

PENDING LEGISLATION

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS
FIRST SESSION
ON

S. 1734 S. 2564
S. 1964 S. 2650
S. 2404 S. 2806
S. 2436 S. 2836
S. 2561

OCTOBER 21, 2021



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PENDING LEGISLATION

THURSDAY, OCTOBER 21, 2021

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Joe Manchin III, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOE MANCHIN III, U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. The Committee will come to order. This morning we are here to discuss a number of pieces of legislation related to wildfires and to forestry. These bills represent the priorities of many members on both sides of the aisle, including several members of the Committee. I also want to welcome Senator Bennet to the Committee as he joins us this morning to talk about his bill.

In May of this year, our Committee discussed how forests absorb and store carbon emissions, the role that forestry can play in addressing climate change, and how forest management is essential to addressing wildfires. Over the subsequent four months, we witnessed communities across the West again suffer catastrophic loss of life and property from horrific wildfires. I stand by my western colleagues, and I am ready to work with each of them. We must commit to taking the necessary proactive mitigation steps going forward, particularly those that are cost effective and have a proven track record of success. This perennial issue is worsening every year, and the fire agencies stand to greatly benefit from several of the bills on today's agenda. Now that rain has fallen across much of the West, tamping down this season's wildfires, we must get to work to get ahead of our country's wildfire problems. Specifically, we need enduring, long-term solutions put in place.

Our Committee has talked at length about how many of our country's forests are unhealthy and in need of restoration. It is critical that we include forests and wildfires in our conversations about carbon emissions. That is why Ranking Member Barrasso and I, along with Senators King and Marshall, introduced the America's Revegetation and Carbon Sequestration Act. Our bill has been praised by dozens of groups, including the Nature Conservancy, the timber industry, a number of national forestry groups, and sportsmen's and women's groups like the Theodore Roosevelt Conservation Partnership. It authorizes agencies like the Forest Service and the Department of the Interior to accept money from outside organizations that want to invest in wildfire prevention and

all these projects because they also see the carbon benefits of these projects. Our bill also contains proactive measures related to revegetation and expanding use of wood products—both activities that have been shown to help rural economies. I am particularly excited about a provision related to revegetation of abandoned mine lands, and I am very grateful for Chief Johansen to have made the drive here today from West Virginia to speak to us in detail about this initiative.

There are eight other bills on this morning's agenda. While many of these bills are broadly supported, I understand a few are controversial. Senator Daines has two bills that address the litigation problems that sometimes hinder important forestry projects. While I support addressing this important issue, I want to be sure it is done, first, in a way that will procedurally work for the agencies and all the parties involved, and second, in a way that does not have unintended consequences. This morning's topic is unique because the proposals we will be discussing can make a tremendous impact on our nation's climate efforts and address our nation's wildfire problem. I believe we should focus on solutions that both parties can rally behind. With that, I will turn it over to Ranking Member Barrasso for his opening statement.

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

Senator BARRASSO. Well, thanks so much, Mr. Chairman. I appreciate you holding this hearing. It is good to have Senator Bennet here joining us as well, as he and I have co-sponsored legislation that is on the agenda today. I am very grateful to you to hold today's hearing. You know, our forests are really in a state of crisis and what we are seeing now should be a call for action. Now, those actually are not my words, those are the words of a recent quote by Randy Moore, who is the new Chief of the Forest Service, and I agree with him completely. Extreme drought coupled with decades of fire suppression without proper active management has left many of America's forests vulnerable to disaster. Recent catastrophic wildfires have devastated American lives and livelihoods and destroyed our forest and range landscapes.

In June, Chairman Manchin and I wrote a letter to the White House saying, "Proactive management is far better for our forests, our economies, and the safety of our communities than simply being reactive." That is why I am pleased to see a number of the bills on today's schedule that will move us in the right direction of proactive forest and rangeland management. This includes America's Revegetation and Carbon Sequestration Act, which I have introduced along with Chairman Manchin. This important bipartisan bill increases active forest management on a number of fronts. It is going to spur more tree thinning in overcrowded forests that are at high risk of wildfires. These projects give rise to healthier forests that are more resistant to wildfires and disease. Our legislation eradicates harmful invasive grasses that make landscapes more fire prone. In Wyoming and across the West, invasive grasses like cheatgrass and medusahead crowd out forage for wildlife and for livestock. This harms our ecosystem and deals a blow to local economies. The bill also directs federal agencies to work with local

officials and experts. The goal is to restore vegetation on forested and range landscapes that have been destroyed by wildfires. The bill also includes a number of measures to store carbon through expanded use of wood products. This includes helping to expedite appropriate salvage logging projects in the event that disaster does strike a national forest. The America's Revegetation and Carbon Sequestration Act enables the use of proactive management tools that make a real change in our public lands in the natural ability to store carbon. Our bill enjoys broad support from a wide range of organizations, including sportsmen's groups, timber companies, conservation organizations, and state and private forestry associations.

Today's hearing also includes the Ski Hill Resources for Economic Development—or SHRED Act—and this is a bill which I have introduced along with Senator Bennet, who is here to present an outline of the bill in a few moments. These retained fees will be used on projects to improve recreation management, protect our forests, and support local economies. This bill also has broad support and is co-sponsored by a number of other senators on the Committee.

I also want to highlight the important forestry bills introduced by Senator Daines and Senator Risch. These bills would address the red tape and litigation traps that stymie projects designed to mitigate wildfires and improve forest health. I support these pieces of legislation and look forward to hearing testimony on all the bills before the Committee today. I am also hopeful that we can work in a bipartisan fashion to address the many issues facing America's forests.

Finally, I would like to introduce to the Committee, Mr. Bill Crapser, who is joining us remotely. I am very pleased that Bill could be part of today's hearing. Bill has served as the Wyoming State Forester since 2003. He knows as well as anyone that collaborative work across private, state, and federal boundaries is key to a healthy forest across Wyoming and the nation. He provides critical expertise and is a valuable resource for the many issues that we are discussing today. Bill has a great excuse for not joining us here in person, because I know he likes to come to testify, because he very recently went on a moose hunt in Wyoming's Bridger-Teton National Forest, and as you can see by this picture—Bill, I don't know if you can see this. This is the moose and it was quite a successful hunt. So not only are you a great forester, you are also a crack shot and you probably had to wait 15 years to get that tag because those aren't things you can just go out and—Daines, you are a hunter. Look at this. Have you seen that moose? Very impressive.

[Photograph of Mr. Crapser with moose follows:]



Senator BARRASSO. So Bill, congratulations again. Thank you for joining us, the Committee, thank you, Mr. Chairman, and hopefully we can have you come out——

The CHAIRMAN. Is it legal?

[Laughter.]

Senator BARRASSO. It was for him. For you, we are not so sure, but that is something, isn't it? That is impressive.

The CHAIRMAN. That's great.

Thank you, Senator.

We have a great panel assembled this morning. Before we start with the panel, we have been blessed to have the presence of our good friend from Colorado, Senator Michael Bennet.

**STATEMENT OF HON. MICHAEL BENNET,
U.S. SENATOR FROM COLORADO**

Senator BENNET. Thank you, Mr. Chairman and I want to thank you and the Ranking Member for what you said about the West and fires. We are going to spend the money one way or another. We can just spend \$50,000 an acre fighting fires. We can spend \$1,500 an acre treating the forests and that is what we need to do. So thank you.

And thank you, Mr. Chairman and Ranking Member Barrasso, for allowing me to say just a few words about the SHRED Act. The case for the bill is straightforward. Our national forests are fundamental to our economy, and in places like the White River National Forest in Colorado, our ski industries also generate millions of dollars for the treasury, but those funds do not make it back to the forests where they are needed most. Instead, Washington often shortchanges our forests, leaving them without the budget to hire staff, maintain trailheads, and manage recreation—placing a burden on local governments. The SHRED Act fixes that by keeping a portion of the fees paid by ski areas in the forests where they were generated. This small change would mean more researchers across the West in Colorado, Wyoming, Montana, and elsewhere to help our national forests contend with the surge in visitation and outdoor recreation. That is why the SHRED Act is supported not only by ski areas, but also local governments and regional organizations in my state, including the Colorado Association of Ski Towns and the Northwest Colorado Council of Governments.

So I am deeply grateful to Ranking Member Barrasso for his leadership and partnership on the measure, and I look forward to working with everyone on the Committee to advance this important legislation in a bipartisan way.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Now we have Senator Daines speaking about his piece of legislation.

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

Senator DAINES. Chairman Manchin, this is a great hearing. We are moose hunting and skiing already.

[Laughter.]

Senator DAINES. I think my kids think I have a cool job now, Mr. Chairman.

Well, let me talk about something that is very important to the West and specifically Montana. Over 940,000 acres burned during this past wildfire season in Montana. Meanwhile, there is more board-feet tied up in litigation than is actually harvested. Let me say that again. There is more board-feet of timber tied up in litigation than was actually harvested. When I was growing up in Montana, we had 31 active sawmills. That number has dwindled down to seven, and we are expecting the St. Regis mill to close next month. And oftentimes the reason we are seeing these mills closing is they cannot get enough timber into their mills. It is no wonder that we continue to hear calls for a paradigm shift in forest management. And in Montana, that paradigm shift will not occur unless we address obstructionist litigation. So I have introduced two bills that do exactly that.

The first is the Protect Collaboration for Healthier Forests Act, which establishes a pilot program to resolve disputes against collaboratively developed projects through arbitration versus litigation. This bill safeguards public input by ensuring that consensus-driven decisions of the majority are not obstructed by isolated dissenters. This is the same language that passed out of this Committee with Chairman Manchin's support in 2018, and in Region 1, we have a litigation rate two and a half times any other region, and 30 percent of the environmental impact statements are challenged on average in Region 1. It is time that Congress provide this tool to our partners in the Forest Service.

My second bill reverses the 9th Circuit 2015 Cottonwood Decision, which the Obama Administration said, and I quote, "Has the potential to cripple forest management." You know, the Obama Administration was correct. We have seen hundreds of projects impacted by lawsuits and the threat of lawsuits, including whole forests in New Mexico being shut down. My bill simply applies the standard across the rest of the country to the 9th Circuit by codifying the position that was taken by the Obama Administration and the 10th Circuit Court. This is the narrowest way to address this issue. Anything less will upend forest planning across the country and hold the Forest Service hostage to a never-ending procedural loop for consultation. From Backcountry Hunters and Anglers, to the Montana Wood Products, sportsmen, conservation, timber groups across the spectrum have called upon Congress to address this specific issue.

Mr. Chairman, I would like to submit for the record a letter of support from 33 members of the American Wildlife Conservation Partnership.

The CHAIRMAN. Without objection.

Senator DAINES. Thank you.

[The letter referred to follows:]

The Honorable Joe Manchin
 Chairman, Senate Committee on Energy
 & Natural Resources
 U.S. Senate
 306 Hart Russell Senate Office Building
 Washington, DC 20510

The Honorable John Barrasso
 Ranking Member, Senate Committee on Energy
 & Natural Resources
 U.S. Senate
 307 Dirksen Senate Office Building
 Washington, DC 20510

Re: "*Cottonwood Fix*"

Dear Chairman Manchin and Ranking Member Barrasso:

The undersigned conservation organizations, representing millions of natural resource professionals, sportsmen, and sportswomen are writing today to request that Congress take immediate action to address harmful and unnecessary delays in federal forest management activities caused by the *Cottonwood Environmental Law Center v. United States Forest Service (Cottonwood)* decision.

Since 2015 when the Ninth Circuit Court issued the *Cottonwood* ruling, the Forest Service (USFS) has been required to reinstate consultation with the Fish and Wildlife Service (USFWS), Bureau of Land Management (BLM), and the National Oceanic and Atmospheric Administration on Land Management and Forest Management Plans at the programmatic level when new Endangered Species Act (ESA) information came to light. This has blocked and slowed many essential USFS forest management, wildlife habitat enhancement and wildfire fuel reduction projects.

There has been bipartisan and widespread support for a "*Cottonwood Fix*." In May of 2016 the Obama administration petitioned the Supreme Court to review and overturn the case, and in January of 2021 the Trump administration initiated a rule to amend Section 7 of the ESA to address the issue. The Supreme court rejected the original petition, and no final rule has been forthcoming from USFWS.

Congress also recognized the critical need to address the *Cottonwood* decision when it included a provision in the Consolidated Appropriations Act of 2018 which adjusted consultation requirements for the USFS and BLM, but with different instructions to each agency. The 2018 provision was only a partial fix providing the USFS an exemption from reinitiation of consultation only for critical habitat designations and species listings and only through March 23, 2023. Regarding BLM, Section 209 of the 2018 Act also provided a partial "*fix*" by exempting only grant lands under the Coos Bay Wagon Road Reconveyed Lands Act and Oregon and California Revested Lands Act from re-initiation of reconsultation for new species listings and critical habitat designations.

Delays in forest management projects caused by "*Cottonwood*" litigation are costly, duplicative and hinder critical forest management activities. Species listed under ESA are already considered when assessing each land management project implemented by the USFS. Agencies undergo review and consultation at the project level where the potential impacts can be best evaluated. Court rulings requiring reconsultation at the plan level are duplicative and unnecessary and injunctions delay good projects from being implemented in a timely manner. Current consultation regulations must be clarified to prevent frivolous lawsuits that seek to block projects that improve habitat for big game and other wildlife and reduces vulnerability of forests to catastrophic wildfire, insects and disease.

According to the National Interagency Fire Center, since 2016 wildfires have burned over 46 million acres throughout the United States, with over 65% of the wildfires impacting federal lands. While a regulatory “fix” may be possible, the federal regulatory process is cumbersome, time consuming and will lead to additional litigation. There is precedent for Congress to address “*Cottonwood*” and action is urgently needed lest the important management work that will potentially be funded by the Bipartisan Infrastructure Funding bill will be tied up in courts. It is with a sense of urgency to get this important work done on the ground that we support and urge congressional action to provide a “*Cottonwood Fix*”.

Sincerely,

American Woodcock Society	Orion: The Hunter’s Institute
Archery Trade Association	Pheasants Forever
Backcountry Hunters and Anglers	Pope & Young Club
Boone & Crockett Club	Professional Outfitters and Guides of America
California Waterfowl Association	Public Lands Foundation
Camp Fire Club of America	Quail Forever
Congressional Sportsmen’s Foundation	Rocky Mountain Elk Foundation
Conservation Force	Ruffed Grouse Society
Delta Waterfowl	Safari Club International
Houston Safari Club	Sportsmen’s Alliance
Mule Deer Foundation	The Wildlife Society
National Bobwhite Conservation Initiative	Theodore Roosevelt Conservation Partnership
National Deer Association	Whitetails Unlimited
National Forest Service Retiree Association	Wild Sheep Foundation
National Rifle Association	Wildlife Management Institute
National Shooting Sports Foundation	Wildlife Mississippi
National Wild Turkey Federation	

cc: Members of the Senate Committee on Energy & Natural Resources

Senator DAINES. Four Forest Service Chiefs spanning two administrations have called for a solution, and it is time to act. Forest management is good for our workers. It is good for watersheds. It is good for wildlife and for wildfire prevention. It is a critical part of our way of life in Montana. It is time to return to some common-sense forest management. I look forward to today's discussion and all these important policies.

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

The CHAIRMAN. Thank you, Senator.

Now let me welcome our panel of witnesses. Today we have Deputy Chief Chris French from the Forest Service. We have Mr. Jeffery Rupert from the Department of the Interior's Office of Wildland Fire. We have Mr. Bill Crapser, the Wyoming State Forester. We have Chief Paul Johansen, Chief of Wildlife Resources at the West Virginia Department of Natural Resources. And finally, we have Mr. Tyson Riggs, Coalition Director for the Rural Voices for Conservation Coalition.

Deputy Chief French, we are going to begin with your opening remarks.

**STATEMENT OF CHRISTOPHER FRENCH, DEPUTY CHIEF,
NATIONAL FOREST SYSTEM, USDA FOREST SERVICE**

Mr. FRENCH. Great, thank you.

Thank you Chairman Manchin, Ranking Member Barrasso, and members of the Committee. I am Chris French, the Deputy Chief of the National Forest System at the USDA Forest Service. Thanks for the opportunity to be here today. Over the past years, I have had several opportunities to come in front of you and talk about the wildfire crisis facing our national forests and grasslands and the collective challenges we have to address it. When I look at the series of bills in front of you today, I want to say a heartfelt thank you. Thank you for engaging and presenting creative, innovative, and important proposals that are all intended to help the agency and our vast array of tribal, state, community, and private-based partners to overcome what has become our national reality—forests that are burning at scales and scopes we have not seen before that are having tragic and unacceptable effects to our communities, our interagency firefighting resources, and the long-term sustainability of our nation's forests.

Many of the foundational aspects of our national forests and grasslands—clean water, clean air, sacred sites, suitable forest products and uses, robust wildlife, fish and plant habitats, pristine wilderness, and wild and scenic rivers, and a place for enjoyment for the nearly 168 million visitors we get each year—are clearly at risk. Our opportunity to find a new course is now, and the Forest Service is ready to take solutions that address this. From our experience, solutions to address this crisis must recognize the scale of our problem. We need to restore millions of acres of forest, not thousands. We need to protect thousands of communities, not dozens. We must act strategically and at a national scale and leverage and facilitate local collaboration and solutions. We must enable our partners and recognize that fire does not respect land ownership, administrative or management boundaries, or political jurisdictions—that our solutions must rely on science, traditional ecological

knowledge, and on-the-ground management and local expertise. Our projects must deliver multiple outcomes based on public input that treat the right acre at the right scale that can finally end this spiraling cost of fire suppression.

And finally, we need to keep all solutions and all tools on the table. We need more prescribed fire on the land. We need more mechanical treatments. We need more technological advancements. We need more training, resources, and expertise, and we need thriving tribes, interagency partners, states, communities, and supporting businesses, such as our forest products and service industries, if we are going to solve this problem. And we need to recognize and honor the toll this work has put on our employees, our community-based first responders, and our citizens that live in our at-risk forest communities. The past years have been mentally and physically exhausting. Today's solutions must fairly pay and bring relief to those trying to manage a system and threat that is currently outstripping our resources. Currently, the Forest Service carries out approximately three million acres of fuels reduction treatments. The Department of the Interior, states, and tribes accomplish an additional one million. It is not nearly enough. Our scientists say that we need to treat at least 20 million acres on federal lands in the next 10 years and 30 million acres on other lands if we are going to get ahead of this situation. So we have a lot of work to do, and we have a lot of work to do to restore our systems post-fire. In addition to impacting individuals, communities, and economies, wildfire damage of the nation's forests has profound impacts on their ability to sequester carbon, protect water resources, produce timber, support recreation, and provide wildlife habitat.

The series of bills in front of us: S. 1734, the National Prescribed Fire Act; S. 2404, the Western Wildfire Support Act; S. 2436, the Forest Improvements Through Research and Emergency Stewardship for Healthy Ecosystem Development and Sustainability Act; S. 2564, the Protect Collaboration for Healthier Forests Act; S. 2650, the Wildfire Resilient Communities Act; S. 2561, an amendment to the Forest and Rangeland Renewable Resources Planning Act and FLPMA; S. 2806, the Wildfire Emergency Act; and S. 2836, America's Revegetation and Carbon Sequestration Act, all take on different aspects of the work to help address this collective challenge. My written testimony provides specific thoughts on each bill, but as a whole, they offer innovative solutions and we look forward to working with the bill sponsor to address technical or policy concerns that we have to make them more implementable.

Finally, I would like to address one other bill in front of us. S. 1964 would establish a ski area permit through retention account and authorize the Forest Service to deposit, retain, and spend these permit-fee revenues in certain activities. The bill would increase efficiencies in administering ski area permits and improve our customer service. We support the bill.

Thank you for the opportunity to appear before you today. I look forward to answering your questions.

[The prepared statement of Mr. French follows:]

**STATEMENT OF CHRISTOPHER B. FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
UNITED STATES DEPARTMENT OF AGRICULTURE
U.S. FOREST SERVICE**

**BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES**

**October 21, 2021
Regarding**

**S. 1734 – National Prescribed Fire Act of 2021
S. 1964 – Ski Hill Resources for Economic Development Act
S. 2404 – Western Wildfire Support Act of 2021
S. 2436 – Forest Improvements through Research and Emergency Stewardship for Healthy
Ecosystem Development and Sustainability Act
S. 2564 – Protect Collaboration for Healthier Forests Act
S. 2650 – Wildfire Resilient Communities Act
S. 2806 – Wildfire Emergency Act of 2021
S. 2561
S. 2836 – America’s Revegetation and Carbon Sequestration Act of 2021**

Chairman Manchin, Ranking Member Barrasso and Members of the Committee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) on several bills under the jurisdiction of the U.S. Forest Service (Forest Service).

S. 1734 – National Prescribed Fire Act of 2021

The objective of S. 1734 is to substantially increase the number of acres of prescribed burning across all lands, especially in the western states. Prescribed burning would reduce wildfire risk to communities and improve forest health. Many sections of the bill build upon existing Forest Service programs. The bill addresses many of the Agency’s concerns regarding expansion of the use of prescribed fire. The bill proposes a broad range of actions and incentives over a ten-year period that would promote and increase the use of prescribed fire on Federal, State, and private lands. The Forest Service will need to increase the use of prescribed fire in order to attain performance targets and manage fuels loads that threaten our communities, infrastructure and natural resources with the potential for extreme wildfire behavior. We would like to work with the Committee and bill sponsors to revise the bill to achieve its intended purpose.

TITLE I—USE OF FUNDS

Sec. 101. PRESCRIBED FIRE ACCOUNTS – This section establishes a new Prescribed Fire Account within the Wildland Fire Management appropriation for both the Forest Service and Department of the Interior that is separate from the existing hazardous fuels management appropriation. The authorization of appropriations for the new Prescribed Fire Account is up to \$300 million. Funding could be used on activities to increase the total amount of prescribed burning done on both Federal and State lands, giving priority to prescribed burning on large contiguous areas that cross jurisdictional boundaries and address the wildfire risk to communities and essential infrastructure.

USDA is committed to collaboratively working at larger scales with our Federal, Tribal, State, and local government partners, as well as all members of the public to collectively and proactively use our resources to create resilient landscapes. These objectives are also the goals of the Prescribed Fire Account established in Section 101; however, the provision overlaps the existing hazardous fuels management program. We would like to work with the Committee and bill sponsors to address this issue while still meeting the objectives of the section.

Sec. 102. POLICIES AND PRACTICES – This section creates the minimum and maximum number of acres of prescribed burning to be carried out using funding in the Prescribed Fire Account. USDA agrees there is a significant need to increase the amount of prescribed burning and ensure that prescribed burns are completed on the highest priority areas. Requiring at least one prescribed burn on each unit that has a minimum of 100 acres in Fire Regimes I, II, or III and has not already burned by wildfire does not completely align with this need. USDA would like to work with the Committee and bill sponsor to discuss prioritization strategies.

Sec. 103. COLLABORATIVE PRESCRIBED FIRE PROGRAM – This section requires the Secretary of the Interior to establish a collaborative prescribed fire program without a clear role for USDA. USDA would like to ensure that the establishment of this program also complements and enhances existing programs within USDA. We would value working with the Committee to better understand how this can be accomplished.

Sec. 104. LARGE CROSS-BOUNDARY PRESCRIBED FIRE INCENTIVE PROGRAM – This section requires the Secretary of the Interior to create an incentive program to encourage the implementation of cross-boundary landscape level prescribed burning. USDA strongly believes partnering with State and county entities is essential to collectively engage in managing all lands and create greater wildfire resilience. We defer to the Department of Interior on this program.

TITLE II—FACILITATING IMPLEMENTATION AND OUTREACH

Sec. 201. COOPERATIVE AGREEMENTS AND CONTRACTS – This section enables Federal agencies to enter into cooperative agreements and contracts with States and local entities

to conduct prescribed burning on Federal lands. USDA supports strong collaborations with State and local entities and appreciates any efforts to create capacity to achieve wildfire resilience. However, the provisions in this section may duplicate and contradict existing USDA authorities and non-Federal financial assistance transactions, thereby resulting in potential interpretation challenges. We commit to working with the Committee to address these concerns.

Sec. 202. HUMAN RESOURCES – This section provides authority to hire additional personnel into permanent or permanent seasonal positions as prescribed fire practitioners, including veterans; qualified applicants; temporary employees converted to permanent positions; Job Corps qualified candidates; and formerly incarcerated individuals. This section authorizes additional training for prescribed fire practitioners and additional budget authority to fund overtime and other pay entitlements. The section also grants indemnity to Federal employees conducting prescribed burning. USDA believes some of these provisions warrant further consideration, and we look forward to working with the Committee and bill sponsors to consider adjustments to our fire management workforce into the future.

Sec. 203. LIABILITY OF CERTIFIED PRESCRIBED FIRE MANAGERS – This section encourages States to establish a covered law. USDA supports working with Governors on this important issue.

Sec. 204. ENVIRONMENTAL REVIEW – This section would provide significant support for smoke management issues the Forest Service has identified, specifically how to manage smoke from prescribed fire and balance air quality and land management objectives. This section also recognizes existing challenges in managing smoke from current levels of prescribed fire as well as issues imposed by the Clean Air Act and subsequent regulations. Based on the record number of wildfires and the heavy smoke impacts on millions of people in 2020 and 2021, the increased use of prescribed fire could allow for more effective smoke management practices to improve undesirable, long duration smoke impacts of wildfire to the public. To better meet the intent of Section 204(b), USDA would like to work with the Committee and bill sponsor to more closely align the requirements of this subsection with the guidance provided by the Council on Environmental Quality for the development of National Environmental Protection Act Categorical Exclusions.

Sec. 205. PRESCRIBED FIRE EDUCATION PROGRAM – This section is an expansion of public information under the “Burner Bob” program. USDA supports the expansion of this important program.

TITLE III—REPORTING; TERMINATION

No Comments.

Conclusion

USDA agrees more prescribed fire can help mitigate the risk of unplanned wildfire and looks forward to working with the Committee and bill sponsors to identify tools that help accomplish this goal.

S. 1964 – Ski Hill Resources for Economic Development Act (“SHRED” Act)

The SHRED Act would amend the Omnibus Parks and Public Lands Management Act of 1996 to establish a ski area permit fee retention account and to authorize the Forest Service to deposit ski area permit fee revenues into that account and retain and spend the revenues for specified purposes.

USDA has previously testified in support of the establishment of a ski area permit fee retention account and continues to support the authority to retain and spend this type of permit fee. The authority to retain and spend ski area permit fees would improve customer service through improved ski area permit administration. The bill would increase efficiencies in administering ski area permits, Agency staff training, visitor information, signage, wildfire preparedness coordination, and enhanced avalanche-related safety education. We appreciate that this new version of the bill would provide for some of the retained permit fees to be used for administration of other types of commercial recreation permits, visitor services, and other purposes.

In 2019, \$57 million in ski area permit fees were submitted to the United States Treasury from National Forest System lands. The current ten-year average for annual ski area permit fees is \$40 million. Based on the formula in the bill, we expect approximately \$27.5 million in ski area permit fees would be retained by the Forest Service annually. Retained ski area permit fees would be used to improve administration of recreation opportunities that contribute to local economic activity across 122 ski resort communities operating on National Forest System lands, primarily in rural areas, in 14 states. These recreation opportunities spur industry growth and generate revenue for ski areas. It is important that ski area permit fees retained under the bill supplement, not supplant, cost recovery fees collected and retained under existing statutory authorities, including cost recovery fees charged for processing applications for new uses at ski areas. USDA would like to work with the Committee to ensure the bill language accomplishes this intent and that the financial mechanisms in the bill also achieve their intended purpose.

USDA appreciates the Committee’s interest in this issue and strongly supports efforts to foster recreational use of federal lands and further improve our ability to provide excellent customer service. We look forward to working with the bill sponsor and the Committee to promote these important goals.

S. 2404—Western Wildfire Support Act of 2021**TITLE I— PREPARATION**

Sec. 101. FIREFIGHTING ACCOUNTS – This section establishes a separate Firefighting Operations account under the Wildland Fire Management appropriation account for the U.S. Department of Agriculture (USDA) with separate subaccounts for ground-based firefighting operations and for aircraft use in firefighting operations. The authorization of appropriation for ground-based firefighting operations is up to \$3 billion and the authorization of appropriations for aircraft use in firefighting operations is \$5 billion. The legislation would require the Forest Service to submit monthly accounting reports.

The Forest Service currently receives appropriations for firefighting operations in the Wildland Fire Management account, which allows for flexibility in funding necessary actions throughout the fire year. The creation of additional subaccount would constrain flexibility in adjusting the program throughout the year.

Sec. 102. REIMBURSEMENT FOR WILDFIRES CAUSED BY MILITARY TRAINING – This section requires the Secretary of Defense to reimburse a State or Federal agency for the reasonable costs for services provided in connection with fire suppression. USDA defers to the Department of Defense on this section of the bill.

Sec. 103. STRATEGIC WILDLAND FIRE MANAGEMENT PLANNING – This section requires the creation of spatial fire management plans that incorporate risk, strategic plans, operational factors, and post-fire activities. The section also sets out requirements for fire ecology and fire management to be considered in the revision of land management plans and the involvement of specialized personnel to participate in the land management planning.

The Forest Service has already implemented spatial fire planning as part of its deployment of the interagency Wildland Fire Decision Support System (WFDSS) and the Interagency Fuels Treatment Decision Support System (IFTDSS). Unlike traditional planning approaches that result in a static plan with a limited shelf-life, spatial fire planning establishes a system of information in map-form suitable for rapid display and analysis to support decision makers with the best available information each time they either evaluate options during wildfire response in WFDSS or analyze fuel treatment options in IFTDSS. When new information becomes available, existing maps can be updated and new maps incorporated to provide decision makers better information. Forest Service supports continued efforts to advance and improve our spatial planning and we are working with the Office of Wildland Fire to use Wildfire Prevention Spatial Assessment and Planning Strategies (WPSAPS) software to create a spatial plan for wildfire prevention activities. We would like to work with the Committee on technical suggestions related to this section to reflect the full suite of our on-going spatial planning work and to ensure this program compliments and enhances existing programs within USDA and Department of the Interior.

Sec. 104. ACCOUNTS TO ASSIST COMMUNITIES IN PLANNING AND PREPARING FOR WILDFIRES – This section establishes a Community-Supported Land-Use Planning Assistance account in the Wildland Fire Management account for USDA with an authorization of appropriation of up to \$200 million per year for community-supported land-use planning assistance.

The Forest Service has established cooperative agreements with a variety of partners and state forestry agencies that support community wildfire protections programs. Currently, the Agency does not have the capacity in fire planning, wildfire prevention, and community wildfire mitigation programs to successfully implement this section of the bill. We would like to work with the Committee on technical assistance related to this section to ensure the establishment of this program complements and enhances existing programs within USDA and Department of the Interior.

Sec. 105. COMMUNITY SUPPORT DURING DISASTER RESPONSE – This section requires the establishment of a program to train and certify citizens to volunteer during a wildland fire incident, excluding direct suppression actions. Local fire departments serve in this capacity currently. USDA supports the engagement and education of volunteers to support wildland fire operations and would like to work with the Committee on technical assistance related to this section to ensure the goals of this provision are implemented correctly.

TITLE II— WILDFIRE DETECTION AND SUPPRESSION SUPPORT

Sec. 201. WILDFIRE DETECTION EQUIPMENT – This section encourages expedited placement and permitting of wildfire detection equipment and expanding the use of satellite data. USDA supports this section.

Sec. 202. GRANT PROGRAM FOR SLIP-ON TANK UNITS – This section establishes a program to award cost-share grants to a State or unit of local government to acquire slip-on tank and pump units for a surge capacity of resources for fire suppression.

Clarification on whether this is meant for the Forest Service or the Department of Interior is needed. The Forest Service has existing programs that provide funding to state and volunteer fire departments. This section would provide funding for all fire departments for slip-on tank and pump units. USDA would like to work with the Committee to better understand the intent of this section and looks forward to working with the Committee and bill sponsors on technical assistance to accomplish the goals of this section.

Sec. 203. ASSISTANCE TO STATES FOR OPERATION OF AIR TANKERS – This section allows for funding to be provided to States to operate single-engine airtankers for only initial attack. The Department of Interior contracts for single engine airtankers (SEATs) for the both the Forest Service and the Department of Interior. USDA defers to the Department of Interior on this section.

Sec. 204. RESEARCH AND DEVELOPMENT OF UNMANNED AIRCRAFT SYSTEM FIRE APPLICATIONS – This section authorizes the Department of Interior, through the Joint Fire Science Program, to work with covered unmanned aircraft test ranges to carry out research and development of unmanned aircraft system fire applications.

This section is directed at the Department of Interior and does not have a direct role for the Forest Service. However, the Forest Service shares oversight of, and receives funding for, the Joint Fire Science Program as well as has full oversight for the National Technology Development Centers, which have been instrumental in supporting the testing and evaluation of Unmanned Aerial Systems for wildfire fire applications. We would be interested in learning more about the intended use of covered unmanned aircraft test ranges and working with the Committee, bill sponsors and the Department of Interior on ways to step up the adoption of unmanned aircraft system technology, which holds tremendous potential to improve our fire management capabilities.

Sec. 205. STUDY ON EFFECTS OF DRONE INCURSIONS ON WILDFIRE SUPPRESSION – This section requires the Department of Interior, in consultation with USDA, to produce a report of the effects of drone incursions, over the past five years, on wildfire suppression on federal lands and to evaluate the feasibility and effectiveness of various actions to prevent drone incursions. USDA does not have enforcement capability to prevent drone incursions.

Sec. 206. STUDY ON WILDFIRE DETECTION EQUIPMENT AND INTEGRATION OF ARTIFICIAL INTELLIGENCE TECHNOLOGIES – This section requires USDA and Department of the Interior to produce a study, within two years, on the effectiveness and limitations of the deployment and application of each wildfire detection equipment technology, and the integration of artificial intelligence with real-time imagery and weather data.

TITLE III— POST-FIRE RECOVERY SUPPORT

Sec. 301. FUNDING FOR ONLINE GUIDES FOR POST-FIRE ASSISTANCE – This section amends Section 201(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and allows the Federal Emergency Management Agency to enter into cooperative agreement to provide funding to a State agency to establish and operate a website to provide information relating to post-fire recovery funding and resources to a community or an individual impacted by a wildland fire. USDA defers to the Federal Emergency Management Agency on this section of the bill.

Sec. 302. LONG-TERM BURNED AREA RECOVERY ACCOUNT – This section establishes a Long-Term Burned Area Recovery account, under the Wildland Fire Management appropriation account, for USDA with an authorization of appropriation of up to \$100 million per year for rehabilitation projects that prioritize downstream effects on water resources and public safety.

As the scale and severity of the wildfires has increased, costs for addressing the growing post-fire recovery and restoration needs continue to grow and currently far outpaces the Forest Service's available resources. Timely and effective restoration of lands is critical for restoring ecosystem sustainability and protecting public safety. Without dedicated resources to address post-fire recovery needs, the impacts of these wildfires will continue to be felt long after they are contained. Vital ecosystem functions may be depleted or reduced. Drinking water and public safety may be at risk due to increased flooding and erosion. Critical habitat may be lost for sensitive, threatened, or endangered species, key pollinators, and important game species.

USDA supports dedicated funding for post fire recovery, which will help us implement essential recovery actions on and off National Forest System lands, restore resilient native ecosystems, and protect public safety following wildfires. USDA also notes that the Infrastructure Investment and Jobs Act would create a long-term burned area recovery program for the Forest Service.

Sec. 303. PRIZE FOR WILDFIRE-RELATED INVASIVE SPECIES REDUCTION - This section amends Section 7001(d) of the John D. Dingell, Jr. Conservation, Management, and Recreation Act and establishes the Theodore Roosevelt Genius Prize for Management of Wildfire-Related Invasive Species. The Department of the Interior will administer the prize competition. USDA defers to the Department of the Interior on this section.

Conclusion

USDA supports the intent of this bill and looks forward to working with the Committee and bill sponsors on technical assistance to accomplish the goals of the bill.

S. 2436 – Forest Improvements through Research and Emergency Stewardship for Healthy Ecosystem Development and Sustainability Act (“FIRESHEDS” Act)

S. 2436 amends the Healthy Forest Restoration Act (HFRA) of 2003, allowing for the establishment of fireshed management areas. While the Forest Service supports the goals of the bill, we would like to work with the Committee and bill sponsor to address technical concerns outlined below.

Section 2 of the bill requires the Secretaries of Agriculture and Interior to, no later than 90 days after receiving a request from a Governor of a State, enter into an agreement with that Governor to jointly designate fireshed management areas within the State. No later than 90 days after entering into an agreement, the bill also requires the Secretary and Governor to conduct a joint stewardship and fireshed assessment that identifies wildfire exposure risks within each of the fireshed management areas, at-risk communities and potential fireshed management projects to be carried out in the fireshed management areas. The assessment shall also include a strategy for reducing the threat of wildfire to at-risk communities in the Wildland-Urban Interface, recommend fireshed management project size limitations based on best available data, include a timeline for implementation of fireshed management projects, and include long-term benchmark goals for the completion of fireshed management projects in the highest wildfire exposure areas.

The bill also requires the assessment to be regularly updated based on the best available data, as determined by the Secretary.

USDA is committed to working with States, Tribes, fire associations, and non-government organizations at the landscape level to prioritize fuels reduction treatments and forest restoration projects that are the right size and in the right location to protect life, property, critical infrastructure, and natural resources. However, USDA has concerns about timelines and processes set forth in this bill. First, it is critical the processes and criteria for designating fireshed management areas result in work on the highest priority locations and projects across landscapes, ownerships and states. In addition, it may be difficult to jointly designate firesheds and finalize an agreement within the prescribed 90-day timeline. USDA would like to work with the bill sponsor to explore options for meeting the intent.

Additionally, Section 2(b) sets forth criteria for designating fireshed management areas under an agreement. USDA is concerned that these criteria are unnecessarily restrictive and may limit the ability to designate firesheds where they are needed. We would like to work with the bill sponsor to explore how to best meet the goals of this section. Finally, Section 2(d)(4) establishes a Categorical Exclusion for fireshed management projects. USDA opposes the broad categorical exclusion for fireshed management projects created by the bill. USDA does not believe this is the best management tool for reducing fuel loads and mitigating wildfire risk. USDA, in coordinating with the White House Council on Environmental Quality, would like to work with the sponsor to better understand concerns about addressing fire preparedness and hazardous fuels treatment.

S. 2564 – Protect Collaboration for Healthier Forests Act

S. 2564 would require the Secretary of Agriculture to establish an arbitration pilot program through rulemaking within two years of the bill's enactment. The bill limits the types of projects the Secretary can designate for arbitration to those developed within a specified collaborative process, carried out under the Collaborative Forest Landscape Restoration Program, or that are part of a community wildfire protection plan. The bill also requires that projects designated for arbitration must be located in whole or in part in the Wildland Urban Interface and must have, as a purpose, reducing hazardous fuels or mitigating insect and disease infestation.

In keeping within the scope of a pilot program, this bill would be carried out only in the States of Idaho, Montana, and Wyoming, and would authorize two projects per year to be designated for arbitration. This program would be in effect for five years.

USDA is open to future discussions with the bill sponsor and Committee staff regarding the proposal for an arbitration pilot program.

S. 2650 – Wildfire Resilient Communities Act

The objective of the bill is to fund and implement hazardous fuels reduction projects to further the National Cohesive Wildland Fire Management Strategy.

Sec. 2. FUNDING FOR HAZARDOUS FUELS REDUCTION PROJECTS ON CERTAIN FEDERAL LAND – This section creates a prioritization for hazardous fuels reduction projects for areas: within or adjacent to at-risk communities or watersheds; with a very high wildfire hazard potential; or in fire regime I, II, or III. This section provides mandatory funding: a one-time transfer of \$30 billion made by the Secretary of Treasury to the United States Department of Agriculture (USDA) and the Department of Interior for covered hazardous fuels reduction projects.

USDA is committed to collaboratively working at larger scales with our Federal, Tribal, State, and local government partners, as well as all members of the public to collectively and proactively use our resources to create resilient landscapes. To address the highest risk acres at the scale needed, we need to work collaboratively with States, Tribes, local communities, private landowners, and other stakeholders to strategically treat 20 million acres on priority National Forest System lands and 30 million acres of other priority Federal, State, Tribal, and private lands, in the west, over and above our current level of treatment. USDA agrees there is a significant need to increase the amount of hazardous fuels reduction and ensure they are completed on the highest priority areas. USDA would like to work with the Committee to discuss the Department’s existing prioritization strategies that recognize the key challenges of managing regulatory compliance while increasing prescribed fire activities to reduce the risk of wildfire on National Forest System and adjacent lands.

Sec. 3. COMMUNITY PLANNING ASSISTANCE FOR AT-RISK COMMUNITIES – This section requires the development of a map of at-risk communities, including Tribal at-risk communities, within 180 days of enactment. The section authorizes an appropriation of \$1 billion to USDA and the Department of Interior to provide financial and technical assistance to at-risk communities adjacent to Federal land, including through States, to assist at-risk communities in planning and preparing for wildfires.

USDA notes that the Infrastructure Investment and Jobs Act provides \$1 billion to the Forest Service to provide Community Defense grants. Moreover, the Forest Service, working with states, released a wildfire risk to communities map in April 2020 in response to the 2018 Omnibus Appropriations Act. The website provides maps and data to inform community leaders about their relative wildfire risk profile, learn about wildfire risk, and links to resource and partners to help communities to reduce wildfire risk (<https://www.fs.usda.gov/wildfire/risk>).

In addition, the Forest Service is currently working with the Department of the Interior on a Community Adaptation database that demonstrates outcomes of federal assistance programs to the States. We also have cooperative agreements with a variety of partners and State forestry agencies that support community wildfire protection programs. We would like to work with the bill sponsor and the Committee on technical assistance to ensure that the establishment of this program complements and enhances existing programs within USDA and Department of the Interior, as well as the goal of increasing wildfire prevention.

Sec. 4. COLLABORATIVE FOREST LANDSCAPE RESTORATION PROGRAM – This section would permanently authorize appropriations for the Collaborative Forest Landscape Restoration Fund in the amount of \$100 million per year.

The agency works with partner organizations to achieve fuels reduction and conservation outcomes at landscape level by carrying out treatments under the Collaborative Forest Landscape Restoration Program. Without this permanent authorization, the program is set to expire at the end of fiscal year 2023. USDA supports this section.

Sec. 5. COUNTY STEWARDSHIP FUND – This section establishes a county stewardship fund and directs the Forest Service and the Bureau of Land Management to deposit an amount equal to 25 percent of the amounts collected as receipts through a stewardship contract or agreement into the Fund to be distributed to counties once a year for use for governmental purposes.

This change would make stewardship contracts more on par with our timber sale contracts, in terms of county funding. Currently, the timber receipts under a stewardship contract are used to offset payment for habitat improvement or restoration work. USDA would like to work with the committee and the bill sponsor to develop technical assistance to achieve the objective of this section.

Conclusion

USDA supports the intent of this bill and looks forward to working with the Committee and bill sponsor on technical assistance.

S. 2806 – Emergency Wildfire Act of 2021

My testimony only pertains to provisions affecting the Forest Service and National Forest System lands.

The Forest Service carries out approximately three million acres of fuels reduction treatments annually. Unfortunately, this is not at the scale necessary to address the problem. Without a paradigm shift in the way we treat hazardous fuels on National Forest System and non-federal lands to address the impacts of climate change, we will remain in a wildfire crisis that will continue to threaten communities across the West. Under a new paradigm, we will work with partners to focus fuels and forest health treatments more strategically and at the scale of the problem, using the best available science as our guide.

The Forest Service is investing in the development of new finance models that leverage sources of capital beyond appropriations to support land management. In 2018, we established the Conservation Finance Program to lead the way in leveraging external capital through work with private and public sector partners. We are currently working with partner organizations in more than 25 landscapes across the country to scope and develop projects that leverage external capital, many of which focus on financing hazardous fuels reduction.

One example of our work in conservation finance is the Forest Resilience Bond (FRB), a public-private partnership model developed by our partner Blue Forest Conservation. The Forest Resilience Bond enables private capital to cover the upfront costs associated with forest health treatments that reduce wildfire risk. This model raises private investment to cover the full cost of activities like thinning and prescribed burning upfront, and then brings together stakeholders that benefit from project activities to repay investors. Our first pilot of the FRB on the Tahoe National Forest in California has been a success. The Yuba Project is bringing \$4 million in private investment to bear on implementation of activities that reduce fire risk across 15,000 acres. We are now partnering on a significantly larger project in the same watershed, which will bring \$11 million in FRB financing to support fire risk reduction treatments across 40,000 acres of the Northern Sierras and generate local jobs. As we develop FRBs on other national forests, our challenge is to unlock its potential at a scale that meets the challenges we face across National Forest System lands. However, doing so requires the ability to make long-term commitments to fund projects that leverage more upfront, external financing. We are grateful for the ongoing support of this Committee to secure the necessary long-term funding commitments needed for these types of projects.

S. 2806 provides new authority for conservation finance agreements and a new landscape-level program for management activities designed to improve forest conditions and reduce wildfire risk. USDA supports the intent and goals of the bill. Through our testimony we offer several comments and observations meant to improve the language of the bill, and we would like to work with the Committee and bill sponsor to address these issues.

TITLE I – LANDSCAPE SCALE FOREST RESTORATION

Sec. 103. SELECTION AND IMPLEMENTATION OF LAND-SCAPE SCALE FOREST RESTORATION PROJECTS – This section establishes a new landscape-level program for management activities designed to improve forest conditions and reduce wildfire risk. The bill requires the Secretary of Agriculture to select, during a five-year period, not more than 20 landscape-scale forest restoration projects in the western United States. Projects must be based on a landscape assessment, developed and supported by a collaborative group, and must meet specified purpose and need criteria as well as other eligibility criteria. The landscape assessment must cover not less than 100,000 acres, or in limited cases not less than 80,000 acres. Restoration treatments must emphasize the reintroduction of characteristic fire, and mechanical treatments are limited to those that restore reference conditions in areas that lack ecological integrity. Additionally, projects must maintain or contribute to restoration of old forest conditions and protect or increase the number and distribution of large old trees. The bill further specifies allowable approaches to landscape-scale analysis and decision making under the National Environmental Policy Act.

Sec. 104. CONSERVATION FINANCE AGREEMENTS – This section establishes a pilot program for conservation finance agreements between the Forest Service and partner organizations to plan, implement and monitor landscape-scale forest restoration projects selected under Section 103. A conservation finance agreement is defined in Section 101 as a mutual

benefit agreement with a term between one to twenty years in length where performance can be contingent upon subsequent appropriation of funds and may provide a cancellation payment if subsequent appropriations are not made. The bill allows the Secretary to obligate funds in stages to cover any potential cancellation or termination costs specified in the agreement.

Sec. 107. FUNDING – This section authorizes \$250,000,000 from fiscal years 2022 through 2026, to remain available until expended, for the planning and implementation of landscape scale forest restoration projects. These funds may be deployed through conservation finance agreements that allow Forest Service appropriations to leverage other sources of federal and non-federal funds. Federal cost share on agreements is limited to 75 percent for planning and development and 60 percent for implementation and monitoring.

USDA is committed to working at larger scales collaboratively with our Federal, Tribal, State, and local partners, as well as all members of the public to proactively create resilient landscapes; these are also the goals of the program established in section 103. USDA would like to work with the bill sponsor to make this pilot authority available in more areas. Treatment prescriptions within this section, while important components of overall resource management strategies, will not provide all the tools necessary to reduce wildfire risk on large landscapes. USDA would like to work with the Committee and bill sponsor to address these issues while still meeting the objectives of the section.

USDA supports the innovation provided in Sections 104 and 107 for conservation finance agreements in conjunction with no-year funding. Together, these provisions would provide the long-term certainty needed to guarantee the agency's financial commitment to large-scale public-private partnerships that leverage external capital. They would position the Forest Service to maximize the amount of upfront financing we can leverage from investors as well as the cost-share commitments made by project beneficiaries who repay the investors. USDA would like to work with the Committee and bill sponsor to expand the range of projects envisioned in Section 103. USDA also welcomes the opportunity to work on technical amendments to clarify the new conservation finance agreement authority and verify that it is a separate and stand-alone authority from other contracting and agreement tools.

TITLE II – INCREASING COMMUNITY RESILIENCE TO WILDFIRE

Sec. 201 (CRITICAL INFRASTRUCTURE AND MICROGRID PROGRAM) and 202 (RETROFITS FOR FIRE-RESILIENT COMMUNITIES) – USDA defers to the U.S. Department of Energy on its programs affected by these provisions. The Forest Service collaborates with the Fire Adapted Communities Coalition; the Coalition has many partners including the Insurance Institute for Business and Home Safety and the National Fire Protection Association. This coalition has addressed issues related to material selection and codes and ordinances for home hardening, whether with new construction or retrofitting efforts. Reconstruction after fire events, such as the Camp Fire (CA), by partners as well as the National Institute of Standards and Technology (NIST) Engineering Laboratory also provide new

understanding of community vulnerabilities and highlights potential mitigation techniques. USDA recommends we continue to lean on these partners for their expertise and guidance.

Sec. 203. HAZARD MITIGATION USING DISASTER ASSISTANCE – This section amends section 404(f)(12) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(f)(12)) to allow hazard mitigation assistance to be used for installation of fire-resistant wires and infrastructure and the undergrounding of wires. USDA defers to the Department of Homeland Security and the Federal Emergency Management Agency on this provision.

Sec. 204. WILDFIRE DETECTION EQUIPMENT – This section amends the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591 et seq.) to require the Secretaries of Agriculture and Interior, to the extent practicable, to expedite the permitting and placement of wildfire detection equipment in areas at risk of wildfire and expand the use of satellite data to assist wildfire response. USDA supports the ability to permit and place wildland fire detection equipment on National Forest System land, where possible, in a timely manner.

TITLE III – RESEARCH, TRAINING AND CAPACITY BUILDING

Sec. 301. WESTERN PRESCRIBED FIRE CENTERS – This section directs the Secretaries of Agriculture and Interior to establish one or more training centers focused on prescribed fire and wildfire mitigation methods. The bill requires that the location for a new center must be in the Western United States. The Secretaries are directed to consult with the Joint Fire Science Program to solicit and evaluate proposals for the location of the center.

USDA believes that the National Wildfire Coordinating Group is the most appropriate group to provide input on expansion or establishment of these type of training opportunities. While the existing National Interagency Prescribed Fire Training Center is in Tallahassee, Florida, course work and experiential learning is conducted in a wide variety of locations across the United States. In addition, there are national interagency training centers in Tucson, Arizona and McClellan, California that offer a wide variety of learning opportunities. Together, these current training centers provide training for fire professionals across the nation.

We support the goal of Section 301 to increase training opportunities and augment Federal, Tribal, State, and local prescribed fire workforce capacity; however, we have concerns about the site selection requirements. USDA would like to work with the Committee and the bill sponsor to recognize existing efforts by the agency and its partners to provide prescribed fire training and to ensure the creation of additional training capacity is an enhancement to existing training systems.

Sec. 302. INNOVATIVE FOREST WORKFORCE DEVELOPMENT PROGRAM – This section directs the Secretary of Agriculture to establish a competitive grant program for workforce development in the forestry sector.

The Forest Service currently has authority to enter into cooperative agreements with public or private agencies, organizations, institutions, or persons to engage in job training and development programs. Further, the Forest Service provides workforce training and education to students through its U.S. Department of Labor authorized Job Corps Civilian Conservation Centers and is currently expanding its trade offerings in forest conservation and wildland firefighting. USDA supports forestry education and receives numerous benefits from the forest sector workforce. We would like to work with the Committee and the bill sponsor to ensure that any new authorities build on existing programs.

Sec. 303. NATIONAL COMMUNITY CAPACITY AND LAND STEWARDSHIP GRANT PROGRAM – This section authorizes the Secretary of Agriculture to issue grants for increasing community capacity for land stewardship, subject to specified criteria. \$50 million is authorized for this purpose in fiscal years 2022 through 2026. At least 10 percent of the funding would be allocated to Tribes. USDA supports the goals of this provision and would like to work with the Committee and bill sponsor on technical improvements.

Conclusion

Making communities and forests more resilient to large wildfires requires actions, treatment, and coordination undertaken at a scale that addresses the challenge. The Biden Administration’s American Jobs Plan calls for protecting and restoring nature-based infrastructure which includes our lands, forests, wetlands, watersheds, and coastal and ocean resources. The President has called on Congress to invest in protection from extreme wildfires. In addition, the USDA Climate-Smart Agriculture and Forestry Strategy calls for expanding the area of fuels treatments by two to four times nationwide to reduce wildfire risk.

S. 2806 sets forth similar objectives and we look forward to working with the Committee and bill sponsor to address the concerns outlined above.

S. 2561

S. 2561 provides that land resource management plans that have been approved, amended, or revised under the Forest and Rangeland Renewable Resources and Planning Act of 1974 (16 U.S.C. 1604), and land use plans approved, amended, or revised under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), are not considered continuing Federal agency actions. The bill provides further that land resource management plans or land use plans approved, amended or revised under those acts do not constitute a discretionary Federal involvement or control for a distinct Federal purpose.

This question about the status of plans as continuing agency actions was central to the Ninth Circuit’s decision in *Cottonwood Environmental Law Center v. United States Forest Service*, 789 F.3d 1075 (9th Cir. 2015), in which the court found the Forest Service retains discretionary involvement or control over a forest plan after its approval. The *Cottonwood* decision remains a source of litigation and continues to be an issue of concern for USDA.

USDA realizes this is an issue that needs to be addressed and is working together with DOI towards a solution. We would like to continue to work with the Committee and bill sponsors to resolve this issue and to address concerns with the bill.

S. 2836 – America’s Revegetation and Carbon Sequestration Act of 2021

My testimony today will provide an overview of the titles of the bill.

President Biden’s *American Jobs Plan* calls for restoring nature-based infrastructure to increase resilience and reduce the risks associated with extreme wildfires. USDA supports additional investments in ecosystem restoration, particularly post-fire. We believe such investments will help make significant progress in restoring functioning ecosystems.

TITLE I – REVEGETATION

Title I includes provisions to increase revegetation on both public and private lands. Provisions relating to both the Secretaries of Interior and Agriculture include:

- Direction to revise applicable regulations, within two years, to require the consideration and assessment of resiliency and adaptation factors in developing strategies and efforts for revegetation, including selecting species for planting.
- Direction to jointly develop or expand an existing, objective revegetation assessment tool for each Forest Service region that uses a point system or rating scale to establish baseline information and reforestation needs on federal land and use the tool to determine reforestation needs for both post-event and post-harvest. The Secretaries may also enter into a partnership with a non-Federal entity, including Indian Tribes, with data or expertise in Federal reforestation to assess the opportunity to restore forest or rangeland cover across non-Federal land in the United States or to share existing data.
- Requirement to publish a report within 18 months detailing the number of federal and nonfederal acres in need of revegetation.
- Direction to establish an interagency revegetation task force for each Forest Service region composed of federal and non-federal members, including Indian Tribes, to coordinate and carry out revegetation activities. Each task force will develop a 10-year comprehensive revegetation strategy and implementation plan that includes revegetating not less than 25 percent of the land identified as needing revegetation and achieving any additional goals or targets established by the task force. Each task force shall give priority to burned areas and any other destabilized lands that pose heightened risks to homes, roads, and public water supplies if not revegetated; areas at high risk of establishing invasive species; mined land; floodplains and riparian areas; and land with regionally significant carbon sequestration potential. In addition, for activities recommended to be carried out on non-Federal land, the task force will identify ways to address revegetation needs voluntarily by working with States, landowners, Indian Tribes, and other interested persons, and ensure that revegetation efforts will not adversely impact existing markets for timber and other forest materials produced from private working forests, among other

tasks, including conducting an inventory of nursery and seed capacity within each Forest Service region and determining how capacity would need to be increased to meet the plan.

- Allow for agencies to enter into a contract or cooperative agreement for re-establishing vegetation on Federal land for up to 10 years.
- Establish an eight-year pilot program, managed through the Secretary of the Interior, for the revegetation of abandoned mine lands on federal lands and to offer financial assistance to States and Tribes to establish native vegetation on eligible mined land located on State land, Tribal land, or land held in Trust for an Indian Tribe, as long as financial assistance is not provided to a person or entity with an ongoing legal obligation to revegetate the land.

Section 103 of this title formally authorizes the Forest Service's experimental forest and range network, which includes over 84 long-term research sites representing most of the vegetation types in the United States, including in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. Most of these sites were established in the late 1920s through the 1960s. Many are nationally and internationally significant due to their long-term data record and large-scale forest management studies, field-based interaction with land managers, and student training. This section also directs the agency to establish a network of experimental forests and rangelands that shall include each of the forest cover types that occur in the United States, forest cover types found in the State of Hawaii, and an experimental forest that contains forest cover types found in the territories of the United States. Within this network, the agency shall conduct research on seedling establishment, site suitability, and tree planting designs to inform and assist efforts undertaken in the United States to establish stands of trees that are resilient in future climate conditions and improve models of carbon responses to land management practices.

Section 105 of this title directs the Secretary of Labor to develop a career and technical education and training program focused on tree planting or tree maintenance and offer the program as part of the Job Corps program. Section 105 also directs the Secretary of Energy to establish a program to award grants to States, Indian Tribes, local governments, nonprofit organizations, and retail power providers to conduct tree planting projects, giving priority to tree planting projects that would provide the largest potential reduction in residential energy consumption. USDA defers to these two agencies on this section of the bill.

Section 107 of this title provides the Forest Service with authority to provide technical assistance to other countries on tree planting activities and to enter into partnerships to restore vegetation and sequester carbon through revegetation.

USDA supports additional investments and planning in revegetation and would like to work with the Committee on technical suggestions related to this section. However, these provisions would be difficult to implement within existing resources, particularly without the additional program funding included in the Infrastructure Investment and Jobs Act and the Budget Reconciliation bill. The Forest Service would also like to work with the Committee on technical assistance related to the current experimental forests and rangelands. While some of the Agency's experimental forests are located on non-Federal land, the bill focuses only on those located within the National Forest System and specifies their value in climate resiliency research. USDA would like to work with the Committee on this section of the title, especially as it relates to our

current authorities, the range of sites represented in the network, and our partnerships, infrastructure, and capacity.

TITLE II – CARBON SEQUESTRATION THROUGH FOREST MANAGEMENT AND INNOVATION

Section 201 of Title II addresses the accrual of carbon credits for work performed on National Forest System lands, including provisions authorizing the National Forest Foundation to receive and distribute funds from carbon credits for hazardous fuels reduction projects on National Forest System lands.

Section 202 also includes a provision directing the agency to identify units of the National Forest System that the Secretary determines to be at high or very high risk of experiencing a stand-replacing disturbance during the 10-year period following the date of enactment of this Act and establish a team to develop a model land and resource management plan amendment, establishing plan content for future site-specific project-level decisions if a stand-replacing disturbance occurs.

Section 203 requires the establishment of a pilot program under the Commissioner of the Food and Drug Administration to grant a nationwide food use authorization of biochar as a feed additive for cattle and directs the U.S. Geological Survey to develop and publish a national commercialization plan for the production, sale, and use of biochar as a soil amendment for plant growth improvement, including for commercial, agricultural, and residential use. USDA defers to these two agencies on these sections of the bill.

Section 204 directs the Secretary of Agriculture and the Secretary of the Interior to jointly develop and implement an action plan to map, treat, and control invasive grass in coordination with State and local governmental entities. The Action plan will establish goals, implementation actions, and targets, including acres to be treated annually. This section permits the Secretaries to accept non-Federal funds to implement this provision and allows the Secretaries to spend up to \$30,000,000 of any funding made available for invasive species control to implement this section.

USDA supports additional investments and planning in carbon-focused projects and understands the strong interest from a variety of our partners in demonstrating the carbon and climate benefits of sound forest management, including post-wildfire reforestation. The agency recently investigated this question internally and decided to focus on developing policy around rigorous carbon claims, starting with a focus on tree planting projects. USDA is willing to work with the Committee as we learn from our work with partners to develop technical assistance that supports a variety of projects that promote partners' interest and have a positive benefit for carbon sequestration on the national forests.

Section 202 requires development of a model amendment for Land Management Plans to provide direction for project-level actions following stand-replacing events, which would then be applied to pilot national forests. A model plan amendment is not necessary because many Land

Management Plans do not need to be amended in order to adequately allow for project-level actions following stand-replacing events. Section 202 would create an unnecessary workload. We also note that forest conditions vary considerably across national forests and there is variety in how post-disturbance activities are addressed in the various Land Management Plans, making a one-size-fits-all amendment difficult to draft and then adopt.

USDA supports increasing the treatment and control of invasive grasses; however, we would like to work with the Committee to ensure that we don't have duplicative and competing plans. USDA worked with partners to develop and implement the Western Invasive Weed Management Strategic Action Plan and the requirements in the bill would duplicate the planning and actions that were identified in that action plan.

USDA would like to work with the Committee on technical suggestions related to this title. In addition, many of the provisions in this title would be difficult to implement within existing resources, particularly without the additional program funding included in the Infrastructure Investment and Jobs Act and the Reconciliation bill.

TITLE III – MASS TIMBER

Title III contains provisions related to the use of mass timber in both federal and non-federal buildings. This title includes provisions directing the Secretary of Agriculture to:

- Work through the Director of the Forest Products Laboratory to establish a mass timber science and education program, including working closely with colleges and universities in administering the program. The purposes of the program are as follows: provide practical research that is responsive to the needs of architects, developers and the forest products industry, including assessments of carbon impacts and fire safety; engage and listen to clients then develop strategic lines of new research responsive to their needs; solicit proposals from scientists who compete for funding through a rigorous peer-reviewed process; disseminate research findings using a suite of communication tools; and develop and facilitate voluntary adoption of a curriculum for building structures using mass timber.
- Submit a mass timber plan to relevant Congressional committees that includes an assessment of the current state of knowledge about mass timber and tall wood buildings, an integrated approach to improve knowledge sharing, an approach for project monitoring and evaluation, and an approach for setting research priorities.
- Establish a stakeholder advisory group of technical experts that will meet at least annually to consider immediate and long-term science and information transfer needs and assist the secretary in drafting the mass timber plan.
- Provide technical assistance to the Secretary of Transportation and States relating to the use of wood bridges.
- Coordinate technical assistance with other Federal agencies and non-federal partners to improve the management and efficiency of constructing mass timber buildings and infrastructure.

This title also includes provisions directing the Secretaries of Interior and Agriculture to:

- Develop and maintain a database of mass timber buildings owned or leased by the Federal Government that are occupied primarily by employees of the Secretaries. The Secretary of Agriculture, acting through the Director of the Forest Products Laboratory, shall conduct an assessment of each mass timber building included in the database, which includes collecting data on embodied carbon.
- Prepare a plan to increase the quantity of carbon stored in buildings owned or leased by the federal government and occupied primarily by employees of the Secretaries. The plan, to the maximum extent practicable, should be material neutral.
- No later than September 30, 2025, procure facilities, buildings or structures, including not fewer than 100 single-occupancy restrooms, using domestic mass timber, unless they are not reasonably available or necessary, fail to meet reasonable performance standards, or are available only at unreasonable prices.

USDA supports additional investments to increase adoption of mass timber in construction, however we would like to work with the Committee through technical assistance to ensure effective coordination within Forest Service programs and across Federal agencies to ensure that the wide range of Forest Service expertise can be applied to these important issues. In addition, these provisions would be difficult to implement within existing resources, particularly without the additional program funding included in the Infrastructure Investment and Jobs Act and the Reconciliation bill.

TITLE IV – RESEARCH

Title IV contains provisions regarding research and climate-resilient forests. This title includes provisions directing the Secretary of Agriculture to:

- Publish a report that demonstrates Forest Service efforts to measure a consistent historical series of field plots using advanced technology, and to use advanced geospatial technologies to improve area and volume estimates.
- Consider use of remote sensing technologies and other technologies to develop more accurate and efficient methods to reduce costs to facilitate the measuring and monitoring of forest carbon in the United States.
- Consider accelerating or increasing the frequency of current inventories and data collection activities to ensure consistent nationwide estimates of forest carbon pools that can reflect short-term changes from disturbances.
- Expand research relating to the use of wood to facilitate the establishment of new markets for material produced from forest management projects that typically has little or no commercial value; to increase economic viability of manufacturing these products and including structural testing of hardwood species for use in mass timber.
- Establish an intragovernmental revolving fund to maintain adequate buffer reserves for a project implementing a covered activity (as defined by section 201 of this bill) to cover unforeseen losses in carbon stocks and address nonpermanence, and transfer amounts into and out of the revolving fund to serve as a buffer pool for covered activities.

- Seek to expand the services provided by the Western Wildland Environmental Threat Assessment Center and Eastern Forest Environmental Threat Assessment Center such that they become centers of excellence to inform large-scale climate-resilient forest management. In addition, the Secretary shall share the syntheses, models and application tools developed by these centers with the USDA Climate Hubs, and the Climate Adaptation Science Centers.

Additionally, section 401 directs the Secretary of Energy, in coordination with the Secretary of Agriculture, to develop more accurate and efficient methods and technologies to measure carbon stored in woody biomass energy feedstocks and building materials; publish estimates of the amount and average lifespan of carbon stored in different wood biomass energy feedstock and building materials; and publish an estimate of the total amount of carbon stored in short-lived forest products, building materials and other long-lived wood products. USDA defers to the Department of Energy on this section.

USDA supports additional research and technical transfer supporting climate-resilient forests and robust forest product markets and would like to work with the Committee on technical assistance related to this research title. More specifically, we would like to explore additional options for meeting the intent of the Forest Inventory and Analysis program-related provisions while maintaining our ability to implement our work effectively. As referenced earlier in the testimony, USDA is willing to work with the Committee as we learn from our work with partners to develop technical assistance related to section 404 of this title. In addition, the provisions in this title would be difficult to implement within existing resources, particularly without the additional program funding included in the Infrastructure Investment and Jobs Act and the Budget Reconciliation bill.

Thank you again for the opportunity to testify on these bills, and I welcome any questions.

The CHAIRMAN. Thank you.

Next, we are going to go to Mr. Rupert for your opening remarks, sir.

**STATEMENT OF JEFFERY RUPERT, DIRECTOR, OFFICE OF
WILDLAND FIRE, U.S. DEPARTMENT OF THE INTERIOR**

Mr. RUPERT. Good morning, Chairman Manchin, Ranking Member Barrasso, and members of the Committee, thank you for the opportunity to appear before you this morning to discuss wildland fire management legislation. I believe that the bills being discussed today provide important tools to support meaningful progress toward reducing wildfire risk and protecting people, communities, and resources from the threat of wildfires. Climate change is a proven driver behind the more intense, larger wildfires that we have experienced this year and in recent years. Drier and hotter weather and the accumulation of dead and dying vegetation is sparking these larger and more intense wildfires, and as we have all seen, the effects are devastating.

This past year, every geographic area in the nation simultaneously experienced large wildfires. Every western state was in extreme drought, and today, over 200 million acres of land across the entire United States continues to be in high or very high wildfire hazard potential. The nation reached Preparedness Level (PL) 4 on June 22nd of this year and elevated to PL 5 on July 14th. At these levels, firefighting resource demand is at or above supply. We remained at these levels for a record 99 days. We are unquestionably in the midst of a wildfire crisis in this country that is driven in part by climate change. The Department of the Interior plays a key role in implementing President Biden's Executive Order on tackling the climate crisis at home and abroad and in the larger federal effort to bolster adaptation, resilience, and mitigation to the impacts of climate change. The President's commitment underscores the work underway at the Department of the Interior, including ongoing efforts to transform the firefighting workforce to permit professional employees that are available to respond to wildfires year-round and conduct hazardous fuels treatments during periods of lower wildfire activity.

This past year, DOI completed over 1.6 million acres of hazardous fuels treatment, which represents a 40 percent increase in accomplishments over the past five years. This is helping to improve resiliency by reducing wildfire risk in priority areas and watersheds. Further assessments being conducted by the EPA in partnership with CDC, DOI, and the USDA Forest Service are helping us to better understand the tradeoffs between smoke from wildfires and smoke from prescribed fires and their impacts on air quality and public health. Prescribed fire has long been recognized as an important tool to reduce accumulated vegetation that is driving these intense, catastrophic wildfires. Yet despite our long-term commitment to reducing wildfire risk, clearly, we must tackle climate change more broadly and significantly, and ramp up our treatment efforts beyond current levels. The success of our wildland fire management efforts is largely dependent on cooperative work with our partners. Collaboration with states, local governments, tribal nations, and other federal agencies is critically im-

portant to effective wildland fire management. The Wildland Fire Leadership Council continues to provide the forum for partners in the interagency wildland fire management community to discuss strategies that help establish resilient landscapes, support more fire-adapted communities, and promote safe and effective wildfire response.

I believe that the bills being considered today can help us achieve these goals by advancing the pace and scale of hazardous fuels management, supporting the interagency operational response to wildfires, collaborating with communities in planning and preparing for wildfires, improving ecosystem health and facilitating landscape restoration, investing in wildland fire research and science, and funding technologies that better detect and report wildfires. Equally important, many of the provisions in these bills directly address the risk associated with climate change. Increasing hazardous fuels treatment as provided in S. 1734, the National Prescribed Fire Act of 2021 and S. 2650, the Wildfire Resilient Communities Act, would mitigate fire risk and reduce wildfire intensity. This, in turn, would reduce the carbon emissions from wildfires that are a contributing driver to climate change. Additionally, S. 2836, America's Revegetation and Carbon Sequestration Act, would establish broad-scale revegetation and carbon sequestration initiatives. S. 2806, the Wildfire Emergency Act of 2021 would advance interdisciplinary science to better understand the human dimensions driving climate change. We must get a handle on our nation's wildland fire crisis and tackle climate change head-on. Neither the status quo nor more of the same are viable wildland fire management options. We need many of the reforms that are envisioned in these bills. Thank you for your leadership and support.

This concludes my statement. I am happy to answer any questions.

[The prepared statement of Mr. Rupert follows:]

**Statement of
Jeffery Rupert
Director, Office of Wildland Fire
U.S. Department of the Interior
Before the
Senate Committee on Energy and Natural Resources
Legislative Hearing on
Bills to Address Wildland Fire**

October 21, 2021

Chairman Manchin, Ranking Member Barrasso, and Members for the Committee, thank you for the opportunity to provide testimony on the wildland fire management bills the Committee is considering today. Together, these bills provide important tools and authorize additional funding to support the Department of the Interior's (Department) Wildland Fire Management program (WFM). We appreciate the Committee's interest in the Department's efforts to meaningfully address wildfire risk and mitigate the complexities of increasingly long and challenging wildfire seasons that span an entire year.

Background

Climate change leads to drier and hotter weather resulting in the accumulation of dead and dying vegetation that sparks larger and more intense wildfires. As a direct consequence, nearly every western state has a "high" or "very high" wildfire hazard potential according to the U.S. Forest Service's "Wildfire Potential Hazard Map." This means that approximately 159 million acres, or 17 percent, of all land in the western United States, and a total of 208 million acres, or 11 percent, of land across the entire nation, is in a condition where the relative potential for wildfire would be difficult for suppression resources to contain. Many of these areas are in the wildland urban interface where communities in the West are increasingly exposed to wildfires.

As communities continue to expand into the wildland urban interface, we are seeing an increasing risk of these devastating wildfires, which continue to broadly impact infrastructure, public health, firefighter mental wellness and our Nation's natural and cultural resources. The tragic destruction of entire western communities, such as Paradise and Greenville, California, and the heartbreaking losses of firefighters and civilians, are stark reminders of the severity of the current wildfire crisis and the inherent costs of climate change. This year, there have been 15 firefighter fatalities, including two Federal firefighters, and 33 civilian fatalities. Additionally, under these circumstances extreme measures are often needed to protect our Nation's natural and cultural resources. Recently, General Sherman, the world's largest tree by volume, was wrapped in protective aluminum material to minimize its exposure to wildfire at the KNP Complex Wildfire in the Sequoia and Kings Canyon National Parks in California.

While our partnerships with states, Tribal Nations, local governments, and other Federal agencies have never been stronger, our firefighters and firefighting resources are stretched to their limits by the need to operate at maximum response levels for months, rather than weeks, to respond to more frequent and severe wildfires. A wildland fire management workforce

framework that was established in the 1950's must be revised to more effectively manage current conditions.

Department of the Interior Wildland Fire Management Program Efforts

The President is committed to building a more responsive and resilient wildland firefighting workforce, to ensuring that firefighters are fairly paid for the grueling work they do, and to continue transitioning to a more permanent firefighting workforce that can meet the now year-round challenges of wildfire brought on by climate change. The President stressed his continuing commitment to wildland firefighters and to addressing the increasing threat of wildfires fueled by climate change in his October 1, 2021, Proclamation on Fire Prevention Week. DOI is carrying out an effort to transform its wildland fire workforce to a year-round workforce through position conversions and new hires.

In addition, DOI, USDA Forest Service and the Office of Personnel Management have established a working group to examine a number of issues related to the wildland fire workforce, including pay, benefits and classification in order to ensure that Federal firefighters are better positioned to meet the increasing challenges and complexities that it faces. We have also coordinated with the USDA Forest Service to identify firefighter and critical support positions making less than \$15.00 per hour and those at risk of leaving for jobs outside the Federal government, providing the basis for initial pay increases and retention bonuses to both firefighters and critical support personnel.

The Department is also maintaining its focus on priority work to reduce wildfire risk. In FY 2021, the Department completed over 1.6 million acres of fuels management treatments, an increase of 130,000 acres of treatments over the FY 2020 level. This represents a 38 percent increase in accomplishments over the past 5 years. The Department is requesting an increase in funding in the FY 2022 President's Budget that would facilitate collaborative efforts to complete an additional 360,000 acres of fuels treatments and hire 325 additional FTEs above the FY 2021 levels. The Department continues to aggressively develop its own framework to strategically target and better assess the efficacy of these efforts on wildfire risk reduction.

Through the Wildland Fire Leadership Council (WFLC) coordination, the Department is working with the Environmental Protection Agency, the Centers for Disease Control and Prevention and the USDA Forest Service (USFS) to assess the impacts of smoke on air quality and public health from wildfires and prescribed fires in an effort to inform future land management and wildland fire management strategies. Earlier this month, EPA released the initial interagency assessment of two specific case studies, which compare the air quality and public health impacts of smoke from prescribed fire and wildfire. Within the case study locations, the assessment shows that there are air quality and public health impacts from prescribed fire smoke, but smaller than wildfire smoke, and that well-designed prescribed fires targeted for specific locations have the potential to reduce the impacts from wildfire. More importantly, this work lays the foundation for future collaborative research and analyses by the partnering agencies to inform future land management and fire management strategies with the goal of reducing the air quality and health impacts due to wildland fire smoke. The Department and WFLC are also working on a plan to address the expansion of invasive grasses that are contributing to more frequent and larger wildfires in many places across the West.

2021 Fire Year

At the height of this year's fire season, every geographic area was experiencing large wildfires for extended periods. As of October 20, 2021, nearly 48,000 wildfires have burned over 6.5 million acres of land; this is in line with the number of wildfires that burned over the past 10 years and about 95 percent of the acres burned. However, what makes this year unique is how early the Nation reached Preparedness Level (PL) 4—June 22, 2021—and how long the Nation stayed at either PL 4 or PL 5—99 days—which is a record for the highest number of consecutive days at either PL 4 or 5.

While fire activity has now moderated in many geographic areas, we continue to experience extreme fire behavior in California with projected above normal significant fire potential across the State through October due to warmer than normal conditions and continued drought.

Additionally, mitigating the spread of COVID-19 before, during and after wildland fire operations continues to be a top priority for the interagency wildland fire management community. Many of the protocols that were adopted last year, consistent with CDC guidelines and recommendations, continue to remain in place. We are also implementing the Safer Federal Workforce Task Force requirements on vaccination and developing subsequent COVID-19 testing protocols to be used on wildfire incidents.

S. 1734, the National Prescribed Fire Act of 2021

The Department supports S. 1734, which would help to significantly change the status quo in the management of the Department's wildlands and aid in addressing the increasing frequency of large, destructive wildfires. The legislation mandates significantly increased use of prescribed fire, and provides some workforce reforms, smoke management direction, funding, National Environmental Policy Act direction, and overall policy direction to reduce wildfire risk on the landscape and ensure the success of the National Cohesive Wildland Fire Management Strategy. S. 1734 supports a unified approach among Federal agencies, Tribes, states and local governments to restoring the condition of wildland vegetation.

The Department appreciates the technical improvements made to the legislation to help make the policies more implementable. For example, the changes in prescribed fire education in section 205 provide flexibility to expand opportunities for training across the country, as needed. Changes in smoke management in section 204 allow for expanded use of prescribed fire, while appropriately placing greater responsibility on burn practitioners. Further to these modifications, the Department would like to work with the Committee on section 102(d) to ensure that we do not inadvertently increase the frequency of wildfire in those vegetation types that already experience more wildfire activity than in the past, due to flammable invasive species such as cheatgrass (*Bromus tectorum*) in the Great Basin.

S. 2404, the Western Wildfire Support Act of 2021

S. 2404 creates separate funding accounts that support aviation and ground-based firefighting resources and authorizes \$1 billion to the Department for ground-based firefighting and \$500 million for aviation. The bill also authorizes \$200 million to assist communities in planning and preparing for wildfires and establishes a mechanism to support local training and assistance to

states for aviation and firefighting resources. Finally, S. 2404 invests in important research and technology into unmanned aircraft systems and wildfire detection systems.

The Department supports the intent of S. 2404 and would like to work with the Committee on technical modifications to ensure effective implementation of the bill. For example, section 101 establishes separate ground-based and aviation accounts, which poses administrative and budgetary complications. The Department supports the concept of spatial fire management plans provided for in section 103 but notes the challenges associated with their development within the proposed timeframes considering the scope and alignment with other planning documents.

The Department would like further clarification of the intent and purpose of the training and certification program authorized in section 105. The Department also suggests that the grant provisions for slip-on tanks included in section 202 be expanded to include additional firefighting resources that could also benefit other local needs.

S. 2436, the FIRESHEDS Act

S. 2436 establishes emergency fireshed management areas on lands administered by the Secretary of the Interior and the Secretary of Agriculture that are at high risk of catastrophic fire. The bill institutes a framework for states and the Secretaries to enter into agreements to jointly designate fireshed management areas, conduct stewardship and fireshed assessments, and carry out fireshed management projects. The bill directs the Secretaries to enter into agreements with states within 90 days of the request of the governor and requires the completion of a stewardship and fireshed assessment within 90 days of entering into the agreement. The bill also directs fireshed management projects to be developed through a collaborative process and to prioritize public health and safety, protecting infrastructure, wildlife habitat, and water quality. Finally, it establishes a new categorical exclusion for fireshed management projects.

The Department supports the sponsor's goal to address the risk that catastrophic wildfires pose to our communities and our natural resources and remains committed to working with all our partners and stakeholders on reducing wildfire risk on public lands. Given the extent of wildfire risk across the Nation, the Department recommends that the bill be broadened to include all lands under its administrative jurisdiction.

In addition, the Department opposes the broad categorical exclusion for fireshed management projects created by the bill. The Department does not believe this is the best management tool for reducing fuel loads and mitigating wildfire risk. The Department, in coordination with the White House Council on Environmental Quality, would like to work with the sponsor to address the timeliness and efficiency of carrying out priority hazardous fuels treatments. .

The bill directs the Secretary of the Interior to enter into agreements with states within 90 days of a request from a governor and requires the completion of a stewardship and fireshed assessment within 90 days of entering into the agreement. The Department has concerns that these deadlines would be particularly challenging to meet if a state governor were to submit multiple fireshed management area designations under one agreement request. Further, it is unclear how the 90-day timelines would apply to additional fireshed management areas submitted after the Secretary

and a state governor enter into an agreement. The Department would like to work with the sponsor for additional clarity on how the required timelines would apply in such a scenario.

Finally, the bill would prohibit any court from issuing an injunction or restraining order when reviewing a decision to prepare or conduct a fire management project. The Administration opposes the broad limitation on judicial remedies available to stakeholders.

S. 2561, a Bill to Amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Federal Land Policy and Management Act of 1976

S. 2561, amends the Federal Land Policy and Management Act and the Forest and Rangeland Renewable Resources Planning Act so that an approved, amended, or revised land use plan would not be considered a continuing Federal agency action.

The Department appreciates the sponsor's intent to clarify the circumstances by which consultation on approved land use plans is required. We realize this is an issue that needs to be addressed and are working together with USDA towards a solution. We are concerned that the bill as currently written is overly broad and could have unintended consequences.

We are committed to finding a collaborative, science-based approach to conserving wildlife and managing our public lands and forests and would like to work with the sponsors and the Committee to address these issues.

S. 2650, the Wildfire Resilient Communities Act

S. 2650 authorizes \$30 billion for hazardous fuels reduction projects on Federal lands that have a very high wildfire potential and that are adjacent to at-risk communities or high value watersheds. All projects must help advance at least two of the goals of the National Cohesive Wildland Fire Management Strategy—restore and maintain landscapes, create fire adapted communities and improve wildland fire response. The bill also authorizes \$1 billion to support the development of Community Wildfire Protection Plans to support at-risk communities in planning and preparing for wildfire, and it would amend the Healthy Forests Restoration Act to establish a County Stewardship Fund to allow 25 percent of the receipts collected from Stewardship Contracts to go to the county in which the work took place to be used for discretionary spending.

The Department supports the objectives of S. 2650 with several technical modifications. The Department would like to ensure that the funding provided for hazardous fuels treatments in section 2 and the funding for planning and preparing at-risk communities for wildfires in section 3 is appropriated to the Department's Wildland Fire Management Account. The Department strongly supports efforts to increase hazardous fuels treatment work in collaboration with communities determined to be at greatest risk and would like to work with the Committee to improve the definition of fuels treatment activities to encompass a range of prevention, removal, and modification methods that are ecologically appropriate and cost-effective on a site-specific basis. Finally, we support the proposed amendment to HFRA in section 5 that establishes a County Stewardship Fund but recommends including clarifying language that directs counties to use a portion of the receipts that are deposited into the Fund to support community wildfire preparedness activities.

S. 2806, the Wildfire Emergency Act of 2021

The Department supports Title II, section 204 of S. 2806, which would amend the Healthy Forests Restoration Act of 2003 to expedite the permitting and placement of wildfire detection equipment and satellite data to assist with wildfire response.

Title III of the bill establishes centers to train individuals in prescribed fire and other methods to mitigate wildfire risk, advance science related to wildfire, conduct needs assessments and promote technology transfer. The Department supports these provisions but recommends that the Joint Fire Science Program (JFSP) play a larger role in planning and decisions related to advancing science, determining needs associated with the challenges to reduce wildfire risk and other wildland fire science related engagements, as appropriate. JFSP's existing Fire Exchange Network, which is a national collaborative that makes accessible the most relevant wildland fire science information, should be considered in end user identification and support and nationwide technology transfer efforts.

S. 2836, the America's Revegetation and Carbon Sequestration Act of 2021

S. 2836 requires the Secretaries of Interior and Agriculture to complete an assessment with non-Federal partners, including Tribes, of revegetation needs on Federal lands and establishes an interagency revegetation task force to develop a 10-year comprehensive revegetation strategy and implementation plan. The bill authorizes a pilot program for revegetation projects on abandoned mine lands. S. 2836 also requires the U.S. Geological Survey to develop a national commercialization plan for the production, sale and use of biochar as a soil amendment for plant growth for commercial, agriculture and residential use. Finally, S. 2836 requires the Secretaries of the Interior and Agriculture to work collaboratively with other Federal and non-Federal partners to develop an action plan to map, treat and control invasive grasses to promote resiliency, reduce wildfire risk and enhance forage.

The Department supports the bill's requirement for an action plan. We would like to work with the bill sponsors to ensure the action plan is aligned with and not duplicative of national plans for invasive species. Invasive species pose substantial threats to the ecological integrity of both public and private lands and can have impacts on the communities that depend on these lands. Additionally, we recognize the role that invasive annual grasses play in exacerbating the timing, frequency, and severity of wildfire on the landscape and the combined impact of wildfire and conversion to invasive annual grasses on carbon storage. Invasive species prevention and management activities necessitate interjurisdictional approaches, such as those described in the bill. Importantly, this bill would further efforts already in progress to promote strategic invasive annual grass management with our partners.

We look forward to working with the Committee to clarify some of the bill's language, such as the definitions, the scope and timelines of the plan, and other terminology. We also recommend that section 204 include language emphasizing the importance of collaboration with tribes, tribal governments, and other local and regional entities; broader restoration efforts beyond revegetation, including restoring ecosystem benefits; use of best practices to minimize the risk of introducing and spreading invasive grass through wildfire response efforts and other activities including restoration and invasive species management; and conducting early detection and rapid

response in areas that do not have a large quantity of invasive grass but are targeted high priority areas for reducing wildfire and promoting connectivity or migratory corridors.

Finally, the Department notes some of the bills considered today contain overlapping provisions and duplicate the nature of some provisions contained in H.R. 3684, the Infrastructure Investment and Jobs Act. Additional planning and resources would likely be needed to simultaneously implement the programs and provisions created by these bills, in addition to the substantial and wide-ranging wildland fire management and workforce provisions that are included in H.R. 3684, should they all become law.

Conclusion

Thank you for the opportunity to appear before you today to discuss these important wildland fire management bills that address climate change, reduce wildfire risk and help communities plan and prepare for wildfires through collaborative efforts. Engagement and cooperation with our Federal and non-Federal partners are keys to successful wildland fire management.

This concludes my written statement. I am happy to answer any questions.

The CHAIRMAN. Thank you, sir.
Now we are going to hear from Mr. Crapser.

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

Mr. CRAPSER. Thank you, Chairman Manchin, Ranking Member Barrasso, and members of the Committee for holding this hearing. My name is Bill Crapser. I am the Wyoming State Forester. It is an honor for me to testify before you today on behalf of the State of Wyoming and the National Association of State Foresters. I do apologize for not being there in person. Hopefully Senator Barrasso's explanation of my absence was sufficient. The National Association of State Foresters represents leaders of forestry agencies in all 50 states, eight U.S. territories, and the District of Columbia. State foresters deliver technical and financial assistance to private landowners, who own over half of the forest in the United States. We also partner with federal land management agencies through cooperative agreements—Good Neighbor Authority—to help manage forests, national forests and BLM lands, and conduct wildfire management operations nationwide.

First and foremost, I want to express my support for the bipartisan America's Revegetation and Carbon Sequestration (ARCS) Act. I am encouraged by the introduction of the ARCS Act and thankful to Senators Manchin and Barrasso for their continued leadership on forestry issues. We look forward to working with our federal partners to implement this important piece of legislation. Our nation's forests and rangelands face many serious challenges to their health and viability, including catastrophic wildfire, insects, and disease. The ARCS Act would go a long way to help land managers address these challenges through thoughtful afforestation and reforestation efforts, coordinated wildfire mitigation work, and expanded opportunities for responsible timber salvage. This bill supports working forests and forest landowners by advancing markets for wood products. Not only is the carbon sequestered in harvested wood and maintained in these wood products, wood products can be used in place of more energy-intensive materials like steel, plastic, and concrete, and when used in substitution of fossil fuels and non-renewable building inputs, the use of wood products can eliminate greenhouse gas emissions at their source.

The ARCS Act supports wood innovation and emerging forest-based technologies. It would direct the Food and Drug Administration to establish a pilot program to explore how feeding livestock biochar produced from wood waste can reduce agriculture greenhouse emissions. This pilot would expand on a recent Nebraska Forest Service study that found substituting biochar for one percent of a cow's diet can lead to a ten-percent reduction in methane emissions. The bill would add tree planting and maintenance to the Job Corps curriculum and establish a new grant program at the Department of Energy for tree planting activities aimed at reducing residential energy consumption. Urban trees and forests help mitigate the urban heat-island affect and reduce cooling costs by providing shade to buildings and street surfaces. To increase active forest management, we can increase carbon storage by helping im-

prove the resilience of our forests and maximize wood availability for forest products utilization.

As you well know, forest products, like forests themselves, act as carbon sinks and have demonstrative benefits in many different applications, including building construction and energy generation, timber harvest transfer of carbon from forest ecosystems to wood products, like lumber for homes and furniture. Residues from harvested wood can be made into pellets and used as energy sources. With good science-based forest management, forest can remain forest. After a disturbance like a harvest or a wildfire, resilient forests are able to regenerate, and in doing so utilize carbon from the atmosphere to grow once again. This brings me to a critical point I want to stress to the Committee. Forest markets, both for wood and carbon credits, are critical to maintaining the forest health and sustainability of the forest in the United States. Wood markets in particular enable the carefully planned harvested trees that are needed for forests to have appropriate stocking levels and to balance age classes and species diversity. Managed forests are healthy forests. They are better able to withstand fire and pests and are more capable of sequestering carbon, providing clean air and water, wildlife habitat, recreational opportunities, and countless other benefits.

I look forward to answering your questions today, and thank you again for this opportunity to testify.

[The prepared statement of Mr. Crapser follows:]

**Written Testimony of Bill Crapser, Wyoming State Forester
On behalf of the Wyoming Forestry Division and
the National Association of State Foresters
Submitted to the Senate Committee on Energy and Natural Resources
Legislative Hearing October 21st, 2021**

Thank you, Chairman Manchin, Ranking Member Barrasso, and members of the committee for holding this hearing today and for the opportunity to testify on behalf of the Wyoming Forestry Division and the National Association of State Foresters (NASF). My name is Bill Crapser and I am the Wyoming State Forester and present member of NASF. I'm pleased to provide written testimony to the Senate Committee on Energy and Natural Resources regarding the America's Revegetation and Carbon Sequestration (ARCS) Act and other related legislation.

America's trees and forests are a strategic national resource with vast potential as solutions for climate change, public health, and economic challenges. Active forest management maximizes the carbon benefits of forests and is vital to keeping forested landscapes working for us as carbon sinks, instead of carbon emitters.

Our nation's forests and rangelands, face many serious challenges to their health and viability, including catastrophic wildfire and insect and disease outbreaks. This bipartisan legislation will go a long way to help land managers address these challenges and capitalize on existing opportunities. The ARCS Act will strengthen our forests and rangelands through thoughtful and coordinated afforestation and reforestation efforts, expanded opportunities for wildfire mitigation projects, and responsible timber salvage. NASF is encouraged by the introduction of the bipartisan ARCS Act and extends its thanks to Senators Manchin and Barrasso for their continued leadership on forestry legislation. We look forward to working with our federal partners to implement this legislation.

America's Revegetation and Carbon Sequestration (ARCS) Act

Section 201 of the bill would establish a carbon credit program on National Forest System lands managed by the National Forest Foundation that would allow non-federal entities to purchase carbon credits in voluntary carbon markets. Credits produced on federal forest lands would provide funding for the Forest Service to implement projects for continued carbon sequestration.

NASF supports this innovative program to help ensure our national forests are able to deliver a balanced set of economic, environmental, and social benefits. Only by accelerating the scope, scale, and pace of federal forest management (consistent with the approved management plans for each national forest) will we be able to restore these lands to a more sustainable, resilient condition.

Section 202 of the bill would require the Forest Service to develop land management plan amendments addressing post-disturbance management options following high-tree mortality events, such as hurricanes and wildfire, to include salvage logging and reforestation activities. A

lack of budget support for vegetation management and restoration programs, as well as a lack of alignment in views about appropriate management and disturbance response among stakeholders, limits utilization of salvageable trees and reforestation efforts following catastrophic wildfire events. NASF supports expanding authorities to conduct timber salvage and reforestation operations following disturbances such as hurricanes and wildfires.

Section 402 directs the Forest Service, through its Forest Inventory and Analysis (FIA) program, to continue using remote sensing technologies to assess regional carbon stocks. With this information, policy makers will be better able to compare the consequences of different forest policy options on carbon sequestration and storage.

FIA provides crucial information to federal and state forestry agencies, industry, academic, and conservation organizations on a wide range of forestry-related topics. Increasingly, FIA is relied on to provide data on the state of the nation's largest carbon sink—our forests—making it an essential component of decisions regarding climate change mitigation and adaptation strategy. However, the demands for information on forest carbon are becoming more varied and at scales that are problematic to meet with the current design and capabilities of the program.

Additional statistical research capacity is required to develop and employ the complex cutting-edge statistical imputation and estimation procedures required to produce the level of accuracy that clients are demanding today for smaller geographic areas. The additional analytical capacity will focus research efforts to improve best applications and integration of remote sensing technologies within the FIA program and develop technologies to reduce costs and make it easier to measure and monitor forest carbon (especially for forest inventories and verification). Using imagery from advanced technologies, especially remote sensing platforms would improve products for decision making by policy makers and managers and enable forest owner participation in carbon crediting opportunities.

Sections 302 and 303 support working forests and forestland owners by advancing markets for sustainable wood products like mass timber. Science-based, sustainable forest management can provide quantifiable increases in carbon stocks by reducing wildfire, insect, and disease risks. Carbon sequestered in harvested trees is also maintained in wood products, which can be used in place of more energy-intensive building materials, such as steel, plastic, and concrete, and reduce overall greenhouse gas (GHG) emissions.

Markets for wood provide landowners with a source of revenue and are critical to maintaining the health and sustainability of forests in the United States. They enable the sustainable, carefully planned harvest of trees to optimize stand density and create age class and species diversity: characteristics that are critically important to enhancing wildlife habitat, forest resilience, and balanced harvest cycles.

Section 203 of the bill directs the Food and Drug Administration, in consultation with USDA and in coordination with states, to establish a pilot program for feeding biochar to livestock. The Nebraska Forest Service conducted a successful pilot study which demonstrated the benefits of providing biochar as a feed supplement to cattle in achieving reduced methane emissions and increased animal productivity. Although biochar has not yet been approved by the Food and Drug

Administration (FDA) for animal feeding, the initial research shows potential as a methane mitigation strategy in both growing and finishing diets for cattle. This study demonstrates an example of an innovative use of a forest product that has huge potential benefits to agriculture, particularly cattle producers. Biochar has shown to be beneficial in many areas of agriculture, including nutrient capture in livestock manure.

Section 102 of the bill would establish a national revegetation task force to develop and implement a 10-year comprehensive revegetation strategy which would include an assessment of tree nursery capacity. State operated tree seedling nurseries remain an important source of seedlings for national reforestation efforts. A substantial increase in tree planting would necessitate careful planning, including climate-smart species selection. NASF supports this policy as we look to increase reforestation efforts nationally and develop a plan to increase tree nursery capacity.

Section 105 of the bill would add tree planting and maintenance to the Job Corps' curriculum and establish a new grant program at the Department of Energy for tree planting activities aimed at reducing residential energy consumption. Urban trees and forests help mitigate the urban heat-island effect and reduce cooling costs by providing shade to buildings and street surfaces. Improving and investing in workforce development and training programs that link underserved urban populations with urban forestry careers is a priority issue for NASF and is identified as a goal in the Forest Climate Working Group's (FCWG) [Policy Platform for the 117th Congress](#).

National Prescribed Fire Act

There is an immediate need for the return of low intensity fire to our landscapes. Prescribed fire is used to reduce dangerous wildfire fuel loads and promote resiliency in our forests by simulating natural disturbance. The appropriate use of prescribed fire makes our forests and communities more resilient to natural and necessary fire cycles. Increasing the use of prescribed burning depends on partnerships among the federal and state environmental protection agencies and a shared understanding that limited smoke emissions from prescribed fire pose less risk to human health than mega-emissions from uncontrolled wildfire. NASF supports the National Prescribed Fire Act, which offers a legislative solution that will allow state foresters and other land managers to increase their use of prescribed fire to improve forest health, mitigate wildfire damages, and prevent mega smoke emissions from wildfires.

I appreciate the opportunity to testify today on behalf of the Wyoming Forestry Division and NASF. We stand ready to assist in supporting legislative solutions that bolster the social, economic, and ecological benefits of our nation's forests.

The CHAIRMAN. Thank you, sir.
Now we are going to have Chief Johansen.

STATEMENT OF PAUL R. JOHANSEN, CHIEF, WILDLIFE RESOURCES SECTION, WEST VIRGINIA DIVISION OF NATURAL RESOURCES

Mr. JOHANSEN. Thank you for the opportunity to testify before you today in support of Senate bill 2836, America's Revegetation and Carbon Sequestration Act of 2021. My name is Paul Johansen, and I serve as Chief of the Wildlife Resources Section for the West Virginia Division of Natural Resources. Senate bill 2836 provides a comprehensive, science-based approach for improving the management of the nation's forest and rangelands through the establishment of robust revegetation programs and carbon sequestration activities. This morning, I will be focusing my comments on one important component of Senate bill 2836. That is Title I, Section 106, Revegetation on Abandoned Mine Land.

Section 106 creates a pilot program designed to establish native trees, shrubs, and grasses on eligible mine lands. The program seeks to establish vegetation that is ecologically appropriate and a benefit to wildlife, has a high capacity to sequester and store carbon, and serves to enhance habitat connectivity. Restoring and revegetating reclaimed and abandoned mine lands will produce significant ecological and economic benefits across the Appalachian region. West Virginia alone has more than 440,000 acres of lands impacted by surface mining for coal. These lands are a legacy from our past. They provide a link to our history and remind us of the role that Appalachia played in meeting the nation's energy needs. These lands also represent a bridge to the future. Senate bill 2836 will enable us to polish this legacy by restoring biological diversity, enhancing wildlife habitat, providing essential employment training, and putting people back to work across the Appalachian coal fields.

Most of these formerly mined lands are overrun with non-native invasive vegetation that provides little if any benefit to wildlife. Converting these lands into landscapes supporting native grasses, shrubs, and forests addresses two critical needs within the region. Those are job creation and ecological restoration. There is unique symmetry taking place here that involves opportunities for people formerly engaged in coal extraction to transition to work in areas of ecological rehabilitation on these same lands. This habitat restoration work will not only provide environmental benefits, but it will also deliver a sustainable economic boost to local communities. Senate bill 2836 provides rural Appalachia with hope and a clear path forward. The program affords opportunities for training in the following fields: heavy equipment operation, horticulture, environmental remediation, and natural resource management. These training programs will be designed for recent high school graduates, displaced or retired mine workers, and those seeking to learn a new skill. This transitional training will lay the foundation for building a new, dynamic, and employable workforce.

Ecological restoration will focus on the removal and control of non-native and invasive species in an effort to establish native vegetation that provides greater benefits to a wide variety of wild-

life, including ruffed grouse, wild turkey, American woodcock, and a whole suite of migratory birds. Opportunities for hunting, wildlife viewing, bird watching, and other forms of wildlife-associated recreation will greatly expand on these restored lands. Abandoned mine lands require active restoration to enhance ecological integrity, restore biological productivity, and create the connectivity necessary for fully functional landscapes across Appalachia. Senate bill 2836 creates an important opportunity to provide targeted funding to local communities, conservation organizations, state fish and wildlife agencies, and federal natural resource agencies in a coordinated manner designed to restore wildlife habitat and provide opportunities for social and economic growth within the Appalachian region.

Thank you for the opportunity to testify before you today. I look forward to answering any questions you might have.

[The prepared statement of Mr. Johansen follows:]



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 Stephen S. McDaniel
 Director

**TESTIMONY BEFORE THE
 UNITED STATES SENATE COMMITTEE ON ENERGY AND NATURAL
 RESOURCES**

**CONCERNING S. 2836 – AMERICA’S REVEGETATION AND CARBON
 SEQUESTRATION ACT OF 2021**

**BY MR. PAUL JOHANSEN
 CHIEF – WILDLIFE RESOURCES SECTION
 WEST VIRGINIA DIVISION OF NATURAL RESOURCES**

OCTOBER 21, 2021

Thank you for the opportunity to testify before you today in support of Senate Bill S. 2836 – America’s Revegetation and Carbon Sequestration Act of 2021. My name is Paul Johansen, and I am a Certified Wildlife Biologist with more than 38 years of service to the citizens in West Virginia. I have held various positions within the West Virginia Division of Natural Resources, including Wildlife Manager, Assistant District Biologist, Wildlife Planner, and Assistant Chief in Charge of Game Management. Currently, I serve as Chief of the Wildlife Resources Section where I am responsible for administering the statewide wildlife and fisheries management program. I am honored to work with some of the finest wildlife professionals in North America and to serve dedicated hunters, anglers and other wildlife-associated recreationalists. I hold a Bachelor of Science Degree in Wildlife Biology from the University of Massachusetts and a Master of Science Degree in Fisheries and Wildlife Science from Virginia Tech. I serve on many committees for regional, national, and international professional wildlife organizations, including the Association of Fish and Wildlife Agencies, the Southeastern Association of Fish and Wildlife Agencies, and the Northeast Association of Fish and Wildlife Agencies.

The West Virginia Division of Natural Resources, Wildlife Resources Section is responsible for the conservation and management of the state’s wildlife resources for the use and enjoyment of

its citizens. Our primary objective is to maintain and perpetuate fish and wildlife populations at levels compatible with the available habitat, while providing opportunities for wildlife-associated recreation, research, and education. The state's wildlife resources are maintained for values that may be either intrinsic, ecological, or of benefit to man. Such benefits include (1) hunting, fishing, and other diversified recreational uses; (2) economic contributions in the best interest of our citizens; and (3) scientific and educational uses.

Senate Bill S. 2836 provides a comprehensive, science-based approach for improving the management of the Nation's forests and rangelands through the establishment of robust revegetation programs and carbon sequestration activities. This morning, I will be focusing my comments on one important component of Senate Bill S. 2836 (i.e., Title I, Section 106 – Revegetation on Abandoned Mine Land). Section 106 creates a pilot program designed to establish native trees, shrubs, and grasses on eligible mined land, including federal, state, tribal, and private lands. The program offers financial assistance to support activities associated with projects designed to establish vegetation on these eligible mined lands. These activities include the following: site preparation (e.g., ripping compacted soils and incorporating soil amendments), planting, maintenance, and managing competing vegetation. The pilot program seeks to establish vegetation that meets the following criteria: is ecologically appropriate; has a high capacity to sequester and store carbon; serves to reconnect established landscapes or enhance habitat connectivity; establishes underrepresented wildlife habitat.

Restoring and revegetating reclaimed and abandoned mine lands will produce significant ecological and economic benefits across the Appalachian region. West Virginia alone has more than 440,000 acres of land impacted by surface mining for coal. These lands are a legacy from our past. They provide a link to our history and remind us of the role Appalachia played in meeting the Nation's energy needs. These lands also represent a bridge to the future. The America's Revegetation and Carbon Sequestration Act of 2021 will enable us to polish this legacy by restoring biological diversity, enhancing wildlife habitat, providing essential employment training, and putting people back to work across the Appalachian coal fields. The desired outcomes will be restored ecological balance within these altered landscapes and positive economic impacts for people and communities.

Most of these lands are presently overrun with non-native, invasive ground vegetation and shrubs that provide little if any benefit to native wildlife populations in West Virginia and throughout Appalachia. Converting these non-native grasses, shrubs, and other vegetation into landscapes supporting native grasses, shrubs, and forests address two critical needs within the region (i.e., job creation and ecological restoration). There is a unique symmetry taking place here that involves opportunities for people formerly engaged in coal extraction to transition to work in areas of ecological rehabilitation on these same lands. This habitat restoration work will not only provide environmental benefits, but it will also deliver a sustainable economic boost to local communities.

Education, rehabilitation, and reclamation are the cornerstones of Title I, Section 106 of Senate Bill S. 2836, as it provides rural Appalachia with hope and a clear path forward. This program affords opportunities for training in the following professional fields: heavy equipment operation, horticulture, environmental remediation, and natural resource management. These

training programs would be designed for recent high school graduates, displaced or retired mine workers, and those seeking to learn an employable skill. The training would provide participants with fundamental skills necessary for advancement in these new professional fields.

Rehabilitation of the workforce through initial, experiential, and transitional training from coal mining operations to reclamation and restoration would lay the foundation for building a new, dynamic, and employable workforce. The new and transitioned workforce would subsequently revitalize local economies and increase individual consumer opportunities.

Ecological reclamation priorities will focus on the removal and control of non-native and invasive herbaceous and woody species in an effort to establish native species of vegetation. The selected native vegetation would provide greater benefits to pollinators and a wide variety of wildlife, including shrubland dependent, grassland dependent, and forestland species. These areas will become increasingly important, especially during fall and spring avian migrations.

Shrubland dependent species include game and non-game species. Among them, ruffed grouse, wild turkey, American woodcock, and a whole suite of migratory songbirds, many of which are experiencing declines in their population, would reap the benefits of habitat restoration. These restoration efforts provide suitable habitat more quickly for these species, as planting occurs in the loosened soil substrate during the site preparation process which promotes rapid plant growth.

Following reclamation, these areas will provide increased environmental services. Opportunities for hunting, wildlife viewing, bird watching, and other forms of wildlife-associated recreation will greatly expand on these restored lands. The production of both soft and hard mast is expected to increase on these lands. There also exists the potential to establish community apiaries that could generate honey for both personal consumption and commercial production. These environmental services would provide economic diversification to many of the small communities in rural Appalachia.

Abandoned mine lands require active restoration to enhance ecological integrity, restore biological productivity, and create the connectivity necessary for fully functioning landscapes across Appalachia. The America's Revegetation and Carbon Sequestration Act of 2021 creates an important opportunity to provide targeted funding to local communities, conservation organizations, state fish and wildlife agencies, and federal natural resource agencies in a coordinated manner designed to restore wildlife habitat and provide opportunities for social and economic growth within the Appalachian region.

Thank you for the opportunity to provide comments in support of the America's Revegetation and Carbon Sequestration Act of 2021. I urge your favorable consideration of this forward thinking and comprehensive legislation designed to improve our Nation's forests and rangelands through the establishment of robust revegetation programs and carbon sequestration activities. I would be happy to answer any questions you may have.

The CHAIRMAN. Thank you, sir.
Now we have Mr. Bertone-Riggs.

**STATEMENT OF TYSON BERTONE-RIGGS, COALITION
DIRECTOR, RURAL VOICES FOR CONSERVATION COALITION**

Mr. BERTONE-RIGGS. Chairman Manchin, Ranking Member Barasso, and members of the Committee, thank you for the opportunity to be here today.

I serve as the Coalition Director for the Rural Voices for Conservation Coalition. The Coalition is dedicated to advancing place-based, collaborative conservation efforts that support ecologically sound land management that benefit and include rural communities. We focus on non-partisan, practical, durable solutions. Many of our participants are directly engaged with restoration projects, whether that be through convening collaborative planning efforts, carrying out forest thinning or prescribed burning on the grounds. It is this applied perspective that I bring to share with you today.

There is a near consensus among scientists that prescribed burning coupled with mechanical treatments works to reduce the risk of wildfire. While other actions, such as home hardening and land-use planning are vital tools, prescribed fire is unique in serving to both reduce risk and restore ecological function in forests. We cannot and do not want to stop fire entirely. Prescribed burning works to moderate fire behavior, allowing for lower-intensity wildfire that reduces fuels and provides safer conditions for wildland firefighters to operate in. In other words, the way to manage fire is with fire. However, treatments are not keeping pace with what we need. But we have seen recent Congressional investments in mechanical thinning. Use of prescribed fire by most federal agencies has been flat or declining for the past two decades. This is particularly problematic, as prescribed burning is needed not only to reduce the initial risk of wildfire, but is also needed to maintain treatments over time. This is not one-and-done. Absent regular reoccurring prescribed burning, investments in previous thinning and restoration work may be squandered. Prescribed fire is the essential, necessary, long-neglected ingredient in fuels-reduction projects.

So what can be done to ramp up prescribed burning to meet the need?

First, getting ahead of the risk of wildfire will require sufficient funding. This work rarely pays for itself and will require appropriated funds to meet the scale of need. Funding should be seen as an investment in reduced wildfire suppression costs in the future. Second, we need to grow the prescribed-fire workforce. That means increased partnership and workforce development. Waiving matching requirements and streamlining agreement mechanisms and credentialing systems would allow partners to add capacity to prescribed burning—and they are ready to add capacity. Third, we need to support inclusive, collaborative, place-based planning. Agencies rely on collaborative planning to design high-quality, socially accepted projects. But these efforts face an uncertain funding future. We have examples of regional models of federal financial support for collaboration, and these need to be enshrined in statute and funded. Finally, we need to modernize Forest Service business practices, including performance measures and targets that don't

prioritize the use of prescribed fire. Timber volume targets and the number of acres treated are not proxies for fire risk reduction work. We need to develop inclusively planned, outcomes-based performance measures.

And while this may take time, in the short-run we should prioritize the use of the existing acres-mitigated target, which measures the final treatment that effectively mitigates fire risk. Tellingly, the accomplishments of this performance measure have failed to meet targets since the measure was introduced in Fiscal Year 2016. Congress can act on some of these needed reforms today. To highlight a few bills, S. 1734, the National Prescribed Fire Act, would for the first time provide dedicated funding for prescribed fire and would fund workforce training and development, establishing prescribed fire training centers and improving pathways to employment for former convicts. S. 2650, the Wildfire Resilient Communities Act, would make significant investments in hazardous fuels reduction projects and fund community planning. It would also permanently reauthorize the successful Collaborative Forest Landscape Restoration Program, which centers collaboration. S. 2806, the Wildfire Emergency Act, would provide direct financial support to collaborative planning so vital to developing social license and inclusion of local communities. And finally, supporting the forestry provisions of the reconciliation package and the infrastructure bill would provide the transformative level of funding that is needed in order to get ahead of this problem.

There is no future for American forests that does not involve fire, but we can choose to manage fire on our own terms, to reduce future suppression costs, to make forests more resilient, and to protect communities. Thank you again for the opportunity to testify. I look forward to your questions.

[The prepared statement of Mr. Bertone-Riggs follows:]

Testimony of Tyson Bertone-Riggs, Coalition Director for the Rural Voices for Conservation Coalition

U.S. Senate Energy and Natural Resources Committee

Hearing to Consider Pending Legislation

October 21st, 2021

Chairman Manchin, Ranking Member Barrasso, and Members of the Committee, thank you for the opportunity to provide testimony regarding the forestry related legislation pending before the committee, and to speak to the important need to increase the use of prescribed fire on our public lands to reduce the risk of uncharacteristically severe wildfire.

I am happy to serve as the Coalition Director for the Rural Voices for Conservation Coalition. RVCC is a west-wide coalition and learning network dedicated to place-based, collaborative conservation that benefits the land and rural communities. We strive to advance both local efforts and national policy that results in ecologically sound land management. Our participants represent groups that implement restoration projects, including prescribed fire, and help to convene collaborative planning efforts for national forests. We focus on nonpartisan, practical, durable solutions to land management problems and that means understanding an issue from as many angles as possible. Our coalition offers a unique opportunity to track how federal policies play out on the ground and I thank you for the opportunity to share some of those reflections with the committee today.

I would like to speak with you today about the importance of increasing the use of prescribed fire for forest restoration and to decrease the risk of wildfires, and how Congress can accomplish this through workforce development, collaborative, inclusive place-based planning, and increased funding.

My comments today focus primarily on prescribed fire and do not address other important aspects of wildfire risk reduction, such as home hardening and land use planning. Those are important tools to keep communities safer from uncharacteristically severe wildfire, but prescribed fire is unique in serving to reduce the risks associated with wildfire, maintain treatments over time, and help restore ecological function in natural systems.

The Problem Before Us

The 193 million acres of national forest managed by the US Forest Service provide irreplaceable services including clean drinking water, wildlife habitat, and economic opportunities for rural communities. But past management practices as well as climate change have left both human and natural communities vulnerable to fast moving, high severity fire.

High severity fire that kills most of the trees in a stand has always been an important component of the natural fire regime of some western forests.¹ But prior to the beginning of fire suppression policies, seasonally dry forests that are widespread across the western U.S. were characterized by frequent, low intensity surface fire that maintained open stands of older trees.² Today's dry forests have abnormally high tree density, surface fuel loading, and fuel continuity.³ The sustained failure to allow low severity surface fire to remove fuels under moderate weather conditions means that when fire escapes control, usually because of extreme weather conditions, fast-moving fires leave large patches where most trees are killed, with significant negative impacts to old-growth trees, water quality, and wildlife.⁴

Human communities are also increasingly vulnerable to high severity wildfire. For instance, the state of California lost an average of 2,800 structures a year from wildfire from 2000 to 2018, and losses from wildfire in California in 2018 alone totaled approximately 150 billion dollars, or 1.5% of California's gross domestic product.⁵ Smoke from wildfires has significant negative health effects, including altered immune function, increased susceptibility to respiratory infection, and worsening of asthma, pulmonary disease, and cardiovascular disease. Smoke from wildfires may also be more toxic than the same dosage from other sources.⁶

Doubling down on fire suppression is no longer a viable option, either ecologically or economically. Firefighting costs are ballooning at an unsustainable rate. Between 1985 and 1990, Forest Service fire suppression expenditures averaged \$257 million per year. Suppression expenditures between 2015 and 2020 averaged \$1.9 billion a year, a 630% increase.⁷ Firefighting expenses currently account for between 52% and 55% of the Forest Service's total annual budget and are expected to account for 67% of the agency's annual budget within the next three years.⁸ And while fire suppression costs spiral, the Forest Service's budget for vegetation, watershed, and hazardous fuels management that allows the agency to get in front of the fire problem with thinning and prescribed fire has shrunk by 25%.⁹ States also bear an increasing burden of wildfire costs—fire suppression currently accounts for 2% of California's general fund expenditures and costs continue to rise.¹⁰

Solutions

Fortunately, there is a near consensus among scientists that prescribed fire, coupled with mechanical treatments, works to reduce the risks of wildfire, and restore forest ecosystems. In other words, the way to fight fire is with fire.

However, treatments are not keeping pace with need. And while we have seen Congressional investment in, and agency prioritization of mechanical treatments, use of prescribed fire has remained flat or declined for most federal agencies for the last two decades.¹¹ While mechanical thinning is an important part of overall fuels reductions, it has often taken precedent over finishing treatments with prescribed burning. Prescribed fire is the final, necessary, and long-neglected ingredient in fuels reduction projects.

We have the means, however, to increase the use of prescribed fire to meaningful levels. The problem is multi-faceted but has four key components.

First, we need to make sufficient investments in prescribed fire and forest restoration to get ahead of the rising problem of wildfire. Prescribed fire does not pay for itself and should be seen as an investment in reduced suppression costs in the future.

Second, we will need to grow the prescribed fire workforce. That means increased training, partnership, and workforce development opportunities. The wildland firefighting workforce is already stretched thin, and many more people will be needed to meet the scale of need.

Third, we need to recognize the importance of – and financially support – inclusive, collaborative, place-based planning. This is particularly critical because although the Forest Service – and increasingly legislation – build on the inclusive, place-based planning efforts collaboration, funding is an uncertain patchwork of sources with little federal support.

And finally, we need to modernize the Forest Service business models – including performance measures and targets that currently hinder application of prescribed fire. Although the bills before the committee today offer limited changes to Forest Service business practices, eventually we must modernize

performance measures and move from annual output targets to more meaningful, multiyear outcomes-based measures.

Congress can reduce fire risk and increase forest ecosystem resilience by acting on some of the bills before the committee today.

The National Prescribed Fire Act would, for the first time, provide dedicated funding for the important work of prescribed fire. It would also provide funding for workforce training and development, including establishment of a prescribed fire training center and improved pathways for employment for former convicts. And would set the table for state-level reform of liability standards.

The Wildfire Resilient Communities Act would increase funding for hazardous fuels reduction projects, including prescribed fire while funding proactive community planning to prepare in the event of wildfire. The bill would also permanently reauthorize the wildly successful Collaborative Forest Landscape Restoration Program.

I would also like to highlight a part of the Wildfire Emergency Act that will provide financial support to collaborative planning efforts so vital to developing social license and local support for projects.

I urge the committee to act quickly to address the needed investments and policy changes that will keep our communities safe and our forests healthy and resilient.

Thank you again for the opportunity to appear before you today.

* * *

For additional information on how Congress can act to increase the use of prescribed burning and decrease the risk of wildfire, please see the recent RVCC white paper *Fighting Fire with Fire: policy options to increase the use of prescribed fire on national forest*, available at our website:

https://static1.squarespace.com/static/562e839ee4b0332955e8143d/t/616db185b465cd04a0380192/1634578833647/Fighting+Fire+with+Fire_Final.pdf

Tyson Bertone-Riggs
Coalition Director
Rural Voices for Conservation Coalition

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The CHAIRMAN. Thank you, and thank all of you. Now we are going to start our questions.

First, I have a question for Chief Paul Johansen. And Chief, again, I want to thank you for making the drive here today from our beautiful State of West Virginia to share with us the support for our bill, the America's Revegetation and Carbon Sequestration Act. I would like to talk with you more about the abandoned mine lands initiative because I believe the provision particularly holds an awful lot of a promise for us in our home state. More than 30 percent of our West Virginians live within one mile—it is hard to believe—30 percent live within one mile of a mine site. So I know we have included \$200 million in the bipartisan infrastructure bill, which is over in the House right now, which we think is going to be a tremendous opportunity for a great start for us.

So, if you can, tell a little bit more about the types of economic opportunities that you see coming from this revegetation of these abandoned mine lands?

Mr. JOHANSEN. Thank you, Senator. I see the benefits of this particular bill as two-fold, and I talked a little bit about the biological impacts and you know, that's really where my training is—on the wildlife side of the equation. But the thing that excites me most about this particular bill is the potential economic impact that this would have in rural Appalachia. It would afford the opportunity to put training programs in place that would get either newly graduating high school students or displaced miners back onto those lands doing some fabulous work in terms of restoring the habitat.

So the economic impact would be not only training opportunities, but putting people back to work on the ground getting idle mine equipment that we could put back onto those reclaimed mine sites to rip the soils up, reduce the compaction, allow us to effectively manage and put in place vegetation. I am not an economist. I cannot tell you what the exact economic impact would be, but I am familiar enough with West Virginia to know that these rural areas of West Virginia need those opportunities, need those economic opportunities to put people back to work. And I really think this bill has that potential.

The CHAIRMAN. Thank you, sir.

Also, to Deputy French, the land management plans of several national forests in the West are currently being litigated, as you know. I understand this is because they failed to consult with the Fish and Wildlife Service (FWS) about new information that might have implications for their plans. My colleagues, Senators Daines and Tester and Senator Risch have brought their concerns to me and other members of this Committee. It seems like there is something to be done there, but I am also concerned about the large number of grossly out-of-date land management plans that the Forest Service has. So my question is going to be two-part. First of all, there are 154 land management plans. How many are older than 15 years?

Mr. FRENCH. More than half, Senator.

The CHAIRMAN. More than half. Okay.

Over the last three years, you have been appropriated \$540 million for land management plans. During that time, how many old plans have you all started to update?

Mr. FRENCH. We have had about 35, and I think we have 19 that we are still trying to revise. However, that money that comes into the agency is also used for monitoring and NEPA as well as land management planning. So there is a broad number of uses for that figure.

The CHAIRMAN. So out of 154, half are older than 15 years, correct?

Mr. FRENCH. Yes, on average right now it takes us around six to eight years to revise a single forest plan.

The CHAIRMAN. With the amount of devastation we are having from all the fires and all the weather and climate-related concerns—this is ravishing the West. Do you have the manpower, the personnel power, the womanpower, whatever it takes, to increase this as far as this review and making sure we take the necessary action? Everybody, Democrat and Republican, is all for this. So all we need is you all's cooperation and we can maybe make some things happen.

Mr. FRENCH. So on land management planning we have not had the personnel or resources or skill sets to do the land management planning to the level we need. The agency has looked at this really hard in the last few years and has a new implementation model that we are starting to implement this week.

The CHAIRMAN. Can you contract any of it out?

Mr. FRENCH. Yes.

The CHAIRMAN. Have you thought about contracting out?

Mr. FRENCH. Yes, good portions of it can be contracted out. We are moving from a forest-by-forest approach to more of a bio-regional approach.

The CHAIRMAN. Is there anything we can do, as Senators?

Mr. FRENCH. I think the main thing is, what we have seen, and this is directly tied to the cost of suppression, is we have seen about a 40 percent decline in our natural resource professionals across the agency. We just cannot pay for those positions anymore. That includes land management planning.

The CHAIRMAN. Of the \$540 million, what percentage would you say was used toward land management or other?

Mr. FRENCH. If you look at the total amount that is going out to the regions after we are paying for NEPA across for projects, monitoring, and other costs that we have as an agency, somewhere between \$40 and \$50 million.

The CHAIRMAN. That is all that was left of the \$540 million?

Mr. FRENCH. For land management planning specifically, yes, because it gets used for multiple things, not just land management planning.

The CHAIRMAN. Would it be possible for any of your people who are handling basically the disbursements of the funds, if we can get them in to explain to our Committee here, showing us the audit of how—what kind of effect we have gotten because it does not look like we are ever going to catch up, even at \$40 million. Were you all able to contract out before?

Mr. FRENCH. Yes.

The CHAIRMAN. But you haven't done it?

Mr. FRENCH. No, we have.

The CHAIRMAN. You have contracted out before?

Mr. FRENCH. We contract out——

The CHAIRMAN. Still, could not increase, as far as the efficiencies of it?

Mr. FRENCH. Mainly because we have lost staffing on a forest-by-forest approach. Because this happens every 10 to 15 years, or is supposed to happen, we end up having to rehire each time. The funding has not been there for us to do it. And again, Senator, of course we can bring our budget folks up, but that particular BLI, that \$540 million has multiple things that get funded out of it.

The CHAIRMAN. One last comment.

Have you worked with any of the universities in the western states or in the states that are most affected to see if they could help accelerate this?

Mr. FRENCH. Yes, we have. We have worked with multiple universities. We have worked with the federal advisory committee. We have worked with multiple—actually we have brought in consultants, hired in to look at workforce management——

The CHAIRMAN. That might have slowed it down a little bit.

Mr. FRENCH [continuing]. And our approach.

The CHAIRMAN. I am going to Senator Barrasso, sorry. Thank you.

Mr. FRENCH. Yes.

Senator BARRASSO. Well, thanks so much, Mr. Chairman. And to all of our witnesses, we are in the middle of three roll call votes. You may see some of us coming and going and coming back and it is—we are very interested in the topic and what you have to say. If some of us leave, that is the reason for it.

Mr. Crapser, last month, the Wall Street Journal included an article entitled, "Forest Thinning Helps Curb Wildfires." And the story discusses how Lake Tahoe and Sequoia National Park survived wildfires thanks to tree thinning projects.

[The article referred to follows:]

U.S. NEWS



Firefighters battled the Windy Fire, above, in California's Sequoia National Forest. Below, a crew this month near Meyers, Calif., which was threatened by the Caldor Fire.

Forest Thinning Helps Curb Wildfires

By Jim Carlton

MEYERS, Calif.—As the Caldor Fire approached this Lake Tahoe town last month, the flames burned 150 feet high and embers rained down from the sky. But not a single house burned.

That is largely because fire crews had thinned the forests that surround the town, chopping down small trees, saving low-hanging limbs and clearing the forest floor of combustible debris. With much less fuel to burn, the blaze was smaller and moved slower, making it easier to control.

"When it hit this thinning, the flames dropped down to 15 feet," said Milan Yeates, a forestry supervisor for the California Tahoe Conservancy, a state agency.

Similar thinning protected a grove of giant trees in Sequoia National Park, including the General Sherman, the largest tree in the world by mass, when the KNP Complex of wildfires threatened it earlier this month.

Firefighters and land-management agencies across the American West have recognized for decades that one of the most effective tools to reduce wildfire risk is to thin forests, whether by removing dead trees and brush in accessible areas or reducing the most flammable elements in remote



ones. Between 1999 and 2019, the use of intentionally set fires by state and federal agencies tripled to six million acres a year, according to the National Interagency Fire Center.

But that isn't enough to keep up with the rising wildfire risk caused by drought, climate change and homes built too close to wild lands, according to researchers.

"We need two to five times more fire and thinning," said Mark Finney, a research forester for the U.S. Forest Service based in Missoula, Mont.

"This needs to be a consistent, long-term program."

One factor hindering forest thinning is the wildfires themselves, which have grown in both size and intensity, leaving

firefighters with less time for prevention. Over the past two decades, the amount of land scorched by wildfires annually in the U.S. has more than doubled to about seven million acres, from three million over the prior 20 years, according to the National Interagency Fire Center. To help focus its resources, the U.S. Forest Service in August said it would primarily focus on fighting fires that threaten communities and infrastructure and suspend some thinning work in high-risk areas.

"Resources are all being drawn into the firefight," said Ken Pinakott, retired director of the California Department of Forestry and Fire Protection, or Cal Fire. "And then during

the off-season, folks are just burned out."

Other obstacles to thinning include regulatory delays caused by the Covid-19 pandemic and a lengthening fire season, which is shortening the period during which prescribed burns can be done safely. Around Lake Tahoe, piles of thinned wood remain scattered around the forest awaiting disposal by burning that has been delayed by dry conditions the past two winters, said Gwen Sanchez, acting supervisor for the Forest Service's Lake Tahoe Basin Management Unit.

Prescribed fire was widely used in the Western forests by Native Americans, in part to keep insects out of acorns they

ate, said Susie Kocher, forestry and natural resources adviser for the University of California Cooperative Extension.

"Our forests are adapted to frequent, low-severity fires," Ms. Kocher said.

For most of the 20th century, though, the policy of land authorities in the West was put out wildfires as quickly as possible—which made forests increasingly flammable. Prescribed burns were reintroduced to Sequoia National Park in the 1960s and to other regions by the 1990s.

Increasingly ambitious forest-thinning targets have been set recently, but the government has struggled to reach them, California Gov. Gavin

Newsom last year signed an agreement with the U.S. Forest Service that called for joint thinning of one million acres a year. To help achieve that, Cal Fire plans to thin 100,000 acres annually by 2025. But as of last year, it was operating with a goal of half that area, an agency spokeswoman said.

The spokeswoman, Christine McMorrow, said 2020 was such an active fire year—a record 4.3 million acres burned—that Cal Fire didn't have time to get to some planned thinning projects. She said many thinning projects are needed on private land, which sometimes requires approval from numerous property owners.

Senator BARRASSO. The article goes on to say that many more of these types of projects are needed to avoid or to mitigate catastrophic fires. Can you elaborate on how strategically planned tree thinning projects can increase forest health, can mitigate wildfire risk, and can minimize threats to communities and to firefighters?

Mr. CRAPSER. Sure, Senator Barrasso. Good forest management does several things for us, and a lot of the basis of forest management has always been to replicate wildfires. When we look at it strategically, whether it's a timber sale, a fuels reduction, or whatever type of management activity or prescribed fire, we can minimize fire risk by lowering the fuel load, making the forest stands more viable, more healthy, and to just make the whole ecosystem healthier moving forward. Probably one of the best examples of it was in Wyoming in 2018 on the Medicine Bow National Forest. We had a fire—the Badger Creek Fire—in the interface area. Partnered with the Forest Service, state forestry had spent a lot of time, effort, and money with the landowners in that area doing fuels projects, thinnings, some fuel breaks in some strategic areas, and when the fire came through, it went around the subdivisions instead of going through the subdivisions and instead, I think, we lost two houses instead of losing 30 or 40 houses. So strategically placed fuels projects definitely have an impact on both forest health and on fire suppression and making both the public and firefighters safer.

Senator BARRASSO. Thank you.

Mr. French, Wyoming is home of world class skiing. The resorts in Jackson, in the Jackson area, and across the state are critical to our economy. Yet Wyoming's ski communities are paying fees that come back to Washington, DC. This means that those fees do not benefit the forest they are generated from. This is a missed opportunity, I think, for our forests and local economies. The SHRED Act that Senator Bennet talked about would change this and allow ski fees to be reinvested locally. The Forest Service would use these fees to improve infrastructure and visitor's services, enhance wildfire and avalanche preparedness, and support ski permit and program administration on the forest where the fees are collected. I heard you speak specifically of the support by the Forest Service of this legislation. Do you believe that would improve and expand recreational activities that are vital to the local communities?

Mr. FRENCH. I do.

Senator BARRASSO. Great.

Mr. Crapser, the Forest Service has recommended a drastic reduction in timber harvest levels on the Black Hills National Forest. It spans Wyoming and South Dakota. In August, you and the South Dakota State Forester sent a letter to the Forest Service expressing concern over the dense forest conditions on parts of the forest. The letter also stated that active management is needed on these crowded portions. How do you square this with the Forest Service's recommendation to drastically reduce timber harvest sales, and does it appear that better collaboration is needed between the Forest Service and its private and state partners?

Mr. CRAPSER. I think we can always improve collaboration, Senator. As much as we work and as well as we work with our federal partners and they work with us—collaboration can always be im-

proved. As far as the reduction in timber and our opinion on managing, a lot of that, I believe—looking at the Forest Service’s numbers, looking at our numbers—is stand density numbers, diameter numbers and probably an honest difference of opinion on what is possible on those given acres.

Senator BARRASSO. Mr. French, at a budget hearing in June, then Forest Service Chief Vicki Christiansen told me that the Black Hills National Forest is “Positioned to move forward and create sustainable forest management harvest levels.” She also recognized that the industry is “a critical tool and partner to make that happen.” Yet, in spite of this, the Forest Service continues to move ahead with its plan to drastically reduce timber harvest levels on that specific forest.

Mr. French, does the Forest Service recognize how damaging its actions here will be to our local economies and to the long-term health of the forest?

Mr. FRENCH. Senator, these decisions, especially when our scientists show us data that say that we need to change or manage differently the levels of harvests from our forests in order to meet the laws that we are asked to achieve, can have very dramatic impacts to communities, and I know our leadership locally recognizes that. And any decision like this that we make—first of all, I have tremendous understanding and empathy to the communities and businesses that depend on us. And our approach to this is to be transparent. We are going to go through a forest plan revision process to look at those issues, bring in partners like the state to look at it, and we are looking for solutions to help those businesses and communities that are affected if we need to move forward with those levels.

Senator BARRASSO. Well, as you talk about doing this additional look, will the Forest Service commit to better collaboration with industry as well as state partners in moving forward, and what would that collaboration actually look like? And that is my final question, Mr. Chairman.

Mr. FRENCH. Yes, Senator, yes, we can commit to that and what I would say is that we will work individually and collectively with those as we go through that revision process and we will follow up with you on some specifics of what that looks like.

Senator BARRASSO. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Heinrich.

Senator HEINRICH. Mr. French, just the other day I raised the issue of the prescriptive public easements in the Crazy Mountains and you said to me and I quote, “We haven’t changed our position.” But the Forest Service is not defending those easements in the current litigation. Now, this is despite those easements being in the current travel management plan. It is despite the successful court decision in 2007, where a number of those easements were defended. In fact, I want to read to you what the court said in 2007. It said, “The mere fact that a landowner disputes the presence of a prescriptive easement on his or her property does not mean that the landowner is legally correct and the plaintiff points to no authority for its apparent proposition that the Forest Service should simply abandon use rights previously acquired by the public.”

You told me the Forest Service has not changed its position, but your lack of action says more than words. I am going to ask you again, why is the Forest Service not defending the public's access to their public lands?

Mr. FRENCH. Thank you, Senator.

And I stand by that. We haven't changed our position. We will always look to defend those where we can. In this particular case—in the cases that you're speaking of in the Crazies—our attorneys and the Department of Justice have looked at the evidence, looked at the standards that we need to meet under Montana State Law, and have essentially said that we can't defend these.

Senator HEINRICH. So what changed between 2007 and now?

Mr. FRENCH. It is a different set of easements that we are looking at and the specifics on that set are different.

Senator HEINRICH. Okay.

Mr. FRENCH. That's the way that I—

Senator HEINRICH. Well, I can guarantee you that if we go to court, the public may win or the public may lose, but if you do not defend in this litigation, it is pretty clear what the outcome is going to be.

Mr. FRENCH. I agree, and we want to defend. Our advice from our attorneys is that we can't in this case.

Senator HEINRICH. This summer, the Forest Service announced that it would actually no longer allow fire managers to manage wildfires for natural resource benefit, and additionally would be limiting the use of prescribed fire. Now, I understand that resources were stretched thin this summer.

Mr. FRENCH. Yup.

Senator HEINRICH. But if you look at New Mexico, we had a wet summer and it was an ideal year to actually allow a resource benefit fire to occur, which is some of the cheapest treatment and the most manageable treatment that can occur. So what is the Forest Service's current policy with regard to managing naturally ignited fires for resource benefits? Have you restarted prescribed fires in New Mexico?

Mr. FRENCH. We have restarted. Our current policy is, anytime that we are going to either do prescribed fire or fire for resource management benefits, right now, we approve those through the Chief's office and we have been doing that. The executive leadership team, with the Chief, today is reviewing the policy as a whole to see if it's time to shift it now that we don't have the demand on resources to address fires throughout the West, as we did a month or two ago.

Senator HEINRICH. So currently you are still not allowing naturally ignited fires to burn, even where they are manageable and would have a natural resource benefit?

Mr. FRENCH. We allow exceptions to that with approval from the Chief on a case by case basis. It is just not a blanket policy, and we are reviewing that actually today to see if that policy will shift based on current fire conditions.

Senator HEINRICH. Mr. Bertone-Riggs, what are your thoughts on why prescribed fire and naturally ignited natural resource benefit fires are not a bigger part of our toolbox in agencies like Interior and the U.S. Forest Service?

Mr. BERTONE-RIGGS. Yes, that's an excellent question. I think a lot of this, to my thinking, comes back to the Forest Service business models. You treasure what you measure.

Senator HEINRICH. Yes.

Mr. BERTONE-RIGGS. And as long you are measuring things that are not good representations of fire risk reduction, the bureaucracy churns out what it will. So I think you really need to seek reform in that area.

Senator HEINRICH. So we need to set clear, transparent measures and hold the agencies to account year by year to those measures?

Mr. BERTONE-RIGGS. Yes, sir.

Senator HEINRICH. Thank you very much.

The CHAIRMAN. Thank you, Senator.

And now we have Senator Lee.

Senator LEE. Thank you very much, Mr. Chairman.

Mr. RUPERT, I would like to start with you, if that is okay. The Council on Environmental Quality encourages federal agencies to develop and use categorical exclusions to protect the environment and reduce the resources and the time spent analyzing proposals. Can you tell me what categorical exclusions the Bureau of Land Management (BLM) has developed in order to address wildfire or forest management under this Administration?

Mr. RUPERT. Thank you. I may not be able to do justice, specifically, to every categorical exclusion that is out there specifically for BLM, but I can tell you that across the Department to include BLM, you know, we do have a number of categorical exclusions that do provide for efficiency around wildland fire management and that we do use those. We do recognize them and they have been valuable tools.

Senator LEE. I was interested to hear in your testimony support for S. 1734, the National Prescribed Fire Act of 2021, which directs the Secretaries to evaluate previously issued findings of no significant impact, and on the basis of those policies develop categorical exclusions using the documents as the basis for doing so. It would seem to me that this should be a common-sense, standard practice. Would you agree with that?

Mr. RUPERT. I think—well, specifically to S. 1734, in broad terms, the—any opportunity to focus priority on delivering, accomplishing more prescribed fire on the ground, we see as a real opportunity. In terms of specific provisions within the bill, I think, absolutely, you know, we're very interested in, you know, working with the sponsor, working with the Committee to make sure that all of the provisions that are contained in the bill are a really good fit, specifically to compliance issues and efficiencies. There's no—it's clear in Interior, I think—

Senator LEE. As to the idea of categorical exclusions being drawn from—produced following a finding of no significant impact, do you think that's a good idea?

Mr. RUPERT. I am not specifically aware of any concern in Interior related to using categorical exclusions that are currently in place. In terms of identifying additional categorical exclusions moving forward, you know, I think, from my perspective, it really, you know, is sort of a case-by-case assessment of what the focus is there. What is clearly important in Interior is, you know, address-

ing Endangered Species Act values, cultural resource values, Preservation Act values. Those are extremely important in Interior and ensuring that we have a balanced approach moving forward, you know, say looking at new additional categorical exclusions, is going to be something that's very important to the Department.

Senator LEE. Yes. Is the Department supportive of the categorical exclusion promulgated on December 10th of last year, the end of 2020, under the Trump Administration? That is the one that allows, in some cases, for up to 5,000 acres of dead or dying trees to be salvaged.

Mr. RUPERT. So the last thing I want to do is muddy the water on any specifics and, sir, I have not specifically spoken with anyone or been briefed on that specific categorical exclusion and the Department's position on it today. So we would have to get back to you.

Senator LEE. Yes, I would love it if you could look into that.

Mr. RUPERT. Yes, you bet.

Senator LEE. And if you could support it, I think it is a common-sense approach and it is one that you ought to embrace. I do not see a downside to that one. I would also love to see the Department take a stronger position—stronger stance, generally—on the use of categorical exclusions, but there is a part of me that wonders whether that is really possible as long as frivolous litigation can so easily be brought, you know, to enjoin critical public work—critical work on public lands—and I put up my own proposal that would require those litigating these actions to have personally suffered some type of direct tangible harm that they have either suffered that or will suffer it. Does the Department have any ideas on how to address that issue?

Mr. RUPERT. Not—I would say again, in general terms, on any specific issue, if there's an opportunity for us to move forward to address issues, to work collaboratively, whether it's with Committee stakeholders on the ground, clearly the Department, if fully committed to working—looking at innovative solutions and collaborative solutions moving forward, for sure.

Senator LEE. Okay, thank you.

Mr. RUPERT. Thank you, sir.

The CHAIRMAN. We are going to take a break right now. We both have to go vote again. We will be right back. If you take about 10 minutes, Okay? If you need to take a break, please do so. Thank you.

[RECESS.]

Senator BARRASSO [presiding]. Let us resume the hearing. I apologized previously for the fact that we have a number of votes going on so people are going to be coming and going, but I think Senator Daines, you are next.

Senator DAINES. Chairman Barrasso, thank you.

I would like to start with a few yes or no questions to set the record straight to make it clear on my legislation that reverses the 9th Circuit Cottonwood decision. Mr. French, if my bill were to become law, would the Forest Service still reconsult on plans when appropriate?

Mr. FRENCH. We will reconsult on plans, yes.

Senator DAINES. Does my bill have any impact on your obligation to reconsult on projects?

Mr. FRENCH. No.

Senator DAINES. Given the 10th Circuit ruling and the Supreme Court ruling, isn't it true that my legislation would not have any impact outside of the states that are within the 9th Circuit?

Mr. FRENCH. So there are two rulings of the Supreme Court that essentially made the definition that a forest plan is considered a completed action, and there is the split between the 9th and the 10th. I would have to consult with my attorneys. I am not an attorney. My guess is yes, but I would have to consult with our attorneys.

Senator DAINES. Okay, thank you.

Our analysis is that it would not have any impact outside of the 9th circuit states but we would like you to confirm that for consultation with your legal counsel.

Mr. FRENCH. Okay.

Senator DAINES. Mr. French, is it only outdated forest plans that are impacted by the Cottonwood decision?

Mr. FRENCH. No. When new information comes forward, no matter the date of the plan, that also would be triggered for reconsultation under Cottonwood, and new information is not well defined.

Senator DAINES. And that is, hence, the problem we have right now with litigation tying up so many of these timber projects.

Mr. French, in reality, do forest plans typically need to be amended or revised as a result of the Cottonwood-related lawsuits after all the extra paperwork is done?

Mr. FRENCH. Of the examples I have, not typically.

Senator DAINES. The Obama Administration said that the Cottonwood case would cripple forest management. Has that been the case?

Mr. FRENCH. Not yet. The 2018 appropriations bill essentially created this window—safe harbor—for five years to sort through and deal with some of this. However, you know, beginning in 2023, you know, I just got briefed on this about a month ago as we are planning and preparing for that, we have probably got around 100 plans that would have to go through reconsultation based on the various triggers. That will take us years and millions of dollars.

Senator DAINES. Isn't it true that the BLM is bound by the 2004 Supreme Court decision on SUWA that ruled that a BLM plan is a completed federal action?

Mr. FRENCH. I believe so.

Senator DAINES. Mr. Rupert, wouldn't it be the case that there will be no impact on BLM as a result of my bill?

Mr. RUPERT. Thank you, sir. So my fear is I am going to frustrate you here and, you know, the Department fully recognizes there are issues to address moving forward around Cottonwood and I am not an attorney and I am also not as deeply steeped in BLM planning regulations. And so, you know, I am not certain. The Department will have to circle back with you, sir.

Senator DAINES. For Mr. French and Mr. Rupert, you both state in your testimony that you are working on a solution. Isn't it true that the language of the 2018 Omnibus significantly handcuffs both agencies from fully resolving this administratively?

Start with Mr. Rupert.

Mr. RUPERT. I am not certain, sir.

Senator DAINES. Mr. French.

Mr. FRENCH. I am aware of concerns of the language of how you address it administratively, and that is certainly something we can follow up with you on.

Senator DAINES. And haven't you had six years to fix this administratively?

Mr. FRENCH. Well, it's not—the administrative approach to this would be within the regulations that the Fish and Wildlife Service and NOAA promulgate.

Senator DAINES. It would be helpful to explain why you have concerns with the position taken verbatim in a Clinton and Obama Administration petition of certs. Mr. Rupert, please elaborate on why you would oppose the 2004 Supreme Court ruling which your Department is currently bound by.

Mr. RUPERT. Yes, sir. Again, sir, the Department is fully aware of issues, committed to working forward, and I don't have a good response for your question, sir.

Senator DAINES. I would remind you that four administrations have taken the same position on this issue, that two U.S. Forest Service Chiefs have, as well—that my proposed solution is the most targeted approach in that it just applies standard across the rest of the nation to the 9th Circuit.

In closing, Mr. French, I would like to switch gears and talk about my legislation to establish a pilot arbitration program. Can you discuss the litigation rate in Montana and how this has impacted agency actions?

Mr. FRENCH. Sure. So, you know, litigation across the agency—of course, it occurs everywhere. In Montana, in Region 1, and specifically around veg management, decisions that we make, we have the highest rate of litigation. About one in ten of all decisions, including CEs, are litigated in Region 10 and then, as you stated earlier, about 30 percent of our EAs, EISs. The results of that is that, as an agency, the number of people and the cost to deliver on a treatment per acre is higher than other places that don't have that. It often results in long-term—it takes longer to actually do projects on the ground and sometimes if things are canceled it can have local economic impacts. I know on one project that was on the Flathead, the case study we did on that which was about 1,800 acres, we canceled that after litigation impacted about 130 jobs.

Senator DAINES. Mr. French, We introduced the Stem Act, which allows an eligible entity to take the lead on project design, the development of implementation, so forth. Mr. French, will you commit to working with me to get this bill across the finish line—the Root and Stem act?

Mr. FRENCH. I am committed to read it and work with your staff, sure.

Senator DAINES. Okay, thank you.

Senator BARRASSO. Senator Wyden.

Senator WYDEN. Thank you very much, Senator Barrasso. I want to thank the Chair of the Committee, Chairman Manchin and you, Senator Barrasso and also the Chairman's staff for being very sympathetic to my coming in and coming out as we are juggling all the

obligations. Senator Barrasso knows I am trying to deal with the Finance Committee issues and reconciliation. So I thank them both.

Let me start with the National Prescribed Fire Act of 2021. This is S. 1734. This is my bill that would make fire risk reduction a top priority at the Forest Service and the Department of the Interior. On this bill, we have not just Chairman Manchin, but Senator Cantwell, who is recognized as one of the real experts on forestry—and our Ranking Member as well—before she went on to Chair the Commerce Committee. I think as all of our terrific witnesses understand, these are not your grandfather's fires. They are bigger. They are hotter. They are more powerful. A fire like the Bootleg Fire in rural Oregon can actually change the weather, and we are going to have to take some fresh approaches. To just put it in basic, simple English, what the Prescribed Fire Act does is essentially give us the chance to go in and do some of the heavy lifting in the cooler weather when you can carefully control fire, and in the process, avoid these infernos that we would otherwise have when it is hot and dry in the summer, and in our part of the world, somebody drops a match or something, you have a lightning strike, all of a sudden, you have an inferno on your hands.

And the reason I feel so strongly about the prescribed fire legislation and very much appreciate Chairman Manchin working with me as we endeavor to put this bill together is, I have seen the results on the ground. Folks in Central Oregon—Sisters, specifically—some of your colleagues in the agencies feel that a prescribed fire saved the Town of Sisters—period, full stop. Experts in the field say that a prescribed fire saved the Town of Sisters, a wonderful, modest-sized community in rural Oregon.

Now, my question is going to be for you, Mr. Bertone. We wrote the legislation, and this is why I appreciated Chairman Manchin being involved because Chairman Manchin, like myself, always tries to give the states more flexibility. And so, we tried with respect to the Clean Air Act to give states more flexibility for extending their burn days, to increase the number of large-scale controlled burns that could happen during the winter months, and taking this approach that we are not going to say Washington, DC has all the answers for communities, you know, thousands of miles away, for example, in rural Oregon. So I would like you, Mr. Bertone-Riggs, to give me your assessment of how the National Prescribed Fire Act addresses the Clean Air Act issue, which we sought to make sure would give the agencies more flexibility, use existing Clean Air Act authorities to help increase the pace and scale of controlled burns, and I think the specific question I would frame this way—in your view, how does the type of flexibility that Chairman Manchin, Senator Cantwell, and I are trying to promote, how does this type of flexibility ensure better forest management while at the same time ensuring the fundamental integrity of a bedrock environmental law like the Clean Air Act?

Mr. BERTONE-RIGGS. Thank you for the question, Senator.

Just as there's no future without fire, there's no future without smoke, but it's important to note that prescribed fire doesn't put out the same kind of smoke that a major wildfire does, and it provides much more advanced notice so that communities and smoke-

sensitive individuals can take precautionary measures. So I think your bill—it doesn't give a free pass to smoke emissions, but it does recognize the urgency of the issue and the need to begin to ramp this up. The pilot projects that would be somewhat exempt from the Clean Air Act—those are still required to have best practices—smoke management practices—and that's a huge and important part of that. And then the bill also funds research that would continue to improve smoke modeling over time. So again, best practices would change and ideally improve so that we could keep smoke to a minimum.

Senator WYDEN. Well, I thank you for the comments. I know my time is expired.

We worked very closely with the U.S. Forest Service—Chairman Manchin, myself, Senator Cantwell, Senator Feinstein, also, a very influential co-sponsor of our bill. We will continue to keep the doors open to work with the Service. Our legislation is seeking to use a proven tool—controlled burns—to improve forest health and wild-fire resiliency. And if I have said anything that sticks with our witnesses, we can give you examples of how prescribed fires actually save communities in our part of the country, with Sisters being one that folks will just basically volunteer it. When you ask about prescribed fire in rural Oregon, people will mention Sisters. So I appreciate the leadership of Chairman Manchin. We talk about a lot of subjects these days, and I will look forward to visiting with you about this one too.

The CHAIRMAN [presiding]. Thank you, Senator.

Senator WYDEN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Marshall.

Senator MARSHALL. Thank you, Chairman, and welcome again to our guests. My first question is going to be for Chief French.

We are proud to co-sponsor Senate bill 2836, America's Revegetation and Carbon Sequestration Act, and I hope you have had a peek at that. What I am interested in is just your concept of what we might do to help as we try to streamline voluntary carbon credits to be used by the Forest Service. How do you see that working? What are some of the positive things? Any concerns about it?

Mr. FRENCH. Thank you, Senator. I think there is a lot of opportunity for us to look at carbon management across all our nation's forests, and we have been looking hard at it within the national forests. I think that there is some pretty innovative thinking in your proposal. I know that we have some concerns in terms of how to implement. Well, let's sit down and talk through that. We are working with a number of partners right now to look at how you either create carbon claims or carbon credits or other approaches for management across forests in general. So that is something we would love to sit down and talk some more about.

Senator MARSHALL. I hope you also take the time to visit with agriculture. I think there are lots of opportunities for agriculture producers to get those same types of carbon credits and I am just concerned we will be doing it 20 different ways, 20 different methods. How do we measure the carbon? How do we value it? All those types of things that I would add that basically we are paying for that—for the service of using carbon as opposed to a commodity. I think we are paying someone to store the carbon as opposed to

the carbon is not a commodity. So please keep working with agriculture.

A quick question for everybody in the audience or on the panel here. Chief French, is there a labor shortage issue in the Forest Service?

Mr. FRENCH. There are two issues that we have right now. We are—and specifically in wildfire—we are losing a number of our skilled wildfire specialists to other agencies—states—and I would say, as a whole, we do not have enough resources or capacity to address the needs in front of us right now.

Senator MARSHALL. Okay. I will probably need a yes or no from the rest of you.

Mr. Rupert, do you have a labor shortage issue in your world?

Mr. RUPERT. In wildland fire, yes.

Senator MARSHALL. Okay.

Mr. Crapser, do you have a labor shortage challenge?

Mr. CRAPSER. Yes, both on the forestry side and the fire side.

Senator MARSHALL. Okay.

Mr. Johansen, do you have a labor challenge at the West Virginia DNR?

Mr. JOHANSEN. We do, sir.

Senator MARSHALL. Okay.

And Mr. Bertone-Riggs, do you have a labor problem?

Mr. BERTONE-RIGGS. I would say yes, generally.

Senator MARSHALL. Okay.

Does anybody have any guess on how many of your employees are not vaccinated yet? Does anybody want to range a guess?

Seeing none, I will say it will be 20 to 30 percent. And my question for each of you is, will the vaccine mandate make your labor shortage problem even worse?

Mr. Bertone-Riggs.

Mr. BERTONE-RIGGS. I couldn't speak for some of the organizations within our group.

Senator MARSHALL. In rural America, do you think it would impact rural America?

Mr. BERTONE-RIGGS. Certainly, you will probably have some folks that feel hesitant about that.

Senator MARSHALL. Okay.

Mr. Johansen, will the vaccine mandate impact West Virginia DNR?

Mr. JOHANSEN. Sir, I am not sure about that answer. I could not fathom to guess.

Senator MARSHALL. Okay.

Mr. Crapser.

Mr. CRAPSER. As a state, we don't have a vaccine mandate, but I believe the federal mandate will impact our federal partners, which will impact our ability to respond to wildfire.

Senator MARSHALL. Mr. Rupert.

Mr. RUPERT. I don't know, sir.

Senator MARSHALL. Okay.

Chief French.

Mr. FRENCH. We don't know yet, we are currently assessing those numbers.

Senator MARSHALL. Okay. Thank you so much, Chairman. I yield back.

The CHAIRMAN. Thank you.

Senator Cantwell.

Senator CANTWELL. Thank you. Thank you, Mr. Chairman. Thank you for this important hearing, and I appreciate my colleagues bringing this issue up, which we have tried to advocate for, which is changing the time of year when we can do these burns. I think originally people thought, "Oh well, let's limit it to August or limit it to these particular times of the year." I think we learned five or six years ago that we could not do prescribed burns very well during that time because they were so explosive. Things just got out of hand. So I am supportive of changing and making clear that we have a little more flexibility there.

Originally, I think we told the public we are trying to not have smoke in March. Well, I think people would trade the smoke in March for the voluminous amount of smoke that we are seeing in August and September and even October in some parts of the country. So we have to get that done.

I wanted to ask you, Deputy Chief, if we could talk about what we have been able to get done with the tools that we have given you, as far as technology, forecasting, and obviously, fuel reduction. What, for this fire year, do you think we were able to accomplish that had a measurable impact, given the decision we made on the last big fire bill?

Mr. FRENCH. Okay, thank you for the question, Senator. I think significant impact. So on the prescribed fire side of things, you know, leveraging much of the technology that we have right now, we are able to much better predict when and how to do those fires in the ways that have less impacts to communities and people. I know on our suppression side of things, we are putting teams specifically with each incident management team that are specifically using satellite technology and other technology that we have right now to predict and understand the effects of smoke and where it is going to go, and it has been a game changer for us this year.

We are better informing the community. It is better informing tactics that we have and how we do things. So it has been significant.

Senator CANTWELL. How has it been a game changer?

Mr. FRENCH. I think it provides real-time information and predictive services at the time we are making decisions, and it allows you to adjust, and I think that has been super helpful.

Senator CANTWELL. Adjust where you are putting resources?

Mr. FRENCH. Individual tactics, but also upfront, where you are going to target communities to talk about the impacts or how you might need to mitigate some of those impacts. It has been functions like that.

Senator CANTWELL. Well, we certainly want to continue to enhance. Part of our reconciliation efforts are to create even more accurate weather forecasting information because we know that that is critical to developing maps of areas of the biggest potential threats, which then means you can cache resources there and be better prepared, obviously. But we definitely want NOAA and weather forecasting to have more supercomputing power so they

can analyze storms more correctly and these conditions more correctly. Well, I would just say on smoke, you know, I mean, I know everybody across the nation is concerned about it. There was a story in the Washington Post about it. People were getting the smoke here. In the West, I know my colleague from Nevada can tell you, we have already had it. We want even an international effort with, in our case, British Columbia and other parts, you know, of—we want these same practices to be done on a large basis because one, there is no border that stops the smoke from coming over and those practices can—just as we are seeing, it impacts the whole nation—we see an impact. And so we would like to see communication between us and Canada on what we can do together effectively.

Also, the issue of a diversified workforce: (1) we need a workforce. (2) we need it to be more diversified. There are stories about people not having the right PPE equipment and questions about the culture within the Forest Service. Can you give us an update on what you feel that you have been able to achieve in that area?

Mr. FRENCH. It is an absolute focus of ours in both areas and it has been for years. The leadership of the agency has very specifically focused on how to change the workplace culture and environment to one that is inclusive, supportive, that allows folks that are experiencing either harassment or adverse—to be able to come forward, and they are supported, and we are seeing real differences with that. It is not universal. There is a lot more where we need to go, but it was an absolute focus of our leadership under Chief Christiansen and continues to be under Chief Moore.

The focus on diversifying our workforce, and especially in the fire workforce, to increase our gender diversity continues to be an emphasis. We have a lot more work to do though, but you know, we are only going to be better as an agency if we have an environment that attracts folks and people want to stay.

Senator CANTWELL. Yes, well, I definitely think making sure they have the right equipment is very important too.

Thank you, Mr. Chairman.

I am going to follow up with you, Chief, thank you so much.

The CHAIRMAN. Thank you, Senator.

Senator Risch.

Senator RISCH. Thank you, Mr. Chairman.

Mr. French, back to the conversation you had with the Chairman regarding the budget. Was the number \$540 million, was that the number you talked about?

Mr. FRENCH. So he specifically—the Chairman—was referring to one budget line item, I believe, that we received that is our land management planning and monitoring line item. That funding is used to pay for NEPA, resources across the agency for delivering projects, for monitoring after projects and land management planning monitoring, and for revising and amending land management plans.

Senator RISCH. One of the reasons I ask that question is to put this in proper perspective. We really need to have a good, clear understanding of what role, financially and otherwise, that litigation plays in this. Have you got any idea what percent of that winds

up being used in the litigation process? What percentage of that number?

Mr. FRENCH. I think that the easiest way, I mean, there are a number of factors that you could look at that look at that. The easiest way to look at it is probably the cost per acre it takes us to deliver work in places where we have a lot of litigation versus where we don't—the cost per acre to deliver projects and the length of time that it takes for us to conceptualize and do a project versus when we implement it. Generally, in regions where we have higher litigation, that is generally Regions 1, 5 and 6, so that is California, Oregon, Washington, Idaho, and Montana, it takes us longer to produce projects. They tend to cost more and they—it takes longer from inception to placement and costs us more per acre, in general. And there are a lot of factors that drive that. One of them is the work that we have to do to ensure that we are defending ourselves from litigation.

Senator RISCH. I appreciate that. I think people are stunned when they hear that it takes all those years to crank out a plan for a forest, but I get that, and I think most people do, and a lot of it goes to defensive things that you do so that you would be able to defend it in court.

It can be done quicker than that. When I was Governor, we wrote a roadless rule for the nine million acres in Idaho that were roadless and we wrote that in less than six months, defended it in front of an environmental judge in Boise, and believe it or not, it was affirmed in the 9th Circuit. And as you know, we have one of the only two roadless rules in the country that are on the books. But we did all of that in relatively short order. The litigation is what took the longest. I was no longer Governor by the time we finished up the litigation, but I get that. I understand these things take time and as I think probably you know, we have tried around here to do something about the NEPA process and to try to streamline it and do things better, but so far, we have been unsuccessful on that. And until that happens, we are going to continue to get these kinds of delays, it would seem to me.

Well, first of all, Mr. Chairman, thank you to you and Senator Barrasso for holding this hearing. You know, I have been coming to these hearings as long as I have been on this Committee and the fires get worse instead of better. You know, the rubber meets the road in this Committee and we are the overseers of the public lands and it is important that we continue to make the efforts that are necessary. We continue to try to do a "one size fits all" in a lot of areas and we all know that when it comes to fire on public lands, it is very different in different—even within states—for instance, Northern California versus Southern California. Forest thinning and that sort of thing may be very helpful in Northern California. When the brush is burning in Southern California, they do not do much thinning in the brush down there. And that is understandable.

But in any event, we need to keep this up. It is stunning that we had 6.5 million acres of land burned—6.5 million acres of land burned across the U.S. this year. In Region 1 alone, there were 35,000 acres. Well, that is actually the litigation number that is tied up in litigation, but all of these things contribute to the forest

health projects that can be helpful to helping this end. I introduced the FIRESHEDS Act with Ranking Member Barrasso and Senators Daines and Crapo to address the fireshed landscapes that are at extremely high risk of catastrophic fire. The bill will allow states to work with federal agencies across boundaries to conduct management projects on these landscapes to protect communities, wildlife, and water quality. Thank you for putting that on the hearing today. These projects would cut through red tape while requiring a collaborative process ensuring proactive and responsible management. Our forest health issues are dire and I look forward to working with my colleagues on it.

This is an important issue. The smoke that Senator Cantwell referred to—we in Idaho get everybody's smoke. If Washington is on fire, we get it from them. If Oregon's on fire, we get it from them. If California or Nevada is on fire, we get it from them. So we are interested in this and we are on the front line of that fire that really is not—or smoke that is not really our smoke. So we are interested in seeing that things are done right there, too. My time is up. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cortez Masto.

Senator CORTEZ MASTO. Thank you. Mr. Chairman. First of all, let me say thank you to you and Ranking Member Barrasso for holding this important hearing today, and I really appreciate you including my bill, S. 2404, the Western Wildfire Support Act, on the agenda. We have heard it over and over again, and I know Mr. French and Mr. Rupert know this. We are continuing to see devastating fires in the West. It is no longer fire seasons. They are happening all the time, and no one is immune from these fires, including Mr. Chairman, who tried to come out to Nevada when a wildfire was happening and had to be turned back because of the air quality and how bad it was. But we need a meaningful, holistic look at how we combat the growing and longer wildfire seasons. That is why I introduced this bill.

Specifically, my bill would direct the Interior Department and the Forest Service to create wildfire plans for federal lands to include pre-fire planning, wildfire response management, and post-fire recovery. It also provides funding to help communities, homeowners, and businesses prepare for wildfires by increasing their defensible space and implement community cleanup efforts. It expedites the placement of wildfire detection equipment, including cameras and sensors and creates a grant program to help local agencies acquire firefighting equipment, including slip-on tank units and air tankers and it also provides funding to help communities impacted by wildfires conduct long-term rehabilitation projects, and creates a program to reduce the spread of invasive species.

So I hope my colleagues will take a look at this bill and join me.

Mr. Rupert and Mr. French, you well know, I do not even have to tell you about the Dixie, Tamarack, and Caldor Fires. You are very familiar with what is happening in the western states with these wildfires back home and we do need a holistic approach for prevention, for suppression, and for recovery. So my question to both of you is, I am hoping you can comment on what more Con-

gress can be doing to invest in—let's just talk about post-fire rehabilitation, if you would, please? Mr. French, we will start with you.

Mr. FRENCH. Thank you, Senator.

You know, the scale that we are seeing is nothing I have seen before, I mean, the post-fire effects. I am used to seeing fires that burn in mosaics. My recent tour of some of the fires in California is just, it's just mile and mile of just moonscape. The post-fire recovery work that we have is tremendous and so, to answer your question directly—one, you know—recognize it is a growing issue, that there is as much of an effect to these landscapes and communities post-fire as there is in preventing fire. Our ability to create more flexible approaches for emergency recovery and long-term recovery that allows us to work collaboratively with states and communities—that is really critical right now. And then the final thing is probably just funding, you know, because, you know, we're losing bridges, we're losing cover, we're watching public watersheds that are drying up, providing water to communities. It's a critical need.

Senator CORTEZ MASTO. Thank you.

Mr. Rupert.

Mr. RUPERT. Thank you.

Just to build on Deputy French's response, I think, scale and scope. Scale is incredibly important. Landscape scale, watershed scale, it necessitates cross-jurisdictional, multi-jurisdictional collaboration, leveraging, coordination. I feel like in the wildland fire community, you know, we have a very solid foundation built for how we integrate and provide an interagency leveraged response. Increasingly, I feel like in the pre-fire—fire risk reduction engagement—we have an increasing sort of framework in integration and collaboration and leveraging. I think, as Chris points out, we need to bring more focus to post-fire.

I think we can also think of post-fire as, you know, really the first step to pre-fire, right? We can start to prepare ourselves for the next big fire to come through. I know another aspect of post-fire, certainly in Interior that we're focused on and trying to bring attention to through a science lens is improving our ability to forecast the post-fire impacts—you know, flooding, flash flooding, erosion—to again prepare ourselves to provide that more effective post-fire response.

Senator CORTEZ MASTO. Thank you.

I know my time is up and I really appreciate this hearing. One thing I want to put on your radar, and this is what I heard from our firefighters in the state. Maria Cantwell talked a little bit about the air quality piece of it. The equipment that is necessary for our firefighters to keep and breathe safely while they are putting out these fires does not exist with respect to the air quality. They are burning hotter, and we do not know what the particulate is—how damaging it can be, and my understanding is from our firefighters, the equipment is just not there. Are you seeing the same thing or having concerns about the same thing?

Mr. RUPERT. Yes, absolutely. The concern exists for sure, and there needs to be attention to that issue for sure.

Senator CORTEZ MASTO. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Hoeven.

Senator HOEVEN. Thank you, Mr. Chairman.

Deputy Chief French, one of the bills before us is S. 1734, the National Prescribed Fire Act of 2021, and it relates to expanding controlled burns. In my state, we have the national grasslands, and obviously use the controlled burns. Tell me, do you feel it is important to engage local stakeholders well in advance of any prescribed burns in the Dakota Prairie Grasslands? And tell me, if you do think it is important, how you are making sure that you do it adequately?

Mr. FRENCH. In general, any prescribed fire that we are using—there should be a lot of close coordination and collaboration locally and we should be communicating that. I don't know the specifics happening on the grasslands, but I can certainly follow up.

Senator HOEVEN. Okay. Would you commit to do that and make sure that there is strong coordination with the ranchers out there?

Mr. FRENCH. Absolutely.

Senator HOEVEN. Also, in the Great American Outdoors Act, it included funding for deferred maintenance on federal lands, including in the national grasslands. And so, in North Dakota in our Dakota Grasslands there, it is about \$15 million per year for deferred maintenance. That involves a lot of things because you have multi-use out there. You have the ranchers. You have the energy industry. You have tourism. You know, wildlife, hunting, all that kind of stuff. So how do you—one of the things that we try to do is make sure that that deferred maintenance is used in a way that helps everybody. And I have set up a task force, if you will, with the grazing associations, our State Department of Agriculture, my office, and with the representatives out there of the Forest Service to make sure that that money is coordinated and, in fact, the State of North Dakota is providing funding as well to leverage those dollars.

Number one, how does that sound to you in terms of a way to coordinate and work with people on the ground? And are you willing to commit to help work with that group to use that deferred maintenance money as well as we possibly can?

Mr. FRENCH. Yes, I mean, we specifically have asked our four supervisors across the country to be engaging with their counties and with local communities about where the right projects are and how to leverage funds to get there. So that makes a lot of sense to me.

Senator HOEVEN. And we are coordinating with the counties as well, if I didn't mention the counties, as well. And again, trying to leverage state dollars and local funding, pair it up with the deferred maintenance in the Great American Outdoors Act, and use those dollars really well in a way that helps everybody. But it needs a commitment from your level to empower, you know, those folks down at the state level in your agency to work with our folks.

Mr. FRENCH. So I will re-emphasize, because we have already given guidance like that, Senator. So I will re-emphasize that that is how we are asking folks to look at that and I will follow up specifically on your issue.

Senator HOEVEN. I would appreciate that very much.

And then, regarding the grazing associations, they have concerns about some of your proposed changes in some of your rangeland directives. And so, would you commit to ensure that you give serious

consideration to the comments that those grazing associations provide to you and direct your staff to work with those grazing associations collaboratively?

Mr. FRENCH. Yes, absolutely, and I know I have a standing invitation from you to go out and meet with some of those associations, and I am looking forward to when our travel restrictions of COVID change a little bit and we can get out and start doing those things.

Senator HOEVEN. That would—it has been very helpful. Any time I have gotten representatives out and, you know, we get the various groups together, they get a chance to ask you questions. You get a chance to tell them what you are doing and why.

Mr. FRENCH. Yup.

Senator HOEVEN. It really is—it is helpful. I think it is certainly helpful to our folks. I think you will find it very helpful and worthwhile.

Mr. FRENCH. I will, and I look forward to when we can do that.

Senator HOEVEN. I Appreciate it.

Director Rupert, what tools or partnerships does BLM utilize to manage prescribed burns and so forth out on BLM lands to make sure that you are working with the locals as well?

Mr. RUPERT. Specifically toward prescribed fire, and I think it is important to note—and this is definitely a consideration for BLM—not every single acre of land that is being administered by a land management agency, perhaps, should be receiving prescribed fire. There are lots of examples of that, particularly through the Great Basin. And so, BLM isn't always perhaps focused exclusively on prescribed fire. In those places, though, where we do have that focus and they do have that focus, certainly our federal partners, I am not sure that there are many examples where anyone in Interior, or any of the Bureaus, including BLM, conducts a prescribed fire that we don't have federal partners on, or depending on what part of the country—tribal partners, local partners, NGO's, state partners. It is a collaborative approach in almost every case.

Senator HOEVEN. And the same point I want to make as well with you on BLM lands, as I did in regard to our national grasslands, would you commit to directing your folks at the local and regional level to work as collaboratively as possible with our folks that live and work out in those areas? We have had some of your local and regional people that have been just fantastic, and then others not as good at working with our folks on the ground.

Mr. RUPERT. Yes, I appreciate the point. I'll echo Deputy French's point that, you know, I think we have that emphasis in place in Interior already, but absolutely, it's easy to say, "Yes, we will." I will re-emphasize that and I think that goes for leadership across Interior.

Senator HOEVEN. Thank you. I Appreciate it. Yes, thanks to both of you gentlemen.

The CHAIRMAN. Senator Kelly.

Senator KELLY. Thank you, Mr. Chairman. Good morning, everybody.

Mr. French, I know this hearing is about pending legislation, but we have a pressing matter in Arizona involving the Four Forest Restoration Initiative, or 4FRI. 4FRI is the Forest Service's first large-scale forest stewardship project in the nation, and it is vital

to reducing the severity of wildfires in our state, and its success or failure has ramifications for forest management policy across the West. 4FRI would mechanically thin more than 500,000 acres to return our forests to their natural, fire-adapted state. Now, last month, the Forest Service canceled a long-awaited contract solicitation to mechanically thin 30,000 acres per year over a 20-year term, and this cancellation is devastating to Arizona's forest communities that spent years—they spent years helping the Forest Service build the stakeholder support for the contract.

We have been waiting on the Forest Service to ramp up 4FRI for a decade now. Secretary Vilsack, when he served under President Obama, traveled to Arizona and participated in the launch of 4FRI. That was in 2011. In June, testifying before this Committee, Forest Service Chief Vicki Christiansen assured me that an award would be issued in July. She said that in June. This is not the first time that Arizona has had the rug pulled out from us. Senator McCally, Senator Kyl, Senator Flake, and the late Senator John McCain, each of them were promised by one chief after another that 4FRI was a priority.

Mr. French, I know that the Forest Service is discussing next steps with Arizona stakeholders, but we will be holding your agency accountable every step of the way. And Mr. French, my question to you is, you know, one idea being floated is the issuance of a brand-new RFP. I am not convinced that that is realistic. Is the Forest Service confident that industry will come back to the table once again?

Mr. FRENCH. Thank you, Senator.

I share your concerns, and you should hold us accountable. You know, I grew up in Arizona. My family lives in Arizona. I understand the importance of this project to Arizonans. I also understand the importance of us getting it right. I am—myself and the Chief are personally engaged with leadership as we go forward in the region and what they are doing right now to come up with a solution that will make this successful. We are working really closely with our partners, the Governor's office, and we are being transparent about that with our Congressional staffs. I am confident from what I see right now that we are going to have a solution that is better than what was in the RFP in a way that will better serve industry that is already there and attract industry in places where it has been lost. We are looking to be able to announce some of that in November, and I will leave it there.

Senator KELLY. Are you hearing anything positive from industry about coming back to the table?

Mr. FRENCH. Am I hearing personally? I can't say that I am, Senator, but I am hearing from the folks that are working on this locally that we are being more responsive to their needs.

Senator KELLY. So we have lost, as you know, we have lost years of lead time to thin these forests. What is the Forest Service doing now, right now, to strategically prioritize acres in the 4FRI footprint when we get this underway?

Mr. FRENCH. It is the highest priority for long-term funds that we have as part of our strategic approach to reducing wildland fire risk. And so, as we look at the potential appropriations that are coming from Congress, whether through our regular appropriations

or the potential of the bipartisan infrastructure deal or the reconciliation bill, we look at those potential funds that are coming through those as a first priority to drive toward 4FRI.

Senator KELLY. Okay, so it sounds like you are tracking the infrastructure bill——

Mr. FRENCH. We are.

Senator KELLY [continuing]. Which I think is a very positive thing.

And finally, Mr. French, Senator Sinema and I would like Chief Moore to travel to Arizona and meet with some of the 4FRI stakeholders. Can you look into that for us?

Mr. FRENCH. Yes.

Senator KELLY. Thank you.

Mr. FRENCH. You're welcome.

The CHAIRMAN. I want to thank all of you for appearing today. We will have until 6:00 tonight for any questions to be submitted for the record.

Does anybody have anything else they would like to say before we close out? If not, thank you. I appreciate it very much. Let's protect this great country of ours and all the great outdoors that we have.

The meeting is adjourned.

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
October 21, 2021 Hearing: *Pending Legislation*
Questions for the Record Submitted to Mr. Christopher French

Questions from Senator James E. Risch

Question 1: In your testimony, you expressed concern for larger scale categorical exclusions contained in S. 2436. We've heard this refrain time and again. Meanwhile, our forest health continues to rapidly decline and our public lands burn while forest health projects sit in bureaucratic and litigious limbo. It's clear we need a paradigm shift.

- a. If not a categorical exclusion, what does your agency propose to dramatically shorten timelines?

Response: The Forest Service will use existing categorical exclusions to achieve many of the goals in the bill. The agency will also use the provisions in section 104 of the Healthy Forest Restoration Act to assist in developing focused environmental assessments and environmental impact statements. Funding provided through the Infrastructure Investment and Jobs Act, and potentially through the Reconciliation process will also significantly increase the agency's ability to reduce hazardous fuels.

- b. What timeline impact would you expect that to have on the pace and scale of treatments of these high priority areas?

Response: The Forest Service is committed to using all tools to address this important issue. In addition, we recently released the Wildfire Crisis Strategy, a new management paradigm to address hazardous fuel reductions at a scale necessary to achieve needed outcomes in an efficient and strategic way.

Question 2: In your testimony, you expressed that 90 days may be too aggressive a timeline for the agency to fulfill in reference to S. 2436. How many days would you expect the agency to need to comply with the legislation, and why is that timeframe needed?

Response: The 90-day requirement under Sec. 607(b)(1)(A) of the bill would need to consider the current status of treatments in that fireshed, the availability of resources to start planning and implementing projects, the availability of markets to process small diameter forest products or biomass, and the status of community engagement and support to begin engaging on the projects. Agreement negotiations for small-scale projects typically take 60 to 90 days from negotiation to execution. More complex projects, like those envisioned in the Act, generally take longer to develop agreements, particularly if they require an obligation of appropriations. It is anticipated that it will take at least 120 days and likely 180 days or longer after the request is received by the Governor before entering into an agreement.

The 90-day requirement under Sec. 607(c)(1) of the bill would require gathering all the data that is needed to run the risk models and evaluate treatment location at a fireshed scale, including critical infrastructure, wildlife habitat, watershed protection, water yield, community risk data, biophysical, and weather data. In addition to modeling, the agency will need to hold a series of meetings with state and cross boundary partners. These meetings will focus on developing potential fireshed management projects based on modeling results, feasibility of projects, local considerations, ongoing projects, and identification of projects with the greatest likelihood of

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success. This iterative process is critical for the success of these projects and will take time. For these reasons, the agency anticipates it will take at least 180 days to a year to complete an assessment.

Question 3: In your testimony, you expressed concern that section 2(b) of S. 2436 is too restrictive for designating priority firehedges. How would you suggest changing the criteria to best be able to designate priority firehedge management areas?

Response: Firehedge ranking models represent the best available science to date to inform decisions at a national level. However, they focus only on wildfire risk from agency lands. Developing agreements to meet States' needs will require some flexibility on what firehedge criteria might be most important based on an all-lands risk reduction approach, which includes national and local information. Local priorities may have tradeoffs that lessen the effectiveness of reducing risk to communities because of changes to the treatment prescriptions, locations, or scale that might be important locally.

Question 4: Western states like Idaho have continually struggled through federal bureaucratic backlog in order to properly address wildfire risk. The FIREHEDS Act places a strict deadline on federal agencies to prevent the continuation of this issue. What resources would your agency need to complete necessary firehedge processes within the 90-day timeframe?

Response: As noted in the response to Question 2, it would currently be difficult to meet the 90-day timeframe outlined in the bill. In order to complete the processes identified in the FIREHEDS Act within the identified timeframe, the agency would need additional staffing resources and organizational capacity for stakeholder engagement, collaboration, planning, regulatory compliance, implementation, contracting, agreements, and monitoring.

Question 5: In recent Forest Service firehedge [research](#), scientists argued that status quo "mitigation plans are thus decoupled from landscape efforts to manage fuels and ignitions on the larger landscape of public and private wildlands, creating a scale mismatch." What are the current barriers to landscape scale, cross-boundary forest management efforts and how would S. 2436 help address these barriers?

Response: There can be a range of functional and social constraints that affect our ability to work collaboratively across boundaries at the landscape scale. One significant barrier is the lack of capacity in both the federal and non-federal organizations to treat and maintain the reduction of surface fuels at a landscape scale using prescribed fire; particularly in areas with narrow opportunities to burn due to federal, state, and local regulations around smoke. Another significant barrier is the high cost of mechanical removal of small diameter trees that act as ladder fuels during wildfires. Small-diameter trees have little to no commercial value and must typically be financed almost entirely with appropriated resources which can functionally constrain the scale of a project.

Additional social constraints include varying perceptions of wildfire risk and risk aversion within institutions and within legal liability frameworks. Additional functional constraints include availability of qualified staff and needed investment in collaboration and coordination with partners. The requirement in S.2436 to conduct a joint stewardship and firehedge assessment that identifies wildfire exposure risks within each of the firehedge

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management areas, at-risk communities and potential fire management projects to be carried out in the fire management areas, would be beneficial to overcoming some of the constraints identified.

Question 6: The Forest Service recently completed a fire management registry which delineates fire risk across 250,000 acre units. S. 2436 would target the top 10 percent of these fire management areas to triage our current forest health crisis and reduce the risk and severity of catastrophic wildfires. Based on current Forest Service data:

a. How many acres are at risk of wildfire in the top 10 percent of fire management areas?

Response: The top 10 percent of fire management areas in the contiguous United States represents 200 million acres of land in total (federal and non-federal). Of this area, around half (100 million acres) contained hazardous fuels as of 2014, when the fuels data were collected. Of the 100 million acres with hazardous fuels, around 25 to 50 million acres contribute significantly to community wildfire risk. To make a difference in reducing wildfire risk, research has shown we need to treat 20 to 40 percent (or 5 to 20 million acres) of the 25 to 50 million acres with strategically planned fuel treatments at a landscape scale.

b. How many communities have a wildfire exposure risk in the top 10 percent of fire management areas?

Response: 5,000 communities are exposed to wildfire risk within the top 10 percent of fire management areas. Community boundaries were derived from 2019 data from the Microsoft building footprints database. Communities represent both incorporated and unincorporated populated areas and include surrounding structures within a 45-minute drive time. In the Western United States, 95 percent of buildings occur within these community boundaries.

c. How many structures are at risk of damage or destruction in the top 10 percent of fire management areas?

Response: Potentially 1 million structures in total are threatened by wildfire within the top 10 percent of fire management areas. In an average year, around 25,000 structures across the top 10 percent of fire management areas are predicted to be exposed to wildfire. In extreme years, which are becoming more common, this number could be substantially higher (e.g., greater than 100,000 structures). Exposure indicates that fires will burn in close proximity to the buildings and does not predict loss of a structure.

Questions from Senator Steve Daines

Question 1: Mr. French, would S. 2561 have any impact on the Forest Service's obligation to consult or re-consult on forest projects?

Response: No, S. 2561 would not affect the Forest Service's obligation to consult on individual management activities when necessary.

Question 2: Mr. French, if S. 2561 were to become law, would the Forest Service still consult on completed Forest Plans when the data and science supported doing so?

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Response: The Forest Service would consult when amending or revising Forest Plans and would maintain the discretion to engage in plan-level consultations to provide for efficiency at the project scale for activities occurring on units with completed Forest Plans.

Question 3: Mr. French, does the Forest Service typically have to revise Forest Plans as a result of re-consultation triggered by *Cottonwood*-related lawsuits or challenges?

Response: To date, re-consultations triggered by *Cottonwood*-related challenges have not resulted in a determination that amendments to affected Land Management Plans are necessary.

Question 4: Mr. French, I've continued to hear that the *Cottonwood* case law would not pose a challenge to the agency if Forest Plans were routinely updated and revised. Do you believe that to be true?

Response: The *Cottonwood* ruling applies to Land Management Plans regardless of age. Only the 2018 Consolidated Appropriations Act makes the age of a Land Management Plan relevant to the question of when reinitiation of a plan-level consultation may be required. The Act eliminated any requirement to reinitiate plan-level consultations based on new species listings and critical habitat designations altogether until March 2023. After that date, the relief against reinitiation of plan-level consultations is limited to those cases where the Plan is less than 15 years old and no more than 5 years have passed since the new species listing or new critical habitat designation. In addition, within the Ninth Circuit a litigant can bring a challenge based on the availability of new information that reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered at any time regardless of the age of a Land Management Plan.

Question 5: Mr. French, during the hearing you mentioned the 2018 omnibus language that partially addressed challenges stemming from the *Cottonwood* decision. Please elaborate on the shortcomings of that language, particularly as it relates to the "new information" trigger for consultation and the 2023 sunset.

Response: The 2018 Consolidated Appropriations Act only provided temporary relief (through March 23, 2023) from consultation requirements for new species listings or new critical habitat designations. It did not speak to the new information trigger.

The Forest Service has analyzed various approaches to address the upcoming potential consultation workload after March 23, 2023. Our initial analysis estimates that the workload may take 5-10 years to accomplish and will require multiple millions of dollars per year. For example, for forests just in the Ninth Circuit, the initial required consultation would occur on 187 taxa across 36 national forests. This will divert resources from ongoing and future land management plan revisions, and from project-level consultations to implement needed national forest management activities such as hazardous fuels reduction, ecological restoration, and infrastructure projects. Further, plan-level consultations have the potential to delay decisions for on-the-ground activities until such plan-level consultations are completed.

Question 6: Mr. French, during the hearing you stated that after 2023 almost 100 plans will have to go through re-consultation which will take several years and millions of dollars to complete. Please elaborate on how Forest Service planning, resources, and restoration projects will be impacted.

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Response: Please see the response to Question 5.

Question 7: Mr. French, during the hearing you stated that forest management had not yet been crippled by the *Cottonwood* decision. Please provide the number of lawsuits and the number of NOIs filed since 2016 including the amount of projects impacted and the amount of resources spent to respond to litigation and re-consult.

Response: In response to the *Cottonwood* ruling, the Forest Service reconsulted on critical habitat for the Canada Lynx. Forest Service personnel spent an estimated 400 person days valued at approximately \$250,000 over 12 months to complete this reconsultation. Since January 2016, there have been at least 27 lawsuits, in twelve states, and 49 notices of intent (NOIs) to sue involving Endangered Species Act new information claims, challenging both plan-level and project-level decisions. Of the 49 NOIs received with new information claims, 26 are project specific, 11 challenge plan-level decisions, and 12 have both project specific and plan-level claims. Three plan-level actions were enjoined or vacated due to litigation associated with NOIs with new information claims. Two project specific actions were enjoined due to litigation associated with NOIs with new information claims.

Question 8: Mr. French, during the hearing you spoke about the split in the courts between the 9th Circuit and the 10th Circuit. You also mentioned the SCOTUS decision in 2004 which created a different standard for BLM Plans than Forest Plans. Please elaborate on why the 9th Circuit *Cottonwood* decision established a new standard for the Forest Service in these states.

Response: The *Petition for Certiorari* filed by the United States in 2016 identifies that the Ninth Circuit's *Cottonwood Environmental Law Center v. USFS*, 789 F.3d 1075 (9th Cir. 2015) ruling is in conflict with the Tenth Circuit's ruling in *Forest Guardians v. Forsgren*, 478 F.3d 1149 (10th Cir. 2007).

In 2004, the Supreme Court decided *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004) (*SUWA*) addressing the nature of Forest Service and BLM land management plans. The *Petition for Certiorari* identifies that the Supreme Court's holding in *SUWA* was relied upon by the *Forsgren* ruling in 2007 and that the Ninth Circuit's holdings in the *Pacific Rivers Council v. Thomas*, 30 F.3d 1050 (1994) (PRC) and *Cottonwood* cases are inconsistent with the *SUWA* ruling.

The *Petition* also identifies that Tenth Circuit's *Forsgren* decision expressly rejects the Ninth Circuit's approach in *Pacific Rivers Council v. Thomas*, 30 F.3d 1050 (1994) (PRC). Absent the relief provided in the 2018 Consolidated Appropriations Act, the *Forsgren* and *Cottonwood* decisions create a split in the circuits and established different standards for land management.

Question 9: Mr. French, during the hearing you spoke about this litigation rate against forest projects in Region One. How might an arbitration program expedite resolution of these challenges to allow projects to move forward?

Response: The Forest Service estimates that over the past 22 years, approximately 13.6 percent of the 446 vegetation management projects in Region 1 have been litigated. The proposed pilot arbitration effort would be

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limited to 2 projects per year over a 5-year period. USDA is open to future discussions regarding the proposal for an arbitration pilot program to explore the potential for expediting resolution of legal challenges.

Question 10: Mr. French, S. 2836 directs the Forest Service to collaborate with the National Forest Foundation to create a methodology whereby non-federal entities may claim carbon credits in voluntary carbon markets in exchange for funds to be used by the Forest Service to implement projects to increase carbon sequestration. If enacted, how will the Forest Service determine the baseline “business as usual” scenario in which to assess and value the carbon credit and what resources will be required to develop a formula that accounts for the carbon benefits of active forest management across hundreds of tree species and different geographies and climates?

Response: The Forest Service supports collaboration with a variety of non-Federal entities to develop methodology, process, and procedures for leveraging private investments in land management projects that generate carbon reduction and sequestration outcomes on National Forest System lands. Collaborating with a variety of non-federal partners ensures the agency is positioned to leverage external funding, capacity, and expertise at a scale commensurate with both the need and opportunity, and to implement projects across a range of geographies and land management activities.

For several decades, carbon markets and voluntary trading have relied on forest carbon benefits estimates. These have often used tools are based on the Forest Service Forest Inventory and Analysis (FIA) program data that includes nationwide surveys across private and public forests, as well as the Forest Vegetation Simulator (FVS), a suite of growth and yield simulators supported by the Forest Service. It is anticipated that a suite of methodologies and estimates will be needed to account for the carbon benefits of active forest management across hundreds of tree species, different geographies and climates, and ownerships, with FIA data and the FVS models as a foundation. It is highly unlikely that one formula alone could produce credible estimates.

Question 11: Mr. French, could delayed harvest projects qualify as carbon sequestration projects under S. 2836 and, if so, what impact could that have on timber demand and supply?

Response: Forest Service timber management activities produce a wide range of outcomes: production of durable wood products, creation of habitat, restoration of forest ecosystems, mitigation of wildfire risk, sequestration of carbon, and many others. Delays in timber management activities affect when those outcomes occur and increase the risk that those benefits could be lost due to fire, insect and disease outbreaks, and other disturbances. To reduce that risk, the Forest Service must substantially increase the pace and scale of forest management using all available tools, including timber harvesting. We expect that this will result in the increased availability of Forest Service wood products, benefiting rural economies, forest industry, and forest health.

Questions for the Record Submitted to Jeffery Rupert
U.S. Senate Committee on Energy and Natural Resources
Pending Legislation
October 21, 2021

Question from Chairman Joe Manchin III

Question: Mr. Rupert, I understand that the BLM and Forest Service has accomplished an impressive amount of fire prevention and forest restoration work, using two authorities that are specific to the BLM and the Forest Service—the Stewardship Contracting authority and the Good Neighbor authority. Could other Department of the Interior agencies benefit from the same authority to help address our Nation's wildfire problem?

Response: Yes. Currently, the BLM is the only agency in the Department of the Interior (DOI) that has both Good Neighbor authority (GNA) and Stewardship Contracting authority; however, GNA is extended to Tribes. Providing both authorities to the U.S. Fish and Wildlife Service (FWS) and the National Park Service (NPS) would support cooperative conservation partnerships with adjacent states, Tribes and other landowners to help manage wildland vegetation, reduce wildfire risk, and restore landscapes benefitting all partners. Additionally, an expansion of Stewardship Contracting authority coupled with adequate staffing and infrastructure to prepare for and implement treatments would have similar resource benefits to Tribes.

Questions for the Record Submitted to Jeffery Rupert
 U.S. Senate Committee on Energy and Natural Resources
Pending Legislation
 October 21, 2021

Questions from Senator James E. Risch

Question 1: In your testimony, you expressed concern for larger scale categorical exclusions contained in S. 2436. We've heard this refrain time and again. Meanwhile, our forest health continues to rapidly decline and our public lands burn while forest health projects sit in bureaucratic and litigious limbo. It's clear we need a paradigm shift.

a. If not a categorical exclusion, what does your agency propose to dramatically shorten timelines?

Response: The Department of the Interior currently uses certain CXs to complete wildfire risk reduction projects where applicable. As part of the DOI's Five-Year Monitoring, Maintenance, and Treatment Plan, required by the Infrastructure, Investment, and Jobs Act (IIJA), DOI will explore opportunities to leverage interagency teams and increase coordination to complete National Environmental Policy Act (NEPA) compliance. Bolstering DOI's NEPA resources and expanding coordination will facilitate collaborative efforts with stakeholders to ensure that planning is completed in a timely manner so that projects can be implemented as quickly and efficiently as possible with an appropriate level of community input. Additionally, the Wildfire Commission established by IIJA, will look closely at the need for categorical exclusions from NEPA and additional staffing and resources to expeditiously carry out analyses required by NEPA that protect life, property and community water supplies; facilitate forest management in at-risk areas; manage the wildland urban interface; manage utility corridors; and facilitate vegetation management.

In fiscal year (FY) 2021, the Department completed over 1.6 million acres of hazardous fuels management treatments, an increase of 130,000 acres of treatments over the FY 2020 level. This represents a 38 percent increase in completed treatments over the past 5 years. DOI plans to complete approximately 2 million acres of hazardous fuels treatments in FY 2022 and increase of 25 percent over FY 2021 level.

b. What timeline impact would you expect that to have on the pace and scale of treatments of these high priority areas?

Response: Funding included in the FY 2022 Budget facilitates collaborative efforts to complete an additional 360,000 acres of fuels treatments and hire 325 additional FTEs. The Department continues to aggressively develop a framework to strategically target and better assess the efficacy of our wildfire risk reduction efforts. DOI is also utilizing GNA to work closely with states, counties, and Tribes to expand its capacity to conduct treatments. Under the FY 2022 Budget for hazardous fuels treatments, DOI is focused on addressing high priority, higher risk landscapes, such as areas in the wildland urban interface, that may be more costly to treat but provide the largest reduction in future wildfire impacts and largest improvement of critical natural resource values.

Questions for the Record Submitted to Jeffery Rupert
 U.S. Senate Committee on Energy and Natural Resources
Pending Legislation
 October 21, 2021

Question 2: In your testimony, you mentioned that it would be useful for S. 2436 to apply to all lands under the administrative jurisdiction of the Department of the Interior, not just the top 10% of lands most at risk. It is certainly important to reduce fire risk across our public lands; however, this bill is intended to target fireheds at the highest risk to communities, ecosystems, watersheds, and more. How would you suggest extending the legislation to all Interior lands while still prioritizing priority fireheds?

Response: DOI believes that S. 2436, the “Forest Improvements through Research and Emergency Stewardship for Healthy Ecosystem Development and Sustainability Act” or the “FIRESHEDS Act,” has many merits, not only for public lands administered by the Bureau of Land Management, but also for lands administered by the Bureau of Indian Affairs, the FWS, and the NPS. These additional bureaus also manage lands with high fire risk that need to be addressed, and DOI’s recommendation is to expand the reach of the legislation so that additional bureaus that may benefit from the Act.

Question 3: In your testimony, you expressed that 90 days may be too aggressive a timeline for the agency to fulfill in reference to S. 2436. How many days would you expect the agency to need to comply with the legislation, and why is that timeframe needed?

Response: DOI recommends maintaining flexibility regarding the timing necessary to achieve the planning and project objectives to execute FIRESHED management projects. DOI would require additional time beyond 90 days to develop and finalize agreements and plans. This work involves project analysis, risk assessments, modeling, coordination with interagency partners in addition to other planning steps. Depending on the complexity and type of project this may take in excess of 90 days.

Question 4: Western states like Idaho have continually struggled through federal bureaucratic backlog in order to properly address wildfire risk. The FIRESHEDS Act places a strict deadline on federal agencies to prevent the continuation of this issue. What resources would your agency need to complete necessary firehed processes within the 90-day timeframe?

Response: Public Law (P.L.) 117-103, Consolidated Appropriations Act, 2022, provides DOI an additional \$7 million above the FY 2021 enacted level of funding for fuels management. Additionally, IJA provides nearly \$900 million over five years for fuels management and Public Law 117-43, Extending Government Funding and Delivering Emergency Disaster Assistance Act, provides \$55 million. This funding supports significant investments to help fulfill DOI’s commitment to work collaboratively and efficiently with federal, non-federal and Tribal partners to reduce wildfire risk and improve resiliency across landscapes. This includes collaborating with the USDA Forest Service to target high-risk areas to reduce wildfire risk in a timely manner consistent with the USDA’s 10-Year Strategy and DOI’s Five-Year Monitoring, Maintenance, and Treatment Plan. The Department would also like to work with the sponsor to provide additional clarity on how the states could request the designations outlined in the bill.

Questions for the Record Submitted to Jeffery Rupert
U.S. Senate Committee on Energy and Natural Resources
Pending Legislation
October 21, 2021

Questions from Senator Mike Lee

Question 1: Mr. Rupert, the Council on Environmental Quality encourages Federal agencies to develop and use categorical exclusions to protect the environment and reduce the resources spent analyzing proposals. Can you tell me what categorical exclusions the BLM has developed to address wildfire or forest management under this administration?

Response: The Department of the Interior currently uses certain CXs to complete wildfire risk reduction projects where applicable. Additionally, the fuel break CX included in IJJA supports agency efforts to reduce wildfire risk to communities. As discussed above, the Wildfire Commission established by IJJA will look closely at the need for categorical exclusions from NEPA and additional staffing and resources to expeditiously carry out analyses required by NEPA that protect life, property, and community water supplies; facilitate forest management in at-risk areas; manage the wildland urban interface; manage utility corridors; and facilitate vegetation management.

Question 2: Mr. Rupert, is the Department supportive of the categorical exclusion promulgated on December 10th, 2020 under the Trump Administration which allows in some cases for up to 5,000 acres of dead or dying trees to be salvaged?

Response: The Department has not rescinded the categorical exclusions promulgated on December 10th, 2020.

Question 3: I would love to see the Department take a stronger stance on the use of categorical exclusions. However, I don't think that will be possible as long as frivolous litigation can so easily enjoin critical work on public lands. I've put out my own proposal to require those litigating against these actions to have personally suffered, or show they will likely suffer, a direct, tangible harm. Does the Department have any of its own ideas on how to address this issue?

Response: The Department is committed to improving performance and to meeting responsibilities under the National Environmental Policy Act (NEPA), particularly the timeframes that it takes to complete NEPA reviews. The Department recognizes the importance of these projects and the need to start and finish them quickly. In doing so, the Department is making sure that staff and resources are in place to coordinate NEPA more effectively and be responsive to local communities' needs. We would like to work with the Sponsor to clarify the scope of any proposed categorical exclusion to ensure that appropriate reviews and analyses are considered for particular projects.



October 19, 2021

The Honorable Joe Manchin, Chair
 The Honorable John Barrasso, Ranking Member
 Senate Energy & Natural Resources Committee
 304 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso,

The American Wood Council (AWC) is pleased to provide comments to the Senate Energy and Natural Resources Committee on S. 2836, America's Revegetation and Carbon Sequestration Act of 2021, and appreciates the Committee's focus on the important role of the forestry sector in addressing the country's most pressing environmental issues. When taken together, sustainably managed forests and the wood products harvested from them can be a remarkable carbon sink and a renewable resource.

AWC is the voice of North American wood products manufacturing, an industry that provides almost 450,000 men and women in the United States with family-wage jobs, many in rural areas. AWC represents 86 percent of the structural wood products industry, and members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. AWC staff experts develop state-of-the-art engineering data, technology, and standards for wood products to assure their safe and efficient design, as well as provide information on wood design, green building, and environmental regulations. AWC also advocates for balanced government policies that affect wood products.

Expanding Use of Forest Products to Boost Carbon Storage and Sequestration

Maximizing the potential of wood products serves dual purposes of boosting carbon sequestration of forests and reducing the carbon footprint of the built environment. Restoring ecosystems and active forest management can reduce susceptibility to wildfire, pests, and disease, providing additional mitigation benefit through the avoidance of substantial disaster-related carbon emissions.¹ Unmanaged forests can be a net source of carbon emissions. According to U.S. Forest Service data, the Rocky Mountain region has lost 80 percent of its forest growth over the past decade due to insects, disease and wildfires², and is on a trajectory to be a net source of greenhouse gas (GHG) emissions because of these factors. Younger forests sequester carbon at a faster rate than mature trees.³ Forests left alone (or untouched), tend to gradually lose their carbon-absorbing benefits over time. And as trees reach the end of

¹ Vance, E.D. (2018) Conclusions and caveats from studies of managed forest carbon budgets. *Forest Ecology and Management* 427, 350-354.

² [Oswalt et al. 2019](#)

³ [Role of forest regrowth in global carbon sink dynamics](#), Thomas A.

M. Pugh, Mats Lindeskog, Benjamin Smith, Benjamin Poulter, Almut Arneth, Vanessa Haverd, Leonardo Calle. *Proceedings of the National Academy of Sciences* Mar 2019, 116 (10) 4382-4387; DOI: 10.1073/pnas.1810512116

their lifecycle and die, whether it be from drought, insect infestation, fire or disease, they release stored carbon back into the atmosphere.⁴ In California alone, the 2020 wildfire season emitted an estimated 112 million metric tons of carbon dioxide, according to the California Air Resources Board. That number is akin to the GHG emissions of *more than 24 million cars* in a single year.

Modern North American forestry practices harvest wood in a sustainable way, supporting carbon sequestration in forest lands and in the wood products that are derived from them. The U.S. had more than 95 million net acres of forest certified under the two major international certification programs: The Forest Stewardship Council and the Programme for the Endorsement of Forest Certification, which includes the American Tree Farm System and the Sustainable Forestry Initiative. These certification programs are subject to third-party audits performed by experienced, independent foresters, biologists, socio-economists and other professionals.⁵

- According to U.S. Department of Agriculture data, the total volume of trees growing in U.S. forests has increased 60 percent since 1953. The carbon stored in these forests has increased at a corresponding rate.⁶
- As trees are sustainably harvested and turned into wood products, they do not emit methane and they store (sequester) carbon for the life of the product. And, harvested trees in turn make room for reforestation so that new trees can be planted and commence sequestering carbon, thus continuing the carbon cycle.
- As forests grow, the trees absorb carbon dioxide (CO₂) from the atmosphere through photosynthesis and convert it into organic carbon that is stored as wood. Trees then return oxygen to the atmosphere. At a tree's death, the stored carbon is either released during decay, fire or through controlled energy production to complete the carbon cycle, or it continues to be stored when the tree is converted to a product.⁶
- Additionally, wood products keep stored carbon out of the atmosphere until the end of product life, which could include repurposing of materials.⁷
- Using wood in place of fossil fuel-intensive building materials also "avoids" greenhouse gases that would have been emitted by those products during their manufacturing.⁷

Vibrant markets provide the income necessary not only to keep lands forested but to invest in additional forest management techniques that improve forest health and support rural jobs.

Wood Products as Sustainable Building Products

Wood products are the only major building material that is renewable. By using more wood in buildings, carbon currently stored in forests that is vulnerable to fires and other disturbances can be transferred into our built environment and stored reliably for decades. This increases the

⁴ [Forest Carbon from Young vs. Old Trees](#), NCASI, January 2021.

⁵ [The State of America's Forests: Certified Forests](#), U.S. Endowment for Forestry & Communities.

⁶ [Forest Resources of the United States, 2017](#) – table 20

“sink” capacity of forests and their associated wood products, while reducing emissions associated with urban development.⁷

According to data from the [United Nations Environment – Global Status Report 2018](#), the building sector is responsible for a full 39 percent of global energy-related carbon emissions.⁸ While the majority of these emissions (approximately 28 percent) arise from the day-to-day operations of existing buildings, the other 11 percent comes directly from construction of new buildings. Wood products are a solution that can inherently lower the GHG impact from the built environment.

Further, as the green building movement has evolved beyond its initial emphasis on operational energy efficiency, greater attention has been given to the choice of building materials and environmental impacts. And, as buildings become more energy efficient, more and more attention is directed to other aspect of a building’s carbon footprint such as embodied energy. Between now and 2060, the building industry is poised to add 2.48 trillion square feet of new construction worldwide, doubling the amount of buildings in existence over the next four decades. *This is equivalent to constructing an entire New York City every month for the next 40 years.*⁹ Embodied carbon will be responsible for almost half of total new construction emissions between now and 2050.⁹ Using Life Cycle Assessment (LCA), the environmental impacts associated with construction materials used can be calculated over a building’s lifespan.

Wood buildings, and particularly mass timber buildings, whose permitted use has been vastly expanded by the 2021 *International Building Code* up to 18 stories, serve as carbon sinks for the carbon dioxide taken up by the trees that are then converted to carbon-storing wood products.

The use of mass timber for constructing taller buildings is not a new concept. Europe began using mass timber in taller buildings more than three decades ago. Mass timber buildings are constructed with large pre-manufactured, multi-layered, solid wood panels resulting in solid timber floors and walls typically ranging from 5 to 12 inches in thickness. Smaller diameter trees can be used to produce mass timber products, which is important because small diameter trees act as fuel during a wildfire.

To ensure that the environmental footprint of the wood industry’s products is available for widespread use, AWC has developed 12 environmental product declarations (EPDs) for North American wood products. These EPDs have been subject to third party peer-review and verification to ensure their validity.¹⁰

Mass Timber Title in the ARCs Act

The ARCs Act language increasing mass timber research, education and utilization promulgates several important policy objectives to broaden the adoption of mass timber by the federal government – driving its carbon reduction efforts while supporting forest health.

⁷ Churkina, G., Organschi, A., Reyer, C.P.O. et al. (2020) Buildings as a global carbon sink. *Nature Sustainability* 3, 269–276. <https://doi.org/10.1038/s41893-019-0462-4>.

⁸ Global Status Report 2018, United Nations Environment Program

⁹ New Buildings: Operational Emissions, Architecture2030

¹⁰ Environmental Product Declarations (EPDs) for Wood, AWC.org

Joint Mass Timber Science and Education Program

As mass timber design, engineering and construction becomes more commonplace, the ARCs Act directs the Forest Products Laboratory of the Forest Service to establish a mass timber science and education program to respond to the emerging needs of architects, developers, and the forest products industry, and to work closely with higher-education research programs in administering the program.

The Act also looks beyond the built environment to authorize the Forest Products Lab to provide assistance to the Secretary of Transportation and to States related to the construction of wood bridges, to support much needed infrastructure improvements in rural areas around the country.

Storing Carbon in Federal Buildings

The built environment presents both a climate risk and a significant federal policy opportunity. Carbon emissions from construction materials currently comprise 11 percent of global energy-related GHG emissions¹¹, but the increased use of wood products and other low-carbon building materials has the potential to reduce this GHG footprint.

The ARCs Act directs the Department of the Interior and the Forest Service to develop and maintain a running database of its mass timber buildings, and to collect data on the embodied carbon stored in the construction of buildings included in the database. Further methodological and standard-setting work is a critical precondition to the implementation of effective GHG performance standards for building materials. Better data collection and refined and standardized methodologies to accurately measure and disclose the embodied carbon in products used in a whole building life cycle assessment will support this effort.

Importantly, the Act also directs the Department of the Interior and the Forest Service to procure certain mass timber structures where feasible. Agencies charged with supporting forest health should do more with forest products to realize the full value of sequestered carbon of forest products, supporting a myriad of forest management practices. Implementing policies that incentivize the use of the lowest-embodied carbon building materials, while also considering the long-term storage value of biogenic carbon unique to wood products would support sustainable forest management and wood products while leveraging the massive purchasing power of the federal government to meaningfully reduce the climate impacts of new federal building projects.

Finally, the ARCs Act directs the Department of the Interior and the Forest Service to prepare a plan to increase the amount of carbon stored in its buildings in a manner that is material neutral, and to submit that plan to Congress, giving the agencies a lead role in this Administration promoting more broadly the adoption of low-carbon procurement criteria to decrease the total GHG life cycle impacts of construction materials. The Department of Interior and the Forest Service and indeed the entire federal government can improve the environment for low carbon construction by developing tools to compare the Global Warming Potential

¹¹ UN Environment and International Energy Agency (2017): Towards a zero-emission, efficient, and resilient buildings and construction sector. Global Status Report 2017, available at: https://www.worldgbc.org/sites/default/files/UNEP%20188_GABC_en%20%28web%29.pdf

(GWP) profile of new building construction and implementing performance standards for new federal construction. It can do even more, however, by building on that work and leveraging it into the private sector.

The American Wood Council expresses its utmost gratitude to Senators Manchin and Barrasso and the cosponsors of the ARCs Act for their bipartisan effort to maximize the carbon sequestration potential of America's forests and forest products and urges the Committee to move the bill to the Senate Floor at its earliest convenience.

Sincerely,

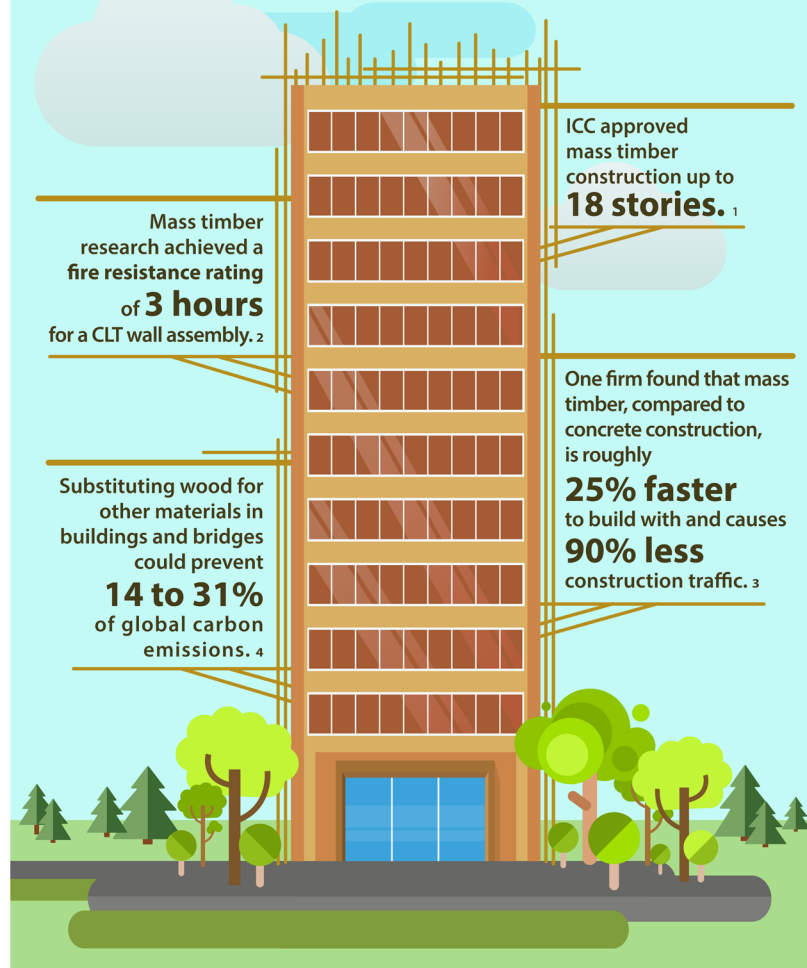
A handwritten signature in black ink, appearing to read "J. Morrill", written in a cursive style.

Jackson Morrill
President & CEO
American Wood Council

MASS TIMBER

Taking the Building Industry to New Heights

Because of the unique structural and fire resistance characteristics of mass timber, in 2016, the **International Code Council (ICC)** appointed a committee of building and fire officials, architects, engineers, and industry experts to **examine and propose appropriate code requirements** for tall mass timber buildings. Their work and the resulting code changes mean code officials, designers and developers can now **turn sketches into reality**.



¹ <https://awc.org/tallmasstimmer>

² https://www.awc.org/pdf/codes-standards/fire/Mass-Timber_Performing-to-the-Highest-Standards.pdf

³ <https://www.awc.org/pdf/education/des/ReThinkMag-DES610A-MassTimberinNorthAmerica-161031.pdf>

⁴ <https://www.tandfonline.com/doi/pdf/10.1080/10549811.2013.839386>



AMERICAN WOOD COUNCIL

Mass Timber: A Sustainable Choice for Our Built Environment

The recent International Code Council mass timber building code changes gave way to not only increased allowable heights of wood buildings up to 18 stories, but also increased sustainability of the nation's residential and commercial buildings.

Mass timber is a class of engineered wood products that through their inherent mass provide structural integrity, superior fire performance, and resilience.

Mass timber use means more tress, not less.

- In the U.S., twice as much wood is being grown each year as is harvested and the total volume of trees growing in U.S. forests has increased 50% since the 1950s.¹
- As the demand for timber building products increases, more carbon-sequestering trees are planted, keeping the land in forestry and not development, thereby making these forests beneficial for the natural and built environment.²

Just a 1% increase

in the annual demand for wood products could propel over 49 million acres of new sustainably managed trees, all sequestering carbon as they grow.³

14-31%
of global carbon emissions could be prevented if wood was substituted for other materials in buildings and bridges.⁴



Mass timber is a sustainable and resilient alternative to other building materials.

- Wood is the only major building material that grows naturally, is renewable and sequesters carbon.
- It is estimated that the use of one mass timber product, cross-laminated timber (CLT), along with other emerging wood technologies in buildings 7-15 stories, could have the same emissions control effect as taking more than 2 million cars off the road for one year.⁵
- Specifically, replacing steel with mass timber could reduce carbon dioxide (CO₂) emissions by between 15% and 20%.⁶

Mass timber leads to less construction and production emissions.

- Wood not only stores large quantities of carbon throughout its lifetime, but its manufacture results in lower emissions of greenhouse and other gases than the production of other building materials.⁷

90% reduction

in construction traffic and roughly 25% faster build time when mass timber was used instead of concrete.⁸

As mass timber innovation grows, the potential for greater forest stock and lower emissions from the built environment increases as well. At AWC, we are committed to advancing timber innovation that grows both our cities and our forests.

¹ 2010 Resources Planning Act Assessment, U.S. Forest Service; <https://www.fs.usda.gov/research/pubs/53212>

² Our Social Impact, Bain & Company;

<https://socialimpact.bain.com/environments/environment-spotlight.html>

³ Chapter 4: Land Degradation – Climate Change and Land, Intergovernmental Panel on Climate Change; <https://www.ipcc.ch/site/assets/uploads/2019/08/2e-Chap-ter-4-FINAL.pdf>

⁴ Announcing the U.S. Tall Wood Building Prize Competition to Innovate Building Construction, USDA; <https://www.usda.gov/media/blog/2014/10/10/announcing-us-tall-wood-building-prize-competition-innovate-building>

⁵ Carbon, Fossil Fuel, and Biodiversity Mitigation with Wood and Forests, Journal of Sustainable Forestry; <https://www.tandfonline.com/doi/pdf/10.1080/10549811.2013.839386>

⁶ Would you live in a wooden skyscraper?, Science Magazine; <https://www.sciencemag.org/news/2016/09/would-you-live-wooden-skyscraper>

⁷ Building With Wood: Proactive Climate Protection, Dovetail Partners, Inc.; http://www.dovetailinc.org/report_pdfs/2015/building_with_wood.pdf

⁸ Mass Timber in North America, ThinkWood; <https://www.thinkwood.com/our-ceus/mass-timber-north-america>



What They're Saying: Mass Timber & Sustainability



AMERICAN WOOD COUNCIL

April 2020

"Buildings are responsible for nearly 40 percent of global greenhouse gas pollution, more than transportation. Much of a building's carbon footprint results from its lifetime energy use, but another big part is from its construction. The manufacture of concrete and steel accounts for an estimated 8 percent of greenhouse gas emissions. Replacing some of that with wood would sharply reduce the building sector's carbon footprint."

EDF
ENVIRONMENTAL DEFENSE FUND
Finding the ways that work

Environmental Defense Fund. How wood skyscrapers could help save our forests — and reduce wildfire risk. August 19, 2019.

"Say the typical steel and concrete building has an emissions profile of 2,000 metric tons of CO₂," said Andrew Ruff, of Connecticut-based Gray Organschi Architecture, a leading proponent of the laminated wood revolution. "With mass timber you can easily invert so you are sequestering 2,000 tons of CO₂. Instead of adding to climate change you are mitigating climate change. That's the goal."

GRAY ORGANSCHI
ARCHITECTURE

Yale Environment 360. As Mass Timber Takes Off, How Green Is This New Building Material. April 9, 2019.

"...a multidisciplinary team of researchers and architects predicts that designing mid-rise urban buildings with engineered timber — rather than relying mainly on carbon-intensive materials — has the potential to create a vast "bank vault" that can store within these buildings 10 to 68 million tons of carbon annually that might otherwise be released into the atmosphere."

Yale

Yale School of Forestry & Environmental Studies. Can Wood Construction Transform Cities From Carbon Source to Carbon Vault? Jan. 29, 2020.

"We were excited to use cross-laminated timber (CLT) to construct what will be the largest mass wood structure built to date in the U.S. The benefits of this for carbon footprint reduction are significant. Wood is a renewable product and the timber we used was considered deadwood, already diseased or dying from beetles in their natural habitat."

Microsoft

Microsoft. Microsoft's Silicon Valley campus: Sustainably built employee design. April 22, 2019.

"...we want our new campus to be modern and sustainable while embracing the natural beauty of our home state. These priorities have a lot to do with our choice to use mass timber..."

Walmart

Walmart. Modern Home Office Building Materials to Reflect the Natural Beauty of Arkansas. Dec. 9, 2017.

"To restore a forest and reduce the risk of severe wildfires, a conservation group is cutting down trees. ... A century of wildfire suppression has resulted in overgrown tree stands that are ripe for fire, so the group is weeding out smaller trees that can serve as kindling for fires."

The Nature Conservancy

The Sentinel-Record. Thinning forests aims to reduce fire risk. April 4, 2017.

"And in the U.S., we're currently adding more trees to our working forests than we're cutting down—there's as much forest today as there was in 1910, according to the Forest Service. We can add a lot more if we develop construction methods that make use of smaller trees... Enter mass timber, a term for a category of innovative products made from smaller pieces of wood—such as two-by-fours and two-by-sixes—that are either glued together or cross-laminated to create beams, structural walls, ceilings, and floors."

Outside
LIVE. BREATHE.

Outside Magazine. It's Time We Treat Some Forests Like Crops. Sept. 11, 2019.

"The material can 'contribute to people's wellness, are beautiful, easy to assemble, and strong enough support to build dozens of stories,' said Karim Khalifa, director of buildings innovation at Sidewalk Labs. 'And unlike concrete and steel, which are very carbon intensive to produce, using timber in buildings takes carbon out of the atmosphere.'"

Google

Fortune. Timber Rises Again for Building Construction — and Google is All for It. Feb. 8, 2019.

"In 2019, USDA measured 56,051 million metric tons (MMT) of carbon sequestered in U.S. forests, up every reported year since 1990, with an additional average of 2,365 MMT each year sequestered in wood products manufactured from those forests."

USDA

USDA. Greenhouse Gas Emissions and Removals from Forest Land, Woodlands, and Urban Trees in the United States, 1990-2018.

AMERICAN WOOD COUNCIL

www.awc.org | @woodcouncil

October 20, 2021

The Honorable Joe Manchin III
 Chair
 U.S. Senate Committee on Energy and
 Natural Resources
 304 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable John Barrasso, M.D.
 Ranking Member
 U.S. Senate Committee on Energy and
 Natural Resources
 304 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

The undersigned organizations commend your focus on important forestry issues ranging from wildfire to revegetation. On behalf of our millions of members and supporters, we respectfully ask that you incorporate stronger conservation provisions into legislation being considered at the Committee's hearing on October 21. Several of the proposed bills contain important improvements to U.S. policy, which would improve the resilience of communities and landscapes while conserving wildlife and mitigating the impacts of climate change. Conversely, the Committee is also considering several bills that could cause irreparable harm to our environment. We urge you to incorporate our recommendations on the following bills:

S. 1734, National Prescribed Fire Act of 2021

The undersigned organizations support the goals of Senator Wyden's National Prescribed Fire Act. Prescribed fire is one of the most effective and ecologically sound methods of reducing fire risk in our federal forests, and importantly has been used regularly and with great success by indigenous communities throughout history. Prescribed fire replicates natural processes in the forest, as opposed to logging, which is often constricted by the desire for profit by commercial actors. This legislation would encourage the pace and scale of controlled burns. It would do this by investing desperately needed funds into prescribed fire, and requiring federal agencies to increase the number of acres they treat with controlled burns. We also appreciate that it would invest in workforce development for practitioners who work on prescribed fire.

While we understand the need to ensure that federal regulations support the use of prescribed fire, our organizations have questions about the necessity of including National Environmental Policy Act (NEPA) categorical exclusions in Section 204. We would like to work with the Committee to address these concerns before the bill advances.

S. 2436, FIRESHEDS Act

The undersigned organizations oppose S. 2436. This legislation, introduced this summer by Senator Risch, would undermine NEPA by creating a new legislative categorical exclusion for a broad range of forest management activities—including salvage logging—with no specified size limit. It would also restrict normal judicial review procedures, such as by prohibiting courts from imposing preliminary injunctions in cases involving forest management activities within the wildland-urban interface. In addition, the bill would allow these activities to occur within Inventoried Roadless Areas so long as the activities are allowed by the Forest Service's local

land management plan.

S. 2561

The undersigned organizations oppose S. 2561. This proposed bill by Senator Daines would weaken the Endangered Species Act (ESA) by broadly exempting the U.S. Forest Service and the Bureau of Land Management (BLM) from the regulatory requirement under Section 7 of the ESA to re-initiate consultation when new information indicates that implementation of land management plans may be harming threatened or endangered species in a manner not previously anticipated.

The ESA's Section 7 consultation process is a vital safeguard for more than 400 ESA-listed species that occur in the National Forest System and 300 listed species that inhabit BLM lands. Proper planning and management of these public lands offer the best opportunity for recovery of many of these imperiled species whose unique requirements for survival exist on federal lands.

S. 2564, Protect Collaboration for Healthier Forests Act

The undersigned organizations oppose S. 2564. Senator Daines' bill would trample on access to justice principles by stifling citizens' ability to seek redress through our courts and forcing them into a binding arbitration process against their will. This new process would create an unprecedented power grab by the executive branch by shielding certain Forest Service final agency actions in Region 1 from any judicial review by independent federal courts. The bill would also undermine our public lands and safety by promoting logging without scientific input and adequate protections. Finally, the bill would not only eliminate the possibility of fee recovery for "prevailing parties," which is allowed in myriad statutes through citizen suit provisions and through use of the Equal Access to Justice Act, but also punitively require non-prevailing parties to pay federal agency attorney fees. This punitive action would be unprecedented, and would serve to chill the public's constitutional right to seek redress of government actions.

Committee Democrats opposed this same legislative language in 2018 (see [committee report](#) with dissenting views to S. 2160). Those dissenting views noted that Sen. Daines' bill would violate the core principles of voluntary arbitration processes under U.S. law since the 1920s. The arbitration that would be created by this legislative language would not be voluntary for all parties; would not attempt to resolve a simple, monetary dispute (rather complex agency decisionmaking that belongs under APA rules); and would eliminate appellate review by independent courts, inappropriately shielding the agency from judicial review of its rulemaking actions.

S. 2650, Wildfire Resilient Communities Act

The undersigned organizations support the goals of S.2650. Senator Merkley's bill would focus investment in priority landscapes and create and augment proven programs that reduce wildfire risk and increase forest ecological integrity. First, the bill would authorize \$30 billion for authorized hazardous fuels reduction projects in priority locations (the wildland-urban interface, high value watersheds, and high wildfire risk forests) to carry out the purposes of the National Cohesive Wildland Fire Management Strategy to create fire-adapted communities, restore and

maintain resilient landscapes, and achieve safe and effective fire response. Second, the legislation would create a community preparedness grant program to assist at-risk communities in preparing for future wildfire. Third, it would permanently authorize the highly successful Collaborative Forest Landscape Restoration Act annually at the level of \$100 million. Finally, the bill would authorize the retention of 25 percent of receipts from stewardship contracts for county government services.

However, our groups recommend a few improvements to the bill, such as defining "Indian Tribe" according to the definition in the Federally Recognized Indian Tribes List Act, rather than the Indian Self-Determination and Education Assistance Act. We also suggest adding language to Section 2 to specify which activities are appropriate, and where. For example, we would recommend adding language that would prevent the construction of additional permanent roads, protect old and mature trees, focus activities in the Wildland-Urban Interface to prioritize community safety, focus activities on small diameter trees, and ensure all projects are collaboratively developed.

Our organizations also have concerns with Section 5 of the bill, which would give 25 percent of stewardship contract revenues to counties. This would reduce the amount of funding for additional, non-commercial restoration work in local forests, and our concern is that this provision could create an adverse incentive for counties to advocate for stewardship projects that maximize revenues. Maximizing revenues might include targeting the most economically valuable trees, which are often the oldest, largest, and most important in combating climate change. We are interested in working with the Committee to improve and advance this bill.

S. 2806, Wildfire Emergency Act of 2021

The undersigned organizations support S. 2806. Senator Feinstein's bill would scale up science-based large landscape restoration projects with an emphasis on increasing the use of managed and prescribed fire to achieve resource benefits.

The legislation would authorize a pilot program of not more than 20 large landscape projects to restore ecological integrity, function, and process on western federal public lands, and would make available conservation finance agreement authority to leverage other federal and non-federal investment in landscape-scale forest restoration and related natural and built infrastructure, equipment, and job training.

The bill would also create a critical infrastructure and community microgrid grant program designed to "improve the energy resilience and power needs of critical facilities through the use of microgrids, renewable energy, energy efficiency, reduced electricity demand, and on-site storage." The program would make funding available for communities to retrofit homes and infrastructure to better withstand wildfires and other natural disturbances. The bill would authorize the creation of western prescribed fire centers to "train individuals in prescribed fire methods and other methods relevant to the mitigation of wildfire risk," and establish a competitive grant program to facilitate the development of a forest workforce commensurate with the restoration needed on federal lands.

Finally, the legislation would create a National Community Capacity and Land Stewardship grant program that would provide necessary funds through a competitive grant program to local collaborative efforts that seek to protect and restore ecological integrity in national forests.

S. 2836, America's Revegetation and Carbon Sequestration Act of 2021

The undersigned organizations appreciate the sponsors' recognition of the need to take a proactive approach to climate adaptation on our federal lands. Doing so is an opportunity to: conserve native ecosystems and restore biodiversity, for instance, by protecting climate refugia, wildlife habitat, and corridors; restore ecosystem services such as aquifer recharge and erosion control; upscale the availability and use of locally adapted native plants and seeds in restoration endeavors; and eradicate invasive species. Legislation intent on confronting the climate crisis would benefit from direction to protect old growth and mature forests, which is among the most effective ways to store and sequester carbon and conserve forest biodiversity.

We support establishing a more intentional and coordinated effort to address the very serious problem of invasive plants and the damage that they are wreaking on our public lands across the west as well as addressing native plant material supply chain issues. Relative to these topics, the bill would benefit from more attention to research protocols and investments and a more explicit focus on restoring native ecosystems (as opposed to cover) which is more likely to result in sustainable and naturally biodiverse landscapes able to withstand perturbations and stresses.

We support broadening investments in invasive species eradication and locally adapted native plant materials such that the investments are more commensurate with the scale of the problem and need. This includes increasing botanical expertise within agencies, the absence of which can be a barrier to implementing successful projects.

Our organizations have concerns with Sections 201 and 404. The Forest Service should not be empowered and encouraged to sell carbon offsets from federal lands. From a forest management perspective, offsets are a tool to motivate private landowners who do not otherwise have a legal mandate to manage for public benefit. The federal government should be managing forests for both optimal sequestration and adaptation as a matter of policy. These activities should be fully funded through the regular budget process, not through private markets. Furthermore, credits from the large federal land base could depress prices in the offset market and thus reduce their effectiveness in motivating private landowners from undertaking management actions that sequester more carbon. Another major concern is that mechanical thinning and prescribed fire treatments needed for restoring dry forests to a more resilient condition often result in net CO₂ emissions for decades or longer. Offset protocols correctly require proof of net sequestration at the time of verification and cannot rely on the supposition that a near term carbon debt will be reversed in later decades. Thus, the tool of offset markets is inappropriate for funding forest health treatments both from a budget policy and biological perspective. It's also not clear how this initiative would dovetail with land management planning. We recommend removing these sections.

Finally, we suggest that Section 103 be expanded to address Research Natural Areas (RNA) by directing an assessment of the current system and development of recommendations for assuring that it can effectively contribute to climate change programs. The RNA system is one of the great land management ideas of the last many decades that has unfortunately been allowed to languish. With the dual threats of climate change and extinction, having a robust system of Research Natural Areas is critical.

Our groups thank you for your attention to these important issues and look forward to working with the Committee to improve these bills. We appreciate your consideration of our recommendations.

Sincerely,

Appalachian Trail Conservancy
Conservation Northwest
Defenders of Wildlife
Earthjustice
Sierra Club
Southern Environmental Law Center
The Wilderness Society
Western Environmental Law Center
Western Watersheds Project



From: Alan Henceroth
Sent: Tuesday, October 19, 2021 5:06 PM
To: Kate_Cassling@hickenlooper.senate.gov
Subject: A-Basin and SHRED ACT

Hi Kate,

I am writing a quick email expressing our support for the "Ski Hill Resources for Economic Development Act of 2021" (SHRED Act). I know that Senator Hickenlooper is a co-sponsor of the bill and that you are very familiar with the details of the bill. The bill does so much to support the capacity of the Forest Service to administer permits, review proposals and address pressing issues. These are already Forest Service duties that often go unfunded. The bill provides the Forest Service funding to address ski area and community issues. As we look to future, complicated challenges, like our next Master Plan, we hope SHRED Act funding will help the Forest Service have people actually in the desks, doing their jobs, working on these important public issues.

I know you have 100 things on your plate today, but I wanted to share these brief thoughts on the value of the SHRED Act to Summit County, the White River National Forest and Arapahoe Basin.

Please reach out to me any time with questions. Thank you.

Alan

Alan Henceroth
Chief Operating Officer
(970) – 513-5722
alanh@a-basin.net
www.arapahoebasin.com



October 8, 2021

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso,

On behalf of Blue Forest Conservation, I am writing to express our support for the Wildfire Emergency Act of 2021 (S. 2806), introduced by Senators Feinstein, Padilla, and Wyden.

Within the constraint of current resources, the USDA Forest Service faces a seemingly insurmountable challenge to address the risk of catastrophic wildfire. In California alone, six of the state's largest ten fires since 1932 have burned in 2020 and 2021. According to Forest Service estimates, about 20 million acres of targeted hazardous fuels reduction is needed on National Forest System land in the Western U.S., in addition to a substantial investment across other ownership types. In order to address this challenge, the Forest Service needs more resources and innovative tools like those authorized by the Wildfire Emergency Act.

The Conservation Finance Agreement pilot authority in this bill would enable the Forest Service to enter into long-term mutual benefit partnership agreements to implement landscape-scale forest restoration projects. This authority would help the Forest Service increase the pace and scale of forest restoration while developing public-private partnerships that transcend short-term increases in federal funding. Conservation Finance Agreements would allow partners to engage a broader group of stakeholders and bring greater private investment to support forest restoration projects on public and private lands. At the same time, these agreements would add financial and human resource capacity by leveraging partner expertise, while enabling those who benefit from forest restoration to participate in the solution.

Blue Forest is pleased to support the introduction of the Wildfire Emergency Act of 2021, and we applaud Senator Feinstein's commitment to developing innovative solutions to reduce the risk of catastrophic wildfire. Our team remains available to work with your staff and the Forest Service to develop and implement solutions to address the risk of catastrophic wildfire on public and private lands.

Sincerely,

Zach Knight, CEO





October 18, 2021

Re: Support of the SHRED Act - S. 1964

Dear Senator Risch:

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964)** in conjunction with the **Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021**. This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in the state of Idaho. The current bill is an updated and improved version of the bill from last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

The SHRED Act would locally retain approximately \$27MM of the \$40MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Resources collected through the SHRED Act would provide the Forest Service with the staffing capacity it needs to administer ski area permits, outfitter guide permits and other recreation permits. Visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation.

Sincerely,

cc: Bryan Petit, ENR Committee bryan_Petit@energy.senate.gov
James Willson, ENR Committee james_willson@energy.senate.gov



P 208.332.5100 • F 208.332.5102 • bogusbasin.org • 2600 N. Bogus Basin Road • Boise, ID 83702
Bogus Basin Recreational Association, Inc. is a 501(c)(3) non-profit organization.

October 19, 2021



The Honorable John Hickenlooper
374 Russell Senate Office Building
Washington, D.C. 20510

Re: The SHRED Act-S 1964

Dear Senator Hickenlooper:

I am writing on behalf of Colorado Ski Country USA (CSCUSA) and our twenty-two member ski areas to report that ski season is underway in Colorado! Several thousand happy skiers and snowboarders hit the slopes for the first time this past weekend at Arapahoe Basin and Wolf Creek ski areas, kicking off Colorado's 2021-22 ski and snowboard season. Following seasonally cold temperatures ideal for snowmaking and some early season snowstorms, Colorado ski areas are working feverishly to prepare to welcome visitors from across the nation and the globe. Colorado is the industry leader when it comes to welcoming skiers and snowboarders, hosting nearly twenty-five percent of the nation's skier visits each year. In addition to our mountains and snow, it's the investment of Colorado ski areas in continuously improving their offerings and the warm welcome of our Colorado ski area workforce that make the Colorado experience second to none.

When it comes to supporting the investment and efforts of Colorado's ski industry, you are helping us with your support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964) in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021.** We very much appreciate your co-sponsorship of the SHRED Act and hope you will speak in favor of it during the ENR hearing this week. This bipartisan bill will help address critical needs for ski area and other recreation programs on United States Forest Service (USFS) lands in Colorado—by supporting the agency review process that all ski area and recreation investments must undergo before being implemented. The current bill is an updated and improved version of the bill from last session, incorporating ski industry, recreation industry and local stakeholder feedback.

The SHRED Act would locally retain approximately \$27 MM of the \$40 MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals and to support non-ski recreation permit administration, visitor services and other purposes. With nearly twenty-five percent of the skier visits in the U.S., Colorado stands to benefit tremendously by retaining fees generated by ski areas in the state. Fee retention will enhance the resources available to the USFS on Colorado forests with the staffing capacity the agency needs to administer ski area permits and other recreation permits. Visitors will benefit as well, through better resourced trailhead services (parking, plowing, toilets and trash), interpretation, signage and avalanche forecasting and education.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical legislation.

Sincerely,

A handwritten signature in black ink that reads "Melanie Mills". The script is fluid and cursive, with the first name and last name clearly distinguishable.

Melanie Mills

President & CEO

Colorado Ski Country USA

3773 Cherry Creek Drive N #955

Denver, CO 80209

Cc: Bryan Petit, ENR Committee

James Willson, ENR Committee

October 27, 2021



**Statement of the Composite Panel Association
Regarding S. 2836
“America’s Revegetation and Carbon Sequestration (ARCs) Act of
2021”**

The Composite Panel Association (CPA) is pleased to provide this statement for the record associated with the Senate Energy and Natural Resources Committee hearing on the ARCs Act, held on Thursday, October 21, 2021.

CPA was founded in 1960 and is a trade association representing more than 95% of the North American manufacturing capacity of the following composite wood products: particleboard, medium density fiberboard (MDF), and hardboard. CPA members also include those companies that supply, distribute, and use these panels to make other value-added products, such as furniture, cabinets, flooring, moldings, exterior siding and trim, among other products.

The total impact of the industry on the U.S. economy is over of \$7 billion annually, reflecting direct, indirect, and induced economic effects. The industry supports over 22,500 well-paying jobs, many of which are in rural parts of the country.

Composite wood panels are produced using wood fiber that would otherwise be discarded or decay in the environment. The fiber is sourced from sawmills, tree harvesting operations and from other wood product operations. Almost all (>97%) of the fiber sourced by composite panel producers is used as an ingredient in the panel products themselves or used to produce the necessary process heat at the manufacturing mills. The panels are produced by combining the recycled fiber with resins, followed by pressing and sizing in the mill. The panels, therefore, are recycled products at their core, and are capable of sequestering large amounts of carbon over extended periods of time.

CPA undertook an investigation earlier in 2021 to assess the amount of carbon stored (embodied carbon) in composite panel wood panels. The study examined an over 20-year period, beginning in the early 1990s. The

analysis concluded that more 350 million metric tons of carbon dioxide equivalents (CO₂e) had been stored in composite panel over this period. This figure represents only that carbon stored in panels newly manufactured during this period. The storage figure is likely an order of magnitude higher if the carbon stored in long-lasting products (such as cabinets, flooring, furniture) manufactured prior to the 1990s is considered. Needless to say, composite wood panels and the products made with them are high quality climate change mitigators.

CPA is encouraged by the provisions in S. 2836 that acknowledge the capability of wood products used in construction and otherwise to sequester carbon and contribute to climate change mitigation. CPA recommends that the legislation be modified to more clearly acknowledge the climate change mitigating contributions that composite wood panels and those products made with these panels can make.

Specifically, we recommend that a definition for “non-structural wood products” be added to the legislation and that modifications be made to Sections 303 and Sections 401 to address non-structural wood products, as outlined below.

Non-Structural Wood Products: Products widely used inside residential and commercial structures, including cabinets, flooring, furniture, doors, moldings and similar materials, which contain composite wood panels such as particleboard and medium density fiberboard.

Section 303: Storing Carbon in Federal Buildings: Modify the text as suggested below.

“Section 303(a)(2): Assessment. – The Secretary of Agriculture, acting through the Director of the Forest Products Laboratory of the Forest Service, shall conduct an assessment of each mass timber building included in the database which shall include collecting data on the embodied carbon of the materials used in the construction of the mass timber buildings included in the database. **The assessment shall also account for the embodied carbon stored in non-structural wood products in building interiors.**”

“Section 303(c): Coordination and Technical Assistance. – The Secretary of Agriculture, acting through the Director of the Forest Products Laboratory of the Forest Service, may coordinate with other Federal agencies and non-Federal partners for the purpose of improving the management and efficiency of constructing mass timber building and infrastructure **and strategies for enhancing the use of non-structural wood products in building interiors.**”

Section 401: Longevity of Forest Products. The Secretary of Energy, in coordination with the Secretary of Agriculture, shall – (1) develop more accurate and efficient methods and technologies to measure and monitor the amount and average lifespan of carbon stored in woody biomass energy feedstocks, and building materials; **accounting for both structural and non-structural materials, including non-structural wood products.**

CPA would be happy to address any questions the Committee may have on these recommendations. Please reach out to Andy O'Hare at (202) 270-0094 or aohare@cpamail.org to discuss the perspectives of CPA on these suggestions.

Senator Dianne Feinstein
Statement for the Record
Senate Energy and Natural Resources Committee
October 21, 2021

Chairman Manchin, Ranking Member Barrasso, and Members of the Energy and Natural Resources Committee, thank you for the opportunity to provide a statement in support of the bipartisan Wildfire Emergency Act (S. 2806). My colleagues on this committee, Senator Wyden and Senator Daines, have cosponsored this bill, as has Senator Padilla. I very much appreciate you including this bill on the agenda today, along with several other important pieces of legislation aimed at addressing wildfire.

As those on the Committee know, western wildfires are becoming more frequent, more destructive, and more deadly as a result of climate change. The eight largest wildfires in California history have occurred since 2017. During that span, wildfire has burned 10 million acres throughout the state, killed nearly 200 people, and destroyed more than 32,000 homes.

It's clear that wildfires will continue to become more dangerous and destroy more people's lives and livelihood. We must act now and undertake new efforts if we are to have any hope in changing this growing threat. The *Wildfire Emergency Act* will help. This comprehensive legislation will fund wildfire mitigation projects on federal lands, harden critical infrastructure against wildfire, and bolster development and hiring of additional wildland firefighters.

The bill would authorize \$250 million to fund a new Forest Service program to conduct large-scale forest restoration projects. These new projects would be based on landscape assessments that cover at least 100,000 acres, encouraging the agency to work at a far larger scale than in the past. Randy Moore, the Chief of the Forest Service, has previously emphasized that forest thinning projects helped to protect South Lake Tahoe, a community of more than 20,000 people, from the Caldor fire this summer. This provision will help the Forest Service scale up its forest restoration projects to help stop or limit major wildfires.

This bill also addresses a new problem: the complications involved when power companies in California pro-actively shut off power to prevent high winds from sparking large wildfires. While these power shutoffs appear to be effective in reducing fires started by sparking from downed trees and branches, they are also extremely disruptive to Californians' daily lives. The *Wildfire Emergency Act* would authorize a new, \$100 million grant program to protect critical infrastructure and retrofit key structures, such as hospitals and police stations, to function better temporarily without power. In addition, this bill would expand the Energy Department's weatherization program so that homes can be retrofitted to make them more resilient to wildfire. California has seen that this retrofitting works. California's 2008 building code required fire-resistant roofs and siding and other improvements. During the 2019 Camp Fire, the majority of homes that complied with the 2008 code survived the fire without damage, while only 18% of the pre-2008 code homes escaped damage.

Other provisions of the bill include a new workforce development program to create a career-training pipeline for foresters and fire managers and the establishment of one or more Prescribed Fire Centers in the West. These Centers would coordinate research and training of foresters and forest managers in the western United States in the latest methods and innovations in prescribed fire (controlled burns) practices to reduce the likelihood of catastrophic fires and improve the health of forests, similar to the existing National Interagency Prescribed Fire Training Center in Tallahassee, Florida.

We need a whole-of-government effort to battle catastrophic wildfire and address the growing challenge of climate change. This bill moves us in that firmly in that direction; I thank the Committee for its consideration and would be pleased to work with you to answer questions or address any concerns you may have. Thank you again for calling today's hearing and including the Wildfire Emergency Act.



October 19, 2021

The Honorable Maria Cantwell
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510

RE: Urging Co- Sponsorship of S.1964 – The Ski Hill Resources for Economic Development Act (SHRED) of 2021

The Mission Ridge Ski and Board Resort has provided exceptional outdoor recreational experiences since its inception in 1966. For over 50 years, Mission Ridge has been an integral part of the greater Wenatchee Valley and North Central Washington, as well as a destination for visitors throughout our region. Interest in recreational opportunities at Mission Ridge has grown during this time and Mission Ridge is in a unique position to meet that public demand while maintaining the character that makes Mission Ridge so special.

Mission Ridge sits on over 2,000 acres of permitted U.S. Forest Service land and is located only 12 miles from the City of Wenatchee. It has four ski lifts, 36 designated trails and has a vertical rise of 2,250 feet which places the top elevation for the resort at 6,820 ft. above sea level. Currently Mission Ridge is primarily a day/local use alpine ski area, however, plans are in review to expand the Resort to serve a wide variety of outdoor recreation users, overnight and out of state visitors.

Mission Ridge is a major contributor to Central Washington's economy. In recent years, it has generated more than \$13 million in visitor expenditures in the region and supports more than 260 full time jobs.

S. 1964, introduced by Senator Michael Bennet (D-Colo.) and John Barrasso (R-Wyo.), will invest in outdoor recreation in mountain communities by ensuring National Forests retain a portion of the annual fees that ski areas operating within their boundaries pay to support local recreation and community priorities. HB 1964 will allow permit fees paid by ski areas to be used to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes.

Specifically, S. 1964 will provide the Forest Service with the staffing capacity it needs to administer ski area permits, review ski area proposals for future improvements, and support other outdoor recreation uses.

S. 1964 is of keen interest to the Mission Ridge Ski and Board Resort. The Okanogan-Wenatchee National Forest (OWNF) Management Plan has identified the need to provide "a well-balanced array of recreation opportunities in accordance with resource capability and public demands and expectations".

Mission Ridge has a long history of working with the OOWNF to adjust boundaries, permit conditions, operating timelines, replace chairlifts and has recently entered discussions about diversifying outdoor recreation opportunities to serve new users.



S.1964 will provide the OWNF with the necessary resources to achieve its goals by continuing vital collaborative efforts with outdoor recreation users and stakeholders in Central Washington.

We urge your support for S.1964 and ask your consideration to join as a Co-Sponsor. Please let me know if you have any questions about the proposal.

Thank you,

Josh Jorgensen
General Manager, Mission Ridge Ski and Board Resort
(509) 663-6543

Attachment – Summary of S.1964



2021 SHRED Act (HR 3686/S. 1964) SUMMARY

Ski areas generate \$39.9M in U.S. Forest Service permit fees (10-year average) annually, which are then remitted to the Treasury. This bill would retain a portion of those fees in local forests to improve ski area permit and program administration, the processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Beneficiaries of this legislation include the Forest Service; the 122 ski areas operating on National Forest System lands in thirteen states; non-ski area recreation permittees; mountain communities; and the recreating public. Under this legislation, approximately \$27M would be retained annually by the Forest Service.

Benefits of Ski Fee Retention

Resources collected through Ski Fee Retention would provide the Forest Service with the staffing capacity it needs to administer ski area permits and review ski area proposals for future improvements. Improving the agency's capacity to administer permits and review proposals is important for providing ski areas with the certainty they need to make business decisions on private investments in needed public lands infrastructure. This bill will help facilitate implementation of year-round recreation activities, thereby creating year-round jobs and boosting rural economies. It will also improve permit administration for outfitters, guides and other recreation permittees. Visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education. Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs.

Partial Retention of Fees

Forests with ski area fees in excess of \$15M annually would retain 60% of the fees locally. The remaining 40% would continue to go to the Treasury. Forests with ski area fees at or below \$15M annually would retain 75% of the fees locally. The remaining 25% will continue to go to the Treasury.

Expenditures for Ski Area-Related Purposes

Seventy-five (75) percent of the total fees retained would be allocated to ski area-related purposes including permit administration, processing of ski area proposals, staff training, interpretive and visitor services, and wildfire preparedness planning and coordination. To be clear, these fees are for the Forest Service's use and will not pay for actual improvements at ski areas.

To the extent a forest with greater than \$15M in annual ski area permit fees can't reasonably spend the money retained, the Secretary can allocate fees to other ski forests or regions for the same ski area-related purposes. The originating forest, however, is guaranteed a minimum of 25% of those retained fees. To the extent a forest with \$15M or less in annual ski area permit fees can't reasonably spend the fees retained, the fees may be allocated to other forests or regions for ski area-related purposes. In this case, the originating forest is guaranteed a minimum of 40% of those retained fees.

If the Secretary determines that all ski area-related needs have been met across all regions, any remaining amounts can be allocated to other (non-ski) recreation purposes, visitor services and administrative sites leasing. This remaining amount would come *in addition* to the 25% allocation for the purposes explained below.

Expenditures on Other Recreation Permit Administration, Visitor Services and Administrative Sites Leasing

Twenty-five (25) percent of the ski area permit fees retained by a forest would be allocated to other recreation (non-ski area) purposes on the forest or region, including permit administration, avalanche forecasting and education, recreation management, maintenance and services, and the leasing of USFS administrative sites for workforce housing and other purposes.



Limits on Expenditures

Retained fees may not be used for wildfire suppression outside a ski area permit boundary or for the acquisition of federal lands.

Retained ski area permit fees are in addition to appropriated funds, not in lieu of appropriated funds.

October 21, 2021

The Honorable Joe Manchin
Chairman
Energy and Natural Resources Committee
Washington, D.C. 20510

The Honorable John Barrasso
Ranking Member
Energy and Natural Resources Committee
Washington, D.C. 20510

Dear Chairman Manchin and Ranking Member Barrasso:

We are writing to share the perspective of the aggregates, cement and concrete industries about the possible impacts of the America's Revegetation and Carbon Sequestration (ARC) Act. We represent more than 600,000 workers at thousands of aggregates, cement and concrete businesses across the country who manufacture and deliver critical materials for our nation's built environment. Our members collectively serve every residential, commercial, and public works project in the United States and generate more than \$100 billion in economic activity each year.

We have significant concerns with policies and programs that promote specific buildings materials. Every day, concrete construction competes with wood construction for market share in the low- and mid-rise residential and commercial construction market. Engineers and construction professionals make decisions about which materials to use to meet the codes, standards and specifications of a project. For these reasons, we are concerned with provisions of the ARC Act that promote mass timber construction. We believe that decisions about the use of construction materials should be left to the discretion of engineers and construction professionals.

There is no environmental superiority of mass timber construction over concrete construction. The embodied carbon of a mass timber building is comparable to that of a concrete building when the emissions footprint of logging, processing, and shipping are included in the calculation. Additionally, it is important to recognize the carbonation of both mass timber and concrete buildings: both materials hold the potential to sequester carbon during their useful life. However, unlike mass timber, after its service life, concrete construction can be recycled, further sequestering carbon during its exposure and subsequent useful life. Legislation looking to evaluate research and construction of buildings that offer a carbon sink opportunity must consider the full life cycle of the materials used to build the structure.

Federal policies and programs should not promote one construction material over another. For these reasons, we are concerned that provisions in Sections 302 and 303 of the ARC Act would serve to promote mass timber construction in a market place where multiple construction materials compete, including promotion of mass timber construction of buildings and bridges. Various building materials should be able to compete on their merit and engineers and construction professionals should be provided the discretion to choose the best material on a case-by-case basis. Mandates and material-specific promotional programs are bad policies as they eliminate competition in the marketplace. Such mandates on federal projects will lead to increased costs that limit taxpayer dollars.

Finally, we are concerned that the definition of carbon sequestration in the ARC Act does not recognize manufacturing processes. The cement and concrete industries have released a Roadmap to Carbon Neutrality by 2050. As part of this, the cement industry will be working to advance carbon capture and storage during the manufacturing of cement, and we seek to ensure that a definition of carbon sequestration captures both atmospheric and the manufacturing processes.

We appreciate the opportunity to share the perspective of the aggregates, cement and concrete industries on the ARC Act. We recognize that building engineers and concrete construction professional need to have the discretion to choose the best building material for each specific project. We look forward to working with you to ensure the ARC Act does this.

Sincerely,

National Ready Mixed Concrete Association
National Stone, Sand and Gravel Association
Portland Cement Association



October 18, 2021

Chairman Manchin
 Ranking Member Barrasso
 Senate Energy & Natural Resources Committee
 304 Dirksen Senate Building
 Washington, DC 20510

Re: Support for S. 1964 – SHRED Act

Dear Chairman Manchin, Ranking Member Barrasso and Members of the Committee:

I am writing to express the ski industry's support for S. 1964, the Ski Hill Resources for Economic Development (SHRED) Act of 2021. The National Ski Areas Association (NSAA) would like to thank Senators Bennet, Barrasso, Rosen, Cortez Masto, Hickenlooper, Risch, Crapo, Wyden, Shaheen, Hassan, Kelly, Daines and Lummis for their support and co-sponsorship of this bipartisan measure to retain ski area permit fees locally for the benefit of the Forest Service recreation program.

NSAA has 325 ski area members, 124 of which operate on National Forest System lands across the 14 states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Hampshire, New Mexico, Oregon, Utah, Vermont, Washington, West Virginia and Wyoming. We support S. 1964, which would retain approximately \$27MM of the \$40MM generated annually in ski area permit fees to improve funding and staffing of the Forest Service's recreation program. Recreation visits to Forest Service lands have increased significantly over the past two decades, and they continue to climb in this pandemic era. Of the 10 most visited forests nationwide, 9 of them host ski areas, attracting millions of visitors. This past winter, ski areas accommodated 59 million skier visits, the fifth best season on record. The time has come to invest in the Forest Service's ski area program, and its recreation program as a whole.

The benefits of the SHRED Act will extend well beyond the Forest Service's ski area program. The legislation will help improve permit administration for outfitters, guides and other recreation permittees. Visitors to national forests will benefit through better resourced trailhead services such as parking, plowing, toilets, trash collection, interpretation and signage. Much needed investments in avalanche forecasting and education will enhance the experience and safety for backcountry users of the forests. Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for affordable workforce housing and other community needs. These are critical issues for mountain communities that the SHRED Act would help address.

Passage of the SHRED Act will help ski areas receive timely reviews of project proposals. For many years now, ski areas have experienced delays or even "pauses" on the processing of resort proposals due to lack of staffing. On some forests, the agency's lack of bandwidth limits them to reviewing one ski area project at a time. When projects are delayed and timelines are uncertain, ski areas – like all businesses – find it harder to invest significant resources. The end result is that ski areas are slower to upgrade chairlifts to improve guest experience and circulation on the mountain; slower to upgrade to energy efficient snow guns; and slower to upgrade guest-facing facilities for ski school, rentals and dining. It also means that ski areas are slower to transition to four-season operations that support year-round recreation and year-round jobs in mountain communities.

To be clear – ski areas pay for all of the improvements that you see at a resort such as chairlifts and ski lodges and other facilities. That won't change under the SHRED Act, but what will change is that Forest Service personnel will be in place to review proposals and process applications for improvements in a timely manner. That will be a game changer for us and our partners in recreation.

In closing, we thank the Committee for taking up the SHRED Act in this legislative hearing. If you should require any further information, please do not hesitate to contact me at glink@nsaa.org or 720.963.4205.

Best Regards,

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

Geraldine Link
Director of Public Policy

October 20, 2021

The Honorable Joe Manchin III
 Chair
 U.S. Senate Committee on Energy and
 Natural Resources
 304 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable John Barrasso, M.D.
 Ranking Member
 U.S. Senate Committee on Energy and
 Natural Resources
 304 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

On behalf of our more than 3 million members and online activists, I write to express NRDC's concerns related to forestry-focused legislation your committee will consider during its upcoming October 21 hearing. In all aspects of public land management, we ask that the committee remain focused on advancing strong conservation measures that will enhance the health and resilience of our public lands and not undermine essential democratic values like transparency and public participation. We believe that several bills under consideration would seriously undermine these core public land management values and thus urge that they do not advance without key changes.

Of greatest concern to NRDC are:

S. 2561

We strongly oppose Senator Daines' bill, which attempts to foreclose the public's access to courts to challenge public land management decisions. If it were to pass into law, it would end the public's access to critical judicial review of land management decisions.

This legislation would have the effect of affirmatively exempting the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) from reinitiating required Section 7 consultation processes by making any change or update to a land management plan no longer a decision constituting "discretionary Federal involvement or control." Case law on this issue, not to mention longstanding agency interpretation of the ESA, has determined that where an agency has discretion to act (i.e., a decision is "continuing" or can be changed due to established statutory or regulatory "discretion"), that discretion can and often should trigger further or reinitiated ESA consultation.

A blanket attack on the ESA's consultation requirements imperils the hundreds of species that rely on habitat managed by the USFS and BLM. Legislation that weakens these requirements and diminishes the public's right to monitor and challenge the actions of public land managers could lead to the further decline of these species and their habitat. It is antithetical to the stewardship and conservation mandates of these agencies.

S. 2564, Protect Collaboration for Healthier Forests Act

We strongly oppose Senator Daines' bill, which sets the stage for ending the public's ability to access the courts to resolve disputes with the U.S. Forest Service regarding certain types of forest management activities. By establishing a forced, binding arbitration pilot program for disputes in Idaho, Montana, and Wyoming, the bill would shield hand selected USFS projects of indeterminate scope from independent judicial review and limit the public's access to judicial review.

S. 2564 mirrors Senator Daines' 2018 bill, which committee Democrats opposed at the time (see [committee report](#) with dissenting views to S. 2160). As explained in the committee report, the bill undermines accepted norms for voluntary arbitration enshrined in U.S law for the last century.

S. 2436, Forest Improvements through Research and Emergency Stewardship for Healthy Ecosystem Development and Sustainability Act

We strongly oppose Senator Risch's bill, which inappropriately undermines the National Environmental Policy Act (NEPA) by exempting the establishment of landscape scale "fresheds" from environmental review and creating a new, largely unbounded, legislative categorical exclusion that would facilitate a significant increase in logging on public lands. The bill also unnecessarily restricts normal judicial procedure by foreclosing the injunctive relief remedy where a dispute involves activities in the wildland-urban interface (WUI).

There is no question that forests play a critical role in mitigating the effects of climate change and providing the ecosystems and habitat that can help us confront the concurrent biodiversity crisis. However, bills like those flagged above only serve to undermine the resource management and conservation mandates of the USFS and BLM and could cause irreparable harms to forest ecosystems located on public lands. For these reasons, and those specifically mentioned regarding each bill, we respectfully request that you oppose the advancement of these bills from this committee.

Thank you for your consideration of our concerns.

Sincerely,

John Bowman
Managing Director, Government Affairs
Natural Resources Defense Council



The Nature Conservancy
4245 N. Fairfax Drive
Arlington, VA 22203-1606

Tel (703) 841-5300
Fax (703) 841-7400
nature.org

October 20, 2021

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman Manchin and Ranking Member Barrasso:

Thank you for your leadership in introducing the America's Revegetation and Carbon Sequestration (ARCs) Act, S. 2836, to help restore ecosystems, sequester carbon, and reduce emissions through the powerful benefits of improved forest and rangeland management. As we strive to create jobs, grow our economies across states, *and* combat climate change, forests and rangelands must be part of our strategy.

The Nature Conservancy (TNC) is a global conservation organization working around the world to protect ecologically important lands and water for people and nature. Our mission is to conserve the lands and waters on which all life depends. Guided by science, TNC creates and implements innovative, on-the-ground solutions to our world's toughest challenges and fosters scientific and policy advances. TNC uses a collaborative approach that engages local communities, governments, private sectors, industries, and other partners. We have significant scientific and management expertise through the dedicated efforts of our diverse staff, including more than 400 scientists, maintaining offices and programs in the 50 states and in more than 79 countries. Since our founding in 1951, TNC acquires and manages land within landscapes that include national forest system lands, and often works closely with the USDA Forest Service, state and local agencies, tribes, and other organizations to maintain and restore these ecosystems across land ownership boundaries to provide myriad benefits to both natural and human communities.

We appreciate the bill's focus on revegetation, reforestation, and support for research on climate-smart forestry actions to improve the health of our forests and create job opportunities across rural and urban landscapes. Science-driven reforestation and improved forest management can help sequester more carbon while also cleaning our water, mitigating the impacts of flooding, creating more wildlife habitat, expanding outdoor recreation opportunities, and more throughout the country.

Reforestation is one of the best strategies for leveraging natural and working lands to reduce greenhouse gas emissions both globally and in the United States. Reforesting landscapes provides socio-economic benefits as well. Growing the reforestation pipeline was a highly effective tool for

economic recovery in the New Deal-era and is poised to yet again factor significantly in the economic recovery the world is now facing.

There is tremendous potential for reforestation across the United States. A recent study led by TNC, ([Cook-Patton et al. 2020](#)) identified 133 million acres of land suitable for reforestation and tree planting in the United States. These reforestation opportunities exist in every state and across private, public and tribal lands ([Reforestationhub.org](#)). This research can help to inform the development of the Revegetation Assessment called for in Section 102. We support all the priorities for reforestation identified in the bill and the inclusion of a pilot program for reforestation of reclaimed mine lands under Section 106. We also appreciate the inclusion of the provision for developing a plan to address challenges identified in [Fargione et al. 2021](#) to increasing the scope and scale of reforestation including seed collection, storage, nursery, planting and necessary maintenance.

While we support the goals and many aspects of this bill, there are a few areas of concern that we believe need further dialogue and modification to ensure reforestation efforts are climate-informed and ecologically appropriate. First, in Section 201, “Forest management from carbon credits”, selling of carbon credits from national forests is a complex issue with significant potential for a range of unintended consequences. To date, the forest community has not had sufficient time to discuss the pros and cons of selling carbon credits generated from federally managed forest lands. There are a host of issues, including ensuring additionality for any such credits, impacts on federal management planning, and potential impact on existing carbon markets, including competition with private landowners interested in participating in carbon markets. Finally, the current language in the bill is not clear regarding how any programs designed to produce credits from federal forests would be distinct from or connected to existing carbon market standards and methodologies. We recommend modifying this provision to recommend federal agencies, working with National Forest Foundation, complete a study of the potential pros and cons of selling credits generated from federal forests. The study should be informed by input from forest stakeholders and existing carbon market registry leaders.

The second area of concern is around mass timber, under Title III. Simply stated, there is a need for more analysis, particularly full life cycle analyses that evaluates the impacts of increased demand for mass timber on forest ecosystem carbon. If negative consequences are identified safeguards need to be established to ensure that an increased demand for mass timber does not result in negative consequences to forest ecosystems and forest carbon. We recommend this provision include full life cycle accounting and the development and incorporation of necessary safeguards.

Thank you for working together in developing the ARC's bipartisan bill to enhance the role of forests in addressing climate change. We look forward to working with you to continue to improve upon and advance this legislation.

Sincerely,

Cecilia Clavet

The Nature Conservancy
North America Policy & Government Relations
Senior Policy Advisor, Forest Restoration & Fire



October 18, 2021

Re: Support of the SHRED Act – S. 1964

Dear Senator Wyden,

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964) in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021.** This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in the state of Oregon. When considering all ski areas included in our membership, the reach of the fees associated with ski areas extends to all ski forests in region 6 of the USFS and beyond, including our ski area stakeholders in Washington, Alaska, Idaho, and Montana. The current bill is an updated and improved version of the bill from last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

The SHRED Act would locally retain approximately \$27MM of the \$40MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Resources collected through the SHRED Act would provide the Forest Service with the staffing capacity it needs to administer ski area permits, outfitter guide permits and other recreation permits. Visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation.

Jordan Elliott, President
The Pacific Northwest Ski Areas Association

On behalf of:

Oregon Ski Areas

Anthony Lakes Mountain Resort
Cat Ski Mt. Bailey
Cooper Spur
Hoodoo
Mt. Ashland
Mt. Bachelor
Mt. Hood Meadows
Mt. Hood Skibowl
Teacup Lake Nordic Club
Timberline
Wallowa Lake Tramway
Willamette Pass

Also included are other special use permittees listed at: <https://pnsaa.org/membership/member-resorts/>



Senate Energy and Natural Resources Committee
Hearing on Pending Legislation Related to Forest Management and Wildfire
October 21, 2021

Statement For the Record
Submitted by Jonathan Wood, Vice President for Law and Policy
Property and Environment Research Center (PERC)

Main Points:

- The declining health of federal forests is a major contributor to the large and destructive wildfires that are becoming more common across the West.
- Increased government funding alone is not enough to tackle the wildfire crisis and fix America's forests.
- To increase the pace and scale of forest restoration, Congress must address regulatory hurdles and litigation that prevent or delay projects and expand capacity for states, tribes, and private parties to contribute.

Introduction

Thank you for the invitation to submit this statement for the record for the hearing on pending legislation related to forest management and wildfire. The stewardship of our federal forests and reducing the risk of catastrophic wildfire is a priority issue for the Property and Environment Research Center (PERC).

PERC is a conservation research institute based in Bozeman, Montana, with more than four decades of experience on market-based solutions to conservation challenges, including ways to improve public lands management. Recognizing the wildfire crisis' severe human and environmental consequences, we are currently engaged in a multi-year research initiative on ways to boost forest restoration. In April 2021, PERC published *Fix America's Forests*,¹ a report documenting obstacles to restoring national forests, innovative steps states and private parties are taking to pitch in, and the need for reforms to

¹ Holly Fretwell and Jonathan Wood, *Fix America's Forests: Reforms to Restore National Forests and Tackle the Wildfire Crisis*, PERC Public Lands Report (2021), <https://www.perc.org/wp-content/uploads/2021/04/fix-americas-forests-restore-national-forests-tackle-wildfire-crisis.pdf>.

scale up these innovations. In particular, the report suggests ways to encourage collaboration rather than conflict, increase partnership opportunities, and open forest product markets.

A Need for Forest Restoration

In 2020, more than 10 million acres burned across the West—a record in modern history. These fires killed dozens of people, displaced countless others, consumed more than 17,500 structures, cost more than \$3.5 billion to suppress, and degraded air and water quality throughout the region. A problem of such magnitude does not have a single cause. Climate change plays a role by expanding the fire season and drying out fuels. But according to a study by U.S. Forest Service scientists, “the most important” factor is the presence of excess fuels in national forests. According to this study, fuel loads explain 53 percent of the increased size and severity of wildfires, compared to 14 percent for climate.²

The threat of catastrophic wildfire is perhaps the biggest challenge facing national forests. Of the 193 million acres managed by the Forest Service, 80 million are in need of restoration, and 63 million face high or very high wildfire risks, according to the agency.³ Because the agency is able to restore only a small fraction of this area annually, it would take decades to clear this backlog. And because the number of Forest Service personnel trained in forest management and restoration has substantially declined as the agency hired more fire-fighting personnel, “it is readily apparent” according to a survey of agency managers “that the Forest Service cannot meet national direction to increase the pace and scale of forest restoration with its current workforce.”⁴ For this reason and others, it is essential to enlist the support of states and the private sector.

Funding Alone Is Not Enough

We applaud Congress for recognizing the need to increase forest restoration and to reduce wildfire risks. Unfortunately, a temporary increase in funding cannot, on its own, tackle this problem. Forest restoration is not a one-time effort but requires ongoing maintenance. Moreover, burdensome red tape and litigation risks limit the Forest Service’s ability to put additional dollars to effective use on the ground.

² Sean A. Parks et al., *High-Severity Fire: Evaluating Its Key Drivers and Mapping Its Probability Across Western US Forests*, Environmental Research Letters (2018), <https://doi.org/10.1088/1748-9326/aab791>.

³ 84 Fed. Reg. 27,544 (June 13, 2019), <https://www.federalregister.gov/documents/2019/06/13/2019-12195/national-environmental-policy-act-nepa-compliance>; U.S. Government Accountability Office, *Wildland Fire: Federal Agencies’ Efforts to Reduce Wildland Fuels and Lower Risk to Communities and Ecosystems* (2019), <https://www.gao.gov/assets/710/703470.pdf>.

⁴ National Association of Forest Service Retirees, *Increasing Workforce Capacity* (2019), <https://nafsr.org/advocacy/2019/072619%20Workforce%20Capacity%20Study.pdf>.

Well-intentioned environmental regulations can have the unfortunate effect of discouraging environmentally beneficial actions, including forest restoration. The National Environmental Policy Act (NEPA), for instance, requires federal agencies to prepare (often voluminous) documents regarding the environmental impacts of actions, as well as extensive alternatives analysis. For projects categorically excluded from extensive analysis, NEPA adds an average delay of 7 months. Delays swell to nearly 3 years for projects that require full environmental impact statements.⁵ PERC's research has shown that forest restoration projects are significantly less likely to qualify for a categorical exclusion than other Forest Service projects and take significantly longer to complete the NEPA process compared to other project types receiving the same level of analysis.⁶

The Endangered Species Act (ESA) can also have unintended consequences for forest restoration. That law requires federal agencies to consult with the U.S. Fish and Wildlife Service when their activities may affect listed species or their habitat. Unfortunately, this reasonable requirement has been made unintentionally disruptive by court decisions that have, effectively, forced agencies to aim at a perpetually moving target. Under the Ninth Circuit's *Cottonwood* decision,⁷ forest restoration projects must stop whenever a new species is listed or critical habitat is designated while the Forest Service restarts the consultation process at the forest plan level. In urging the Supreme Court to overturn this decision, the Obama administration observed that it "has the potential to cripple the Forest Service."⁸ This was no hyperbole. *Cottonwood* was largely responsible for delaying—for more than 15 years—a project to protect Bozeman, Montana's water supply from catastrophic wildfire.⁹

Litigation can be a significant obstacle to forest restoration. PERC's research has shown that forest restoration projects are substantially more likely to be litigated than other Forest Service projects.¹⁰ Indeed, litigation can delay or increase costs even of projects that are not litigated. Forest Service personnel report that the mere risk or threat of litigation can affect project analysis, costs, and delays.¹¹ Moreover, the consequences of litigation are not equally distributed. Forest Service regions within the jurisdiction of the Ninth Circuit Court of Appeals face significantly more litigation than other regions. In fact, according to PERC's research, nearly half of the lawsuits filed from 2007 to 2017 challenging

⁵ Data retrieved from the Data Repository for the University of Minnesota, <https://doi.org/10.13020/3xfe-2m18> and made available by Forrest Fleischman et al., U.S. Forest Service Planning, Appeals, and Litigation Data on NEPA Compliance, 2005-2019.

⁶ *Fix America's Forests*, *supra* n.1, at 14, 37 (n. 41, 42 & 46).

⁷ *Cottonwood Environmental Law Center v. U.S. Forest Service*, 789 F.3d 1075 (9th Cir. 2015).

⁸ See Pet. for Cert., *U.S. Forest Serv. v. Cottonwood*, No. 15-1387 (filed June 10, 2016).

⁹ See *Fix America's Forests*, *supra* n.1, at 16.

¹⁰ See *id.* at 15.

¹¹ Michael J. Mortimer et al., *Environmental and Social Risks: Defensive National Environmental Policy Act in the U.S. Forest Service*, *Journal of Forestry* (2011), <https://doi.org/10.1093/jof/109.1.27>.

forest restoration projects were filed in just two districts within the Ninth Circuit: the District of Montana and the Northern District of California (both of which have a substantial need for more forest restoration).¹²

Finally, implementation of prescribed fire is hampered by regulation under the Clean Air Act. Smoke from prescribed fire counts against states' pollution caps, but smoke from wildfire is excluded as an "exceptional event." Guidance from the Environmental Protection Agency provides a means for states to request that smoke from prescribed fire be excluded, but this requires states to navigate a costly and uncertain process.

A Need for Creative Solutions

To truly fix America's forests, Congress needs to address the policy obstacles keeping the Forest Service and its partners from conducting on-the-ground restoration. By reducing conflict and litigation over forest projects and promoting partnerships with states, tribes, and outside groups, Congress can promote healthy forests and reduce wildfire risks.

One approach is to address the controversy and litigation surrounding the NEPA process for forest projects. As PERC's *Fix America's Forests* report outlines, expanding categorical exclusions under NEPA would enable more ambitious forest management projects to be completed in a reasonable time. The FIRESHEDS Act (S. 2436) from Senator Risch and National Prescribed Fire Act of 2021 (S. 1734) from Senator Wyden, both before you today, propose such reforms. The FIRESHEDS Act would create a categorical exclusion for fireshed management projects, and section 204 of the National Prescribed Fire Act of 2021 directs federal agencies to develop a series of categorical exclusions for implementing prescribed fires. By reducing the NEPA burden through categorical exclusions for forest restoration activities Congress can make it easier for work to get done on the ground.

Additionally, Congress can address the unintended consequences of the Endangered Species Act on forest restoration and avoid analysis paralysis. A bill (S. 2561) from Senator Daines would address the impact of the *Cottonwood* decision by codifying the position of the Obama administration that a new species' listing or critical habitat designation does not reopen forest plans and resource management plans or require consultation to be reinitiated. Instead, the effects of a project on the species can be assessed through consultation over the specific project. Under this reform, the law in the Ninth Circuit would be the same as the rest of the country, and the potential for never-ending procedural litigation to delay or stop forest restoration projects would be reduced.

¹² See *Fix America's Forests*, *supra* n.1, at 38, n. 60.

It is important that the public have a voice in how public resources are managed, but litigation over forest projects can be excessively disruptive. Reducing the time required for a case to be decided would help public land managers address real problems with their projects quickly so that work can begin on the ground. The Protect Collaboration for Healthier Forests Act (S. 2564) from Senator Daines proposes to reduce the hurdle of lengthy litigation for getting forest projects done by allowing, as a pilot project, the use of arbitration to resolve disputes over collaborative forest projects in Montana, Wyoming, and Idaho.

There is also growing recognition that prescribed burns are a necessary tool in reducing wildfire risk. The National Prescribed Fire Act of 2021 (S. 1734) from Senator Wyden addresses an important policy hurdle to conducting more prescribed burns by exempting many federal, state, and tribal large prescribed burn emissions from Clean Air Act compliance. This is an important move because it recognizes that some small air pollution from prescribed burns is worth it to avoid the disastrous air pollution and human health impacts that come from catastrophic wildfires.

Finally, creative funding ideas are needed. Flexible funding will allow the Forest Service to engage in longer-term forest restoration planning. An important feature of the ARCs Act (S. 2836) from Chairman Manchin and Ranking Member Barrasso is that it would allow revenues from the sale of carbon credits to go into a separate fund to be used for forest management. Senator Feinstein also proposes a creative funding reform through Conservation Finance Agreements in section 104 of her Wildfire Emergency Act of 2021 (S. 2806). These agreements would harness non-federal funding to conduct forest restoration work with private partners. Such reforms are an important step to free forest restoration work from reliance on the appropriations process, and Congress should continue to look for ways to enhance the funding mechanisms and flexibility for these funds to advance forest management goals.

Conclusion

In conclusion, we encourage the committee to address the policy reforms needed to increase the pace and scale of federal forest restoration. There are opportunities to work with states, tribes, and private partners to fix our forests if we reduce conflict and improve partnership abilities for the Forest Service. Thank you for highlighting the need to reduce wildfire risk through forest management on our federal lands, and we appreciate the opportunity to share this statement.



Jeff Schmidt, President Montana Ski Area Association

10/15/21

Re: Support of the SHRED Act - S. 1964

Dear Senator Daines,

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964) in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021.** This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in the state of Montana. The current bill is an updated and improved version of the bill from last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

The SHRED Act would locally retain approximately \$27MM of the \$40MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Resources collected through the SHRED Act would provide the Forest Service with the staffing capacity it needs to administer ski area permits, outfitter guide permits, and other recreation permits. Visitors will benefit through better resourced trailhead services (e.g., parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation. Here in Montana, we appreciate your efforts to work and protect our public lands and have an ear for the Montana Ski areas. As we have discussed in person before, forest management is getting more critical every day.

Sincerely,

Jeff Schmidt, General Manager Red Lodge Mountain

jschmidt@redlodgemountain.com

cc: Bryan Petit, ENR Committee bryan_petit@energy.senate.gov

James Willson, ENR Committee james_willson@energy.senate.gov

SKI AREA | GOLF COURSE | DOWNTOWN RETAIL

PO BOX 750 | 305 SKI RUN ROAD | RED LODGE, MT 59068 | PHONE 406-446-2610 | FAX 406-446-3604



October 18, 2021

Sent via email to scott_fairchild@cortezmasto.senate.gov and joleen_rivera@cortezmasto.senate.gov

Senator Catherine Cortez Masto
313 Hart Senate Office Building
Washington, D.C. 20510

Re: Support of the SHRED Act – S. 1964

Dear Senator Cortez Masto:

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964) in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021**. This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in Nevada as well as the connected forests next door in California. The current bill is an updated and improved version of the bill you co-sponsored last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

We support this bill because it would keep a portion of those fees on the forest on which they were generated, so they can be used by the Forest Service in support of permit administration and processing of ski area improvement proposals for the 122 ski resorts operating on public land in 13 states, **including all four of our member resorts in Nevada**, Heavenly Mountain Resort, Diamond Peak, Mt. Rose Ski Tahoe, and Lee Canyon.

The SHRED Act would locally retain approximately \$27MM of the \$40MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Resources collected through the SHRED Act would provide the Forest Service with the staffing capacity it needs to administer ski area permits, outfitter guide permits and other recreation permits. Visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs. As we know you are aware as a major supporter of improvements in the Lake Tahoe Basin, fire is a critical threat to our forests, and therefore the ski industry as well. The Caldor fire devastated the Highway 50 corridor, roared through Sierra-at-Tahoe, and was making its way to Nevada before more favorable weather intervened.



Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Reitzell".

Michael L. Reitzell
President
California Ski Industry Association

cc: Bryan Petit, ENR Committee (bryan_Petit@energy.senate.gov)
James Willson, ENR Committee (james_willson@energy.senate.gov)
Geraldine Link, Public Policy Director, National Ski Areas Association



Re: Support of the SHRED Act - S. 1964

Dear Senator Heinrich,

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964) in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021.** This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in the state of New Mexico. The current bill is an updated and improved version of the bill from last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

The Ski industry in New Mexico is a \$500 million industry which employs over 3200 people (ski areas alone) statewide. That does not account for the hotel/motel, restaurants, gas stations, etc. which profit greatly from the ski trade. Skiing is also an attraction industry not an extraction industry, and thus generates and leaves clean dollars in our state.

The SHRED Act would locally retain approximately \$27MM of the \$40MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Resources collected through the SHRED Act would provide the Forest Service with the staffing capacity it needs to administer ski area permits, outfitter guide permits and other recreation permits. Visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation. If I can ever assist you in any way do not hesitate to contact me.

Sincerely,

George A Brooks
Executive Director
Ski New Mexico
Cell:505-250-6610



Oct 15, 2021

2749 E Parleys Way, Suite 310
Salt Lake City, UT 84109
(801) 534-1779 office
skiutah.com | info@skiutah.com
@skiutah | #skiutah

Re: Support of the SHRED Act - S. 1964

Dear Senator Lee,

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964)** in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021. This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in the state of Utah. The current bill is an updated and improved version of the bill from last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

The SHRED Act would locally retain approximately \$27MM of the \$40MM that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. Resources collected through the SHRED Act would provide the Forest Service with the staffing capacity it needs to administer ski area permits, outfitter guide permits and other recreation permits. Visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation, signage, and avalanche forecasting and education.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation.

Sincerely,

Nathan Rafferty
Ski Utah | President & CEO

cc: Bryan Petit, ENR Committee bryan_Petit@energy.senate.gov
James Willson, ENR Committee james_willson@energy.senate.gov

Partners in Promoting Utah's Winter Sports Industry





Chris Wood
President & CEO

November 3, 2021

The Honorable Joe Manchin
Chairman, Committee on Natural Resources
United States Senate
306 Hart Senate Office Building
Washington D.C. 20510

The Honorable John Barrasso
Ranking Member, Committee on Natural Resources
United States Senate
307 Dirksen Senate Office Building
Washington, DC 20510

Re: Hearing to consider pending wildfire and forestry legislation

Dear Chairman Manchin and Ranking Member Barrasso:

I am writing on behalf of Trout Unlimited (TU) and our more than 340,000 members and supporters across the country who share in a mission to bring together diverse interests to care for and recover rivers and streams so our children can experience the joy of wild and native trout and salmon. Ensuring the health of our public lands is central to this mission and we share your goal of healthy, well-managed forests and watersheds. We appreciate you holding the October 21, 2021 hearing to consider various legislative proposals and we offer the following perspective on increasing the pace and scale of restoration that directly leads to healthier watersheds and safer communities.

First, we note that the forestry and wildfire management toolbox is quite full. Collaborative Forest Landscape Restoration, Water Source Protection, Stewardship Contracting, Joint Chiefs Landscape Restoration Partnership, Good Neighbor, Healthy Forest Restoration Act, Farm Bill insect and disease provisions, and emergency NEPA procedures, as well as several categorical exclusions and streamlined NEPA processes, are already available to agencies for use across millions of acres of public land. Further, as we highlight below, the bipartisan infrastructure and the reconciliation bills provide greatly increased funding, and hopefully, enhanced staff capacity to develop projects that will reduce wildfire and increase ecosystem resilience.

While we are not opposed to new and innovative programs, it is imperative that Congress objectively evaluate and address the genuine hurdles to getting forest restoration and resiliency projects completed on the ground. Perhaps the biggest hurdle is limited resources.

The frequency and magnitude of wildfires has placed an unsustainable strain on agencies. The reduction of non-fire resource staff for the Forest Service over the past decades has left the agency in a place where it simply cannot do the work being asked of it.

Scaling up resource staff adds capacity to conduct restoration work. It increases efficiency in collaborative planning, project development, environmental review, implementation, monitoring, and project maintenance. The funding that this Committee advanced as part of the Senate's Bipartisan

Our mission is to bring together diverse interests to care for and recover rivers and streams so our children can experience the joy of wild and native trout and salmon.

National Office: 1777 N Kent St., Suite 100, Arlington, VA 22209
T: (703) 284-9403 F: (703) 284-9400 cwood@tu.org www.tu.org

Infrastructure Bill would be transformational for our public land management agencies and the health of our shared resources. We thank the Committee for its work.

Additionally, any discussion about wildfire on our National Forests and BLM-managed lands must not ignore the need to reintroduce fire to fire-adapted forest systems. More than a century of suppressing fire has exacerbated the forest management challenges of today. Based on forest types, fire of varying intensity and frequency is a necessary component of many ecosystems, and science-based management must allow fire when and where appropriate.

S. 1734, the National Prescribed Fire Act of 2021, will help to meet these objectives and we encourage the committee to explore additional opportunities, incentives, and funding to expand the use of prescribed fire and wildfires burning under prescription. Risks abound, but the risk of uncharacteristically severe wildfires burning during extreme fire conditions, has become far greater than smaller, prescribed burns and wildfire burning under prescription. Reintroducing fire to landscapes can efficiently reduce fuels, help restore and maintain more natural forest conditions, and improve the health of fire-adapted ecosystems.

It is important that efforts to address fire in the West are placed in a broader context of forest ecosystem restoration. Increasing connectivity (e.g., replacing undersized or failing culverts), recovering riparian health, and addressing existing aquatic habitat degradation and impairments will help mitigate the short-term effects of forest management activities, lessen wildfire impacts, and help to build long-term resiliency of fish populations. S.2650, the Wildfire Resilient Communities Act, would help achieve this objective through projects that not only to reduce wildfire risk on the wildland-urban interface, but that also “restore the ecological integrity and ecological resilience of terrestrial and aquatic areas.”

We need to make it a priority to invest in thinning trees and clearing brush in places where forests and communities meet. For example, firebreaks —or land cleared of vegetation — are recognized as one way to help slow down fires.

Restoring and expanding riparian and wet meadows along streams also create natural firebreaks while simultaneously reducing downstream drinking water filtration costs. But without additional restoration funding little will change. We need to invest in infrastructure, for example, such as installing bridges to replace culverts that pass neither fish nor floods—because when the floods come after the fires, they not only blow the culverts out, they also take out the roads above.

The Collaborative-based, Aquatic-focused, Landscape-scale Aquatic Restoration Program that this Committee advanced as part its infrastructure package is another excellent example of the type of program and funding needed to holistically improve the health of our forests and watersheds. Additionally, in watersheds with healthy, intact habitat, the benefits of forest management projects must be weighed against the risk of introducing new habitat stressors (e.g., erosion from roads, invasive species).

TU supports efforts to increase the efficiency of decision-making and environmental review. However, efficiency should not come at the expense of public participation, transparency, or rigorous scientific analysis. We urge the Committee to scrutinize legislative proposals through this lens, especially those that seek to accelerate the permitting process, streamline environmental analysis, and limit judicial review.

Just as no matter how often we dredge, ditch or channel it, a river will find its flood plain; so too will a fire-adapted landscape burn. States and municipalities need to actively discourage construction of new homes in areas where fire historically burns, through either strong market disincentives or zoning. If construction is allowed in landscapes with frequent fire, they should be made to employ Firewise construction and maintenance techniques.

Tree cutting on National Forests must adapt to current conditions. Historic timber cutting on National Forests focused on removing value from the woods—value in the form of wood fiber that would be brought to market. Today, we need to use timber cutting as a way to return value to the woods and Congress should require all timber sales to include a stewardship contracting component.

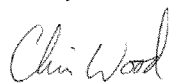
Rather than retain the receipts from timber sales in the Treasury, stewardship contracting allows the value of the timber to be plowed back into making the forest healthier. These activities include: closing sediment-bleeding roads, treating hazardous fuels, restoring degraded streams, and so on.

The infrastructure provisions advanced by this Committee and the funding included in the House's recently released reconciliation proposal, the Build Back Better Act (H.R. 5376), are truly historic and will surely help us to recover forests around the nation. These taken together with the Bipartisan Infrastructure Investment and Jobs Act are a down payment on a future with healthy, diverse, and sustainable forests.

Conclusion

We appreciate your commitment to working together to address these important issues and we look forward to working with the Committee to advance proposals that not only reduce the risk of uncharacteristic wildfire, but also increase the resiliency of ecosystems to weather a changing climate. We hope that our perspective helps the Committee consider and advance proposals that achieve these objectives and stand ready to assist you in these efforts, both in Congress and on the ground in communities across the West.

Sincerely,

A handwritten signature in cursive script that reads "Chin Wood".



October 18, 2021

Re: Support of the SHRED Act - S. 1964

Dear Senator Sanders:

I am writing in support of the **Ski Hill Resources for Economic Development Act (SHRED) of 2021 (S. 1964) in conjunction with the Senate Energy & Natural Resources (ENR) Committee hearing on the bill on October 21, 2021**. This bipartisan bill will help address critical needs for ski area and other recreation programs on Forest Service lands in the state of Vermont. The current bill is an updated and improved version of the bill from last session, incorporating Forest Service, ski industry, recreation industry, and local stakeholder feedback.

The SHRED Act would locally retain approximately \$27M of the \$40M that ski areas pay in permit fees annually to improve ski area permit and program administration, USFS processing of ski area proposals, and to support non-ski area recreation permit administration, visitor services and other purposes. In Vermont, this would mean retaining approximately \$407,000 in the Green Mountain National Forest to help with the staffing capacity to administer ski area and other recreation permits; plus, visitors will benefit through better resourced trailhead services (e.g. parking, plowing, toilets, and trash), interpretation and signage.

Finally, the bill will help improve wildfire preparedness planning and coordination and support the leasing of USFS Administrative Sites for workforce housing and other community needs in ski states across the country.

Thank you for your service on the ENR Committee and for consideration of our comments in support of this critical, bipartisan legislation.

Sincerely,

Molly Mahar
President
Vermont Ski Areas Association

cc: Bryan Petit, ENR Committee bryan_Petit@energy.senate.gov
James Willson, ENR Committee james_willson@energy.senate.gov



October 20, 2021

The Honorable Joe Manchin
Chairman
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20510

The Honorable John Barrasso
Ranking Member
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20510

Dear Chairman Manchin, Ranking Member Barrasso, and Members of the Committee:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express views on the bills being heard before the Committee on Energy and Natural Resources on October 21, 2021. We respectfully request that this letter be included in the hearing record.

S. 1734 National Prescribed Fire Act of 2021

TWS supports the goals of S. 1734, the National Prescribed Fire Act, by Senator Wyden. Prescribed and managed fire are critical components of restoring and maintaining the health of our national forest ecosystems and are often more cost-effective and ecologically sound than mechanical fuels treatment. As national forests continue to suffer the combined effects of past management and climate change, expanded use of prescribed and managed fire are both necessary and ecologically beneficial.

We support increased funding for prescribed fire, funding and technical assistance to tribal, state and local fire agencies, and the focus on large landscapes, as is authorized by section 101 of the legislation. We also support the goals for increased use of prescribed fire in section 102, the collaborative prescribed fire program in section 103, and the prescribed fire incentive program in section 104. Additionally, we support the workforce training initiative in Title II. These sections could benefit from a provision encouraging collaborative landscape-level strategies to be developed to guide the design and implementation of prescribed fire projects, as well as expanded use of managed fire.

TWS has questions about section 204(a)(5), which exempts prescribed fires conducted by Federal, state, and tribal agencies from the Clean Air Act. While we understand the need to ensure that Federal regulations support the use of prescribed fire, we question whether a blanket exemption from the Clean Air Act is necessary and appropriate. We also question whether the limitations placed upon the Administrator of the Environmental Protection Agency, state air quality agencies, and tribal governments regarding regulations and enforcement on state and tribal use of prescribed fire in section 204(a)(6) are appropriate and necessary.

Finally, we recommend that language be added to section 204(b) to make clear that any categorical exclusions proposed under that section be developed and implemented in accordance with the National Environmental Policy Act, that their development include a thorough public process for evaluating environment impacts, that their implementation include public participation, and other technical fixes. For these reasons, we encourage the Committee to work to address these concerns before advancing S. 1734.

S. 2404 Western Wildfire Support Act of 2021

The Wilderness Society supports the goals of this legislation and recognizes the needs associated with protecting communities from wildfire impacts, particularly the funding needs. We look forward to working with the Committee as this bill advances.

S. 2436 FIRESHEDS Act

The Wilderness Society opposes S. 2436. This legislation, introduced this summer by Senator Risch, would undermine the National Environmental Policy Act (NEPA) by creating a new legislative Categorical Exclusion (CE) for a broad range of forest management activities, including salvage logging, with no specified size limit. Salvage logging, especially after a severe wildfire, can be very harmful to soils and water quality if it is not carefully planned through the normal NEPA process. Current law limits the use of CEs for salvage logging projects to 250 acres. The bill would also restrict normal judicial review procedures, such as by prohibiting courts from imposing preliminary injunctions in cases involving forest management activities within the wildland-urban interface. In addition, the bill would allow these activities to occur within Inventoried Roadless Areas so long as the activities are allowed by the Forest Service's local land management plan.

S. 2561 to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Federal Land Policy and Management Act of 1976

The Wilderness Society opposes S. 2561, which was introduced by Senator Daines. This legislation would weaken the Endangered Species Act (ESA) by broadly exempting the U.S. Forest Service and the Bureau of Land Management from the regulatory requirement under Section 7 of the ESA to re-initiate consultation when new information indicates that implementation of land management plans may be harming threatened or endangered species in a manner that was not previously anticipated. Specifically, S. 2561 would amend the National Forest Management Act and Federal Land Policy and Management Act by declaring that federal land management plans "shall not be considered to be a continuing Federal agency action or constitute a discretionary Federal involvement or control for a distinct Federal purpose," thereby effectively exempting the plans from federal regulations that spell out when agencies must reinitiate ESA consultation (50 CFR 402.16).

The Endangered Species Act's Section 7 consultation process is a vitally important safeguard for more than 400 ESA-listed species that occur in the National Forest System and 300 listed species that inhabit BLM lands. Proper planning and management of these federal public lands offer the best opportunity for recovery of many of these imperiled species whose unique requirements for survival occur on federal lands.

Proponents of S. 2561 argue that the legislation is necessary to overturn a 9th Circuit Court of Appeals ruling in the so-called "Cottonwood" case that required the Forest Service to re-initiate consultation in response to a new critical habitat designation for the Canada lynx. However, the *Cottonwood* issue was thoroughly debated, negotiated, and resolved in the 115th Congress through the "fire funding/forest management fix" that was enacted as part of the FY 2018 Omnibus Appropriations Act. Sections 208 and 209 in Division O, Title II of that Act effectively overrode the *Cottonwood* decision regarding re-initiation of ESA Section 7 consultation on federal land management plans based on new species listings or critical habitat designations.

The FY 2018 Omnibus Appropriations Act amended the National Forest Management Act by exempting the Forest Service from having to re-consult on its management plans when a species is listed or when critical habitat is designated (Section 208, codified at 16 U.S.C. 1604(d)(2)). The negotiated *Cottonwood* exemption also specified that, starting no sooner than 2023, the exemption will not apply if a plan was adopted more than 15 years ago. In addition, under Section 208 the Forest Service is still required to consult on individual projects that implement plans and on plan amendments or revisions. Section 209 provided a similar *Cottonwood*/ESA exemption for the BLM's land management plans governing its federal forest lands in Western Oregon.

S. 2561 would discard this legislative compromise in favor of a wholesale elimination of this ESA consultation requirement. Additional exemptions proposed in S. 2561 are not warranted and would needlessly undermine wildlife protections.

S. 2564 Protect Collaboration for Healthier Forests Act

The Wilderness Society opposes S. 2564, which replaces judicial review with a binding arbitration process for a certain number of forest management projects in Montana, Idaho, and Wyoming national forests, leaving concerned citizens with no recourse to challenge environmentally harmful projects. The national forests in these three states comprise 24 percent of the entire National Forest System. Without oversight by the federal judiciary, there is no means to ensure that the Forest Service is acting in compliance with environmental laws, other than self-policing by the agency. Professional arbitrators are not judges and are not trained or equipped to determine whether a project complies with existing laws.

Furthermore, unlike a normal arbitration process in which both parties agree to participate, the Forest Service would choose what projects to exempt from judicial review – likely the most environmentally risky and controversial ones. The result is not a fair review process but an arbitrator picking a winner and loser with no accountability to the public, the Forest Service, or anyone else. In effect, the legislation lacks accountability and exempts two forestry projects per year from environmental laws. TWS opposes this legislation.

S. 2650 Wildfire Resilient Communities Act

S. 2650 focuses investments in priority landscapes that reduce wildfire risk and support the ecological integrity of forests. TWS supports funding the creation of fire-adapted communities and projects that restore and maintain resilient landscapes. We are also very supportive of the Collaborative Forest Landscape Restoration Program, and we are glad to see this bill calls for its permanent authorization.

TWS recommends a few changes to improve the bill, such as defining “Indian Tribe” according to the definition in the Federally Recognized Indian Tribes List Act, rather than the Indian Self-Determination and Education Assistance Act, and adding language to Section 2 to specify which activities are appropriate, and where. For example, we would recommend adding language that prevents the construction of additional permanent roads, protects old and mature trees, focuses activities in the Wildland-Urban Interface to prioritize community safety, focuses activities on small diameter trees, and ensures all projects are collaboratively developed.

TWS is also concerned with Section 5 of the bill, which gives 25 percent of stewardship contract revenues to counties. This would reduce the amount of funding for additional, non-commercial restoration work in the local forest, and our concern is that this provision could create an adverse incentive for counties to advocate for stewardship projects that maximize revenues. Maximizing revenues might include targeting the most economically valuable trees, which are often the oldest, largest, and most important in combating climate change. TWS is interested in working with the Committee to improve and advance this bill.

S. 2806 Wildfire Emergency Act of 2021

TWS supports S. 2806. This bill will fund large-scale, science-based projects that aim to restore our national forests and reduce severe wildfires that threaten public safety. Conducting restoration projects in a responsible and ecologically appropriate way ensures that the health of our forests is prioritized. This is critical because our nation's forests are vital to the health of communities and fighting the climate crisis. We look forward to working with the Committee to advance this legislation.

S. 2836 America's Revegetation and Carbon Sequestration Act of 2021

TWS supports many of the goals of S. 2836, such as tree planting in urban areas, eliminating invasive species, and managing our national forests to increase carbon capture and sequestration. However, we have questions and concerns with the way in which this bill attempts to accomplish those goals. Specifically, we are concerned the carbon credit program, established in Section 201, lacks sufficient oversight and vetting to ensure a reduction in carbon emissions, and we have significant concerns with the idea of granting carbon credits for timber harvesting but not for the conservation of trees that already store the most carbon. Section 402, which deals with invasive grasses, currently does not allow for an adequate timeline to comply with existing laws, such as NEPA, before action plans are to be implemented. We have serious concerns that, as written, this section would encourage noncompliance with important, required environmental reviews. TWS looks forward to working with the Committee on changes to this bill as it advances.

Thank you for considering our views.

Sincerely,



Drew McConville
Senior Managing Director, Government Relations
The Wilderness Society