review of Forest Service Decision-making

Section 314 requires the Forest Service to establish a binding arbitration/alternative dispute resolution process for forest management projects—including logging projects. For these projects, no judicial review would be allowed. Under the proposal, an arbitrator would have to select either the Forest Service's project or the objector's alternative proposal within 90 days.

The proposed arbitration process is seriously flawed because it provides no means to ensure that the Forest Service is complying with environmental laws. This section undermines enforcement of existing law, reduces citizen access to courts, and limits public participation in public land management.

Doubling the Cut

Section 323 requires the Forest Service to establish a 5-year schedule, starting in 2018, that results in doubling the acreage of logging and other restoration treatments that the Forest Service accomplished in FY 2017. The Chief of the Forest Service would assign to each Forest Service region a portion of the annual acreage treatments.

Section 323 is problematic because it would impose unrealistic management targets on the Forest Service that are not based on sound science or ecologically justifiable. The legislation provides no additional funding for the agency to achieve the statutory mandate to double the acreage of restoration treatments. Consequently, the Forest Service would

⁴ See 16 USC 6514.

have to divert resources away from all other multiple-use activities in order to accomplish the legally mandated amount of logging and other restoration treatments.

Expanding Good Neighbor Authority to Include Environmentally Damaging Permanent Road Construction

Section 312 of Title III would amend the 2014 Farm Bill to allow permanent road construction to be included in projects implemented by state forestry agencies on national forest lands through “Good Neighbor Authority.” Current law limits the use of such authority to construction of temporary roads, which are typically less environmentally damaging than permanent roads.⁵

Re-Purposing Stewardship Contracting Authority to Benefit Timber Companies and Make Money for Counties

Section 313 of Title III would make three problematic changes to the stewardship contracting authority provided by the 2014 Farm Bill. First, it would allow use of stewardship contracts for the purpose of perpetuating existing lumber mills in addition to the seven environmental stewardship purposes under current law. Second, it would allow stewardship contracts to be awarded to the lowest bidder, rather than on a best-value basis. Third, it would require 25% of any timber sale receipts from stewardship projects to be paid to local counties, thereby reducing the receipts that can be retained by the Forest Service to fund additional stewardship projects. All these changes would benefit timber companies and county governments at the expense of environmental protection and restoration of the national forests.

Thank you for considering our views on Title III of the “Wildfire Prevention and Mitigation Act.”

Sincerely,



Mike Anderson
Senior Policy Analyst
The Wilderness Society

⁵ See 16 USC 2113a(a)(3)(B).

Alaska Wilderness League * American Bird Conservancy * Bark * Center for Biological Diversity * Clean Water Action * Defenders of Wildlife * Earthjustice * Geos Institute * Hip Hop Caucus * Idaho * Conservation League * Kentucky Heartwood * KS Wild * League of Conservation Voters * Los Padres ForestWatch * Natural Resources Defense Council * Sierra Club * Southern * Environmental Law Center * The Wilderness Society * Umpqua Watersheds, Inc. * Western Environmental Law Center * Wilderness Workshop

**Oppose the “Wildfire Prevention and Mitigation Act of 2017”
An Attack on our public lands, wildlife, and our democracy**

October 25, 2017

The Honorable John Barrasso, Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

The Honorable Tom Carper, Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Chairman Barrasso and Ranking Member Carper:

On behalf of our millions of members and supporters, we write to express our strong opposition to the “Wildfire Prevention and Mitigation Act of 2017” before your committee on October 25. While not all the organizations who have signed on to this letter work on every issue covered within this dangerous draft proposal, we all strongly oppose the bill due to its assault on America’s public lands, wildlife, and the fundamental principle of access to justice. We respectfully request that this letter be included as part of the committee record.

This draft proposal—a sweeping combination of S. 1731 (“Forest Management Improvement Act”), S. 879 (“National Forest Ecosystem Improvement Act”), S. 605 (“Litigation Relief for Forest Management Projects”), and S. 1417 (“Sage-Grouse and Mule Deer Habitat Conservation and Restoration Act of 2017”)—is another cynical example of using wildfire as an excuse not only to attack our bedrock environmental laws, but also to eliminate access to judicial relief that is a cornerstone of American democracy. Like its component parts, the “Wildfire Prevention and Mitigation Act of 2017” fails to identify and address the real causes of wildfire and how to protect communities at risk: the lack of adequate funding, staffing, and training for land management agencies; significant development and continued growth in the wildlands urban interface; and the role of fire weather (hot dry winds, low fuel moisture) in driving wildland fire behavior.

The solutions to fire and forest management lie in adequate resources and science-based forest restoration in appropriate forest types close to communities, creating defensible space, and sound land use planning — not in reckless logging miles away from communities while doing away with environmental safeguards. Such agenda-driven proposals fail to protect forests and surrounding communities, and fail to address a comprehensive fix to the Forest Service’s fire budget crisis. They also set a dangerous precedent of sacrificing our national forests and the voice of the public for the sole benefit of extractive industries. The American people will not

tolerate such an assault on the shared values of clean water, wildlife habitat, and recreational opportunities on their public lands.

This legislation would:

Undermine bedrock environmental laws by exempting massive logging projects, up to 6,000 acres in size (or approximately 9 square miles) from normal environmental review, and allowing cumulative harm to endangered species to be ignored for decades by removing the obligation of the Forest Service and Bureau of Land Management to conduct plan-level consultation for any reason;

Silence the public and weaken accountability by depriving the public of information about project impacts, limiting public engagement and review, effectively blinding agencies and suppressing the voice of the American people on decisions affecting their public lands; and by blocking access to judicial relief and instead setting up a biased arbitration process for logging projects that effectively gives the government the power to shield itself from whichever legal challenges it finds most problematic.

Harm communities, drinking water, wildlife habitat and forest health by promoting reckless commercial logging on a massive scale without adequate consideration of community or ecological impacts; encouraging permanent road building; endorsing unproven or intensive management practices, including use of herbicides, non-native vegetation, and fencing that is likely to have unintended and unwelcome impacts on sage grouse and mule deer habitat; and failing to address the crippling impact of wildfire costs on the Forest Service's budget.

The "Wildfire Prevention and Mitigation Act of 2017" is a giveaway to the timber industry to the detriment of science-based management, forest health and our democratic principles. We urge the committee to oppose this bill.

Sincerely,

Alaska Wilderness League
 American Bird Conservancy
 Bark
 Center for Biological Diversity
 Clean Water Action
 Defenders of Wildlife
 Earthjustice
 Geos Institute
 Hip Hop Caucus
 Idaho Conservation League
 Kentucky Heartwood
 KS Wild
 League of Conservation Voters
 Los Padres ForestWatch
 Natural Resources Defense Council

Sierra Club
Southern Environmental Law Center
The Wilderness Society
Umpqua Watersheds, Inc.
Western Environmental Law Center
Wilderness Workshop

To: Environment and Public Works Committee
 From: Defenders of Wildlife, Earthjustice, National Parks Conservation Association,
 Natural Resources Defense Council, Sierra Club, Southern Environmental Law Center,
 Western Environmental Law Center.
 Re: Wildfire Prevention and Mitigation Act of 2017
 Date: October 24, 2017

On behalf of the above signed organizations, the following is a summary and analysis of Senator Barrasso's draft legislation, the "Wildfire Prevention and Mitigation Act of 2017" (draft bill dated 10/18/2017). The Senate Environment and Public Works (EPW) Committee plans to hold a hearing on the proposal on October 25. Please note that not all signed organizations work on all aspects of this legislation.

Title I of the proposed legislation is excessively broad and would undermine plan level consultation under the Endangered Species Act (ESA) across Forest Service and Bureau of Land Management (BLM) lands; it would allow agencies to ignore for years the cumulative impacts of development activities on ESA-listed species and their habitat and consequently would risk jeopardizing the persistence of listed species while increasing the complexity and cost of species recovery and delaying the implementation of land management projects.

Title II would authorize expedited review for heavy handed management techniques that could result in unintended but substantive harm to sage grouse and mule deer habitat.

Title III would greatly increase logging of national forest lands, while reducing environmental safeguards and opportunities for public involvement in national forest management. The legislation limits opportunities for citizen involvement in public land management, and removes essential checks on Forest Service compliance with the law.

The bill significantly undermines the National Environmental Policy Act and the ESA, two bedrock environmental laws. The bill poses a serious threat to environmental stewardship, public involvement, wildlife conservation, and the rule of law in the national forests. Specifically:

Title I of the bill, entitled "Litigation Relief for Forest Management Projects," is based legislation of the same title (S. 605), sponsored by Senator Daines and Senator Tester. It undermines ESA consultation and species recovery.

Section 101 removes the obligation of the Forest Service to reinstate plan level consultation under the ESA when species are newly listed or critical habitat is newly designated. **Section 102** does the same for the BLM.

Ignores Cumulative Impacts to ESA-Listed Species and Critical Habitat. These provisions increase risks of jeopardizing listed species and destroying critical habitat while undermining the effectiveness and efficiency of endangered species recovery efforts. Plan-level consultations, which evaluate multiple development actions over time, can identify threats to species that are

not detectable at the project level and thus play a fundamental role in avoiding jeopardizing imperiled species or destroying their habitat. The excessively broad provisions within this legislation allow the Forest Service and BLM to ignore for years, possibly even decades, the cumulative impacts to ESA-listed species and their habitat from oil and gas drilling, mining, timber production and other harmful development projects.

Delays Projects. In its rush to eliminate plan-level consultations for newly listed species and newly designated critical habitat, these provisions make project-level consultations in these scenarios less efficient and more burdensome. A recent peer-reviewed study of U.S. Fish and Wildlife Service consultations found that the median recorded length of formal consultations was 62 days for projects *without* plan-level consultations and 24 days for projects *with* plan-level review. In other words, projects move two and a half times faster with the benefit of plan-level consultation, a significant efficiency that will be eliminated by this legislation.

Title II of the bill, entitled “Sage-Grouse and Mule Deer Habitat Conservation and Restoration,” is based on S.1417, sponsored by Senator Hatch, and contains harmful provisions that invite significant and unwelcome impacts on sage-grouse, mule deer and other wildlife the legislation aims to help. Title II includes two sections.

Sec. 102. Definitions.

Legislative Endorsement of Unproven and Damaging Habitat Management. This section describes the parameters for a contemplated categorical exclusion to planning requirements under NEPA and endorses a number of vegetation management practices that could have deleterious impacts on wildlife habitat. Unproven or intensive management practices, including chaining, yarding, and broadcast burning ((1)(B)(ii)), late-season grazing ((1)(B)(vii)), spraying ((1)(B)(vi)) can cause irreparable damage to vegetation, soils and watersheds that otherwise require decades to recover from disturbance. Unfortunately, Title II promotes such heavy-handed techniques in sagebrush steppe by directing the rollback of comprehensive, tiered management planning that considers the best available scientific information essential for developing preferred alternatives for managing this delicate and complex landscape.

It is also unclear from the text whether the categorical exclusion would apply to public lands administered by the Bureau of Land Management, or whether it also apply to the National Park System and National Wildlife Refuge System.

Sec. 202. Improvement of Habitat for Greater Sage-Grouse and Mule Deer.

Congressionally Directed Categorical Exclusion. This section includes a timeline, legal and other considerations the Secretary of the Interior must consider in developing a categorical exclusion to address the spread of native conifers and nonnative species on public lands. The categorical exclusion is unnecessary, as sensible, transparent, science-based planning does not delay timely treatment of sagebrush habitats. Moreover, the project-level environmental analysis this legislation would eliminate is essential for tailoring management prescriptions to support preferred site conditions; identifying sensitive resources (including historic, remnant and naturally re-colonizing pinyon-juniper stands/trees) that should be spared in control efforts; and illuminating not just the symptoms and prescriptions for unnatural

conditions, but also the *causes* for the spread native trees and invasive species, which can be key to future, preventative management.

The text also includes some confusing and problematic features for the contemplated categorical exclusion that could have unintended consequences beyond vegetation management. For example, language on disposal of vegetative material could extend the categorical exclusion to the provision of fuel to biomass energy production, an activity that presents a number of challenges to environmental stewardship.

Title III- of the draft bill, called “Forest Habitat and Ecosystem Restoration Improvement” is essentially a combination of two bills that were introduced earlier this year by Senator Barrasso (S. 879, the “National Forest Ecosystem Improvement Act,”), and by Senator Thune (S. 1731, the “Forest Management Improvement Act). Title III consists of three subtitles: (A) General Provisions, (B) Ecosystem Restoration, and (C) Categorical Exclusions.

Subtitle A – “General Provisions”

NEPA Rollbacks. Section 311 requires the Forest Service to prepare an abbreviated environmental assessment (EA) for each “ecosystem restoration project,” which the bill broadly defines to include timber harvesting. 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. 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. This section comes from S. 879.

Section 311 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 arbitrary 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 Subtitle C, these provisions would significantly reduce environmental safeguards and public involvement opportunities in national forest management.

Permanent Road Construction. Section 312 would amend the 2014 Farm Bill to allow permanent road construction to be included in projects implemented by state forestry agencies on national forest lands through “Good Neighbor Authority.” Current law limits the use of such authority to construction of temporary roads, which are typically less environmentally damaging than permanent roads. Permitting permanent road construction could lead to additional environmental damage. This section is part of S. 1731.

Stewardship Contracting. Section 313 would make three problematic changes to the stewardship contracting authority provided by the 2014 Farm Bill. First, it would allow use of stewardship contracts to perpetuate existing lumber mills, even where such mills are not economically feasible or environmentally sustainable. Second, it would allow stewardship contracts to be awarded to the lowest bidder rather than on a best-value basis, thereby favoring cost-savings over superior qualifications or other advantages. Third, it would require 25% of any timber sale

receipts from stewardship projects to be paid to local counties, thus reducing the receipts that can be retained by the Forest Service to fund additional stewardship projects. All these changes would benefit timber companies and county governments at the expense of environmental protection and restoration of the national forests. This section is part of S. 1731.

Binding Arbitration. Section 314 requires the Forest Service to establish a binding arbitration/alternative dispute resolution process for forest management projects—including logging projects. For these 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. The demand for arbitration must include an alternative proposal for the project. The arbitrator would select either the Forest Service’s project or the objector’s alternative proposal. The entire arbitration process would be completed within 90 days after the filing of a demand for arbitration. The arbitrator’s decision would not be subject to judicial review, except in instances of corruption, fraud, bias, or other misconduct by the arbitrator. This section comes from S. 879.

The proposed arbitration process is seriously flawed because it provides no means to ensure that the Forest Service is complying with environmental laws. This section undermines enforcement of existing law, reduces citizen access to courts, and limits public participation in public land management.

Subtitle B – “Ecosystem Restoration”

Mandatory Treatment Acreages. Section 323 requires the Forest Service to establish a 5-year schedule, starting in 2018, that results in doubling the acreage of restoration treatments that the Forest Service accomplished in FY 2017. The Chief of the Forest Service would assign to each Forest Service region a portion of the annual acreage treatments. This section is based on S. 879, which provided specific annual acreage targets for prescribed fire and mechanical treatments, including commercial thinning and even-aged management (i.e. clearcutting).

Section 324 requires the Forest Service to evaluate its implementation of ecosystem restoration projects, based on specific performance measures, and to produce an annual report. The required performance measures include acreages of timber sales, stewardship contracts, and prescribed burns.

Sections 323 and 324 are problematic because they would impose unrealistic management targets on the Forest Service that are not based on sound science or ecologically justifiable. The legislation provides no additional funding for the agency to achieve the statutory mandate to double the acreage of restoration treatments. Consequently, the Forest Service would have to divert resources away from all other multiple-use activities in order to accomplish the legally mandated amount of logging and other restoration treatments.

Subtitle C – Categorical Exclusions

Subtitle C would create five new types of categorical exclusions (CEs) that exempt national forest logging activities from complying with the requirements of the National Environmental

Policy Act. Most of these CE provisions – Sections 333, 334, 335, and 336 -- come from S. 1731, while Section 332 comes from S. 879.

“Critical Response” CE. Section 332 gives the Forest Service a one-year deadline to create a CE for forest management projects whose “primary purpose” is to address at least two of the following objectives:

- address insect and disease infestations or risks,
- reduce hazardous fuels,
- protect a municipal water source,
- protect critical habitat from catastrophic disturbance,
- increase water yield, or
- “address salvage timber objectives.”

This section would require the Forest Service to create a CE for many conditions that either Congress or the Forest Service has already addressed. Congress has already created a CE for insect and disease infestation treatments up to 3,000 acres in the 2014 Farm Bill (see 16 USC 6591b). Reduction of hazardous fuels and protection of municipal water sources were explicit purposes of the expedited NEPA provisions of the Healthy Forests Restoration Act of 2004 (see 16 USC 6512(a)). Similarly, the Forest Service already has an administrative CE for salvage logging up to 250 acres (see 36 CFR 220.6(e)(13)). Categorical exclusions undermine the National Environmental Policy Act and should be developed by the Forest Service in accordance with agency policy, not mandated by Congress.

Early Successional Forests CE. Section 333 provides CE authority for logging projects up to 6,000 acres (9 square miles) in size whose primary purpose is to create early successional forests. Projects must be carried out “in accordance with the applicable forest plan.” Creation of early successional forests is commonly accomplished by clearcutting. The breadth of this language suggests that CEs for up to 6,000-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 forest plan, this CE could authorize nine square miles of clearcutting with no consideration of environmental impacts on scenery, water quality, recreational activities including hunting and fishing, or adjacent landowners.

Wildlife Habitat Improvement. Section 334 creates a statutory CE for logging projects up to 6,000 acres in size whose purpose is to improve wildlife habitat. This provision is unnecessary because the Forest Service already has an administrative CE for wildlife habitat improvement projects (see 36 CFR 220.6(e)(6)). Unlike the current administrative CE, the legislative CE in Section 334 could allow the Forest Service to spray herbicides and build an unlimited amount of road as part of habitat improvement projects, with scant public notice or environmental analysis.

Commercial Thinning. Section 335 creates a statutory CE for commercial thinning projects up to 6,000 acres, along with construction of up to one mile of temporary road. Current Forest Service regulations limit the size of commercial thinning projects that can be categorically excluded to 70 acres (see 36 CFR 220.6(e)(12)). Section 334 would vastly increase the size of such logging projects by 85 times!

No Consideration of Cumulative Effects. For each of the three CEs created by Sections 333, 334, and 335, the legislation would exempt the Forest Service from analyzing the cumulative effects of logging projects that are categorically excluded from NEPA. This means that the agency could undertake multiple 6,000-acre logging projects in the same vicinity without considering their combined impacts on the area's water quality, wildlife, and recreational resources.

Insect and Disease Infestation. Section 336 would create a fifth CE for logging projects up to 6,000 acres that are designed to reduce the risk of insect and disease infestations. This would effectively replace a CE authorized by the 2014 Farm Bill for collaboratively developed insect and disease treatment projects up to 3,000 acres. Besides increasing the maximum size of the CE by 3,000 acres (5 square miles), Section 336 would eliminate several of the 2014 Farm Bill's limitations on the use of the insect and disease CE. Specifically, under Section 336, projects using the insect and disease CE –

- would not have to retain old-growth and large trees that are resilient to insects and disease,
- would not have to consider the best available science to maintain or restore ecological integrity, and
- would not have to be developed collaboratively.

Conclusion

Senator Barrasso's draft forest management bill would undermine endangered species recovery and make it more expensive by allowing agencies to ignore cumulative impacts from development for years, if not decades and would contribute to delays in project-level approvals by reducing efficiencies gained from plan-level consultations in Title I; In Title II, the bill would lead to unintended and unwelcome impacts to the very habitat it is trying to improve by endorsing a categorical exclusion for unproven or intensive management practices in sage-grouse and mule deer habitat. Title III of the bill would greatly increase logging of national forest lands, while reducing environmental safeguards and opportunities for public involvement in national forest management. Annual acreage mandates would pressure the Forest Service to prioritize logging over all other uses and resources. Large expanses of forest up to 6,000 acres (9 square miles) in size could be logged with no consideration of the direct or cumulative impacts to water quality, wildlife habitat, or recreational opportunities. The legality of Forest Service management activities would be essentially unchallengeable in court, removing an essential check on federal agency compliance with the law. A bedrock environmental law – the National Environmental Policy Act – would be seriously undermined. In sum, the bill poses a serious threat to environmental stewardship, public involvement, wildlife conservation, and the rule of law in the national forests.

Senator WHITEHOUSE. Thank you very much, Chairman.

Gentlemen, what is the connection between carbon emissions, climate change, and the wildfire season?

Mr. KRUSE. Thank you.

Senator WHITEHOUSE. For the record, two Republican witnesses gestured to the Democratic witness to have him answer the question.

Mr. KRUSE. Happy to inherit the question, Senator Whitehouse. Thank you very much.

Senator WHITEHOUSE. You are not going to get off that easy; I will turn to you guys in a minute. And I know what the Boone and Crockett Club has said about this, too, Mr. Moretti.

Mr. KRUSE. There is clear and overwhelming consensus from both objective scientists inside and outside of the agency that climate change is absolutely having an effect on our forested landscapes. The wildfire season is 2 months longer than it used to be.

Senator WHITEHOUSE. One month earlier and 1 month later, right?

Mr. KRUSE. Correct. We are fighting fire from April to October right now.

Senator WHITEHOUSE. When had that happened before?

Mr. KRUSE. It has not; it has only been in the last 10 to 15 years that we have seen this. This is a recent phenomenon. And as a result of that fuel build up, it is hotter, it is drier, and it is continuing to dry out and build up year after year after year. And as the temperature has continued to rise, when we do have those fire conflagration events, they are extreme. So there is a clear connection between carbon emissions, climate change, and what we are now experiencing with wildfire in our forests.

Senator WHITEHOUSE. Factor bugs into that equation, like the bark beetle. Does that have any effect on the susceptibility of forests to wildfire, and is that connected to climate change and carbon pollution?

Mr. KRUSE. Senator Whitehouse, bark beetles, again, are a natural part of forest ecosystems; however, as we do see the habitat changing for bark beetle, and extending the season by which they can migrate and mate, we are seeing increased infestations.

Senator WHITEHOUSE. Meaning they can survive in northern latitudes and northern altitudes they couldn't get to before because winters were killing them off, but milder winters because of climate change are allowing them to move in those directions?

Mr. KRUSE. That is correct, Senator.

Senator WHITEHOUSE. OK. And then how does that roll into wildfires?

Mr. KRUSE. As we continue to see increased die off of those forests, they are less resilient. When wildfires move through, we do have additional build up of fuels. And when fires do occur, they are burning more of that fuel and they are more extreme.

Senator WHITEHOUSE. A dead tree burns faster than a living one, ordinarily, correct?

Mr. KRUSE. It certainly can in this case.

Senator WHITEHOUSE. Mr. Moretti, agree or disagree?

Mr. MORETTI. Well, I believe that whether it is climate change or whether it is a lack of management, our forests are in need of—they are in bad shape. They are in bad health.

Senator WHITEHOUSE. That wasn't the question that you were asked, though.

Mr. MORETTI. But the question I am saying is whether it is climate change or whether it is lack of management—

Senator WHITEHOUSE. And that is the question. What do you have to say about whether it is or isn't climate change? Does climate change have any role in this?

Mr. MORETTI. Well, we believe that we have gone through a much drier cycle in a lot of areas in the West. In this last winter, in western Wyoming, we had one of the hardest winters we ever had on record, so we believe that these forests are under a huge amount of stress, again, whether it is through climate change, lack of management, or whatever.

Senator WHITEHOUSE. Do you have another explanation for why the forest fire season or the wildfire season would have expanded a month out in either direction? Could that in any rational way be ascribed to management issues?

Mr. MORETTI. Well, I think it can be. I think that when we go through these periods of dry conditions and we have these forest fuels build up and these dead trees that we haven't been able to get out and harvest, that anything from manmade to natural cause can start a forest fire; and once it starts, you see how they are all-consuming. And as we have heard, there have been millions of acres consumed this year.

Senator WHITEHOUSE. So it sounds like what you are saying is that the expansion of the wildfire season could be helped by management practices that could reduce some of the fuel load and so forth.

Mr. MORETTI. We could reduce the fuel load.

Senator WHITEHOUSE. But it is not management practices that are actually expanding the wildfire season, is it?

Mr. MORETTI. Well, it all depends. It depends on what is causing those fires. If it is a manmade fire—

Senator WHITEHOUSE. Now we get back to my original question.

Mr. MORETTI. I know. But if it is a manmade fire, it is the—

Senator WHITEHOUSE. Well, let me start by this. Do you agree that the wildfire season has expanded by 2 months, as Mr. Kruse has said?

Mr. MORETTI. I will agree to that.

Senator WHITEHOUSE. OK. And do you have an explanation as to why that is happening on a consistent basis? It is not just a one-off, that it happened in 1 year.

Mr. MORETTI. No.

Senator WHITEHOUSE. It is persistent, and it is at trend now, is it not?

Mr. MORETTI. That is not my area of expertise.

Senator WHITEHOUSE. OK.

Mr. Crapser, anything to add? You only have about a second.

Mr. CRAPSER. Mr. Chairman and Senator, I think if we look at the wildfire season over the last 50 years, we have seen an increase

in the fire season. If we look historically, in the early 1900s, we had a period of years with very long fire seasons.

I am not an expert in carbon; I am not an expert in climate change. I do know that investing in forest management means healthier forests, less fires, less carbon emissions. I do know that.

Senator WHITEHOUSE. Thank you, Chairman.

Thank you to the witnesses.

Senator BARRASSO. Thank you very much, Senator Whitehouse.

For Mr. Crapser or Mr. Moretti, there was a question earlier about funding, if we had enough funding. Is funding alone enough, or do we need some regulatory changes as well?

Mr. CRAPSER. Mr. Chairman, I believe it is hand in hand. Funding is a huge issue on the fire funding, I believe on overall support of our Federal lands, Federal land management. But I also think tools that can help industry, can help maybe alleviate some of the funding issues are also important, as the CE for salvage and fire, both insect disease and fire salvage would be.

Senator BARRASSO. It is interesting, this discussion of climate. I am just going to point out to my colleague that there was an article in The Economist this past weekend that just came out on Friday called "Paleoclimatology: A Stormy Past." It has to do with hurricanes, and the subheadline is "Geological Traces of Ancient Hurricanes Show How Hard Climate Science Is." This is The Economist that is currently on the market. You can pick it up on a newsstand.

And they talked about what is happening in Florida, and it says, "Geological survey suggests that the hurricanes which struck Florida during a cool period 12,000 years ago were more powerful than those during a subsequent time of war." Just the difficulty of trying to get all the information together from a scientific standpoint.

Well, I appreciate each of you being here today to testify. I thank you very much for your comments. There are other members of the Committee who may have written questions. I would ask that you respond promptly to those. The hearing record will be open for the next 2 weeks. Thank you again for being here and sharing your knowledge and your insight.

The hearing is adjourned.

[Whereupon, at 12:02 p.m. the Committee was adjourned.]

[The text of S. __, the Wildfire Prevention and Mitigation Act of 2017, follows:]

115TH CONGRESS
1ST SESSION

S. _____

To discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects, to require the Secretary of the Interior to develop a categorical exclusion for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer, to address the forest health crisis on National Forest System land, to expedite and prioritize forest management activities to achieve ecosystem restoration objectives, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To discourage litigation against the Forest Service and the Bureau of Land Management relating to land management projects, to require the Secretary of the Interior to develop a categorical exclusion for covered vegetative management activities carried out to establish or improve habitat for greater sage-grouse and mule deer, to address the forest health crisis on National Forest System land, 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 “Wildfire Prevention and Mitigation Act of 2017”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definition of Secretary.

**TITLE I—LITIGATION RELIEF FOR FOREST MANAGEMENT
PROJECTS**

Sec. 101. Forest and Rangeland Renewable Resources Planning Act of 1974.

Sec. 102. Federal Land Policy and Management Act of 1976.

**TITLE II—SAGE-GROUSE AND MULE DEER HABITAT
CONSERVATION AND RESTORATION**

Sec. 201. Definitions.

Sec. 202. Improvement of habitat for greater sage-grouse and mule deer.

TITLE III—FOREST HABITAT AND ECOSYSTEM IMPROVEMENT

Sec. 301. Definitions.

Subtitle A—General Provisions

Sec. 311. Environmental assessments.

Sec. 312. Good neighbor authority.

Sec. 313. Stewardship end result contracting projects.

Sec. 314. Pilot alternative dispute process.

Subtitle B—Ecosystem Restoration

Sec. 321. Definitions.

Sec. 322. Ecosystem restoration projects.

Sec. 323. National restoration treatment acreage.

Sec. 324. Performance measures; annual reports.

Subtitle C—Categorical Exclusions

Sec. 331. Definitions.

Sec. 332. Categorical exclusion to expedite certain critical response actions.

Sec. 333. Categorical exclusion to meet forest plan goals for early seral and
early successional forests.

Sec. 334. Categorical exclusion to improve wildlife habitats.

Sec. 335. Categorical exclusion to thin forests.

Sec. 336. Expansion of categorical exclusion for insect and disease infestation.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Agriculture, acting through the Chief of the For-
4 est Service.

5 **TITLE I—LITIGATION RELIEF**
6 **FOR FOREST MANAGEMENT**
7 **PROJECTS**

8 **SEC. 101. FOREST AND RANGELAND RENEWABLE RE-**
9 **SOURCES PLANNING ACT OF 1974.**

10 (a) CONSULTATION REGARDING LAND MANAGEMENT
11 PLANS.—Section 6(d) of the Forest and Rangeland Re-
12 newable Resources Planning Act of 1974 (16 U.S.C.
13 1604(d)) is amended—

14 (1) by striking “(d) The Secretary” and insert-
15 ing the following:

16 “(d) PUBLIC PARTICIPATION AND CONSULTATION.—

17 “(1) IN GENERAL.—The Secretary”; and

18 (2) by adding at the end the following:

19 “(2) NO ADDITIONAL CONSULTATION RE-
20 QUIRED AFTER APPROVAL OF LAND MANAGEMENT
21 PLANS.—

22 “(A) IN GENERAL.—Notwithstanding any
23 other provision of law, the Secretary shall not
24 be required to engage in consultation under this
25 subsection or any other provision of law (includ-
26 ing section 7 of Public Law 93–205 (16 U.S.C.

1 1536) and section 402.16 of title 50, Code of
2 Federal Regulations (or a successor regulation))
3 with respect to—

4 “(i) the listing of a species as threat-
5 ened or endangered, or a designation of
6 critical habitat pursuant to Public Law
7 93–205 (16 U.S.C. 1531 et seq.), if a land
8 management plan has been adopted by the
9 Secretary as of the date of listing or des-
10 ignation; or

11 “(ii) any provision of a land manage-
12 ment plan adopted as described in clause
13 (i).

14 “(B) EFFECT OF PARAGRAPH.—Nothing
15 in this paragraph affects any applicable require-
16 ment of the Secretary to consult with the head
17 of any other Federal department or agency—

18 “(i) regarding any project to imple-
19 ment a land management plan, including a
20 project carried out, or proposed to be car-
21 ried out, in an area designated as critical
22 habitat pursuant to Public Law 93–205
23 (16 U.S.C. 1531 et seq.); or

24 “(ii) with respect to the development
25 of a modification to a land management

1 plan that would result in a significant
 2 change (within the meaning of subsection
 3 (f)(4)) in the land management plan.”.

4 (b) DEFINITION OF SECRETARY; CONFORMING
 5 AMENDMENTS.—

6 (1) DEFINITION OF SECRETARY.—Section 3(a)
 7 of the Forest and Rangeland Renewable Resources
 8 Planning Act of 1974 (16 U.S.C. 1601(a)) is
 9 amended, in the first sentence of the matter pre-
 10 ceding paragraph (1), by inserting “(referred to in
 11 this Act as the ‘Secretary’)” after “Secretary of Ag-
 12 riculture”.

13 (2) CONFORMING AMENDMENTS.—The Forest
 14 and Rangeland Renewable Resources Planning Act
 15 of 1974 (16 U.S.C. 1600 et seq.) is amended, in sec-
 16 tions 4 through 9, 12, 13, and 15, by striking “Sec-
 17 retary of Agriculture” each place it appears and in-
 18 serting “Secretary”.

19 **SEC. 102. FEDERAL LAND POLICY AND MANAGEMENT ACT**
 20 **OF 1976.**

21 Section 202(f) of the Federal Land Policy and Man-
 22 agement Act of 1976 (43 U.S.C. 1712(f)) is amended—

23 (1) by striking “(f) The Secretary” and insert-
 24 ing the following:

25 “(f) PUBLIC INVOLVEMENT.—

6

1 “(1) IN GENERAL.—The Secretary”; and

2 (2) by adding at the end the following:

3 “(2) NO ADDITIONAL CONSULTATION RE-
4 QUIRED AFTER APPROVAL OF LAND USE PLANS.—

5 “(A) IN GENERAL.—Notwithstanding any
6 other provision of law, the Secretary shall not
7 be required to engage in consultation under this
8 subsection or any other provision of law (includ-
9 ing section 7 of Public Law 93–205 (16 U.S.C.
10 1536) and section 402.16 of title 50, Code of
11 Federal Regulations (or a successor regula-
12 tion)), with respect to—

13 “(i) the listing of a species as threat-
14 ened or endangered, or a designation of
15 critical habitat, pursuant to Public Law
16 93–205 (16 U.S.C. 1531 et seq.), if a land
17 use plan has been adopted by the Sec-
18 retary as of the date of listing or designa-
19 tion; or

20 “(ii) any provision of a land use plan
21 adopted as described in clause (i).

22 “(B) EFFECT OF PARAGRAPH.—

23 “(i) DEFINITION OF SIGNIFICANT
24 CHANGE.—In this subparagraph, the term
25 ‘significant change’ means a significant

7

1 change within the meaning of section
2 219.13(b)(3) of title 36, Code of Federal
3 Regulations (as in effect on the date of en-
4 actment of this subparagraph), except
5 that—

6 “(I) any reference contained in
7 that section to a land management
8 plan shall be deemed to be a reference
9 to a land use plan;

10 “(II) any reference contained in
11 that section to the Forest Service
12 shall be deemed to be a reference to
13 the Bureau of Land Management; and

14 “(III) any reference contained in
15 that section to the National Forest
16 Management Act of 1976 (Public Law
17 94–588; 90 Stat. 2949) shall be
18 deemed to be a reference to this Act.

19 “(ii) EFFECT.—Nothing in this para-
20 graph affects any applicable requirement of
21 the Secretary to consult with the head of
22 any other Federal department or agency—

23 “(I) regarding a project carried
24 out, or proposed to be carried out,
25 with respect to a species listed as

8

1 threatened or endangered, or in an
2 area designated as critical habitat,
3 pursuant to Public Law 93–205 (16
4 U.S.C. 1531 et seq.); or

5 “(II) with respect to the develop-
6 ment of a new land use plan or the re-
7 vision of or other significant change to
8 an existing land use plan.”.

9 **TITLE II—SAGE-GROUSE AND**
10 **MULE DEER HABITAT CON-**
11 **SERVATION AND RESTORA-**
12 **TION**

13 **SEC. 201. DEFINITIONS.**

14 In this title:

15 (1) COVERED VEGETATION MANAGEMENT AC-
16 TIVITY.—

17 (A) IN GENERAL.—The term “covered
18 vegetation management activity” means any ac-
19 tivity described in subparagraph (B) that—

20 (i) meets the objectives of the order of
21 the Secretary numbered 3336 and dated
22 January 5, 2015;

23 (ii) conforms to an applicable land use
24 plan;

9

- 1 (iii) protects, restores, or improves
2 greater sage-grouse or mule deer habitat;
3 (iv) will not permanently impair—
4 (I) the natural state of the treat-
5 ed area;
6 (II) outstanding opportunities for
7 solitude;
8 (III) outstanding opportunities
9 for primitive, unconfined recreation;
10 or
11 (IV) the identified values of a
12 unit of the National Landscape Con-
13 servation System; and
14 (v)(I) restores native vegetation fol-
15 lowing a natural disturbance;
16 (II) prevents the expansion into great-
17 er sage-grouse or mule deer habitat of—
18 (aa) juniper, piñon pine, or any
19 other conifer; or
20 (bb) nonnative or invasive vegeta-
21 tion;
22 (III) reduces the risk of loss of great-
23 er sage-grouse or mule deer habitat from
24 wildfire or any other natural disturbance;
25 or

10

1 (IV) provides emergency stabilization
2 of soil resources after a natural disturb-
3 ance.

4 (B) DESCRIPTION OF ACTIVITIES.—An ac-
5 tivity referred to in subparagraph (A) is—

6 (i) manual cutting and removal of ju-
7 niper trees, piñon pine trees, other conif-
8 ers, or other nonnative or invasive vegeta-
9 tion;

10 (ii) mechanical mastication, cutting,
11 or mowing, mechanical piling and burning,
12 chaining, broadcast burning, or yarding;

13 (iii) removal of cheat grass, medusa
14 head rye, other nonnative vegetation, or an
15 invasive species;

16 (iv) collection and seeding or planting
17 of native vegetation using a manual, me-
18 chanical, or aerial method;

19 (v) seeding of nonnative vegetation
20 only for the purpose of emergency sta-
21 bilization;

22 (vi) use of an herbicide, pesticide, or
23 biological control agent, subject to the con-
24 dition that the use shall be in accordance

1 with applicable legal requirements, Federal
2 agency procedures, and land use plans;

3 (vii) targeted or late-season livestock
4 grazing to mitigate hazardous fuels and
5 control noxious and invasive weeds;

6 (viii) temporary removal of wild
7 horses or burros in the area in which the
8 activity is being carried out to ensure
9 treatment objectives are met;

10 (ix) temporary suspension of per-
11 mitted grazing use until restoration treat-
12 ment objectives are met;

13 (x) installation of new, or modification
14 of existing, fencing or water sources in-
15 tended to control use or improve wildlife
16 habitat; or

17 (xi) construction of temporary roads.

18 (C) EXCLUSIONS.—The term “covered
19 vegetation management activity” does not in-
20 clude—

21 (i) any activity conducted in a wilder-
22 ness area or wilderness study area; or

23 (ii) any activity for the construction of
24 a permanent road or permanent trail.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (3) TEMPORARY ROAD.—The term “temporary
4 road” means a road that is—

5 (A) authorized—

6 (i) by a contract, permit, lease, other
7 written authorization; or

8 (ii) pursuant to an emergency oper-
9 ation;

10 (B) not intended to be part of the perma-
11 nent transportation system of a Federal depart-
12 ment or agency;

13 (C) not necessary for long-term resource
14 management; and

15 (D) designed in accordance with standards
16 appropriate for the intended use of the road,
17 taking into consideration—

18 (i) safety;

19 (ii) the cost of transportation; and

20 (iii) impacts to land and resources.

21 **SEC. 202. IMPROVEMENT OF HABITAT FOR GREATER SAGE-**
22 **GROUSE AND MULE DEER.**

23 (a) CATEGORICAL EXCLUSION.—

24 (1) IN GENERAL.—Not later than 1 year after
25 the date of the enactment of this Act, the Secretary

1 shall develop 1 or more categorical exclusions (as de-
2 fined in section 1508.4 of title 40, Code of Federal
3 Regulations (or a successor regulation)) for covered
4 vegetative management activities carried out to es-
5 tablish or improve habitat for greater sage-grouse
6 and mule deer.

7 (2) ADMINISTRATION.—In developing and ad-
8 ministering a categorical exclusion under paragraph
9 (1), the Secretary shall—

10 (A) be consistent with the National Envi-
11 ronmental Policy Act of 1969 (42 U.S.C. 4321
12 et seq.);

13 (B) apply the extraordinary circumstances
14 procedures under section 220.6 of title 36, Code
15 of Federal Regulations (or a successor regula-
16 tion), in determining whether to use the cat-
17 egorical exclusion; and

18 (C) consider—

19 (i) the relative efficacy of landscape-
20 scale habitat projects;

21 (ii) the likelihood of continued de-
22 clines in the populations of greater sage-
23 grouse and mule deer in the absence of
24 landscape-scale vegetation management;
25 and

1 (iii) the need for habitat restoration
2 activities after wildfire or other natural
3 disturbances.

4 (b) LONG-TERM MONITORING AND MAINTENANCE.—

5 Before commencing any covered vegetative management
6 activity that is covered by a categorical exclusion under
7 subsection (a), the Secretary shall develop a long-term
8 monitoring and maintenance plan, covering at least the
9 20 year-period beginning on the date of commencement,
10 to ensure that management of the treated area does not
11 degrade the habitat gains secured by the covered vegeta-
12 tive management activity.

13 (c) DISPOSAL OF VEGETATIVE MATERIAL.—Subject
14 to applicable local restrictions, any vegetative material re-
15 sulting from a covered vegetation management activity
16 that is covered by a categorical exclusion under subsection
17 (a) may be—

18 (1) used for—

19 (A) fuel wood; or

20 (B) other products; or

21 (2) piled or burned, or both.

22 (d) TREATMENT FOR TEMPORARY ROADS.—

23 (1) IN GENERAL.—A temporary road con-
24 structed in connection with a covered vegetation
25 management activity that is a categorical exclusion

15

1 under subsection (a) shall be treated to ensure the
 2 reestablishment of native vegetative cover by artifi-
 3 cial or natural means, as necessary to minimize ero-
 4 sion from any area disturbed by the construction or
 5 use of the temporary road.

6 (2) REQUIREMENT.—A treatment under para-
 7 graph (1) shall be designed to reestablish vegetative
 8 cover—

9 (A) as soon as practicable; but

10 (B) not later than 10 years after the date
 11 of completion of the applicable covered vegeta-
 12 tion management activity.

13 **TITLE III—FOREST HABITAT** 14 **AND ECOSYSTEM IMPROVEMENT**

15 **SEC. 301. DEFINITIONS.**

16 In this title:

17 (1) FOREST PLAN.—The term “forest plan”
 18 means a land and resource management plan pre-
 19 pared by the Forest Service in accordance with sec-
 20 tion 6 of the Forest and Rangeland Renewable Re-
 21 sources Planning Act of 1974 (16 U.S.C. 1604).

22 (2) NATIONAL FOREST SYSTEM.—

23 (A) IN GENERAL.—The term “National
 24 Forest System” has the meaning given the term
 25 in section 11(a) of the Forest and Rangeland

1 Renewable Resources Planning Act of 1974 (16
2 U.S.C. 1609(a)).

3 (B) EXCLUSION.—The term “National
4 Forest System” does not include—

5 (i) any forest reserve not created from
6 the public domain; or

7 (ii) any national grassland or land uti-
8 lization project administered under title III
9 of the Bankhead-Jones Farm Tenant Act
10 (7 U.S.C. 1010 et seq.).

11 **Subtitle A—General Provisions**

12 **SEC. 311. ENVIRONMENTAL ASSESSMENTS.**

13 (a) APPLICABILITY OF NATIONAL ENVIRONMENTAL
14 POLICY ACT OF 1969.—The Secretary shall prepare an
15 environmental assessment in accordance with the National
16 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
17 seq.) for each project under this title.

18 (b) PUBLIC NOTICE AND COMMENT.—In preparing
19 an environmental assessment for a project under sub-
20 section (a), the Secretary shall provide public notice of,
21 and an opportunity to comment regarding, the applicable
22 project.

23 (c) CONSIDERATION OF ALTERNATIVES.—The Sec-
24 retary shall study, develop, and describe in each environ-
25 mental assessment under subsection (a)—

- 1 (1) the project as the proposed action; and
- 2 (2) a no-action alternative, the analysis of
- 3 which shall include a description of the resulting en-
- 4 vironmental effects of taking no action on—
- 5 (A) forest health;
- 6 (B) habitat diversity;
- 7 (C) wildfire potential;
- 8 (D) insect and disease potential;
- 9 (E) municipal water supplies; and
- 10 (F) other economic and social factors.
- 11 (d) LIMITATIONS.—The Secretary shall limit each en-
- 12 vironmental assessment under this section to a length of
- 13 not more than 100 pages.
- 14 (e) DEADLINE FOR COMPLETION.—
- 15 (1) IN GENERAL.—Not later than 180 days
- 16 after the date on which the Secretary publishes a no-
- 17 tice regarding an ecosystem restoration project in
- 18 accordance with subsection (b), the Secretary shall
- 19 complete the environmental assessment for the
- 20 project.
- 21 (2) NO SUPPLEMENTAL ANALYSIS REQUIRED.—
- 22 No supplemental analysis of an ecosystem restora-
- 23 tion project that is the subject of an environmental
- 24 assessment under paragraph (1) shall be required

1 after the date on which that environmental assess-
2 ment is complete.

3 **SEC. 312. GOOD NEIGHBOR AUTHORITY.**

4 (a) IN GENERAL.—Section 8206 of the Agricultural
5 Act of 2014 (16 U.S.C. 2113a) is amended—

6 (1) in subsection (a)(3)—

7 (A) by redesignating subparagraph (B) as
8 subparagraph (C);

9 (B) by inserting after subparagraph (A)
10 the following:

11 “(B) INCLUSION.—The term ‘forest,
12 rangeland, and watershed restoration services’
13 includes construction, reconstruction, repair, or
14 restoration of permanent roads.”; and

15 (C) in subparagraph (C)(i) (as redesign-
16 ated by subparagraph (A)), by striking “or
17 permanent”; and

18 (2) in subsection (b)—

19 (A) by redesignating paragraph (3) as
20 paragraph (4); and

21 (B) by inserting after paragraph (2) the
22 following:

23 “(3) PERMANENT ROAD CLOSURE.—

24 “(A) IN GENERAL.—The Secretary may
25 close a permanent road under a good neighbor

1 agreement without carrying out with respect to
2 the permanent road authorized restoration serv-
3 ices if the permanent road would allow future
4 access for firefighting or other appropriate
5 agency use, as determined by the applicable for-
6 est supervisor.

7 “(B) INTACTNESS.—If a permanent road
8 is closed under subparagraph (A), the perma-
9 nent road shall be closed to the public according
10 to the applicable forest plan, but shall remain
11 intact.”.

12 (b) REPEAL.—Section 331 of the Department of the
13 Interior and Related Agencies Appropriations Act, 2001
14 (16 U.S.C. 1011 note) is repealed.

15 **SEC. 313. STEWARDSHIP END RESULT CONTRACTING**
16 **PROJECTS.**

17 (a) HEALTHY FORESTS RESTORATION.—Section 604
18 of the Healthy Forests Restoration Act of 2003 (16
19 U.S.C. 6591c) is amended—

20 (1) in subsection (c), by adding at the end the
21 following:

22 “(8) Retention of existing wood products infra-
23 structure.”;

24 (2) in subsection (d)—

1 (A) in paragraph (1), by inserting “, or
2 lowest-cost-technically-acceptable,” after “best-
3 value”; and

4 (B) by adding at the end the following:

5 “(8) PERMANENT ROAD CLOSURE.—

6 “(A) IN GENERAL.—The Secretary of Ag-
7 riculture may close a permanent road under a
8 contract entered into under this section without
9 achieving with respect to the permanent road
10 the restoration activities included in the land
11 management goals described in subsection (c) if
12 the permanent road would allow future access
13 for firefighting or other appropriate agency use,
14 as determined by the applicable forest super-
15 visor.

16 “(B) INTACTNESS.—If a permanent road
17 is closed under subparagraph (A), the perma-
18 nent road shall be closed to the public according
19 to the applicable forest plan, but shall remain
20 intact.”; and

21 (3) in subsection (e)(2)(A), by inserting “, sub-
22 ject to the condition that 25 percent of the gross re-
23 ceipts shall be disbursed to the county in which the
24 project site is located” before “; and”.

1 **SEC. 314. PILOT ALTERNATIVE DISPUTE PROCESS.**

2 (a) **ARBITRATION.**—

3 (1) **IN GENERAL.**—The Secretary shall establish
4 within the Forest Service a 5-year arbitration pilot
5 program as an alternative dispute resolution process
6 in lieu of judicial review for the projects described
7 in subsection (b).

8 (2) **NOTIFICATION TO OBJECTORS.**—On
9 issuance of an appeal response to an objection filed
10 with respect to a project subject to an objection at
11 the project level under part 218 of title 36, Code of
12 Federal Regulations (as in effect on the date of en-
13 actment of this Act), the Secretary shall notify each
14 applicable individual or entity that submitted the ob-
15 jection (referred to in this section as the “objector”)
16 that any further appeal may be subject to arbitra-
17 tion in accordance with this section.

18 (b) **DESCRIPTION OF PROJECTS.**—The Secretary, in
19 coordination with the head of the applicable Region of the
20 Forest Service, may designate any type of project under
21 this title for arbitration under this section.

22 (c) **ARBITRATORS.**—

23 (1) **APPOINTMENT.**—The Secretary shall de-
24 velop and publish a list of not fewer than 20 individ-
25 uals eligible to serve as arbitrators for the pilot pro-
26 gram under this section.

1 (2) QUALIFICATIONS.—In order to be eligible to
2 serve as an arbitrator under this subsection, an indi-
3 vidual shall be currently certified by the American
4 Arbitration Association.

5 (d) INITIATION OF ARBITRATION.—

6 (1) IN GENERAL.—Not later than 7 days after
7 the date of receipt of a notice of intent to file suit
8 challenging a project, the Secretary shall notify each
9 applicable objector and the court of jurisdiction that
10 the project has been designated for arbitration in ac-
11 cordance with this section.

12 (2) DEMAND FOR ARBITRATION.—

13 (A) IN GENERAL.—An objector that sought
14 judicial review of a project that has been des-
15 ignated by the Secretary for arbitration under
16 this section may file a demand for arbitration
17 in accordance with—

18 (i) sections 571 through 584 of title
19 5, United States Code; and

20 (ii) this paragraph.

21 (B) REQUIREMENTS.—A demand for arbi-
22 tration under subparagraph (A) shall—

23 (i) be filed not later than the date
24 that is 30 days after the date of the notifi-

1 cation by the Secretary under paragraph
2 (1); and

3 (ii) include an alternative proposal to
4 the applicable project that describes each
5 modification sought by the objector with
6 respect to the project.

7 (e) SELECTION OF ARBITRATOR.—For each arbitra-
8 tion commenced under this section, the Secretary and each
9 applicable objector shall agree on a mutually acceptable
10 arbitrator from the list published under subsection (c)(1).

11 (f) RESPONSIBILITIES OF ARBITRATOR.—

12 (1) IN GENERAL.—An arbitrator selected under
13 subsection (e)—

14 (A) shall address each demand filed for ar-
15 bitration with respect to a project under this
16 section; but

17 (B) may consolidate into a single arbitra-
18 tion all demands for arbitration by all objectors
19 with respect to a project.

20 (2) SELECTION OF PROPOSALS.—An arbitrator
21 shall make a decision regarding each applicable de-
22 mand for arbitration under this section by select-
23 ing—

24 (A) the project, as approved by the Sec-
25 retary;

1 (B) an alternative proposal submitted by
2 the applicable objector; or

3 (C) neither proposal.

4 (3) LIMITATIONS.—

5 (A) ADMINISTRATIVE RECORD.—A decision
6 of an arbitrator under this subsection shall be
7 based solely on the administrative record for
8 the project.

9 (B) NO MODIFICATIONS TO PROPOSALS.—
10 An arbitrator may not modify any proposal con-
11 tained in a demand for arbitration of an objec-
12 tor under this section.

13 (g) DEADLINE FOR COMPLETION OF ARBITRA-
14 TION.—Not later than 90 days after the date on which
15 a demand for arbitration is filed under subsection (d)(2),
16 the arbitration process shall be completed.

17 (h) EFFECT OF ARBITRATION DECISION.—A decision
18 of an arbitrator under this section—

19 (1) shall not be considered to be a major Fed-
20 eral action;

21 (2) shall be binding; and

22 (3) shall not be subject to judicial review, ex-
23 cept as provided in section 10(a) of title 9, United
24 States Code.

1 (i) TERMINATION OF EFFECTIVENESS.—The author-
2 ity provided by this section terminates effective January
3 1, 2023.

4 **Subtitle B—Ecosystem Restoration**

5 **SEC. 321. DEFINITIONS.**

6 In this subtitle:

7 (1) COMMUNITY WILDFIRE PROTECTION
8 PLAN.—The term “community wildfire protection
9 plan” has the meaning given the term in section 101
10 of the Healthy Forests Restoration Act of 2003 (16
11 U.S.C. 6511).

12 (2) RESTORATION.—

13 (A) IN GENERAL.—The term “restora-
14 tion”, with respect to an ecosystem, means to
15 carry out any activity that helps to recover, es-
16 tablish, or maintain the resilience or adaptive
17 capacity of an ecosystem.

18 (B) INCLUSIONS.—The term “restoration”
19 includes any activity described in subsection (a)
20 relating to—

- 21 (i) timber harvesting;
- 22 (ii) thinning;
- 23 (iii) prescribed fire; or
- 24 (iv) other vegetation manipulation in
25 the National Forest System.

1 **SEC. 322. ECOSYSTEM RESTORATION PROJECTS.**

2 (a) IN GENERAL.—Subject to subsection (b), the Sec-
3 retary shall identify, prioritize, and carry out ecosystem
4 restoration projects on National Forest System land in ac-
5 cordance with applicable land and resource management
6 plans prepared by the Secretary for units of the National
7 Forest System under section 6 of the Forest and Range-
8 land Renewable Resources Planning Act of 1974 (16
9 U.S.C. 1604), if any, to accomplish 1 or more of the fol-
10 lowing objectives:

- 11 (1) To restore terrestrial habitat.
- 12 (2) To sustain water quality, water flows, or
13 watershed health and function.
- 14 (3) To create, improve, or increase early seral
15 habitat.
- 16 (4) To carry out a needed timber stand im-
17 provement.
- 18 (5) To reduce the risk or extent of insect or dis-
19 ease infestation.
- 20 (6) To reduce wildland fire severity potential.
- 21 (7) To implement a community wildfire protec-
22 tion plan.
- 23 (8) To establish, recover, or maintain ecosystem
24 resiliency.

1 (b) EXCLUSIONS.—The Secretary may not carry out
2 an ecosystem restoration project under this section on any
3 area of National Forest System land—

4 (1) that is a component of the National Wilder-
5 ness Preservation System; or

6 (2) on which removal of vegetation is prohibited
7 by law.

8 **SEC. 323. NATIONAL RESTORATION TREATMENT ACREAGE.**

9 (a) IN GENERAL.—For fiscal year 2018 and each fis-
10 cal year thereafter, the Secretary shall establish a 5-year
11 schedule to achieve the ecosystem restoration objectives
12 described in section 322(a).

13 (b) SCHEDULE GOALS.—The schedule established
14 under subsection (a) shall—

15 (1) by the end of the first 5-year period, result
16 in at least a doubling of the acres subject to an eco-
17 system restoration project under this subtitle, as
18 compared to the number of acres subject to an eco-
19 system restoration project in fiscal year 2017; and

20 (2) be consistent with any applicable forest
21 plan.

22 (c) ASSIGNMENT.—Not later than 90 days after the
23 date of enactment of this Act, and annually thereafter,
24 the Secretary shall assign the annual acreage for restora-

1 tion treatments, by National Forest System region, de-
2 scribed in subsection (a).

3 (d) PUBLICATION.—As soon as practicable after the
4 date of each assignment of acreage for restoration treat-
5 ments under subsection (c), the Secretary shall publish the
6 acreage that will apply, by National Forest System region,
7 on the Internet website of the Forest Service.

8 **SEC. 324. PERFORMANCE MEASURES; ANNUAL REPORTS.**

9 (a) PERFORMANCE MEASURES.—The Secretary shall
10 annually evaluate the degree to which the Secretary is
11 achieving—

12 (1) the purposes of this subtitle, including—

13 (A) the number of acres covered by eco-
14 system restoration projects;

15 (B) the number of acres treated by me-
16 chanical methods under ecosystem restoration
17 projects;

18 (C) the number of acres treated using
19 stewardship contracts and stewardship agree-
20 ments under ecosystem restoration projects;

21 (D) the number of acres treated using tim-
22 ber sales under ecosystem restoration projects;

23 (E) the number of acres treated by pre-
24 scribed fire, mowing, and other noncommercial

1 product producing activities under ecosystem
2 restoration projects; and

3 (F) to the extent practicable, a summary
4 of acres receiving more than 1 type of treat-
5 ment; and

6 (2) the acreage requirements established under
7 section 323(b)(1).

8 (b) ANNUAL REPORTS.—Not later than 1 year after
9 the date of enactment of this Act, and annually thereafter,
10 the Secretary shall submit to the Committee on Energy
11 and Natural Resources and the Committee on Environ-
12 ment and Public Works of the Senate and the Committee
13 on Natural Resources of the House of Representatives—

14 (1) a report that describes, with respect to the
15 preceding year, the results of evaluations using the
16 performance measures described in subsection (a);
17 and

18 (2) a report that describes, with respect to the
19 preceding year—

20 (A) the number and substance of projects
21 that are subject to arbitration under section
22 314; and

23 (B) the outcomes of the arbitrations under
24 that section.

1 **Subtitle C—Categorical Exclusions**

2 **SEC. 331. DEFINITIONS.**

3 In this subtitle:

4 (1) **CATASTROPHIC EVENT.**—The term “cata-
5 strophic event” means any natural disaster (such as
6 hurricane, tornado, windstorm, snow or ice storm,
7 rain storm, high water, wind-driven water, tidal
8 wave, earthquake, volcanic eruption, landslide,
9 mudslide, drought, or insect or disease outbreak), or
10 any fire, flood, or explosion, regardless of cause.

11 (2) **CATEGORICAL EXCLUSION.**—The term “cat-
12 egorical exclusion” means an exclusion from the re-
13 quirement to prepare an environmental assessment
14 or an environmental impact statement under section
15 102 of the National Environmental Policy Act of
16 1969 (42 U.S.C. 4332) for a category of forest man-
17 agement activities.

18 (3) **COLLABORATIVE PROCESS.**—The term “col-
19 laborative process” means a process relating to the
20 management of National Forest System land by
21 which a project or activity is developed and imple-
22 mented by the Secretary through collaboration with
23 interested persons, as described in section
24 603(b)(1)(C) of the Healthy Forests Restoration Act
25 of 2003 (16 U.S.C. 6591b(b)(1)(C)).

1 (4) FOREST MANAGEMENT ACTIVITY.—The
2 term “forest management activity” means a project
3 or activity carried out by the Secretary on National
4 Forest System land, consistent with the forest plan
5 covering that land.

6 (5) SALVAGE OPERATION.—The term “salvage
7 operation” means a forest management activity car-
8 ried out in response to a catastrophic event, the pri-
9 mary purpose of which is—

10 (A) to prevent wildfire as a result of the
11 catastrophic event, or, if the catastrophic event
12 was wildfire, to prevent a reburn of the fire-im-
13 pacted area;

14 (B) to provide an opportunity for use of
15 forest materials damaged as a result of the cat-
16 astrophic event; or

17 (C) to provide a funding source for refor-
18 estation and other restoration activities for the
19 National Forest System land impacted by the
20 catastrophic event.

21 **SEC. 332. CATEGORICAL EXCLUSION TO EXPEDITE CER-**
22 **TAIN CRITICAL RESPONSE ACTIONS.**

23 (a) IN GENERAL.—Not later than 1 year after the
24 date of enactment of this Act, the Secretary shall develop
25 a categorical exclusion (as defined in section 1508.4 of

1 title 40, Code of Federal Regulations (or a successor regu-
2 lation)) to carry out a forest management activity on Na-
3 tional Forest System land in any case in which at least
4 2 of the primary purposes of the forest management activ-
5 ity are—

- 6 (1) to address an insect or disease infestation;
- 7 (2) to treat land at risk of insect or disease in-
8 festation;
- 9 (3) to reduce hazardous fuel loads;
- 10 (4) to protect a municipal water source;
- 11 (5) to maintain, enhance, or modify critical
12 habitat to protect the habitat from catastrophic dis-
13 turbances;
- 14 (6) to increase water yield;
- 15 (7) to address salvage timber objectives; or
- 16 (8) any combination of the purposes specified in
17 paragraphs (1) through (7).

18 (b) ADMINISTRATION.—In developing and admin-
19 istering a categorical exclusion under subsection (a), the
20 Secretary shall—

- 21 (1) be consistent with the National Environ-
22 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
23 and
- 24 (2) apply the extraordinary circumstances pro-
25 cedures under section 220.6 of title 36, Code of Fed-

1 eral Regulations (or a successor regulation), in de-
2 termining whether to use the categorical exclusion.

3 **SEC. 333. CATEGORICAL EXCLUSION TO MEET FOREST**
4 **PLAN GOALS FOR EARLY SERAL AND EARLY**
5 **SUCCESSIONAL FORESTS.**

6 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
7 categorical exclusion is available to the Secretary to de-
8 velop and carry out a forest management activity on Na-
9 tional Forest System land in any case in which the pri-
10 mary purpose of the forest management activity is modi-
11 fying, improving, enhancing, or creating an early seral or
12 early successional forest, in accordance with the applicable
13 forest plan.

14 (b) ACREAGE LIMITATIONS.—A forest management
15 activity covered by the categorical exclusion granted by
16 subsection (a) may not contain harvest units exceeding a
17 total of 6,000 acres.

18 (c) EXTRAORDINARY CIRCUMSTANCES.—The Sec-
19 retary may apply the extraordinary circumstances proce-
20 dures under section 220.6 of title 36, Code of Federal
21 Regulations (or a successor regulation), in determining
22 whether to use a categorical exclusion under subsection
23 (a).

24 (d) CONSISTENCY.—In carrying out forest manage-
25 ment activities using the categorical exclusions under sub-

1 section (a), the Secretary shall ensure that the forest man-
2 agement activities are consistent with the applicable forest
3 plans.

4 (e) CUMULATIVE IMPACTS.—The Secretary shall not
5 be required to conduct a cumulative impact analysis in an
6 environmental document prepared under the National En-
7 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
8 for a forest management activity carried out using a cat-
9 egorical exclusion made available to the Secretary under
10 subsection (a) or any other provision of law (including reg-
11 ulations).

12 **SEC. 334. CATEGORICAL EXCLUSION TO IMPROVE WILD-**
13 **LIFE HABITATS.**

14 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
15 categorical exclusion is available to the Secretary to con-
16 duct a forest management activity the purpose of which
17 is the improvement of wildlife habitat.

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 6,000 acres.

22 (c) EXTRAORDINARY CIRCUMSTANCES.—The Sec-
23 retary may apply the extraordinary circumstances proce-
24 dures under section 220.6 of title 36, Code of Federal
25 Regulations (or a successor regulation), in determining

1 whether to use a categorical exclusion under subsection
2 (a).

3 (d) CONSISTENCY.—In carrying out forest manage-
4 ment activities using the categorical exclusions under sub-
5 section (a), the Secretary shall ensure that the forest man-
6 agement activities are consistent with the applicable forest
7 plans.

8 (e) CUMULATIVE IMPACTS.—The Secretary shall not
9 be required to conduct a cumulative impact analysis in an
10 environmental document prepared under the National En-
11 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
12 for a forest management activity carried out using a cat-
13 egorical exclusion made available to the Secretary under
14 subsection (a) or any other provision of law (including reg-
15 ulations).

16 **SEC. 335. CATEGORICAL EXCLUSION TO THIN FORESTS.**

17 (a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A
18 categorical exclusion is available to the Secretary to con-
19 duct a forest management activity the purpose of which
20 is commercial thinning of forest stands on suited
21 timberland, including—

22 (1) the incidental removal of trees for landings,
23 skid trails, and road clearing; and

1 (2) the construction of a temporary road that
2 is not longer than 1 mile to carry out that commer-
3 cial thinning.

4 (b) ACREAGE LIMITATIONS.—A forest management
5 activity covered by the categorical exclusion granted by
6 subsection (a) may not contain harvest units exceeding a
7 total of 6,000 acres.

8 (c) EXTRAORDINARY CIRCUMSTANCES.—The Sec-
9 retary may apply the extraordinary circumstances proce-
10 dures under section 220.6 of title 36, Code of Federal
11 Regulations (or a successor regulation), in determining
12 whether to use a categorical exclusion under subsection
13 (a).

14 (d) CONSISTENCY.—In carrying out forest manage-
15 ment activities using the categorical exclusions under sub-
16 section (a), the Secretary shall ensure that the forest man-
17 agement activities are consistent with the applicable forest
18 plans.

19 (e) CUMULATIVE IMPACTS.—The Secretary shall not
20 be required to conduct a cumulative impact analysis in an
21 environmental document prepared under the National En-
22 vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
23 for a forest management activity carried out using a cat-
24 egorical exclusion made available to the Secretary under

1 subsection (a) or any other provision of law (including reg-
2 ulations).

3 **SEC. 336. EXPANSION OF CATEGORICAL EXCLUSION FOR**
4 **INSECT AND DISEASE INFESTATION.**

5 (a) PERMANENT AUTHORITY.—Section 602(f) of the
6 Healthy Forests Restoration Act of 2003 (16 U.S.C.
7 6591a(f)) is amended by striking “each of fiscal years
8 2014 through 2024.” and inserting “each fiscal year.”.

9 (b) ADMINISTRATIVE REVIEW.—Section 603 of the
10 Healthy Forests Restoration Act of 2003 (16 U.S.C.
11 6591b) is amended—

12 (1) in subsection (a), in the matter preceding
13 paragraph (1), by striking “described in subsection
14 (b)”;

15 (2) by striking subsection (b);

16 (3) by redesignating subsections (c) through (g)
17 as subsections (b) through (f), respectively; and

18 (4) in subsection (b) (as so redesignated)—

19 (A) in paragraph (1), by striking “3000”
20 and inserting “6,000”; and

21 (B) in paragraph (2), by striking “shall
22 be” in the matter preceding subparagraph (A)
23 and all that follows through the period at the
24 end of subparagraph (B) and inserting “may be
25 carried out in any area designated under sec-

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- 1 tion 602(b), including areas in Fire Regime
- 2 Groups IV and V.”.