

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

Introduction

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

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

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

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

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

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

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

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

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

Legislative Background

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

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

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

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

NASF Concerns with Federal Forest Land Policy

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

Environmental –

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

Socio-Economic –

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

Institutional –

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

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

NASF Desired Policy Reforms

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

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

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

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

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

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

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

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