

Statement of
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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE
ENERGY AND NATURAL RESOURCES COMMITTEE
UNITED STATES SENATE
June 23, 2016
Concerning
The draft “Wildfire Budgeting, Response, and Forest Management Act of 2016”

Madam Chairman and Members of the Committee, thank you for the opportunity to present the views of the United States Department of Agriculture (USDA) regarding the draft “Wildfire Budgeting, Response, and Forest Management Act of 2016.”

The single most important step Congress can take to advance forest health and resilience is to enact a comprehensive fire budget solution—one that addresses both the growth of fire programs as a percent of the agency’s budget and the compounding annual problem of transferring funds from non-fire programs to cover the cost of fire suppression. USDA appreciates the continued interest from members of the Committee to address the way fire suppression is funded. However, as currently drafted, the discussion draft does not provide the necessary comprehensive fix and undercuts core environmental laws.

Fire suppression costs now consumes greater than 50 percent of the Forest Service budget. Fiscal Year (FY) 2015 marked the eighth time since FY 2002 the Forest Service needed to transfer funds from non-fire accounts to pay for fire suppression. Even more devastating, in order to cover the 10-year average cost of suppression in FY 2017, more than \$237 million will be reallocated away from accomplishing work such as forest restoration projects that would help reduce the risk of future fires. Congress relies on the 10-year average cost of fire suppression to appropriate funds, even though this metric cannot keep up with the increasing costs as wildfires burn bigger and hotter with climate change. These are dollars lost to fire before a single fire even starts and cannot be regained through transfer repayment. They are permanently shifted to fire and away from additional work that could be accomplished if the \$237 million were applied towards restoration efforts on the ground.

Title I: Wildfire Budgeting

The U.S. Forest Service faces two related but distinct challenges from the rising cost of fire suppression. First, wildland firefighting (suppression) activities are currently funded entirely within the U.S. Forest Service budget based on a 10-year rolling average. Today the agency spends over half of its budget on fire management activities and has seen a corresponding 39

percent decline in non-fire staffing since 1998. Left unchecked, two out of every three dollars appropriated to the Forest Service will be spent on fire programs in the next 10 years.¹

Second, when appropriated resources fall short, as they have six out of the past ten years, the U.S. Forest Service is forced to transfer funds from non-fire programs to cover the cost of suppression. These mid to late season transfers cause uncertainty and instability in planning, and adversely impact the agency's ability to implement projects. Notably, the type of work delayed by the rising cost of suppression can include the needed restoration work on National Forest System lands.

Under the draft "Wildfire Budgeting, Response, and Forest Management Act of 2016" (discussion draft), the Forest Service will request 100 percent of the 10-year average as part of its regular discretionary budget to cover normal fires. If this amount is not used during the fiscal year in which it is appropriated, the remaining funds will be used for risk reduction projects. Wildfire suppression expenditures in excess of 100 percent of the 10-year rolling average are eligible for disaster funding through a cap adjustment which is outside the discretionary appropriation of the agency. The discussion draft sets a limit annually of additional new budget authority above 100 percent of the 10-year average costs for suppression for both the Department of the Interior (DOI) and the U.S. Forest Service. Prior to obligation of any additional new budget authority, U.S. Forest Service and DOI shall submit to Appropriations and Budget committees written notification of the need for additional funds.

The discussion draft falls short of fixing the fire budget problem. While the discussion draft addresses the issues associated with transferring funds to cover suppression costs, the requirement to fully fund the increasing 10-year average for wildland fire suppression would mean that significantly less funding is available each year in the agency's budget for restoration and risk reduction programs, like hazardous fuels projects. Left unchecked, the share of the budget devoted to fire in 2025 will exceed 67 percent, equating to reductions of nearly \$700 million from non-fire programs compared to today's funding levels. Again, these funds cannot be paid-back through transfer repayment; rather, these are funds permanently shifted to fire and away from mission critical restoration, watershed protection, recreation, and facilities maintenance.

While additional funds for fire suppression provided in the FY 2016 omnibus bill (as well as proposed in the Senate FY 2017 Interior, Environment and Related Agencies Appropriation bill) are helpful to reduce the risk of in season fire transfers, they do not address the underlying and ongoing erosion of the agency's budget attributed to the increase in the 10-year average, as fires burn bigger, hotter and longer due to climate change. Moreover, these one-year fixes fail to provide the funding, predictability, and stability needed to support restoration project planning and implementation. The Administration continues to support a comprehensive fire budget solution that addresses *both* the growth of fire programs as a percent of the agency's budget and the compounding problem of annual fire transfers. This remains the most important action Congress can take to increase the pace and scale of forest restoration across all landscapes.

¹ <http://www.fs.fed.us/sites/default/files/2015-Rising-Cost-Wildfire-Operations.pdf>

Title II: Wildfire Response and Preparedness

The U.S. Forest Service and the Department of Interior have the capability and responsibility to protect life, property, and natural resources while assuring an appropriate, risk-informed, and effective response to wildfires that is consistent with land and resource management objectives. We do this in close cooperation with States, Tribal governments, local governments, contract crews, and emergency and temporary hires. Firefighter and public safety are the primary considerations for all operations. The agencies continue to suppress approximately 98 percent of the fires on initial attack. However, the few fires that escape initial attack tend to grow quickly.

The Forest Service is committed to working with the wildland fire community and the committee to identify areas where we might adapt to keep pace with the increasing complexity in the wildland fire system. We offer the following reactions to the specific response and preparedness provisions found in the discussion draft:

Sec. 201-National Wildland Firefighting credentials

Section 201 requires USDA and DOI to act jointly with state agencies to develop and approve a single system for providing credentials to all Federal and State-certified aircraft, personnel and firefighting support equipment for use on Federal land; and for firefighting operations conducted by, or in cooperation with, Federal agencies.

The Forest Service has developed standards from years of experience managing the largest, most complex wildland fire aviation program in the world. We have concerns that a single standard that accounts for the various differences among the Federal and State agencies could result in a “lowest common denominator” standard. The Forest Service will not compromise its own specific safety standards. We look forward to working with the committee on this issue.

Sec. 202: Use of Unmanned Aircraft Systems in Managing Wildland Fires

Section 202 authorizes the use of unmanned aircraft systems (UAS) in managing wildland fires (in accordance with FAA regulations) by Federal and State wildland firefighting agencies. UAS are among the technologies that hold significant potential to aid in fire detection and increase firefighter safety efforts. We have identified five main ways the wildland community can benefit from UAS in fire management including:

1. ***Enhancing safety through scouting fire line and identifying escape routes and safety zones.*** Significant potential exists to enhance firefighter safety by aerially assessing the terrain, condition of fuels, fire behavior, and potential escape routes without putting a human in dangerous situations.
2. ***Tracking and monitoring ground resources in real time.*** UAS technology can help provide accurate locations of personnel and equipment and direct them to strategic locations or advise them out of dangerous situations.
3. ***Enhancing communication links.*** Use of UAS can help link radio communications when terrain hinders line-of-sight transmissions or over a larger area for longer-term incidents.
4. ***Increasing ground resources’ awareness of real time fire characteristics, such as location, behavior and spread.*** A small UAS above the tree canopy can help ground assets learn more about fire activity in their vicinity. In some situations, heat signatures or infrared sensors could help in smoky or other low-visibility situations.

5. ***Supporting aerial supervision and mapping in low visibility situations.*** UAS tools can observe ground crews and provide mapping capabilities in smoky or other low-visibility situations.

We welcome further discussion with the Committee on Section 202 that ensures the agency is empowered to deploy UAS in appropriate situations.

Sec. 203-Location Tracking System for Wildland Firefighters

Section 203 requires USDA and DOI to develop and operate a tracking system using technology such as GPS to remotely locate the positions of fire crews assigned to Federal Type I fire incidents. The Forest Service aims to be a leader in embracing the new technology and welcomes further discussion with the committee to discuss where and when tracking devices are placed.

Section 204-Community Planning Assistance for At-risk Communities

Section 204 requires USDA and DOI to update and publish the list of at-risk communities using the criteria described in the Healthy Forest Restoration Act and to provide financial assistance to at-risk communities in planning and preparing for wildfire.

The Forest Service, in cooperation with state foresters, is currently authorized to carry out the activities in this section through programs such as State Fire Assistance. We welcome further discussion with the Committee regarding options for mapping the list of at-risk communities.

Section 205-Fire Risk Maps

Section 205 requires USDA and DOI to cooperate with the Federal Emergency Management Agency to develop a linked series of maps that depict the risk of wildfires for all undeveloped land in the Wildland Urban Interface (WUI). The Forest Service finds this section unnecessary as the agency already provides maps of wildfire hazard potential through our Research and Development Branch. The maps are publicly available and depict the relative potential for wildfire that would be difficult for suppression resources to contain.

Section 206- Dissemination of Information to the Public during Fires

This section authorizes the procurement of temporary communication equipment (e.g., wireless internet, telecom infrastructure) and sets out requirements for USDA and DOI regarding the frequency, type and time period for making information available during wildfire events.

The authorities in this section are unnecessary and are overly prescriptive. The agency provides for temporary communication during wildland fire incidents. Further, it is a general practice of the agency to make available public information related to wildland fires and to communicate with elected officials as requested or as often as there is a need.

Title III: Public Land and Forest Management

Capacity constraints due to the present approach to budgeting for wildfire continue to be the greatest impediment to further improving the health and resiliency of the nation's forests. Today, the agency spends over half of its budget in fire-management activities and has seen a corresponding decline in non-fire staffing of 39 percent since 1998. This has enormous

implications for how the agency carries out its mission, including taking funding from the very programs that help reduce catastrophic fire in the first place. Notwithstanding these challenges, through an emphasis on collaboration the Forest Service has consistently increased the number of acres treated annually to improve watershed resilience and timber production—increasing timber sold by 21 percent since 2008.

We offer the following reactions to the specific public-land and forest-management provisions found in the discussion draft:

Subtitle A – Environmental Analysis for Certain Forest Management Activities

Section 301 requires the analysis of the action/no-action alternative under an environmental analysis or environmental impact statement under the National Environmental Policy Act (NEPA) for forest-management activities that are developed through a collaborative process and where the primary purpose is to reduce hazardous fuels, install fuel breaks, restore forest health, protect water supplies or communication sites, improve wildlife habitat or a combination of two or more of these purposes.

The mandate found in Section 301(b), in combination with the overly broad purposes listed in section 301(a)(2), has the potential to eliminate the consideration of alternatives for nearly any forest-management activity the Forest Service undertakes in areas covered under section 301(a)(1). NEPA mandates a process and does not explicitly require consideration of any particular resource or use. Imposing substantive requirements such as those found in Section 301(c) on NEPA's procedural mandate has the potential to cause confusion and discourage its use. Requiring evaluation of these effects is an added burden for environmental review and documentation.

Subtitle B– Tongass National Forest Plan Amendment

The Administration opposes Section 311, because it undercuts the robust Tongass land management plan revision process, which has involved a high degree of collaboration with the public over the past several years; delays the issuance of a Record of Decision by requiring unnecessary and costly studies, creating uncertainty in providing sufficient volume to sustain the timber industry; and could force the U.S. Forest Service to offer an unrealistic level of timber for sale in current market conditions.

Section 311 (a) requires the Secretary to comply with Section 705(a) of Alaska National Interest Land Conservation Act (ANILCA). As drafted, Section 311(a) merely instructs compliance with an already enacted piece of legislation and is redundant and unnecessary. However, it could be that the provision is intended to require compliance with Section 705(a) as it was originally enacted in 1980. As originally enacted, Section 705(a) directed the Secretary of Treasury to make available from USDA & DOI receipts at least \$40 million annually or as much as the Secretary of Agriculture finds necessary to maintain Tongass timber supply at a measure of 4.5 billion board feet per decade (450 mmbf/year).

Congress repealed ANILCA's Section 705(a) for good reason when it enacted the Tongass Timber Reform Act in 1990 and any effort to revive it would be ill considered. Annual offering levels of 450 mmbf are unrealistic given current market conditions, industrial capacity, current

land use designations, and competing stakeholder interests. Further, allocating \$40 million annually toward supplying timber would require a redirection of resources from other essential land and resource-management programs.

Section 311(b) and Section 311(c) require a comprehensive inventory of young-growth stands that includes stand-level field work, assessment of all age classes inventoried to forecast yields, and future economic options. The requirement to inventory all 462,000 acres of young-growth sites on the Tongass National Forest before issuing a Record of Decision for the Land Management Plan Amendment will cause an unnecessary delay, and would be contrary to the recommendations of the Tongass Advisory Committee. There is sufficient information available to support the amendment, and a young growth inventory is already underway.

Section 311(d) prohibits the issuance of a record of decision (ROD) for any forest plan amendment until inventory is completed and a 90-day public comment period has occurred. The Final Environmental Impact Statement (FEIS) and ROD are scheduled for completion in late 2016. Postponement of the ROD to await stand-level inventory work is not necessary because the currently available information is of sufficient scope and depth to support the development of the FEIS and ROD.

The Tongass land management plan amendment process has involved a high degree of collaboration with the public over the past several years; the Forest received over 165,000 comments on the Proposed Forest Plan Amendment. In addition, the Forest established the Tongass Advisory Committee to advise on transitioning the Tongass National Forest to young growth forest management. The Members represented a broad and diverse range of viewpoints and expertise, geographically diverse communities in and outside of Alaska, and people with a demonstrated commitment to working on collaborative solutions. The Advisory Committee's recommendations were incorporated as the Preferred Alternative in the Proposed Forest Plan Amendment. Postponing issuance of the ROD would jeopardize all the collaborative work and effort, send a signal that the Committee's recommendations were ignored, and also delay implementation of key proposed provisions, including provisions to enhance support for renewable-energy project development and the transition to young-growth harvest management. Finalizing the plan amendment will help operationalize more young-growth sales. If the ROD is delayed there will remain uncertainty in providing sufficient volume to sustain the timber industry because of continued risk of litigation related to old-growth timber harvest needed for the transition.

Subtitle C – Stewardship End Result Contracting

Section 321 amends the stewardship end result contracting authority in the Healthy Forests Restoration Act (HFRA) to insert a new subsection that authorizes potential termination or cancellation costs (cancellation ceilings) to be obligated in stages that are economically or programmatically viable. In exercising this authority, the Secretary must provide written notice to Congress and OMB of the cancellation ceiling amounts proposed to be obligated for each year for a contract or agreement with a cancellation ceiling in excess of \$25 million.

Section 322 amends HFRA to allow excess offset value to be applied first to cancellation liabilities, if they exist, otherwise the excess value may be applied to stewardship projects as currently authorized. Section 323 requires the annual monitoring report to go to four subcommittees instead of the two current subcommittees. Section 324 allows for the retention of receipts to fund up to 25 percent of the cost of planning stewardship projects.

Multiyear stewardship contracts are attractive because they offer contractors and industry operators some certainty of supply, enabling them to obtain loans for equipment or, which can then spur demand for materials resulting from stewardship projects. The challenge in using multiyear stewardship contracts, unlike traditional timber sales contracts, is that they are generally funded with appropriated funds from agency budgets. There is field unit reluctance to use this tool if they have to curtail other land management programs in order to budget for high cancellation ceiling costs.

We recognize and support the need to fully fund upfront and currently include a standard reimbursement clause to protect the contractor if the government cancels a stewardship contract for its convenience. Due to the detailed, technical nature of these provisions, we welcome further discussion with the Committee regarding the cancellation ceilings, use of excess offset value and reporting requirements for stewardship contracting.

Subtitle D – Accelerated Restoration Program for Ponderosa Pine and Dry-site Mixed Conifer Forests

Section 331 requires USDA and DOI to establish a new pilot program of authorized hazardous fuels projects under HFRA concerning treatment of Ponderosa Pine and dry-site mixed conifer forests that are prone to severe fire. While we appreciate the committee's goal of reducing risk of wildfire through expedited hazardous fuels projects, we believe this section is duplicative and not currently structured in a way to facilitate the intended goal. Thus, we would welcome the opportunity to work with the committee to explore options to reduce duplication and align the section with current practice and law to provide clear direction to reduce wildfire risk.

As an example of the duplication within this bill, Title III, Section 301 requires a no-action alternative where Subtitle D, Section 331 requires any reasonable alternative for reducing the risk of fire and necessary and practicable mitigation measures for EAs. Also, Title III, Section 301 requires specific effects to be analyzed for the no-action alternative where Subtitle D, Section 331 requires analyzing the potential for significant effects along with the risk and environmental impacts of severe wildfire. These overlapping provisions, alongside existing NEPA procedures and additional procedural legislation such as the Healthy Forest Restoration Act, contribute complexity that takes time for agencies and the public to navigate and defend.

In addition, Section 331(c) defines emergency circumstances and authorizes alternative procedures in lieu of implementation of the Council on Environmental Quality's standard NEPA Regulations in certain circumstances. We find this section unnecessary as the Forest Service currently has established procedures for emergency circumstances and for pursuing alternative arrangements under 36 CFR 220.4(b), which would meet the needs of the language identified in this section. CEQ regulations for implementing NEPA at 40 CFR 1506.11 also provide direction for pursuing alternative arrangements when emergency circumstances exist. Imposing specific

requirements regarding emergency circumstances and alternative arrangements could confuse implementation of existing policies and regulations, and we look forward to working with the committee on this section.

Finally, Section 331(d) allows for 10 long-term timber contracts or stewardship contracts with terms of up to 20-years. In awarding these contracts, the Secretary may give preference to existing saw mills and entities that convert the material produced shall be for green-building production or mass timbers including cross-laminated timber. Section 331(d)(4) requires that payments received from contactors will be considered as monies received presumably for purposes of determining amounts to be paid under applicable revenue allocation laws. Though we appreciate the need to bring certainty to local mills, we believe long-term contracting decisions should not be made solely on the basis of short-term emergency considerations. We share the goal of supporting long-term solutions to land management issues, and believe this goal maybe better achieved through other avenues. We look forward to working with the committee on the best way to achieve that outcome.

Summary

The single most important step Congress can take to advance forest health and resilience is to enable the Forest Service to continue its mission-critical work and not be forced year after year to respond to the growing 10-year average suppression costs by permanently diverting funds. A comprehensive and free of harmful policy riders fire-budget solution—that addresses both the growth of fire programs as a percent of the agency’s budget and the compounding problem of annual fire transfers—remains the most important action Congress can take to increase the pace and scale of forest restoration across all landscapes. We look forward to working with the committee to find that solution.