

**DISCUSSION DRAFT OF H.R. ___, TO EXPEDITE
UNDER THE NATIONAL ENVIRONMENTAL POLICY
ACT OF 1969 AND IMPROVE FOREST MANAGE-
MENT ACTIVITIES ON NATIONAL FOREST SYSTEM
LANDS, ON PUBLIC LANDS UNDER THE JURISDIC-
TION OF THE BUREAU OF LAND MANAGEMENT,
AND ON TRIBAL LANDS TO RETURN RESILIENCE
TO OVERGROWN, FIRE-PRONE FORESTED LANDS,
AND FOR OTHER PURPOSES**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

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LANDS, AND FOR OTHER PURPOSES**

**Wednesday, April 17, 2024
U.S. House of Representatives
Subcommittee on Federal Lands
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 10:01 a.m. in Room 1324, Longworth House Office Building, Hon. Tom Tiffany [Chairman of the Subcommittee] presiding.

Present: Representatives Tiffany, Stauber, Curtis, Bentz, Westerman; Neguse, and Leger Fernández.

Also present: Representative Peters.

Mr. TIFFANY. The Subcommittee on Federal Lands will come to order.

Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

The Subcommittee is meeting today to consider a discussion draft of forest management legislation brought forward by the Chairman of the Full Committee, Mr. Westerman.

I ask unanimous consent that the gentleman from California, Mr. Peters, be allowed to participate in today's hearing from the dais.

Without objection, so ordered.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. I, therefore, ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

I will now recognize myself for an opening statement.

**STATEMENT OF THE HON. TOM TIFFANY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF WISCONSIN**

Mr. TIFFANY. Today's draft legislation is the culmination of the House Committee on Natural Resources efforts this Congress to advance innovative solutions to increase the pace and scale of

forest management, protect vulnerable communities from catastrophic wildfire, and restore health and resiliency to our nation's ailing forests and Federal lands.

Our Committee has dedicated considerable time this Congress to examining this historical crisis, which has torched millions of acres, destroyed lives and communities, charred wildlife habitat beyond repair, and degraded our air and water quality. We have heard from experts and stakeholders, both here in DC and at home, and have considered many individual pieces of legislation that form the basis of the comprehensive solution before us today.

The overwhelming message that we have heard is that the removal of active forest management from our forests has caused this mess, and our present efforts to reverse the awful trajectory are not working. Despite historic levels of spending to try to address this crisis, the simple fact remains that not enough work is being done on the ground at the pace or scale that is truly needed. We know what needs to be done to fix this problem, and the important tools provided by this discussion draft would enable the Forest Service to immediately begin treatment work on millions of acres of fire-prone Federal lands.

This legislation will empower streamlined forest management projects to take place on a landscape scale in the areas at the highest risk for catastrophic wildfire. Across the country, over 1 billion acres of land—billion with a B—are at risk of wildfire. We need to prioritize forest management projects in the areas with the highest risk to communities and watersheds, or where the risk of severe fire is so great that there may be forest conversion. That is exactly what this legislation does. We have heard time and time again that the Forest Service doesn't need any new streamlined authorities, and simply needs to use the tools the agency already has. Again, this bill does exactly that by mandating the use of streamlined authorities such as existing categorical exclusions.

The bill also further incentivizes collaboration with state and tribal governments by removing inflexible requirements that limit categorical exclusions to a paltry 3,000 acres when those authorities are used in collaboration with a state governor or Indian tribe. With more than 117 million acres of Federal lands at high risk of catastrophic wildfire, we cannot afford to only be taking 3,000-acre bites of the apple at a time.

I would like to highlight several of my priorities that are included in this discussion draft.

First, in recognition that the size and scope of this crisis cannot be tackled alone, this discussion draft includes several provisions that will encourage coordination and empower cross-boundary forest management with states, tribes, counties, and other stakeholders. This includes providing full partnership to tribes and counties under Good Neighbor Authority, a very successful forest management tool used in Wisconsin.

Second, the bill supports the forest products industry by codifying the 20-year stewardship contracting, and raising the minimum threshold for advertising competitive timber sales. Since 2000, over 1,500 sawmills have closed or significantly curtailed operations across the country. In western states with large footprints of Federal land, the lack of reliable timber coming from

Federal forests is consistently cited as a reason for these closures and curtailments.

Just a few days ago, another sawmill operating in South Dakota announced 50 workers would be laid off as a direct result of reductions to the Black Hills National Forest timber sale program. We know from experience that once we lose a mill, that infrastructure is gone. That locks us into a vicious cycle where Federal forests go unmanaged and catastrophic wildfires are allowed to wreak absolute havoc on these landscapes.

Don't take my word for it. Just last week, Forest Service Chief Randy Moore told the Senate Appropriations Committee during a budget hearing that, "I can tell you with certainty if we do not have a vibrant timber industry we are not going to be able to manage our forests and make them healthy and resilient."

Third, this bill also addresses obstructionist litigation which remains a major hindrance to active forest management efforts. In the last decade, lawsuits seeking to block forest management projects have tied up roughly 1.8 billion board feet of timber. This proposal includes a permanent fix to the disastrous Cottonwood Decision, which has been one of the most common sources of litigation blocking forest management.

Finally, this discussion draft will foster greater transparency and accountability from our Federal land managers. I am pleased that my legislation, the ACRES Act, is included in this bill. This provision will require land managers to produce yearly hazardous fuels reduction reports based on the actual number of acres that they treated over the past year, without double counting any acreage.

I want to thank all the witnesses for being here.

And I am now going to recognize the Chairman of the Full Committee, Mr. Westerman, for his opening statement.

STATEMENT OF THE HON. BRUCE WESTERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARKANSAS

Mr. WESTERMAN. Thank you, Chairman Tiffany, and thank you, Mr. French, for being here today. We look forward to the testimony.

This is obviously a very important issue to me when we consider this discussion draft of a comprehensive forest management bill. And I will tell you, this is not just something that came up recently. It is a product of years of work that included site visits, working with Members across the aisle, Members on and off this Committee and even utilizing recommendations from the bipartisan Wildland Fire Commission report.

For some reason, forests over time have become a divisive issue in our country. And I have always said that forests should be the least divisive thing that we talk about. Everybody benefits from a healthy forest. We know that we get clean air, we get clean water, we get wildlife habitat, we get places to recreate. And there are so many positive things about a forest that it is almost a bit heart-breaking that it has become a divisive issue in Congress. It is something we should all work towards.

Last year, we took a little bipartisan trip up to New Haven, Connecticut. Republicans, Democrats, folks from the Forest Service

got on a train here in DC and went to Connecticut, and we visited the Yale School Forest, which I would contend is the oldest managed forest with records on it in the country. Gifford Pinchot founded the Yale School of Forestry, and this, I think, 8,000 to 10,000-acre forest up in northeast Connecticut is a model for what good forest management looks like.

And some of the feedback I got after the trip was how complicated it was for the Yale folks to manage this forest, and the only thing they had to worry about was the science. How do we do the management? And it was still a challenge to keep invasive species out, to restore forest health, and all they were dealing with was employing the basic best science practices.

So, you take those challenges and you put them on public lands, and you cover that with a lot of bureaucracy and a lot of outside influences, and it becomes a very difficult job to take care of these Federal lands that I think we all cherish. And I want to say how much I appreciate folks in the Forest Service who just want to do their work, they want to be able to go out and manage, they want to have healthy forests. And I have had a great relationship with the Forest Service on the two national forests in my district, the Ouachita and the Ozark, and they have done some very innovative things.

On the trip to Connecticut last year, we had Homer Wilkes, we had Troy Heithecker, who came off of the Ouachita National Forest, and I think it was great for us just to get out and see the forest. And that is what happens when you do that, people realize this shouldn't be a divisive issue. We have had other trips across the country.

I am glad that my friend, Scott Peters, is here today. He has been a strong voice and a leader on the Save Our Sequoias Act, which came about by taking a trip out to Sequoia National Park and seeing the devastation that happened in just a 2- or 3-year period where we lost about 20 percent of the only giant sequoias on the planet that grow in the western slopes of the Sierra Nevadas.

And because of catastrophic wildfire, we lost about 20 percent of those trees, and a tree that we should never lose to wildfire. These trees were built for fire. But if you suppress fire long enough, and the white fir and the pines grow up in the tips of them, get up into the lower canopy of the sequoias and the fire comes through, that is classic ladder fuel, and it actually wiped out groves of sequoias that had survived hundreds, if not thousands of fires in their lifetime.

We can do better than that, and that is the purpose of this legislation. It is simply to give the Forest Service and Federal land managers the tools to go out and do the work without all the impediments that they face as they try to do the work under the current conditions. It is about developing new markets. We have a biochar demonstration project language in here.

If we don't manage, if we don't have markets to put this material into, if they could go out and manage, the first thing they would ask us is, what do we do with all this low-value material that is coming off the forest? You know, pre-European settlement, the West had about 64 trees per acre and now there are over 300 trees

per acre. You can't get to 64 trees per acre overnight, and these are obviously bigger trees, but we can do a lot better than the overstock stands that we have.

I could say a lot more, and I will throughout the hearing, but I want to yield time to the gentleman from California, Mr. Peters, for any opening statement he may have.

STATEMENT OF THE HON. SCOTT H. PETERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PETERS. Thank you so much, Chairman Tiffany and Chairman Westerman, for allowing me to participate today, and my colleagues for not objecting. Thank you.

[Laughter.]

Mr. PETERS. I am here because catastrophic wildfires driven by decades of poor land management and a warming planet are now the single largest source of particulate pollution in the United States, creating more than 40 percent of the nation's fine particulate matter air pollution.

And in the year 2020, California wildfires released more CO₂ than the state's entire power sector. Wildfire smoke is more harmful to human health, compared to other pollution sources, and tens of millions of Americans are at risk of experiencing high levels of exposure. Vulnerable populations like infants, the elderly, and people with pre-existing health conditions, such as respiratory or cardiovascular disease, are at higher risk of negative health effects from wildfire smoke, and extreme smoke events are already increasing emergency room visits at hospitals.

While my home state of California had a relatively quiet 2023 fire season, it follows the worst 2 years of wildfire on record, where 19,000 square kilometers of forest burned. That is 10 times the historical average because we don't have natural fires anymore, we have catastrophes. Fires have become more intense, frequent, and widespread. They are endangering communities, watersheds, and ecosystems across the West.

We have to do better. We have to do something different. So, I just am so thankful that Mr. Westerman has presented this discussion draft as an encouraging way to start to tackle the problem, and I appreciate the Chairman's interest in taking feedback, hearing from those that have concerns, and working to craft the best product possible.

But I encourage all those listening today to tell us how we can make the bill better. It doesn't help to just say you don't like it but we are not going to do anything, because current conditions are intolerable. I am not on this Committee, but I made my way down here, I made some time on this because this is an environmental catastrophe, and we can't just do the same thing.

So, this discussion that we are starting off today is absolutely essential. If you don't like what is in the bill, if you could help us make it better, let's do that. We have to preserve American ecosystems. We all have a responsibility to work together in a constructive way. There is nothing inherently about forests that has to be partisan, and that is why I like working with Bruce Westerman, as we did on sequoias.

Mr. Chair, before I yield I would like to enter into the record, without objection, a 2021 study from the Scripps Institution of Oceanography in my district, entitled, “Fine Particulate Matter from Wildfire Smoke More Harmful than Pollution from Other Sources.”

And with that I look forward to working with my colleagues on both sides of the aisle across all the Committees of jurisdiction. But again, to see if we can’t make some progress on this, save our ecosystems, and save some lives.

I yield back.

Mr. TIFFANY. Without objection, so ordered.

[The information follows:]

FINE PARTICULATE MATTER FROM WILDFIRE SMOKE MORE HARMFUL THAN POLLUTION FROM OTHER SOURCES

Researchers call for revisions to air-quality monitoring guidelines to consider the sources of emissions

Scripps Institution of Oceanography, March 5, 2021 by Robert Monroe

<https://scripps.ucsd.edu/news/fine-particulate-matter-wildfire-smoke-more-harmful-pollution-other-sources>

Researchers at Scripps Institution of Oceanography at UC San Diego examining 14 years of hospital admissions data conclude that the fine particles in wildfire smoke can be several times more harmful to human respiratory health than particulate matter from other sources such as car exhaust. While this distinction has been previously identified in laboratory experiments, the new study confirms it at the population level.

This new research work, focused on Southern California, reveals the risks of tiny airborne particles with diameters of up to 2.5 microns, about one-twentieth that of a human hair. These particles—termed PM_{2.5}—are the main component of wildfire smoke and can penetrate the human respiratory tract, enter the bloodstream and impair vital organs.

The study appears March 5 in the journal *Nature Communications* by researchers from Scripps Institution of Oceanography and the Herbert Wertheim School of Public Health and Human Longevity Science at UC San Diego. It was funded by the University of California Office of the President, the National Oceanic and Atmospheric Administration (NOAA), the Alzheimer’s Disease Resource Center for Advancing Minority Aging Research at UC San Diego and the Office of Environmental Health Hazard Assessment.

To isolate wildfire-produced PM_{2.5} from other sources of particulate pollution, the researchers defined exposure to wildfire PM_{2.5} as exposure to strong Santa Ana winds with fire upwind. A second measure of exposure involved smoke plume data from NOAA’s Hazard Mapping System.

A 10 microgram-per-cubic meter increase in PM_{2.5} attributed to sources other than wildfire smoke was estimated to increase respiratory hospital admissions by 1 percent. The same increase, when attributed to wildfire smoke, caused between a 1.3 to 10 percent increase in respiratory admissions.

Corresponding author Rosana Aguilera said the research suggests that assuming all particles of a certain size are equally toxic may be inaccurate and that the effects of wildfires—even at a distance—represent a pressing human health concern.

“There is a daily threshold for the amount of PM_{2.5} in the air that is considered acceptable by the county and the Environmental Protection Agency (EPA),” said Aguilera, a postdoctoral scholar at Scripps Institution of Oceanography. “The problem with this standard is that it doesn’t account for different sources of emission of PM_{2.5}.”

As of now, there is not a consensus as to why wildfire PM_{2.5} is more harmful to humans than other sources of particulate pollution. If PM_{2.5} from wildfires is more

dangerous to human lungs than that of ambient air pollution, the threshold for what are considered safe levels of PM_{2.5} should reflect the source of the particles, especially during the expanding wildfire season. This is especially relevant in California and other regions where most PM_{2.5} is expected to come from wildfires.

In Southern California, the Santa Ana winds drive the most severe wildfires and tend to blow wildfire smoke towards populated coastal regions. Climate change delays the start of the region's rainy season, which pushes wildfire season closer to the peak of the Santa Ana winds in early winter. Additionally, as populations grow in wildland urban interface areas, the risks of ignitions and impacts of wildfire and smoke increase for those who live inland and downwind.

Coauthor Tom Corringham points to the implications for climate change: "As conditions in Southern California become hotter and drier, we expect to see increased wildfire activity. This study demonstrates that the harm due to wildfire smoke may be greater than previously thought, bolstering the argument for early wildfire detection systems and efforts to mitigate climate change."

Mr. WESTERMAN. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. TIFFANY. Thank you for your opening comments, Mr. Chairman, and we are going to move on to our second panel.

Let me remind our witness that per Committee Rules, you must limit your oral statement to 5 minutes, but your entire statement will appear in the hearing record.

To begin your testimony, please press the "on" button on the microphone.

We use timing lights. When you begin, the light will turn green. At the end of 5 minutes, the light will turn red, and I will ask you to please complete your statement.

I would like to introduce Mr. Chris French, Deputy Chief of the National Forest System at the U.S. Forest Service.

Deputy Chief French, it is good to have you back before the Committee. You have 5 minutes.

STATEMENT OF CHRIS FRENCH, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, WASHINGTON, DC

Mr. FRENCH. Thank you, Chairman and Chairman. I appreciate the time to be here today. My name is Chris French. I am the Deputy Chief of the National Forest System at the U.S. Forest Service.

I really appreciate the space to have to talk on this discussion draft today because these issues, the long-term sustainability of our forests and reducing the risk that those forests create through wildfire to our communities, is our central focus right now. These are at the front and center of all of our leadership, our foresters, our biologists, our other resource management professionals as they focus on how do you create long-term sustainability of our forests that are resilient and that are not as susceptible to wildfire, insects, disease, and the other stressors we are seeing being brought on by climate change right now.

In my 32 years of working for the Forest Service in multiple disciplines, I have not seen us at such an important inflection point in terms of the health and the long-term sustainability of these forests and the communities that depend on them, whether it is for water, for jobs, or just having a place where they don't feel threatened by the very forests that surround them.

Our national forests and grasslands span 193 million acres in 42 states and Puerto Rico. They are lands where people recreate, fish, hunt, and hike. They provide clean water, support livestock grazing, mineral and energy development, and forest products. They are an important touchstone for Indigenous people, and our multiple use management supports local economies throughout the country.

All told, our work creates hundreds of thousands of jobs and contributes nearly \$44 billion to our nation's gross domestic product. This includes uses from livestock grazing, forest products, mineral and energy development, and probably most significantly through recreation. However, as we all know, the forests that provide all of these benefits are at risk from the wildfire crisis we now face. Fueled by our changing climate, fire exclusion, insect and disease outbreaks, and expanding urbanization we are experiencing rapidly shifting environmental conditions and longer, hotter, and drier wildfire seasons.

To address these challenges, the Forest Service is implementing our wildfire crisis strategy to reduce the risk of catastrophic fire threatening our communities and forests. We are seeing real results. And as the Chief testified earlier this week, we are seeing decreases in risk to communities and large returns on our investments. We are focused on forest restoration and resilience of those forests and communities.

In short, we know that we must do the right work where it matters the most with our partners in the industries that we work with.

The draft bill that we are going to discuss here today represents a good opportunity for Congress to advance the dialog on supporting sound forest management and wildfire risk reduction, and to build on support previously provided through efforts such as the Bipartisan Infrastructure Law, the Inflation Reduction Act, the Healthy Forest Restoration Act, and several farm bills.

With certain exceptions, the United States Department of Agriculture has previously testified before this Subcommittee and its counterpart in the Senate in support of the goals and intent of several provisions that are in this draft bill. There are certain provisions, especially those related to environmental compliance, where the Administration looks forward to the opportunity to work with the Committee to understand the intent and the implications of the language. And USDA does not support the provision that would require the Forest Service to attempt to extinguish all fires within 24 hours of detection.

We appreciate the Committee's engagement in these important issues affecting the long-term health and sustainability of our nation's forests and communities. It is worth us working together. It is worth us coming to agreement, problem-solving, because we have common goals. We look forward to that discussion, and we look forward to this Committee's continued support for our forests and the communities in the long run.

I would be happy to take questions. Thank you.

[The prepared statement of Mr. French follows:]

PREPARED STATEMENT OF CHRIS FRENCH, DEPUTY CHIEF, NATIONAL FOREST SYSTEM,
U.S. DEPARTMENT OF AGRICULTURE—FOREST SERVICE

Chairman Tiffany, Ranking Member Neguse, and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA), Forest Service, regarding various Federal land management bills.

USDA has previously testified on several bills with language similar or identical to the provisions in this discussion draft. While we are continuing to analyze the discussion draft for additional feedback, we welcome the opportunity to engage with the Committee on these issues of mutual interest and to share our appreciation for your continued support of the mission of the Forest Service.

The Forest Service cares for the nation's forests and grasslands for the benefit of all people. The agency manages 154 national forests, 20 national grasslands, and 1 tallgrass prairie to sustain both healthy landscapes and prosperous rural communities. The agency's top priority is to maintain and improve the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of current and future generations.

The agency's forest management focuses on restoring ecosystems, reducing wildland fire risk, maintaining forest health, and supplying sustainable forest products. Our management ensures that our national forests and grasslands are conserved, restored, and made more resilient to climate change. Healthy, resilient forests are crucial to ensure that the American public continues to have clean water and air, wildlife habitat, and recreational opportunities.

Several of the provisions in this bill relate directly to the Forest Service's approach to wildland fire response. Our priority is to protect the health, safety and well-being of the fire management community and the public we serve. Federal agencies, Tribal nations, State and local partners, private industry, and volunteers stand together, ready to respond to wildfires again this year.

Where wildfires threaten lives, communities, and homes, we will actively use all available strategies and tools to suppress those fires and their growth. Our focus is on making sound, science-based, risk-informed decisions.

Providing critical wildfire response is essential to protect communities from exceedingly large fires that display extreme fire behavior. We are witnessing unprecedented wildfire behavior, fueled by overly dense forests and disrupted fire regimes, amplified by severe drought, climate change and extreme weather. Risk from these conditions is increased by continued development in and around forests. Fighting fire in these conditions means we need to make strategic, risk-based, and often difficult decisions about where and how to deploy firefighters and aviation assets safely.

The Forest Service's Wildfire Crisis Strategy, launched in 2022, combines an historic investment of Congressional funding in fire science research with community wildfire risk planning in an unprecedented effort to confront the nation's growing wildfire crisis. Leveraging contributions from States, Tribes, local governments, and partners, the Strategy dramatically increases the scale and pace of forest health treatments focused on the highest risk areas in the country. As part of this effort, 21 priority landscapes within high-risk fireheds have been identified; our work in these areas is mitigating wildfire risk for around 550 communities in the western United States.

We offer the views below on behalf of USDA regarding the fire- and forest management-related legislation being considered before the Subcommittee today, and we defer to DOI on those provisions that relate to DOI-administered lands.

Discussion Draft Summary

The discussion draft of H.R. _____ aims to "improve forest management activities on National Forest System lands, on public lands under the jurisdiction of the Bureau of Land Management, and on Tribal lands" through a variety of new programs and amendments to existing authorities. The draft bill compiles several separate bills related to wildfire risks, forest health, collaborative forest management, and other provisions included in the following titles.

TITLE I—LANDSCAPE-SCALE RESTORATION

Subtitle A—Addressing Emergency Wildfire Risks in High Priority Fireheds

Subtitle A would provide for the designation of certain areas as fireshed management areas, provide for a publicly accessible Fireshed Registry including interactive geospatial data, and establish an interagency Fireshed Center. This subtitle would also direct the Secretary of Agriculture and the Secretary of the Interior

(“Secretaries”) to carry out fireshed management projects in designated fireshed management areas and enter into a shared stewardship agreement with a Governor within 90 days of receiving a request from the Governor.

Subtitle B—Expanding Collaborative Tools to Reduce Wildfire Risk and Improve Forest Health

Subtitle B would require that Tribes and counties (in addition to States) retain receipts under a good neighbor agreement and would allow the retained receipts to be used for restoration services on Federal or non-Federal land. Subtitle B would also extend the maximum term for agreements and contracts executed under the Stewardship End Result Contracting Projects authority from 10 years to 20 years and would direct the Chief to pay a 10 percent cancellation or termination cost for any long-term agreements or contracts that are canceled or terminated. Further, this subtitle would direct the Secretaries to jointly establish intra-agency strike teams to address NEPA reviews, consultations under the National Historic Preservation Act and under the Endangered Species Act, site preparation work, and implementation of fireshed management projects. This subtitle would raise the threshold at which timber sales must be advertised from a sale value of \$10,000 to \$55,000. The subtitle would also direct the Secretary of Agriculture to increase this threshold annually based on the Consumer Price Index of All Urban Consumers published by the Department of Labor.

Subtitle C—Addressing Frivolous Litigation

Subtitle C would prohibit a court from enjoining fireshed management projects under this bill if the court determines that the plaintiff’s claim is unlikely to succeed on the merits. This subtitle also pertains to Endangered Species Act (ESA) consultation, stating that the agency is not required to reinstate consultation under the ESA on a land management plan when a new species is listed, critical habitat is designated, or new information becomes available. Further, Subtitle C would establish a discretionary arbitration pilot program as an alternative dispute resolution process for objections to forest management activities undertaken pursuant to the Act.

Title II: Protecting Communities in the Wildland-Urban Interface

The second title of the draft bill would establish an interagency program to support coordination in reducing the risk of fires in the wildland-urban interface. This title would also require the Forest Service to use all available resources to extinguish wildfires within 24 hours of detection on National Forest System lands. This title would also establish a program for the purpose of testing and advancing innovative designs to create wildfire resistant structures and communities. Additionally, this title would amend the Federal Lands Policy and Management Act of 1976 by increasing the required right-of-way for certain electric transmission and distribution facilities. Further, this title would establish a statutory categorical exclusion for certain electric utility line rights-of-way and related matters under the National Environmental Policy Act, as well as declaring these activities exempt from ESA and the National Historic Preservation Act consultation requirements and any other applicable law. Finally, this title would require the development of an interagency strategy to enhance the domestic supply chain of seeds.

Title III: Transparency and Technology

The third title of the draft bill would establish a program for certain Federal agencies to enter into partnerships to carry out demonstration projects to support the development and commercialization of biochar. The title would also require Federal agencies to publish an annual report on the number of acres on which hazardous fuels activities were carried out in the previous year. Additionally, this title would establish a testbed pilot program for new and innovative wildfire prevention, detection, communication, and mitigation technologies. Further, this title would require the Government Accountability Office to conduct a study evaluating the effectiveness of Forest Service wildland firefighting operations and the suitability and feasibility of establishing a new Federal agency with responsibility for responding to and suppressing wildland fire on Federal lands. Finally, this title would require the Forest Service to study potential locations for a western headquarters for the agency.

Views

USDA has previously testified before this Subcommittee and the Senate Energy and Natural Resources Committee on several of the provisions of the discussion draft of H.R. ____ and appreciates the interest from the Committee in working with

the Forest Service to address concerns previously identified in testimony, as well as areas identified in new provisions of the draft bill that would benefit from further analysis and discussion.

While we would appreciate the opportunity to continue working with the Committee to analyze this discussion draft and provide feedback, we would like to take the opportunity to note some of the positions and feedback that we have provided in previous testimony or technical assistance.

USDA supports expanding the authority to retain receipts to Tribes and counties as proposed in Section 111. This authority would significantly increase county and Tribal participation in agreements executed under the Good Neighbor Authority, which would help us carry out needed forest management activities. The ability to use this revenue on non-Federal land would facilitate important cross-boundary restoration treatments.

On a number of provisions, USDA supports the intent of the language but would appreciate the opportunity to continue working with the committee to ensure workable implementation of the bill language. USDA supports the extension of a maximum term of agreements and contracts executed under the Stewardship End Results Contracting Projects authority as proposed in Section 112. USDA also supports raising the threshold at which timber sales must be advertised from a sale value of \$10,000 to \$55,000 as proposed in Section 114. USDA supports the intent of establishing interagency strike teams as proposed in section 113. For all these sections, however, we would like to continue to work with the Committee to address concerns and provide technical assistance to ensure workable implementation of the bill language.

USDA would like to work with the Committee to better understand the intent of several provisions related to implementing the National Environmental Policy Act, judicial review, and a pilot arbitration program to help the Committee meet its intent and ensure any agency concerns are addressed.

Section 122 exempts the Forest Service from reinitiating ESA consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services) on plans that have already been subject to consultation at the time they were approved, revised, or amended when a species is subsequently listed, critical habitat is designated, or new information concerning a listed species or critical habitat becomes available.

The USDA and the Department of the Interior (DOI) realizes ESA consultation is an issue with a number of equities that need to be addressed. We are committed to continuing to work together towards a legislative solution that allows for timely decision making, while maintaining the important wildlife protections afforded by the Endangered Species Act. As drafted, the Administration has concerns and looks forward to working with the Committee and the bill sponsor to address concerns with the bill. We want to ensure clarity on how consultation for specific actions or projects can provide the American public with confidence that the agency is upholding its responsibilities to protect listed species and their habitat while providing the many benefits we gain by managing our forests.

Section 302 would establish a requirement for Federal agencies to publish an annual report on the number of acres on which hazardous fuels activities were carried out. The agency strives to improve its metrics in order to provide transparency and accountability for each dollar the agency receives to reduce wildfire risk and to accurately describe the outcomes from program implementation. The agency has a complex set of metrics for the work performed in the hazardous fuels program to reduce wildfire risk, restore and maintain fire adaptive ecosystems, and improve forest health. Currently the agency reports the number of acres invested in for treatment, the number of acres where treated has been implemented and the number of acres treated to maintain a desired condition. We continue to learn the best ways to incorporate outcome-based performance metrics into our programs using the best available science. We are working hard to prototype new outcome-based metrics. The agency currently has sufficient data, and we are working to incorporate those data into our science-based models. USDA would like to work with the Committee to better understand the intent of section 302.

Section 202 would require the Forest Service to use all available resources to carry out wildfire suppression with the purpose of extinguishing wildfires detected on National Forest System lands no later than 24 hours after they are detected. The agency has serious concerns that this language would remove critical resource management and firefighting tools and tactics from interagency responders who have to make life and death decisions. In addition, the agency has a history associated with a policy that required all fires be suppressed by 10am the next morning following detection. This policy had a direct result in the removal of fire from ecosystems which increased the number of trees and fuels in those ecosystems. The increase in

fuels increased fire intensity and severity which increased fire risk to communities. Therefore, we cannot support this section.

The agency must continue to use every tool available, including the use of managed fire in certain circumstances, to reduce current and future adverse impacts from wildfire, consistent with agency policy and interagency response. Under Forest Service policy, every fire receives a strategic, risk-based response that is appropriate for the circumstances and the associated threats and opportunities. Each strategy uses the full spectrum of management actions that are tailored to fire and fuel conditions, weather, values at risk, and resource availability.

USDA looks forward to further reviewing the draft bill to better understand how these issues have been addressed, as well as to analyze the full implications of new provisions. As we continue this review, we would appreciate the opportunity to provide additional recommendations and comments, including technical amendments, before the Committee moves forward with this legislation.

Conclusion

Thank you for the opportunity to testify on the draft bill. USDA looks forward to continued work with the Committee and bill sponsors as they further develop the legislation.

Mr. WESTERMAN [presiding]. Thank you, Deputy Chief French.

Before we go to questions I want to give the Ranking Member of the Subcommittee, Mr. Neguse, an opportunity for an opening statement.

STATEMENT OF THE HON. JOE NEGUSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. NEGUSE. Thank you, Mr. Chairman, for your indulgence.

Today's hearing gives our Subcommittee another opportunity to continue the critical discussion about our national response to the wildfire crisis.

As we know well, back in my district, just by way of example, in Colorado, climate change is leading to longer and more severe fire seasons, and we must respond accordingly. That is exactly why House Democrats took significant steps in the 117th Congress to secure historic investments for the Forest Service and the Department of the Interior through the Bipartisan Infrastructure Law. And I thank the Deputy Secretary for his testimony and for being here today.

Specifically, we provided \$28 billion to the Department of the Interior and \$5.5 billion to the Forest Service to address drought, fire management, forest and landscape resilience, and preservation for increasing extreme weather events.

We delivered further with the Inflation Reduction Act, which provided \$2.5 billion for ecosystem resilience and restoration, as well as a \$500 million allocation for wildfire management and workforce needs. These historic investments allowed the Biden administration to develop and implement the National Cohesive Wildland Fire Management Strategy, leading to record-high restoration treatments designed to promote resilient landscapes and safe communities.

Another key accomplishment was the establishment of the Wildland Fire Mitigation and Management Commission, which at the end of the last year released their final report that includes a whopping 148 consensus recommendations. I want to thank the Commission for appearing before the bipartisan Wildfire Caucus, of which I serve as a co-Chair. We are lucky enough, I understand,

to have two members of the Commission who are testifying today, and I certainly want to thank all of the members of the Commission for their time and their continued efforts to advance and advocate for comprehensive wildland fire response and pre-fire preparedness.

We have a lot of work to do, as we are now challenged to translate those recommendations from the Commission into action. Fortunately, several bills that have been sponsored by members of this body align with the recommendations advanced by the Commission. I introduced with a number of my colleagues a bipartisan, bicameral Joint Chiefs Reauthorization Act, as well as the Collaborative Forest Landscape Restoration Program Reauthorization Act, both of which I think are important steps forward for restoration efforts.

I hope the Chairman will consider including those bills among many others within the discussion draft that he has released and that we are considering today. There are a number of other consensus-driven bills that I think merit some consideration by this Committee, both as stand-alone measures and, of course, with respect to the bill that we are considering from the Chairman.

Before getting into the details of the discussion draft, I do just want to say I appreciate the Chairman's interest and his lifetime focus on forestry and wildfire. I know it is an issue that is near and dear to the Chairman, as the only registered forester in the U.S. Congress. And while we may not see eye to eye on every provision of his discussion draft, it is encouraging, I think, to see some new and revamped pieces of the bill that sync up with several of the recommendations made by the Wildfire Commission. Just by way of example, the establishment of a fire environment center, or Fireshed Center, as it is called in the Chairman's bill, is in line with several consensus recommendations of the report. The focus on community wildfire risk reduction has the potential to build on the Community Wildfire Risk Reduction Grant program that we established last Congress.

Now, we do have concerns, and there have been a variety of concerns articulated by different organizations. I will ask unanimous consent at the conclusion of my remarks to enter their letters into the record, and I look forward to the robust discussion that we are going to have today.

I think that this issue has to be approached in a bipartisan way because it is a bipartisan priority. So, certainly the Chairman has my commitment, as the Ranking Member, to work in good faith, and I know that he shares that same commitment.

The last thing I will say, I mentioned at the top of my remarks, but I am grateful to the Forest Service. You all are doing tremendous work. Because of the investments that House Democrats made in the last several Congresses, I should say with the leadership of my colleague, Mr. Peters, who has waived on to the Committee today and who has been a national leader in this space, the Forest Service has achieved annual records for hazardous fuels reduction and prescribed burning. And, again, that is because of the investments that were made in the Inflation Reduction Act.

I see that I am at the conclusion of my time. Again, I thank the Chairman for holding this important hearing, and I look forward to the testimony and the questions.

I yield back.

Mr. WESTERMAN. I thank the Ranking Member and, without objection, we will accept your submission to the record.

[The information follows:]

THE WILDERNESS SOCIETY

April 17, 2024

Hon. Tom Tiffany, Chairman
Hon. Joe Neguse, Ranking Member
House Committee on Natural Resources
Subcommittee on Federal Lands
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Tiffany, Ranking Member Neguse, and Members of the Federal Lands Subcommittee:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express views on Chairman Westerman's discussion draft, "A bill to expedite under the National Environmental Policy Act of 1969 and improve forest management activities on National Forest System lands, on public lands under the jurisdiction of the Bureau of Land Management, and on Tribal lands to return resilience to overgrown, fire-prone forested lands, and for other purposes," being heard before the Subcommittee on April 17, 2024. We respectfully request that this letter be included in the hearing record.

TWS supports many of the goals of Chairman Westerman's discussion draft. We recognize the enormous amount of work necessary to restore our forests to a healthy and resilient state, and we welcome the chance to be part of these discussions. TWS also has significant concerns about some of the bill's provisions, such as ones that weaken bedrock environmental laws and limit judicial review. Below are suggestions for specific sections of the bill.

Section 2 defines "hazardous fuels management" as "any vegetation management activities that reduce the risk of wildfire, including mechanical thinning, mastication, prescribed burning, cultural burning, timber harvest, and grazing." TWS suggests changing the phrase "reduce the risk of wildfire" to "reduce the risk of uncharacteristically severe wildfire." This change will make it clear that Congress recognizes wildfire as an essential, beneficial, and natural part of the landscape, which is supported by both western fire science and long-held Indigenous Knowledge. We also recommend adding wildland fire use to the list of included vegetation management activities.

Title 1

Section 101 establishes the designation of fireshed management areas. As written in the draft bill, the designation of firesheds may cover more than 350 million acres (the Wildfire Crisis Strategy identified 250 high risk firesheds, and the 2019 Rocky Mountain Research Station identified 7,688 firesheds. 20 percent of these 7,688 firesheds comes to 1,538 firesheds, and with an average size of 250,380 acres per fireshed, the total acres encompassed by Section 101(a)(1)(A-B) equals 385 million acres). We are concerned that legislatively designating an area of that magnitude will hamper the agencies' ability to prioritize. Additionally, one criterion for identifying firesheds in the top 20 percent for wildfire exposure is "wildfire exposure to municipal watersheds." In this instance, TWS recommends quantifying the risk to watersheds, as opposed to just using exposure as the sole metric. For example, it is possible for an area to have high exposure, but that exposure is low risk. This is an issue we recommend addressing throughout the bill.

Section 103 of the discussion draft calls for the creation of a publicly available Fireshed Registry, which will include data on wildfire exposure, past forest management treatments, planned forest management treatments, status of permits and authorizations, project costs, and more. We believe increasing transparency in the project development and permitting processes and creating a one-stop-shop for

information on individual firesheds will be beneficial to the many stakeholders who are involved in or impacted by wildfire and management activities designed to mitigate risk.

Section 104 directs the Administration to enter into shared stewardship agreements with state Governors who request it. The main concern we have with the wording in this section is the use of “shall,” which mandates that the Secretary concerned enter into a shared stewardship agreement. The use of a mandate in this instance will allow state governments to unilaterally dictate all terms of such an agreement. To avoid this imbalance, we recommend changing “shall” in Section 104(a) to “shall seek to.”

Section 105 establishes Fireshed Assessments, which are to be jointly created by the relevant federal agency and Governor of each respective state. These Assessments will identify within each fireshed management area wildfire exposure risks, at-risk communities, and potential management projects to mitigate risks. The legislation further prioritizes potential management projects based on their ability to reduce exposure to communities, reduce exposure to municipal watersheds, reduce risk of forest type conversion, and protect critical infrastructure and wildlife habitat.

TWS supports the creation of Fireshed Assessments and corresponding prioritization of management projects. The type of coordination between federal, Tribal, state, and local governments called for in this section is necessary to create comprehensive plans that can tackle the large task of improving the health and resilience of our forests.

As currently written, the Fireshed Assessments are heavily weighted towards hazardous fuels management. One area of improvement we see is to rework the prioritization to place more emphasis and prioritization on mitigation in the built environment because this will have the greatest impact on protecting and reducing risk for communities and critical infrastructure. Given the important role state Governors will play in the development of Fireshed Assessments, it seems increasingly appropriate to focus resources and attention on the built environment, as opposed to wildlands, where the risk is lower. As the recent Wildfire Commission report stated, “it is important to note that focus on the natural environment alone is unlikely to fully reduce wildfire-related loss (Calkin et al., 2013; Cohen, 2008; Mortiz et al., 2014.) There is a critical need to also focus actions within the built environment.”¹

TWS has several concerns with **Section 106**, which states, among other provisions, that agencies shall carry out fireshed management projects, that these projects are categorically excluded from the National Environmental Policy Act (NEPA) environmental assessment and environmental impact statement requirements, and that acreage limitations contained in the Healthy Forests Restoration Act (HFRA) and Infrastructure Investment and Jobs Act (IIJA) do not apply to fireshed management projects.

While we agree with the desire to expedite the necessary work that must be done on our national forests, these management projects have the potential to be very large, with significant impacts on the landscape. A thorough NEPA analysis will ensure that any impacts to the ecosystem and local communities are considered and that community involvement and buy-in are prioritized. We know NEPA is not the cause of permitting delays, and while certain lawsuits may gather press and attention, very few NEPA decisions are litigated.² To be exact, only one in 450 NEPA decisions is litigated,² and as we have heard from agency officials, the best way to achieve an efficient review process is to ensure agencies are adequately funded and staffed.³ A more effective way to ensure timely project approval and implementation is to properly invest in agency capacity, resources, and retention of staff to aid in expedited reviews. Additionally, as stated by U.S. Forest Service Chief Randy Moore, 85 percent of all work done by the Forest Service is currently implemented under CEs (categorical exclusions).⁴ This is a startling figure that suggests, at

¹ ON FIRE: The Report of the Wildland Fire Mitigation and Management Commission, Sept 2023, Page 33. <https://www.usda.gov/sites/default/files/documents/wfmmc-final-report-09-2023.pdf>

² Ruple, John C. and Race, Kayla M., “Measuring the NEPA Litigation Burden: A Review of 1,499 Federal Court Cases,” SJ Quinney College of Law, University of Utah. https://dc.law.utah.edu/cgi/viewcontent.cgi?article=1008&context=stegner_pubs

³ Oversight Hearing, Modernizing NEPA for the 21st Century, <https://www.congress.gov/115/chrg/CHRG-115hhrg27722/CHRG-115hhrg27722.pdf>

⁴ Legislative Hearing, H.R. 2989, “Save Our Sequoias Act,” Committee on Natural Resources U.S. House of Representatives, Wednesday, May 10, 2023, Serial No. 118-22, Page 31. <https://www.congress.gov/118/meeting/house/115639/documents/HHRG-118-II00-Transcript-20230510.pdf>

minimum, that additional CEs are unwarranted. Additionally, a CE is defined as “a class of actions that a federal agency has determined . . . do not individually or cumulatively have a significant effect on the human environment.”⁵ It would be inappropriate to claim that land management projects in excess of 3,000 acres have no significant impact; therefore, the acreage limits contained in HFRA §§ 603(c)(1), 605(c)(1), and 606(g) and IIJA § 40806(d) should not be expanded.

One aspect included in **Section 111** is to extend the retention of revenues under good neighbor agreements to Tribes, giving them parity with states. We support this provision because, at minimum, Tribes should be extended the same authority as states. TWS also recommends that Congress evaluate the success of good neighbor authority before extending the authority permanently. Specifically, we recommend an analysis to determine whether revenues are being spent in accordance with the law and making sure revenue retention is not creating a perverse incentive to increase timber harvests when doing so may not be in the best interest of the health of the forests or the safety of communities.

Section 113 calls for the creation of intra-agency strike teams to assist with implementation of the fireshed management projects, reviews of NEPA, the Endangered Species Act (ESA), and the National Historic Preservation Act (NHPA), and more. We believe encouraging agencies to coordinate in this way will have a positive impact on the review processes; however, we ask the Committee to evaluate the requirements of the makeup of these strike teams. The bill currently states that strike teams cannot exceed 10 members, and these members can be representatives of the federal government, private contractors, and volunteers. We believe the legislative text should include a minimum number of federal employees and language that ensures a balance of volunteer members so that no one sector is given outsized influence.

Section 121 places strict limits on a court’s ability to issue injunctive relief and places mandates on what factors a court must weigh when making these decisions. This section also prevents judicial review of fireshed management projects unless certain factors are met. Although the provisions in this section are meant to prevent, or at least reduce, legal challenges that result in project implementation delays, the judicial branch represents a critical check on the agency’s power that should not be eroded, one that is oftentimes the only resort to stakeholders who have been wrongly ignored or excluded from project development. Additionally, further restricting when legal challenges can be brought before a court could have the opposite effect—we could see an increase in legal challenges, particularly those that have a low likelihood of success, because parties opposed to the agency’s decision are rushed to file. These types of unnecessary delays would be better prevented by ensuring an inclusive and transparent project development process, rather than placing restrictions on legal challenges.

Section 122 would weaken the 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. The ESA’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 (Bureau of Land Management) lands. The wildfire crisis poses a risk to many listed species but so can ill-informed, poorly conducted forest treatments, especially large-scale treatments that can span large swaths of a species’ habitat, which could certainly be the case here. 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.

Section 123 of the bill allows the agency to force many management challenges through an internal and binding agency arbitration process that eliminates the possibility of judicial review in federal courts. This section of the bill usurps the Constitution’s Article III power given to the courts and vests it instead with the executive branch, thus shielding the agency from the checks and balances of an independent judiciary. While agencies frequently conduct quasi-judicial proceedings, all of those decisions are ultimately “final agency actions,” appealable to federal courts and judicial oversight as the Constitution intended. Instead, section 123 improperly cuts Article III courts out.

⁵ Categorical Exclusions, <https://ceq.doe.gov/nepa-practice/categorical-exclusions.html>

Title II

TWS supports **Section 201**, which creates a program to support interagency coordination around community wildfire risk reduction. As this Committee knows, wildfire risks are relevant to several administrative agencies, and increasing inter-governmental coordination and simplifying processes for communities to access information and assistance is vital.

Section 202 requires the government to extinguish fires on the National Forest System within 24 hours after the fire is detected. This misguided approach has been tried and tested before in the form of the “10 a.m. policy” implemented in the first half of the 20th century, in which the Forest Service was tasked with extinguishing any ignited wildfire by 10 a.m. the following day. Both western fire science and long-held Indigenous Knowledge have taught us that fire has always played a critical role in our country’s landscapes. Fire exclusion and suppression have led to larger, more frequent, and more dangerous wildfires, which have strained resources, damaged property, and in some cases, destroyed communities. The answer to solving the wildfire crisis is not to continue this pattern, but to break it. Research shows that managed wildfire, which is the use of natural ignitions, such as lightning, to allow fire to fulfill its natural role on the landscape, rarely results in destructive outcomes to people and property.⁶ In fact, the Southwest Ecological Restoration Institutes state that “expanding managed wildfire use has long-term health, safety, and risk reduction benefits.”⁷ Section 202 would make this impossible by eliminating the government’s discretion in managing wildfire on the National Forest System and would return us to an era of total fire suppression that is partially to blame for the current untenable situation.

Section 205 creates a new CE for the development and approval of vegetation management, facility inspection, and operation and maintenance plans for electric utility line rights-of-way. In addition to falling under a CE, all forest management activities conducted under this section would also not be subject to ESA consultation or section 106 of the NHPA. As stated above in the discussion of Section 106, the vast majority of activities conducted by the Forest Service are accomplished using a CE, and additional CEs or expansions of existing CEs are unwarranted.

TWS supports the goals of **Section 302**. Many different stakeholders, from Native Tribes to state and local governments to industry and nongovernmental organizations, all have an interest in where and how forest management activities take place. The language in Section 302 will require a clear reporting of where treatments are happening, the level of wildfire risk to specific areas, the cost and effectiveness of treatments, and much more. We greatly appreciate the level of transparency this will provide, and we believe it will lead to smarter decisions and increased accountability. We encourage the Committee to review and incorporate the performance measure recommendations included in the Wildfire Commission Report.

Thank you for considering our views.

Sincerely,

LYDIA WEISS,
Senior Director, Government Relations

⁶Independent Analysis of Managed Wildfire by the Southwest Ecological Restoration Institutes, July 2023

⁷Independent Analysis of Managed Wildfire by the Southwest Ecological Restoration Institutes, July 2023

American Association for Justice • Center for Biological Diversity • Center for Justice & Democracy • Earthjustice • People's Parity Project • Public Citizen • Impact Fund • Texas Watch • National Association of Consumer Advocates

April 16, 2024

Hon. Tom Tiffany, Chairman
Hon. Joe Neguse, Ranking Member
House Committee on Natural Resources
Subcommittee on Federal Lands
1324 Longworth House Office Building
Washington, DC 20515

Re: Please Defend Access to Justice and the Rule of Law—Oppose Rep. Westerman's draft so-called "Forest Health" bill

Dear Federal Lands Sub-Committee Chairman Tom Tiffany and Ranking Member Joe Neguse:

The undersigned nine civil justice groups write today to express our strong opposition to Congressman Westerman's draft bill, the poorly named "Forest Health" bill. We understand this bill will be the subject of the sub-committee's hearing scheduled for April 17th, 2024.

While this bill would likely do nothing to promote "healthier forests," and would likely promote potentially harmful and destructive extractive projects under final rules of the Forest Service and the Bureau of Land Management, the comments of our groups in this letter focus specifically on the attacks to access to justice through access to our federal judiciary in sections 121, 122, and 123 of the bill. These provisions would interfere with the power of federal courts to say what the law "is" and provide appropriate redress to litigants, and should therefore be rejected.

Section 121 & 122—Section 121 of the bill contains several provisions that severely limit long-standing judicial review standards for certain Forest Service and Bureau of Land Management actions. Specifically, it would interfere with the judiciary's application of Rule 65 of the Federal Rules of Civil Procedure by significantly altering a federal court's balancing test for issuing a preliminary injunction. It also inappropriately applies a severe 30-day limit on any court-ordered preliminary injunction which will strain limited judicial resources by requiring re-application of these limited injunctions. This is simply not how the federal courts work. Section 121 also dramatically limits the time to seek judicial review to 120 days after final agency action, (from as much as 6 years under the National Environmental Policy Act, or "NEPA"). This abbreviated time frame places an undue burden on interested parties and communities with limited resources and would likely have the unintended consequence of leading to more litigation, not less, as interested parties may be forced to file suit to protect their legal rights. Section 121 also prohibits any judicial review of claims challenging the inappropriate use of a categorical exclusion by an agency under NEPA. Finally, Section 122 simply waives the federal Endangered Species Act law in certain circumstances, and with it, judicial review over agency actions that could violate one of our nation's bedrock environmental laws.

Section 123—We focus the rest of our comments on Section 123 of the bill. Importantly, this section would trample on access to justice principles in our democracy by stifling citizens' ability to seek redress through our courts, instead channeling many agency final actions into secretive forced binding arbitration proceedings.

Eliminates judicial review—Judicial review is a central tenet of the rule of law in our democracy. Congress has long recognized the critical role the public plays in going to court to hold the government and private actors accountable to our most fundamental federal protections, including those protecting civil rights, consumers, the environment, government transparency, people with disabilities, private property, public resources, public health, and workers. Yet, this bill would give the Forest Service and the Bureau of Land Management the power to eliminate this judicial review. Specifically, Section 123 would force certain public challenges to final agency actions through an unprecedented internal and "binding" agency arbitration process with final decisions "not . . . subject to judicial review."

Dangerously privatizes agency actions—The arbitration process created by this bill specifically anticipates outsourcing management decisions on public lands to private entities, including resource extraction industries, which will create a high likelihood of abuse and mismanagement. Under this bill, an extractive entity could

challenge a forest management plan, and through a binding arbitration process would be free to write their own regulatory “alternative proposal” for consideration. The arbitrator cannot “modify any proposal” offered by non-federal entities, but could select such a plan despite being written by private parties. This is not how our democracy works. Final agency regulatory actions *must* be actions of the agency, not third parties. Had the legal challenge gone to an independent court, a legally inadequate plan would be remanded to an agency to “try again” rather than allowing arbitration to illegally privatize that action.

Violates due process—The binding arbitration process also effectively obliterates the due process and public notice and comment protections of the Administrative Procedure Act, since there is no requirement that a privately selected plan get *any* public review. Such review is critical, especially given that—shockingly—the bill does not *require* the arbitrator to select a plan that in any way complies with the statutes governing these management plans.

Not a “pilot” program—The bill’s language implies it is creating a limited and discretionary arbitration “pilot program” limited to “no more than 15” legal challenges a year for *each* “Forest Service Region” and *each* “State Region of the Bureau of Land Management,” which is incredibly misleading. First, there are a total of 21 regions between the two agencies, which could mean that up to 315 legal challenges a year could be forced into arbitration. Given that there were only 264 *total* environmental/public land cases against all of the federal government in 2023 (out of over 60,000 civil cases), this could eliminate all judicial review of these agencies actions.¹ Second, the public, in fact, has no discretion on whether to have their concerns heard by a federal court or submit to binding arbitration. The agency would have “sole discretion” to decide which challenges are forced into this binding arbitration process (if not all of them), and that decision would also not be judicially reviewable. This broad one-sided discretion would imbue the agency with the power to shield itself from federal judiciary oversight for whichever legal challenges it finds most problematic, which to our knowledge would be an unprecedented government agency power. Again, our democracy simply doesn’t work this way.

In sum, this draft legislation is a dangerous and reckless attack on every day citizens’ ability to enforce the law. On behalf of our members and supporters, we ask that you defend access to justice through access to independent federal courts, protect our public lands, and uphold the rule of law **by opposing this “Forest Health” bill**, should it be filed.

Sincerely,

American Association for Justice

Public Citizen

Center for Biological Diversity

Impact Fund

Center for Justice & Democracy

Texas Watch

Earthjustice

National Association of Consumer
Advocates

People’s Parity Project

¹ See U.S. Department of Justice civil litigation statistics here—<https://www.justice.gov/usao/media/1343726/dl?inline at pg. 20> (visited 4-9-24).

Hon. Tom Tiffany, Chairman
 Hon. Joe Neguse, Ranking Member
 House Committee on Natural Resources
 Subcommittee on Federal Lands
 1324 Longworth House Office Building
 Washington, DC 20515

Dear Chairman Tiffany, Ranking Member Neguse, and Members of the Federal Lands Subcommittee:

On behalf of our millions of members and supporters, our organizations write to express our opposition to Chairman Westerman's discussion draft, "A bill to expedite under the National Environmental Policy Act of 1969 and improve forest management activities on National Forest System lands, on public lands under the jurisdiction of the Bureau of Land Management, and on Tribal lands to return resilience to overgrown, fire-prone forested lands, and for other purposes," being heard before the Subcommittee on April 17, 2024. We respectfully request that this letter be included in the hearing record. Although we recognize that a few small components of this legislation are positive, the vast majority of this bill would harm communities, the climate, lands, water and biodiversity, and we are fully **opposed to this draft legislation as a whole**.

Our organizations recognize the challenge in addressing threats posed by climate change as well as unsustainable forest management. We oppose several provisions and support some provisions of the proposed legislation. We caution, however, that active management, especially where checks and balances embodied in federal environmental laws are exempted, is not a panacea for climate change-induced effects on our federal forests. Active management takes many forms including damaging logging and road building projects that can increase risk of uncharacteristic fire, such as increasing road density and removing large old trees that confer fire resilience. Additionally, we object to the bill provisions that limit judicial review. Our organizations welcome the chance to be part of this critical discussion, and we recommend the following actions based on each section of the bill.

Title I: Landscape Scale Restoration

Subtitle A—Addressing Emergency Wildfire Risks in High Priority Firesheds

This section of the legislation amends the Healthy Forests Restoration Act (HFRA) by adding "Emergency Fireshed Management," which establishes fireshed management areas and allows governors to enter into Shared Stewardship agreements with USDA to conduct management projects in identified firesheds. Fireshed management areas must be landscape-scale, in the top 20% of firesheds at risk of wildfire exposure, and may contain federal and nonfederal lands. Once identified, USDA and the respective governor will conduct a fireshed assessment that identifies wildfire risk and at-risk communities in the fireshed and potential fireshed management projects, and then prioritizes projects based on risk reduction.

Although fireshed projects must comply with forest plans, plans are often decades old, and this provision creates a Categorical Exclusion (CE) without an acreage limitation to implement fireshed projects, and exempts projects from administrative review. Injunctions against unlawful projects in the Wildland Urban Interface are prohibited.

We ask you to **oppose this subtitle**, which allows for unlimited logging and other activities within designated fireshed management areas to be categorically excluded from necessary NEPA review with emergency exemptions. A fireshed, as delineated by the Forest Service, is typically 250,000 acres, and fireshed management areas comprise multiple firesheds. Along with unlimited logging, this section calls for fuel breaks, removal of dead and dying trees (trees which are essential for forest health and regeneration), chemical treatments, mechanical thinning, and grazing to be used as fireshed management projects on federal and non-federal lands on 20% (of 7,688) firesheds at higher wildfire exposure. While no one argues against the importance of protecting communities from wildfires, this subtitle promotes logging and other ecologically damaging activities on an unprecedented scale under the guise of wildfire risk reduction. Authorizing massive forest management projects without objective and detailed environmental and administrative review, which limits public engagement and the use of best available science, is unacceptable.

Subtitle B—Expanding Collaborative Tools to Reduce Wildfire Risk and Improve Forest Health

One aspect included in **Section 111** is to extend the retention of revenues under good neighbor agreements to Tribes, giving them parity with states. We **support this provision** because, at minimum, Tribes should be extended the same authority as states, as sovereigns. However, our organizations recommend that Congress evaluate the success of good neighbor authority before extending the authority permanently. Specifically, we recommend an analysis to determine whether revenues are being spent in accordance with the law and making sure revenue retention is not creating a perverse incentive to increase timber harvests when doing so may not be in the best interest of the health of the forests or the safety of communities.

Subtitle C—Addressing Frivolous Litigation

Section 121 of the bill contains several provisions that severely limit long standing judicial review standards for certain Forest Service and Bureau of Land Management actions. It inappropriately applies a severe 30-day limit on any court-ordered preliminary injunction, and also dramatically limits the time to seek judicial review to 120 days after final agency action. This abbreviated time frame places an undue burden on interested parties and communities with limited resources and would likely have the unintended consequence of leading to more litigation, not less, as interested parties may be forced to file suit to protect their legal rights. Section 121 also prohibits any judicial review of claims challenging the inappropriate use of a categorical exclusion by an agency under NEPA. We therefore ask you to **oppose this provision** of the bill.

Section 122 of this bill would weaken the 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 reinstitute 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. Reinitiation of consultation at the forest plan level is imperative because it provides the only mechanism to change management practices and apply them uniformly at the landscape scale, thereby avoiding extinction-by-a-thousand-cuts from consultation that occurs solely at the project level. Exempting the Forest Service from the requirement to reinstitute consultation would codify climate denial. Even as national forests suffer more and more effects from the worsening climate crisis, this provision would permanently exempt the Forest Service from ever modifying any forest plans to protect listed species from changing climate conditions. The result of this legislation could send countless species on an inevitable path towards extinction. We therefore ask you to **oppose this provision** of the bill.

Section 123 would trample on access to justice principles in our democracy by stifling citizens' ability to seek redress through our courts, instead channeling many agency final actions into secretive binding arbitration proceedings. This provision would force certain public challenges to final agency actions through an unprecedented internal and "binding" agency arbitration process with final decisions "not . . . subject to judicial review." The arbitration process created by this bill specifically anticipates outsourcing management decisions on public lands to private entities, including resource extraction industries, which will create a high likelihood of abuse and mismanagement. The binding arbitration process also effectively eliminates due process and public notice and comment protections, as well as environmental analysis and interagency and Tribal consultation requirements, because there is no requirement that an alternative selected by the arbitrator receive public, interagency, or Tribal review. For more information about why this provision is so harmful, please see Senate Report 115-429.¹ We therefore ask you to **oppose this provision** of the bill.

Title II: Protecting Communities in the Wildland Urban Interface

Our organizations **support Section 201**, which creates a Community Wildfire Risk Reduction Program to promote interagency coordination and reduce the risk of wildfires in the Wildland Urban Interface (WUI). This includes coordination on advancing research and science, and also supporting fire resistant building codes and standards, which are proven to be the most effective means of keeping communities safe in the event of a wildfire. This section also streamlines the grant process for federal technical and financial assistance, making it easier for communities to get the help they need to prepare for and respond to a wildfire crisis.

¹ <https://www.congress.gov/congressional-report/115th-congress/senate-report/429/1>

Our organizations **oppose Section 202**, which requires the Secretary of Agriculture to suppress all wildfires not later than 24 hours after the fire is detected and to suppress all prescribed fires that exceed prescriptions to burn. The bill also prevents the Secretary from using fire for resource benefit unless the fire is prescribed, and limits the use of backburns to control wildfires. This approach has been tried and tested before in the form of the “10 a.m. policy” implemented in the first half of the 20th century, in which the Forest Service was tasked with extinguishing any ignited wildfire by 10 a.m. the following day. This policy of fire suppression and exclusion, combined with worsening effects of climate change, is what has led to larger and more frequent wildfires. These extreme events have strained resources, damaged property, and in some cases, destroyed communities.

Both western fire science and Indigenous Knowledge tell us that fire has always played a critical role in our country’s landscapes, and that we must work to restore fire regimes to our landscapes. Ecologically based thinning and fire—prescribed burning, Indigenous-led cultural burning, and managed wildfire—should play a key role in accomplishing this goal. Research shows that managed wildfire rarely results in destructive outcomes to people and property. In fact, the Southwest Ecological Restoration Institutes state that “expanding managed wildfire use has long-term health, safety, and risk reduction benefits.”² Unfortunately, this provision would eliminate the government’s discretion in managing wildfire on the National Forest System and would steer us back towards an era of fire suppression.

Section 203 is another provision which **our organizations support**. This section expands the Joint Fire Science Program to include a Community Wildfire Defense Research Program. This program will test and advance innovative designs to improve the wildfire resistance of structures and communities, including home hardening, building materials, subdivision design, and landscape architecture. The innovations promoted by this program will help save communities and lives in the event of a wildfire.

Section 205 creates a new categorical exclusion (CE) for the development and approval of vegetation management, facility inspection, and operation and maintenance plans for electric utility line rights-of-way. The forest management activities conducted under this section would not be subject to ESA consultation or section 106 of the NHPA, exemptions that our organizations oppose. There is no evidence that this authority is necessary, given that the Forest Service in particular has dozens of existing CEs that could be used for this purpose; and we note that the Regulatory Flexibility Act authorized federal agencies to utilize the CEs of all other federal agencies, extending the Forest Service’s CEs to the BLM for that agency’s use. We **oppose this section** and legislative proposals that seek to expand the use of CEs further. Thank you for your consideration of these comments and suggestions.

Sincerely,

Alaska Wilderness League	Los Angeles Audubon Society
Alaska Wilderness League Action	National Wolfwatcher Coalition
Alta Peak Chapter, California Native Plant Society	Natural Resources Defense Council
American Bird Conservancy	North Central Washington Audubon Society
Bark	Northcoast Environmental Center
Buffalo Field Campaign	Northeastern Minnesotans for Wilderness
Californians for Western Wilderness	Greater Hells Canyon Coalition, Endangered Species Coalition

²Independent Analysis of Managed Wildfire by the Southwest Ecological Restoration Institutes, July 2023

Cascade Forest Conservancy	Primate Conservation Inc
Center for Biological Diversity	Resource Renewal Institute
Central Sierra Environmental Resource Center	SAFE Alternatives for Our Forest Environment
Conservation Northwest	Save Our Wild Salmon Coalition
Earthjustice	Sierra Club
Endangered Habitats League	Sierra Forest Legacy
Endangered Species Coalition	Silvix Resources
Environment America	Soda Mountain Wilderness Council
Environmental Law & Policy Center	Southern Environmental Law Center
Environmental Protection Information Center	Southern Utah Wilderness Alliance
FOUR PAWS USA	Standing Trees
Friends of Merrymeeting Bay	The Urban Wildlands Group
Friends of the Inyo	United Plant Savers
Great Lakes Wildlife Alliance	WE ACT for Environmental Justice
GreenLatinos	Western Environmental Law Center
Heartwood	Western Nebraska Resources Council
Howling For Wolves	WildEarth Guardians
Kettle Range Conservation Group	Winter Wildlands Alliance
Klamath Forest Alliance	Zoo New England: Franklin Park Zoo & Stone Zoo
Klamath Siskiyou Wildlands Center	

April 16, 2024

Hon. Tom Tiffany, Chairman
 Hon. Joe Neguse, Ranking Member
 House Committee on Natural Resources
 Subcommittee on Federal Lands
 1324 Longworth House Office Building
 Washington, DC 20515

Re: **OPPOSITION TO WESTERMAN HARMFUL FOREST “DISCUSSION DRAFT”**

Dear Chairman Tiffany and Ranking Member Neguse:

On behalf of Defenders of Wildlife and the Center for Biological Diversity, we write to express our opposition to Chairman Westerman’s “Discussion Draft” bill, *To expedite under the National Environmental Policy Act of 1969 and improve forest management activities on National Forest System lands, on public lands under the jurisdiction of the Bureau of Land Management, and on Tribal lands to return resilience to overgrown, fire-prone forested lands, and for other purposes*. The bill will be the subject of the Subcommittee’s hearing on April 17, 2024. We request this letter be included in the hearing record.

Chairman Westerman’s bill proposes a large-scale rollback of the Endangered Species Act (ESA) and National Environmental Policy Act (NEPA) on millions of acres of federal lands. Its sweeping provisions would also pave the way for unlimited logging and remove accountability from federal land managers.

At a time when our planet is facing an extinction crisis of epic proportions, Congress should not undermine the Endangered Species Act—our most effective tool for preventing extinctions. Nor should it remove the informed decision-making and public disclosure requirements of NEPA, or citizens’ rights to judicial review. This is especially true for a bill that both threatens widespread harms to ecosystems and imperiled species and imposes no obligation that fire-management actions (or the other land uses swept in by the bill) serve either the long-term health or fire-resilience of federal lands.

A. Widespread Rollback of Bedrock Environmental Laws and Opening of Lands to Unlimited Logging

This bill proposes broad rollbacks of environmental laws. It removes the obligation to reinstate consultation under Section 7 of the ESA for Forest Service land management plans and BLM resource management plans if: (1) a new species is listed or critical habitat designated under the ESA, or (2) new information reveals effects of the plan may affect listed species in a manner or to an extent not previously considered. *See* Section 122. Section 7 consultation at this stage plays a crucial role in providing a landscape-scale evaluation. The language of this bill resembles that of another Chairman Westerman separately proposed, H.R. 7408. Here, it is suggested as part of a Subtitle named “Addressing Frivolous Litigation,” which is discussed further below and effectively characterizes all litigation under the statutes whose protections the bill would remove as frivolous, however meritorious the claims would be. *See* TOC; Section 122 (the only part of the bill that addresses these plans).

Forest Service and BLM management plans are the blueprints that govern agency actions. And, the requirement to reinstate consultation reflects the continuing obligation of federal agencies under Section 7 of the ESA to insure that their actions, including the implementation of management plans, are not likely to jeopardize the continued existence of any listed species or result in the destruction of their critical habitat. Allowing exemptions for Forest Service and BLM plans blatantly disregards the agencies’ Section 7 obligation and could potentially threaten the existence of imperiled species in plan areas.

In a similar vein, Section 106(a)(3)(A) would deem “emergency” provisions in regulations implementing the ESA and NEPA applicable “[f]or any fire-shed management area designated under section 101” of the bill.¹ In so doing, it requires no finding of actual emergency. Nor does it contain any limiting language confining the application of these provisions to fire-related activities. Instead, it would extend these emergency provisions, across-the-board, to areas comprising hundreds of thousands of acres each. A single fire-shed is “about 250,000 acres.”² And Section 101 indicates

¹ These provisions include 50 C.F.R. § 402.05, which allows informal consultation under alternative procedures, with formal consultation deferred until after the emergency is under control. Under this bill, consultation appears intended to be deferred as long as the bill is in force.

² Confronting the Wildfire Crisis (usda.gov) at 3.

fireshed management areas will span multiple firesheds. *See* Section 101(a).³ In Section 101(a)(1), the bill also would remove any obligation to comply with NEPA in undertaking the designation process, *see* Section 101(b).⁴

ESA and NEPA compliance provide a framework for agencies to carefully consider the environmental consequences of wildfire management, as well as to make informed decisions that balance the need for effective fire management with the protection of natural resources and ecosystems. The ESA, as discussed above, also provides substantive protections crucial in a time in which biodiversity is in crisis. Without a requirement to follow these laws, agencies could potentially harm listed species and the ecosystems they rely on.

Turning back to the text, Section 2 of the bill defines “hazardous fuels management” in a way that does not require that the activity be intended for the purpose of reducing hazardous fuels. Instead, it encompasses “any vegetation management activities that reduce the risk of wildfire. . . .” This leaves room to argue any “mechanical thinning” or other vegetation management activity would provide such risk reduction and should be deemed to fall within the definition.

Section 106 uses the definition set forth in Section 2 in requiring that the Forest Service and BLM “shall” carry out, as “fireshed management projects,” “hazardous fuels management” actions, which Section 106(a)(2)(A) frames as “including” timber harvest, grazing, and others activities. *See* Section 106(a)(2)(A) (also referencing mechanical thinning, prescribed burning, cultural burning, and mastication). Read together, these provisions could be interpreted to provide a vehicle for the agencies to carry out a number of activities already occurring on federal lands, including for reasons unrelated to fire management, but without the standards, responsibility, and accountability that would otherwise exist.

B. Reduction of Federal Agency Accountability and Citizen’s Rights to Judicial Review

1. Lacks Protective Standards and Expands NEPA Exclusions

In mandating that the Forest Service and BLM “shall” undertake certain actions in Section 106, the bill directs no consideration for long-term forest health, including the need to protect of old growth forests, and the role of public lands in sequestering carbon, mitigating the effects of climate change.⁵

Additionally, Section 106(a)(3)(B) calls for broad categorical exclusions (CEs) from NEPA obligations, accomplished by adopting CEs from other, existing laws. Going still further, it removes acreage limitations set forth in those CEs for projects located in areas in which an agency and a state have “completed a fireshed assessment under Section 105” of the bill. *See* Section 106(a)(3)(B)(ii) (removing 3,000-acre limit for categorical exclusions under Sections 603(c)(1) & 605(c)(1) of the Healthy Forests Restoration Act (HFRA) and Section 40806(d) of the Infrastructure Investment and Jobs Act, as well as the 4,500-acre limit in Section 606(g) of the HFRA, along with other provisions of law described in the bill). The Section 105 “fireshed assessment” itself would be also exempted from NEPA. *See* Section 105(b).

2. Removes Rights to Judicial Review

i. Section 121

The bill also proposes to remove accountability from the agencies by foreclosing and frustrating judicial review in multiple ways, set forth in Subtitle C. Though titled “commonsense litigation reform,” Section 121 of the bill is anything but. *First*, it purports to devise a different test than the one courts typically use for injunctive relief. The existing equitable evaluation already addresses likelihood of success on the merits and any public interest in pursuing, or not pursuing an activity. *Compare* Section 121(a)-(b). The bill needlessly proposes to alter traditional equitable principles.

Second, the bill would limit preliminary injunctions and stays pending appeal to thirty days. Any additional time requires re-briefing and re-deciding within

³Strangely, the bill calls for updated fireshed maps at five-year intervals, but also purports to sunset this process, along with other provisions, after seven years. *See* Sections 101 & 107.

⁴Meanwhile, according to the Forest Service’s *Wildfire Crisis Strategy* document, *Confronting the Wildfire Crisis: A Strategy for Protecting Communities and Improving Resilience in America’s Forests*, “scientists have already located the communities at highest wildfire risk and the firesheds that are the source of highest community exposure to wildfire.” *Confronting the Wildfire Crisis* (usda.gov) at 28.

⁵Apart from this lack of standards, it also bears noting that the bill expressly vests a responsible official with discretion, for example, to decide an “appropriate basal area” for the removal of trees to address overstock and crowding, without providing or referencing any guideposts. *See* Section 106(a)(2)(e).

successive, additional 30-day windows. *See* Section 201(c). Thirty days is quite short, particularly given that the default time frame simply to brief, let alone decide, a motion may take as much as twenty-eight or thirty-five days.⁶ And, such a requirement would serve only to waste resources of the parties and courts alike. If there were reason to believe changed circumstances altered the need for a preliminary injunction or stay, an agency could move to lift it. There is no reason to presume, however, that the reasons which led to the court's decision have changed in thirty days.

Third, the bill imposes unreasonable and potentially impossible time limits. *See* Section 201(d). Any suit must be: (1) filed within 120 days of the publication in the Federal Register of a notice of agency intent to carry out a proposed action; but (2) also cannot be filed until after a record of decision (ROD) or other final agency action occurs. This forecloses any claim for which the agency takes final action or issues a ROD more than 120 days after publishing a notice of intent. *See* Section 201(d)(1)-(2). Further, 120 days is very short, undermining the ability of those with fewer resources to sue. It also would make it difficult for anyone to do so by effectively shortening the time frame still further if the law under which a claim is contemplated requires a 60-day pre-suit notice letter, as the ESA does.

Fourth, the bill would prohibit any judicial challenge to the applicability of a categorical exclusion. *See* Section 201(d)(3). Even if an agency flagrantly violated the limits set forth on such exclusions, citizens would have no means to challenge this conduct.

ii. Section 123

Further insulating agencies from accountability, Section 123 creates a heavily-slanted and vaguely-articulated arbitration pilot program that would keep citizens out of court altogether, at the agencies' discretion. Thereunder, the Forest Service and BLM would select a group of at least 20 arbitrators of their choice. *See* Section 123(e)(1). Although these individuals must not be registered lobbyists at the time, any other potential conflicts of interest, such as industry ties, are not disqualifying. *See* Section 123(e)(2). If parties to an individual arbitration cannot agree upon an arbitrator, the agency's choice prevails. *See* Section 123(e)(3). Thereafter, the arbitrator, who need not have any expertise in the subject matter, will make a decision. *See* Section 123(d)-(e). That decision will be based not on the merits of the legal claims, but the perceived superiority of competing proposals. *See* Section 123(d). The agency would choose which challenges to its actions it wants to arbitrate, up to 15 per fiscal year. *See* Section 123(a)(2)-(3). Any such challenges would not be subject to judicial review. *See id.* The fundamental flaws in, and unfairness of, such a program are obvious.

Moreover, vague language in the bill would create confusion. It is unclear what an "objection or protest" subject to arbitration is. *See* Section 123(a). Will the agency pull cases out of court? Or will it attempt to preemptively guess which out-of-court comments concerning its actions would otherwise have led to a lawsuit? If multiple parties or suits seek to challenge the same action, can the agency attempt to force them all into arbitration and count that as only one of its 15 potential annual selections?

Setting aside the specific issues presented by Section 123, the U.S. Supreme Court has described arbitration as "well suited to the resolution of contractual disputes," but a "comparatively inappropriate" forum for statutory rights created by Title VII. *Alexander v. Gardner-Denver Co.*, 415 U.S. 36 at 56-57 (1974) (discussing, among other things, differences in the fact-finding process and the lack of an obligation for an arbitrator to provide the reasons for an award). This reasoning applies equally to the types of claims at issue here.

3. Cedes Control of and Responsibility for Federal Lands

The bill cedes control of and responsibility for federal land management to state and local governments (but not tribes) in two respects.⁷ First, Section 106 provides that federal agencies "shall carry out," as "firedshed management projects," any activities recommended in a state-specific firedshed assessment under Section 105 of the bill. *See* Section 106(a)(2)(G). Sections 104-105, in turn, would provide for state-federal agreements, pursuant to which the referenced assessments are made. Those provisions do not, however, address how to resolve any fundamental differences or disagreements if state and federal regulators do not agree about recommendations

⁶*See, e.g.*, D.C.Colo. L.Civ.R 7.1(d) (35-day period); DUCiv.R 7-1(a)(4)(D) (28-day period).

⁷Because firedshed management areas could include non-federal land, *see* Section 101(a)(1)(D), the bill may also make federal agencies responsible for activities on non-federal lands. If that is the case, it does so without additional funding to carry out this responsibility.

for federal lands. Additionally, Section 106(a)(2)(H) would mandate any activities recommended in applicable community wildlife protection plans. Federal agencies' role with respect to such plans, however, is one of consultation, not control.

4. Additional Issues

Apart from the more overarching provisions, Section 205 grants broad exemptions from following the law for utility rights of way. Both "the development and approval of a vegetation management, facility inspection, and operation and maintenance plan" under Section 512(c)(1) of the Federal Land Policy and Management Act of 1976 and the implementation of routine activities under such a plan are subject to exemptions from NEPA, ESA Section 7 consultation, Section 106 of the National Historic Preservation Act, and "[a]ny other applicable law." See Section 205. Although there are two exceptions to the NEPA categorical exclusion for: (1) designated (but not proposed) wilderness areas under the National Wilderness Preservation System; and (2) National Forest System lands on which another statute restricts removal of vegetation, it is unclear if the restrictions on judicial review extend to this section (or if the catchall eliminates Administrative Procedure Act review), limiting the enforceability of these exceptions. Further, the bill lacks any similar caveat for the ESA and other laws whose protections it removes. It also appears to expressly allow unlimited temporary road construction—with no exception for wilderness areas. See Section 205(e). Our nation's environmental laws exist for a reason, as discussed above with respect to ESA Section 7 and NEPA. And, the broad catchall exemption to any applicable law seems likely to lead to unintended consequences.

In contrast to the license granted in this area, Section 202 of the bill would tie the Forest Service's hands in certain respects in using fire as a management tool. This provision would require the Forest Service to suppress all wildfires within 24 hours, limit the use of backfire, and restrict the use of fire as a management tool to prescribed fires within the bounds of the prescription. The 24-hour requirement parallels the "10 a.m. policy" implemented in the first half of the 20th century, in which the Forest Service was tasked with extinguishing any ignited wildfire by 10 a.m. the following day. Fire is essential to forest ecosystems. Returning natural fire to fire-adapted areas in a way that protects communities is an important way to reduce uncharacteristically large fires that can threaten people, their homes and pets and livestock. The limitation to prescribed fire in this provision also appears in tension with the inclusion of both prescribed burning and cultural burning as activities the agency must undertake pursuant to Section 106 of the bill.

Finally, Section 305 of the bill proposes a study of potentially moving the Forest Service headquarters. This is not the place to divert resources amidst the challenges confronting the agency. Further, many high-level staffers presently live (and work) outside the existing headquarters. And, both Forest Service regions and individual forest supervisors have significant decision-making power under the status quo. Any such move would come at considerable cost to taxpayers without adding value. It also risks the loss of institutional knowledge if individuals leave the agency, as occurred when BLM moved its headquarters.

In short, this bill provides neither additional funds to confront the wildfire crisis nor the tools to do so. Instead, it proposes to rollback environmental (and other) laws and divert resources to deprive the affected public of judicial review and engage in needless study of moving an agency office.

Thank you for your consideration.

Sincerely,

Desiree Sorenson-Groves,
Vice President of
Land and Habitat Conservation
Defenders of Wildlife

Randi Spivak,
Public Lands Policy Director
Center for Biological Diversity

Mr. NEGUSE. Thank you.

Mr. WESTERMAN. It is now time for questions, and we will start with the gentleman from Utah.

Mr. Curtis, you are recognized for 5 minutes.

Mr. CURTIS. Thank you, Mr. Chairman. I would like to echo the thoughts and appreciation to you for bringing this forward and for being such a leader on this.

I would like to just quickly nod to the Ranking Member, Congressman Neguse, and your comments about bipartisanship. You know, you and I are interesting. We share a boundary. And while the politics might be very different on each side of this boundary, the geography is very similar. And we both deal with these forest fires in our district of great magnitude. And it has been an honor to serve as your co-Chair on the Wildfire Caucus, and I appreciate your leadership there.

And I think one thing in particular I would like to point out is your leadership in making sure that those who fight our fires are appropriately compensated. And just a moment of a shout-out to these good men and women who oftentimes sacrifice their health and safety to protect us, to protect our property, and our lives. And we have seen that in Utah firsthand. So, a big shout out to all of them.

It has been said, and we all know, that we don't have fire seasons anymore. We have fire years. And it is just a reality that we are facing. And this is particularly acute in the West and in my district. And clearly, we all know this, but let me point out that what we are talking about impacts water supply, air quality, recreation, ranching, grazing and, for many people, their way of life. And just in many, many ways this is important.

I would also like to point out that oftentimes we overlook the wisdom of people who live in these areas, and I think sometimes they can give us a lot of insight on how to fight these. I am proud to support the Chairman with this legislation.

Mr. French, just a couple of questions. I don't know, it does come down sometimes to partisanship and being proactive versus reactive in these fires. Can you just talk for a minute about where the sweet spot is on being proactive, and what you would like to see us consider?

Mr. FRENCH. It is so much more efficient to the American taxpayer to reduce wildland fire risk in the forests and grasslands. Look at what happened in Texas this year. To do that preventatively, when you look at the rate of return versus the impacts that happen to a community from a wildfire and, honestly, to our resources, it is a no-brainer to me.

And I think sometimes we forget the broader consequences of getting our forests back into healthier conditions, the downstream effects of water. The number of users that depend on water from LA all the way up through most of California, like 50 percent of the groundwater that goes into municipal water supplies in the West originates from national forests.

So, I think we often think about just the impacts at a local community, but it is so much broader. It is the food we eat, it is the communities that depend on the water. And every time we lose the ability to deliver one of those, the costs are enormous compared to the investment of reducing that risk up front.

So, the sweet spot to me is our ability to recognize we have to continue our suppression work. We have to. But to make the right investments at the right scales, at the right pace, up front to actu-

ally make sure that these forests are surviving for generations to come. And right now they are at risk.

Mr. CURTIS. Yes. Thank you. You mentioned water. And I have to think, one of the biggest problems in my community after a devastating fire would be the floods and mud debris that comes down and the erosion when that growth is taken away.

If I can compel all of my residents to listen to this testimony today, and you have a moment to say to them what you would like them to do as residents in places that run up against these lands, what advice would you give?

What proactive steps can residents take in prohibiting these fires?

Mr. FRENCH. Well, I am going to answer it this way. I am going to repeat to you what I told my own mother who lived for years in Heber, Arizona, some very large fires, who, as I walked her property, loved the environment around her. But the reality was that very environment on her property and the adjoining property would cause her to lose her house. So, my advice to homeowners is look at your own property, make sure that we are reducing the fire risks that you have right around your house. Do simple things if you can, or take advantage of what our fire safe councils and others are offering to harden your property. And then, when you look at the surrounding lands, whether it is state, Federal, county, or even private landowners, be a part of understanding what a healthy forest is.

And most of our forests and fire-adapted areas right now, because we have excluded fires, and this is what I have told her, I am like, that beautiful forest that you are looking at that you love is unhealthy.

Mr. CURTIS. Yes.

Mr. FRENCH. It is unnatural.

Mr. CURTIS. I wish I could let you go on a little bit more, but I am out of time.

So, I am going to yield, Mr. Chairman.

Mr. WESTERMAN. The gentleman's time has expired. I recognize the Ranking Member, the gentleman from Colorado, Mr. Neguse, for 5 minutes.

Mr. NEGUSE. I thank the Chairman.

Again, thank you for being here, Deputy Chief French. And I certainly want to echo the remarks of my colleague from Utah. We will miss him here in the House, but I know he will no doubt continue his efforts that have been so successful here in our body in partnering on a bipartisan basis to address wildfire risk. And it has certainly been a pleasure and a privilege for me, as the co-founders of the bipartisan Wildfire Caucus, to work with him in that regard, although our ski resorts are still better than his.

[Laughter.]

Mr. NEGUSE. But anyway, not to offend the sensibilities of the crowd, apparently.

Mr. French, I want to say I deeply appreciate the work that your agency does, deeply appreciate the work that Chief Moore does, and have certainly appreciated the partnership of the Forest Service. So, I want to preface my remarks with that statement.

I have been frustrated by the inability to receive an answer from the Forest Service regarding some basic questions that myself and several other Members of Congress have propounded to the agency in regards to wildland firefighter pay. As you know, we have worked with the agency for years, and we appreciate your partnership. And, of course, we understand that it takes Congress to act with respect to making permanent some of the pay protections that the Forest Service has been so passionate about.

But one issue in particular that has percolated to our office and to others is housing, and a number of anecdotal reports of exorbitant housing increases for wildland firefighters that are barely making enough to get by. I previously had another witness from the Forest Service who testified in a hearing in March whom I questioned on this issue. We sent a letter in February.

I don't know if you are aware of that letter. If you are, perhaps you can opine on that. And if not, I would love your commitment to go back to the agency to perhaps convey to them that one of their biggest advocates on Capitol Hill, someone who has worked very hard to try to increase funding for the Forest Service, is deeply disappointed in their inability to answer what were basic questions, essentially, about the housing rent increases for wildland firefighters that we have heard over the course of the last 6 months.

Mr. FRENCH. Fair enough. I do commit to that. I will go back and talk with the Deputy Chief area that oversees that, and I apologize to you that we haven't given you a timely response.

The rates that we have to charge for our housing are, essentially, set through policy that comes from the Office of Personnel Management. I will tell you that, as a leader in this agency, it is very hard for me to understand why we have to charge certain rental rates that are not commensurate with the communities that we are a part of, but may be set on a community that is 100 miles away, like Bend, Oregon, where rental rates are going to be much higher, versus a rural space that we would be in.

It is our central focus, and we have started to move some Great American Outdoors funds to address it. But the actual issue in terms of the rates that we are charging has been a central focus for Chief Moore and our leadership. And we will get you your answers.

Mr. NEGUSE. I thank you, Deputy Chief. And I know this isn't your particular bailiwick in terms of your subject area, and I also know it is not the exact nature of the subject that we are discussing today.

But I appreciate your commitment, and that is exactly why we are hoping for an answer from the agency, and one of the questions was actually specifically around OMB's policies, because we think we can be a resource in perhaps advocating for changing some of those, either on the regulatory basis or perhaps via changes in statute. So, I thank you.

And I thank the Chairman. I yield back.

Mr. WESTERMAN. The gentleman yields back. The Chair recognizes the gentleman from Oregon, Mr. Bentz, for 5 minutes.

Mr. BENTZ. Thank you, Mr. Chair. And I also want to compliment you on this bill. I read through it this morning. It is an

extremely focused and, I think, excellent approach to the challenges we face in our forests.

To that end, I am curious about how much progress the Forest Service has actually made over the past, let's just say, 5 years in trying to reduce the danger of wildfire. Can you share with us what you think the progress has actually been on perhaps a percentage basis?

Because you have millions of acres you are dealing with, can you share with us how many thousands of acres the Forest Service has successfully reduced the level of fuel upon?

Mr. FRENCH. Yes. I think there are actually two ways to look at this. Last year, we reduced wildland fire risk on, I think, 4.3 million acres, which was a significant increase from where we were the year before.

Mr. BENTZ. And how many total acres are you dealing with in millions?

Mr. FRENCH. How many total, say that again.

Mr. BENTZ. How many total acres does the Forest Service manage?

Mr. FRENCH. There are 193 million acres.

Mr. BENTZ. Right. And how many did you take care of?

Mr. FRENCH. Last year, I think it was—let me give you the exact number. I think it was 4.35 million acres.

Mr. BENTZ. So, we have a ways to go.

Mr. FRENCH. We do.

Mr. BENTZ. Let's hop to the amount that wildland firefighters are paid. I had some contractors come in 2 weeks ago, 3 maybe, from Oregon that contract with the Forest Service and the BLM. And they had been told that they had to increase the pay of those that they hire when they are doing these kinds of contracts by something like \$9 an hour, taking up the pay to around \$35. Does that ring true to you?

Mr. FRENCH. I am not aware of that, but I can get back with you.

Mr. BENTZ. So, it is true. And the amount that is being paid now is somewhere in that mid \$30-per-hour range.

Now, I have actually fought fire and, frankly, \$35 an hour, I am not sure I would want to fight for \$35 an hour, but the truth of it is that is a pretty good wage. Are you aware of people being paid more than that to fight fire, \$35 an hour?

Mr. FRENCH. OK, I also fought fire for the Forest Service. I am aware of other state agencies that are paying more, and I don't know what contractors are paying.

Mr. BENTZ. I don't think the Forest Service had much to do with the establishment of these rates. I think it was somebody else, and we will probably hear about that later. But that amount, that dramatic of an increase in that which has to be paid to those who are hired to try to help us, makes it extremely difficult for many of these companies to stay in business because it was done abruptly, and the amount of the increase was around 20 percent, maybe even 25 or 30 percent of what was normal.

And I will just point that out because it is going to be difficult for many of them to stay in business.

Mr. FRENCH. OK.

Mr. BENTZ. And they are absolutely essential, these independent contracting groups, to controlling fire in and across the United States. They are absolutely essential. So, you might want to look into that.

And we had better be talking to whoever is in charge of raising these rates. And I had it in my notes, the office of somebody, and you might want to reach out and say, what are you doing? You are putting the nation at risk because these companies can't afford it. I mean, that is just the way it is.

Let me hop to NEPA for a moment, and the lawsuits. Are you aware of lawsuits that have delayed the Forest Service in trying to take care of dangerous situations, fire-related?

Mr. FRENCH. Am I aware of, did you say ESA?

Mr. BENTZ. Sure. Under the NEPA or—

Mr. FRENCH. Delaying when we are actually suppressing fires?

Mr. BENTZ. No, no. In anticipation of cleaning up the forest so you could perhaps not have as many fires to fight.

Mr. FRENCH. OK, yes. So, we have to consult on ESA with two agencies. And I would say historically we have had projects that have been delayed in the last year or so. We have been working very collaboratively.

Mr. BENTZ. I am going to run out of time here. What I am getting at, there is a provision in this bill, and it is an excellent one that is doing its best to try to head off that kind of litigation, so that you can do your job and try to protect people in cities and towns. Are you being prevented from doing that by virtue of litigation or—

Mr. FRENCH. By virtue of litigation?

Mr. BENTZ. Yes, or the threat of lawsuits?

Mr. FRENCH. Litigation, for me, as overseeing and doing this work, litigation is a part of just our work, and I anticipate that in our time frames and our costs.

Mr. BENTZ. Thank you. I yield back.

Mr. WESTERMAN. The gentleman yields back. The Chair recognizes the gentlelady from New Mexico, Ms. Leger Fernández, for 5 minutes.

Ms. LEGER FERNÁNDEZ. Thank you so very much.

And once again, welcome Deputy Chief French, and thank you for being here. As you know, April 6 marked the 2-year anniversary of the Hermits Peak/Calf Canyon Fire that was started by the Forest Service's prescribed burn and devastated my home state of New Mexico and lands I hold dear. So, every time I look at issues with regards to forest management, I come with those fresh burn scars in my memory.

And I want to thank Chair Westerman for drafting legislation to address these, and thank you so very much for incorporating some of my suggestions and other suggestions from the Democrat members of the Committee.

So, while there are provisions in the bill that I think are transformational in terms of how we address and manage our forest because responsibly and appropriately managing the forest, I think that there is consensus on that. There is an issue of how do we go about it. And one of the things I think has come up with some of these questions is really about how do we pay for it all, right?

How do we make sure that we pay enough so our firefighters are able to do their job so that people working on state fires aren't paid more, that there is enough so that we can get this done, because that doesn't get done in a vacuum.

I take it, Mr. French, does the Forest Service have a big pot of money sitting around that they can utilize to get stuff done?

Mr. FRENCH. Well, it has been helpful under the Bipartisan Infrastructure Law and IRA, but generally, no.

Ms. LEGER FERNÁNDEZ. Right. So, I wanted to see if you could comment. Yes, and I think that that was key. Like, we recognized in the Bipartisan Infrastructure Law the need to send money to USDA, to the Forest Service to start some of this transformational work that needed to be done, and to look at firefighter pay. And now we are trying to say, how do we get some of that and actually institutionalize it?

But could you speak a bit on, in reviewing this, are there consequences for your agency?

And would you be able to carry out some of the directives without funding resources to execute them?

Mr. FRENCH. As written right now, so here is the direct answer. Yes, we could carry them out, but it would come at a consequence of us not doing other things. I mean, that is what we do right now. We take the money we have, and we focus on the priorities. And it may mean we are not delivering as much in other areas.

The other way to look at it is, no, there are certain aspects of this that we would need more funding to carry out.

Ms. LEGER FERNÁNDEZ. Right. And I think your comment earlier that if we put money up front we are going to save money from suppression costs, which are much more expensive and have lots of other negative consequences for our economy. But when I see this, it is like we can't keep complaining about these issues and not fund the agencies to do their work.

Mr. FRENCH. Yes I agree with you. And the BIL and IRA funding has been incredible. It has helped us really look at wildland fire risk reduction. But when you compare that, that is one-time temporary money. You can't hire the type of capacity you need long-term to actually sustain a response to this problem and fund the agency at a level long-term to actually deal that. So, it is a different dynamic.

I mean, we are dealing with right now on how to deal with big budget shifts, cuts we just got and in our workforce because that money was one-time money, right? So, most of that goes out to contractors and others. But if you are going to build a workforce to sustain this work over time and deliver our full mission, whether it is providing timber, range management, recreation, all the things that we do, there has to be a sustained investment.

Ms. LEGER FERNÁNDEZ. Right. So, I would encourage my colleagues to think about the need to actually fund the agencies to do the work that we are asking them to do, including in this legislation.

I want to quickly ask—I know you did some service-wide planning with regard to NEPA, the endangered species. Can you tell us quickly some of the accomplishments that you accomplished with that planning?

Mr. FRENCH. Yes. I mean, this has been a focus of mine for years. Over the last 10 years or 5 years, we have seen a relative decrease in our NEPA costs by about \$10 million a year, yet we have been producing more. We are doing fewer decisions, using more authorities, but we are producing more. We have record amounts of hazardous fuels work, a million more acres this year than we had the year before. We have been holding steady on our ability to provide other outputs, and yet our costs for environmental compliance continue to go down. That is one aspect of it that I am pretty proud of.

Ms. LEGER FERNÁNDEZ. Yes. Part of that says you don't need to get rid of environmental compliance, you can actually plan for it and get better results.

Thank you for the biochar provisions in this bill. I learned a lot about biochar with you, Mr. Chair. And with that, I yield back.

Mr. WESTERMAN. The gentlelady yields back. The Chair recognizes the gentleman from Minnesota, Mr. Stauber, for 5 minutes.

Mr. STAUBER. Thank you, Mr. Chair and Chairman Tiffany, for holding this. I want to thank you for convening this hearing. I want to thank Chairman Westerman and the Committee staff for their work on the legislation before us today.

The district I represent in northern Minnesota is home to great timberland, including on Federal lands like the Chippewa and Superior National Forests. Like many rural districts across the country, we face serious risks from wildfires if our forests are not properly managed. This legislation will help benefit the people of northern Minnesota and our vast public lands.

One of the provisions that I am very happy to see included in this draft is the expansion of the Good Neighbor Authority to allow counties and tribes to fully participate. I am happy to see my good friend, Representative Fulcher's Treating Tribes and Counties as Good Neighbors Act included in the text of this bill. I am proud to co-sponsor the standalone bill, and want to thank Chairman Westerman for including it in his bill.

Deputy Chief French, thank you for joining us once again today. The Chippewa and Superior National Forests are not currently meeting their timber harvesting goals, and this is having serious consequences. In August 2021, during the Greenwood Fire, nearly 27,000 acres burned in the Arrowhead region of northern Minnesota, most of that within the bounds of the Superior National Forest. And that was just 10 years ago, after the Pagami Creek Fire that burned just under 93,000 acres on the Superior National Forest.

Deputy Chief French, timber harvesting is an important tool in preventing wildfires, one which, I will add, supports economic activity and communities like those in northern Minnesota and raises revenues that can be reinvested into forest management.

Deputy Chief French, can you share why national forests like the Chippewa and Superior are not meeting their timber harvesting goals, their 100 percent of the allowable sale?

Mr. FRENCH. Sure. First of all, I would say over the last 10 years, we have increased our timber volumes out of the agency about 15 percent, while the budget that we have had specifically for timber—

Mr. STAUBER. Mr. French, I am just specifically talking about the Superior and Chippewa, not the overall forest.

Mr. FRENCH. Well, I am going there.

Mr. STAUBER. OK.

Mr. FRENCH. The bottom line is staffing. The overall budget we have had in forest products has remained relatively flat in that same period, whereas the increase of costs for personnel and things like that, we had nearly a 10 percent increase in salaries that we had to pay for last year, but the budget remains flat.

So, at the end of the day, the amount of staffing we have to carry out this work, and we have been investing in that region, in their area, but chronically they tell us they don't have quite the number of funds they need.

Mr. STAUBER. So, how much staff do you need?

By the way, I am not sure I agree with that answer, but how much staff do you need to make sure the Superior and Chippewa are harvesting 100 percent of the allowable sale?

Mr. FRENCH. I will have to get back to you. I don't know the specific numbers on that.

Mr. STAUBER. Are you seeing these same issues, Deputy Chief French, outside the forest areas of Minnesota, like around the nation? Are you seeing short staffing causing the logging to be reduced?

Mr. FRENCH. Yes. I mean, it is a combination of three things: we have lost specific expertise in staffing in some areas; we have lost infrastructure in some areas, forest products infrastructure, where it is harder to utilize those pieces; and then the composition of things that we do offer. We are not offering as much in terms of saw logs and other pieces as we reduce wildland fire risk. So, that has consequences that we know in our own supply, and doesn't meet all those goals.

The last thing I would say is that those numbers that you talk about are allowable sale quantities. There are lots of other factors that had to go into how much we actually offer on forest to forest.

Mr. STAUBER. Would you consider getting some professional advice from the private industry?

Mr. FRENCH. Yes, and we—

Mr. STAUBER. Which wouldn't cost the government anything.

Mr. FRENCH. No, and I will say that I have been making some of those moves to bring in folks from the private industry to give us advice on how to handle some things right now. So, sure.

Mr. STAUBER. If I got a group together to work on the Superior and Chippewa from the private industry, you would have an open door?

Mr. FRENCH. We have an open door to anything like that.

What I would also suggest, though, is that managing forests on private lands versus managing lands through the Federal laws and regulations and the multiple things that we have to do are quite different. And you are going to see different management.

Mr. STAUBER. So, you are saying the Federal Government has redundancy and rules and regulations that hamper your ability, is that what you are saying?

Mr. FRENCH. No, I am not saying that. I am saying if you have a private land that you are managing towards the value primarily

of economic timber versus the value of, let's say, wildlife, fisheries, water, tribal interests, there is a whole other set of interests that we have to manage on a national forest based on the laws that Congress has passed that are quite different than a private industrial landowner. And I think it is just a different space.

Mr. STAUBER. Thank you very much. I see my time is up.

I yield back.

Mr. WESTERMAN. The gentleman yields back. The Chair recognizes the gentleman from California, Mr. Peters, for 5 minutes.

Mr. PETERS. Thank you, Mr. Chairman.

Thank you, Mr. French. I thought your testimony was very well done and very helpful. I am also going to praise the Biden administration for what it has done with the IIJA, the infrastructure bill, and IRA in terms of advancing action on climate.

But I am going to express to you the same frustration I have had with the Administration I expressed to Mr. Ali Zaidi yesterday, which is accepting this litigation regime as a given. And you did that, I think, very professionally. You are not here to criticize NEPA or any other laws. You have described them as part of your timeline when you work, it is just part of the game. I have been asking the Administration in other contexts to tell us what we could do to make it go faster.

You know, we are facing this climate challenge that we describe as something we have to act on in 10 years. In my other Committee, Energy and Commerce, we deal with transmission. It takes 10 years to build a power line. You can't deploy significant renewables without doubling or tripling the size of the grid, and we are just not getting it done because we have burdened ourselves with such process. Out of the 10 years it takes to build a power line, 7 years of process, 3 years are construction. And we are not going to compete with China or solve the environmental crisis under that kind of regime.

And it occurs to me that there are bedrock laws like the Clean Water Act and the Clean Air Act that prevent the emission of pollutants into the air, but we have these process laws like NEPA that we need to look at again.

I look at the comments about Mr. Westerman's draft, and a lot of it is just conclusory: Well, we can't change public access, we can't change access to the court, as if that is the game, as if NEPA was delivered to us on tablets from Moses, right, rather than IBM's electric typewriters in 1970, that is what they had back then. People like us wrote that law. Those laws need to be adapted to today's challenge.

And in the fire context, you can't be litigating over almost every tree. We cannot do that. I am not asking you for a response. I am telling you. What I would like the Biden administration to tell me is how to make it better. This notion you can't go to arbitration, or you can't go to an administrative proceeding instead of a Federal court, where the complaint sits on a desk for a year before it is picked up, in the context of this, what we describe as an environmental crisis.

And I am asking the Administration, I will ask through you. I think we need to do better. I think we need to figure out a way.

Where is this essential? Where is it adding to environmental protection? And also, I practiced environmental law for 15 years, so I know a little bit about the NEPA-style litigation. You have to ask, we have to ask what the trade-offs are.

And time is our enemy now. So, I don't want you building in time. I mean, you have to do it now. I don't want you building in time for NEPA litigation that is not necessary. I want to get rid of that. And I don't want you building in time for reconsultation if that is a waste of time. I want to give more authority to the Forest Service to manage these things, to get these forests in a condition that would have existed had natural fire existed over the last century because, as I said before, we don't have natural fires anymore. We have catastrophes.

Some people wonder why I, from San Diego, am worried about that. Well, we have had fires too, directly. We had fires in 2003 and 2004, when I was a Member in 2007, when I was a member of the City Council that took homes and a lot of what we couldn't get out of our way on brush management, like you described with your mom. But just because I am next to the ocean, I wouldn't claim the ocean as my district, right? The oceans and the forests are natural systems that affect the entire world. We all have to be in this game, and I am just not going to sit here and say that the way we have done it always is the way we should do it just because we have always done it, always.

And some of these arguments I see, I will just let people know who are here, are very conclusory, as though expanding categorical exclusions in itself is an argument that persuades me. It doesn't. If expanding categorical exclusions is a way we can help these forest systems be healthy, I am all for it because I am for the environment, not for these 50-year-old environmental laws that were appropriate in 1970, but often don't meet the challenge and, in fact, ironically, undermine the challenge of environmental protection today.

So, I am happy to have this conversation start off today. And Mr. Chairman and Mr. Chairman, I look forward to participating, and thanks again for letting me participate in this hearing. And I yield back.

Mr. TIFFANY [presiding]. The gentleman yields, and I will recognize Representative Westerman for 5 minutes.

Mr. WESTERMAN. Thank you, Chairman Tiffany.

And again, thank you, Mr. French, for being here today. You said something in your testimony that I have said many times in this room before. It is the old metaphor that an ounce of prevention is worth a pound of cure. And that is probably nowhere more evident than in forests. And a trained eye can see that a forest is in need of work.

And when Mr. Peters and I worked on the Save Our Sequoias Act, one thing we put in there was the authority that you all are already using. It is an emergency authority, where you can go in and do work when an emergency happens. But when you look at a forest and it is overgrown, and it is in an arid condition where fires are prevalent, you can almost look at it like a bomb with a fuse on it. And we shouldn't wait until the fire starts to use those emergency authorities.

Could you talk a little bit about how the emergency authority has benefited the work on getting more of these hazardous areas treated, and the benefits of codifying that so that you would have that authority and be insulated from litigation on it?

Mr. FRENCH. Yes, thank you, I appreciate the question. When I talked about the efficiencies that we have created and the way that we are doing our NEPA right now, part of it is based on the full use of the authorities we have been given through Congress.

And one of those is the Bipartisan Infrastructure Law Emergency Authority. The Secretary authorized us to use that over 27 million acres. We have 37 projects that have been promulgated using that authority, and then we have other authorities like the one that you are talking about that we have used out of our own NEPA regs that allowed us to move in and take action immediately before the fire hit.

It is also incredibly helpful sometimes after a fire to remove hazard trees along roads that right now we don't have some clear authorities to do that quickly. So, using those in those spaces have tremendously helped us.

If I look at the efficiencies that we have been able to create, it is primarily driven by doing larger projects using all the authorities, whether those are CEs that have been promulgated or emergency authorities, that have basically allowed us to reduce the amount of money we put into NEPA and other environmental compliance, but produce higher quality and more authorizations at the other end, Congressman.

Mr. WESTERMAN. Thank you. When I first came to Congress in 2015 and started working on these wildland fire issues, I have learned from service in the State Legislature that if you want to know how something works, go look at the budget. So, I did hours upon hours of digging through the Forest Service's budget. And I found something very interesting in it, that at one time the Forest Service sent more money to the Treasury than the Forest Service was appropriated. So, the Forest Service was actually, in a sense, making money for the Federal Government.

Now, by the time I got here in 2015, it was way the other direction on that because of the tremendous amount of money spent on fire suppression. At one point, I thought we should just change the name of the Forest Service to the U.S. Fire Service because most of the funding went to fight fire.

And we worked hard to get something called the Fire Funding Fix done so that FEMA funds would be available when firefighting funds were exhausted, and the thought was more management could happen instead of saving all the Forest Service budget to fight fire at the end of the year. We got that done, we have given the Forest Service authorities, such as the 20-year stewardship contracting, which, unfortunately, to my knowledge, there hasn't been a 20-year stewardship contract issued yet. I am still going to continue working on that and pushing on that.

But we hear a lot about funding and needs for funding, and I hear everything you are saying about the multi-use aspect of our Federal lands. But if we just took the money we were spending to fight fires and used that on forest management, then we wouldn't

have to spend so much money on fighting fires. It is like we have things upside down and backwards.

But on the other hand, that forest is valuable. It has very valuable assets in it. And as you responded to Mr. Stauber, private landowners are trying to make a profit. If the Forest Service wasn't trying to make a profit, just trying to pay the bills so that we could do more management work, it seems like there is a tremendous asset there that—as I said, it is 300 trees per acre and needs to drop down much lower than that. If we had the markets, we could sell that timber to pay for future management. And we have programs like Good Neighbor Authority. I have a bill on wildlife habitat management that does just that, it takes revenues from Forest Service sales and puts them back into the fund to do more work.

Do you see a scenario where, instead of Congress having to appropriate more money, where we could actually use the resources we have to generate the funds so that the Forest Service could pay for all the work that they are doing to keep our forests healthy?

It has happened in the past. Why can't it happen again?

Mr. FRENCH. OK, so maybe. I mean, to be realistic here, I would just say there are a number of activities that we do. If we were to recover the funds that come from them, it would help pay towards delivering the program. And it goes beyond forest management.

In this one there is a scenario to get there, but I think that there are a couple things. Attitudes on how we manage our forests, and I am reflecting public meetings and comments that we get, litigation that we have, towards managing forests through a standard-type rotation versus a long-term resiliency set, I think that is one of the spaces that we find ourselves in public land management is those two spaces, Congressman.

And why I bring that up is that both result in our ability to deliver forest products. One results in a continuous delivery of saw logs. And I think our challenges right now are, as we are trying to reduce wildland fire risk and those pressures not to rotate trees but to do long-term restoration, our ability to provide saw log products as well as remove all the other products at times is pretty challenging, and you can see the consequences of that.

Mr. WESTERMAN. Yes, and just a quick follow-up on that. I am not talking about plantations and clear-cutting. I am talking about thinning activities that over time can produce perpetual income to the Forest Service. And it is being done on the Ouachita Forest in my district, and it is the healthiest component of the forest that is out there.

And we are seeing it was done to create habitat for the red cockaded woodpecker. We are seeing more woodpeckers, more songbirds, more quail, more turkey, more deer, and a flush of biodiversity when you open up the forest floor to sunlight.

So, I think it is not really thinking outside the box; it is looking at how we can use sound science to manage these forests, and they can actually pay their way so that it is not a burden on the taxpayer. And that is something I want to work on as we go forward.

I am way out of time. I yield back, Mr. Chairman.

Mr. TIFFANY. It is forestry, right? The gentleman yields. I want to ask a couple questions here and take my 5 minutes, if I may, Mr. French.

I just got done planting the state tree in Wisconsin, a sugar maple, out on the Capitol grounds. What a great day to be able to do that. And we look forward to that being a mighty maple at some point. Maybe we can even tap it for a little maple syrup.

So, Mr. French, I want to piggyback a little bit on the Chairman's questions there. What is one change that could be made to get there? You just used the phrase, "to get there," in terms of having more harvest, and I think we are driving at how we had management a few decades ago that was so successful. And in order to get there, what is the No. 1 thing you would change?

Mr. FRENCH. Change in the agency or in general?

Mr. TIFFANY. What is the No. 1 change in the position that you are in?

Let's say you are king for a day in the United States Forest Service. In order to "get there," what is the No. 1 change that would help us get there?

Mr. FRENCH. I think the No. 1 thing is being able to clearly show people the true costs and consequences of what we are doing, and then being able to prioritize the resources we have towards delivering what those choices are.

If you are going to deliver on wildland fire fuels reduction, we can, as the Chairman pointed out, most oftentimes, not always, pay for the sawlogs to get out. I have to figure out a way to pay for all the small-diameter and other pieces, because the sawlogs don't usually pay for the biomass. If I could make a change, I would figure out a solution that does both, gives me a way to transport and dispose and utilize biomass in a way that I can also deliver the broader set of sawlogs at the same time. In this forestry question, that is what I would shift.

Mr. TIFFANY. So, what is the impediment to get that biomass off from the forest floor?

Mr. FRENCH. Fuel cost and cost of utilization, and a loss of an integrated set of markets out there, forest markets, of where you have to take that stuff to.

Mr. TIFFANY. So, in other words, for example, I cited in my testimony the loss of sawmills.

Mr. FRENCH. That is a part of—

Mr. TIFFANY. It is a big problem, right?

Mr. FRENCH. It is a part of it, yes.

Mr. TIFFANY. So, the Federal Forest Resource Coalition puts out a quarterly update on how much harvest is coming off from the U.S. Forest Service lands. Do you see that report?

Mr. FRENCH. I have seen their reports in the past. I am not sure if I saw the latest one.

Mr. TIFFANY. Because what is striking to me is, subsequent to huge amounts of money being authorized to try to get rid of this backlog, we were told that this is simply going to take more money to be able to harvest more wood and all the rest. We are actually not seeing that in the data. So, what is it going to take to get more harvest off from those Federal lands?

Mr. FRENCH. Again, on the wildfire crisis strategy, the focus there is how do you increase or decrease the risk to communities that are threatened by wildfire, and that is going to run the gamut

of work that can be from removing chaparral and shrubs all the way to sawlogs.

And we have been focusing on the communities that are most at risk. Unfortunately, many of those places are places that lack a connected forest products industry. We spend a lot of time trying to connect those two.

I understand the criticisms, but what I can say is we increased our fuels reduction last year by more than a million acres based on those investments. We have been holding fairly steady on our timber volume outputs. We have been trying to create ways that you connect the two more directly.

But I would also say that there should be as much investment in the budget items that are for forest products as there are for fuels. They drive a capacity that does similar, but different things at times.

Mr. TIFFANY. Are you saying that they are not capturing the fuels reduction that you are doing in that data?

Mr. FRENCH. No, I am saying that there are places where we are doing significant fuels reduction that isn't necessarily about removing sawlogs.

Mr. TIFFANY. So, the data is not capturing that. So, how they are measuring this, would that be accurate, that they are not capturing some of the work that you are doing?

Mr. FRENCH. What we are showing, and we will be able to come back to Congress and show this, is what is the overall risk reduction that we are creating to the communities that we are trying to protect. That is a better outcome to look at, in terms of overall value of the work we are doing versus how many acres you treat or how much volume you produce.

And I say that not to say that we are not wanting to make sure that we create a sustainable amount of volume at any given time, but the investments we have had to reduce wildland fire risk, which primarily came through BIL and IRA, are not necessarily connected. If you are trying to reduce wildland fire risk in some of your most fire-prone communities, at times you are going to be doing it in ways—I will give you an example, and I know I am over time, but yesterday I was meeting with a community that is in the exact same predicament we are.

Mr. TIFFANY. There is nobody here to object, go ahead.

[Laughter.]

Mr. FRENCH. All right. I mean, this is the conversation that I just went through yesterday. They had to dispose of tons and tons of acres of trees because they couldn't figure out how to subsidize the cost to transport them to someplace for them to be utilized.

So, if you are going to reduce wildland fire risk to a community that doesn't have infrastructure to use what I think increases the scale, like logging, like timber sales, then the costs are higher per acre, and you don't necessarily see those outputs. And this is worth us getting into a deeper conversation. But that is what is going on.

Mr. TIFFANY. We look forward to having that conversation with you.

Are there other agencies that are a problem here also? Because, from my understanding, the EPA has been a problem in terms of being able to build a plant specifically in the upper Midwest,

possibly even in my home state of Wisconsin, and they have denied the ability to do that, because of, they say, emissions concerns.

Mr. FRENCH. I am not aware of that. What I will say is integrated forest products industry is an incredibly important piece for us to reduce wildland fire risk and maintain healthy forests.

Mr. TIFFANY. If this question is redundant, I apologize, I was planting that maple tree: Is there any scientific reason why forest management projects should be limited to no more than 3,000 acres?

Mr. FRENCH. You mean in our categorical exclusions?

Mr. TIFFANY. Yes.

Mr. FRENCH. Well, part of that was based on what Congress told us. When those CEs were promulgated, let's say under the Healthy Forest Restoration Act, that is what Congress said was the limit for something not being significant.

For the things that we have promulgated, what we do is we look at our past history of environmental assessments that find that projects are not significant, and we use those to say here are the acreages that we would say a new CE would make.

Mr. TIFFANY. Might it be helpful if you can expand that CE if it would be appropriate for that landscape?

Mr. FRENCH. It is always helpful for us to have—OK, here is how I will answer it.

A CE takes us about 143 days to finish, and costs about a quarter of what an EA does. An EA takes about 390 days to finish and costs essentially a third of what an EIS does. So, you always have these scales of efficiencies. So, my answer to you is that we use the best tools we have, whether it is things we have created ourselves or from Congress, to try to hit the most work we can with the resources we have.

Mr. TIFFANY. If you had the ability to expand beyond 3,000 acres for CEs, might you use that in some projects?

Mr. FRENCH. If we had authorities that were greater than our current limits, we could make it through ESA and other pieces and local collaboration, then of course we would use those.

Mr. TIFFANY. What are some of the primary reasons projects today require an EA or an EIS, as opposed to a CE?

I mean, what are a couple of primary reasons that—

Mr. FRENCH. The most significant piece is that the larger the project that you want to authorize, you are usually outside the scope of a categorical exclusion.

Mr. TIFFANY. So, larger than 3,000 acres?

Mr. FRENCH. Yes. If we are doing a 10,000, 20,000, 30,000-acre project. And the likelihood that you start to have potentially significant issues arise, whether that is compliance with the National Heritage Protection Act, or ESA, or even your local community that is looking at this through a different lens. Those are the sorts of things that start to occur with larger projects.

Mr. TIFFANY. What would be the impact if there is not a permanent solution to the Cottonwood Decision? Let me start, can I preface it with a question?

Mr. FRENCH. Sure.

Mr. TIFFANY. Has the Cottonwood Decision been a major impediment in getting some projects done?

Mr. FRENCH. It increases our costs on a per-unit basis in places where we are authorizing projects so that we are guarding ourselves against litigation. And it creates risk.

Mr. TIFFANY. Significantly?

Mr. FRENCH. What is that?

Mr. TIFFANY. Does it significantly increase costs?

Mr. FRENCH. Yes, sure.

Mr. TIFFANY. Give me a project, I mean, did it increase it by 25 percent or 50 percent? Do you have a—

Mr. FRENCH. OK, here is the way I would say it. We can do a project in one part of the country where we know that the risk for litigation under, like, a Cottonwood-type approach but it is all litigation will generally be three to four times less on the environmental compliance side because of the way we do the analysis. And unit costs are probably around half, sometimes more.

I mean, that is the business that I work within. And I am not here to say one way is right or another. I just know if I do a project here, it is going to cost me this. And if I do it over here, it is going to cost me a different amount.

Mr. TIFFANY. So, I just want to hone in, a final question here on unit costs. You said it is up to half. What do you mean by unit cost?

For being able to remove that wood, is it a 50 percent increase in cost, or does it double it?

Mr. FRENCH. It doubles it.

Mr. TIFFANY. So, it doubles the cost of removal as a result of increased litigation.

Mr. FRENCH. The level of analysis that we are going to do on an acre in one of those places will be much higher than we may in other places, and that increases those unit costs, sure.

Mr. TIFFANY. And you have seen an example where it has been double. Is that accurate?

Mr. FRENCH. Yes.

Mr. TIFFANY. OK. Well, very good. I am way over time, and I appreciate you taking the time, Mr. French, to come here today and testify. It is always good to have you here and provide information from the Forest Service perspective. Thank you for your answers.

Mr. FRENCH. You are welcome. Thank you.

Mr. TIFFANY. OK. We will now move on to our next panel. I would like to thank the Deputy Chief for his testimony.

While the Clerk resets our witness table, I will remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statements will appear in the hearing record.

I would also like to remind our witnesses of the timing lights, which will turn red at the end of your 5-minute statement, and to please remember to turn on your microphone.

As with the previous panel, I will allow all witnesses to testify before Member questioning.

[Pause.]

Mr. TIFFANY. Well, it is great to have our next panel here, and first I am going to introduce Hannah Downey, the Policy Director at the Property and Environmental Research Center.

Ms. Downey, it is good to have you here. You have 5 minutes.

STATEMENT OF HANNAH DOWNEY, POLICY DIRECTOR, PROPERTY AND ENVIRONMENT RESEARCH CENTER, BOZEMAN, MONTANA

Ms. DOWNEY. Excellent. Chairman Tiffany, Chairman Westerman, thank you so much for the opportunity to participate in today's hearing on forest conservation and how the discussion draft from Chairman Westerman can help us fix America's forests. My name is Hannah Downey, and I am the Policy Director at the Property and Environment Research Center.

When I was 14, my family was on a backpacking trip in the mountains of Montana when we came around a bend in the trail, only to see flames racing up the canyon towards us. It was a terrifying journey evacuating to safety, and I quickly learned the power and destruction of an out-of-control wildfire. I am, unfortunately, just one of many with similar stories.

Today, I am proud to be able to promote policies that help improve the situation through my work at PERC. PERC is the national leader in market solutions for conservation, and enhancing forest health is a primary focus of our work, especially the obstacles to collaborative forest restoration and the expanded use of prescribed burns. In 2021, we authored this report, "Fix America's Forests," looking at policy reforms to help restore our national forests and tackle the wildfire crisis. Many of the ideas we looked at then are included in the proposal we are discussing today. PERC is non-profit, non-partisan, and we are proudly based in Bozeman, Montana.

This discussion draft will help address the wildfire problem through reforms that would make it easier to do restoration work, limit disruptions from litigation, and expand capacity through partnerships.

Large and destructive wildfires are, unfortunately, becoming more common, and it is really an environmental problem. They destroy wildlife habitat, pollute our water and air, emit carbon dioxide, and shut down recreation. Although several factors contribute to this trend, the declining health of our forests is the primary cause. A lack of forest restoration and decades of fire suppression have led us to a situation where we have excessive forest density and a build-up of fuels to a point where an area larger than the state of California urgently needs our help.

The good news is that fuels reduction treatments, including mechanical thinning and prescribed burns, are effective at restoring forest health and reducing fire risk, and there is broad agreement on these positive impacts. A new meta-analysis published in the journal "Forest Ecology and Management," for example, found that combining mechanical thinning and prescribed burns reduces the severity of subsequent wildfires by 62 to 72 percent.

To tackle the wildfire crisis, PERC supports the Biden administration's ambitious strategy to significantly increase its forest restoration work over the next decade. But if the good news is that we know what we need to do to actually fix our forests, the bad news is that doing that work is a long, complicated process.

First, before any chainsaws or drip torches can touch a Federal forest, a restoration project must navigate significant bureaucratic obstacles such as the NEPA review. Although well-intentioned, it

takes years for a project to get off the ground. According to PERC researchers, once the Forest Service initiates an environmental review process, it takes over 5 years to actually begin a mechanical treatment on the ground and over 7 years for a prescribed burn. We don't have that time. This proposal from Chairman Westerman would help alleviate these delays for the highest-risk firesheds by applying categorical exclusions and emergency authorizations.

However, if a project is litigated, this adds on even more years of delay. While litigation does play an important role in holding the government accountable, it can also be disruptive and warp incentives. Disruptive litigation has tied the Forest Service in a Gordian Knot, and consumes valuable time and funding that should instead be spent making a positive difference in our forests. Several common-sense solutions offered in this proposal, like fixing the Cottonwood Decision, improving injunction standards, and establishing a pilot arbitration program could help alleviate these barriers.

Finally, even when forest restoration projects do make it through this approval process, the capacity to implement work on the ground still remains a challenge. States, counties, tribes, and private partners are all ready and willing to help fix this problem. This proposal contains several opportunities to expand on successful models to get more work done with partners by extending Good Neighbor Authority revenue retention to counties and tribes, and increasing stewardship contracts to up to 20 years.

We need to get to the root of the wildfire crisis and get more restoration work done in our forests. This discussion draft has good tools Congress should act on to help fix America's forests.

Thank you for the opportunity to testify, and I welcome any questions.

[The prepared statement of Ms. Downey follows:]

PREPARED STATEMENT OF HANNAH DOWNEY, POLICY DIRECTOR, PROPERTY AND ENVIRONMENT RESEARCH CENTER (PERC)

Main Points

- America's wildfire crisis is getting worse. There is broad agreement that increasing active forest restoration efforts, such as mechanical thinning and prescribed burning, will improve ecosystem health and reduce the risk of catastrophic wildfires.
- Red tape and litigation encourage conflict and create barriers to forest restoration activities. Policy change is needed to advance positive work.
- Partnerships with the private sector, states, counties, and tribal nations can help overcome federal capacity challenges to forest restoration.

Introduction

Chairman Tiffany, Ranking Member Neguse, and members of the committee, thank you for the opportunity to participate in this important discussion on forest conservation and how this proposal from Chairman Westerman can remove obstacles and bring in additional resources to improve the pace and scale of forest restoration.

My name is Hannah Downey, and I am the policy director at the Property and Environment Research Center. PERC is the national leader in market solutions for conservation, with over 40 years of research and a network of respected scholars and practitioners. Through research, law and policy, and innovative applied conservation projects, PERC explores how aligning incentives for environmental stewardship produces sustainable outcomes for land, water, and wildlife. Enhancing forest health has been a primary focus of PERC's research and policy efforts, with

recent major reports on how to overcome obstacles to collaborative forest restoration and expand the use of prescribed fire.¹ Founded in 1980, PERC is nonprofit, non-partisan, and proudly based in Bozeman, Montana.

Beyond my professional work, my connection to today's topic is deeply personal. As a young girl, I'll never forget the fear of being forced to evacuate a family backpacking trip in Montana's Absaroka-Beartooth Wilderness as an out-of-control wildfire raced toward us. Since then, I married a wildland firefighter and have prayed for my husband and his fire crew as they battled blazes around the United States. I have seen members of my community lose their homes to a devastating wildfire. And as a resident of Bozeman, Montana—which, like many western cities, draws its water from national forest lands with high risk of catastrophic fire—I live with the sobering realization each summer that our community's water supply would likely be cut off in the event of a fire in the nearby watershed.

The reality is that large and destructive wildfires are becoming more common across the West. Although several factors contribute to this trend, the declining health of our nation's forests is a primary cause.² America's national forests face an 80-million-acre backlog in needed restoration—a backlog that leaves our forests with excess fuels, more vulnerable to insects and disease outbreaks, and less resilient to climate change and drought.³ Yet the Forest Service has struggled to treat more than a few million of those acres per year on average.⁴

PERC supports the Biden administration's ambitious strategy to significantly increase its forest restoration work over the next decade, including the goal of treating an additional 20 million acres of national forest above the business-as-usual rate.⁵ Meeting that critical target will require greater efficiency in the years-long process of developing, approving, and implementing forest restoration projects.⁶ PERC proposed reforms to restore national forests and tackle the wildfire crisis in the 2021 report *Fix America's Forests*. This discussion draft incorporates several of those recommended reforms that would make it easier to do restoration work in high-risk freshets, limit disruptions from litigation, and expand capacity through partnerships. Now is the time to implement proactive policies that increase the pace and scale of forest restoration.

Getting to the Root of the Wildfire Crisis

According to the Forest Service, about 40 percent of the acres in the national forest system are in need of restoration.⁷ When the Department of the Interior's 54-million-acre restoration backlog is added in,⁸ the total area of federal land that needs urgent help is larger than the state of California (*See appendix figure 1*). The wildfire crisis is the most visible symptom of this problem, but it is not the only one. Due to the backlog, many western forests are stocked full of overly dense, unhealthy, and dying stands that provide lower-quality habitat, are more vulnerable to insects and disease, and are less resilient to climate change and drought.⁹

As with any complex phenomenon, no single factor fully explains declining forest health or the wildfire crisis. A changing climate has increased the risk of drought

¹ See Holly Fretwell & Jonathan Wood, *Fix America's Forests: Reforms to Restore National Forests and Tackle the Wildfire Crisis*, PERC Public Lands Report (2021); Jonathan Wood & Morgan Varner, *Burn Back Better: How Western States Can Encourage Prescribed Fire on Private Lands*, PERC Policy Report (2023).

² Among the four factors driving fire severity in the western United States, live fuel accounted for an estimated 53.1 percent of average relative influence, fire weather accounted for 22.9 percent, climate accounted for 13.7 percent, and topography accounted for 10.3 percent. See Sean A. Parks et al., *High-Severity Fire: Evaluating Its Key Drivers and Mapping Its Probability Across Western US Forests*, Environmental Research Letters (2018).

³ See Forest Service, *Forest Products Modernization* (last visited Mar. 17, 2023). See also *Fix America's Forests*, *supra* n. 1 at 4-16.

⁴ See Deputy Chief Christopher French, "Testimony Concerning Infrastructure Needs, Western Water and Public Lands, and the Discussion Draft of the Energy Infrastructure Act" (June 24, 2021).

⁵ See Forest Service, *Confronting the Wildfire Crisis: A Strategy for Protecting Communities and Improving Resilience in America's Forests* (2022).

⁶ See Eric Edwards & Sara Sutherland, *Does Environmental Review Worsen the Wildfire Crisis?*, PERC Policy Brief (2022). See also *Confronting the Wildfire Crisis*, *supra* n. 9 at 30 (predicting that existing "shovel ready" projects could be completed in years 1 and 2 of the plan); Forest Service, *National Prescribed Fire Program Review* App. A. 21 (2022) (identifying the need to "streamline required environmental analysis and consultations").

⁷ See *Fix America's Forests*, *supra* n. 1 at 4. The Forest Service manages 193 million acres of land, 80 million of which are in need of restoration, according to the agency.

⁸ GAO, *Wildland Fire: Federal Agencies' Efforts to Reduce Wildland Fuels and Lower Risk to Communities and Ecosystems* (2019).

⁹ See *Fix America's Forests* n. 1 at 8-13.

and extended the West's "wildfire season."¹⁰ A massive jump in the number of people living near or recreating in forests has increased opportunities for human-caused ignitions.¹¹ But the largest factor, according to a study by Forest Service scientists, is excessive forest density and the buildup of fuels due to a lack of forest management and decades of fire suppression.¹²

Fire is nothing new to western forests, which were traditionally adapted to flames due to climate, terrain, and Indigenous tribes' use of controlled fire for millennia.¹³ However, recent catastrophic wildfires are far more destructive than historical fire regimes. They are more likely to threaten old-growth trees, wipe out habitat for wildlife, and cause erosion that degrades watersheds and fish habitat.¹⁴ Even mighty giant sequoias, one of the most fire-adapted tree species, are at risk. The National Park Service estimates that 10–20 percent of the world's remaining sequoias have been killed by wildfires since 2020.¹⁵ Wildfire emissions are also a major climate concern. California's record wildfire year in 2020, for example, released twice the amount of carbon emissions than the state had cut between 2003 and 2019.¹⁶

In 2015, for the first time, the United States eclipsed 10 million acres burned by wildfires in a year—an unfathomable total just a few decades ago—with the vast majority of that acreage concentrated in the West. Since then, we have passed that milestone twice more.¹⁷

And due to growing populations near forests, modern fires threaten communities and property in ways not seen before.¹⁸ Nearly 100,000 structures have burned in wildfires since 2005, with two-thirds of that destruction occurring since 2017.¹⁹ California's Camp Fire in 2018, for example, was the deadliest and most destructive in that state's history, killing 85 people and destroying most of the town of Paradise in less than 24 hours.²⁰ In my home of Bozeman, our city's entire water source would be depleted in just three days if our neighboring forests went up in flames. For decades, the watershed has been at high risk of severe wildfire. Yet, despite this risk, the collaboratively designed Bozeman Municipal Watershed Project was tangled in red tape and litigation for 15 years before restoration activities could finally begin several years ago.

Forest restoration efforts, including mechanical thinning and prescribed fire, are urgently needed to reduce wildfire damage and promote forest resilience. A new meta-analysis published in the journal *Forest Ecology and Management* found that combining mechanical thinning with prescribed burns reduces the severity of subsequent wildfires in an area by 62–72 percent.²¹ Importantly, the efficacy of these treatments did not vary among forest types assessed in the study and was high across a range of fire weather conditions. The effectiveness of these tools was demonstrated in 2021 during Oregon's Bootleg Fire, which ultimately burned more than 400,000 acres.²² Firefighters reported that where both treatments had been applied, fire intensity was reduced, the crowns of trees were left intact, and the blaze became a more manageable ground fire (*see appendix figure 2*). Reports also indicated that an area where scheduled prescribed burns had been delayed suffered more damage than areas where treatments had been completed.²³

The Forest Service has simply not been able to keep up with forest restoration needs. In 2023, the agency completed more hazardous fuels work than any prior

¹⁰ See *Burn Back Better*, *supra* n. 1 at 4.

¹¹ See *id.*

¹² See *High-Severity Fire: Evaluating Its Key Drivers and Mapping Its Probability Across Western US Forests*, *supra* n. 2.

¹³ See *Burn Back Better*, *supra* n. 1 at 4.

¹⁴ See *Fix America's Forests*, *supra* n. 1 at 8–10.

¹⁵ See Dr. Kristen Shive, et al., *2021 Fire Season Impacts to Giant Sequoias* (last visited Mar. 19, 2023).

¹⁶ Michael Jerrett, Amir S. Jina, Miriam E. Marlier, *Up in smoke: California's greenhouse gas reductions could be wiped out by 2020 wildfires*, 310 *Env'tl Pollution* 119888 (2022).

¹⁷ National Interagency Fire Center, "Total Wildland Fires and Acres (1983-2022)." <https://www.nifc.gov/data/annual-reports/total-wildland-fires-and-acres>

¹⁸ See *Burn Back Better*, *supra* n. 1 at 4.

¹⁹ Headwaters Economics, *Wildfires Destroy Thousands of Structures Each Year* (2022).

²⁰ National Institute of Standards & Technology, *New Timeline of Deadliest California Wildfire Could Guide Lifesaving Research and Action* (Feb. 8, 2021).

²¹ Kimberley Davis, et. al., *Tamm Review: A Meta-Analysis of Thinning, Prescribed Fire, and Wildfire Effects on Subsequent Wildfire Severity in Conifer Dominated Forests of the Western US*, 561 *Forest Ecology and Management* 121885 (June 2024).

²² See *Burn Back Better*, *supra* n. 1 at 5.

²³ See Sara Sutherland & Eric Edwards, *How Environmental Red Tape Inflames Wildfire Risk*, PERC Reports (2022).

year in its history, reporting that it treated more than 4.3 million acres.²⁴ The Forest Service's method of tracking and reporting these acres, however, is prone to misinterpretation that overstates the agency's progress at addressing the restoration backlog.²⁵ For example, the 4.3 million acres of restoration work reported last year does not necessarily mean that the restoration backlog has been reduced by 4.3 million acres. Because an area may require multiple treatments over several years, the Forest Service's method of tracking and reporting this information can result in substantial double-counting. While PERC applauds the Forest Service's commitment to increasing forest restoration, we must continue to dramatically increase the pace and scale of this work to make progress against the backlog.

Overcoming Red Tape

While the good news is that we know how to reduce wildfire risk through forest restoration activities, the bad news is it is exceptionally difficult to get that work done on the ground and at the scale needed. Before any chainsaws or drip torches can touch a federal forest, a restoration project must navigate complex bureaucratic procedures, including review under the National Environmental Policy Act (NEPA). Depending on the extent of anticipated impacts, NEPA may require the Forest Service to analyze a project through, in order of increasing complexity and expense, a categorical exclusion, environmental assessment, or environmental impact statement. The agency may also need to develop a range of alternatives to the project and analyze their impacts as well.

While well-intentioned, extensive NEPA reviews can significantly increase project costs and inject substantial delays. In PERC's recent policy report *Does Environmental Review Worsen the Wildfire Crisis?*, researchers compiled and analyzed a novel NEPA dataset and found that the average time to conduct an environmental impact statement is over 2.5 years.²⁶ Even a categorical exclusion, which is designed to exempt a project from stringent environmental review, takes an average of nine months to complete.²⁷

NEPA delays contribute substantially to an overall approval and implementation process that holds up projects for many years. According to PERC researchers, once the Forest Service initiates the environmental review process, it takes an average of 3.6 years to actually begin a mechanical treatment on the ground and 4.7 years to begin a prescribed burn—and those numbers increase to 5.3 years and 7.2 years, respectively, if an environmental impact statement is required (*see appendix figure 3*).²⁸ If a project is litigated, that adds on another two years, on average. Given the time it takes to conduct environmental reviews and implement fuel treatments, it is unlikely that the Forest Service will be able to achieve its goal of treating an additional 20 million acres over the next 10 years.

Evaluating the costs associated with NEPA compliance is challenging largely because, similar to many other federal agencies, the Forest Service does not routinely track or report the associated costs and personnel time.²⁹

The Forest Service has, however, historically identified administrative process barriers as a major factor holding up forest restoration goals. As a 2002 Forest Service report on *The Process Predicament* described it, “Even noncontroversial projects often proceed at a snail's pace.”³⁰ In 2022, the Forest Service likewise concluded that environmental review processes must be streamlined to give the agency more tools to use prescribed fire to protect forests and wildlife habitat.³¹

²⁴ U.S. Forest Service, USDA Forest Service celebrates historic investments in 2023, (January 23, 2024).

²⁵ See Accurately Counting Risk Elimination Solutions (ACRES) Act, H.R. 1567. *See also* Adiel Kaplan & Monica Hersher, “The Forest Service is Overstating its Wildfire Prevention Progress to Congress Despite Decades of Warnings Not To,” NBC News (August 9, 2022); GAO, *Wildland Fire Management: Additional Actions Required to Better Identify and Prioritize Lands Needing Fuels Reduction* (2003).

²⁶ Eric Edwards and Sara Sutherland, *Does Environmental Review Worsen the Wildfire Crisis? How Environmental Analysis Delays Fuel Treatment Projects*, PERC Policy Brief (June 2022).

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ Katie Hoover & Anne Riddle, *National Forest System Management: Overview and Issues for Congress*, Congressional Research Service (May 18, 2023).

³⁰ U.S. Forest Service, *The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management* (2002).

³¹ U.S. Forest Service, *Nat'l Prescribed Fire Program Review* (2022).

Improving the Process

The current environmental review process delays needed restoration projects and is often further delayed by litigation. Several common sense solutions offered in Chairman Westerman's proposal can help alleviate these barriers.

Make Categorical Exclusions Easier to Apply

One approach to reduce NEPA burdens is to use categorical exclusions to exempt a forest restoration project from rigorous environmental review. Under this proposal from Chairman Westerman, projects in the top 20 percent of riskiest fireheds would be categorically excluded from NEPA analysis, expediting needed restoration activities in the areas that need it most. Additionally, projects in these high-risk fireheds would be included under section 40807(d) of the Infrastructure Investment and Jobs Act (16 U.S.C. 6592c(d)), allowing them to move forward as emergency actions under NEPA and the Endangered Species Act. There are major environmental risks to not moving needed forest restoration projects along quickly, and these improvements will help get that work done in the highest-risk areas.

Fix Cottonwood

Chairman Westerman's proposal would also address the problems created by the Ninth Circuit's decision in *Cottonwood Environmental Law Center v. Forest Service*.³² When the decision was issued, the Obama administration warned that it threatened to "cripple the Forest Service."³³ A temporary legislative fix forestalled that result for a while, but it expired last year. As a result, the Biden administration has reported that restoration projects in 87 national forests could be upended by litigation under *Cottonwood*, and the Forest Service's only option could be to spend millions of dollars and a decade on duplicative and unnecessary paperwork rather than working in the field to restore forests.³⁴ Simply put, *Cottonwood* harms forests and wildlife and only benefits litigants. That's why a diverse coalition of conservation groups support a permanent *Cottonwood* fix and why the idea has drawn significant, bipartisan support.³⁵

Make Litigation Less Disruptive

While litigation plays an important role in holding the government accountable, it can also be disruptive and warp incentives. It can encourage conflict rather than collaboration, especially where the government pays its opponents' attorney's fees.³⁶ And it can elevate relatively minor scientific or policy disagreements over broader considerations of forest health and the public interest. Litigation has tied the Forest Service in what former agency chief Jack Ward Thomas described as a "Gordian Knot" by limiting the agency's ability to actively restore national forests.³⁷

Forest restoration projects are substantially more likely to be litigated than other Forest Service projects. But the adverse consequences of litigation are not limited to projects that end up before the courts. Forest Service personnel report that the mere risk of litigation can affect project analysis, costs, and delays.³⁸

For some Forest Service regions or national forest units, litigation is an ever-present consideration. Litigation is a particularly disruptive factor for national forests within the Ninth Circuit Court of Appeals—which has jurisdiction over the West Coast states as well as Montana, Idaho, Nevada, and Arizona—and near communities with litigious local or special interest groups (see *Appendix figure 4*).³⁹

³² 789 F.3d 1075 (9th Cir. 2015).

³³ See Pet. for Cert., *U.S. Forest Serv. v. Cottonwood*, No. 15-1387 (filed June 10, 2016).

³⁴ See Forest Serv., *Deputy Chief French testimony on land bills* (March 24, 2023).

³⁵ See Jonathan Wood, *Prepared Statement before the U.S. House Natural Resources Committee, Subcommittee on Federal Lands—Hearing on H.R. 200* (March 23, 2023).

³⁶ See, e.g., *Habitat Education Center, Inc. v. U.S. Forest Service*, No. 07-cv-578, 9 (E.D. WI 2019) (describing a litigant's NEPA claims as "much closer to flyspecking than holistic analysis. Plaintiffs have identified a host of technical issues, but have painted no overall picture that leaves me with the firm conviction that the environmental impact statement has not adequately fostered informed decision-making and informed public participation").

³⁷ See Jack Ward Thomas, *The Future of the National Forests: Who Will Answer an Uncertain Trumpet?* (2011).

³⁸ See Michael J. Mortimer et al., *Environmental and Social Risks: Defensive National Environmental Policy Act in the U.S. Forest Service*, *Journal of Forestry* (2011).

³⁹ From 2007 to 2017, 188 lawsuits were filed challenging forest restoration projects. FOIA Data. 85 percent of these cases were filed in district courts whose decisions are appealable to the Ninth Circuit, a court generally perceived as more favorable to environmental litigants. Some degree of Ninth Circuit bias is to be expected due to the large area over which it has jurisdiction and the number of forests that region contains. However, the distribution of cases

But even with litigation concentrated in parts of the country, the expenses, delays, and uncertainty take up limited resources that could instead be spent on restoration work.

Congress should help the Forest Service and partners avoid these downsides, without sacrificing the accountability litigation can provide, through reforms that provide greater transparency and predictability. PERC is pleased to see this legislative proposal include a fix to the Ninth Circuit's incredibly lenient standard for enjoining forest restoration work, by limiting this extraordinary relief to situations where a court has determined a project is likely unlawful. It would also prevent open-ended injunctions, by limiting them to 30 days with discretion for courts to renew them. It would require challenges to projects to be filed more quickly so that litigation risks don't hang over projects for years. And it would also establish a pilot arbitration program, an alternative approach to dispute resolution that has proven faster, cheaper, and more efficient than litigation in other contexts.

The proposal also shields the Forest Service's use of categorical exclusions from litigation. PERC agrees that categorical exclusions are an essential tool and that litigation has needlessly interfered with their use. The Ninth Circuit, for instance, recently rejected several attempts by interest groups to twist the meaning of some categorical exclusions to dramatically narrow their scope to achieve the interest groups' political ends.⁴⁰ Subjecting projects approved under a categorical exclusion to years of uncertainty and litigation undermines the purpose of such exclusions. However, we have some concern that the proposed exemption is written too broadly and would like to work with the Committee on how to sharpen the language to target truly abusive and dilatory litigation.

Increasing Capacity Through Partnerships

Even when forest restoration projects make it through the approval process, the capacity to implement work on the ground remains a challenge. Chairman Westerman's proposal contains several opportunities to expand work done with partners.

Expand Good Neighbor Authority

Good Neighbor Authority is a tool that allows state, tribal, and county partners to carry out forest restoration projects on federal lands. Partners' roles can include planning and preparation as well as the restoration work itself. Congress first authorized a Good Neighbor Authority pilot in Colorado in 2001, and since then the program has been expanded nationally. In return for their efforts, state partners can receive a share of revenues that result from selling materials harvested or compensation directly from the federal government—offsetting the costs of the work and sometimes even funding additional forest restoration work.⁴¹

Counties and tribes have also been allowed to enter into Good Neighbor agreements since 2018. But those entities have so far used the program only a handful of times in the West. The reason why this program has worked better for states than tribes and counties is that tribes and counties are prohibited from retaining timber revenues, which decreases their incentive to participate in the program.⁴² Chairman Westerman's proposal would make Good Neighbor Authority more inclusive by granting counties and tribes the legal authority to keep timber revenues, which will not only treat those partners as "full" neighbors but also make it easier to harness their expertise in conducting forest treatments.

Additionally, restrictions also specify that program funding can only be spent on the federal lands within a Good Neighbor project boundary, even if state or other lands are interspersed in the project area. This proposal allows for Good Neighbor dollars to be spent across the landscape, including state and private lands, which would help improve the effectiveness of forest restoration treatments at a wider scale. PERC has long advocated for these improvements to expand Good Neighbor Authority, and these ideas are also captured in the Treating Counties and Tribes

among Regions 3 and 4, which straddle the Ninth and Tenth Circuits, suggests that the large number of cases in the Ninth Circuit is more than mere coincidence. Only 16 percent of the cases challenging projects in Regions 3 and 4 were filed in the Tenth Circuit's jurisdiction. In fact, nearly half of these cases were filed in only two districts within the Ninth Circuit: the District of Montana (53 cases) and the Eastern District of California (35 cases).

⁴⁰ See, e.g., *Mountain Communities for Fire Safety v. Elliott*, 20-55660 (9th Cir. Feb. 4, 2022) (rejecting activists' invitation to interpret the "timber stand improvement" CE to implicitly forbid the removal of any commercially valuable timber, even if necessary for forest health or to reduce wildfire risks).

⁴¹ See Anne Riddle, *The Good Neighbor Authority on Federal Lands*, Congressional Research Service (January 11, 2023).

⁴² See *Fix America's Forests*, *supra* n.1.

as Good Neighbors Act (H.R. 1450) from Congressman Fulcher, which passed the House with broad bipartisan support earlier this Congress.⁴³

Allow for Longer-Term Contracts

The Forest Service regularly enters into agreements that establish and direct mutually beneficial work with partners. Currently, stewardship contracts established under Section 604 of the Healthy Forests Restoration Act (16 U.S.C. 6591c) are generally limited to not more than 10 years and can only go up to 20 years in areas of high fire risk. In many cases, however, the general contract length of 10 years may not be enough.

For ambitious, forest-wide restoration efforts—the sort of efforts greatly needed—the Forest Service needs flexibility to enter contracts of appropriate length and options to easily extend contracts, especially where anticipated projects must navigate environmental reviews and potential litigation. This is especially true where long-term success depends on motivating the timber industry to build mill capacity and markets for small-diameter timber products.⁴⁴ The types of investments that are necessary, such as new and retrofitted mills and biomass plants, cost tens of millions of dollars, and such expenses are unlikely to be recouped in only a few years. Extending stewardship contracts for up to 20 years, as included in this proposal, is an important step in increasing forest restoration capacity on federal lands through private partners.

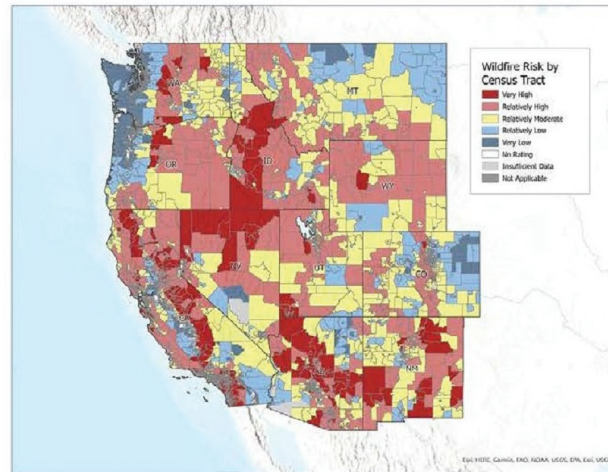
Conclusion

Shrinking the 80-million-acre restoration backlog that fuels the wildfire crisis is an urgent conservation challenge. Many of the policies in this proposal from Chairman Westerman will help move more needed projects through the approval process and bring in external capacity to help get the work done. Congress should act now to adopt these tools to help fix America's forests.

APPENDIX

Figure 1

Map of Wildfire Risk in Western States



The Federal Emergency Management Agency wildfire risk index rates a community's relative risk for wildfire. The map above displays FEMA wildfire risk by census tract for the 11 western states.

⁴³ Hannah Downey, "Healthy Forests Make Good Neighbors," *PERC Reports* (June 2022).

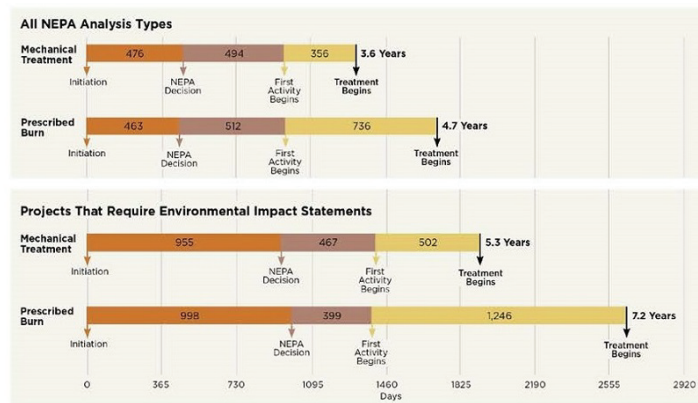
⁴⁴ See *Fix America's Forests*, *supra* n.1.

Figure 2

As the Bootleg Fire ripped through the Fremont-Winema National Forest in southern Oregon in 2021, firefighters reported that in places where prescribed fires and forest thinning had been carried out, flames returned to the ground, where they moved slower, did less damage, and were easier to fight. © S. Rondeau/Klamath Tribes' Natural Resource Department

Figure 3

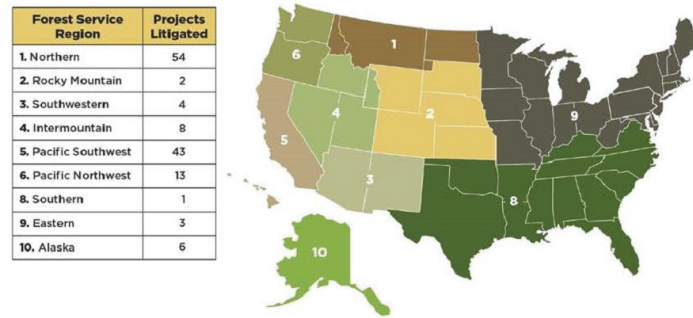
Average Time to Begin U.S. Forest Service Fuel Treatments



The timeline for a U.S. Forest Service fuel treatment project includes the following steps: initiation of the NEPA environmental review process, NEPA decision, first on-the-ground activity (often an inventory of fuels or similar preparation step) begins, and, finally, treatment begins. Once the Forest Service initiates the environmental review process, it takes an average of 3.6 years (1,325 days) to begin a mechanical treatment. Prescribed burns average 4.7 years (1,711 days) from initiation to beginning of treatment. For both types of treatment, projects that require rigorous review in the form of an environmental impact statement take significantly longer to begin on average: 5.3 years (1,924 days) in the case of mechanical treatments and 7.2 years (2,643 days) in the case of prescribed burns.

Figure 4

Litigation of Forest Restoration Projects by Forest Service Region, 2003 to 2019



In recent years, litigation against forest restoration projects has been significantly more common in some Forest Service Regions than others.

Source: U.S. Forest Service Planning, Appeals, and Litigation System. Note: Data from 2003 to 2019.

Mr. TIFFANY. Thank you so much for your testimony. I now recognize Mr. Jim Parma. He is the Eastern Fiber Manager at Bell Lumber & Pole, and President of the Federal Forest Resource Coalition. Mr. Parma has a mill right in my district.

We really appreciate the investment that you have made in Wisconsin. You have 5 minutes for your testimony.

STATEMENT OF JIM PARMA, EASTERN FIBER MANAGER, BELL LUMBER & POLE, PRESIDENT, FEDERAL FOREST RESOURCE COALITION, NEW BRIGHTON, MINNESOTA

Mr. PARMA. Good morning. Thank you, Mr. Chairman and other members of the Subcommittee that are here. Again, my name is Jim Parma. I am the Eastern Fiber Manager for Bell Lumber & Pole.

Bell is a family-owned business. It is in its fifth generation. It started in 1909. Our company is known for wood we have produced into wood utility poles and other products that have come from renewable forest resources. We have dozens of yards spread throughout dozens of states, and treating plants and other facilities in these states. Bell's mission statement is to radically love and influence lives, and along with our corporate values of stewardship, excellence, and entrepreneurial spirit, show our concern for the broader common good.

I am a working forester. I cruise timber, I sign timber sale contracts, I work on the ground, I oversee these timber sales. I work with loggers to execute these timber sales with the utmost respect and care for the environment.

I am also the current Chairman of the Federal Forest Resource Coalition, Mr. Chairman, which is a nationwide non-profit that represents purchasers of Forest Service and BLM timber sales. Our members live and work closely in the proximity of the 193 million-

acre National Forest System, and many, like Bell Lumber & Pole, are multi-generational and have deep commitments to both the communities that we work in and also the forests that support our livelihoods.

We appreciate the bipartisan efforts of this Committee to streamline the management of our National Forest System, but I would like to share a little bit about my experience and then talk about how the discussion draft can help improve results on the ground.

Again, I buy timber sale for the company. We manufacture products that carry electricity and Internet service to every corner of the country. To do this, I need to find quality trees that meet our high standards so we can produce products that have the strength and longevity that we need.

The National Forest System has an abundance of these kinds of timber. Current forest plans call for far higher levels of forest management than we are currently seeing. But our companies' need for these wood fibers do not drive the management of the national forest, forest plans do. These plans allocate land to different uses and set standards for management. These plans are crafted with both national and local input, and focus on meeting goals beyond timber outputs, including creating and maintaining habitat for imperiled wildlife species.

The Ouachita National Forest in Arkansas is a prime example of how timber sales can be used to create and maintain habitat. As has been mentioned earlier, the red cockaded woodpecker, once driven to almost near extinction by over-harvest, now thrives on the Ouachita because of timber management. Bell purchased timber sales that are designed to restore and maintain this habitat that the red cockaded woodpecker lives on and needs to survive.

Other wood customers in other regions also help to maintain different habitat types. They do this for young forests for grouse and golden winged warbler in lake states, and also for reducing fire danger to protect Mexican spotted owl in New Mexico and in Arizona.

We see need of projects that could take years to get through the NEPA process, and then run into further delays as the Forest Service faces legal challenges and administrative objectives. The discussion we have today would make it easier to implement these much-needed projects.

We particularly appreciate the Good Neighbor Authority's stewardship contracting and litigation reforms found in this draft. We urge you to consider similar legislation introduced in the Senate that would further streamline the management of the national forests outside of the already-designated protected areas like wilderness and roadless areas.

Our industry is a tool to accomplish forest management goals, from fuels reduction to habitat creation. With common-sense reforms like these we are discussing today, we and partners in the forests can do more, we can do better, and we can do it faster.

I thank you for the opportunity to speak with you today, and I will be happy to answer any of your questions.

[The prepared statement of Mr. Parma follows:]

PREPARED STATEMENT OF JIM PARMA, EASTERN FIBER RESOURCE MANAGER, BELL LUMBER & POLE AND PRESIDENT, FEDERAL FOREST RESOURCE COALITION

Mr. Chairman, Ranking Member Grijalva, and members of the Committee, my name is Jim Parma and I am the Eastern Fiber Resource Manager for Bell Lumber & Pole, a multi-generational, family run company that manufactures utility poles from the renewable forest resources of the U.S., including timber from National Forest System lands across the country. Bell Pole has purchased Forest Service timber sales from more NFS units in more Forest Service regions than any other company, which provides us with a unique perspective on the current challenges facing the Forest Service. Bell's mission statement is: To Radically Love and Influence Lives, along with our corporate values of Stewardship, Excellence, and Entrepreneurial Spirit show our concern for the broader common good.

I am here today as President of the Federal Forest Resource Coalition, a nationwide, 501(c)(6) organization with members from the panhandle of Florida to Southeast Alaska. Together, FFRC's membership covers more than 650 companies in 38 states. FFRC members include sawmills, plywood and panel producers, biomass energy facilities, and the logging sector. In addition, we work with water authorities who rely on healthy National Forests to produce sustainable water supplies for major metro areas. Collectively, FFRC members and other purchasers of Forest Service timber have spent over \$900 million in the last five years alone purchasing timber from the Forest Service.

Unfortunately, in recent years we've seen a decline in timber outputs from the National Forest System, and these falling outputs have directly contributed to mill closures in several states. While mills close for a variety of reasons, lack of fiber supplies exacerbates and accelerates the loss of management capacity near our National Forests. Just last week, Neiman Enterprises cut a shift at their Spearfish, South Dakota sawmill. That mill, like many others that have shut down this year, was highly dependent on National Forest Timber. My fellow FFRC board member, Jim Neiman, said that but for the lack of supplies from the Black Hills National Forest, the company would not have reduced their capacity at the Spearfish mill.

We appreciate the leadership the Natural Resources Committee has demonstrated on forest management issues. With a trained forester and engineer as Chairman, this committee is poised to provide the kind of clarity and reform the Forest Service badly needs. We are particularly appreciative of legislation approved by the Committee to require accurate accounting of hazardous fuels treatments, to require aggressive fire suppression when burning conditions are extreme, and to reform Good Neighbor Authority to encourage greater participation by counties, tribes, and the States. These important measures are incorporated into the discussion draft you provided us in advance of today's hearing.

We believe that these provisions, when combined with additional items like the refreshed provisions, reforms to Stewardship Contracting, locally-led restoration, litigation reform, and expanded efforts to use utility corridors as fuel breaks, are a good starting point for reforms at the Forest Service. I will discuss each of these briefly.

Key Provisions:

Stewardship Contracting is one of the key authorities that has allowed the Forest Service to begin making headway in improving forest health, reducing fuel loads, and reinvesting in land management on the National Forest System. Put simply, Stewardship contracts allow the Forest Service to trade the value of timber for forest management and restoration work, including prescribed burning, mastication of hazardous fuels, installation of nest boxes for listed species, and other beneficial practices. The use of Stewardship contracts has expanded over the years to the point where last year almost one third of all Forest Service timber volume sold last year was accomplished through Stewardship Contracts. Currently, Stewardship Contracting authority provides for seven "land management goals" which include re-introduction of prescribed fire, mechanical removal of hazardous fuels, and improvement of wildlife habitat.

The discussion draft would add an eighth, co-equal goal of "retaining and expanding forest products industry infrastructure" to the program. Since Stewardship Contracting was first pilot tested in the 1990s, we've seen significant reductions in industry capacity, particularly near National Forest System lands where erratic or unreliable timber supplies make running wood using facilities difficult. We have also watched as the Forest Service has struggled to attract new investments in wood using industries—particularly in Arizona where the Forest Service has invested significant resources in hazardous fuels reduction. This has taught us that lack of markets for wood drives up land management costs, reduces receipts

to the agency, and limits the ability of the Forest Service to expand treatments to additional acres. The modest reform of adding retention of industry infrastructure—along with 20-year contracts—will help ensure that the Forest Service offers Stewardship contracting opportunities to mills which can help drive down management costs while creating jobs in rural areas.

We also strongly support the proposed changes to ***small timber sales and locally led conservation*** projects. This modest reform would increase the dollar value of timber sales that can sold directly, from the \$10,000 to \$55,000. The \$10,000 figure was written into the National Forest Management Act in 1976, with no provision for inflation adjustment. The discussion draft would correct this oversight by adjusting that figure to \$55,000, roughly the value of the 1976 figure adjusted for inflation, while requiring annual inflation adjustments thereafter. We would encourage the committee to consider expanding the “fished management projects” authority to cover more areas of the National Forest System, including any areas designated as insect and disease treatment areas, or areas considered at high risk of wildfires.

The proposed ***litigation*** reforms are also badly needed. According to data provided to us by the Forest Service, over 1.8 Billion Board Feet of Forest Service timber was under litigation in the fall of last year. That’s more than half a year’s worth of timber sales in an average year. The threat of litigation forces the Forest Service to engage in needlessly detailed analysis of modest timber projects, which take place on lands designated under current forest plans as being suitable for timber production. The requirements in the discussion draft still allow project level litigation, but also ensures that needed management can take place in a timely fashion.

We particularly applaud the provisions clarifying that there is no need for additional consultation on forest plans, particularly if the project itself has not raised any concerns about listed species. As you are aware, this misguided case law was opposed by the Obama Administration, which appealed it to the Supreme Court. Congress should take the initiative and make these reforms law to free up agency resources and prevent absurd results. One such result was the National Forests in New Mexico having their project level fuels reduction work halted so the Forest Service could reconult with the Fish & Wildlife Service on plans that were, in some cases, well over 30 years old. This delay took place while those plans were under revision. Once the injunction was resolved, the Forest Service went ahead with a prescribed burn under red flag conditions, which subsequently exploded into the Hermit’s Peak Fire—the largest fire in New Mexico history.

The provisions encouraging the use of ***utility corridors as firebreaks*** is very positive, and in our view ought to be expanded. Significant research and experience show that fuel breaks, including shaded fuel breaks, can be extremely effective in reducing fire spread and protecting wildland firefighters and adjacent communities. FFRC has supported similar provisions including the fuel break categorical exclusion provided in the Infrastructure Act. We look forward to working with the Committee to encourage broader use of this and other legislatively-created categorical exclusions.

We are also strongly supportive of ***Good Neighbor Authority*** provisions in the Discussion Draft. Allowing the retention of some receipts under GNA by agency partners, including tribes, counties, and states, will encourage further participation in and investment in Good Neighbor programs at those levels. We note that these reforms have received bipartisan support in both this Committee and in the House Agriculture Committee.

What This Bill Doesn’t Do:

It is critical to note what this bill doesn’t do, in addition to the modest but important reforms mentioned above. This legislation does not authorize timber harvest in the over 36 million acres of designated Wilderness on the National Forest System. It does not open any of the 58 million acres of Inventoried Roadless Areas to timber harvest. It doesn’t open the over 17 million acres of Wild & Scenic River Corridors to timber harvest. The timber industry that relies on National Forest timber is fine with this—we would like to see the roughly 24 percent of the National Forests designated as “suited for timber production” managed to produce economically viable supplies of timber. We can do that, while creating critically important wildlife habitat, reducing fire danger, and generating additional receipts to pay for additional land management activities like prescribed burning.

This legislation also does not waive a single Forest Plan Standard or Guideline. These provisions are developed through a locally-led planning process that allows for broad public input but is driven by forest managers and the communities closest to the resource. It doesn’t waive any habitat protections required by statute or regu-

lation. The Forest Service must manage within those constraints, and we believe there is far more work that could be accomplished with the targeted reforms in the current discussion draft.

Additional Reforms:

The last two decades have taught America many bitter lessons about forest management and wildfires. After precipitous declines in timber harvest from the National Forests during the 1990's, we've now seen the results of under-managed forests combined with climate change and increased settlement in the Wildland Urban Interface; Overstocked forests are vulnerable to catastrophic fire, which destroys wildlife habitat, damages watersheds, and threatens communities. The result is significant carbon emissions and major challenges to reforestation. While Congress has provided significant new authorities and funding to address the wildfire challenges, there are additional proactive reforms Congress can adopt that would clarify the Forest Service's multiple use mandate, reduce the need for repetitive and exhaustive NEPA, and further reduce frivolous litigation.

We would urge the committee to review the bipartisan Promoting Effective Forest Management Act, introduced in the Senate by Energy & Natural Resources Chairman Joe Manchin (D-WV) and Ranking Member John Barrasso. That bill would, among other things, set numeric targets for mechanical thinning at the Forest Service, require the use of expedited authorities on some acres, and encourage the Forest Service to promote staff in place. We also commend to your attention the Expediting Forest Restoration and Recovery Act introduced by Sen. John Thune. This bill requires, rather than allows, the Forest Service to use expedited NEPA on acres designated at high risk to fire, insects, or disease, and it expands the number of acres eligible for expedited NEPA.

Conclusion:

The National Forest System is a conservation achievement of which all Americans should be proud. More than half of the National Forests are already in low to no management designations like Wilderness Areas, Wild & Scenic River corridors, and Inventoried Roadless Areas. Less than 28 percent of the National Forest System is designated as "suitable for timber production." Yet with all of these restrictions, management on National Forests remains a daunting challenge.

Congress should consider simplifying the forest planning process, providing additional resources for forest plan monitoring, and making it clear that they expect timber management to take place on suited acres. The discussion draft before you today makes significant strides in reducing litigation and ensuring accountability. We urge you to think big and consider these more fundamental reforms as well.

And while we recognize that this goes beyond your jurisdiction, we'd be remiss if we did not point out that the appropriations process has proven to be an active impediment to good forest management (and much else besides). While Congress has the right to demand accountability of the Forest Service, the legislative branch must also take responsibility for clarifying the mission of the agency *and* funding it in a timely manner.

On behalf of the more than 300,000 American who rely at least in part on Forest Service timber for their livelihoods, I want to thank you for the opportunity to appear before you today.

Mr. TIFFANY. Thank you, Mr. Parma. I would now like to introduce Dr. Kimiko Barrett, Wildfire Research and Policy Lead at Headwaters Economics.

Dr. Barrett, you have 5 minutes.

STATEMENT OF KIMIKO BARRETT, WILDFIRE RESEARCH AND POLICY LEAD, HEADWATERS ECONOMICS, BOZEMAN, MONTANA

Dr. BARRETT. Thank you, Chairman Tiffany, Chairman Westerman, and members of this Committee. I appreciate the opportunity to provide perspective on the drafted legislation.

I am Dr. Kimiko Barrett, a wildfire researcher at Headwaters Economics, a non-partisan, non-profit research organization based in Montana. My job and the work we do at Headwaters Economics

is to ensure that people and communities are better prepared for a future of increasing fire.

I also had the privilege of serving on the congressionally-established Wildland Fire Mitigation and Management Commission. My contributions to the Commission drew from my expertise in risk reduction to neighborhoods and infrastructure, what we call the “built environment.” The Commission report lays out a roadmap of cross-cutting recommendations that Congress and members of this Committee can help realize. In particular, there are three overarching themes that I would like to highlight.

First is to be proactive. We can build homes and neighborhoods to safeguard communities before a wildfire occurs. For far too long we have focused on managing wildfires through suppression and hazardous fuels reduction while overlooking the built environment. Yet, given the increasing scale and severity of wildfire risk, suppression and landscape treatments alone will not resolve this crisis.

In recommendation No. 1 the Commission advocates for establishing a Community Wildfire Risk Reduction Program involving interagency coordinating partnerships between the Federal land management agencies and others with expertise in hazard resiliency like FEMA, the U.S. Fire Administration, and the National Institute of Standards and Technology. This program would address the built environment gap in our wildfire approach and provide critical resources to the communities who need it most.

Importantly, it is worth noting that this model has been adapted from a similar policy for mitigating earthquake hazards, specifically the National Earthquake Hazard Reduction Program. In other words, we do not need to reinvent the wheel. Important lessons in program design from earthquake mitigation can and should be applied for community wildfire risk reduction.

The second theme I want to highlight is that we need modernized tools for decision-making to help communities quickly and effectively become better fire-adapted. The Commission report calls for the creation of a multi-agency fire environment center. Such a center would be governed by Federal agencies with science and operational knowledge that would build upon our nation’s robust fire research and help integrate currently fragmented data and technology into one seamless platform. A fire environment center would improve decision-making of risk reduction to both the built and the natural environment.

The ability to analyze in real time wildfire conditions and behavior is essential for enabling more fire on our landscapes and reducing the fuels that threaten our communities. While it is tempting to think that we can mandate suppression of all fire, our national approach should reflect the understanding that fire fosters both healthy ecosystems and reduces the risks of future wildfires. Indeed, the Commission recommends dramatically increasing the amount of beneficial fire on many of our landscapes. Calls to return to a 24-hour suppression policy supersede local decision, and are in direct opposition to the Commission’s recommendations.

Third, none of these visionary new approaches would be possible without significant investments of dedicated funding. Given the transboundary nature of fire, sustained support is needed across multiple disciplines. No single entity or agency can do this alone.

If we are going to treat the wildfire crisis like the national emergency that it is, consistent and predictable funding is critical, especially to rural and underserved communities most at risk.

In summary, to address the wildfire crisis we need to build wildfire-resilient communities, use the best available science, and make upfront investments to avoid costly long-term impacts. The Wildfire Commission report provides the roadmap. We will have to learn to live with wildfires in the wildlands, but that does not mean we have to live with wildfire disasters in our communities.

Thank you very much for your time and urgency to this issue.
[The prepared statement of Dr. Barrett follows:]

PREPARED STATEMENT OF TESTIMONY OF DR. KIMIKO BARRETT, SENIOR WILDFIRE
RESEARCHER OF HEADWATERS ECONOMICS &
MEMBER OF THE WILDLAND FIRE MITIGATION AND MANAGEMENT COMMISSION

Chairman Tiffany, Ranking Member Neguse, and members of the Subcommittee, thank you for the opportunity to offer perspective on some of the themes in the draft legislation that is the topic of today's hearing.

I am Dr. Kimiko Barrett, Senior Wildfire Researcher at Headwaters Economics,¹ an independent, nonpartisan, nonprofit organization based in Montana. We work on community development issues with local, state, and federal partners around the country. Our Community Planning Assistance for Wildfire² program—CPAW for short—has provided more than 75 communities with land use planning, technical assistance, and custom research to help them reduce wildfire risks. We also produce research and policy analyses for federal and local partners and create interactive tools to support data-driven decision-making—including wildfirerisk.org,³ a site created in partnership with the U.S. Forest Service designed to help community leaders understand and reduce their wildfire risk. We accomplish this work with support from the Forest Service and other federal agencies, private philanthropy, and community partners.

Over the last year-and-a-half, I also had the privilege of serving on the Congressionally established Wildland Fire Mitigation and Management Commission.⁴ As you know, the Commission gathered 50 experts and representatives from federal agencies, the scientific community, the private sector, and Tribal governments. Our final report, published in September, offered close to 150 consensus-based policy recommendations to help Congress address the wildfire crisis. My contributions to the Commission drew from my expertise in risk-reduction strategies to homes, structures, and communities—what we largely reference as the “built environment.” My interest and expertise center on how we can proactively invest in safeguarding communities *before* a wildfire becomes a disaster.

At Headwaters Economics, we regularly see first-hand how communities are struggling to adapt to the wildfire crisis. The 75 communities we have partnered with include Grand County, Colorado, where we are helping local leaders integrate land use codes that are better adapted to real-world wildfire risks; Tuolumne Rancheria, a band of Me-Wuk Indians in California that is working on defensible space and home hardening strategies that are also culturally appropriate; and we played a key role in the efforts of Austin, Texas, to create a Wildland Urban Interface building code that could reduce risks while also meeting the unique needs and desires of that community.

It is not easy for any community, rural or urban, to bring together all the resources needed to adequately reduce the risks they face. For many communities, the need to comprehensively address wildfire risk exists alongside other pressing needs, such as housing affordability, transportation, and infrastructure development—testing local governments in unprecedented ways.

¹Headwaters Economics is an independent, nonprofit research group whose mission is to improve community development and land management decisions. <https://headwaterseconomics.org/>

²Community Planning Assistance for Wildfire: <https://cpaw.headwaterseconomics.org/>

³Wildfire Risk to Communities is a program of the U.S. Forest Service, created under the direction of Congress. It is available at <https://wildfirerisk.org>.

⁴See the full Commission report here: <https://www.usda.gov/topics/disaster-resource-center/wildland-fire/commission>

The challenges of so many communities, coupled with the recent recommendations from the Commission, put a spotlight on the urgent new approaches to wildfire that are greatly needed in the United States. While there is no silver bullet, the Commission report lays out a roadmap of cross-cutting solutions that Congress can help realize.

I am grateful for the opportunity today to highlight three overarching themes in the Commission recommendations that will require your visionary leadership.

1. Be proactive rather than reactive

If reducing risks to people, businesses, and livelihoods is at the core of our goals, we must reach for proactive—rather than reactive—strategies. This will require a new focus on one area that has been sorely neglected: preparing our communities ahead of disasters.

For far too long we have focused on managing wildfires through suppression and hazardous fuels reduction while overlooking the built environment. Yet given the increasing pace, scale, and severity of wildfire risk, suppression and landscape treatments alone will not resolve this crisis. Our traditional focus on wildlands has failed to account for the critical role of home, neighborhood, and infrastructure design and construction. Just as communities are affected by this problem, so too are they part of the solution.

This theme is reflected in Recommendation #1 in the Wildland Fire Mitigation and Management Commission report, which calls for federal agencies to invest in the built environment through a Community Wildfire Risk Reduction Program. The Commission recommends creating an interagency coordinating partnership that would include the Forest Service, FEMA, the U.S. Fire Administration, the Bureau of Land Management, the National Institute of Standards and Technology, and others to bring together expertise in land use planning, building code adoption, and wildfire risk so we can holistically address the need to proactively harden our communities against wildfire.

A Community Wildfire Risk Reduction Program would also be able to provide multifaceted support for communities through technical assistance, direct grants, financial incentives, private-public partnerships, workforce training, subsidies for disadvantaged households, and capacity building—all necessary for community-scale mitigation. Communities cannot do this on their own. Without financial incentives and subsidies, a Community Wildfire Risk Reduction Program will not be successful.

By bringing together dozens of existing resources we can also significantly reduce the complexity and application costs that prevent many communities, especially those in rural or underserved areas, from being able to access federal programs.

Importantly, it is worth noting that this model has been adapted from a similar approach in managing and mitigating earthquake hazards to communities, specifically the National Earthquake Hazard Reduction Program.⁵ We do not need to reinvent the wheel when it comes to hazard reduction and resiliency. Important lessons from earthquake mitigation and other disaster preparedness efforts can be applied to wildfire risk reduction in communities.

2. Modernize tools for decision-making

To help communities quickly and effectively become better fire-adapted, we need modernized tools for decision-making. The Commission report (see Recommendations #104-106) calls specifically for the creation of a multi-agency “fire environment center.” Governed by a board of federal agencies with science and operational expertise, such a center should build on our nation’s existing and robust fire science and help integrate currently fragmented data and technology into one interoperable platform.

Modernizing our data and wildfire research systems can help communities access the best available science in real time so they are better equipped before, during, and after wildfires.

Complementary to supporting risk reduction to the built environment, a fire environment center would inform valuable decision-making strategies for risk reduction to the natural environment. Beneficial fire reduces fuels on the landscape and reduces risk to communities. The Commission recommendations specifically call for “dramatically increasing the amount of beneficial fire” on our landscapes.

While it is tempting to think we can mandate suppression of all fire, our national approach to wildfire should reflect the understanding that fire has an important role in our landscapes, fostering both healthy landscapes and reducing the risk of future wildfires. Calls to return to a 24-hour suppression policy are antithetical to allowing

⁵National Earthquake Hazards Reduction Program: <https://www.nehrp.gov/>

more beneficial fire, supersede local decision-making, and are in direct opposition to the Commission's recommendations.

Fuel treatments and the use of beneficial fire will be necessary to reduce wildfire risk to communities and fire-adapted landscapes. Project permitting and planning, including processes like those required under the National Environmental Policy Act (NEPA), are necessary to implement such projects. The Commission found that federal land management planning and permitting efforts and requisite environmental analyses are often not completed at a pace commensurate with the increasing impacts of wildfire. As a result, there is a need for funding to support permitting personnel for planning and analysis, as well as collaborative and inclusive partnerships in communities. Additionally, we need consistent, flexible integration of evolving wildfire science that can inform strategic investments on the ground. Any NEPA reform should not be done at the expense of the best available science, community engagement, local decision-making, and collaboration with partners.

3. Dedicated and sustained funding

Finally, visionary approaches require investments of dedicated and sustained funding. Given the transboundary nature of wildfire, adequate and continued support is needed at all scales and across disciplines.

Today, communities struggle to access limited funds spread across a confusing constellation of programs. The burden falls to local jurisdictions to navigate and piece together the limited programs that do exist in order to reduce risk to potential disasters. For example, Forest Service grants don't currently support home hardening efforts, while some FEMA grant programs do. However, applying for and administering FEMA and other federal grants requires a level of staffing and expertise that is often out of reach for rural and underserved communities.⁶

In addition, current levels of funding for risk reduction projects simply are not enough. For example, in the first rounds of funding in the Community Wildfire Defense Grants (CWDG) program, created under the Bipartisan Infrastructure Law, requests for funding outstripped available dollars at a rate of four to one.⁷ In FEMA's Building Resilient Infrastructure and Communities (BRIC) program, requests were more than double the available funding,⁸ and grants are overwhelmingly awarded to high-capacity, coastal communities.⁹ These programs are designed to be cost-effective—investing in projects that help communities avoid costly disasters.

If we are going to treat the wildfire crisis like the national emergency that it is, these programs should be funded consistently and predictably. There should be more funds available in streamlined ways so that more communities can access them. Investing in mitigation *before* disasters strike will yield large savings from avoided losses and is necessary to alleviate pressure on post-disaster federal programs, protect homes and businesses, and make communities safer and more prosperous.

Conclusion

The Wildfire Commission report provides the roadmap for future wildfire policy and a vision in which there is complimentary mitigation and management within both our communities and the wildlands that surround them. To be certain, our future will be one of increasing wildfires and the status quo cannot be maintained. We will have to learn to live with wildfires in the wildlands but that does not mean we have to experience disasters in our communities.

Thank you for your time and your attention to this urgent issue.

⁶Headwaters Economics. (2024.) A rural capacity map. <https://headwaterseconomics.org/equity/rural-capacity-map/>

⁷Headwaters Economics. (2023.) Analysis of the first round of Community Wildfire Defense Grants. <https://headwaterseconomics.org/natural-hazards/cwdg-first-round/>

⁸FEMA. (2023.) Building Resilient Infrastructure and Communities Grant Program FY 2022 Subapplication and Selection Status. <https://www.fema.gov/grants/mitigation/building-resilient-infrastructure-communities/after-apply/fy22-status>

⁹Headwaters Economics. (2023.) FEMA's BRIC program continues to fund innovative risk reduction—but community capacity limits access. <https://headwaterseconomics.org/headwaters/femas-bric-program-continues-to-fund-innovative-risk-reduction-but-community-capacity-limits-access/>

Mr. TIFFANY. Thank you, Dr. Barrett. Now I would like to recognize Mr. Cody Desautel, Executive Director of the Confederated Tribes of the Colville Reservation and President of the Intertribal Timber Council.

It is good to have you back, Mr. Desautel. You have 5 minutes.

**STATEMENT OF CODY DESAUTEL, PRESIDENT, INTERTRIBAL
TIMBER COUNCIL, EXECUTIVE DIRECTOR, CONFEDERATED
TRIBES OF THE COLVILLE RESERVATION, NESPELEM,
WASHINGTON**

Mr. DESAUTEL. Thank you, Mr. Chairman and Chair Westerman. And you covered half of my intro for me, so I appreciate that.

In addition to serving as the Executive Director for Colville and President for Intertribal Timber Council, I also served on the Wildland Fire Mitigation and Management Commission, which sent our report to Congress in September 2023 with nearly 150 consensus recommendations to help improve how we prepare for, respond to, and recover from wildfires.

On behalf of the ITC and its more than 60 member tribes, we thank you for the opportunity to share our perspectives on this draft legislation.

Tribes actively manage their forest to support their ecological, cultural, and economic goals. Despite our diligent efforts to manage our forests, we have experienced unprecedented wildfire impacts. Since 2015, the Colville Reservation has seen more than 700,000 of its 1.4-million-acre reservation burn in wildfires. Unfortunately, Colville is not alone, as many tribes have experienced devastating fire seasons over the past decade. The risk of wildfire to Indian lands is compounded by the thousands of miles of shared boundary with Federal agencies, primarily the U.S. Forest Service and Bureau of Land Management.

In addition to the wildfire risk from adjacent Federal lands, tribes are also impacted by limited suppression resources due to priority placed on fires burning in unmanaged Federal lands that pose a risk to communities and infrastructure. This scenario occurred on the Colville Reservation in 2015. Because other fires burning in the region were deemed threats to communities, suppression resources were prioritized to those incidents, leaving the North Star Fire to burn on the reservation with very little support from the National Fire System.

For these reasons, the ITC commends Chair Westerman's intentions with this bill to prioritize fuel treatment in areas needed to protect communities and infrastructure, and authorize accelerated procedures to implement those projects. While ITC believes that treatment across the landscape are needed to reduce fire severity and post-fire effects, we understand the urgency of protecting communities most at risk of wildfire as a critical first step.

In addition to the criteria used to prioritize fuels reduction projects, ITC recommends adding a provision that allows states and Indian tribes to identify and request additional areas for assessment and treatment.

The ITC also appreciates that the bill authorizes tribes to request participation in fire-shed assessments. Tribes are best

suiting to define risks, strategies for reducing those risks, and determining the benchmark goals for their communities.

For the sake of parity, we request that Tribal Forest Protection Act projects be provided the same implementation authorities, such as the emergency NEPA procedures and categorical exclusions. This, along with the litigation reforms proposed in the bill requiring consideration of long-term effects of no action, could increase the use of TFPA.

As an example, the Colville Tribe had a TFPA project recently litigated. The project shared 10 miles of boundary with the reservation, and was approved by the Forest Service in 2014. The project was initially modified because of the 2015 North Star Fire, and because the NEPA decision was litigated in 2023 we are working on a new version of the project. Now, 10 years later, we still have no treatment accomplished on the ground.

While tribes understand the importance of environmental review, we also understand the potential impacts of taking no action. The ITC appreciates the inclusion of traditional ecological knowledge and the definition of best available science, as this can be critical to inform our shared management objectives.

The ITC also appreciates the inclusion of cultural burning as a designated fire management project. The Commission supported and validated the use of beneficial fire, including prescribed fire and cultural burning for resource management objectives where they are appropriate.

ITC supports the bill's provisions that address full tribal inclusion in the Good Neighbor Authority, and adding the Park Service and U.S. Fish and Wildlife Service to that authority.

We also support better reporting of fuels reduction projects by type and effectiveness. A true accounting of footprint acres with a quantified risk reduction will help track our success and inform future investments and projects. Improving reporting is also in line with the Commission's recommendations for improved outcomes-based performance measures.

ITC also supports the creation of an interagency group focused on technology development and deployment. The Wildfire Commission had 16 recommendations dedicated to integrating modern science and technology. On the whole, ITC supports the intent of this legislation to accelerate the pace and scale of high-priority fuels work on Federal lands.

ITC also requests that the Committee review additional recommendations from the Wildfire Commission report, particularly those that involve tribes and tribal forest and fire management. Thank you.

[The prepared statement of Mr. Desautel follows:]

PREPARED STATEMENT OF CODY DESAUTEL, PRESIDENT, INTERTRIBAL TIMBER
COUNCIL & EXECUTIVE DIRECTOR,
CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

I am Cody Desautel, President of the Intertribal Timber Council (ITC) and Executive Director for the Confederated Tribes of the Colville Reservation in Washington State. On behalf of the ITC and its more than 60 member Tribes, thank you for asking to hear our perspective on this draft legislation.

Background

All of America's forests were once inhabited, managed and used by Indian people. Today, only a small portion of those lands remain under direct Indian management. On a total of 334 reservations in 36 states, 19.3 million acres of forests and woodlands are held in trust by the United States and managed for the benefit of Indians.

Tribes actively manage their forests for multiple uses, including clean water, habitat, economic revenue, jobs, cultural foods and materials and for other cultural purposes. Despite our diligent efforts to manage our forests with the limited resources we have we have experienced unprecedented wildfire impacts. Since 2015 the Colville reservation has seen more than 700,000 of its 1.4 million acres burn in wildfires. Unfortunately, Colville is not alone, as many tribes have experienced devastating fire seasons over the past decade.

The risk of wildfire to Indian lands is compounded by the thousands of miles of shared boundary with federal agencies, primarily the U.S. Forest Service and Bureau of Land Management. There are countless examples of wildfire spilling over from federal lands onto tribal forests, causing significant economic and ecological losses. These fires regularly pose a risk to human life on Indian lands and have resulted in fatalities.

In addition to these adjacent threats, tribes must compete for fire suppression resources with federal lands that pose a risk to local communities across the country. In 2015 fires around the northwest were competing for suppression resources, including the Northstar fire on the Colville reservation. Because other fires burning in the region were closer to communities, suppression resources were prioritized to those incidents leaving the Northstar fire to burn on the reservation with very little support from the national interagency fire system. A similar situation occurred on the Yakama reservation in 2015, where Hot Shot crews were pulled from the Cougar Creek fire on reservation to respond to another fire deemed to be a higher priority because of its proximity to communities. The Cougar creek fire ultimately burned more than 50,000 acres, mostly on the Yakama reservation.

The impacts of wildfires are not limited to the reservation. Tribes retain treaty, reserved, and other aboriginal rights across much of the federal land managed by the U.S. Forest Service and Bureau of Land Management. When these lands don't receive adequate management, or are severely damaged by wildfires tribes feel the impact. This is particularly true for tribes with small reservations. In these situations, many of the culturally significant plants, animals, and places are under the management of another federal agency. When these resources are lost or damaged it limits their ability to practice the culture that defines them as people.

For these reasons the Intertribal Timber Council looks forward to working with the committee on this legislation. The ITC commends Chairman Westerman, and this legislation's intention to prioritize fuels treatment in areas needed to protect communities and infrastructure, and authorize accelerated procedures to implement those projects. The ITC supports both goals and has long advocated for fuels treatment on federal lands at a pace and scale that is commensurate with the ecologic need to return these landscapes to a healthy, resilient condition. While the ITC believes that treatment across the landscape is needed to reduce fire severity and post fire effects, we understand the urgency of protecting communities most at risk of wildfire as a critical first step.

The legislation primarily uses a combination of priority firesheds identified in the "Wildfire Crisis Strategy" and existing national Fireshed Registry ratings to prioritize fuels reduction projects. The ITC recommends adding a provision that allows states and Indian tribes to identify and request additional areas for assessments and treatment. Wildfire is a complex phenomenon that can be unpredictable. Many of the areas most devastated by wildfire in recent years do not appear on the Registry at all. Likewise, areas that have burned in recent years are treated at a lower risk of future wildfire. While that may be true in the very short term, large areas with standing dead snags may pose a much greater risk of catastrophic fires as time goes on. We recommend more research about how to calculate wildfire risk from these massive dead zones on federal lands.

The ITC appreciates that the bill authorizes tribes to request participation in producing the fireshed assessments. Tribes are best situated to define risks, strategies for reducing the threat of those risks, and determining the benchmark goals for their communities. For the sake of parity, we request that Tribal Forest Protection Act projects on federal lands be provided the same implementation authorities, such as emergency NEPA procedures and categorical exclusions. This would be helpful in accelerating TFPA treatments across the country.

A prime example of this is the Tule River Tribe's TFPA project in the Sequoia National Forest in California. The NEPA process for the project, intended to protect

giant sequoias from stand-replacement fire, took roughly a decade to get through. By the time of implementation, wildfire was already affecting the sequoia stands. Congress ultimately stepped in to create emergency authorities for fuels treatment.

The Colville tribe is working through a similar situation where a TFPA project that shares 10 miles of boundary with the reservation was approved in 2014, later reduced because of the 2015 Northstar fire, and had the NEPA decision litigated in 2023. Now—10 years later—we are working on a new version of the project with no treatment accomplished on the ground to date. While tribes understand the importance of environmental review, we also understand that we must live with those decisions and justify our actions to our tribal membership. Decisions that impact natural and cultural resources are not things we take lightly.

The ITC appreciates the inclusion of traditional ecological knowledge in the definition of “Best Available Science” used in the fire-shed assessments. This can be a critical tool to better understand the historic forest characteristics and fire behavior. It will be important to respect the tribal sovereignty of our 574 federally recognized tribes, and ensure we have a process for collection and protection of this data that meets the needs of each tribal government. The ITC also appreciates the inclusion of cultural burning as a designated fire-shed management project. For many tribes this will be a critical tool to accomplish their risk reduction goals.

The ITC supports the bill’s provisions that address full tribal inclusion in Good Neighbor Authority, and adding the National Park Service and U.S. Fish & Wildlife Service to that authority. We also support extending the length of stewardship contracting authority. To ensure we have the infrastructure needed to accomplish these fire-shed management goals we will need a healthy forest products industry. To achieve this, we must have long term commitments to forest products supply chains. The Wildfire Mitigation and Management Commission also recommended investments in wood processing facilities and the wood utilization sector more generally.

The bill’s provision on litigation reform mirrors existing direction from Congress in the Healthy Forests Restoration Act. Since federal forests are often managed by the whim of federal courts, we believe it is reasonable for Congress to direct courts to weigh the long-term effects of fuels reduction versus wildfire impacts to untreated areas. With approximately half of the reservation burning over between 2015 and 2021 we have firsthand experience with fire effects on untreated areas. Although we have an active forest and fuels management program, we are not funded to work at the pace and scale needed for our forest types. The consequence is high severity wildfire in many of untreated areas. It would be irresponsible to assume “no action” means “no impacts” as we continue to see the growing impacts past management practices and climate change.

ITC would recommend that the Bureau of Indian Affairs be included as a member of the Community Wildfire Risk Reduction Program. The BIA is included as a representative in the Fire-shed Center and Public-Private Wildfire Technology Deployment and Testbed Partnership, and should serve in the same capacity to protect tribal interests in this program.

We also support better reporting of fuels reduction projects by type and effectiveness. A true accounting of footprint acres with a quantified risk reduction will help track our success, and inform future investments and projects. We would recommend the work done by the Department of the Interior to consider the “avoided costs” of various fuels treatments.

The ITC also supports the creation of an interagency group focused on technology development and deployment. The Wildfire Mitigation and Management Commission had 16 recommendations dedicated to the integrating modern science and technology. By collaboratively combining the resources of the federal agencies, academia, and private industry we can utilize existing tools, and develop new tools that improve our effectiveness in achieving these wildfire risk reduction goals.

On the whole, the ITC supports the intent of this legislation to accelerate the pace and scale of high priority fuels work on federal lands. The ITC requests that the Committee review additional recommendations to Congress from the Wildland Fire Mitigation and Management Commission report, particularly those that involve tribes and tribal forest and fire management.

Mr. TIFFANY. Thank you for your testimony, Mr. Desautel. And now we are going to have questions for 5 minutes.

First, I would like to recognize the Chairman, Mr. Westerman.

Mr. WESTERMAN. Thank you, Chairman Tiffany, and thank you to the panel, great testimony. I appreciate everybody’s input. And

hopefully, we can continue to work together as we develop the language to file the bill.

And I am just going to try to go down the row as quickly as I can.

[Slide.]

Mr. WESTERMAN. Ms. Downey, you talked about mechanical thinning and prescribed burns. And we have heard it said, a picture is worth a thousand words. And I have a picture behind me that I think is worth 10,000 words. This is from the Bootleg Fire in Oregon, and we see an area that was thinned but not burned destroyed in the wildfire. We see an area that had no treatment that was really destroyed in the wildfire. And then there is this green band in the middle that was thinned and burned.

Can you just elaborate a little bit on the need not just to do prescribed burns, not just to thin, but to use those in combination as a treatment?

Ms. DOWNEY. Chairman Westerman, thank you, and I agree that the image you have from the Bootleg Fire highlights the power of combining those different tools. That example really highlights it, and I think the science also continues to highlight that, as well.

I mentioned in my testimony the new meta-analysis that looks at, when you are able to combine those tools of mechanical thinning and prescribed burns, that is when you are able to really see that reduced risk of wildfire and the reduced severity going forward. So, when you are able to combine those tools and use both of them in tandem and responsibly, you can have some really incredible benefits.

Mr. WESTERMAN. Thank you.

Mr. Parma, you bring a unique perspective, coming from the private sector and a mill owner. On the business side, what is the largest cost in your business?

Mr. PARMA. The largest cost in our business is the fiber, actually the trees that we use. That is where most of our cost comes from.

Mr. WESTERMAN. But if you look at the inputs into your business, are not the log costs the highest, the resource cost? That is more than the labor cost, the electricity. Typically, that is how it is in a mill environment.

And the reason I am asking that question is, if you wanted to expand your operation, what is the No. 1 thing you have to be sure of if you are going to invest capital in an operation producing wood products?

Mr. PARMA. Yes, again, it gets back to the fiber, to the actual trees. If there are trees available that we can harvest, that we can use to make product, that is where we will probably put another plant.

Mr. WESTERMAN. Right. And it would be foolish to build a mill and expand your production capacity if you didn't have the fiber to go into it. That is just common sense. Yet, we have seen a loss of infrastructure in the West, and we know how critical it is to be able to have a market for this material that needs to be thinned. So, hopefully we can do more with the stewardship contracting, and we can encourage mill owners to have confidence that they can invest their capacity or expand their capacity and know that that supply is going to be there.

And if you look at the U.S. market, we still get about a third—a little less than a third—of our wood products from Canada, yet we see millions of acres of assets burn up every year that could be creating jobs in rural areas and adding to the U.S. economy and, hopefully, lowering prices for building homes and other things.

Dr. Barrett, you said several great things. You talked about being proactive. I have said that so many times in this Committee. I also add we have to be pragmatic.

And you talked about building wildfire-resilient communities, talking about hardening infrastructure, which I totally agree with that. But can we, in a sense, harden the forest, as well?

I know programs like Firewise, that are focused on making structures that aren't going to catch on fire in a sense, could we harden the forest to wildfire so that they look like this strip in the middle, versus the other ones?

Dr. BARRETT. Thank you for that question, Chairman. We can. I think what is important, though, is that in as much as we harden the forest, we complement that with hardening the communities that are most threatened, as well.

Previous to that picture you had a picture of a home burning, and I can tell you there is about a 90 percent chance that home ignited from an ember. Once that ember lands in the home and starts to ignite it, burning it, then neighboring structures are threatened, and it is no longer a forest problem, it is a structural ignition problem, and that requires a different set of expertise and a different set of mitigation measures.

Mr. WESTERMAN. I agree 100 percent. We were coming back from a CODEL last year after the fire in Lahaina, and we went over and toured the damage. It was a grass fire, then it became a structure fire, and then it became a massive structure fire. We saw glass melted out of automobiles, aluminum, magnesium. If it wasn't steel, it was pretty much melted. And it takes 2,000 degrees to melt glass, so an unbelievable high-intensity wildfire once it got into structures. So, I am all for hardening structures. And in that wildland-urban interface we have to do a much better job both with forest management and the structures.

Mr. Desautel, I had the great opportunity to go travel around with you on the Colville land. And you know, my hat is off to you for the work that you all are doing in a very difficult situation. And you pointed out we visited that site where you, the Colville, had done everything right, as far as a forest management standpoint. But you had a wildfire come in from the Forest Service that took out, you had the green strip here that still got destroyed because the fire was so hot.

We are trying to give more authorities to tribes to do what you do best, and that is to manage your lands, to go out on the Federal estate and do management. How eager would the Colville be to manage the lands that adjoin your forest so that you could keep those Federal fires from coming in on your land?

Mr. DESAUTEL. Colville would be a very willing partner in that. We have two Tribal Forest Protection Act projects that are on projects adjacent to the Colville, again, one held up in litigation, the other one working through the process, hoping to see a NEPA decision on that very soon that does not get litigated, but recognize

that, in the example that we saw, that if you don't do things at scale, it is really kind of anecdotal that, when you look at treatment across the landscape, it has to be large enough that when you have those high-intensity fire events, largely driven by wind, that they will withstand or have lower fire severities when those fires hit.

So, I think it is critical that we do work on both sides of the fences and working with our neighbors, whether those be the Forest Service, BLM, or private, is absolutely critical to really trying to get a handle on this wildfire crisis.

Mr. WESTERMAN. And you made a great point about making sure the tribes have the same authorities that the Federal land managers have when it comes to categorical exclusions and NEPA, and that is well noted.

I appreciate your indulgence, Mr. Chairman, and I yield back.

Mr. TIFFANY. The gentleman yields. I now recognize Mr. Bentz from Oregon for 5 minutes.

Mr. BENTZ. Well, thank you so much for being here today, and I am going to be asking questions about the content of the bill. So, if it turns out that the person I asked the question of doesn't know anything about it, feel free to select one of your fellow folks, and point at them, and we will go there.

We will start with you, Mr. Desautel. And I am curious, the watershed space is of great interest to me, and the value of the forest in acting as a sponge to take up water and then release it over time is far more important, perhaps, than it has ever been.

I have the privilege of being Chair of the Water, Wildlife and Fisheries Subcommittee of Natural Resources. And, of course, water is everything to fish, and not to mention agriculture, and not to mention all of the other folks that rely upon the water as it comes down from the forests. So, my question to you is, this bill suggests that we would be able to use watersheds as a foundation for asking for alacrity in trying to protect our forests. Do you agree?

Mr. DESAUTEL. Yes, I do agree, for one, that watersheds are just an appropriate scale to look at treatments and a way to prioritize. But I completely agree with you from a water priority perspective, too, that when you look at tribes—for the vast majority, if not all tribes—water is one of the most sacred and critical things that they try to protect, from a natural resource perspective.

Mr. BENTZ. Ms. Downey, I had occasion to stop by the University of California at Davis 3 weeks ago and speak with a water expert there, and she was talking about the ever-increasing dryness of our forests. And the conversation came up in an interesting way. I was asking about the impact of warmer weather upon the farmland out across the Central Valley of California. And she was explaining, of course, the obvious, which is as it gets hotter, more water is drawn out of the soil, it turns into vapor, leaving the salt. So, we were actually talking about salt.

But in the course of the conversation she mentioned that the forests were suffering the same consequence of this evaporative loss of water as things got warmer, thus really resulting in much drier forests. Is that your opinion, also? I am assuming everybody

on the panel agrees with that consequence of hotter, warmer, drier climate.

Ms. DOWNEY. Congressman, I can't speak too much to the actual water tables there, that is a little bit outside my scope. But I would absolutely agree that hotter, drier conditions are a factor fueling our wildfire crisis.

And your point on the connection with water, I mean, so many of our watersheds, especially in the West, are reliant on those healthy forest ecosystems. Where I am in Bozeman, Montana, if a fire were to rip through the forest surrounding our community, we would be out of water in 3 days. So, the interconnection of water and the health of our forests cannot be overstated.

Mr. BENTZ. Yes, and so the question would be, do the people in Bozeman actually understand that getting back into the woods is a requirement of maintaining the water that they get from their tap? Do they get it? Does the greater population understand how close they are to not having water?

Ms. DOWNEY. That is a great question, and I would like to credit the Forest Service and the city of Bozeman and a lot of local collaboratives in helping to make that point. So, I do think there is a strong effort there to emphasize that connection.

I will also recognize that PERC, where I work, we have been really lucky to be working on a film looking at just defining what is a healthy forest. Why should the general population care about not just having these dense, overstocked forests, but instead, well-managed and restored ecosystems for exactly the reasons you are discussing, because they have real implications for those of us who live there every day.

Mr. BENTZ. I think Newt Gingrich said that the way you get the law changed, you change public opinion. So, the real question is, how are you and others letting people know of the need for a bill just like the one that Chair Westerman is bringing that builds and responds to the incredible danger, almost existential, for some of our cities?

I mean, obviously, it is. How do you guys get the word out? How do you tell people about this?

Ms. DOWNEY. It is a big challenge, but one that I know we are eager to take on. And I know many of the other panelists here are also working on similar issues of how do we start to change that public opinion, how do we start to change the messaging that, when you step off the plane in a Western community and see these dense, green forests, we have to recognize there is also a risk there.

So, I think there is a lot of work that can be done, but I know that is something that we are eagerly taking on and working to communicate.

Mr. BENTZ. Well, I appreciate that.

I yield back.

Mr. TIFFANY. The gentleman yields, and I am going to take a couple of minutes to ask some questions here.

Mr. Parma, the Federal Forest Resource Coalition, you guys put out some good data, it appears, quarterly. And are you familiar with that, that is coming out of your organization? We receive it in regards to harvest on Federal lands, and particularly U.S. Forest Service lands.

Mr. PARMA. Yes.

Mr. TIFFANY. And we are seeing from the data that, in terms of net, nationally there actually is not an increase in the amount of timber coming off from the U.S. Forest Service lands. Is that accurate?

Mr. PARMA. Yes, it is.

Mr. TIFFANY. And do you guys have a reason or two, a prominent reason or two to attribute that to? Because I think about the additional money that has been put in, and yet we are not seeing additional harvesting. What are the reasons for it?

Mr. PARMA. Yes, I would go back to Good Neighbor Authority, stewardship, all of those are opportunities that are aren't quite being used, I think, to their full ability. Both products like that would also help increase the amount of timber.

Mr. TIFFANY. What was that last point again?

Mr. PARMA. The Good Neighbor Authority and stewardship, stewardship contracting.

Mr. TIFFANY. So, if we would do more of that?

Mr. PARMA. Yes, and there is a fix that needs to be done in the Good Neighbor Authority. There are five or six states that do a good job of it now, there are more that would like to do it.

But as we all know, when it comes to national forest, state land, county land, everything is checkerboard anymore. Especially as you go east from the Rockies and that, it is hard to do management on just one ownership. Where they are allowed to have, like I said, with that Good Neighbor Authority fix, if we get that, we will get more opportunity that way.

Mr. TIFFANY. Yes, I know I heard the examples about a decade ago that the golden-winged warbler was being considered for being put on the endangered species list, and it turns out its habitat is early successional forests. Isn't that correct?

Mr. PARMA. Yes, it is.

Mr. TIFFANY. So, you think about these U.S. Forest Service lands that are not being managed. We are actually creating or have the potential to create an endangered species as a result of that.

Mr. PARMA. Right. And we have the data that we are not, according to the plans that we have for the Lake States area, in particular, where the golden-winged warbler habitat is, they are not meeting their young forest objectives. So, we are losing opportunity there to actually improve habitat for another species by doing timber harvest.

Mr. TIFFANY. Mr. Desautel, so the Cottonwood fix is in the discussion draft. Do you think that is a good thing?

Mr. DESAUTEL. Yes, anything that speeds up process, limits the risk of litigation is a good thing to work at the pace and scale we need to. I think it has been mentioned by even Deputy Chief French before that process, I think, is a bit of a problem for us.

And particularly when we look at the rate of change and the number of acres impacted annually by wildfires, we are definitely seeing wildfire as the largest managing factor on the landscape, compared to the things that we are doing as human beings.

Mr. TIFFANY. Have you specifically seen Cottonwood litigation affect your operations?

Mr. DESAUTEL. Well, we had a project litigated. I am not sure how close the comparison was to the Cottonwood litigation, but it was opposition of a project that we had proposed, I think largely because of its potential implications to a designated roadless area and its eligibility for wilderness.

But I do know that our intentions in treating that were to give us opportunities to suppress fire, were we to get one in that location. And, unfortunately, while that was being litigated, we had a very large fire season in 2021 that burned 50,000 acres on the reservation just south of where that project was to be completed. Fortunately, we got it held on the reservation side, so it didn't end up on the Forest Service, but I think it demonstrates the potential that is there if you don't do that work. And, unfortunately, we hadn't done enough work even on our side of the border to stop that once it got to that drainage that we had planned the activities for.

Mr. TIFFANY. So, the Intertribal Timber Council supports doing something in regards to Cottonwood to get a fix to it?

Mr. DESAUTEL. Yes, I believe so. I mean, it is always dependent on the language, but definitely supportive of things that help process.

Mr. TIFFANY. Yes. So, is it the case that at times the Forest Service is not a good neighbor?

Mr. DESAUTEL. The Forest Service could be a better neighbor in scenarios.

I am thankful that the Colville National Forest, which is on our northern boundaries, is one of the more active forests in the country. But the Okanogan Wenatchee struggles with different demographics, and they definitely do less treatment than what the Colville does. So, there is definitely room for improvement.

Mr. TIFFANY. Because most of the U.S. Forest Service lands in Wisconsin are in my district up in northern Wisconsin, and I have heard that from county forest, state foresters, private—there is a lot of private forest land in Wisconsin—that at times, because of the lack of harvest, you end up with disease and insect infestations, that they really become a problem for their neighbors. So, it is of great concern.

Ms. Downey, we heard with our previous panel in regards to it may be double the cost to be able to get a project done as a result of litigation. Have you seen that? Has your organization, PERC, seen examples of something like that?

Ms. DOWNEY. Thank you, Congressman. Yes, litigation is a major challenge. You brought up the Cottonwood fix, and the national forests surrounding Bozeman, where I live, is ground zero for that Cottonwood Decision.

And what we saw, again, is this is the forest that is our watershed. If this forest goes up in flames, we are out of water in 3 days. That project was collaboratively designed, there was a lot of community buy-in on that, and that was litigated. Over 15 years went by when that was all tangled up, and at the end of the day the litigation finally was resolved. Litigation has still continued, but work has been allowed to go on, and the project is moving forward exactly as it was originally laid out.

All of those years of delay and costs and time and everything where our community was at risk didn't end up actually changing the outcome of the project.

Mr. TIFFANY. And which project was that, again?

Ms. DOWNEY. The Bozeman Municipal Watershed Project.

Mr. TIFFANY. OK. So, is that moving forward now?

Ms. DOWNEY. Yes, we have been able to move forward, which is excellent. I have been able to go up and see some of the work happening firsthand, and it looks wonderful.

There is still some litigation continuing, but at least the injunctions have been lifted.

Mr. TIFFANY. Does it appear that project will get completed? I mean, are you optimistic at this point?

Ms. DOWNEY. At this point I am optimistic, yes. The Forest Service is very committed to seeing that through.

Mr. TIFFANY. Dr. Barrett, I am going to close here. You had three points that you were making, and No. 2, you were talking about having a commission, I think, something like that. And did I hear it accurately that it would be public officials that would serve on this commission that you highlighted in Item No. 2?

Dr. BARRETT. I highlighted two potential programs that are being proposed in the Commission recommendations. One was a community wildfire risk reduction program, which is explicitly called out in Westerman's drafted legislation, and then additionally, a proposed fire environment center. So, if that is the one that you are referencing—

Mr. TIFFANY. That is, yes.

Dr. BARRETT. Correct, yes. So, this is an interagency joint office with shared governance structure, but with one dedicated director who would be responsible for the budget, the hiring, and the administration. It would be an interoperable data sharing and technology platform.

Mr. TIFFANY. OK. Well, would there be private actors that would be allowed on this also?

Dr. BARRETT. I would believe that they would be part of that larger governing board.

Mr. TIFFANY. OK. Because I was just wondering if I was hearing that there would not be private actors that would be allowed there also. So, they are not excluded?

Dr. BARRETT. No. Correct.

Mr. TIFFANY. OK. And on point No. 3 you talked about additional resources needed, additional money being needed. I have a great skepticism about that. I mean, you are hearing some of the back-and-forth that we are having that we allocated significantly more money, billions of dollars of more money to do a variety of things in regards to these natural resources issues that we had before us, including wildfire, and yet you heard from the U.S. Forest Service official that they are actually not getting more work done. So, that is really a concern. Is the answer just money?

Dr. BARRETT. The answer is partly money, certainly. We do need additional financial incentives and investment and subsidies, particularly to communities to be able to do the mitigation measures needed for structures, neighborhoods, and their larger community

in reflection and complementary to what is occurring on the wild lands around them. So, certainly, money is part of it.

But it goes beyond just money. As articulated in the Community Wildfire Risk Reduction Program that is part of this bill, there are additional functions that are required, including technical assistance for expertise that goes beyond what traditional Federal land management agencies are responsible. There is also a need for financial incentives, for subsidies, for research and risk assessments, for building code adoption, for support for land use planning, and to support local collaborations on the ground between public and private partners.

Mr. TIFFANY. So, something that would be really helpful is if you could identify a source of money that is already existing.

I mean, we sit here as a nation in \$34 trillion in debt, and the original reason why I ran for our State Legislature years ago was because of the fiscal problems that we had. And, of course, they are even more severe at the Federal level. I think it is really irresponsible for us to put new money in. And if you can find existing pots of money that may be out there that we could access to be able to accomplish some of those goals, I know, certainly on this side of the aisle, I think you are going to find a greater receptivity to what you are proposing, and would be really helpful for us to be able to advance the goals that you have laid out.

Dr. BARRETT. Thank you, Chairman.

Mr. TIFFANY. Yes. OK, Mr. Stauber, you get 5 minutes, good to have you here.

Mr. STAUBER. Thank you, Mr. Chair. That is called pay-fors.

Mr. TIFFANY. Yes.

Mr. STAUBER. I am happy to see a great Minnesotan on our panel today, and I thank all of you for being here.

Mr. Parma, thank you for coming to Washington and testifying on behalf of Minnesota's forestry sector. We really appreciate it.

I am happy to hear you discuss the Good Neighbor Authority in your testimony. As I shared, I have seen this program work incredibly well in northern Minnesota. That is all the reason more that we need to expand it for tribes and counties. Can you expand or share more on this?

Mr. PARMA. Yes, Good Neighbor Authority just gives us more opportunity to get more acres treated on the national forests. Multiple tribes and counties already have forestry programs that do timber sales, set up timber, do the administration of it. So, it would just give more opportunity, as we heard earlier, one of the things the Forest Service said is they were short on people. This would give more people more boots on the ground to get opportunities to get things done.

Mr. STAUBER. Yes, it is a win-win-win.

Mr. PARMA. Yes.

Mr. STAUBER. Can you talk a little bit about the provisions allowing direct sales on priority firesheds?

Mr. PARMA. Sure. That was set up in 1976, if I remember right. And what has happened is it was never changed. With all the inflation we have had since 1976, it was never changed. The amount was kept the same. By just fixing that, just getting it up to date on what it should be at, the minimum value of the timber, it would

help out with a lot of small logging businesses that are hurting right now. They would love to have that opportunity. It would help to get more acres treated, and actually help a lot, even out West, where they could get opportunities to do projects that are too small for a lot of people, but would be perfect for some of these other businesses.

Mr. STAUBER. While our forests in Minnesota do face the risk of wildfires, we luckily do not face as large of a threat as certain states out West. That said, forest management is still incredibly important. Can you speak to the importance of proper management of forest in Minnesota and similar areas of the Upper Midwest?

Mr. PARMA. Sure. And we talk about the East not being as fire prone, but as Mr. Tiffany will attest to, on Saturday we had over 300 fires in the state of Wisconsin alone. So, it is not just out West, it is also out East. So, getting more management done, getting more forest fire resistant is important for all of us. And there is definitely opportunity there to get it done before we lose it.

Mr. STAUBER. Mr. Parma, in the first panel the Forest Service Chief and I talked about allowing the private industry to have some input and conversation. Do you feel that you have a voice, as a private industry, with the Forest Service?

Or would you like to have a heavier and a more influential voice because you are the boots on the ground?

Mr. PARMA. I guess, as far as voice goes, I mean, we are heard at the table, for sure. Sometimes I wonder if it goes in one ear and out the other, but that happens. But I think we have a lot of opportunity to get things done on the ground, and we have tools that we have been given. The GNA is one, stewardship—

Mr. STAUBER. Yes.

Mr. PARMA. There is designation by prescription, designation by description, opportunities where they don't need to do a lot of the work on the ground. We can get that done with just things that we already do in industry already.

Mr. STAUBER. Yes, but do you think they are listening? I mean, that was my premise of my question to the Forest Service Chief. We have private industries and experts in the private sector that can help you make decisions. And that is the goal, to make sure that the Forest Service works with the private industries so their voices are heard, not just listened to, but actual action taken after you have given the input from your perspective of boots on the ground, the industry experts, and I consider you an industry expert. So, Mr. Parma, thank you for coming and representing the great state of Minnesota.

To the other witnesses, thanks for your testimony.

Again, Mr. Chair, it is called the pay-for, and I yield back.

Mr. TIFFANY. Will the gentleman yield?

Mr. STAUBER. Yes, I will yield.

Mr. TIFFANY. Ms. Downey, do you see reason for optimism? I think I have been in this place for 4 years, become much more familiar with the western wildfires and what is going on. Do you see reason for optimism that we are going to do a better job as a country for what really has been a disaster going on for the last 10 to 20 years?

Ms. DOWNEY. Mr. Chairman, that is an excellent question, and I think where I see optimism is that there is now broad support and recognition for the need to actually apply these tools and to do active restoration work through mechanical thinning and prescribed burns and management on the ground. So, that is where I do have optimism.

I think, in order to be able to then harness that enthusiasm and make it more easily applied on the ground through a lot of the reforms that we are talking about today, through limiting disruptive litigation, through accelerating the rate at which things are able to move through the environmental review process, that bringing in the private partners, states, counties, and tribes, that is where we can then take that enthusiasm and that broad buy-in and recognition that we need to do something, and turn that into outcomes on the ground.

So, I guess my optimism sort of hinges on our ability to make some of these reforms and to harness that enthusiasm.

Mr. TIFFANY. Thank you.

Mr. STAUBER. Mr. Chair, I yield back.

Mr. TIFFANY. The gentleman yields. I would like to thank all of our witnesses for joining us here today. Many of you traveled from long distances. I appreciate your testimony, and I appreciate the Members for their questioning.

Members of the Subcommittee may have some additional questions for our witnesses today, and we will ask that they respond to these in writing. Under Committee Rule 3, members of the Subcommittee must submit questions to the Subcommittee Clerk by 5 p.m. on Monday, April 22, 2024. The hearing record will be held open for 10 business days for those responses.

If there is no further business, without objection, Subcommittee on Federal Lands stands adjourned.

[Whereupon, at 12:11 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Statement for the Record
U.S. Department of the Interior
Discussion Draft of H.R. ____ (Westerman)

Chairman Tiffany, Ranking Member Neguse, and members of the Subcommittee, thank you for the opportunity to provide this Statement for the Record on the discussion draft. The Department of the Interior (Department, DOI) notes its strong preference to testify on bills after they have been introduced. Given the breadth of subject matter contained in the text of the bill, the Department did not have adequate time to conduct an in-depth analysis and receive input from the many agencies impacted, and it did not have sufficient time to develop the detailed, thorough testimony that is appropriate for a hearing on these matters in time for the hearing. We are providing the following preliminary comments on the 75-page draft bill but would like to preserve the opportunity to submit additional input on the bill after it is introduced, if necessary. The Department defers to the U.S. Department of Agriculture (USDA) on provisions of the draft bill impacting USDA Forest Service (USFS) programs.

The Biden-Harris Administration recognizes that all Americans are impacted by the heavy burdens that accompany wildfires, which are being made more intense by climate change. The Department works closely with the USFS, states, Tribal Nations, and local communities to reduce wildfire risk and restore the ecological health of our forests and rangelands.

The success of DOI's Wildland Fire Management program is predicated on coordination with our interagency, state, and Tribal partners. These partnerships are vital to the Department's success in carrying out its stewardship responsibilities, particularly fuels management work and post-wildfire restoration efforts; they are also integral to the interoperable approach that is the hallmark of the nation's wildfire response activities.

Any efforts to increase fuels management, or in general improve Wildland Fire Management work, will be more successful with authorization of permanent, comprehensive wildland firefighter pay reform, as proposed and included in legislative proposals accompanying the President's Budgets for Fiscal Years 2024 and 2025.

Title I—Landscape Scale Restoration

Title I, Subtitle A of the draft bill, *Addressing Emergency Wildfire Risks in High Priority Firesheds*, would designate fireshed management areas; establish a Fireshed Center and firesheds registry to support coordinated wildland fire data, science, and technology with Federal and non-Federal partners; facilitate shared stewardship agreements with states and Tribes; and limit National Environmental Policy Act (NEPA) requirements for hazardous fuels treatments in fireshed management areas.

Several provisions of the draft bill align with recommendations made in the Wildland Fire Mitigation and Management Commission Final Report (Report) to Congress. The Report recommends greater cooperation among partners to actively invest in technologies and mitigation strategies to reduce wildfire risk and to increase the pace of scale of hazardous fuels treatments on Federal, non-Federal, and Tribal lands. The Department also notes that there is a nexus between the USDA's 10-year *Wildfire Crisis Strategy*—which identifies the priority firesheds that the discussion draft proposes to designate as fireshed management areas—and the Department's 5-Year *Monitoring, Maintenance and Treatment Plan to Address Wildfire Risk*. Both strategies establish roadmaps for collaboratively addressing wildfire risk and building resilience across landscapes.

The Department would like to work with the Sponsor and the Subcommittee to ensure that the proposed fireshed management areas would be established with DOI data and input and appropriately incorporate landscape prioritization. Similarly, the Department recommends that membership and appointments to the proposed interagency Firesheds Center created by section 102 of the bill be given equal DOI and Tribal consideration. Additionally, there is potential overlap between the responsibilities of the Fireshed Center and the Joint Office for Wildfire Science and Technology that is proposed in the President's Budget for Fiscal Year 2025. The Department is exercising flexibilities under the current suite of management authorities provided by Congress, including implementing procedures for several categorical exclusions for hazardous fuels to reduce wildfire risk and protect commu-

nities, infrastructure, and natural and cultural resources. We remain committed to ensuring that appropriate environmental reviews and analyses are considered for particular projects. The Department would like to work with the Sponsor and the Subcommittee on definitions and other technical changes in this Title to ensure that DOI and Tribal interests, goals, and priorities are addressed.

Subtitle B of Title I, *Expanding Collaborative Tools to Reduce Wildfire Risk and Improve Forest Health*, amends the Agricultural Act of 2014 to allow revenue and payments under Good Neighbor Agreements (GNA) received from timber sales to be retained and used by the applicable Governor, Tribe, or county for restoration services under GNAs and for the administration of GNAs through 2029. Additionally, Subtitle B would amend the Healthy Forests Restoration Act of 2003 to allow the BLM and USFS to enter into stewardship contracting projects to retain and expand existing forest product infrastructure and increase the maximum allowable period for a contract from 10 to 20 years for all contracts. In the event of a cancellation of a contract lasting more than five years, the bill directs the agency to provide 10 percent of the agreement or contract amount to the entity providing services. Lastly, the discussion draft also directs the DOI and USDA to establish intra-agency strike teams to assist NEPA reviews, preparation, and implementation associated with fire management projects within the fire management areas that would be designed by the bill.

As a general practice, the BLM provides full funding for multiyear projects even though the BLM has the authority to fund these contracts incrementally. The BLM notes that providing incremental funding would necessitate the inclusion of cancellation and termination clauses in the event that the BLM is not provided appropriations to fund obligations beyond the current fiscal year. If the BLM awards a contract that is not fully funded at award, requiring a fixed 10 percent cancellation or termination cost may be inadequate in some cases and too much in others, depending on the nature of the project and site. The Department would appreciate the opportunity to work with the Sponsor and the Subcommittee to include a mechanism in the bill that provides suitable cancellation and termination costs.

Subtitle C of Title I, *Addressing Frivolous Litigation*, contains reforms related to litigation of fire management plans; limits the obligation to reinstate consultation under the Endangered Species Act (ESA) on approved BLM land use plans when a new species is listed or critical habitat is designated or new information reveals effects on listed species or critical habitat that were not previously considered; and establishes a discretionary arbitration process pilot program as an alternative dispute resolution process for objections or protests to forest management activities designated by the Secretary concerned. The Department has not had adequate opportunity to review and analyze these provisions and would like to preserve the opportunity to submit additional input on these provisions.

Title II—Protecting Communities in the Wildland Urban Interface

Title II, sections 201-203 of the discussion draft would authorize a DOI Community Wildfire Risk Reduction Program to support interagency coordination in reducing wildfire risk in the wildland urban interface and a Community Wildfire Defense Research Program to promote research and investments into wildfire resistant designs; address wildfire suppression policies; and expand research for community wildfire defense.

The Department welcomes the opportunity to facilitate partnerships with local communities and private entities through the creation of these two programs. However, the Department notes that other Federal agencies may be better suited to implement and administer the proposed Community Wildfire Risk Reduction Program, which we understand to be a broad-based technical assistance and grants program. Furthermore, DOI notes that other Federal agencies, such as FEMA and the U.S. Fire Administration, should be equal partners in the proposed Community Wildfire Defense Research Program considering their ongoing involvement in funding research into wildfire resistant technologies and structures. Finally, although the suppression provisions of Title II, section 202 apply only to the USFS, they have broad implications to interagency wildfire response efforts, present potential legal issues, and—in the long-term—run counter to our collaborative efforts to effectively reduce wildfire risk on Federal and Tribal lands.

Title II, section 204 amends section 512(a) of the Federal Land Policy and Management Act (FLPMA) by changing the definition of “hazard tree” to include trees or parts of trees that, if they fell, would be likely to come within 50 feet, instead of 10 feet, of an electric powerline. Additionally, section 204 would require agency consultation with private landowners when identifying hazard trees for removal on private lands. Finally, section 204 reduces approval timelines for vegetation management, facility inspection, and operation and maintenance plans

from 120 days to 60 and 67 days, respectively, for plans and modifications and, in each case, makes approval automatic at that point.

The BLM is working to protect electric powerlines and associated infrastructure in the event of catastrophic wildfire. In several states, the BLM is coordinating with electrical utility companies to identify areas of high risk for wildfire and is sharing risk assessment data to assist utility companies with identifying areas for vegetation treatments. Consistent with BLM policy, power companies may reduce risk in their rights-of-way (ROW) through local vegetation management plans and maintenance operation plans. Electrical utility companies are not required to notify the BLM of maintenance or mitigation work along the ROW if it is determined there is high risk for wildfire. Pursuant to section 512 of FLPMA, the BLM also published new regulations to address the risks of wildfire to and from powerlines on BLM-managed public lands on April 12, 2024. The Department would like to work with the Sponsor and the Subcommittee to ensure that the bill language is consistent with current regulations and supports amending section 512 to facilitate removal of hazard trees within 50 feet of electric powerlines.

Title II, section 205 of the discussion draft establishes a categorical exclusion for the development and approval of plans submitted under section 512(c)(1) of FLPMA and the implementation of any routine activities conducted under such a plan. The use of this CX would not be allowed in established wilderness areas, nor would it extend to the establishment of a new permanent road. The Secretary would be required to decommission any temporary roads not later than three years after the action is completed. Finally, the activities authorized for the use of the proposed CX would be exempt from section 7 of the ESA, section 106 of the National Historic Preservation Act (NHPA), or any other applicable law.

It is important to note that the BLM already has some CXs that it can rely on for compliance with NEPA for certain projects that facilitate emergency stabilization work after a wildfire and that can be used to manage fuel load and trees which are dead, dying, diseased, injured, or which constitute a safety hazard in certain circumstances. The Department supports the goals of the discussion draft to enhance and expedite actions to reduce wildfire risk in powerline ROWs. However, the Department believes that new CXs are better developed through the established administrative agency process than through legislation. In addition, we are concerned that the proposed CX's waiver of the requirements set forth in the ESA and NHPA, and its exemption from the requirements of all applicable laws, could jeopardize the continued existence of threatened and endangered species, or result in damage to important historic and cultural resources, and have other serious unintended consequences. We would appreciate the ability to provide technical assistance regarding its scope and to clarify whether extraordinary circumstances would apply.

Further Title II, section 206 directs the Secretaries of the Interior, Agriculture, and Defense to jointly develop and submit to Congress the "Seeds of Success" strategy to enhance the domestic supply of seeds, increase interagency coordination, and provide a comprehensive approach to native plant materials development and restoration. The BLM currently has a Seeds of Success Program and a National Seed Strategy for Restoration and Rehabilitation. Additionally, the BLM participates in the Plant Conservation Alliance, a public-private collaboration among 17 federal agency Members and more than 400 non-federal Cooperators working to protect native plants by ensuring that native plant populations and their communities are maintained, enhanced, and restored. The BLM would like to work with the sponsor to increase the capacity and ability of these existing efforts.

Title III—Transparency and Technology

Title III, section 301 of the discussion draft directs USDA and DOI to establish demonstration projects on USFS- and BLM-managed lands to support the development and commercialization of biochar. It also authorizes a competitive grant program to carry out research and development. Biochar is created when plant materials—such as wood, bark, switchgrass and the like (generally referred to as "biomass")—are heated in a low or no oxygen atmosphere. Biomass resulting from fuels reduction treatments or logging activities can be used to produce biochar, which can then be used to enrich soil and sequester carbon that would otherwise be released into the atmosphere if biomass were left aboveground to decompose, or if it were burned.

The BLM has explored uses for biochar as early as 2012 through an agreement with Utah State University, Utah Biomass Resources Group. More recently, in 2023, the BLM and USFS generated biochar from otherwise unusable biomass resulting from the 2020 Holiday Farm Fire in Oregon. The BLM continues to study how biochar can be used to benefit soil as well as the cost of generating biochar relative

to other biomass use alternatives. The Department is open to further research regarding developments of biochar technology and efforts to improve cost efficiency of its use.

Title III, section 302 of the draft bill would establish reporting requirements for hazardous fuels projects and establish a program for testing new wildfire prevention, detection, communications, and mitigation technologies. The Department notes that many of the reporting requirements outlined in section 302 are redundant with metrics that are required by other legislation, do not fully account for annual hazardous fuels acres treated, or may not be currently feasible. We would like to work with the Sponsor and the Subcommittee on modifications to this section to address these issues.

Title III, section 303 would require the DOI and USDA to establish a deployment and Testbed Pilot Program for new and innovative wildfire prevention, detection, communication, and mitigation technologies. The Department notes that it is already investing in innovative technologies to protect communities and the public from wildfire risk. The Department would like to work with the Sponsor and the Subcommittee on technical edits to section 303 of the draft bill to ensure that the definitions of “covered agency” and “covered entity” are sufficiently broad to cover all potential partners and that the key priority technologies and priority areas address current wildland fire management needs.

Indian Tribes and Tribal Lands

Finally, the Department is committed to improving the stewardship of our Nation’s Federal forest lands by strengthening the role of Tribal communities in Federal land management, honoring Tribal sovereignty, and supporting the priorities of Tribal Nations. The Department is concerned that the discussion draft does not provide Tribes with the same opportunities for partnerships as would be available to States. The discussion draft also omits the Bureau of Indian Affairs (BIA) from the bill’s list of Federal land management agencies. The Department notes that Tribes and the BIA collectively manage over 18 million acres of Tribal and allotted trust forest lands, respectively.

Forest and ecosystem health does not stop at the border of Tribal lands, making it imperative that Tribes and the BIA be treated as co-equal to states and other Federal land management agencies. The Department would like to work with the Sponsor and the Subcommittee to ensure parity for Tribes, Tribal lands, and the BIA. The scope of work necessary to reduce wildfire risk in firesheds will require the judicious use of prescribed fire. The cultural use of fire by Tribes is essential and may offer new solutions to ongoing barriers. We also note that the draft bill contains inconsistent terminology related to Tribes and Tribal Governments. The Department would like to work with the Sponsor and the Subcommittee to ensure the proper terms are used in each section to ensure the correct Tribal entity is captured for the intended purpose. Finally, Tribes often have historic, cultural, and spiritual ties and reserved treaty rights to non-Tribal lands, such as state and Federal lands, and we recommend requiring Tribal consultation to ensure that Tribes are afforded the opportunity to provide input on management of non-Tribal lands and on which data is made publicly available.

Conclusion

Thank you for the opportunity to provide this Statement for the Record.

