Written Testimony of
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On S.1470, the "Forest Jobs and Recreation Act of 2009"
Before the Subcommittee on Public Lands and Forests
United States Senate, December 17, 2009

Mr. Chairman and members of the Committee, Happy Holidays and thank you for the opportunity to testify at this important hearing regarding S.1470.

My name is Matthew Koehler and I'm the executive director of the WildWest Institute, a Montana-based conservation group. Our mission is to protect and restore forests, wildlands, watersheds and wildlife in the northern Rockies. We help craft positive solutions that promote sustainability in our communities through jobs restoring naturally functioning ecosystems and protecting communities from wildfire. We also ensure that the Forest Service follows the law and best science when managing our public forests by fully participating in the public decision process and through on-the-ground monitoring.

I'm here today representing the ***Last Best Place Wildlands Campaign***, a coalition of conservation organizations and citizens dedicated to wildlands protection, Wilderness preservation, and the sound long-term management of our federal public lands legacy. Our Montana-spawned coalition includes small-business owners, scientists, educators and teachers, 4th and 5th generation Montanans, hikers and backpackers, hunters and anglers, wildlife viewers, outfitters and guides, veterans, retired Forest Service and Bureau of Land Management officials, ranchers and farmers, former loggers and mill workers, health care practitioners, craftspersons, and community leaders – all stakeholders committed to America's public wildlands legacy.

Our coalition has produced a number of documents, which I have provided at the end of this testimony. I would like to respectfully ask that these documents be included in their entirety in the official record for this hearing. The first document is our coalition's detailed, line-by-line *Analysis of S.1470* (also available at: http://testerloggingbilltruths.files.wordpress.com/2009/12/analysis-of-s-1470.pdf). The second item is *Keeping It Wild! In Defense of America's Wildlands*, which has been signed by fifty conservation groups from Montana and around the country (also available at: http://testerloggingbilltruths.wordpress.com/keeping-it-wild-in-defense-of-americas-public-wildlands).

Summary of S.1470
S.1470 affects over 3 million acres of National Forest System and Bureau of Land Management lands in Montana and contains a nearly bewildering list of new definitions, designations, management practices, required studies, reports and publications. Approximately 680,000 acres are designated as new Wilderness Areas, another 336,000 acres as National Recreation Areas, Protection Areas, Recreation Areas, and Special Management Areas, each with their own management language. Nearly 3 million acres are designated as Stewardship Areas where logging is expressly allowed and encouraged. It mandates that at least 100,000 acres of the Beaverhead-Deerlodge National Forest and the Three Rivers District of the Kootenai National Forest be logged within 10 years as well as an undetermined amount on the Seeley Lake District of the Lolo National Forest.

The findings, purposes and subsequent sections of S.1470 clearly define it as a bill whose primary purpose is promotion of commercial logging through localized management of National Forest System lands. Touted as a bill that is good for the environment, S.1470 would accomplish several conservation goals, including the

designation of new wilderness areas and headwaters protection for several streams important to native fish. S.1470 does contain admirable language for restoration of fish, wildlife and watersheds, and there is a potential to lower road density in some watersheds. However, these restoration goals are optional, unlike the mandated logging, and S.1470 effectively jeopardizes these goals through its action provisions and the methods dictated.

The various sections of the bill have been carefully constructed to affect a desired outcome that would be difficult to challenge through citizen appeals or litigation. For example, Sec. 2(a)(2)(A) "encourages the economic, social, and ecological sustainability of the region and nearby communities." Sec. 2(a)(2)(B) "promotes collaboration," 2(b)(2) declares a major purpose "to reduce gridlock and promote local cooperation and collaboration in the management of forest land." It does this through use of "advisory committees" or "local collaborative groups." Again, this seeks the localization, through private interests, of National Forest System lands. 2(b)(3) states a purpose is enhancement of forest diversity and production of wood fiber to accomplish habitat restoration and generation of a more predictable flow of wood products for local communities. This purpose is later matched with the definitions of the bill to establish commercial logging as the primary means of fish and wildlife habitat restoration. For example, one of the definitions S.1470 uses for restoration is "maintaining the infrastructure of wood products manufacturing facilities."

S.1470 is not a budget-neutral bill. It authorizes practically unlimited expenditures from the U.S. Treasury and other sources, and empowers "Resource Advisory Committees" or "Local Collaboration Groups" to spend federal funds, including on private, non-National Forest System lands. This provision and others in S.1470 give the "Resource Advisory Committees" or "Local Collaboration Groups" sweeping powers that could effectively, if not officially, usurp management and budgetary authority from the Forest Service and grant it to private interests. Professional staff from the Forest Service will be replaced with citizen committees whose members are mandated to include industry groups. S.1470 also authorizes the Secretary of Agriculture to expend taxpayer funds for Fiscal Year 2010 to pay a federal share in construction of "combined heat and power biomass systems that can use materials made available from the landscape-scale restoration projects."

The different funding provisions of the bill raise a real potential for other National Forests and Forest regions to have their funds transferred to projects under S.1470. Pitting one forest against another for funding is unhealthy and does not promote a wholistic, ecosystem approach to public lands management in the Northern Rockies.

It is important to note that in legislation there is specific legal meaning to terms such as "shall" versus "may" or "can." The word "shall" has the force of law, once a bill is enacted and signed into law by the President. Thus, when S.1470 states the Secretary "shall generate revenue," "shall maintain the infrastructure of woods products manufacturing facilities that provide economic stability to communities in close proximity to the aggregate parcel (timber harvest unit) and to produce commercial wood products," it means just that. It will be the law that the Secretary must keep specific, private timber mills open and fed with timber from public lands, at least through the term of authority, if not indefinitely. This is not only an open-ended subsidy, it interferes with free enterprise.

Ultimately, where there is a question of ambiguity, Courts will review a bill's purposes and its legislative history to divine Congress' intent. When purposes conflict, the overall goals of the bill will prevail. When wilderness and ecological restoration are consistently listed last, as they are in S.1470, a Court can be expected to conclude the logging provisions take precedence.

In summary, the S.1470 is a significant departure from traditional wilderness bills. It contains several major precedent-setting provisions potentially detrimental to national public lands management that may be repeated in future bills. These include:

1) Localizing of National Forest management by private, local entities for private profit. Other members of Congress may seek to exploit similar special management for national public lands in their states. This could represent the fragmentation of National Forest system management and regulations to a serious degree and ignores the basic principle that national public lands belong to all Americans, not just those in nearby local communities.

2) Mandated logging of National Forest land is an unscientific override of current forest planning by professional Forest Service staff. The logging mandates greatly exceed the average levels since the 1950s on the Beaverhead-Deerlodge and are an unbelievable 14 times the sustainable level recently calculated by the Forest Service. The mandated logging area includes the Three Rivers District of the Kootenai National Forest, where the endangered grizzly bear population is nearly extinct due to very heavy logging and roadbuilding.

3) Numerous unfunded mandates and blank check spending authority for the Secretary of Agriculture and Secretary of the Interior. Gives "Resource Advisory Committees" or "Local Collaboration Groups" spending authority and allows funds to be drawn from other forests and Forest Service regions to implement S.1470, pitting forests against another for funding. This creates hard feelings and mistrust rather than cooperation. Authorizes the Secretary to build heat and power generating facilities, a new expansion of authority. Mandates numerous studies, reports, plans and publications, and numerous 10-year contracts, competing with other forests in the region for staff time, printing and distribution. Dedicating staff to the numerous reports and planning removes them from other management duties.

4) Contains several provisions that abrogate the Wilderness Act by allowing non-conforming uses including military aircraft landings, motorized access, and other intrusions.

5) Releases numerous Wilderness Study Areas protected by law under S. 393, sponsored by the late Senator Lee Metcalf (D-MT), and releases BLM- administered Wilderness Study Areas that have been protected for more than 30 years.

6) Requires expedited environmental analysis under NEPA and adds new provisions to appeal regulations that place additional requirements on appellants that will limit some citizens' ability to participate in the planning process.

The State of Collaboration in Montana: An On-the-Ground Look

Over the past five years, long before S.1470 was introduced in Congress, open, inclusive and transparent collaborative processes have sprung up on national forests around Montana. From the Kootenai National Forest to the Lolo National Forest, up on the Bitterroot National Forest and over to the Lewis and Clark National Forest, citizens and Forest Service professionals have been rolling up their sleeves, getting out on the ground, sitting around maps, discussing differences, and most importantly, focusing on areas of common ground and agreement.

For example, in January, 2007, thirty-four representatives of conservationists, motorized users, outfitters, loggers, mill operators, state government and the Forest Service held a meeting at Lubrecht Experimental

Forest, facilitated by the National Forest Foundation, to form the **Montana Forest Restoration Committee** (http://montanarestoration.org). All agreed that restoring Montana's forests was a goal worth pursuing.

The result of this open, inclusive, transparent collaborative process was the development of a set of Montana Restoration Principles and Implementation Plan (http://montanarestoration.org) that reflect the integrity, commitment, agreement and honorable work of all these diverse people.

With a goal of working together to achieve good restoration work on the ground, individual Restoration Committees have been formed for the Bitterroot National Forest and the Lolo National Forest (both of which share a border with the Beaverhead Deerlodge National Forest), which include the full spectrum of interests and again, are open, inclusive and transparent in nature.

By all accounts the Lolo and Bitterroot Restoration Committees have been a great success. Not only have tensions been reduced and potential conflicts addressed openly and honestly, but following full environmental analysis by professional land managers with the Forest Service and an open, inclusive public process as required by NEPA, solid restoration and fuel reduction projects are moving forward as a result.

In fact, the US Forest Service has been so impressed with the successful work of the Lolo Restoration Committee, that we received the agency's "*Breaking Gridlock Award*" in 2008. Also, in June 2008, Montana Governor Brian Schweitzer wrote the Lolo Restoration Committee "to express my appreciation for your efforts with the Montana Forest Restoration Committee. Your service on the Lolo Forest Restoration Committee is crucial to finding consensus on restoring the national forests in Montana. I have reviewed and support the Forest Restoration Principles document, and appreciate the unprecedented level of cooperation and partnership that went into this effort."

Make no mistake. If the goal is to get diverse interests working together with the Forest Service to move forward with bona fide fuel reduction work around communities and scientifically-based restoration projects the US Congress doesn't need to undermine NEPA and throw science-based forest planning out the window by mandating logging, as S.1470 proposed. Rather, one just needs to look at the excellent, successful work of the Lolo and Bitterroot Restoration Committees. The proof, as they say, is in the pudding.

For example, just last week an article in the Missoulian titled "*Bull trout, loggers, goshawks benefit in Lolo National Forest timber sale settlement*" included this fact, "The settlement marks a trend of greater cooperation between the Lolo National Forest and its environmental watchdogs...**In the past two years, only two [timber] sales have been appealed, and neither has gone to court.**"

On the Bitterroot National Forest there has been only one lawsuit involving a timber sale since 2002. Let me repeated that fact: **one timber sale lawsuit on the Bitterroot National Forest in the past seven years**. Furthermore, the fact is that right now on the Bitterroot National Forest there are at least 15,000 acres of fuel reduction, thinning and logging projects already through the NEPA process or just about finished.

Ironically, the major impediment for some of these logging projects moving forward is the economic reality that we're in the middle of huge economic crisis and the steepest decline in lumber consumption in US history, with lumber demand down over 50% and new home construction down 70%.

One such project already through the NEPA process is the Trapper Bunkhouse Land Stewardship Project on the

Darby Ranger District of the BNF. The project, which wasn't appealed or litigated, authorizes logging, thinning and fuel reduction work on nearly 5,000 acres of the BNF. The FEIS for this project was issued in April 2008.

Almost a year later I wrote the Darby District Ranger to inquire about the status of this project. On March 19, 2009 I got this response: "**As it stands we may not get any bidders since** a majority of the timber is not tractor ground and **market conditions are bleak**." Hearing nothing for a few more months, I again wrote in July 2009 and got this response from the District Ranger, "**Markets have not improved, in fact have gotten worse so sales in the Bitterroot are not very appealing at this time. We had a pre-bid trip for prospective bidders and did not generate much optimism. There was much interest but current market conditions were prohibitive for them being able to make successful bids.**"

Unfortunately, for whatever reason, these facts about successful open, inclusive, transparent collaborative processes in Montana seem lost on supporters of S.1470. In their sustainable PR push to sell S.1470 to the public they appear willing to just ignore all of this excellent, heartfelt working together to find common ground that's happening in Montana right under their noses.

Instead, Senator Tester and supporters of S.1470 have taken to the airwaves and traveled around the state complaining about all the supposed "gridlock" that's apparently preventing the Forest Service from doing any management of our public lands. Senator Tester even went so far as to tell a Bozeman crowd "lawsuits have stopped forest management cold," (http://bozemandailychronicle.com/articles/2009/09/29/news/10tester.txt). Really? Of course, while such statements might make for good politics, they also look pretty silly when one considers them in the context of the facts outlined above.

Finally, let's be honest and frank here. It's been well documented that the "collaborative process" used by the Beaverhead Partnership was an exclusive, self-selective affair. Unlike the open, inclusive and transparent processes described above in conjunction with the Lolo and Bitterroot Restoration Committees, which have the full support of the Forest Service, the Beaverhead Partnership intentionally excluded the voices and interests that didn't already agree with what three conservation groups and five timber mills had come up with behind closed doors. Not only were many public lands interests excluded at the outset in 2006, but concerns, questions and proposals for improving their plan have been systematically ignored and dismissed. Again, this hardly represents a model "collaborative process" for dealing with public lands management.

This Committee needs to be fully aware that the Beaverhead Partnership proposal that makes up the bulk of S.1470, was not an open, inclusive or honest attempt at finding consensus. Furthermore, these self-serving, disingenuous actions by supporters of S.1470 are having a tremendous negative impact on the future of existing and potential successful efforts to work together and find common ground solutions.

Congress Mandating Logging Levels is Unprecedented, Antithetical to NFMA

S1470 mandates a minimum of 100,000 acres of logging on the Beaverhead Deerlodge (BHDL) National Forest and the Three Rivers District of the Kootenai National Forest. The logging mandates greatly exceed the average acres logged annually on the Beaverhead-Deerlodge National Forest going all the way back to the 1950s (Source: http://www.fs.fed.us/r1/forest_range/timber_reports/silviculture_reports/2008_nharv_rpt.pdf). The mandated cut on the BHDL is also an unbelievable 14 times the sustainable level recently calculated by the Forest Service. The mandated logging area on the Three Rivers District of the Kootenai National Forest, includes core habitat for the endangered grizzly bear, whose populations on the Kootenai is nearly extinct due to very heavy logging and roadbuilding.

Mandated logging of National Forest land is an unscientific override of current forest planning by professional Forest Service staff. The notion that the US Congress should legislate logging levels on a national forest is antithetical to the National Forest Management Act (NFMA) and current national forest planning. There should be little debate in this Committee about the need to use planning and, with it, environmental analysis to establish sustainable allowable sale quantities for national forests reflecting ecological, social and economic concerns. NFMA does not prescribe specific timber sale levels.

No law to my knowledge has ever established or mandated a specific timber harvest level for any national forest. The Ketchikan Pulp Company (KPC) and foreign-owned Alaska Pulp Corporation (APC) timber sale contracts that were a dominant factor in management of the Tongass National Forest decades ago, set some contractual obligations for the Forest Service to provide timber in return for a commitment on the part of the companies to continue to operate pulp mills in the region. But, even under these conditions, the agency had the flexibility to adjust levels of timber offered for sale to reflect changing conditions in the region. The existence of the contracts did obligate the government to offer timber for sale and this did strongly influence how the Tongass was managed. But, even this was not a specific, mandated level of logging as is proposed in S.1470.

Will S.1470 Conflict with Preexisting Agency Mandates, Environmental Laws, and Planning Requirements?

This question was asked by Dr. Martin Nie in a recent commentary about S.1470 (http://www.headwatersnews.org/p.ForestJobsAct092809.html). Dr. Nie is professor of natural resource policy at the University of Montana's College of Forestry and Conservation. He is also a leading expert on Forest Service policy. Here was Dr. Nie's response:

"Forest-specific laws already on the books, like the Tongass Timber Reform Act and the Herger-Feinstein (Quincy Library) Act, have engendered more conflict than consensus partly because of how these laws sometimes fail to fit into the preexisting legal/planning framework. In these and other cases the USFS is forced to walk a statutory minefield with legal grenades thrown from all directions. One way or another, the agency gets sued for either complying with existing environmental laws or for ostensibly subordinating the new place-based one. A quick study of these cases informs us that the answer to forest management might not be another law placed on top of myriad others but rather an untangling or clarification of the existing legal framework."

S.1470 Undermines NEPA, Jeopardizes Safeguards Provided Public Lands

S.1470 undermines the National Environmental Policy Act (NEPA) by imposing an unrealistic and arbitrary 12-month NEPA timeline that would preclude the Forest Service from accurately assessing environmental impacts of road building, logging, habitat loss, water degradation, weed infestation, and other costs of developing public wildlands. S.1470 also adds new provisions to appeal regulations that place additional requirements on appellants that will limit most citizens' ability to participate in the planning process.

S.1470 mandates unsustainable logging quotas regardless of environmental costs, thereby jeopardizing safeguards provided public lands by the Clean Water Act, Endangered Species Act, National Forest Management Act, Wilderness Act, and Federal Land Policy and Management Act. Furthermore, S.1470 disenfranchises public lands stakeholders, by overriding legitimate science-based forest planning that involves full public information and participation. It deprives the public of our rights to be included in irreversible decisions concerning our own land. For example, if S.1470 passes, a Billings, Montana resident who wanted to appeal a timber sale over concerns with mandated logging in prime grizzly bear habitat on the Kootenai

National Forest would be required to drive 500 miles (one way) to voice his/her concerns. Public lands are not merely local fiefdoms to be managed solely for extraction-oriented industries. The public at large must be included in decision-making concerning its own land.

The language contained within S.1470 also raises serious questions regarding judicial review. For example, could citizens challenge the adequacy of an EIS under the mandated 12-month NEPA timeline contained in S.1470? And even if a court finds the NEPA analysis to be inadequate could the court affect the project in any substantive way?

Even Dr. Nie questions whether S.1470 complies with NEPA. In his article sited above, Dr. Nie wrote, "Complying with the National Environmental Protection Act is one big unanswered question in the FJRA. The bill requires the USFS to satisfy its NEPA duties within one year. But without additional support it's hard to fathom the agency meeting this deadline, given that it takes the USFS about three years to complete an EIS. When it comes to meeting NEPA obligations, the USFS needs more funding, leadership, and institutional support, not more law."

Finally, over the course of preparing for this testimony, I've had the unique opportunity to speak directly with Forest Service managers who would be directly affected by S.1470. While these Forest Service managers might not speak out publically, I can assure you that based on my conversations, there is widespread concern within the Forest Service that S.1470 undermines NEPA and the Forest Service's ability to professionally manage our public lands.

By the Numbers: Mandated Logging in S.1470 vs. Historic Logging

What follows is some information compiled from U.S. Forest Service records regarding historical logging on the Beaverhead Deerlodge National Forest (Source: http://www.fs.fed.us/r1/forest_range/timber_reports/silviculture_reports/2008_nharv_rpt.pdf). The info will clearly demonstrate how S.1470, which would Congressionally mandate a minimum of 7,000 acres of logging per year for ten years on the Beaverhead Deerlodge National Forest, would compare with historical logging on this same forest. (Note: prior to their merger in 1996, the Beaverhead and the Deerlodge were separate forests).

From 1959-1996 the Beaverhead NF averaged 1621 acres of logging per year. The greatest acreage logged on the Beaverhead NF in that time period was 4168 acres in 1987.

From 1954-1996 the Deerlodge NF averaged 1592 acres of logging per year. The greatest acreage logged on the Deerlodge NF in that time period was 4332 acres in 1971.

The average acres logged per year for the Beaverhead and Deerlodge forests combined from 1954-1996 was 3213 acres/year.

The most acreage ever logged in a single year since 1954 on both forests combined was in 1971, when 7013 acres were logged. The next highest total was in 1966 at 5813 acres. These years were also prior to our nation having environmental laws such as the National Environmental Policy Act and the National Forest Management Act. Remember, S.1470 would Congressionally mandate a minimum of 7,000 acres of logging per year for ten years on the BHDL NF. That amount of logging per year is not only more than double the historical average on these forests, but it's the most amount of logging ever, except for one single year.

Dr. Thomas Michael Power, former chair of the Economics Department at the University of Montana, where he

currently serves as a Research Professor, looked into this very issue for recent commentary on Montana Public Radio (http://www.mtpr.net/commentaries/753) and had this to say:

"Between 1967 and 1989, when the Forest Service was still largely unhindered by environmental concerns and harvested record numbers of trees, the average acreage harvested on the Beaverhead-Deerlodge National Forest was about 4,000 acres. The Tester bill would seek to force a harvest level two-thirds higher than that previous unfettered average harvest level."

Unfunded Mandates, Stewardship Contracting and How Will S.1470 Be Paid For?
According to recent estimates, it costs U.S. taxpayers at least $1,400 per acre to log in the Beaverhead-Deerlodge National Forest. S.1470 fails to address at least $100 million in costs to U.S. taxpayers that would be incurred by the Forest Service for subsidizing "below-cost" timber sales and power plants for the few specially-privileged timber corporations involved.

One major concern with S.1470 is the notion from supporters that money generated from "stewardship contracting" timber sales will pay for the significant amount of needed restoration work. The Committee should understanding that over the past decade, this strategy has largely failed to pay for much restoration work in the northern Rockies, even when lumber demand and lumber prices were high.

For example, on January 2, 2009 the *Missoulian* ran an article in which the Forest Service acknowledged that much of the $100 million worth of "shovel ready" projects in Montana and Idaho involve "cleaning up streambeds, obliterating roads, reclaiming abandoned mines, noxious weed control and other cleanup work left unfinished from previous [stewardship contracting] timber operations."

That's right, the logging part of these "stewardship contracting" timber sales got finished, but tens of millions in restoration work remained unfunded. And again, keep in mind that all this "work left unfinished from previous timber operations" was building up when lumber demand and lumber prices were at their peak. Now that lumber demand is down 55% and lumber prices are near historic lows, just how will "stewardship contracting" pay for all restoration work promised by supporters of S.1470?

Again, Dr. Nie delves into this issue quite deeply in his article referenced above:

"The FJRA would be primarily implemented and paid for by using stewardship contracting. This tool's popularity stems partially from the highly uncertain congressional appropriations process, a process that chronically underfunds the USFS and its non-fire related responsibilities and needed restoration work. But on the Beaverhead-Deerlodge, there are serious questions as to whether there is enough economic value in this lodgepole pine-dominant forest to pay for the restoration work. As a safety valve, the FJRA authorizes spending additional money to meet its purposes, but there is no guarantee that such funds will be appropriated, or if so, they wouldn't come from another part of the agency's budget.

The question, then, is what happens if such envisioned funds don't materialize? Will money be siphoned from other national forests in order to satisfy the mandates of the FJRA? Consider, for example, the White Mountain stewardship project in Arizona. The Government Accountability Office (GAO) found that this project incurred greater costs than expected and such costs have "taken a substantial toll on the forest's other programs." Furthermore, some other fuel-reduction projects were not completed because their funding sources were being "monopolized" by the White Mountain project. Other national forests in the region also paid a price to service

the terms of this contract, and "[a]s the region has redirected funds toward the White Mountain project, these other forests have become resentful of the disproportionate amount of funding the project has received.

The place-based law approach could move the national forests closer to a Park Service model, where state congressional delegations sometimes treat parks like their own fiefdoms, exercising inordinate control over a unit via committee and purse strings. And at the risk of getting ahead of myself, the approach brings to the fore other budget-related questions. Will senior congressional delegations be more successful in securing funding for place-based laws in their states? Will it create a system of "haves" and "have nots" in the national forest system? And perhaps most important, would these budgetary situations benefit the national forest system as-a-whole?"

We're in a Wood Products Depression

I don't have to remind anyone on this Committee of the serious nature of the economic crisis currently gripping this country. Decades and decades of over-consumption and over-development have finally taken their toll, leaving our economy bruised and battered. If the sobering economic headlines of the past few years teach us one thing it should be that much of our current economic system is significantly flawed and that a new economic model – based on the principles of sustainability – is desperately needed.

The timber industry has been hit particularly hard by this economic crisis. After all, America is experiencing the worst housing slump since the Great Depression and the steepest decline in lumber consumption ever. Here are some sobering numbers from the Western Wood Products Association (WWPA) for the Committee to consider:

Lumber consumption in America has dropped over 55% since 2005. Housing starts in America are currently down 70% from the peak in 2005. The last time housing starts in America were so low was 1942 to 1945, during the middle of WWII, when most of America's resources and labor-power were directed at the war effort.

According to a presentation WWPA gave at the 2009 annual meeting of Oregon's industrial forest landowners, currently, there is an inventory of unsold homes nationally equivalent to a 7.6 months supply. Furthermore, total foreclosures for 2009 are expected to top 1 million, pushing the pre-occupied home supply out even further.

While some forecasters are calling for some sort of a housing "rebound," starting in 2012, it's important to understanding that their predictions for 1 million house starts per month by 2012 will still be just 50% of the 2 million house starts per month we saw at the peak in 2005. This is another indication that a recovering economy is not necessarily a strong economy and that U.S. lumber consumption will remain depressed for years to come.

Given all these profound economic realities one really must question the wisdom of Congress stepping in to mandate logging when lumber demand and housing starts look to remain near historically low levels for years to come.

Wilderness, Wilderness Study Areas and Roadless Wildlands

S.1470 specifically eliminates from mandated protection large portions of the late Montana Senator Lee Metcalf's wildlands legacy, Congressionally designated as Wilderness Study Areas in 1977 by his farsighted bill, S. 393. By eliminating this protection, the S.1470 opens these priceless public wildlands for road building, logging, and other development.

S.1470 promotes numerous abuses that are clearly in violation of the 1964 Wilderness Act, including motorized access into and through "wilderness," military aircraft landings in "wilderness," possible "wilderness" logging,

and other intrusions that violate the principles of Wilderness.

This bill undermines the overwhelmingly popular Clinton Roadless Rule and Obama Roadless Initiative. Of the 17,429 Montanans who commented on the 2001 Roadless Rule, 78% were in favor of backcountry protection. Unfortunately, over one million acres of federally-inventoried roadless wildlands protected under the Roadless Rule and the Roadless Initiative would be classified in S.1470 as "***Timber Suitable or Open to Harvest.***"

Conclusion

Thank you again for the opportunity to provide testimony on S.1470. Our coalition believes that, despite the best intentions of Senator Tester, this bill represents a serious threat to America's public lands legacy. The mandated logging provisions within the bill are unprecedented and the very notion that the U.S. Congress should legislate logging levels on a national forest is antithetical to the National Forest Management Act and current national forest planning. S.1470 undermines the National Environmental Policy Act by imposing an unrealistic and arbitrary 12-month NEPA timeline, which would preclude the Forest Service from accurately assessing environmental impacts of the mandated logging. For these, and the other numerous reasons presented in this testimony and our analysis in great detail, we ask that you oppose S.1470. I look forward to answering any questions that you may have and thank you for the opportunity to testify at this important hearing.

We respectfully request that this document be included in its entirety in the official record for this hearing.

KEEPING IT WILD!
IN DEFENSE OF AMERICA'S PUBLIC WILDLANDS

United by our common understanding that Montana's wild country is its greatest treasure;

And, that once degraded or impaired, this wild country can never be restored or replaced;

And, cognizant of Thoreau's belief that "In wildness is the preservation of the world;"

And, schooled by Aldo Leopold who long ago warned that wilderness can only shrink and not grow;

And, keenly aware of the definition of wilderness in the Wilderness Act of 1964 as being "untrammeled by man," ıere "man himself is a visitor who does not remain;"

And, fully recognizing that the Northern Rockies ecosystem is the only functioning ecosystem in the lower 48 states ıere all native species still reside;

And, being of one mind in our desire and determination to protect and preserve what remains of our public wildlands ɜ greatest extent possible;

We hereby state our intention to work together to achieve the most inclusive and comprehensive protection under the w for all remaining publicly-owned de facto wilderness in Montana.

In full affirmation of the above and, after having been unsuccessful in our earnest efforts to improve Sen. Tester's so-lled "Forest Jobs and Recreation Act," or "S. 1470," we must now unanimously oppose this bill.

The bases for our opposition are exhaustively catalogued in separate analyses and papers, but we submit this ındational document to concisely articulate our chief objections. They are as follows:

The Tester bill specifically eliminates from mandated protection large portions of the late Senator Lee Metcalf's wildlands ɡacy, Congressionally designated as Wilderness Study Areas in 1977 by his farsighted bill, S. 393. By eliminating this ɔtection, the Tester bill opens these priceless public wildlands for road building, logging, and other development.

The Tester bill undermines the overwhelmingly popular Clinton Roadless Rule and Obama Roadless Initiative. Over one llion acres of federally-inventoried roadless wildlands protected under the Roadless Rule and the Roadless Initiative would classified as "***Timber Suitable or Open to Harvest.***"

The Tester Bill surrenders decisions about our national forests to a handful of local bureaucrats and extraction-oriented rporations, thereby promoting fragmentation of America's national public lands legacy into locally controlled fiefdoms.

The Tester bill undermines the National Environmental Policy Act by imposing unrealistic and arbitrary requirements that ɛclude the Forest Service from accurately assessing environmental impacts of road building, logging, habitat loss, water gradation, weed infestation, and other costs of developing public wildlands.

The Tester bill mandates unsustainable logging quotas regardless of environmental costs, thereby jeopardizing safeguards ɔvided public lands by the Clean Water Act, Endangered Species Act, National Forest Management Act, Wilderness Act, d Federal Land Policy and Management Act.

In its effort to isolate decisions to log wildlands from national attention, the Tester bill disenfranchises public lands ıkeholders, by overriding legitimate science-based forest planning that involves full public information and participation. I prives the public of our rights to be included in irreversible decisions concerning our own land.

The Tester bill mandates cutting at least 100,000 acres over 10 years. It dictates at least 7,000 acres be logged per year fo years in the Beaverhead-Deerlodge National Forest. In recent years, the Forest Service has set its sustainable cut level for e Beaverhead-Deerlodge National Forest at 500 acres per year. In past years, when the Forest Service was dedicated to etting the cut out," an average of 3,213 acres per year was logged, from 1954 to 1996, in the Beaverhead-Deerlodge Natio rest. On the Three Rivers Ranger District of the Kootenai National Forest, Tester's bill mandates logging of 3,000 acres pe ar for 10 years in fragile Yaak grizzly bear habitat, already severely damaged by decades of overcutting. While logging at ıst 100,000 acres would be compulsory, the Tester bill contains no accompanying mandates for restoration, leaving all post gging reclamation and forest restoration optional.

The Tester bill fails to address at least $100 million in costs to U.S. taxpayers that would be incurred by the Forest Service subsidizing "below-cost" timber sales and power plants for the few specially-privileged timber corporations involved. Th l interferes with free enterprise by mandating that five favored private mills be subsidized with perpetual supplies of natio est trees, at huge economic costs to taxpayers. The bill ignores the financial realities that the United States currently face: onomic crises and a lumber "depression," with new home construction down 70 percent and demands for lumber down 55 rcent.

By forcing unsustainable industrial-scale logging upon our public lands, the Tester bill would irrevocably harm essential bitat of species that characterize the wild nature of the northern Rockies, such as the gray wolf, bull trout, cutthroat trout Montana's official state fish), otter, mountain goat, mountain sheep, elk, arctic grayling, northern goshawk, boreal owl, eated woodpecker, ferruginous hawk, Montana vole, sage thrasher, wild bison, peregrine falcon, bald eagle, pine marten, her, lynx, wolverine, and grizzly bear (Montana's official state animal).

. The "wilderness" areas in the Tester bill are fragmented and unconnected islands of largely "rocks and ice," with limited ological integrity and no potential for sustaining biodiversity. The minimal "wilderness" designated in the bill fails to otect different elevation habitats and their dependent species with core areas, buffer zones, and connecting biological rridors. The bill promotes numerous abuses that are clearly in violation of the 1964 Wilderness Act, including motorized cess into and through "wilderness," military aircraft landings in "wilderness," possible "wilderness" logging, and other rusions that violate the principles of Wilderness.

ıe to these severe deficiencies, we intend to see that the Tester bill is not endorsed by Congress. Instead, we will nstructively stand for a scientifically-sound, ecologically-based Wilderness Bill that preserves the greatest amount of our ıceless and rapidly-vanishing public roadless wildlands in Montana.

e, the following, are conservation organizations and citizens dedicated to wildlands protection, Wilderness preservation, a e sound long-term management of our federal public lands legacy. Our coalition includes small-business owners, scientist ucators and teachers, health care practitioners, hikers and backpackers, hunters and anglers, wildlife viewers, outfitters a ides, veterans, retired Forest Service and Bureau of Land Management officials, ranchers and farmers, craftspersons, and mmunity leaders – all stakeholders committed to America's public wildlands legacy.

Alliance for the Wild Rockies (MT)
Big Wild Advocates (MT)
Buffalo Field Campaign (MT)
Conservation Congress (MT)
Deerlodge Forest Defense Fund (MT)
Friends of the Bitterroot (MT)

Friends of the Rattlesnake (MT)
Friends of the Wild Swan (MT)
Swan View Coalition (MT)
Western Montana Mycological Association (MT)
Western Watersheds Project (MT)
Wilderness Watch (MT)
WildWest Institute (MT)
Allegheny Defense Project (PA)
Bark (OR)
Big Wildlife (OR)
Biodiversity Conservation Alliance (WY)
Buckeye Forest Council (OH)
Caney Fork Headwaters Association (TN)
Cascadia Wildlands (OR)
Center for Biological Diversity (AZ)
Center for Sustainable Living (IN)
Citizens for Better Forestry (CA)
Clearwater Biodiversity Project (ID)
Cumberland Countians for Peace & Justice (TN)
Dogwood Alliance (NC)
EcoLaw Massachusetts (MA)
Ecosystem Advocates (OR)
Environmental Action Committee of West Marin (CA)
Green Press Initiative (MI)
Friends of Bell Smith Springs (IL)
Friends of the Breitenbush Cascades (OR)
Friends of the Clearwater (ID)
Heartwood (IN)
Hells Canyon Preservation Council (OR)
John Muir Project (CA)
Kentucky Heartwood (CA)
League of Wilderness Defenders (OR)
Native Forest Council (OR)
Network for Environmental & Economic Responsibility, United Church of Christ (TN)
Protect Arkansas Wilderness! (AR)
Public Employees for Environmental Responsibility (PEER) (DC)
RESTORE the North Woods (ME)
Save America's Forests (DC)
Selkirk Conservation Alliance (WA)
Umpqua Watersheds (OR)
Utah Environmental Congress (UT)
Western Lands Project (WA)
WildEarth Guardians (NM)
WildSouth (NC)

Analysis of S. 1470

Introduction

The Forest Jobs and Recreation Act (FJRA) was introduced in the U.S. Senate by Senator Jon Tester (D-MT) and assigned bill number S. 1470. A line-by-line analysis of S.1470 has been commissioned by the **Last Best Place Wildlands Campaign** – a coalition of conservation organizations and citizens dedicated to wildlands protection, Wilderness preservation, and the sound long-term management of our federal public lands legacy. **We respectfully request that this analysis be included in its entirety in the official record for this hearing.**

In this analysis, actual language from S. 1470 is in Times Font. Analysis and recommendations are indented and in Helvetica Font.

Preamble

A BILL

To sustain the economic development and recreational use of National Forest System land and other public land in the State of Montana, to add certain land to the National Wilderness Preservation System, to release certain wilderness study areas, to designate new areas for recreation, and for other purposes. *Be it enacted by the Senate and House of Representatives of the United States of America assembled,*

Sec. 1 SHORT TITLE; TABLE OF CONTENTS

Sec. 1(a) SHORT TITLE— This Act may be cited as the "Forest Jobs and Recreation Act of 2009."
Sec. 1(b) TABLE OF CONTENTS (omitted)

SEC. 2. FINDINGS; PURPOSES-

Sec. 2(a) FINDINGS— Congress finds that—
(1) forest restoration would— (A) improve the habitats of fish and wildlife, including several species of fish and wildlife that are threatened or are otherwise of concern: (B) reduce wildfire management costs by reestablishing natural fire regimes outside of a wildland-urban interface; (C) improve the protection of property and homes within the wildland-urban interface; and (D) demonstrate the manner by which— (i) such actions can help achieve ecological and watershed health objectives; and (ii) the use of forest restoration by-products can offset treatment costs while benefiting local rural economies; and
(2) this Act— (A) encourages the economic, social, and ecological sustainability of the region and nearby communities; and (B) promotes collaboration and recognizes the positive relationship between wilderness, forest restoration activities, and communities by addressing multiple activities across a landscape, including—

(i) the implementation of forest restoration; (ii) the development of biomass utilization systems that include combined heat and power generation; and (iii) the permanent protection of backcountry areas.

Sec. 2(b) PURPOSES— The purposes of this Act are—
(1) to sustain the economic development and recreational use of National Forest System lands and other public land in Montana;
(2) to reduce gridlock and promote local cooperation and collaboration in the management of forest land;
(3) to enhance forest diversity and produce wood fiber— (A) to accomplish habitat restoration through the use of stewardship forestry practices; and (B) to generate a more predicable flow of wood products for local communities of the State;
(4) to increase fish and wildlife populations and better protect and restore key watersheds and habitats;
(5) to improve the management of wildland fires;
(6) to reduce the size and severity of uncharacteristic forest fires on forest land to enhance the protection of private land, homes, and communities located adjacent to the affected forest land;
(7) to permanently protect and enhance motorized recreational opportunities in the Beaverhead-Deerlodge National Forest, the Lolo National Forest, and the Kootenai National Forest; and
(8) to protect and enhance the wild heritage and backcountry traditions of the State through – (A) the addition of certain land to the National Wilderness Preservation System; and (B) the management of other land in a manner that preserves existing primitive and semiprimitive recreational activities.

ANALYSIS of Sec. 2—

The language of Sec. 2 revives the "community stability" model the wood products industry advocated as the chief purpose of the National Forest System. This program, in which the Forest Service actively encouraged mills to be built and supplied with public trees, is well documented as an economic failure that has resulted in severe economic disruption and hardship to countless communities across the West.

The findings and purposes of the bill clearly define the Act as a bill that promotes commercial logging through localization of National Forest System lands. The findings in 2(a)(1)(B) are also debatable in terms of whether it is a realistic goal to "reduce wildfire management costs by reestablishing natural fire regimes outside of a wildland-urban interface." What is a natural fire regime? The bill does not provide an answer. 2(a)(1)(C) "improve the protection of property and homes within the wildland-urban interface," is also questionable. It is not the obligation of the Forest Service to protect private property on private lands. 2(a)(1)(D)(ii) repeats a common theme in the FJRA, "the use of forest restoration by-products can offset treatment costs while benefiting local rural economies."

Sec. 2(a)(2)(A) "encourages the economic, social, and ecological sustainability of the region and nearby communities." This further defines the bill's purpose of localizing control of National Forest System lands. Sec. 2(a)(2)(B) "promotes collaboration," and through (ii) "the development of biomass utilization systems that include combined heat and power generation." This would establish a new use for National Forest System lands and again harkens back to community stability by developing new "mills", this time in the form of heat and power generation plants relying on wood fiber from National Forest lands. Thus, in addition to serving

local lumber mills with public trees, the bill aims to make public trees available to supply heat and power plants.

Sec. 2(b)(2) declares a major purpose "to reduce gridlock and promote local cooperation and collaboration in the management of forest land." It does this through use of "advisory committees" or "local collaborative groups." Again, this seeks the localization of National Forest System lands.

Sec. 2(b)(3) states a purpose is enhancement of forest diversity and *production of wood fiber to accomplish habitat restoration and generation of a more predictable flow of wood products for local communities.* This purpose is later matched with the definitions of the bill to establish commercial logging as the primary means of fish and wildlife habitat restoration.

Sec. 2(b)(4) to increase fish and wildlife populations and better protect key watersheds and habitats.

It is not until Sec. 2(b)(8) that FJRA declares a purpose is protection of the wild heritage, backcountry traditions and wilderness. Thus, wilderness designation of the inventoried roadless areas protected under the Clinton Roadless Rule and S. 393, the Montana Wilderness Study Act sponsored by the late Montana Senator Lee Metcalf, may be viewed as the least important purpose of the bill, outranked by such purposes as "sustaining economic development;" "reducing gridlock and promoting local cooperation and collaboration;" "enhance forest diversity and produce wood fiber;" "generate a more predictable flow of wood products for local communities;" "permanently protect and enhance motorized recreational opportunities."

Taken in sum, the Findings and Purposes represent the sub-text of the bill, which is to install local control over the management of national public resources and accomplish restoration through production of wood fiber.

RECOMMENDATIONS for Preamble & Sec. 2—

Well over 90% of Montanans supported the Clinton Roadless Rule and the protection of all inventoried roadless areas on National Forest System lands. In view of public sentiment, the chief purpose should be "the permanent protection of Wilderness and primitive recreation." References to economic and community stability should be removed from the legislation's purposes. Wilderness legislation should remain de-coupled from logging issues and objectives.

The bill's preamble should be rewritten to delete "sustain the economic development and recreational use of National Forest System land and other public land in the State of Montana," and delete "to release certain wilderness study areas."

Sec. 2(a) (1)(B), (C), and (D) should be removed.

Sec. 2(b)(1), (2), (3), (5), (6), and (7) should be removed. 2(b)(8) should be renumbered 2(b)(1) and 2(b)(4) should be renumbered 2(b)(2).

Sec. 2(a)(2) (A) and (B) should be removed and this section should read as follows:
Sec. 2(a)(2) this Act— promotes and encourages— (i) the permanent protection of Wilderness and primitive recreation; (ii) the implementation of wildlands and watershed restoration;

Sec. 3. DEFINITIONS—

This section begins with standard definitions for the Beaverhead-Deerlodge National Forest, Forest Plans, Game Carts, the Secretary Concerned (Agriculture for National Forest System lands, Interior for Bureau of Land Management lands), and the State of Montana. Sec. 3(6) defines the Wildland-Urban Interface as the meaning given in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

Title I- STEWARDSHIP AND RESTORATION—

Sec. 101- DEFINITIONS— In this title:

(1)ACCESS ROAD— The term "access road" means a road constructed in conjunction with a landscape-scale restoration project that is— (A) reclaimed, or converted into a recreational trail, as soon as practicable, but not later than 5 years, after the date on which the road is constructed; and (B) fully recontoured, including the removal of the road prism, landings, and each crossing feature of the road (including any culverts and bridges of the road).

Sec. 101(7)(A) at page 11 defines a Permanent Road as a road in which the road prism of the road remains permanently in place following the construction of the road. Sec. 101(7)(B) excludes Access Roads and relocated permanent roads. The latter are defined in Sec. 101(8) as roads that are relocated to address a resource problem if—the relocated road provides access to each destination that it did prior to relocation (presumably to cover relocated sections of road rather than entire road routes). The replaced roads are then to be recontoured, seeded and abandoned.

Sec. 101(2) defines AGGREGATE PARCEL as the cumulative area of land on which a timber harvest activity is conducted.

Sec. 101(3) defines COOPERATIVE PROJECT as a project (A) that is consistent with section 323 of the Department of Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011 note; Public Law 105-277); (B) authorizes parties to a watershed restoration or enhancement agreement to spend appropriated funds on projects on private or public land that benefits the resources of National Forest System land.

Sec. 101(4) describes the term "Fund" to mean the Collaborative Forest Landscape Restoration Fund established by section 4003(f) of the Omnibus Public Lands Management Act of 2009 (16 U.S.C. 7303(f)).

Sec. 101(5) describes landscape-scale as meaning a landscape-scale project carried out in a watershed or sub-watershed of at least 50,000 acres.

Sec. 101(6) defines landscape-scale restoration projects as one that is- planned and carried out on a landscape-scale through the use of a stewardship contract or on the Seeley Lake Ranger District of the Lolo National

Forest, any other contracting mechanism that the Secretary concerned determines to be the most effective in achieving the goals of this Act. These projects will be "carried out in an area comprised primarily of forested National Forest System land (but which may also include land under the jurisdiction of the Bureau of Land Management, land under the jurisdiction of the Bureau of Indian Affairs, or other Federal, State, tribal, or private land."

Section 101(6)(I), at page 9, defines the methods to be used to achieve the landscape-scale projects. Subsection (aa) a combination of commercial and noncommercial vegetative management techniques, including (AA) prescribed burning; (BB) tree removal; (CC) the piling and burning of slash; and (DD) any other silvicultural technique that incorporates ecological restoration goals; and (bb) any other restoration technique (including invasive species mitigation) or tool that the Secretary concerned determines to be appropriate;

Sec. 101(II) states: "to reclaim, or if appropriate convert into recreational trails, roads that are no longer needed or maintained as of the date of the enactment of this Act."

Sec. 101(III) states restoration of fish and wildlife habitat is through prescribed burning that is "carried out to mimic natural fire appropriate to specific forest types;" (IV) to replace or resize culverts; (V) generate revenue for the investment of funds in fish and wildlife restoration and maintenance initiatives, and (VI) "to maintain the infrastructure of wood products manufacturing facilities that provide economic stability to local communities of the State."

At subsection (B) at page 11, INCLUSION states "The term "landscape-scale restoration project" includes any activity carried out in a stewardship area in accordance with this Act."

Sec. 101(7)(A) & (B) and Sec. 101(8) defines PERMANENT ROADS, EXCLUSIONS AND RELOCATED PERMANENT ROAD as previously described above.

Sec. 101(9) RESTORATION ACTIVITY-
Section 101(9)(A) Defines "restoration activity" as a "stewardship activity that promotes ecological health; habitat restoration; water quality restoration; sediment control or reduction; forest stand structure; endangered species protection; adaptation to climate change."

Section 101(9)(B) adds that the term "restoration activity" includes- "road relocation and closures; culvert and bridge replacements; stream restoration and bank stabilization; invasive species management; trail head and campground improvements; understory removal and vegetation treatments; tree planting; precommercial thinning; commercial timber harvesting; prescribed burning; trail reclamation and relocation; other stewardship activities that incorporate ecological restoration strategies determined by the Secretary concerned."

Sec. 101(10) simply defines the Seeley Lake Ranger District on the Lolo National Forest.

Sec. 101(11) STEWARDSHIP AREA-
Sec. 101(11)(A) defines "stewardship area" as a parcel of land on the Beaverhead-Deerlodge National Forest that is designated on the Revised Forest Plan maps as "Suitable for Timber Production and Timber Harvest is Allowed." This area comprises 1.9 million acres.

Sec. 101(11)(B) defines "stewardship area" on the Seeley Lake Ranger District to be a parcel of land "selected by the Secretary concerned; consistent with the forest plan; suitable for timber production; eligible for timber harvest activities."

Sec. 101(11)(C) uses the same definition as (11)(B) only applied to the Three Rivers Ranger District on the Kootenai National Forest.

Sec. 101(12) STEWARDSHIP CONTRACT-
Sec. 101(12(A) defines stewardship contract as a contract that is authorized under section 332 of the Department of the Interior and Related Agencies Appropriations Act, 2002 (16 U.S.C. 2104 note; Public Law 107-63).

Sec. 101(12)(B) states such contracts are "entered into by 2 or more parties- (i)to carry out vegetation treatment including mechanical treatment using commercial timber harvest of vegetation; (I) to reduce fire and insect risks; (II) to restore impaired watersheds; (III) to enhance fish and wildlife habitats; or (IV) to reduce road densities; and (ii) under which a party shall—(I) offset the value of goods (including timber for services); (II) retain and reinvest receipts resulting from landscape-scale restoration project that is the subject of the contract in the same or a different landscape-scale restoration project that is located in a stewardship area; (III) designate timber for cutting by description or prescription; and (IV) enter into a multi-year contract, the period of which shall not exceed 10 years."

Sec. 101(13) simply defines the Three Rivers Ranger District on the Kootenai National Forest.

Sec. 101(14) defines VEGETATION MANAGEMENT as meaning any restoration activity involving vegetation.

ANALYSIS of Sec. 101—

This section is not well-organized and splits the definitions of roads into separated sub-sections whereas it would be more understandable if they were listed all together in one subsection titled ROADS.

Sec. 101(2) re-defines timber harvest areas or cutting units by calling them "Aggregate Parcels."

Sec. 101(3) appears to give the Resource Advisory Committees described later in the FJRA the authorization to spend federal funds, including on private, non-National Forest System lands. This gives the Resource Advisory Committees sweeping powers that could well usurp management and budgetary authority from the Forest Service.

Sec. 101(4) "Fund" contains a definition that opens all other National Forests and Forest Region budgets to implement the provisions of the FJRA. This could result in serious competition, mistrust, and hard feelings, rather than cooperation. This is detrimental to the wholistic management of National Forest System lands in the Northern Rockies and elsewhere.

Sec. 101(5) uses a definition that inappropriately usurps the term “landscape-scale,” which has specific connotations in the fields of science and conservation biology. It is a term usually used in association with ecological processes, or conservation, not projects involving commercial timber harvest.

Sec. 101(6) paints a broad brush with respect to lands that this bill covers, to include in addition to National Forest System and BLM lands, other Federal, State, Tribal, or private land. It also specifies that the land must be forested. Therefore, there is an inherent bias towards restoration projects that produce timber. Grasslands and other big-game habitat will be exempt since it is non-forested and unable to produce timber.

Sec. 101(I) defines landscape-scale restoration as almost exclusively logging. For example, “commercial and non-commercial vegetative management” appears to mean logging. “Tree removal” and “piling and burning of slash” is definitely logging-related, and “any other silvicultural techniques that incorporates ecological restoration goals;” also means logging. Silviculture is defined in Webster’s as “cultivation of forest trees; forestry.” Other restoration techniques are listed last and presumably are not meant to receive emphasis over logging mechanisms.

Sec. 101(II) does not characterize the roads that might be reclaimed. Are they “Access Roads” or “Permanent Roads?” If converted into recreational trails, will motorized use be allowed?

Sec. 101(III-VI) contains a lot of problematic language. For example, once again restoration is defined as logging or directly tied to logging practices. Restoration of fish and wildlife habitat means prescribed burning, replacement or resizing of culverts rather than removal, which is the number one need of native fish in many watersheds. Restoration must “*generate revenue”*, presumably from receipts from commercial logging. Finally, in a wild departure from any previous definitions of ecosystem and fish and wildlife restoration, FJRA defines restoration as *“maintaining the infrastructure of wood products manufacturing facilities.”*

Subsection (B) INCLUSION at page 11 appears to redefine term “landscape-scale restoration project,” to include a stewardship area.

Sec. 101(9) begins by describing goals normally associated with restoration including habitat and water quality restoration and endangered species protection. Yet it contradicts these goals by again describing commercial timber harvesting and precommercial thinning as restoration. It is also a stretch to claim that campground and trailhead improvements qualify as ecological restoration. Thus, any receipts generated from “landscape-scale restoration projects” may be detoured to construct toilets, RV hookups, and other amenities rather than funding restoration activities.

RECOMMENDATIONS FOR SEC. 101—

Sec. 101 needs to be totally rewritten to remove the offending provisions and language cited above, particularly the definitions of restoration and the funding provisions.

Sec. 3(6) uses an inaccurate definition for “Wildland-Urban Interface.”
Sec. 101(2), (3)(B), (4), (5), and (6) should be removed. Sec. 101(9) (v) should be removed. Sec. 101(9)(B)(v) should be removed. Sec. 101(9)(B)(ii) should be amended to read “culvert and bridge removals or replacements.” Sec. 101(9)(vi), (viii), (ix), and (xii) should be removed. Sec. 101(11) and (12) should be removed.

SEC. 102- STEWARDSHIP AND RESTORATION PROJECTS-

Sec. 102(a)(1) states that the Secretary concerned shall select areas on which to carry out landscape-scale restoration projects consistent with laws, regulations and forest plans.

Sec. 102(a)(2)(b) states “the Secretary concerned, in coordination with applicable advisory committees or local collaborative groups, shall give priority to areas” on the Beaverhead-Deerlodge National Forest that (i) exceed 1.5 miles of road per square mile of land; (ii) the habitat connectivity of which are compromised as a result of past timber harvest patterns on the parcels of land; (iii) that contain forests that are at high risk from insect epidemics or high-severity wildfires, as determined by the Secretary concerned.

Sec. 102(B) states that on the Seeley Lake and Three Rivers Ranger Districts on the Lolo and Kootenai National Forests, priority is given to (i) portions of a project contain a road density that exceeds the objectives of Grizzly Bear Management Units; (ii) a reduction in road density would benefit affected wildlife.

Sec. 102(b) PLANNING;IMPLEMENTATION
Sec. 102(b)(1) states “the Secretary concerned shall plan, and issue a record of decision for, 1 or more landscape-scale restoration projects that shall be implemented on parcels of land selected by the Secretary concerned under subsection (a).”

Sec. 102(2) REQUIREMENTS.
Sec. 102(2)(A) ROAD AND MOTORIZED TRAIL DENSITY.

Sec. 102(2)(A)(i) and (ii) states that each landscape-scale restoration project carried out under the FJRA on the Beaverhead-Deerlodge National Forest shall not result in a road and motorized trail density in excess of 1.5 mi/mi2 and such projects located within the Grizzly Bear Management Units on the Seeley Lake and Three Rivers Ranger Districts, may not exceed the road density objectives of the Grizzly Bear management plans.

The calculation of road and motorized trail density is calculated (I) on the date on which the project is completed; and (II) through a measurement taken in accordance with the project scale.

Sec. 102(2)(A)(iii) ENHANCED RECREATIONAL TRAIL OPPORTUNITIES.
“The Secretary concerned, in consultation with each interested party, may develop a plan to provide enhanced recreational trail opportunities as part of a landscape-scale restoration project—(I) to convert reclaimed roads into recreational trails in a manner consistent with this section; (II) to provide enhanced motorized and non-motorized recreational trail opportunities; (III) to increase trail connectivity; and (IV) to promote recreational opportunities in— (aa) the Beaverhead-Deerlodge National Forest; (bb) the Seeley Lake Ranger District; (cc) the Three Rivers Ranger District.

Sec. 102(B) RESTRICTION RELATING TO PERMANENT ROADS.
States the Secretary concerned shall not construct any permanent road in carrying out a landscape-scale restoration project on an area that is the subject of the project.

Sec. 102(C) INLAND NATIVE FISH STRATEGY.
States each landscape-scale restoration project shall be carried out in accordance with each standard described in the inland native fish strategy relating to conservation and management of riparian habitat.

Sec. 102(D) FOREST MANAGEMENT.
States "on the aggregate parcel of land that is the subject of the stewardship areas selected by the Secretary concerned under subsection (a), the Secretary concerned shall— (i) produce commercial wood products and accomplish landscape-scale restoration objectives; (ii) carry out activities to reduce the risk and severity of uncharacteristic wildland fire and insect infestations; (iii) manage vegetation through timber harvest activities in a manner to ensure that the timber harvest activities are limited to stewardship areas; (iv) use prescribed burning and other silvilcultural techniques to mimic mixed severity, natural fires when appropriate to the forest type that is the subject of the prescribed burning or other silvicultural technique; (v) when a commercial timber harvest activity is used to implement the vegetation management of the aggregate parcel, design the commercial timber harvest activity— (I) to reduce the long-term risk and severity of fire and insect infestations; (II) to maintain and restore healthy sustainable forests; (III) to generate revenue to reinvest in fish and wildlife habitat maintenance and restoration; and (IV) to maintain the infrastructure of woods products manufacturing facilities that provide economic stability to communities located in close proximity to the aggregate parcel; and (vi) subject to paragraph (6)(C)(ii)(III), to produce commercial wood products and accomplish landscape-scale restoration objectives—

(I) with respect to the stewardship area located in the Beaverhead-Deerlodge National Forest—

(aa) during the two-year period beginning on the date of enactment of this Act, mechanically treat timber on not less than 14,000 acres of the stewardship area, during, which, to the maximum extent practicable, the Secretary concerned shall mechanically treat timber on approximately 7,000 acres of the stewardship area during each year of the period;
(bb) not later than 5 years after the date of enactment of this Act, mechanically treat timber on not less than 35,000 acres of the stewardship area; and
(cc) not later than 10 years after the date of enactment of this Act, mechanically treat timber on a minimum of 70,000 acres of the stewardship area;

(II) with respect to the stewardship area located in the Three Rivers Ranger District—
(aa) during the 2-year period beginning on the date of enactment of this Act, mechanically treat timber on not less than 6,000 acres of the stewardship area;
(bb) not later than 5 years after the date of enactment of this Act, mechanically treat timber on not less than 15,000 acres of the stewardship area; and
(cc) not later than 10 years after the date of enactment of this Act, mechanically treat timber on not less than 30,000 acres of the stewardship area; and
(III) with respect to the stewardship area located in the Seeley Lake Ranger District, carry out projects described in paragraph (3).

(3) PROJECTS.

(A) COOPERATIVE PROJECTS— The Secretary concerned may plan and carry out cooperative projects on Federal and non-Federal land in the Seeley Lake Ranger District for the protection, restoration, or enhancement of fish or wildlife habitat or other resource objectives on the land if the projects will benefit resources on Federal land.

(B) COMMUNITY PROJECTS—

The Secretary concerned may appoint the Seeley Lake Ranger District Ranger of the Lolo National Forest and the Lincoln District Ranger of the Helena National Forest—

(i)to serve in an official capacity on the Board of Directors of the Blackfoot Challenge; and (ii) to participate in— (I) a Blackfoot Community Project; and (II) the Seeley Lake Coordinated Forest Management Project.

(4) RESTORATION ACTIVITIES—

(A) IN GENERAL— The Secretary concerned may provide grants to pay the Federal share of the cost of restoration activities in the Seeley Lake Ranger District.

(B) NON-FEDERAL SHARE—

(i) IN GENERAL— The Secretary concerned shall allow non-Federal matching contributions to cover the cost of restoration activities under this paragraph.

(ii) FORM— Non-Federal contributions may be in the form of cash or an in-kind contribution.

(5) DISPOSITION OF APPEAL—

Notwithstanding section 322(d)(1)(B) of the Department of the Interior and Related Agencies Appropriations Act, 1993 (16 U.S.C. 1612 note; Public Law 102-381), each meeting between a designated Forest Service employee and an individual who files an appeal of a landscape-scale restoration project carried out under this section shall—

(A) take place not later than 30 days after the closing date for filing an appeal;

(B) occur in person at a location agreed to by the appellant and the Forest Service that is in the vicinity of the land affected by the decision; and

(C) at the option of the Secretary concerned, include other individuals involved in monitoring the landscape-scale restoration project (including the applicable project advisory committee or local collaborative group) to provide input to the Forest Service regarding the final decision of the Forest Service.

(6) COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT OF 1969—

(A) COMPLIANCE—

(i) IN GENERAL—Each landscape-scale restoration project carried out under this section shall be carried out in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(ii) DUTY OF SECRETARY CONCERNED— To comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) under clause (i), the Secretary concerned shall prepare 1 environmental impact statement that covers all components of the landscape-scale restoration project that is the subject of the environmental impact statement to ensure that any additional analysis will not be required.

(iii) NUMBER OF REQUIRED ENVIRONMENTAL IMPACT STATEMENTS–

Except as provided in subparagraph (C), with respect to an approved landscape-scale restoration project under this section, any environmental impact statement described in clause (ii) shall not be required to implement the approved landscape-scale restoration project.

(B) IMPLEMENTATION OF LANDSCAPE-SCALE RESTORATION PROJECT—

Upon the later of the completion of an environmental impact statement for a landscape-scale restoration project under subparagraph (A), and the issuance of a record of decision for the landscape-scale restoration project under paragraph (1), the Secretary concerned shall implement the landscape-scale restoration project.

(C) ADDITIONAL ENVIRONMENTAL ANALYSIS—

(i)IN GENERAL— The Secretary concerned may, after consultation with resource advisory committees or local collaborative groups, and based on a monitoring of the applicable landscape-scale restoration project, conduct additional environmental analyses on the landscape-scale restoration project after activities have begun, if the Secretary concerned determines that changes to the original document would help to better accomplish the purposes of the Act.

(ii) MODIFICATIONS TO ENVIRONMENTAL IMPACT STATEMENTS—

(I)IN GENERAL— Any modification to an environmental impact statement regarding a landscape-scale restoration project under this section shall be subject to valid existing rights.

(II) CONTINUATION OF LANDSCAPE-SCALE RESORATION PROJECT— The implementation of a landscape-scale restoration project that is the subject of 1 or more modifications under this clause shall continue until the date on which the 1 or more modifications are approved by, as appropriate—(aa) an appropriate United States district court; or (bb) the Secretary concerned.

(III) MECHANICAL TREATMENT— If any acreage scheduled to be mechanically treated through a landscape-scale restoration project under paragraph (2)(D)(vi) is eliminated from the landscape-scale restoration project through a modification under this clause, the Secretary concerned may not include the acreage in calculating the applicable acreage total required to be mechanically treated under paragraph (2)(D)(vi).

(D) CONSULTATION— The Secretary concerned shall consult with resource advisory committees or local collaborative groups before any environmental analysis is conducted to reduce conflict and expedite project implementation.

(7) ECOLOGICAL RESTORATION TREATMENTS— An ecological restoration treatment selected by the Secretary concerned under the Collaborative Forest Landscape Restoration Program in accordance with section 4003 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303) shall qualify as a landscape-scale restoration project under this section.

(8) PRIORITY REGARDING DESIGN OF LANDSCAPE-SCALE RESTORATION PROJECTS— In planning a landscape-scale restoration project under this subsection, the Secretary concerned shall give priority to any proposal that is designed—

(A) to benefit local communities through the creation or establishment of employment or training opportunities through the conduct of the landscape-scale restoration project;

(B) to ensure that wood and other by-products of the landscape-scale restoration project— (i) are processed in the State; and (ii) contribute to the development or retention of value-added products for an existing or emerging market;

(C) to establish partnerships with State, local, and private non-profit youth groups; and

(D) to result in ecological benefits to the landscape.

(9) RECEIPTS—

(A) ESTABLISHMENT— There is established in the Treasury of the United States an account (referred to in this paragraph as the "Account") consisting of such amounts as are appropriated to the Account under subparagraph (B).

(B) TRANSFERS TO ACCOUNT— There are appropriated to the Account, out of funds of the Treasury not otherwise appropriated, amounts equivalent to amounts collected as receipts under this section.

(C) EXPENDITURES FROM ACCOUNT— On request by the Secretary concerned, the Secretary of the Treasury shall transfer from the Account to the Secretary concerned such amounts as the Secretary concerned determines are necessary to carry out this section.

(D) TRANSFERS OF AMOUNTS— (i) IN GENERAL— The amounts required to be transferred to the Fund under this paragraph shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury. **(ii) ADJUSTMENTS—** proper adjustment shall

be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.
(10) EFFECTS ON OTHER PROJECTS— Nothing in this section affects the authority of the Secretary concerned with respect to the conduct of any other project of the Secretary concerned on a stewardship area that is not carried out pursuant to this title.
(11) EXISTING LANDSCAPE-SCALE RESTORATION PROJECTS— landscape-scale restoration projects for which the Secretary concerned has, as of the date of enactment of this Act, initiated the preparation of an environmental impact statement or similar analysis in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may be carried out in accordance with applicable law (including regulations).
(12) EFFECT— Except as otherwise provided in this Act, the Secretary concerned shall manage, in accordance with each applicable law (including regulations)– (A) the Beaverhead-Deerlodge National Forest; (B) the Seeley Lake Ranger District; and (C) the Three Rivers Ranger District.

ANALYSIS OF SEC. 102—

Section 102 is very complex and contains interlocking and reinforcing language. It is the meat of the bill in terms of spelling out the duties and obligations of the "Secretary concerned," which will usually be the Secretary of Agriculture.

Sec. 102(a)(2)(b) gives the Secretaries concerned and "applicable advisory committees or local collaborative groups" broad authority to select landscape-scale restoration areas, with priority given to areas with greater than 1.5 miles road/mile square where habitat connectivity has been compromised by timber harvest. It also allows the Secretary to define "forests that are at high risk from insect epidemics or high-severity wildfires." That could be practically any area with forest cover. It also invests local collaborative groups or advisory councils with power to assist in defining these areas, a potential conflict of interest that favors timber harvest over traditional wildlands and watershed restoration methods.

Sec. 102(b) instructs the Secretary to plan and issue a Record of Decision for one or more projects.

Sec. 102(2)(A)(i) and (ii) states that each project carried out under the FJRA shall not result in a road and motorized trail density exceeding 1.5mi/mi2 on the Beaverhead-Deerlodge National Forest and may not exceed road density objectives in Grizzly Bear Management Plans on the Kootenai and Lolo National Forests. The calculation is taken after the project is completed and "through a measurement taken in accordance with the project scale." This language is problematic. For instance, there is no requirement to lower the road density below 1.5mi/mi2. So a project ostensibly designed for wildlife and habitat restoration could result in nearly the same road density as before the project, especially if access roads are converted to motorized recreational trails, resulting in questionable restoration effectiveness. Also, if the measurement is taken after the project is complete, what is the remedy if road density exceeds 1.5mi/mi2? The bill leaves this unanswered. Finally, there is no set methodology for measurement of road density, leading to questionable results. Subsection (iii) allows the Secretary to develop "enhanced recreational trail opportunities" including motorized use and to increase trail

connectivity. More connected motorized trail loops will lessen wildlife habitat effectiveness, converting access roads into motorized trails.

Sec. 102(B) properly states the Secretary concerned shall not construct any permanent roads in carrying out a “landscape-scale restoration project.”

Sec. 102(C) states each project shall be carried out in accordance with each standard in the Inland Native Fish Strategy (INFISH). INFISH includes some standards, such as riparian buffers, that are not adequate for the protection of native bull trout and cutthroat trout.

Sec. 102(D) contains the most action-oriented language in the FJRA. It states the Secretary concerned *shall* produce commercial wood products; *shall* reduce the risk and severity of uncharacteristic wildfire and insect infestations; *shall* manage vegetation through timber harvest activities; *shall* use prescribed burning or other silvicultural technique to mimic natural fires. This section further instructs the Secretary to “generate revenue,” and “maintain the infrastructure of wood products manufacturing facilities that provide economic stability to communities in close proximity to the aggregate parcel (timber harvest unit) and to produce commercial wood products.” A court could easily interpret this section as requiring the Secretary to maintain the economic health of privately owned lumber mills and other woods products manufacturing facilities, thus being compelled to provide a perpetual flow of “commercial wood products” and timber off of National Forest lands.

Sec. 102(I) mandates that the Secretary *shall* log not less than 7,000 acres annually on the Beaverhead-Deerlodge and 70,000 acres by no later than 10 years after the bill is enacted into law. The Secretary *shall* log not less than 3,000 acres annually on the Three Rivers Ranger District and 30,000 acres by no later than 10 years after the bill is enacted into law. Mandated logging levels are an unscientific override of professional Forest Service staff. Moreover, these levels are clearly unsustainable. For example, the Forest Service has calculated the lands on the Beaverhead-Deerlodge National Forest can sustain 500 acres of logging per year, while the FJRA calls for 14 times that amount to be cut each year.

The objectives of this section appear to contradict the overall purposes and objectives of the bill. For example, restoration has already been described primarily as timber harvest using commercial methods, including the construction of “temporary access roads.” Adding more roads and commercial timber harvest into areas that already “*exceed 1.5 miles of road/square mile and in which habitat connectivity has already been compromised by past timber harvest patterns*” seems counterintuitive to wildlands and wildlife restoration.

The FJRA envisions a landscape where road density does not exceed 1.5 mi/mi2, which might be an improvement in some watersheds, yet is not a particularly strong standard for protection of fish and wildlife. For example, scientific studies have revealed that the riparian road density necessary to sustain bull trout should be no more than 0.45 miles/mi2. For grizzly bears, any more than about 0.75 mi/mi2 causes the population to decline. Previous forest plan standards have sought densities as much as half that proposed by the FJRA (for example, the Kootenai

National Forest had a standard for big game and grizzly habitat of 0.75 miles/mile square). Moreover, the FJRA appears to prescribe the 1.5 mi/mi2 standard over the "landscape-scale project area" or up to 50,000 acres. This could invite manipulation of project area boundaries to exclude areas of high road densities, thus allowing higher road density within a project area.

Sec. 102(5) adds new requirements for appellants by requiring a meeting within 30 days of the appeal closing date between the Forest Service and the appellant at a location near the project. For example, a citizen residing in Billings, Montana challenging a project on the Three Rivers Ranger District of the Kootenai National Forest, would have to travel round-trip approximately 1,000 miles, require an overnight stay and two days of travel, plus meals. This could represent an undue hardship, limiting who can participate. Moreover, the Secretary may invite the resource advisory committee or local collaboration groups to attend. That stacks the meeting and could be viewed as intimidating.

Sec. 102(8) gives additional direction for priority of project design areas. They are to give priority to proposals designed to "benefit local communities through the creation of employment or training opportunities," and "ensure that wood and other by-products…contribute to the development or retention of value-added products for an existing or emerging market." This provision opens the door to the biomass heat and power generation facilities authorized elsewhere in the FJRA. Repeating a theme throughout the FJRA, the last priority cited is "to result in ecological benefits to the landscape."

Sec. 102(9) authorizes an account to be established in the U.S. Treasury consisting of amounts appropriated equivalent to the receipts collected.

Sec. 102(10) states nothing affects the authority of the Secretary to carry out other projects outside the jurisdiction of the FJRA. Thus, logging in addition to the mandated levels in unaffected.

Sec. 102(11) grandfathers in any projects for which the Secretary has initiated environmental analysis as of the date of enactment of FJRA.

Sec. 102(12) states the Secretary shall manage the areas governed by FJRA under all applicable laws except as otherwise directed by the FJRA.

Sec. 102(b)(1) requires the Secretaries concerned to plan and issue a record of decision no later than one year after enactment of the FJRA and annually thereafter. A Record of Decision (ROD) can only be signed after all environmental analysis required by the National Environmental Policy Act (NEPA) is required. Thus, NEPA analysis will be very expedited beyond standard timelines for completion of a landscape-scale Environmental Impact Statement (EIS), which often take 2-3 years to complete, likely compromising the integrity and thoroughness of the analysis, particularly given that the outcome would be congressionally-mandated.

RECOMMENDATIONS FOR SEC. 102—

Section 102 should be removed in its entirety and rewritten to reflect true ecological restoration objectives and methodology. Mandated logging should be removed, and all language requiring the Secretary to maintain wood products manufacturing facilities should be removed. The language pertaining to funding needs to be rewritten to remove blank check spending authority and taking funds from other forests. The subsection on Priority should remove all items except for "ecological benefits to the landscape."

Sec. 103- RESOURCE ADVISORY COMMITTEES—

(a) ESTABLISHMENT; SELECTION FOR USE—

(1) ESTABLISMENT OF RESOURCE ADVISORY COMMITTEES—Subject to paragraph (2), in accordance with section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125) the Secretary concerned shall establish— (A) a resource advisory committee for the Beaverhead-Deerlodge National Forest; and (B) a resource advisory committee for the Three Rivers Ranger District.

(2) SELECTION OF EXISTING ADVISORY COMMITTEE— In establishing a resource advisory committee for each entity described in paragraph (1), the Secretary concerned may select an advisory committee in existence as of the date of enactment of this Act if the Secretary concerned determines that the advisory committee—(A) is capable of carrying out the applicable requirements of this Act; and (B) meets each requirement described in section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125).

(b) DUTIES—

(1) ESTABLISHMENT OF ADVISORY COMMITTEES— (A) IN GENERAL— Each resource advisory committee established under subsection (a)(1) shall establish an advisory committee for each landscape-scale restoration project implemented by the Secretary concerned under section 102(b) to assist the Secretary concerned in determining the location for, completing the design of, and implementing each landscape-scale restoration project under the jurisdiction of the advisory committee. **(B) COMPOSITION—** Each advisory committee established by a resource advisory committee under subparagraph (A) shall be comprised of representatives from— (i) industrial, recreational, conservation, and livestock organizations; and (ii) applicable local collaborative forest management groups.

(2) GUIDANCE— Each resource advisory committee shall advise each entity under the jurisdiction of the resource advisory committee on issues relating to the disbursement of excess receipts that result from the completion of each landscape-scale restoration project implemented by the Secretary concerned under section 102(b), as appropriate.

ANALYSIS OF SEC. 103—

Sec. 103(a)(1) states the Secretary *shall* establish resource advisory committees for the Beaverhead-Deerlodge and Three Rivers Ranger District. Subsection (2) allows the Secretary to select an advisory committee in existence as of the date of enactment of FJRA. This is where the bill's supporters and drafters wrote themselves into the process and includes the Beaverhead-Deerlodge Partnership, the Blackfoot-Clearwater Stewardship Project, and the Three Rivers Challenge.

Sec. 103(a)(1) states that subject to paragraph (2), in accordance with section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000, the Secretary shall establish resource advisory committees. Sec. 103(a)(2)(B) allows an unbalanced composition. Sec. 205 of the Secure Rural Schools and Community Self-Determination Act has much different requirements for composition. It states Resource Advisory Committees will have 15 members and 205(3) requires "balanced and broad representation." Also, the duties and authority of resource advisory committees is more limited under the Secure Rural Schools and Community Self-Determination Act. Thus, the FJRA overrides the requirement for balanced representation.

Sec. 103(b)(1) states that each resource advisory committee *shall* establish an advisory committee for each project to assist the Secretary in determining the location, design and implementation of projects under the "jurisdiction" of the advisory committee. This gives the private entities appointed extraordinary influence over National Forest management. Sec. 103 (B) states that each advisory committee *shall* be comprised of representatives from industrial, recreational, conservation and livestock organizations and applicable local collaborative forest management groups." Thus, the stacked deck resource advisory committees who support the FJRA get to appoint yet another stacked deck committee.

RECOMMENDATIONS FOR SEC. 103—

This section should be removed from the bill. Localizing of National Forest management by private interests is a threat to the integrity of the National Forest System and Bureau of Land Management lands.

SEC. 104- MONITORING;REPORTING

(a) REPORTS— Not later than 5 years after the date of enactment of this Act and every 5 years thereafter, the Secretary concerned shall submit to the appropriate committees of Congress a report on the implementation of landscape-scale restoration projects under this title. **(b) CONTENTS—**Each report required under subsection (a) shall, for the entity covered by the report—

(1) assess the effectiveness of stewardship contracts in meeting vegetative management goals and funding restoration goals;

(2) provide information on— (A) the number of landscape-scale restoration projects designed, implemented, and completed; (B) the cost effectiveness of each landscape-scale restoration project, including the costs of planning and environmental analysis and the benefits resulting from restoration activities; and (C) the number of acres treated and restoration projects accomplished;

(3) evaluate whether the use of stewardship contracts and the participation of local collaborative groups and other forms of public involvement have reduced the number of administrative appeals and legal challenges or otherwise impacted the outcome of appeals and litigation;

(4) make recommendations on legislative or administrative actions that might better achieve the goals and purposes of the restoration efforts carried out by the Secretary concerned;

(5) identify any additional resources and authorities that are necessary to implement fully the initiatives carried out by the Secretary concerned under this title;

(6) evaluate the effectiveness of restoration activities on ecological health; and

(7) consider and implement adaptive management tools to improve management under this Act, including impacts of climate change on the effectiveness of restoration activities.

ANALYSIS OF SEC. 104--

Sec. 104 states that no later than 5 years after enactment of FJRA, the Secretary *shall* submit to Congress a report on the implementation of projects under the FJRA. It contents are to be an assessment of the effectiveness of stewardship contracts in meeting "vegetative management goals" (mandated logging levels), the number of projects, the cost effectiveness of each project, the number of acres "treated" and evaluate whether stewardship contracts and local collaboration groups have reduced the number of appeals and legal challenges. The report shall also make recommendations on legislative and administrative actions and identify additional resources and authorities needed to implement fully the FJRA. Finally, repeating the theme of FJRA of listing ecological objectives last, the report shall evaluate the effectiveness of restoration activities on ecological health.

This section compels the Secretary to prepare yet another report and suggest ways to further implement local control of National Forest System lands.

RECOMMENDATIONS FOR SEC. 104—

This section should be rewritten to reflect purely ecological restoration measures, without reference to logging mandates.

SEC. 105- BIOMASS COMBINED HEAT AND POWER SYSTEM PROJECTS—

(a)USE OF FUNDS— The Secretary concerned may use funds made available under section 106(a) and other funds available to the Secretary concerned for fiscal year 2010, to pay the federal share of the cost of installation of combined heat and power biomass systems that can use materials made available from the landscape-scale restoration projects carried out under this title.

(b) BIOMASS STUDY—

(1) STUDY— As soon as practicable after the date of enactment of this Act, the Secretary concerned shall conduct a study— (A) to examine the feasibility of the sustainable development of biomass supplies and combined heat and power energy generation in the areas covered by this title; and (B) to develop a means by which to facilitate and encourage the use of biomass recovered from the forest land as an energy source to reduce the risk of severe wildfire to— (i) communities; (ii) infrastructure; and (iii) water supplies.

(2) PLAN— Not later than 18 months after the date of enactment of this Act, the Secretary concerned shall propose a plan that is based on the results of the study carried out under paragraph (1).

ANALYSIS OF SEC. 105-

Sec. 105 (a) authorizes the Secretary to expend taxpayer funds for Fiscal Year 2010 to pay a federal share in construction of "combined heat and power biomass systems that can use materials made available from the landscape-scale restoration projects."

Sec. 105(b) states that as soon as practicable after enactment of the FJRA the Secretary *shall* conduct a study to examine the feasibility of the sustainable development of biomass supplies and combined heat and power generation in the areas covered by the FJRA and develop a means by which to facilitate and encourage the use of biomass recovered from the forest land as an energy source to reduce the risk of severe wildfire to communities, infrastructure and water supplies. Sec. 105(2) states that within 18 months after enactment of FJRA, the Secretary *shall* propose a plan based on the results of the study.

Sec. 105 represents a dramatic expansion of the Secretary's authority to expend taxpayer funds by building heat and power plants. It then contains a cart before the horse proposition by authorizing the Secretary to first fund and build the plant(s) with Fiscal Year 2010 funds, feed the plant(s) with wood from National Forest lands, and *then* study its feasibility. This section also requires yet another study and plan, at taxpayer expense.

RECOMMENDATIONS FOR SEC. 105-

This section should be removed from the bill.

SEC. 106 FUNDING—

(a)AUTHORIZATION OF APPROPRIATIONS— There are authorized to be appropriated such sums as are necessary to carry out this title.
(b) FUND— In addition to funds made available under subsection (a), the Secretary concerned may use such amounts as are necessary to carry out this title.
(c) COST-EFFECTIVE PLANNING AND IMPLEMENTATION— In planning and implementing landscape-scale restoration projects under this title, the Secretary concerned shall use the most cost-effective means available.
(d) REPROGRAMMING— Subject to the relevant reprogramming guidelines of the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, funds specifically provided to the Forest Service by the Secretary concerned to implement resource activities according to this title may be made available.
(e) UNOBLIGATED BALANCES— Subject to normal reprogramming guidelines, the forest supervisors of the Beaverhead-Deerlodge National Forest, the Lolo National Forest, and the Kootenai National Forest may allocate and use all accounts that contain year-end excess funds, and all other available excess funds, for the administration and management of the National Forest under the jurisdiction of the forest supervisor to implement projects to achieve the goals and objectives of this title.
(f) LANDSCAPE-SCALE RESTORATION PROJECTS—
(1) IN GENERAL— Subject to paragraph (2), the Secretary concerned may retain any receipts derived from the implementation of landscape-scale restoration projects under this title for use in planning and implementing additional landscape-scale restoration projects.
(2) LIMITATION— (A) IN GENERAL— Except as provide in subparagraph (B), funds generated by a landscape-scale restoration project under this title may not be expended by the Secretary concerned on a landscape-scale restoration project carried out on an administrative unit of a National Forest on which the landscape-scale restoration project that is the source of the funds is carried out. **(B) EXCEPTION—** Funds generated by a landscape-scale restoration project under this title in the Beaverhead-Deerlodge National Forest

may be expended by the Secretary concerned on a landscape-scale restoration project carried out in any other administrative unit of a National Forest.
(g) ADMINISTRATION— Of the amounts available to carry out this title for each fiscal year, the Secretary concerned shall ensure that— (1) not more than 10 percent is used or allocated for general administration, planning, or other overhead; and (2) not less than 10 percent is used to carry out projects authorized under this title.

ANALYSIS OF SEC. 106—

Sec. 106(a) authorizes "appropriations of such sums as are necessary to carry out this title." Sec. 106(b) authorizes the Secretary to use such amounts necessary in addition to what is made available under subsection (a). Sec. 106(c) instructs the Secretary to use the most cost-effectiveness means available. Subsection (d) states funds specifically provided to the Forest Service to carry out the FJRA may be made available. Subsection (e) allows the forest supervisors of the Beaverhead-Deerlodge, Lolo and Kootenai National Forests to use all accounts with year-end excess funds for projects under FJRA. Subsection (f) states that funds generated by projects may not be expended on other projects on the same administrative unit except that funds generated by projects on the Beaverhead-Deerlodge may be expended on a project in any other administrative unit of a National Forest. Subsection (g) states not more than 10 percent of a project budget can be spent for general administration, planning, or other overhead and not less than 10 percent is used to carry out projects.

This section gives the Secretary virtually unlimited authority to self-appropriate funds to carry out the FJRA. These funds are in addition to whatever can be generated from commercial timber sales. The provisions of subsection (f) have the potential to turn the Beaverhead-Deerlodge National Forest into a cash cow for other forests and regions, rendering it a national sacrifice zone for budgetary purposes. The limitations on planning in Subsection (g) means that environmental analysis is likely to be underfunded, compromising the integrity of the analyses.

RECOMMENDATIONS FOR SEC. 106—

Section 106 needs to be rewritten to remove blank check spending authority and raiding of other forest management funds.

SEC. 107- ADMINISTRATION—

Except as otherwise provided in this title, the Secretary concerned shall administer the Beaverhead-Deerlodge National Forest, the Seeley Lake Ranger District, and the Three Rivers Ranger District in accordance with applicable laws (including regulations).

Sec. 107 ANALYSIS—

This means that all existing laws and regulations apply except as altered or overridden by the FJRA.

SEC. 108- TERMINATION OF AUTHORITY—

(a) IN GENERAL—Subject to subsection (b), the authority of the Secretary concerned to plan and implement landscape-scale restoration projects under this title shall terminate on the later of—
(1) the date that is 15 years after the date of enactment of this Act; or
(2)(A) in the case of the Beaverhead-Deerlodge National Forest, the date on which 70,000 acres of land in the Beaverhead-Deerlodge National Forest have been mechanically treated in accordance with section 102(b)(2)(vi)(I); or
(B) in the case of the Three Rivers Ranger District, the date on which 30,000 acres of land in the Three Rivers Ranger District have been mechanically treated in accordance with section 102(b)(2)(vi)(II).
(b) CONTRACTS— The termination of the authority of the Secretary concerned under subsection (a) shall not affect any contract entered into by the Secretary concerned to carry out this title.

ANALYSIS OF SEC. 108—

Sec. 108(a) again emphasizes that the production of timber from commercial mechanical harvest takes precedence over other provisions of the bill, extending the authority of the Secretary concerned until all logging mandates have been achieved. The bill states the length of stewardship contracts is 10 years, while here it states the Secretary concerned retains authority for 15 years.
Sec. 108(b) effectively allows the Secretary concerned to extend the authority of the FJRA by signing contracts near the end of the term of authority that would last up to 10 years into the future.

RECOMMENDATIONS FOR SEC. 108—

References to logging mandates should be removed and the termination of authority reduced to 10 years.

Title II- Designation of Wilderness and National Recreation Areas
Sec. 201- Designation of Wilderness and National Recreation Areas

This section of the bill follows standard format for congressional wilderness legislation, listing each area by National Forest, the name of each unit, and the number of acres designated.

On the Beaverhead-Deerlodge National Forest these are—
(1)Anaconda Pintlar Wilderness Additions, 56,680 acres; (2) Dolus Lakes Wilderness, 9,367 acres; (3) East Pioneers Wilderness, 76,775 acres; (4) Electric Peak Wilderness, 4,653 acres; (5) Lee Metcalf Wilderness Additions, 18,950 acres; (6) Highlands Wilderness, 20,392 acres; (7) Italian Peaks Wilderness, 29,508 acres; (8) Lima Peaks Wilderness, 35,120 acres; (9) Lost Cabin Wilderness, 5,223 acres; (10) Mount Jefferson Wilderness, 4,465 acres; (11) Quigg Peak Wilderness, 8,388 acres; (12) Sapphires Wilderness, 53,237 acres; (13) Snowcrest Wilderness, 89,798 acres; (14) Stony Mountain Wilderness, 14,261 acres; (15) West Big Hole Wilderness, 44,084 acres; (16) West Pioneers Wilderness, 25, 742 acres.

On the Lolo National Forest—

(1)Bob Marshall and Scapegoat Wilderness Additions, 71,378 acres; (2) Bob Marshall Wilderness Addition, 7,599 acres; (3) Mission Mountains Wilderness Addition, 4,501 acres.

On the Kootenai National Forest— (1) Roderick Wilderness Area, 29,869 acres.

On the Dillon District of the Bureau of Land Management—
(1)Blacktail Mountains Wilderness, 10,667 acres; (2) Centenial Mountains Wilderness, 23,256 acres; (3) Farlin Creek Wilderess, 661 acres; (4) Ruby Mountains Wilderness, 15,504 acres.

On the Butte District of the Bureau of Land Management—
(1)Humbug Spires Wilderness, 8,892 acres.

ANALYSIS OF SEC. 201—

Sec. 201 uses standard language in describing and designating Wilderness in acts of Congress. The main issue with this section is the area that is designated, which in many cases is far less than the total contiguous roadless area that is eligible for Wilderness designation.

RECOMMENDATIONS FOR SEC. 201—

The list of wilderness areas and acreages designated could be substantially increased to include all eligible areas.

Sec. 202 ADMINISTRATION—

Subsections (a), (b), (c), (d), and (e) contain standard language in congressional wilderness bills for Management, Map & Legal Description with public availability, Incorporation of Acquired Land and Interests, Withdrawal, and Fire, Insect and Disease Management.

Sec. 202(f) ACCESS TO PRIVATE PROPERTY— In accordance with section 5(a) of the Wilderness Act (16 U.S.C. 1134(a)), the Secretary concerned shall provide each owner of private property located in a wilderness area designated by section 201 adequate access to the private property to ensure the reasonable use and enjoyment of the property by the owner.

Sec. 202(g) SNOW SENSORS AND STREAM GUAGES— Nothing in this title prevents the installation or maintenance of hydrological, meteorological, or climatological instrumentation in each wilderness area designated by section 201 if the Secretary concerned determines that the installation or maintenance of the instrumentation is appropriate to further the scientific, educational, or conservation purposes of the wilderness areas.

Sec. 202(h) MILITARY ACTIVITIES—
(1)IN GENERAL— With respect to each wilderness area designated by section 201, nothing in this title precludes or restricts— (A) low-level overflights of military aircraft; (B) the designation of new units of special airspace; or (C) the use or establishment of military flight training routes over the wilderness areas.

(2) HIGHLANDS WILDERNESS AREA— Nothing in this title precludes or restricts the authority of the Secretary concerned to enter into agreements with the Secretary of Defense or the Montana National Guard to permit limited and scheduled landings of aircraft in the Highlands Wilderness Area.

Sec. 202(i) GRAZING— The grazing of livestock (including the maintenance of any facility in existence as of the date of enactment of this Act that is used in conjunction with the grazing of livestock) in each wilderness area designated by section 201 shall be administered in accordance with— (1) section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133 (d)(4); and (2) the guidelines set forth in Appendix A of the House Report 101-405.

Sec. 202(j) FISH AND WILDLIFE MANAGEMENT—
(1)IN GENERAL— In furtherance of the purposes and principles of the management activities under the Wilderness Act ((16 U.S.C. 1133 et seq.), the Secretary concerned may carry out management activities to maintain or restore fish and wildlife populations (including activities to maintain and restore fish and wildlife habitats to support the populations) in any wilderness area designated by section 201 if the activities are— (A) consistent with applicable wilderness management plans: and (B) carried out in accordance with applicable guidelines and policies.
(2) STATE MANAGEMENT; RECREATIONAL USE— Nothing in this Act— (A) affects the authority, jurisdiction, or responsibility of the State to manage, control, or regulate fish and resident wildlife under State law (including regulations), including the regulation of hunting, fishing, trapping, and recreational shooting on public land managed by— (i) the Forest Service; or (ii) the Bureau of Land Management; or (B) affects access for any recreational activity allowed by any law (including regulations), including— (i) hunting; (ii) fishing; (iii) trapping; and (iv) recreational shooting.

Sec. 202(k) ADJACENT MANAGEMENT— (1) IN GENERAL— Nothing in this title creates any protective perimeter or buffer zone around any wilderness area designated section 201. **(2) NONWILDERNESS ACTIVITIES—** The fact that a nonwilderness activity or use can be seen or heard from an area within a wilderness area designated by section 201 shall not preclude the conduct of the activity or use outside the boundary of the wilderness area.

Sec. 202 (l) MEMORANDUMS OF UNDERSTANDING— Not later than 1 year after the date of enactment of this Act, the Secretary concerned shall offer to enter into a memorandum of understanding with each law enforcement, emergency medical responder, and search and rescue organization of each political subdivision of the State, the jurisdiction of which includes any wilderness area designated by section 201, to ensure that each organization is authorized to enter each wilderness area to conduct emergency operations.

Sec. 202 (m) OUTFITER AND GUIDE ACTIVITIES— Outfitter and guide activities conducted under permits of the Forest Service in effect on the date of enactment of this Act in any wilderness area designated by section 201 shall be considered to have met all requirements for necessary analysis of the permits.

Sec. 202 (n) EFFECT—
(1)EAST PIONEERS WILDERNESS. With respect to the East Pioneers Wilderness Area, nothing in this title affects the right of any owner of 1 or more water impoundment structures to customary and usual access to the 1 or more water impoundment structures, including— (A) necessary motorized use over and along roads and trails in existence as of the date of enactment of this Act to the 1 or more water impoundment structures; and (B) the right to operate and maintain the 1 or more water impoundment structures.

(2) HIGHLANDS WILDERNESS AREA— With respect to the Highlands Wilderness Area, nothing in this title affects— (A) the customary and usual access of Beaverhead County to operate and maintain the communication site located on Table Mountain under a special use permit issued by the Forest Service; and (B) the water supply pipeline in existence as of the date of enactment of this Act for the city of Butte (including the surrounding community of the city of Butte)— (i) including the right of the city of Butte to ingress and egress with respect to the water supply pipeline; and (ii) which may be operated, maintained, and upgraded by the city of Butte, subject to reasonable requirements to protect the wilderness values of the Highlands Wilderness Area.
(3) SNOWCREST WILDERNESS AREA— With respect to the Snowcrest Wilderness Area, nothing in this title affects— (A) motorized access to water infrastructure for cattle, which— (i) was constructed— (I) to protect the Ruby River; and (II) to preserve historic access for other ranching activities; and (ii) shall continue under permit system in existence as of the date of enactment of this Act; and (B) subject to reasonable requirements to protect the wilderness values of the Snowcrest Wilderness Area.

ANALYSIS OF SEC. 202—

Sec. 202 subsections (a),(b),(c),(d), and (e)(1) contain standard language for Management, Map & Legal Description, Incorporation of Acquired Lands and Interests, Withdrawal, and Fire, Insect and Disease Management.

Sec. 202(e)(2) allows for pre-suppression activities for fire management. Pre-suppression could include fuel reduction or other measures generally practiced on non-wilderness lands, but incompatible with Wilderness. This provision refers to “House Report 98-40,” an outdated report designed primarily for national forest lands in southern California, conditions very different from those found in western Montana. For example 98-40 states, “Due to the arid climate, high seasonal temperatures and buildup of fuel that exists in so many California roadless areas, especially in southern California.” Much has been learned about fire management in the intervening 25 years, and Wilderness managers in Montana have been leaders in promoting natural fire programs. The result of this language is that the Wilderness areas designated under Sec. 201 may be highly manipulated, contrary to the central ethos of the Wilderness Act that Wilderness areas are “untrammeled by man.”

Sec. 202(f) attempts to redefine the Wilderness Act by stating the provision is “in accordance with section 5(a) of the Wilderness Act” when in fact it is not. The Wilderness Act provides landowners with adequate access to private lands or, where there is a conflict between protecting the Wilderness and allowing access, the Wilderness Act allows the Secretary to offer a land exchange instead of access. It is a carefully crafted provision designed to ensure that the Wilderness would be protected. The FJRA undermines this protection in two ways. First, it strips the provision that allows the Secretary to offer an exchange. Second, it requires that the access provided must, in addition to being “adequate” shall “ensure the reasonable use and enjoyment of the property by the owner.” If the owner can make the case that her reasonable use and enjoyment requires a road to be built to access the private land, the Wilderness areas designated by the FJRA could have roads in them. This gives the owners of private land

within the Wilderness areas more access rights than they hold on other National Forest System lands.

Sec. 202(g) allows installation and maintenance of snow sensors and stream gauges within the areas designated Wilderness under FJRA. The Wilderness Act prohibits structures and installations unless they are necessary to manage and protect Wilderness. The FJRA expands this narrow exception to allow structures and installations for additional purposes, which could become a problem if they require frequent motorized access for installation and maintenance.

Sec. 202(h) creates a new exception, allowing military training exercises, including landing helicopters in the proposed Highlands Wilderness. It also provides for low-level military overflights over Wilderness, designating new units of special airspace over Wilderness, and the use or establishment of military flight training routes over Wilderness. While airspace over Wilderness is not technically part of the area, this kind of aircraft use is inconsistent with protecting Wilderness values and primitive recreation.

Sec. 202(i) has standard language for livestock in Wilderness areas.

Sec. 202(j)(A) allows the Secretary to carry out a variety of fish and wildlife habitat manipulation projects that are contrary to the Wilderness Act's fundamental tenet as an area "untrammeled by man…which is protected and managed to preserve its natural conditions." The language in 202(j)(A) attempts to limit the extent of these manipulative actions by requiring they be consistent with wilderness management plans. However, management plans are not legally binding documents. In fact, these plans often contain proposals and projects, that if implemented, would normally be considered illegal. The language of the FJRA would make them legal.

Sec. 202(k) simply states that no buffers or protective perimeters are created around any wilderness area designated by FJRA and nonwilderness activities visible or audible from within a wilderness area are not precluded. While this is a fairly standard provision in recent wilderness bills, it does allow the Forest Service and BLM to authorize projects near or directly adjacent to Wilderness areas without consideration for the impacts on the nearby Wilderness.

Sec. 202(l) states that no later than 1 year after enactment of FJRA, the Secretary shall offer to enter into a memorandum of understanding with all law enforcement and emergency personnel to ensure each is authorized to enter each wilderness area to conduct emergency operations. This provision bypasses the long-established process whereby all motorized use must be approved by the land manager. This is potentially harmful because law enforcement or other local search and rescue organizations often lack the knowledge about protecting wilderness values. Given the proliferation of cell-phone triggered, unnecessary search and rescue operations, it is important that

wilderness stewards retain sole authority to authorize motor vehicle use in Wilderness areas for emergency operations.

Sec. 202(m) grandfathers outfitter permits of the Forest Service in effect on the date of enactment of FJRA without further analysis. This means that special provisions in outfitter permits dealing with wilderness regulations and practices will not be required, nor will other safeguards included in the Wilderness Act be part of these permits, potentially compromising wilderness management. Moreover, if any of the existing commercial uses include motor vehicles or motorized equipment, these uses would also be grandfathered into the Wilderness areas.

Sec. 202(n)(1) states that in the East Pioneers Wilderness nothing affects the right of any owner of one or more water impoundment structures to "customary and usual access" including motorized use over and along trails in existence as of the date of enactment of FJRA and the right to operate and maintain the one or more water impoundment structures. Allowing a non-conforming use within Wilderness violates the Wilderness Act and harms the integrity of the Wilderness area. Though the Wilderness Act does not automatically prohibit motorized access to operate or maintain an existing structure, it requires nonmotorized access whenever feasible.

Sec. 202(n)(2) states nothing affects the customary and usual access of Beaverhead County to operate and maintain a communications site on Table Mountain and the water supply pipeline for the City of Butte, including the right to operate and maintain them.

Sec. 202(n)(3) allows motorized access to water infrastructure for cattle constructed to protect the Ruby River and to "preserve historic access for other ranching activities and *shall* continue under the permit system in existence as of the date of enactment of the FJRA. It also allows the use of all-terrain vehicles (ATVs) for trailing sheep. This language grandfathers non-conforming uses into the Snowcrest Wilderness. It represents a precedent as the first time that the use of motorized vehicles has been allowed for herding livestock and other routine ranching activities within a Wilderness.

In addition to the impacts on the new Wilderness areas that are designated, the problem with all these special provisions and exemptions is that they are likely to be included in future Wilderness bills, thus compromising the integrity of the National Wilderness Preservation System.

RECOMMENDATIONS FOR SEC. 202—

Section 202 needs to be rewritten to remove all non-conforming uses so that the Wilderness areas designated by S. 1470 will be managed in accordance with the Wilderness Act. In particular, these include the language allowing for pre-suppression fire management activities; the manipulation of fish and wildlife habitat; use of motor vehicles, structures and installations and military aircraft landings. Provisions exempting

commercial outfitters from provisions of the Wilderness Act should be deleted and the language changed to require new permits for outfitters operating in the new Wilderness areas. Remove any reference to the Wilderness Act as it relates to “timber harvesting” in section 205(e), 207(e), 208(e) and 209(e).

SEC. 203- RELEASE OF BUREAU OF LAND MANAGEMENT STUDY AREAS

(a)FINDING— Congress finds that, for purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area by section 201 or any other Act enacted before the date of enactment of this Act has been adequately studied for wilderness.

(b) DESCRIPTION OF STUDY AREAS–– The study areas referred to in subsection (a) are— (1) the Axolotl Lakes Wilderness Study Area; (2) the Bell and Limekiln Wilderness Study Area; (3) the Blacktail Mountains Wilderness Study Area; (4) the Centennial Mountains Wilderness Study Area; (5) the East Fork Blacktail Wilderness Study Area; (6) the Farlin Creek Wilderness Study Area; (7) the Henneberry Ridge Wilderness Study Area; (8) the Hidden Pasture Wilderness Study Area; (9) the Humbug Spires Wilderness Study Area; (10) the Ruby Mountains Wilderness Study Area.

(c) RELEASE— Any study area described in subsection (b) that is not designated as a wilderness area by section 201— (1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and (2) shall be managed in accordance with the applicable land management plans adopted under section 202 of that Act (43 U.S.C. 1712).

ANALYSIS OF SEC. 203—

Sec. 203(a) contains “soft release” of all portions of Wilderness Study Areas not designated as wilderness under the FJRA. Thus, the BLM would not have to consider the impact on wilderness values and suitability for wilderness designation of any projects in these areas. Subsection (c) releases the BLM from the wilderness study provisions of FLPMA.

RECOMMENDATIONS FOR SEC. 203—

Section 203 should be removed from the bill.

SEC. 204- RELEASE OF SAPPHIRE AND WEST PIONEER WILDERNESS STUDY AREAS

(a) FINDINGS— Congress finds that—

(1) for purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), any portion of a wilderness study area described in subsection (b) that is not designated as a wilderness area by section 201 or any other Act enacted before the date of enactment of this Act has been adequately studied for wilderness; (2) the studies conducted under section 2 of the Montana Wilderness Study Act of 1977 (Public Law 95-150; 91 Stat. 1243) regarding each study area described in subsection (b) are adequate for the

consideration of the suitability of each study area for inclusion as a component of the National Wilderness Preservation System; and
(3) the Secretary of Agriculture is not required — (A) to review the wilderness option for each study area described in subsection (b) prior to the revision of the forest plan required for each land that comprises each study area in accordance with the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and (B) to manage each study area described in subsection (b) to ensure the suitability of each study area for designation as a component of the National Wilderness Preservation System pending revision of the forest plan that comprises the study area.

(b) DESCRIPTION OF STUDY AREAS— The study areas referred to in subsection (a) are— (1) the portion of the Sapphire Wilderness Study Area that is — (A) located within the Beaverhead-Deerlodge National Forest, as described in section 2(4) of the Montana Wilderness Study Act of 1977 (Public Law 95-150; 91 Stat. 1243); and (B) not designated as a wilderness area by section 201; and (2) the portion of the West Pioneer Wilderness Study Area, as described in section 2(1) of the Montana Wilderness Study Act of 1977 (Public Law 95-150; 91 Stat. 1243), that is not designated as a wilderness by section 201.

ANALYSIS OF SEC. 204—

Sec. 204 releases the portions of the Sapphire and West Pioneer Wilderness Study Areas (the S. 393 lands protected by the late Senator Lee Metcalf (D-MT)) not designated under the FJRA as wilderness. It states these areas have been adequately studied for wilderness and the Secretary of Agriculture is not required to review the wilderness option until the next round of forest planning (10-15 years from now) and is not required to maintain the wilderness suitability of these lands prior to the next forest plan revision. Thus, these areas could be roaded and logged within the next 15 years and there could be no court challenge based on the impact to wilderness suitability.

RECOMMENDATIONS FOR SEC. 204—

Section 204 should be removed from the bill.

SEC. 205- LOST CREEK PROTECTION AREA

(a) DESIGNATION— certain Federal land located in the Beaverhead-Deerlodge National Forest, comprising approximately 15,134 acres, as generally depicted on the map entitled "Lost Creek Protection Area" and dated July 16, 2009, is designated as the "Lost Creek Protection Area."
(b) ADMINISTRATION— The Secretary concerned shall administer the protection area in accordance with this section and any laws (including regulations) relating to the National Forest System.
(c) WITHDRAWAL—Subject to valid existing rights, the Federal land designated as the protection area is withdrawn from— (1) all forms of entry, appropriation, or disposal under the public land laws; (2) location, entry, and patent under the mining laws; and (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.
(d) DEVELOPMENT RESTRICTIONS— After the date of enactment of this Act, no developed campground, road, or trail may be constructed in the protection area.
(e) TIMBER HARVESTING—

(1) IN GENERAL— Except as provided in paragraph (2), timber harvesting shall not be permitted within the protection area.
(2) MAINTENANCE OF PROTECTION AREA— Timber harvesting may be permitted in the protection area to the extent allowed under section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1) for purposes relating to the necessary control of fire, insects, and diseases, and for public safety.
(f) SNOWMOBILES—
(1) IN GENERAL— Subject to paragraph (2), the use of snowmobiles shall be permitted within the protection area only— (A) on designated trails and routes in existence as of July 16, 2009; (B) during periods of adequate snow cover, as determined by the forest plan in effect as of the date of enactment of this Act.
(2) RESOURCE PROTECTION OR PUBLIC SAFETY— Nothing in this subsection precludes the Secretary concerned from closing any trail or route from use for the purposes of resource protection or public safety.
(3) MECHANIZED, NONMOTORIZED VEHICLES— The use of mechanized, nonmotorized vehicles shall be permitted within the protection area.
(4) LAND-BASED MOTORIZED VEHICLES— The use of land-based motorized vehicles shall be prohibited within the protection area.
(g) MANAGEMENT PLAN—
(1) IN GENERAL—The Secretary concerned shall include a management plan for the protection area in the first revision of the forest plan of the Beaverhead-Deerlodge National Forest that is carried out by the Secretary concerned after the date of enactment of this Act.
(2) REQUIREMENT FOR PUBLIC COMMENT— In developing a management plan for the protection area under paragraph (1) the Secretary concerned shall provide public notice and an opportunity for comment.

ANALYSIS OF SEC. 205—

Sec. 205 designates a new protection area that is withdrawn from the entry, appropriation or disposal under the public land laws and mining activities. Timber harvest is generally prohibited as well as land-based motorized vehicles. Snowmobiles and mountain bikes are allowed. The Secretary *shall* include a management plan for the Protection Area in the next forest plan revision.

RECOMMENDATIONS FOR SEC. 205—

More information is needed to determine if snowmobile use is appropriate in this area.

SEC. 206- WEST BIG HOLE NATIONAL RECREATION AREA

Sec. 206(a) PURPOSE— The purpose of this section is to designate the West Big Hole National Recreation Area— (1) to ensure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values of the National Recreation Area; and (2) to provide for the enhancement of the recreational values of the National Recreation Area. Subsections (b) and (c) use standard language to define Map and the National Recreation Area and designation.

Sec. 206(d) ADMINISTRATION— (1) IN GENERAL— The Secretary concerned shall administer the National Recreation Area— (A) in accordance with any laws (including regulations) relating to the National Forest System; and (B) in a manner to ensure most effectively— (i) the protection and conservation of fish and

wildlife located in the National Recreation Area; (ii) the conservation and development of scenic, natural historic, pastoral, and other values that— (I) contribute to, and are available for, public recreation; and (II) represent the economic and social history of the American West; and (iii) the proper management, utilization, and disposal of natural resources located in the National Recreation Area (including timber, grazing and mineral resources) to the extent that the use of the resources would not substantially impair the purposes of the National Recreation Area. (2) ACQUISITION AUTHORITY—(A) IN GENERAL— Subject to subparagraph (B), in accordance with applicable laws (including regulations), the Secretary concerned may acquire from willing sellers, or through a voluntary donation or exchange, any land or interest in land (including any mineral interest or scenic easement) that is located in the National Recreation Area that the Secretary concerned determines is necessary to carry out this section. (B) LIMITATION— No land or interest in land may be acquired by the Secretary concerned under subparagraph (A) through condemnation.

Sections 206(3) and (4) use the same language for hunting, fishing and grazing as that used in the Wilderness Section 201.

Section 206 (e) OFF-ROAD RECREATION— (1) IN GENERAL— Subject to any forest plan or travel management plan, except for administrative purposes or to respond to an emergency, motorized travel shall be permitted within the National Recreation Area only on approved, designated routes and trails. (2) MECHANIZED, NONMOTORIZED VEHICLES— The use of mechanized, nonmotorized vehicles shall be permitted within the National Recreation Area.

Sec. 206(f) AVAILABILITY OF MAP— The map shall be filed and made available for public inspection in he appropriate office of the Secretary concerned.

ANALYSIS OF SEC. 206—

Sec. 206(a) states the purpose of the section is to designate the West Big Hole NRA "to ensure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values of the National Recreation Area; and (2) to provide for the enhancement of the recreational values."

Sec. 206(d) establishes a National Recreation Area that differs very little from regular National Forest System lands. While it is traditional that National Recreation Areas come with their own individual management language, the usual intent of an NRA is to promote it as an area protected for public outdoor recreation, with provisions that explicitly prohibit logging and mining (for example, the Rattlesnake NRA). While FJRA claims to protect and conserve fish and wildlife in the NRA, it allows the "proper management, utilization, and *disposal* of natural resources…including timber, grazing and mineral resources…to the extent…would not substantially impair the purposes of the National Recreation Area." The bill provides no definition of "substantially impair." Moreover, these development activities are now permanently allowed, removing the management flexibility and discretion of the Forest Service and requiring a new act of Congress to change management.

In an unusual provision, Sec. 206(d)(1)(B)(ii)(II) states a purpose is to conserve and develop values that "represent the economic and social history of the American West." Whose economic and social history? From what time period? Sec. 206(f) allows motorized use on established trails and routes.

RECOMMENDATIONS FOR SEC. 206—

This area would be more properly included in Sec. 201-Wilderness. The language concerning disposal of timber, grazing and mineral resources should be removed and instead should contain a provision prohibiting these uses. Remove references to the economic and social history of the American West. Specifically, Sec. 206(d)(1)(B)(ii) and 206(d)(1)(B)(II) and (II)(iii) should be removed.

SEC. 207- WEST PIONEERS RECREATION MANAGEMENT AREA

Sec. 207(a), (b), (c), (d) and (e) use similar language as that in Sec. 206. Sec. 207 (g) also has similar language in designating the 129,252 acre area, except subsection (3) EFFECT— Nothing in this subsection precludes the Secretary concerned from closing from public use any trail or route described in paragraph (1)— (A) to protect a natural resource; or (B) to help ensure public safety.

ANALYSIS OF SEC. 207—

As with the West Big Hole NRA, the West Pioneers Recreation Management Area is a special designated area in name only, with the caveat that development activities are now permanently allowed, removing the management flexibility and discretion of the Forest Service and requiring a new act of Congress to change management.

RECOMMENDATIONS FOR SEC. 207—

Remove language allowing timber harvest, grazing and mining.

SEC. 208- THUNDERBOLT CREEK RECREATION AREA

Section 208(a), (b), and (c) uses the same language as in Sections 206 and 207. Sec.

208(d) DEVELOPMENT RESTRICTIONS— Effective on or after the date of enactment of this Act, no developed campground or road may be constructed in the recreation area.

Sec. 208 (e), (f) are also similar. Subsection (g) MANAGEMENT PLAN— (1) IN GENERAL—The Secretary concerned shall include a management plan for the recreation area in the first revision of the forest plan of the Beaverhead-Deerlodge that is carried out by the Secretary concerned after the date of enactment of this Act. (2) REQUIREMENT FOR PUBLIC COMMENT— In developing a management plan for the recreation area under paragraph (1), the Secretary concerned shall provide public notice and an opportunity for comment.

ANALYSIS OF SEC. 208—

The same problems outlined for Secs. 207 and 208 apply to the Thunderbolt Creek Recreation Area. The difference here is that sec. 208(d) prohibits new developed campgrounds and new roads. Presumably, undeveloped campgrounds (those without vault toilets and water) would be allowed since they are not explicitly prohibited. Sec. 208(g) requires that a Management Plan for the area be included in the next forest plan revision. This indicates that there are so few changes in management that no plan is required for another 10-15 years.

RECOMMENDATIONS FOR SEC. 208—

Remove language allowing timber harvest, grazing and mining.

SEC. 209- THREE RIVERS SPECIAL MANAGEMENT AREA

(a)DEFINITIONS— In this section: (1) MAP— The term "map" means the map entitled "Three Rivers Special Management Area and Roderick Wilderness" and dated July 16, 2009. (2) SPECIAL MANAGEMENT AREA— The term "special management area" means the Three Rivers Special Management Area that is— (A) comprised of certain land in the Kootenai National Forest that is— (i) comprised of approximately 74,274 acres; and (ii) generally depicted on the map; and (B) established by subsection (b).

(b) ESTABLISHMENT— To conserve, protect, and enhance the scenic, wildlife, recreational, backcountry heritage, and other natural resource values of the Three Rivers Management Area of the State, there is established the Three Rivers Special Management Area.

(c)ADMINISTRATION— (1) IN GENERAL— The Secretary concerned shall administer the special management area in accordance with this section and any laws (including regulations) relating to the National Forest System. (2) GRAZING— Nothing in this section prohibits, or affects the administration of, the grazing of livestock on land within the boundaries of the special management area.

(d) WITHDRAWAL— Subject to valid existing rights, the special management area is withdrawn from— (1) all forms of entry, and patent under the public land laws; and (2) location, entry, and patent under the mining laws; and (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(e) SNOWMOBILE RECREATION— (1) IN GENERAL— Except as provided in paragraph (2), the use of snowmobiles shall be permitted within the special management area only in the areas designated as the "NW Peaks Snowmobile Area" and the "Mount Henry Snowmobile Area", as generally depicted on the map. (2) EFFECT— Nothing in this section precludes the Secretary concerned from closing from public use any trail located in an area described in paragraph (1)— (A) to protect a natural resource; or (B) to help ensure public safety.

(f) TIMBER HARVESTING— (1) IN GENERAL— Except as provided in paragraph (2), timber harvesting shall not be permitted within the special management area. (2) MAINTENANCE OF SPECIAL MANAGEMENT AREA— Timber harvesting may be permitted in the special management area to the extent allowed under section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1) for purposes relating to the necessary control of fire, insects, and diseases, and for public safety.

(g) DEVELOPMENT LIMITATION— Effective on the date of enactment of this Act, no permanent campground may be constructed in the special management area.

(h) OFF-ROAD RECREATION— (1) IN GENERAL— Except for administrative purposes or to respond to an emergency, the use of mechanized and motorized travel shall be prohibited within the special management area in the areas designated as "NW Peaks Backcountry", "Murphy Mountain Backcountry", "Mount Henry

Backcountry", and "Roderick Backcountry", as generally depicted on the map. (2) MAP— Not later than 1 year after the date of enactment of this Act, the Secretary concerned shall prepare and make available to the public a map that depicts each area described in paragraph (1). (3) EFFECT— Nothing in this section precludes the Secretary concerned from closing from public use any trail located in an area described in paragraph (1)— (A) to protect a natural resource; or (B) to help ensure public safety.

(i) HUNTING;FISHING— The Secretary concerned shall allow individuals to hunt, trap, and fish within the special management area in accordance with each applicable law (including regulations) of— (1) the Federal government; and (2) the State.

(j) GAME CARTS— Nothing in this section prohibits the use of game carts in areas of the special management area allowed as of the date of enactment of this Act.

(k) FIREWOOD— The collection of firewood (including the use of chainsaws) shall be allowed in certain areas of the special management area, as determined by the Secretary concerned in consultation with the resource advisory committee.

(l) ALL-TERRAIN VEHICLE STUDY— (1) IN GENERAL— Not later than 1 year after the date of enactment of this Act, the Secretary concerned shall study and report on— (A) the opportunities for expanded all-terrain vehicle routes and trails across the Three Rivers District and adjacent areas on the Kootenai National Forest; (B) the interconnectedness of routes on private or State land; and (C) the opportunities for expanded access points to existing trails. (2) CONSULTATION— The study shall be conducted in consultation with— (A) the resource advisory committee for the Three Rivers District; (B) the local collaborative land management organizations; (C) representatives from motorized user groups: and (D) any other interested party.

ANALYSIS OF SEC. 209—

Sec. 209 contains a lot of conflicting language and purposes. For example, Sec. 209(b) establishes the Three Rivers Special Management Area "to conserve, protect, and enhance the scenic, wildlife, recreational, backcountry heritage, and other natural resource values." Then Sec. 209(c)(2) allows grazing to continue unaffected. Sec. 209(d) withdraws the area from mineral leasing. Sec. 209(e) allows snowmobiles. Sec. 209(f) generally prohibits timber harvest. Sec. 209(g) prohibits new "developed" campgrounds. Sec. 209(h) prohibits mechanized vehicles from four designated "backcountry areas." Sec. 209(k) allows chainsaws in certain areas.

Finally, Sec. 209(l) mandates an all-terrain vehicle study requiring the Secretary to report on "opportunities for expanded all-terrain vehicle routes and trails across the Three Rivers District and adjacent areas on the Kootenai National Forest." This expands the authority of the FJRA to the rest of the Kootenai National Forest concerning all-terrain vehicles. The study and report also require consideration of interconnecting routes with private and state lands trails and study opportunities for expanded access points to existing trails.

Section 209(l) has the potential to cause additional ecological damage to an already heavily compromised landscape. Presumably the Special Management designation is meant to protect fish and wildlife, scenic and backcountry values. All-terrain vehicles are the antithesis of fish and wildlife habitat protection. They are loud, create erosion, are difficult to enforce, and allow access into prime grizzly bear habitat. Expanding their use

and access across the Kootenai National Forest and the threatened Cabinet-Yaak grizzly population might represent an override of the Endangered Species Act. The study's results may also be predetermined by the requirement that the Secretary consult with the "resource advisory committee, local collaborative group, and representatives from motorized user groups." This is one more example of the FJRA approach to localized management of national public lands and resources.

RECOMMENDATIONS FOR SEC. 209—

Remove Sec. 209(l). Change backcountry designations to Wilderness under Section 201 or as restoration areas.

SEC. 210- OTATSY RECREATION AREA

(a)DEFINITIONS— In this section: (1) MAP— The term "map" means the map entitled "Location of the Seeley Lake Wilderness Additions and Otatsy National Recreation Area" and dated July 16, 2009. (2) RECREATION AREA— The term "recreation area" means the Otatsy Recreation Area that is— (A) established by subsection (b)(1); (B) comprised of— (i) certain land located in the Seeley Lake Ranger District of the Lolo National Forest; and (ii) approximately 1,271 acres; and (C) generally depicted on the map.

(b) RECREATION AREA— (1) ESTABLISHMENT— To conserve, protect and enhance the scenic, wildlife, recreational, backcountry heritage, and other natural resource values of the Blackfoot watershed, there is established the Otatsy Recreation Area.

(2) ADMINISTRATION— (A) IN GENERAL— The Secretary concerned shall administer the special management area in accordance with this section and any laws (including regulations) relating to the National Forest System. (B) AUTHORIZED USES— The Secretary concerned shall only allow uses of the recreation area that the Secretary concerned determines will further the purposes of the recreation area, as described in paragraph (1). (C) GRAZING— Nothing in this subsection prohibits, or affects the administration of, the grazing of livestock on land within the boundaries of the recreation area.

(3) SNOWMOBILE RECREATION— (A) IN GENERAL— Except as provided in subparagraph (B), the use of snowmobiles shall be permitted in areas located within the recreation area, as designated by the Secretary concerned in the map described in paragraph (7). (B) EFFECT— Nothing in this subsection precludes the Secretary concerned from closing from public use any trail located in the recreation area— (i) to protect a natural resource; (ii) to help ensure public safety; (iii) for administrative purposes; or (iv) to respond to an emergency.

(4) MANAGEMENT PLAN— (A) IN GENERAL— No later than 3 years after the date of enactment of this Act, the Secretary concerned shall prepare, and may periodically amend, a comprehensive management plan for the recreation area. (B) REQUIREMENTS— In preparing the management plan under subparagraph (A), the Secretary concerned shall— (i) design the management plan— (I) to fulfill the purposes of the recreation area; and (II) to ensure the sound management and enforcement of the recreation area; and (ii) carry out a public process to develop the management plan to provide for— (I) adequate signage; (II) a public education program on allowable uses areas; and (III) a monitoring and enforcement strategy.

(5) ENFORCEMENT PRIORITY— The Secretary concerned shall prioritize the conduct of enforcement activities in the recreation area— (A) to prohibit the degradation of the natural resources of the recreation area; and (B) to prevent entry of motorized vehicles into adjacent wilderness areas and portions of public land that are closed to motorized vehicles.

(6) NOTICE OF OPEN ROUTES— The Secretary concerned shall ensure that visitors to the recreation area have access to adequate notice relating to the open routes within the recreation area through— (A) the provision of appropriate signage within the recreation area; and (B) the distribution of maps, safety education materials, and any other information that the Secretary concerned determines to be appropriate. (7) MAP— Not later than 1 year after the date of enactment of this Act, the Secretary concerned shall prepare and make available to the public a map that depicts each area described in paragraph (3)(A). (8) WITHDRAWAL— Subject to valid existing rights, the Federal land designated as the recreation area is withdrawn from— (A) all forms of entry, appropriation, or disposal under the public land laws; (B) location, entry, and patent under the mining laws; and (C) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

ANALYSIS OF SEC. 210—

Sec. 210 contains a lot of language for an area that is just 1,271 acres. This area will allow grazing and snowmobiles, but is withdrawn from mineral leasing. Sec. 210(4) requires yet another management plan, this one within 3 years of the enactment of FJRA. This recreation area has the potential to require a lot of enforcement for just a small area. Sec. 210(5)(B) states an enforcement priority is to "prevent entry of motorized vehicles into adjacent wilderness areas and portions of public land that are closed to motorized vehicles." Establishing motorized play areas directly adjacent to designated Wilderness areas invites management problems and violations of Wilderness boundaries. In such a small area, even if restricted to established routes, motorized use will impact the entire recreation area and make it unsuitable for non-motorized recreation. This Recreation Area appears to be an expensive one for its small size and looks more like a dedicated playground for motorized interests rather than a contribution to protection of the Blackfoot watershed.

RECOMMENDATIONS FOR SEC. 210—

Remove the subsection allowing snowmobiles and motorized recreation.