
NATION'S FORESTS HEALTH PROBLEMS

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

S. 1314

TO EXPEDITE PROCEDURES FOR HAZARDOUS FUELS REDUCTION ACTIVITIES ON NATIONAL FOREST SYSTEM LANDS ESTABLISHED FROM THE PUBLIC DOMAIN AND OTHER PUBLIC LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT, TO IMPROVE THE HEALTH OF NATIONAL FOREST SYSTEM LANDS ESTABLISHED FROM THE PUBLIC DOMAIN AND OTHER PUBLIC LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT, AND FOR OTHER PURPOSES

S. 1352

TO EXPEDITE PROCEDURES FOR HAZARDOUS FUELS REDUCTION ACTIVITIES AND RESTORATION IN WILDLAND FIRE PRONE NATIONAL FORESTS, AND FOR OTHER PURPOSES

H.R. 1904

TO IMPROVE THE CAPACITY OF THE SECRETARY OF AGRICULTURE AND THE SECRETARY OF THE INTERIOR TO PLAN AND CONDUCT HAZARDOUS FUELS REDUCTION PROJECTS ON NATIONAL FOREST SYSTEM LANDS AND BUREAU OF LAND MANAGEMENT LANDS AIMED AT PROTECTING COMMUNITIES, WATERSHEDS, AND CERTAIN OTHER AT-RISK LANDS FROM CATASTROPHIC WILDFIRE, TO ENHANCE EFFORTS TO PROTECT WATERSHEDS AND ADDRESS THREATS TO FOREST AND RANGELAND HEALTH, INCLUDING CATASTROPHIC WILDFIRE, ACROSS THE LANDSCAPE, AND FOR OTHER PURPOSES

JULY 22, 2003



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NATION'S FOREST HEALTH PROBLEMS

TUESDAY, JULY 22, 2003

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

The committee met, pursuant to notice, at 10:02 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Pete V. Domenici, chairman, presiding.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. Now we're going to proceed with the hearing. We have a series of panels, important testimony, and a genuine amount of interest on the part of Senators. So I will try to be fair but expedite.

I want to open the hearing by thanking my ranking member, Senator Bingaman and each of committee members for taking time to come to this hearing.

I would like to insert in the record my prepared remarks at this moment, regarding the reality of where the jurisdiction lies and what is going to happen with various bills. I think you know by now that the principle bill that came over to us from the House was referred to the Agriculture Committee by the Parliamentarian. We thought better of trying to contest it for a lot of reasons. They are proceeding with dispatch. They will report a bill to the floor of the Senate soon. Soon being?

Mr. GLADICS. They are going to do a markup tomorrow.

The CHAIRMAN. We have our own responsibility and, of course, with a bill coming out of the assigned committee going to the floor, we are going to have to decide what we do. Do we report a bill? Do we report and send it to the floor and try to impose it at given times on that bill? Do we try to superimpose the entire bill with a bill of ours? Obviously, those decisions can be made soon.

We are here today to hear testimony on the forest health legislation and to have dialogue on the issues that seem to keep us from dealing with the problem in our forests. The bills that we have before us, as I have them noted, are S. 1314, introduced by Senators Bingaman and Daschle; S. 1352 introduced by Senators Wyden and Feinstein; H.R. 1904, the House-passed forest health bill which I just described as being physically and power-wise in the jurisdiction of the Ag Committee of the Senate.

As I see it, there are a handful of key differences in the proposals. There may be many more. But as I see it, the appropriate number of acres for each project is the difference in the bills.

Whether the focus will be solely on wildland-urban interface or not is an issue and the degree of equipment limitations for the projects, the number of alternatives that must be analyzed, and different administrative appeals processes and court reviews, and last my analysis, whether courts should be directed to balance short-term risk against potential for long-term harm.

I want to thank the Governor of Arizona, Janet Napolitano, for coming here to represent the Western Governors' Association. I know it is hard to make trips like this when your State has been in the brunt of that young fire season and the other issues that you obviously have.

I want to thank Governor Judy Martz from the State of Montana for coming to testify on such short notice and under the same kind of difficulties that I have just underscored for Governor Napolitano.

In a few minutes, we are going to hear Under Secretary of Agriculture, Mark Rey, and Rebecca Watson, the Department of the Interior's Assistant Secretary for Land and Minerals Management, and I also want to extend a special welcome to Otero County, New Mexico Commissioner Mike Nivison and Ms. Laura McCarthy of the Forest Trust in Santa Fe, New Mexico. Welcome to both of you.

Now, opening statements. If there are any, let us do them now. Senator Bingaman, you are first.

[The prepared statements of Senators Domenici and Bunning follow:]

PREPARED STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR
FROM NEW MEXICO

I want to open this hearing by thanking my Ranking Member Senator Jeff Bingaman and each of the Committee members for taking the time to come to this very important hearing.

We are here to take testimony on S. 1314—Senator Bingaman and Daschle's forest health legislation, S. 1352—Senator Wyden and Feinstein's forest health legislation and H.R. 1904—the House passed forest health legislation and to discuss the issues that seem to keep us from dealing with the forest health issue.

I want to thank the Governor of Arizona, Janet Napolitano for coming here to represent the Western Governors Association. I know it is hard to make trips like this when your State has seen the brunt of this young fire season. I want to thank Governor Judy Martz of Montana for coming to testify on such short notice. In recent weeks Montana has faced the beginnings of what could be a repeat of the 2000 fire season. In fact, I see that the Hidden Lake and Blackwall Fires are in the same area that was so hard hit in 2000.

In a few minutes we are going to hear from our other witnesses, including Undersecretary of Agriculture Mark Rey and Rebecca Watson, Department of Interior's Assistant Secretary for Natural Resources, Lands and Mineral Management.

I also want to extend a special welcome to Otero County, New Mexico Commissioner Mike Nivison and Ms. Laura McCarthy of the Forest Trust in Santa Fe, New Mexico. Welcome to both of you.

Now, I want to show a ten-minute video on what is happening to our federal forests and grass lands and I hope each of us will find a way to get beyond the deadlock we've suffered on this issue.

We have been bickering over just about everything but the land. It is the land and keeping that land productive and enjoyable for our constituents that we must focus on.

Before we dim the lights, I want to show one graph that will help put our hearing in perspective. This is a graph of the number of acres that have burned on the National Forests each year since 1994 compared to the number of acres harvested each year.

In six of the last nine years, fires on the National Forest burned more acres than were harvested. In some years we've burned four and five times what has been managed through harvesting.

Despite our debate about timber harvesting. It has been fires that have been destroying important wildlife and fisheries habitat. Today, I hope we will begin to worry about the agents of change that are robbing America of its forests—insects, diseases, and fire.

After the video, we will accept other opening statements and then proceed to our witnesses.

PREPARED STATEMENT OF HON. JIM BUNNING, U.S. SENATOR FROM KENTUCKY

Thank you, Mr. Chairman.

Today's hearing on the impacts of insects, disease, weather-related damage, and fires on public and private forest lands is important for the protection of communities, natural resources, and forests nation wide. I believe that assessing the factors behind the rash of recent devastating forest fires, as well as advancing the determination of solutions to such problems, is significant for the health and welfare of communities, industry, and environmental treasures across America.

Kentucky boasts two national forests, the Daniel Boone National Forest and the Land Between the Lakes National Recreation Area. The preservation of these lands from forest fires and other forms of natural detriment is of paramount importance to myself and my fellow Kentuckians.

Kentucky has worked hard to maintain healthy forests. While I know that western forests have been more affected by wildfires in recent years, I hope that Kentucky's forests are not forgotten in future forest fire programs.

I appreciate the time that our witnesses have taken today to testify. I look forward to hearing their thoughts on fire risk reduction and restoration practices.

Thank you, Mr. Chairman.

**STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR
FROM NEW MEXICO**

Senator BINGAMAN. Thank you very much, Mr. Chairman. It is a very important issue for all of us, and I appreciate your having the hearing and appreciate the witnesses coming.

There are some very real differences in the bills that have been presented, in the bill that I introduced with several co-sponsors and, of course, in the bill which has come over from the House of Representatives, as you indicate, to the Agriculture Committee.

I think one key area of difference, that we obviously will have a chance to ask the witnesses about, is the whole issue of the extent to which we need to focus these resources on the urban-wildland interface in the areas where structures and communities and homes are actually threatened.

Another area, of course, is the extent to which appeals should be permitted and public participation should be permitted in decisions about forest thinning.

Another issue that I wanted to particularly flag for the committee is one that I have heard about in our State of New Mexico. That is the delay which, it appears to me, has been caused by the practice that we have talked about at several previous hearings where the Forest Service has to borrow funds from other accounts in order to fight the fires that they are required to fight each year. And that borrowing from other accounts winds up delaying forest thinning type activity, critical projects in our State. I have a quotation from the Forest Service in one of their communications where they said some critical projects in New Mexico were postponed for up to a year as a result of fire borrowing, they call it.

The legislation that I have introduced tries to correct that or provide another mechanism for the Forest Service to get the funds they need to fight the fires without having to take it out of these

accounts that are the accounts that ought to be used for this forest thinning activity.

There are many other issues we will have a chance to get into with the questions, but again I appreciate your having the hearing.

The CHAIRMAN. Thank you very much, Senator.

Anybody else? Would the Senators make them brief, please?
Senator Craig.

**STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR
FROM IDAHO**

Senator CRAIG. Mr. Chairman, I will be brief, and I ask unanimous consent that my full statement be a part of the record.

Let me thank you for that film. I think it lays out honestly and fairly the problems we are facing predominantly in the West, but it is true of all of our national forests in one form or another with one bug problem or one overgrowth, fuel-loading in another.

In the part of that film—and I want to draw this to the attention of the committee—you saw some standing trees, bug-killed. That section of that film came from the Nez Perce Forest in Idaho outside Elk City, Idaho, in the Red River drainage. There are about 10,000 or 12,000 acres that are now dead there and many more dying this year because of bug infestation.

The reason that is uniquely interesting is because of a phenomenon that happened in Idaho and Montana years ago. It happened on August 20, 1910 in approximately the same area. Lightning struck. The circumstances were right. The perfect storm ensued, and 2 days later, 3 million acres were burned across Idaho, north Idaho, and Montana. The largest single fire ever in the history of our country, people dead, communities burned, wildlife destroyed, and over 3 million acres gone.

The CHAIRMAN. What year?

Senator CRAIG. 1910, August 20, August 21.

Interestingly enough, the perfect storm is now developing again. The same situation is at hand again in Elk City, Idaho. There is a fire burning there as we speak about 30 miles east of Grangeville, Idaho on the Nez Perce Forest, a few miles from where this great fire of 1910 originally started. It is about 400 acres today. It is not in control. It was topping yesterday, or crowning, like what you saw in the film.

I would hope that our foolishness, our clear recognition of a problem, our inability to act last year and the year before because of the politics in part spelled out, but also reflective of all the legislation we have in front of us. We are tiptoeing through the forests as they burn.

Last year at this time, about 3 million acres was already gone for the year. This year, we are at about 1.2 million acres already burned, Mr. Chairman. It is 100 degrees in Boise, Idaho today. Today will make the hottest stretch of heat on record for Idaho ever in its recorded history. The Great Basin West is hotter than it has ever been. It is drier than it has ever been, and we are starting to burn.

I would hope that common sense would yield to the reality of what we are facing here or the politics would yield to the common

sense, I should say, to deal with this issue and that we ought to move expeditiously.

I thank you for the hearing today, Mr. Chairman.

[The prepared statement of Senator Craig follows:]

PREPARED STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

I want to thank Chairman Domenici for holding this hearing.

It is said that if you ignore history, you are doomed to repeat it. Given our inability to find a rational common sense solution to our forest health disasters—we—the members of this Committee and this Congress are signing the death warrants for millions of acres of forests, hundreds of thousands of animals, birds, and fish—and who knows how many communities.

On August 20 and 21 of 1910, fires consumed more than three million acres of land in Idaho and northwestern Montana. Think of that—an area 3/4 the size of Connecticut—gone in less time than it takes us to debate your average appropriation's bill on the floor of the Senate.

At that time it was reported that fire whorls, the size of a man's arm, carried along on 50 mile-per-hour winds, swept through towns 50 miles to the east of these fires.

The sun was completely obscured in Billings, Montana, a town 500 miles to the east of the fires. The sky was darkened as far east as New York State.

Our forest health problems are not isolated in the rural west. In 1989, Hurricane Hugo slammed ashore near Charleston, South Carolina and cut a swath northwest through North Carolina into Virginia, destroying thousands of acres of forest.

On the Francis Marion National Forest, in South Carolina, 70% of the trees were killed. Our response was to immediately expedite the process of cleanup, salvage, and replanting, including NEPA, and to funnel millions of dollars into that effort.

In January 1998, more than 17 million acres of forests were heavily damaged in an ice storm that stretched from New York State, across New Hampshire, Vermont and into Maine. Our response was to appropriate \$48 million to help the cleanup and expedite projects on the federal lands in the area.

In the spring of 1999, when a blowdown followed by a Southern Bark beetle epidemic ravaged the Texas National Forests, we provided emergency exemptions that allowed managers to enter into Wilderness Areas to sanitize the stands to slow the spread of the insects.

On July 4 of that same year, more than 600,000 acres of forests in Northern Minnesota were blown down. Our response was to provide waivers from NEPA to help the area begin a recovery process.

Just last year, in the Supplemental Defense Appropriations Bill, we helped Senators Daschle and Johnson deal with forest health emergencies, in their state, by exempting projects from all NEPA, all appeals, and all litigation.

Each time a common sense approach was supported by this body. Each time we reached out to our neighbors to help them deal with the forest health problems they'd suffered.

Thanks to Senator Domenici, we've seen, in a few short minutes, what our inaction is causing. I noted pictures of the forests around Elk City, Idaho which is, as we speak, being destroyed by bark beetles and quite literally the Slims fire burning less than 20 miles to the west threatens the community as I speak.

Ask yourself if our forefathers, in times of dire emergency, would have maintained, or relaxed, an Administrative Appeals process that is chiefly utilized by seven or eight self-avowed anti-action groups to stop needed projects.

Ask yourself if our forefathers, in time of emergency, would have done away with the NEPA analysis process, or would they have made it more complex, and time consuming, like some of the legislation we are now considering does.

At times, I contemplate how we would have dealt with the events of September 11, or the record tornado's of this spring, or the hurricanes that we've suffered, if we would impose the Forest Service NEPA and Appeals processes on the entire country. Then I thank God that we've had more sense than that.

Many private forest landowners in your States are currently staring down the barrel of a loaded gun. That gun is filled with insects, disease, and fires and it is being aimed at them from neighboring public land.

These people are having the greatest difficulty understanding why this Senate can't come together to help all the citizens of this county in the same manner we've responded to other natural disasters.

While I fear that the modest changes called for in H.R. 1904 will not be enough. I have learned that every great journey starts with a small step, and I trust each

of you on this Committee will help us take that first small step by supporting the President's Healthy Forest Initiative.

The CHAIRMAN. Thank you.
Senator Wyden.

**STATEMENT OF HON. RON WYDEN, U.S. SENATOR
FROM OREGON**

Senator WYDEN. Thank you very much, Mr. Chairman. I want to begin, Mr. Chairman, by commending you for your ongoing and dogged efforts to try to get the Senate to a bipartisan coalition of 60 votes that can get this legislation to the President. I want to reiterate the commitment I have made to you over the last couple of years to pull out all the stops, to get this legislation to the President.

These fires are not natural. They are infernos, and it is impossible to overstate the importance of this issue to the rural West. We are going to see communities all up and down the West turn into sacrifice zones if we do not move ahead with this legislation.

I think you evinced, once again, your bipartisan desire to move ahead on this when you worked with me to add the extra money for the Fire Plan. Unfortunately, we did not finally prevail in conference, but it is an indication of how committed you are to getting the Senate to the common ground on this issue, and you have my commitment to work with you.

With respect to the legislation Senator Feinstein and I have introduced, the Community and Forest Protection Act, we seek to balance the need for public participation with the need to trim the bureaucratic red tape that binds the management of our forests and aids the bugs and fires in their destruction of these national treasures.

Suffice it to say, as I have gone about the West, Mr. Chairman, what I have seen is again and again a sense that people feel passionately about the right to participate in the debate about forestry and the right to be heard, for example, in the legal system, but they understand that there should not be a constitutional right to a 5-year delay with respect to these forestry decisions. So somewhere in between, as Senator Feinstein and I have tried to do with our legislation, is the balance.

We are hopeful that we can work with you to break the gridlock this time. The Senate got close last time. My sense was that we were making a fair amount of headway, and we began to take a fair amount of shrapnel from all sides. Hopefully this time more Senators will be willing to join you, Mr. Chairman, in the effort to find the common ground, and you will have my support in that cause.

The CHAIRMAN. Thank you very much.
Senator Burns.

**STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR
FROM MONTANA**

Senator BURNS. Mr. Chairman, thank you very much. I would like to welcome my Governor from the State of Montana and also Bruce Vincent, who has more than a passing interest in this sub-

ject as he has been involved in the wood products and the forestry business up in northwest Montana for a long time.

I guess what is alarming to me, there is no situation worse than people who will not hear. I want to throw out a couple of facts. I have got a little thing I want to show you here and to illustrate how important it is that we have healthy forests. Healthy communities and healthy forests are interlaced, and if you do not have one, you do not have the other, and it does not make any difference which one you put in priority.

In 1990, we had 38 small mills in Montana. We are now in 2002 at 19. I think around 2008 we will be down to 6. That is just fact.

There is also one other disturbing thing that is popping up. Now, I know that we have seen everybody appeal a sale or whatever is done on the forest. Do those appeals lead to a different management tool or style? No, they do not. The only thing the appeal does is stop the process, offering no other answer to the problem that we have today.

These are actual figures. We are, on two forests in Montana, losing more trees to disease and mortality than we are growing in those two forests. Overall, out of nine forests, on two forests we are losing all that we grow. Overall, of all the growth in 1 year—now, these are 2003 figures. They aren't last year and they aren't 10 years ago. We are losing half of that growth just to disease and mortality.

Now, you tell me, can the taxpayer afford to subsidize a business like that? Could you farm or ranch and lose half your crop every year or your business? I am asking America to look and see the facts. And I have some more in here as we go along.

But I just wanted to bring that up today because this ill-conceived idea that appeals and the public input—and I guess I am as much a part of the public input too, but if I ran a ranch or a business with all public input, I would be in the poor house. And I know what it is like to go broke because I did it once on my own, taking nobody's advice.

[Laughter.]

Senator BURNS. So that is how smart I am.

But I am also smart enough to know that there are a lot of folks out here who do not have the environment or the forest health at stake. What is at stake here is political power and money, and it is wrong. It is wrong for the forests. It is wrong for America, and it is wrong for the American taxpayers, who financially have to pay the bill.

I thank the chairman.

[The prepared statement of Senator Burns follows:]

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Thank you, Mr. Chairman, and thank you to the witnesses for appearing here today. In particular, I would like to recognize two people who will be testifying: First, my thanks to Gov. Judy Martz, who is representing the Western Governor's Association, for joining us. Your experience as Montana's governor has prepared you well to be a witness on the importance of Healthy Forests.

Additionally, I am grateful the Committee has extended an invitation to Bruce Vincent, from Libby, Montana. Bruce has a special talent for bringing the concerns of resource based rural communities to the attention of people who otherwise may not have a stake in them. He is a champion for the hard working people so many

of us on this committee know personally, but that too many in this country—and in this body—are trying to put out of business.

It is appropriate to have Bruce testify, because this is a hearing that may very well define the future of a number of Montana's communities. This hearing is about the health of our national forests and also the health of communities dependent those national forests. It is about finding a way to preserve the clean water, the clean air, and the wildlife habitat the residents of Montana treasure. The communities and the forests are tied together, since if the communities die, there will be no infrastructure remaining to take care of those national forests. When America's forests burn up, they make the national news. But when America's towns and the schools and the churches close down because there aren't any jobs left in the forests, the cameras are nowhere to be found. It's still a tragedy, even if Montanans are the only ones watching.

Today, there are over 190 million acres of forests at risk of devastating wildfire. The situation is a result of a general degradation of the health of our forests. This degradation is the direct result of past poor management practices, which results in our forests being more susceptible to devastating wildfire and deadly insect infestations. The decision we need to be willing to make is to change the direction of management, because from where I'm sitting the current method just isn't working and it hasn't for the last 20 years.

The costs associated with wildfire suppression now reaches into the millions per fire, totally in the billions of dollars annually. However, fire suppression is not the only costs of the wildfire and insect infestations. There are equally high costs associated with lost and damaged wildlife habitat, clean air and water issues, problems of siltation in our rivers and streams, loss of critical infrastructure, and loss of tourism. Ask the people in the Bitterroot Valley about air quality, and they'll tell you the worst they've ever seen was during the fires of 2000.

Let me sketch a picture of what's happened throughout the forested west:

- in Montana, in 1990, there were 38 small, independent timber mills;
- in 2002, there were 19; and,
- if changes aren't made in our forest management practices, I foresee only 6 mills in 2008.

The number of timber mills here is simply representative of our ability to address forest health. Without forest professionals, and experienced loggers, and the mills to process timber products, we stand no chance of recreating a healthier forests. Of course, the mills also provide another side benefit in the creation of good-paying jobs, health insurance, and tax base. For both those reasons we can't stand by and watch Montana's critical infrastructure go the way of mills in the state of Arizona where today there are none. Without this infrastructure we simply will not be able to address the critical forest health issues, and other industries reliant on these mills will begin to close their doors as well.

We must not let the healthy debate over forest health evolve into a political debate over cutting timber. There are people who simply have an objection to cutting down trees, but I wonder why it's all right to burn them down. The Forest Service timber sale program is the smallest it has been since the 1940s. We are losing more trees, wildlife habitat, and critical healthy watersheds to fire, disease, and insects than we impact through timber sales. Yet we continue to stand by and do nothing to stop the destruction.

The environmental community can no longer continue to appeal and litigate every project designed to remove hazardous fuels from the forests under the guise of protecting the habitat of fish and wildlife; yet, turn a blind eye on the damage that insects and fires are doing to these same habitats.

We must provide the federal land managers with the tools needed to address the extreme conditions of our national forests. We must address the issues associated with delays as a result of appeals and litigation.

Today's hearing is a critical step in providing those tools and addressing those delays.

The CHAIRMAN. Thank you very much.

Any other Senators? Senator Feinstein. Senator Johnson, did you come—

Senator FEINSTEIN. He was here before me.

Senator JOHNSON. Well, I would ask simply, Mr. Chairman, if I may submit my whole statement for the record to expedite this hearing.

The CHAIRMAN. It will be admitted.

Senator JOHNSON. And I will do only that.

The CHAIRMAN. You reserve your comments?

Senator JOHNSON. Yes.

[The prepared statement of Senator Johnson follows:]

PREPARED STATEMENT OF HON. TIM JOHNSON, U.S. SENATOR
FROM SOUTH DAKOTA

Thank you, Mr. Chairman, for calling today's hearing on how we can best reduce the threat posed from catastrophic fire threatening many communities in the West. As a Senator representing a state with significant tracts of forestland, I am keenly aware of the acute need to reduce fuel loads and thin overly dense forests, particularly near communities, watersheds, and the national and state parks that dot many western states.

Mr. Chairman, many of the Senators on this Committee understand first-hand the devastating impact of forest fires to public and private forestland throughout the United States. As I look around the dais, nearly every Senator in attendance has had fires in his or her state that have destroyed homes, threatened water supplies, and damaged the crucial habitat of threatened and endangered species. In the Black Hills, since 1998, nearly 10 percent of the forest land has been exposed to wildfire. Although South Dakota contains a modest amount of forested acres compared to other western states, 10 percent is an astonishing amount of land.

South Dakota is somewhat cursed by geography in the sense that a mild and relatively wet climate is a boon to the native ponderosa pine forests and requires aggressive treatment to thin overgrown stands susceptible to windthrow and insect infestation. The fact is the Black Hills is a prolific producer of ponderosa pine. The forest type and geography that produces thick stands of trees in South Dakota is different from the environmental and forest conditions in Arizona or Oregon. As Congress crafts a forest policy bill it is important to recognize that different forests confront distinct sets of challenges. We have to empower and trust that the professional land managers who are the stewards of the public trust prescribe the best plan for treating and managing our public lands.

In South Dakota we are beginning to see the benefits from empowering and trusting our public land managers. Just outside of Rapid City, S.D., the Forest Service is embarking on an aggressive plan to treat 35,000 acres in an area heavily intermixed with residential developments. Steep gulches and overgrown stands of ponderosa pine could result in a devastating forest fire. It is in these areas—where the forest meets the community—that the Forest Service must have the authority to expedite length environmental analysis to carry out fuel reduction projects.

While the intermix and interface communities should be treated first, I strongly believe that if we do not treat overgrown and insect infested lands throughout the entire ecosystem, the unnatural fire regimes of the last few years will continue to race throughout wilderness and back country, destroying the very environmental values, all of us want to uphold. It is not possible nor desirable to completely eliminate fire from a forests ecosystem. However, our approach must not preclude addressing high-risk areas simply because the land is isolated or separated from a community by a ridge or gully.

In closing, Mr. Chairman, it is my desire that the Senate can get to a point where a broad collection of our colleagues can reach consensus and pass a bill that improves forest health and safeguards our communities.

Thank you.

The CHAIRMAN. Senator Feinstein.

**STATEMENT OF HON. DIANNE FEINSTEIN, U.S. SENATOR
FROM CALIFORNIA**

Senator FEINSTEIN. You are not quite so lucky. I would like to say a few things.

Thank you very much, Mr. Chairman, for holding this hearing.

The CHAIRMAN. We always like to hear from you, Senator.

Senator FEINSTEIN. Oh, thank you, thank you.

Interestingly enough, the *New York Times* this morning in the science section has a very interesting article on how a forest stopped the fire in its track. I would like to pass it over because

I think it actually shows what Senator Wyden and I are trying to do in our bill. You have a forest in Susanville that has burned badly and it just stopped, and where it stopped was where it had been thinned selectively and the underbrush had been carried away. So if I might just pass this around.

I would also like to pass around, if I might, a comparison of the three bills, the House bill, the Wyden-Feinstein bill, and the Bingaman-Daschle bill, at least as we see it, and make a few comments.

First of all, we have 57 million acres in risk of catastrophic fire. Of the critical acreage, there are about 23 million, and California has 8.5 million of those acres. So we could lose in a big fire a whole national forest easily. The entire Sierra Nevada is in that category. And Senator Wyden has a like situation.

So we decided to get together and see if we could not produce a bill that would reduce the risk, would prioritize the highest risk lands, would give Governors flexibility. Some Governors might want to use their share in urban interface areas and others would not. So what we did was we gave the Governor the ability to use as much as 75 percent or 50 percent of Federal resources as they saw fit in these various areas.

We also targeted high-risk fire areas.

Specifically in a couple of areas, we have simplified the environmental assessment by providing one round of public comment in the administrative appeals process rather than two. We have shortened the time frame of administrative appeals from 90 to 60 days, and we have allowed the appeal-deciding officer to make any necessary changes rather than sending the project back to the original decision maker for further review. We believe this will speed up the administrative process by a few months or more and it does not eliminate public comment or environmental analysis.

We believe our bill fully protects old growth.

The controversial area is judicial review, and I just want to say what we have done with respect to judicial review. I think we have encouraged courts to the maximum extent practicable to resolve lawsuits over brush clearing projects quickly. And the way we have done that is that we require that litigants file suit in the same judicial district where a fuels reduction project takes place, which will end one of the games that takes place when people file in other districts. So the judge in that district actually knows firsthand what the situation is.

We have limited temporary injunctions that are typically issued at the outside of a case to 60 days, and challenges to a project must submit updates explaining why the injunction should be extended.

So we hope that with these simple things, plus others, that we have created a bill that, as Senator Wyden said, might be able to get the 60 votes that are required in the Senate.

Thank you, Mr. Chairman.

The CHAIRMAN. Any other Senators?

Senator Murkowski.

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR
FROM ALASKA**

Senator MURKOWSKI. I am just asking permission to get the full extent of my comments into the record.

The CHAIRMAN. It will be done.

Senator MURKOWSKI. And just to note obviously there is a great risk. We are at crisis proportions I think throughout the West. When we look at our situation in Alaska, we have lost over 5 million acres of beautiful forest in the interior in south central Alaska to the spruce kill, just sitting there as fuel on the forest floor. We are most concerned about it and truly do appreciate the efforts of this committee and others to highlight that.

We have a picture in the back. I believe this was included in the film itself.

The CHAIRMAN. Yes.

Senator MURKOWSKI. But all of those trees are dead. They are standing, dead trees.

The CHAIRMAN. How long have they been dead, Senator?

Senator MURKOWSKI. Well, the kill takes a couple years, but those have probably been standing—I do not know—5 years or so. But you touch them, and they crumble. They are just waiting to go up in smoke.

So we appreciate the attention to this issue, but it needs to be more than just attention. We need the action. We need the ability to go in there and do the thinning necessary, take these trees down, do the treatment, so that we do not have my whole State going up in smoke. So, Mr. Chairman, thank you.

[The prepared statement of Senator Murkowski follows:]

PREPARED STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

Good morning, Mr. Chairman. Thank you for calling this hearing today regarding forest fire impacts and addressing pending legislation related to forest health. This is a very important issue to my State of Alaska, and I look forward to hearing the testimony of today's panel.

The 2000 and 2002 fire seasons have been some of the worst on record. In 2002, Alaska alone experienced fires that burned more than one million acres. Forest fires continue to extensive problems for many Americans, predominantly for those living and working in the West. There has been great damage to our forested lands from these catastrophic wildland fires; many of which result from forests devastated by insect and disease. Deteriorating forest and rangeland health now affects more than 190 million acres of public land, an area twice the size of California.

It is important to mention the damage that has been caused to forests in Alaska, particularly in the Chugach Mountains and on the Kenai Peninsula. (I would like to show a photo which shows the spruce bark beetle infestation and resulting dead trees on the Kenai Peninsula). Clearly, such an outbreak and resultant devastation to the Kenai Peninsula, which entails public, private, state and native corporation lands is everyone's concern in my State.

The spruce bark beetle has drastically changed the forests in my State. Over 5 million acres of trees in south central and interior Alaska have been lost to insects over the last 10 years. This devastation by the spruce bark beetle is one of worst in recorded history.

These dead and dying trees, located near many private residences, are susceptible to fire. Coupled now with the low amount of snowfall Alaska has received the potential for further disaster is great.

We must reduce the environmental restrictions that limit the possibility for forest management. Our public land laws and regulations should not make it difficult to cut down the dead or dying trees that are nothing but potential fuel for catastrophic wildfires. Our nation's policy has to allow for responsible forest management that includes the ability to remove, when appropriate, wildfire fuel from forests.

I support the work, thus far, established by this Administration under the President's Healthy Forest Initiative. The President's Healthy Forest Initiative implements the core components of the 10-Year Implementation Plan, endorsed by this Administration and the Western Governors' Association last May 2002, by enhancing and improving collaborative work with communities in active forest management. Active forest management includes thinning trees from over-dense stands

that produce commercial or pre-commercial products, biomass removal and utilization, and prescribed fire.

I believe that H.R. 1904, "The Healthy Forest Restoration Act of 2003" is a comprehensive plan focused on giving federal land managers and their partners the tools to respond to a national forest health crisis. The legislation directs the timely implementation of scientifically-supported management activities to protect the health and vibrancy of federal forest ecosystems as well as the communities and private lands that surround them.

I look forward to hearing from our panelists today. Thank you, Mr. Chairman.

The CHAIRMAN. Senator, is it implicit in your putting that picture up there that there are efforts over time to remove those trees and they have not reached fruition because of rules, regulations, laws, or whatever reason?

Senator MURKOWSKI. Yes, sir, that is correct. We are in the process of doing some of the thinning, but when you look at the acres, the millions of acres that have been killed, and you see what we have been able to address so far, it is truly nothing more than a drop in the bucket.

What you are not seeing there is whether or not there are any communities around there. We have small towns out in the Kenai Peninsula that are surrounded by these dead and dying trees, these tinderboxes, and we are most concerned about the safety of the citizens and the property.

The CHAIRMAN. Senator Smith.

**STATEMENT OF HON. GORDON SMITH, U.S. SENATOR
FROM OREGON**

Senator SMITH. Thank you, Mr. Chairman. I would ask that my full statement be included in the record as if read.

The CHAIRMAN. It will be.

Senator SMITH. Thank you, sir.

I would just sum up by saying that I think this whole debate will come down to the details of judicial review, and I think that is where we are either going to get something done or not. In a recent court case in Oregon in which a salvage sale was stopped, the judge in that case said, "From an equitable point of view, if this court had considered the case without any reference to prior case law with respect to NEPA, I would allow this project to go forward." That is what he said, but on the basis of judicial review, as it is currently, we are just not getting it done, and we are watching it all burn.

I think it was very telling in a silviculture study done by the Oregon State University on the Biscuit fire which consumed a half a million acres last summer, that report concluded I think very accurately that there are 2 billion board feet that should be salvaged, and if you do, the environment will be better. You cannot do it, though, with current law, current standards, and current judicial review.

This will be an exercise in futility if we, in fact, do not honestly accurately address the judicial review aspect of this bill.

Thank you.

[The prepared statement of Senator Smith follows:]

PREPARED STATEMENT OF HON. GORDON SMITH, U.S. SENATOR FROM OREGON

Mr. Chairman, thank you for holding today's hearing. As you know, this hearing and the issues before us arrive after many years of intensive congressional scrutiny

of forest health conditions nationwide, and how we are responding to them. This hearing also has the mixed benefit of following several costly wildfire seasons in the West. If we act on what we have learned, I think this Committee and this Congress can act boldly and wisely—and our public lands will be the better for it. If Congress chooses the path of timidity and inaction, the federal government and our communities will continue the hopeless struggle against the symptoms of an ever-worsening disease.

I'd like to give a brief perspective on the Healthy Forests Initiative, which is the origin of the bills and issues before us. President Bush came to Medford, Oregon last summer in the midst of the nation's largest wildfire—the Biscuit Fire. He came to see first-hand why the West was burning and to set the federal government on a faster path to meet the goals of the Western Governors' 10-Year Strategy. In the shadow of a mile-high plume of smoke from the Biscuit Fire, many Oregonians were asking for emergency treatment of high-risk areas. More specifically, they were asking for the same federal authority that had recently been bestowed to beetle-infested forests in South Dakota. There in the Black Hills, federal environmental laws such as the Endangered Species Act and the National Environmental Policy Act were waived to allow forest managers to quickly reduce fuels and restore forest health.

At the urging of then-Oregon Governor Kitzhaber, and others, President Bush committed not to push through similar authority for the rest of the country—a “National Daschle,” if you will.

Instead, the Administration and a bipartisan coalition in the House have honored the President's commitment and have advocated reasonable legislation that neither eliminates NEPA nor prohibits citizen lawsuits on fuels treatment projects. I offer this background because in the realm of what is possible, and what has already been enacted for some, the provisions of H.R. 1904 are already a fair balance between the immediate needs of communities and the long-term health and function of federal forests.

On the issue of funding, I agree that we need to authorize additional funds for fuels and forest health treatment. I expect any bill that leaves the Senate will do so. But I also recognize that unless those funds are deployed across the landscape to change fire behavior, every dollar we allocate to the interface will be hijacked by increasingly catastrophic fires in the backcountry. No amount of thinning in the interface will reduce the economic cost of wildfires. Nor does it reduce the risk to the lives of young fire fighters who will be on the lines, wherever the fires are. A District Ranger from the Davis Fire in Oregon said: “the fire blew up like a bomb, but where we had fuel treatment, we were able to stand and fight.”

From experience we know that even where there is extensive thinning in just the interface, such as Black Butte Ranch in Oregon, homes are still at risk. Spot flares from explosive wildfires can and do leap fire lines and fuel breaks. Thinning in the interface is necessary, but it doesn't address the underlying problem any more than wearing your seat-belt prevents you from being hit by a drunk driver. We shouldn't mistake precaution for prevention.

With respect to judicial review of forest health projects, it is clear that court precedent is building up like dead wood in our forests and steering land managers from doing what's right for the land. In a recent court case in Oregon, a fuels reduction project was enjoined not on the merits of its reduction of fire risk, but on the technicalities of precedent. The judge said: “From an equitable point of view, if this Court had considered this case without any reference to prior case law or with respect to NEPA, I think I would allow the [project] to go forward.”

Decisions like this have a chilling effect on land managers. It's up to Congress to clarify our intent on laws like NEPA and concepts like Multiple Use, and I think the judicial review provisions of H.R. 1904 are appropriate. They don't lock citizens out of the courtroom. But their focus and timelines will keep our forest managers from being locked in the courtroom. I think that's fair.

In closing, I would urge my colleagues to recall what Congress meant in laws like the “Multiple Use and Sustained Yield Act.” If we still believe that the policy of Congress is for our national forests to be managed for outdoor recreation, range, timber, watersheds, and fish and wildlife—if we still believe that—then it must be clear and visible in how we address the specter of forest health and wildfire.

In other words, it's up to Congress—not the courts or the agencies—to set the standard of forest health. So we can act boldly, be clear about our expectations for public lands, and improve forest health from the ponderosa pines of Oregon to the loblolly pines of Louisiana. Or we can be crippled by uncertainties that will never be resolved by holding more hearings. Silviculture is a science, not a mystery or a political riddle. Science applies lessons we've already learned. Congress should do the same.

If Congress is timid and incomplete about forest health legislation, we can expect no more from federal agencies. I expect a lot from our land and from our land managers. My vote on the Senate floor will reflect that.

The CHAIRMAN. Thank you.
Senator Thomas.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM WYOMING**

Senator THOMAS. Mr. Chairman, thank you. I would like to get on with the panel.

I am just frustrated by the time we have spent. We have been at this now for several years, and while we are here talking about these details, the fires are out there burning. You have listed in your statement some of the things we need to overcome, and frankly this committee has not moved either, and it is time that we do that. So, thank you for holding this. Let us get on with it.

The CHAIRMAN. Let me assure you now we are behind the 8-ball not only because of what you all have told us, but the Agriculture Committee is new at this issue, and they have a bill, and they are going to report it. There is going to be a powerful bill on the floor, from what I can understand, addressing many of the issues that you all have been talking about that has been done by that committee. And we are going to have an opportunity to either report something out here or, in your case, Senators, looking at Feinstein and Ron, you all are going to be able to go down there and amend it and put in this language and see if there are 60 votes for it because it is going to happen during this year. And that is a synch.

What we are going to do in terms of how do we counter what they produce, I have decided to wait and see what they produce. Let us take a look at what they have and it will not be very long, I tell you for sure.

Having said that, we are going to proceed now. Senator Burns, would you introduce your Governor, please?

Senator BURNS. Well, I would be happy to. She is our first woman that was elected to the governorship of the State of Montana and ably served as Lieutenant Governor under Governor Racicot. We welcome you here this morning. She is a product of Sweet Grass County, Montana, but spent most of her years in Butte, America.

[Laughter.]

Senator BURNS. And we welcome her here this morning.

The CHAIRMAN. All right, Governor, you may proceed.

Governor Napolitano, if your Senator has not arrived, would you proceed immediately following Governor Martz? We welcome you here, and I will serve as his proxy and be the one introducing you.

Governor NAPOLITANO. Thank you.

The CHAIRMAN. Please proceed in that fashion.

**STATEMENT OF HON. JUDY MARTZ, GOVERNOR, STATE OF
MONTANA, ON BEHALF OF THE WESTERN GOVERNORS' AS-
SOCIATION**

Governor MARTZ. Thank you, Mr. Chairman. Thank you to each of you on this committee. Mr. Chairman, before I even start with the testimony, I would like to thank you on behalf of the Western

Governors' Association for being the lead on the drought legislation also. We will support you. I know you are introducing that on Thursday. We support you and we appreciate you in that effort. We will give you all the help that we can to get that legislation passed.

Beyond that, I would like to thank you, Chairman Domenici and Senator Bingaman, Senator Burns, my Senator, and other distinguished members of this committee. I appreciate the opportunity to join you today to share the Western Governors' vision of the management of public lands in the West. We arrived today, the two Governors, one in black, one in white, not on purpose, but we really do believe that this is a black and white issue and it should be spoken to as such.

[Laughter.]

Governor MARTZ. As you know, for the past year I served as the chair of the Western Governors' Association, representing 21 State and territorial Governors. My primary focus and my main issue as lead Governor in that capacity has been the issue of forest health. I do not have to tell you that this is a highly sensitive issue. It is also one of the most important issues I think facing the West.

In the year 2000, Montana burned over 1 million acres of good timberland, and no one seemed to care. As I speak here today, wildfires are raging in 12 Western States, Montana, Arizona, New Mexico, Wyoming, Idaho, Utah, Colorado, Oregon, Washington, California, Nevada, and Alaska. As of yesterday, the total acreage burned this wildfire seasons is approximately 1,356,000 acres. And keep in mind, in many of our States, our real fire season does not even start until late August or early September.

This issue is not going to go away. Just last Friday, I signed an executive order stating that a state of emergency exists in my State because of the threat of destructive wildfire. It is my hope that taking this action early in the 2003 fire season, we will ensure that we do not experience the disasters of the year 2000.

As I joined interested participants from 22 States and 3 countries last month in Missoula, Montana for the Western Governors' Forest Health Summit, I was reminded of the incredible opportunity we are afforded as westerners to live, to work, and to play in this incredible corner of the globe. There is something so very special, so very unique about our way of life in the West. Sometimes we do not often look enough within ourselves to understand our uniqueness, and outsiders rarely appreciate it. But our uniqueness comes from our people and our communities, communities whose core values are as deeply embedded as their determination and their pride. But make no mistake, every westerner has a vested interest and truly desires to protect our public lands and scenic vistas. Our lands are the fabric of our very way of life.

But in the same regard, we are cautious. We are humble public servants, not political opportunists, and we ought to be leading the effort to solve our land management challenges. First and foremost, we have to end detached, impractical management practices that have little connection to local needs with only a superficial interest in local participation. It does not work and it never will work. If we can work together using input and advice from the local, county, State and Federal Governments, we could bring about much

healthier forests and, without a doubt, create some jobs in the process.

Second, we must work tirelessly to encourage greater cooperation between Federal agencies and States and counties. That is truly what government should be about.

Third, we must work together to craft land management policies that are more reflective of local consensus. We must provide stability and predictability to our region and to our local communities. As a part of our goal to bring stakeholders to the table, we hosted the Forest Health Summit to address critical forest management issues on State and Federal lands, while ensuring the best return for our communities. The summit brought together nearly 400 participants from all different perspectives. Consensus recommendations were reached by the participants, and we are now considering incorporating those recommendations into WGA policy.

The participants recommended, among other things, a continued emphasis on the collaborative process, as well as the need to ensure that local communities have the infrastructure and capability to be partners in the implementation of the 10-year strategy plan. As the letter the Western Governors sent to Congress on June 18 makes clear, the Western Governors are convinced that the collaborative process, as it has been set forth in the 10-year strategy, has been working.

We urge you, therefore, to avoid prescriptive approaches to project selection and prioritization. As Congress directed 3 years ago—and I quote—“key decisions should be made at the local levels.” We have been working hard to implement that directive and have a plan in place to do just that.

Now I would like to discuss with you the environmental review appeals and judicial processes. There is no getting around it. The Governors have not been able to come to complete agreement on what needs to be done to make the administrative and judicial processes more efficient. This reflects to a great extent the different circumstances we find in each of our States. I am sure that Governor Napolitano will describe the situation in Arizona.

But now I would like to share with you a story that many of you know only too well. That is the story of salvage operations in Montana on the 2000 Bitterroot forest fires. I would have brought the Federal environmental review on Federal forestlands after the 2000 Bitterroot fires so you could see them, but they are just too big. They stack up this high. I am not exaggerating by even an inch. I have carried them around our State to show people in the State that environmental review is this tall. These documents represent 15,000 person-days or the equivalent of 57 man-years of work. That is right. Had one individual created those documents, it would have taken 57 years of full-time work to complete that assessment.

Keeping this in mind, this 57 man-years of work were completed and over \$1 million was the cost to do that appeals process, the books. It was spent to get nearly 15,000 acres of timber out of 300,000 acres of burned, dead timber. That is all we got out of that \$1 million. Out of 57 man-hours, we got almost 15,000 acres of burned timber out of 300,000.

And after all that work, the Federal Government still ended up in court. The Federal review was completed well after the State of Montana had already implemented active management efforts to restore the health of our State lands in the same area by the timely removal of burned timber.

Currently, 190 million acres of Federal forest and rangeland are at an unnaturally high risk to catastrophic wildfire, larger than all of New England combined. Of the approximately 18 million acres of national forested Montana, over 12 million acres are classified as condition 2, class 2 over 3, which means these lands are in critical need of treatment.

To those of us in Montana and much of the West, it is clear that the Federal for addressing these problems is horribly broken. When roughly 90 percent of the decisions of the northern region are appealed, many believe the system is ripe for reform. These constant appeals and litigation and the threat of these actions have led to gridlock in many parts of the West. The time is now for real solutions.

Despite some differences between the Governors on the scope of changes that are needed to our administrative and judicial processes, we do have substantial agreement in many areas.

First, we urge you to recognize that effective use of the collaborative process can help eliminate or substantially reduce appeals and litigation.

Secondly, we encourage you to review existing law and recent changes to administrative processes to determine if changes in the law are necessary to expedite the protection of high-risk communities.

Regarding judicial action, we agree that meaningful participation should be required early in the planning process in order to establish standing to appeal. We also agree that should Congress consider setting new deadlines for judicial action, you must not preclude the opportunity for meaningful public participation.

Lastly, we concur that we would all benefit if courts could utilize sound science to consider the long-term effects of critical forest projects versus the effects of inaction while awaiting judicial rulings regarding injunctions.

Other areas in which the Western Governors are in agreement are detailed in our written testimony.

I would also like to briefly touch on the issue of Federal funding. As you know, I testified before this committee 1 year ago and I discussed this issue. I understand that last year alone the Federal Government spent a little over \$2 billion in suppressing wildfires. Much of that funding was borrowed from other accounts and was not paid back until earlier this year. The Western Governors continue to believe that up-front investment is fully implementing the 10-year strategy and it will suppress costs.

We appreciate the fact that budgets are very tight right now. However, we view this as a top priority, and we believe both Congress and the administration believe that as well.

We appreciate the President's request recently of \$289 million in supplemental wildfire suppression funding and we urge you to pass that as quickly as possible.

But let me conclude by saying that our traditional values can help us build a better nation. So let us work together. Let us make our voices heard. And I thank you and I pray that God continues to bless the hands that made Montana and this Nation a better place to live. Thank you.

Senator CRAIG [presiding]. Governor, thank you very much for that testimony.

Now let us turn to the Governor of the great State of Arizona, Janet Napolitano.

**STATEMENT OF HON. JANET NAPOLITANO, GOVERNOR,
STATE OF ARIZONA**

Governor NAPOLITANO. Thank you. Thank you, Senator Craig, Senator Bingaman, and other members of the panel, for the opportunity to appear today on behalf of the Western Governors' Association.

As was said, I am Janet Napolitano. I am the Governor of Arizona. I am going to make a very brief statement and then ask that you include in your record the testimony of the Western Governors' Association with its attachments.

Senator CRAIG. Governors, your complete statements and any attachments will become a part of the committee record. Thank you.

Governor NAPOLITANO. Very good.

I am also pleased, Senator Craig, to see that the panel today includes two members of the Arizona Forest Health Advisory Council, Wally Covington from Northern Arizona University and a representative from the Grand Canyon Trust. I think you will find their testimony insightful and very useful.

Arizona is not unique to the West, but the West is unique to the rest of the country. 97 percent of all Federal lands are west of the Mississippi River, and not surprisingly, 100 percent of America's wildfires so far this year have burned in the West. Consequently, the debate over how to best restore America's forests is a Western issue with a substantial Federal nexus that Congress must address.

Arizona's forests like those of other Western States are suffering from, as you said, the forest equivalent of the perfect storm: continued drought, years of decisions to allow the forests to become overgrown, and a major bark beetle infestation. This perfect storm has resulted in unprecedented fire danger, and Arizona is a prime example.

Last year, we suffered the worst wildland fire season in modern times, as more than 600,000 acres went up in flames. So far this year, our losses are substantial, but are expected to be less than last year's. Last week the seasonal monsoons finally arrived which still provide the most effective fire suppression tool around.

If there was any good to come of the fires in Arizona, it was that most of them occurred in the back country and posed little threat to people, structures, and private property. Fire fighters contained those back country fires that posed a concern to forest health fairly quickly, and those fires that were not raging out of control were used as tools of restoration.

Unfortunately, we had two major exceptions: the Aspen fire near Tucson, Arizona and most recently the Kinishba fire on the Fort

Apache Indian Reservation. Both threatened people and property. The Aspen fire destroyed more than 320 homes and 7 businesses, 70 percent of the mountaintop hamlet of Summerhaven. The Kinishba fire last week required the evacuation of approximately 5,000 people and threatened more than 30,000 inhabitants of communities in northern Arizona. The Kinishba fire started in a remote area of the forest on the Fort Apache Indian Reservation.

The good news in a difficult and frightening situation is that fire fighters knew from experience they could rely on the areas near the northern communities which had already been treated by the Apache Tribe to help them gain control of the fire before it ravaged the towns. The bad news is that many of the Federal lands in this area and around other forested communities have been virtually untouched and require substantial treatment.

In light of the years it took to get to the perfect storm, and as the Kinishba fire illustrates, restoring Western forests to a healthy condition cannot happen overnight. Proper pragmatic priorities must be established to make the best use of limited resources.

As you discuss various remedies, please keep in mind that we do not need to create a new plan for getting there. The plan exists. The 10-year comprehensive strategy and implementation plan adopted by the WGA addresses the wildland fire and hazardous fuels situations. This plan provides the basis for restoring our forests to healthy condition.

I urge you to focus on what is necessary to implement the plan because mere references to the document will not help. As you look to amend existing law and review current rules and regulations, it is imperative that you embrace the common sense strategy embodied in the Western Governors' plan. The plan targets the need for collaboration and early and meaningful participation in the process. All stakeholders, including tribal representatives, landowners, community-based groups, associations, environmentalists, industry, and local, State, and Federal officials need to be engaged. Engaging stakeholders early in the process in a meaningful way will lead to faster implementation of good projects on the ground.

As we implement these projects, we must give priority to treatment of forests surrounding threatened forest communities. Indeed, the Federal Government has a public safety responsibility to direct the resources to protect these communities. Helping these forest communities means restoring and protecting forests in the wildland-urban interface. Without such treatment, these areas pose a threat to people and to property, and many of these projects, those that involve public safety, should fall under an expedited review process and in many cases, if not all, be exempt from NEPA. These projects, however, should have clearly defined parameters regarding the definition of the wildland-urban interface and incorporate local scientific expertise in the project design.

Existing projects in the wildland-urban interface that have been through the review process, such as Kachina Village near Flagstaff, Arizona, should receive full funding upon approval. Unfortunately, too many already-approved projects wait. In the case of Kachina Village, several months passed before less than one-third of this more than 7,000-acre project was put out to bid, and still more months will pass before any work gets done. We have been lucky

this year. Fire has not started near Kachina Village which lies up-slope from a densely forested area. We may not be so lucky next year.

Prioritizing the areas surrounding communities does not exclude, however, treatments deeper in the forest so that entire forest ecosystems can be restored and protected from the eventuality of a mega-fire. These projects must be based on good science, with the primary purpose being the restoration of forests to sustainable health. All of this will require a congressional commitment to put resources into our forests.

A recent study by forest economists at Northern Arizona University estimates it would cost roughly \$6 billion to restore 12 million acres of forest in the lower nine continental Western States that are at extremely high risk of unnatural wildland fire. As the study further describes, we can invest roughly \$505 per acre to restore our forests or spend four times that amount to clean up in the aftermath of a wildland fire. The wisdom of the choice to treat forests rather than clean up after they have been burned is obvious. It is also consistent with the funding projections from the National Association of State Foresters for hazardous fuel reductions. The goal is achievable, the funding is the key.

Last year, the Forest Service spent roughly \$96 million suppressing wildland fires in Arizona, while a mere \$9.6 million was targeted toward prevention activities, including fuel reduction projects. We must change this equation and spend money up front to save money and possibly lives and property in return. Unfortunately, and as this committee is well aware, budget requests for hazardous fuels reduction fall far short of the need. Indeed, it holds a stagnant \$186.1 million or a total of \$558.3 million over the past 3 years for the Forest Service. For the same period, the National Association of State Foresters recommended \$1.4 billion.

The Western Governors have consistently advocated increased funding through the National Fire Plan to implement all of the actions called for in the 10-year strategy. Believe me, the States can relate to the current fiscal situation of the Federal Government. We have historical fiscal problems of our own to deal with. In this case, however, we cannot afford not to invest in forest thinning because hard experience has already taught us that without this investment, we will pay far more in the future for fire suppression, disaster recovery, and loss of forest habitat.

Much has been said about the time savings that we will achieve by streamlining the environmental review and appeals processes. The Western Governors agree that the process can and should be made more efficient. Nonetheless, absent appropriate funding levels and a commitment to the Western Governors' plan, procedural changes alone will not address the problem.

Consequently, any Federal legislation must accomplish three things: prioritize initial resources and efforts to those areas that pose a threat to people and property; embrace a collaborative process to identify and plan projects that will lead to more successful implementations; and make the necessary investment to get the job done. And if you are looking for a proving ground to show how to move projects forward through planning and implementation to completion, I volunteer Arizona to be your example.

Finally, in Arizona, like most Western States, we do not have the infrastructure for industry to offset the costs of forest thinning projects. We will work with industry but we should not have to wait for industry to come. While there may be no perfect solutions to abate the perfect storm, there are pragmatic ones, and the Western Governors' Association has put these before you.

That concludes my testimony, and I would be happy to answer questions the committee might have, Mr. Chairman.

[The prepared statement and a letter from the Western Governors' Association follow:]

PREPARED STATEMENT OF HON. JUDY MARTZ, GOVERNOR, STATE OF MONTANA

Thank you Chairman Domenici, Senator Bingaman and the other distinguished members of this Committee for the invitation to appear and to submit written testimony for today's hearing. This statement is submitted on behalf of the Western Governors' Association by Governor Judy Martz of Montana, Chair of the Western Governors' Association; Governor Bill Richardson of New Mexico, Vice-Chairman; and Governors Janet Napolitano of Arizona and Dirk Kempthorne of Idaho, co-lead Governors for forest health. WGA is an independent, non-partisan organization of Governors from 18 Western States and three U.S.-Flag Islands in the Pacific. We appreciate this opportunity to present the views of the Western Governors.

As you are all aware, wildfires are again sweeping through much of the West. All of us have seen the devastation wrought by these catastrophic fires raging through many of our most precious forests and communities. While we are all hoping that this fire season will be less destructive than 2000 or 2002, it does not appear that the overall situation is getting better. Unless we get a handle on this issue soon we may find that what would have been seen as an extraordinary fire season in the past will now be considered routine. Western Governors are, therefore, anxious to see action taken by Congress to help alleviate the situation.

We are, however, not just sitting back and waiting for the federal government to take action. Western Governors have been very actively engaged in bringing stakeholders together to seek consensus solutions to our forest health crisis. In fact, just last month we held a Forest Health Summit in Missoula, Montana that brought together nearly four hundred public officials, industry representatives, environmental groups, scientists, and other interested stakeholders. Consensus recommendations were reached by the participants and the governors are considering them for WGA policy. The recommendations focused on encouraging collaborative processes consistent with the 10-Year Strategy to address the hazardous fuels issue. Also stressed was the need to work with local communities to ensure they have the infrastructure and capacity to be partners in the implementation of the 10-Year Strategy and the National Fire Plan.

Western Governors are most concerned about communities at risk and reducing the dangers posed to people, property and watersheds in the Urban Wildland Interface. We must establish priorities for fire prevention and protection that emphasize these areas at risk. Western Governors are active participants in the Wildland Fire Leadership Council (WFLC). WFLC recently adopted field guidance for identifying and prioritizing communities at risk. This guidance was specifically called for in the 10-Year Strategy Implementation Plan and was collaboratively developed by the National Association of State Foresters, the federal government and a number of other interests. The field guidance provides a process for state and locally driven collaborative efforts to make hazardous fuel projects prioritizations and selections that presents an alternative to topdown centralized management. A copy is attached to this testimony for your reference.*

We have also been watching the Congressional debate over forest policy with great interest. We have been encouraged by the broad bipartisan support expressed for the 10-Year Comprehensive Strategy and Implementation Plan (together "the Strategy"), which, at Congress' direction, the Western Governors played a key role in drafting. As most of you would recall, the Conference Report for the Fiscal Year 2001 Interior and Related Agencies Appropriations Act (P.L. 106-291) required the development of a 10-year comprehensive strategy. Specifically, the Conference Report stated that:

* Retained in committee files.

“The Secretaries should also work with the Governors on a long-term strategy to deal with the wildland fire and hazardous fuels situation, as well as the needs for habitat restoration and rehabilitation in the Nation. The managers expect that a collaborative structure, with the States and local governments as full partners, will be the most efficient and effective way of implementing a long-term program.

The managers are very concerned that the agencies need to work closely with the affected states, including Governors, county officials, and other citizens. Successful implementation of this program will require close collaboration among citizens and governments at all levels. . . The managers direct the Secretaries to engage Governors in a collaborative structure to cooperatively develop a coordinated, National ten-year comprehensive strategy with the States as full partners in the planning, decision-making, and implementation of the plan.

Key decisions should be made at local levels.”

We have been diligently following those directives. In the process, we have been convinced that the collaborative processes established in the Strategy represent a significant, and positive, change in the way in which we manage our public lands and forests. Our foremost interest, therefore, is in ensuring that legislation adopted by Congress does not hamper the progress that has been made in fostering the collaborative process that was set forth in the Strategy.

The bills under consideration today would begin to codify some key elements of the Strategy, in particular by encouraging the Secretaries of Agriculture and Interior to facilitate collaboration among government agencies and concerned persons as early as possible and before projects are selected and initiated. This early input can expedite project planning and decisions, reveal problems and issues and prompt their resolution. At a minimum, it will reduce uncertainty about what land management proposals are contentious and why. While no panacea, early collaboration will help to develop the trust necessary to enable professional managers to deliver on the Forest Service’s commitment to improved forest health.

Congress ought to use this opportunity to take a step further in energizing the collaborative process and empowering stakeholders to actively participate in the management of their public lands. As public officials, we (Governors, Members of Congress, Administration officials, etc.) all need to lead the effort to encourage stakeholders to become involved in these decisions. Congress has the additional ability to not only encourage these efforts, but to provide both funding and guidance to federal agencies to make these activities possible.

Federal land managers, in conjunction with State Foresters, tribes, local officials, and stakeholders should have the authority and the flexibility to identify areas needing treatment while bringing together the widest range of landowners to accomplish forest restoration on the needed scale. Therefore, Congress should promote fuel reduction projects that are identified by government organizations and stakeholders through the collaborative process. Consistent with the Strategy, priority in project selection would be given to projects that reduce fire risk in communities at risk and the watersheds that supply them.

Like the country as a whole, the Western Governors hold different and sometimes conflicting opinions on what should be done to make the administrative and judicial appeals processes more efficient. This reflects the different circumstances we find in each of our states as well as differences in our underlying philosophies. However, there are some key issues upon which we have found common ground. We agree that there are some areas where people living in the wildland-urban interface are at extraordinary high risk. Therefore, we encourage you to review existing law and recent changes to administrative processes regarding high-risk communities to determine if changes in the law are necessary to expedite the protection of these areas. We urge you to further recognize that effective use of the collaborative process can help eliminate or substantially reduce litigation and thereby expedite necessary fuel treatments across the millions of acres of lands at risk in the West and nationwide.

Regarding judicial action, we agree that meaningful participation should be required early in the planning process in order to establish standing to appeal. We also agree that, should Congress consider setting new deadlines for judicial action, they must not preclude the opportunity for meaningful public participation. Lastly, we concur that we would all benefit if courts would utilize sound-science to consider the long-term effects of critical forest projects versus the effects of inaction while awaiting judicial rulings regarding injunctions.

Western Governors also believe that stewardship contracting can be a useful tool for accomplishing hazardous fuel reduction activities. We commend Congress for

providing this authority in the FY 2003 Omnibus Appropriations Act. Assuming appropriate analysis of the pilot projects underway is provided and proves supportive of this approach, Congress should now authorize the Secretaries of Agriculture and the Interior to enter into agreements with interested Governors for the state to work in partnership with federal officials to implement stewardship projects in appropriate locations throughout the state and across multiple ownerships. The state's role in each project would be negotiated, but could range from project planning and environmental assessment to community outreach and contracting for treatment. Federal personnel would retain the final decision-making authority on federal lands as required by law. Such a partnership between state and federal governments could accomplish vital proactive fuel treatment projects. Monitoring and adaptive management should continue to be a part of the stewardship program to ensure accountability and public trust in the program.

In addition, Section 7 consultation under the Endangered Species Act needs to be accomplished more quickly and more efficiently. Consulting on similar projects as a group (rather than individually) or developing joint implementing regulations for consultation under the ESA (programmatic consultation) could be used for quick and efficient project planning. Congress should direct the federal agencies to use these tools while assuring that the long-term protection of species is the defining goal. As to the National Environmental Policy Act, we have outlined in WGA policy resolution number 02-08 numerous administrative steps that can be taken to improve this process that should be encouraged by this Congress. For your reference, a copy of that resolution is attached to this statement.*

Finally, Western Governors have consistently advocated increased funding, through the National Fire Plan, to implement all of the actions called for in the Strategy. While current legislative and administrative efforts have appropriately focused primarily on hazardous fuels reduction, it should be noted that there are four equally important goals outlined in the Strategy:

1. Improve Fire Prevention and Suppression;
2. Reduce Hazardous Fuels;
3. Restore Fire-Adapted Ecosystems; and,
4. Promote Community Assistance.

Western Governors believe that we must approach this problem comprehensively. Congress must continue to play a key role in ensuring that the Strategy is adequately funded, and that the funding actually gets to the ground. Many of our constituents have come forward with examples of projects that have cleared the environmental review process but have not been implemented due to a lack of funding. It would be an absolute tragedy for lives to be lost, or a community damaged or destroyed simply due to a lack of funding. We appreciate the fact that fully funding the Strategy represents a significant commitment, particularly in these difficult budget times. However, we continue to believe that, over the long-term, restoration and thinning to protect homes, watersheds, and habitat is much less expensive than fighting fires and addressing their aftermath. If the Strategy is fully funded, therefore, suppression costs will diminish over time as communities restore forests to their natural conditions, in part, by affording them the necessary tools to accomplish this work.

Congress must also help find a way to avoid the vicious and destructive cycle of borrowing from hazardous fuels reduction and other proactive project accounts to pay for immediate fire suppression costs. Although we understand that most of the accounts that were raided last summer were repaid earlier this year, many proactive projects were, at the very least, delayed by six-months or more. That is time we will never get back, and we are simply putting more lives, communities and habitat at risk. We must figure out a way of paying for ongoing suppression costs without delaying much needed proactive work which, in the end, will help reduce suppression costs, save lives, communities and habitat. We were greatly encouraged by the Administration's recent request of \$289 million in supplemental wildfire suppression funds. We hope that this additional funding will alleviate the need to borrow funds from other accounts this year. We urge Congress to pass this funding request as soon as practicable.

Thank you again, Chairman Domenici, Senator Bingaman and the other distinguished members of this panel, for the opportunity to present the views of the Western Governors.

* Retained in committee files.

WESTERN GOVERNORS ASSOCIATION,
Denver, CO, June 18, 2003.

Hon. THAD COCHRAN,
Chairman, Senate Agriculture, Nutrition & Forestry Committee, 328A, RSOB, Washington, DC.

Hon. TOM HARKIN,
Ranking Member, Senate Agriculture, Nutrition & Forestry Committee, 328A RSOB, Washington, DC.

Hon. PETE DOMENICI,
Chairman, Senate Energy & Natural Resources Committee, 364 SDOB Washington, DC.

Hon. JEFF BINGAMAN,
Ranking Member, Senate Energy & Natural Resources Committee, 364 SDOB Washington, DC.

DEAR SENATORS COCHRAN, DOMENICI, HARKIN AND BINGAMAN: We understand that your committees will soon be considering forest health-related legislation. Western Governors applaud your commitment to tackle this difficult, but vital issue. In light of the overstocked and dangerous conditions of many of our forests and rangelands and the resulting catastrophic wildfire seasons the West has experienced the last several years, it is clearly a much needed and timely debate. Thank you for your leadership on this issue.

We watched with great interest the House debate on H.R. 1904 the Healthy Forests Restoration Act of 2003. We were encouraged by the bill drafters' inclusion of the Western Governors' Association supported Implementation Plan and some key elements of the 10-Year Comprehensive Strategy (together the "Strategy") in the bill. However, there are some elements that require further consideration by the Senate. As you know, the WGA helped to create the Strategy after determining that opportunities exist to address fire risks by focusing on areas of agreement rather than perpetuating longstanding conflicts. The Strategy aims to guide agencies in addressing the current condition of our forests in a collaborative and locally driven manner across all landscapes. The Strategy has been endorsed by the Secretary of Agriculture, and the Secretary of the Interior, as well as the Southern Governors' Association, the Intertribal Timber Council, the National Association of Counties, and the National Association of State Foresters.

While we are convinced that the collaborative processes established in the Strategy should be used both to select, on a local level, most individual hazardous fuel reduction projects, and to set regional and national priorities for fuel treatments, there are some areas where people living in the wildland-urban interface are at high risk. Therefore, the Senate should review existing law and recent changes to administrative processes regarding high-risk communities to determine if changes in the law are necessary to expedite the protection of these areas. As administrative and statutory reforms are discussed, we urge you to recognize that effective use of the collaborative process can help expedite necessary fuel treatments across the millions of acres of lands at risk in the West and nationwide.

Western Governors are anxious to see legislation that facilitates achieving the goals and processes agreed to in the Strategy. Federal land managers, in conjunction with State Foresters, tribes, local officials and stakeholders should have authority and flexibility to identify areas needing treatment while bringing together the widest range of landowners to accomplish forest restoration on the needed scale. The Senate should promote fuel reduction projects identified by government organizations and stakeholders through the collaborative process. Consistent with the Strategy, priority in project selection should be given to projects that reduce fire risk in communities at risk and the watersheds that supply them.

One means of enhancing local decision-making is to make full use of the stewardship contracting authorization that Congress recently provided. We commend Congress for providing this authority in the FY 2003 Omnibus Appropriations Act. Assuming appropriate analysis of the pilot projects underway is provided and proves supportive of this approach, the Senate should now authorize the Secretaries of Agriculture and the Interior to enter into agreements with interested Governors for the state to work in partnership with federal officials to implement stewardship projects in appropriate locations throughout the state and across multiple ownerships. The state's role in each project would be negotiated, but could range from project planning and environmental assessment to community outreach and contracting for treatment. Federal personnel would retain the final decision-making authority on federal lands as required by law. Such a partnership between state and federal governments could accomplish vital proactive fuel treatment projects. Monitoring and

adaptive management should continue to be a part of the stewardship program to ensure accountability and public trust in the program.

Regarding judicial action, meaningful participation should be required early in the planning process in order to establish standing to appeal. The collaborative approach set forth in the Strategy can eliminate or substantially reduce litigation. Should the Senate consider deadlines for judicial action, they must not preclude the opportunity for meaningful public participation. Lastly, we would all benefit if courts would utilize sound-science to consider the long-term effects of critical forest projects versus the effects of inaction while awaiting judicial rulings regarding injunctions.

In addition, Section 7 consultation under the Endangered Species Act needs to be accomplished more quickly and more efficiently. Consulting on similar projects as a group (rather than individually) or developing joint implementing regulations for consultation under the ESA (programmatic consultation) could be used for quick and efficient project planning. The Senate should direct the federal agencies to use these tools. As to the National Environmental Policy Act, we have outlined in WGA policy resolution number 02-08 numerous administrative steps that can be taken to improve this process that should be encouraged by this Congress.

Finally, Western Governors have consistently advocated increased funding, through the National Fire Plan, to implement all of the actions called for in the Strategy. If the Strategy is fully funded, suppression costs will diminish over time as communities restore forests to their natural conditions, in part, by affording them the necessary tools to accomplish this work.

The WGA Forest Health Summit will provide us with additional views from our constituents on this topic. If appropriate, we may, therefore, submit additional WGA views to you.

Thank you again for your leadership on this vital issue. We stand ready to work with you to speed up the process of returning our forests to a natural and sustainable condition while protecting the West's communities, air, water, and wildlife.

Sincerely,

JUDY MARTZ
Governor of Montana
Chair

BILL RICHARDSON
Governor of New Mexico
Chair

JANET NAPOLITANO
Governor of Arizona
Lead Governor for Forest Health

DIRK KEMPTHORNE
Governor of Idaho
Lead Governor for Forest Health

The CHAIRMAN [presiding]. Thank you very much, Governors.

Senators, we did not limit the Governors' time, but could we try to limit our own? We still have a huge number of witnesses. So let us start with Senator Bingaman. Do you have some questions, please?

Senator BINGAMAN. Mr. Chairman, I will just ask about one issue since I know you have a great many witnesses and the Governors have been very generous with their time here.

In the prepared testimony that you both submitted here, you talk about the vicious and destructive cycle of borrowing from hazardous fuels reduction and other proactive project accounts to pay for immediate fire suppression costs. This is something that I am trying to be sure we address in any legislation that we wind up enacting in this area.

It strikes me that we have created this problem for ourselves by putting the responsibility for fire fighting in the same agency that has responsibility for these restoration and thinning projects. Therefore, we are able to just say, as we have been, to this agency, to the Forest Service, go find the money in some of your other accounts in order to do the fire fighting that is required each year, and then we will pay you back. And eventually those other accounts are paid back to an extent, not fully, as I understand it. I think a couple hundred million were taken out of those accounts

that have not been paid back in the last year, but the delay that is involved, even when the payback does come, is very substantial.

I do not know if either of you have had a chance to look at the proposal that I have included in the bill that I introduced to try to have direct authority to go and borrow from the Treasury. In order to fight fires, the Forest Service would be authorized to go ahead and borrow from the Treasury rather than having to take it out of their own accounts. Is that a solution? Is there a better solution out there? Let me ask Governor Napolitano first and then Governor Martz if you have any thoughts on that.

Governor NAPOLITANO. Yes, Senator Bingaman. I think that it is a solution that ought to be examined. I think the key problem is one you put your finger on; there is no new money that is being added to the forest issue. And the forest issue is not just fighting fires, it is restoring forests to health. It is hazardous fuels reduction on a fairly extensive level. To simply kind of move shells around within the Forest Service budget will not get us to where we need to go. So providing for a direct authorization from the Treasury, whatever other kind of mechanism that would provide the additional resources that are necessary to really deal with this problem has got to be very important. In my view unless those additional resources are not found or allocated here, we will not accomplish what needs to be accomplished in the Western States.

Senator BINGAMAN. Governor Martz.

Governor MARTZ. Senator, I think that you would be the best judge of where the money should come from, but absolutely it should come from different sources I believe because you have to do both of those things simultaneously. As the fires are burning, you should be treating other lands that have been burned. You should be stabilizing stream beds, rehabilitating habitat, looking to see where you can replant vegetation. So I absolutely believe the funding should not be pulled from that one source. It should not be either/or. It has to be both at the same time.

Senator BINGAMAN. I will stop with that, Mr. Chairman. Thank you.

The CHAIRMAN. First of all, let me say while I tend to agree, Senator Bingaman, with your request that we try to find a way so we do not borrow money, I hope we do not try to solve this issue by figuring that that is the solution to find a source of money. That is not the solution because the problem is bigger than not having the money. The problem is that we cannot get it done even if we had the money because of rules, regulations, and holdups.

For instance, let me move ahead with Governor Martz for a minute. Over 1.1 million acres burned in northern Idaho and Montana, most of which was in your State. You have had 2 years to watch the Forest Service, NEPA, and appeals process work for Montana. Has it worked to your satisfaction?

Governor MARTZ. Absolutely not. It has not.

The CHAIRMAN. It seems to me that both S. 1314 and S. 1352 rely on the use of limited categorical exclusions to streamline the NEPA and appeals process while H.R. 1904 streamlines NEPA, the appeals process, and the judicial review. Would the approach proposed in S. 1314 and S. 1352 have been adequate in terms of what you faced in Montana after the 2000 fires?

Governor MARTZ. Not in its entirety, no.

The CHAIRMAN. The courts have played a major role in slowing and stopping the projects in your State.

Governor MARTZ. They have. And 90 percent of the projects that we needed to do work and still need to do work on, the courts have stopped and the appeals have stopped the process.

The CHAIRMAN. Would we be wasting our time if we passed legislation that fails to address the judicial problems of balance of harms and the need to expedite decisions on hazardous fuel and insect mitigation?

Governor MARTZ. Absolutely.

The CHAIRMAN. I see from the daily fire reports that the fire season is well underway. I know that your State also suffered horrific insect attacks and you have repeatedly asked Congress to take steps to help your State. You have now been in office for 2½ years. You are still waiting.

In California, Governor Davis declared an emergency in several counties and directed landowners to remove dead and dying trees or face having the county complete the work. Since your State is so heavily federalized, have you considered declaring an emergency on the Federal lands in your State so the counties could begin to clean up?

Governor MARTZ. Yes, Senator, we have talked about that. We have not done that yet. New Mexico did that also either last year or the year before last, and it was effective. It is something that we still talk about and it may be something that we have to do if we cannot get a process that works. We had last week 56 new fire starts in one day. Yesterday we had 22 in addition to those 56, for another additional 54,000 acres. So something has to be done. We cannot wait. Here we are another year since I have been here. Last year we were having pretty much the same conversation.

The CHAIRMAN. Thank you.

Governor Napolitano, so far this year Arizona has burned over 147,000 acres, 1,200 fires. Last year 3,200 fires burned 629,000 acres, most of which occurred in the Rodeo-Chediski fire. Is that the right way to say that?

Governor NAPOLITANO. Yes.

The CHAIRMAN. And does the Western Governors' Association think that just putting a shaded fuel break for one-half mile around each community or the wildland-urban interface area is sufficient to deal with this situation?

Governor NAPOLITANO. No, it does not for a couple of reasons. One is that you need to have treatments deeper in the forests, and you are going to hear about that from the panel of experts that will be before you this morning. You need to place a priority—and I think all three of the bills you mentioned do place a priority—on the area around communities because there you are protecting people and property. But really a holistic treatment requires you to go deeper into the forest ecosystems.

Secondly, as Governor Martz alluded to and as I think has been alluded to by the panel, simply dealing with the wildland-urban interface will not help without some additional resources put into fires in the West.

The CHAIRMAN. Now, Governors, assume we are going to try to address the issue of resources so that you do not have that as an answer here. The Forest Service, NEPA, and administrative appeals process seem, at least to me, to make it impossible to react to these insect epidemics in a timely manner. Does the Western Governors' Association support the streamlining of the Forest Service process of dealing with insect and disease outbreaks, even if it means cutting down and selling some of the larger dead, infected trees?

Governor NAPOLITANO. Yes. The Western Governors' position, Senator Domenici, is that there should be administrative changes to NEPA and other review processes to deal with and help deal with the large amount of acreage that has been infested either by the bark beetle or by some other parasite.

The CHAIRMAN. I thank you so much for your absolute honesty.

Is the Western Governors' Association convinced that any of the three bills that we are discussing today is sufficient to deal with the mega-insect and disease complexes that we face in many of our States?

Governor NAPOLITANO. Are you asking me, Senator?

The CHAIRMAN. Yes, Governor Napolitano.

Governor NAPOLITANO. I think there are elements in all three bills that, properly melded together, would actually replicate what the 10-year strategy is, and that plan is before you and has been bought into, as it were, by all the stakeholders in this process.

The CHAIRMAN. Thank you so very much.

Fellow Senators.

Senator WYDEN. Mr. Chairman?

The CHAIRMAN. Yes.

Senator WYDEN. Thank you, Mr. Chairman.

Governors, it is very good to have you, and I cannot ever pass up an opportunity to try to look for the common ground. We have got a Democrat and Republican here.

Governor Martz, I think you made the point. You were here a year ago and we are now having the same conversation. It just kind of goes on and on. I will offer to both of you my sense is that we could resolve everything else if we can get there on judicial review. I think that I can really see the end in sight, the 60 votes, if we can get over the judicial review aspect of this.

Senator Feinstein and I have spent a lot of time trying to talk to all of the parties in the South and the West and have really two key elements in our judicial reform proposal. The two key elements are, first, prevent venue-shopping so that people cannot traipse all over the countryside looking for a court that would be hospitable to them. So the first thing we do is prevent venue-shopping away from the Federal district court where the land in question lies.

The second significant change to us is requiring with the temporary injunctions to have to come back every 60 days, so you do not just get to chew up eons of time ongoing toward infinity I guess, and with this kind of updating process, a court can see that people are really working in good faith and trying to move ahead.

My question to both of you is do you share the view of Senator Feinstein and me that these two changes in judicial review would make a real difference as the Congress tries to tackle it. That is

going to be the first question. I am going to ask you one other, but the first I would like to have is the two of you on the record on the two key reforms and the effort we have produced and your judgment about whether that would make a real difference on the issue which I think is the sticking point.

Governor Napolitano.

Governor NAPOLITANO. Senator Wyden, before responding to your question, let me suggest a framework in which to answer the question and that is that should the legislation passed by the Congress provide for meaningful early participation by public stakeholders and then the requisite limit on standing, which the WGA does support, then we can get to some of these other judicial review questions.

Now, the WGA has not taken a position on this particular bill, but speaking as the Governor of Arizona, I would say on the record that I support the limitation on, as you describe it, venue-shopping so that the actions are brought in the areas that are directly affected by the proposed projects.

Secondly, with respect to limiting TRO's to 60 days, that does not seem to me unreasonable if you can get into Federal court. I would say lastly, however, that in my experience in Arizona the major cause of delay, if you were to plot these things on a time bar, is not once you get into Federal court. It is before you actually get into Federal court.

Senator WYDEN. Governor Martz.

Governor MARTZ. Mr. Chairman, Senator, I really believe that as we look at time lines, I am not sure whether your time lines are right or whether they are wrong. I just know when we keep delaying things as the beetles work—we do not even have the biomass to work with to use it for anything, to heat schools, to do anything.

So I have a suggestion that we will be talking about at the next Western Governors' Association meeting that I really believe our judicial system, the way it is set up to deal with this issue, we should have someone that will deal with not only the letter of the law, but the intent of the law so that we can move forward instead of having to go back, whether it is 60 days or 30 days. It does not take a beetle very long to do what has been done to Alaska. In fact, we were up there with the President in Oregon at the Biscuit fire, and the fire had occurred 2 weeks before we were there and could hear the beetles as we stood there. I think you might have been there when we were there.

But I really believe that whether it is to appoint an authority that has judiciary authority like a magistrate or magistrates that would work—this is not something the Western Governors have talked about yet. So I am telling you something that I believe in my heart. We need to change the way we are doing business.

Senator WYDEN. But in your opinion, Governor, because we are going to just keep struggling to try to find a way to end the conversation—I do not want you back here in another year.

Governor MARTZ. I do not want to come back in a year.

[Laughter.]

Senator WYDEN. You said it well.

Well, Senator Feinstein and I have spent a lot of time on the judicial review question. Governor Napolitano, a Democrat, said our

two elements would make a real difference. I would just like you on the record.

Governor MARTZ. It would move us. It would move us. We need to be moved. We need to move.

Senator WYDEN. We will be working very closely with you and I appreciate the constructive way you have proceeded.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Bingaman has a question.

Senator BINGAMAN. Let me just ask. We had a report done by the General Accounting Office on the issue of what is delaying decisions by the Forest Service. They said that for the fiscal years 2001 and 2002, there were a total of 762 decisions by the Forest Service to go forward with forest thinning and that 23 of those went to court, 3 percent; that 21 of the 23 were timber sales, and the Forest Service lost 22 of the 23 that went to court.

I am just asking if either of you have had a chance to look at that report because it strikes me, if they are right—I do not disagree that it is an important issue for us to talk about judicial review, but it does not seem to me that that is the core of the problem in delay. If 3 percent of the decisions are being appealed to the courts, that cannot possibly be the total problem that we are dealing with.

Governor Napolitano, then Governor Martz.

Governor NAPOLITANO. Senator Bingaman, yes, that was the reason I said at the end of my remarks with Senator Wyden that when you look at the time bar of how these cases normally go, the biggest expanse of time is normally spent at the agency level. And that is why the WGA has advocated for streamlining that administrative process.

But in terms of the venue-shopping, I genuinely think that is a good idea for a whole host of reasons.

And on the 60-day reporting on a TRO, I do not know about New Mexico, but in Arizona we have many standing orders in our Federal courts on other areas where on any kind of TRO you have to come back to the court and say what is happening and keep the court up to date. So this would be merely a way for those few cases that are in judicial review to make sure they are moving along.

Senator BINGAMAN. Are you saying that most of the TRO's in these other areas expire at the end of 60 days if you do not take action, if the court does not—

Governor NAPOLITANO. It really depends on the case, Senator Bingaman, but it is not unusual in our Federal courts to have some kind of time limit and report back when you are dealing with a TRO, but more frequently a preliminary injunction.

Senator BINGAMAN. I certainly understand the reporting-back requirement, but usually the court's order does not lose its effect after a certain period of time. I do not think there are many instances where Congress has legislated the end of a court order after a certain period of time. I do not believe. Maybe I am wrong about that.

Governor NAPOLITANO. An important distinction.

Senator BINGAMAN. Governor Martz.

Governor MARTZ. Mr. Chairman, Senator, that number, when I read the number—and I did read this some time ago when that

came out. It baffled me because in Montana 90 percent of our sales are appealed.

Senator BINGAMAN. But that is administrative appeal, as I understand it.

Governor MARTZ. Yes.

Senator BINGAMAN. And they have acknowledged that in the same report that I am asking about, 90 percent of the decisions which are subject to appeal do go into an administrative appeal, but they have gone on to say that very few go on to court.

Governor MARTZ. The end result is the same. The time that we waste through those processes. It is time wasted as far as the timber goes and the value of the wood and the use of the wood. That is after a fire. But if we are talking about forest health, which I think we are talking about mostly today—all of this has to do with fires, but if we are talking about forest health, if the money is spent previous to the fire and the appeals can be stopped so we can get some of this wood out, get some of the underbrush, we will be a lot further ahead.

Senator BINGAMAN. I agree with that. I think we have a tendency in Congress to always say if the Federal courts would just do what is right, that would solve the problem. I do not really think that the Federal courts are the main cause of the catastrophic fire problem that we have in the West or our inability to deal with it.

The CHAIRMAN. I do not know how we want to handle the rest. Time is really running, and I have a particular personal problem about my time I want to share with the Senators.

But before I do, I want to say to Senator Bingaman, Senator Bingaman, I do not agree with your conclusion. I do believe the GAO study is off the mark. I do not believe it addresses the right issue, as is frequently the case with the GAO, and I am not prepared to tell you how, but I will, if that is necessary, at our next hearing.

I do believe the court system is, overall and what is happening in how it is being used, significantly responsible for the problem. Now, I do not know whether I would use any other word, the “principle” one or the like. But it is really a part of the problem that must be solved regardless of this small number that the GAO concludes has been affected. I do not agree with that conclusion, having talked to so many people that seem right off to say that is incredible. There is obviously, in my opinion, something wrong with the focus of the study that we will have to look at and study a little more.

Now, Senators, not that these witnesses are not professional, they certainly are, but we have a whole batch of professional witnesses. Can we agree now to limit the time of the questioning of the Governors and proceed with the panels, except the Senator from Arizona, you ought to be heard. You have your Governor here.

Senator KYL. Mr. Chairman, thank you very much, and I want to apologize for not being able to be here to introduce the Governor. Obviously, she makes a presentation on her own without my introduction, but as a matter of courtesy, I want to thank her for being here, for her interest in this issue, for her testimony, and I wish I could have said some words by way of introduction in the beginning.

It is important for us to hear from our Governors. In Arizona we experience the fire season a little earlier than most other States because of the dryness and the rise in temperatures earlier than in most States. The Governor has been very, very involved, really from the time that she was elected, in this very serious issue facing our State. We have had conversations about it. We will have many more, and I appreciate very much her being here and representing the Western Governors today, as well as Governor Martz, but I especially want to express my appreciation to our Governor from Arizona, Janet Napolitano.

The CHAIRMAN. All right. Thank you, Governors. We very much appreciate your coming, and your testimony was most relevant.

Now we will have panel number 2, Mark Rey, Under Secretary, and Ms. Rebecca Watson, Assistant Secretary, both of them from the U.S. Department, one Agriculture and one Interior.

Let me announce to the Senators that Senator Burns is going to preside, and you can do that, Senator, from either there or take my seat, whichever your prefer. I have been asked to go the Leader's office regarding the energy bill, so hold me excused.

Before I leave, I would like to ask if the Commissioner from New Mexico, Mr. Mike Nivison—where is the commissioner? Let me just tell you that I will not be here to ask you questions because I have been called off, but thank you for coming, and we look forward to your testimony.

We will take the two government witnesses now, Senator Burns and fellow Senators. Thank you for the participation. Senator Burns.

Senator BURNS [presiding]. I do not know who outranks who here. They keep pointing at one another. Thank you for coming this morning, and we will take the testimony of Ms. Watson this morning. Thank you for coming.

**STATEMENT OF REBECCA WATSON, ASSISTANT SECRETARY,
LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE
INTERIOR**

Ms. WATSON. Good morning, Senator Burns and members of the committee.

We would like to thank the committee for inviting us to address the issue of forest health once again. The U.S. Forest Service and the Interior Department have submitted a joint statement for the record. It describes the administrative initiatives we have put in place to address forest and rangeland health, but we believe that more needs to be done.

This spring, President Bush called on Congress to move quickly to pass the Healthy Forest Restoration Act to assist the administration in accomplishing its Healthy Forest Initiative, a common sense approach to improve the health of our forests and rangelands.

Approximately 190 million acres are in need of active management because of the accumulation of dense undergrowth, diseased and insect-infested trees, and the presence of highly flammable weeds. Population growth into the wildland-urban interface complicates management. Treatment of these conditions can reduce the

risk of catastrophic wildfires, improve the health of our public lands, and protect local watersheds.

Insects. While native insects have been present in our forests historically, changes in forest density, composition, and structure caused by fire exclusion have resulted in extensive insect outbreaks. Dense forests stressed by drought conditions are more susceptible to insect and disease mortality and, in turn, these forests are more vulnerable to fire.

Weeds. At least 25 million acres of the Great Basin in Nevada, Utah, and Idaho are dominated by cheatgrass. Invasive species such as cheatgrass often replace native grass following wildfires, increasing the fire risk and frequency and reducing forage for wildlife and domestic stock.

Wildland-urban interface. The movement of people into our wildlands complicates the management of these lands. One study estimated that in the lower 48 States, 12 million people live within 1 mile of lands managed by the Department of the Interior or the Forest Service. Many of these communities are at risk of severe wildland fire. Examples of this threat are found in every State of the Nation. This photo depicts the San Bernardino area of California where tree mortality from insects and drought grew rapidly from 100 acres in August 2002 to 350,000 acres in less than a year, by April 2003. Similar forest conditions exist in Idaho, Arizona, New Mexico, and Colorado. Fire risk threatens about \$10 billion in property and 30,000 dwellings.

The goal of the Healthy Forest Initiative and the legislation discussed today is to prevent catastrophic wildfires and to improve land health in a meaningful time frame. Common sense forest health improvements result in less damaging fires. In contrast to the intense crown fire shown in this photo that occurred in the untreated areas of the Squires Peak fire in Oregon, four stands that were thinned experienced low intensity fire that remained in the forest's understory. I too read the article in the *New York Times* this morning—and I do commend it to the committee—discussing the benefits of thinning and prescribed fire.

In conclusion, this is not only a Federal land issue. As you can see from the bar graph distribution depicting fire activity this season, about 75 percent of the reported fires and 40 percent of the acreage burned this year have occurred on non-Federal lands. We need to address this issue across agencies and work with tribes, States, and counties. That is the reason we are supporting a flexible, comprehensive, and collaborative approach to reducing fire risk and improving land health.

We thank the committee for your continued interest in addressing forest health issues, and we will continue working with you on a common sense piece of legislation to address this crisis.

Senator BURNS. Thank you very much.

Secretary Rey.

STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. REY. I think from the discussion that we have among you on the committee and with the Governors, there are broad areas of

agreement and that the devil is in the details. I lost the coin toss, so I get to talk about the details of the three bills, and hopefully, by the time we complete that, you will not view me as the devil.

H.R. 1904 would materially improve the processes which now significantly contribute to costly delays and allow the timely implementation of critical fuels reduction projects. It would allow the agencies to focus their efforts on the proposed alternatives that they would have to analyze in proposing hazardous fuel reduction projects, and it would also require the Secretary to establish an administrative appeals process for these projects as an alternative to the current legislatively mandated process. It would also clarify the standard for injunctive relief against actions that are necessary to restore fire-adapted forests or rangelands and would provide clear time frames for judicial review.

The balance of our statement for the record goes through the other provisions in H.R. 1904 that we find helpful and laudable. I will submit for the record of the committee's deliberation the administration's statement of policy that was issued upon full House consideration of H.R. 1904. We have indicated our support for H.R. 1904 and our hope that it will be passed quickly.

As well, I will submit for the record of the committee's deliberations the detailed comments of our Office of General Counsel on S. 1314 and S. 1352. And while the administration appreciates the emphasis in S. 1314 and S. 1352 on the wildland-urban interface, these bills impose restrictions that would likely impede rather than facilitate implementation of the hazardous fuel reduction processes.

In particular, the requirement that sets a hard limit on hazardous fuel reduction projects in specific areas, as proposed by both bills, is actually contrary to the 10-year comprehensive strategy and implementation plan which calls for projects to be implemented at the local level in a broad, collaborative manner. Indeed, rather than giving the Governors more options, those provisions might result in giving them less options in prioritizing where they want the treatments to be made if those priorities, as they are expressed through the collaborative process, are in conflict with 70/30 limits in S. 1314 and S. 1352.

In addition, S. 1352 focuses on forest lands and not other woodlands and rangelands managed by the BLM and the Forest Service. Many communities at risk from catastrophic wildland fire may not be bordered by forests. Also, by the terms of its title, S. 1314 would apply only to Western national forests created from the public domain, and not national forests in the East and in the South with significant insect infestation problems that were created as a result of the Weeks Act or other subsequent legislative authorities. So it is a more limited bill from a regional stance.

The public participation provisions in S. 1352 seem to duplicate existing processes. It is unclear how or whether the petition provision, which in essence is an appeals process, fits within the expedited appeals process that is also provided for in the bill.

It is also unclear whether the Secretary's decision in response to a petition is reviewable. Since the bill is silent on the matter, the courts would likely interpret a Secretarial decision in that regard to be reviewable, thereby creating another opportunity for judicial

challenges even to the question of what areas we treat without regard to how, when, and under what circumstances we treat them.

Both S. 1314 and S. 1352 establish categorical exclusions from detailed NEPA documentation for certain fuels reduction projects. USDA and the Department of the Interior agencies have already completed such a comprehensive review of hazardous fuel reduction activities and have established by rule two new categorical exclusions. Because the agencies' categorical exclusions for hazardous fuel treatment and post-fire rehabilitation are new and just now being implemented, we believe that legislation on this matter is neither necessary nor, as it might be the case in S. 1314, if it is read by the courts to confuse the application of our existing authority to issue categorical exclusions under current law, even helpful.

Also, S. 1314 places significant limitations on the implementation of stewardship contracting authorized by section 323 of Public Law 108-7. We are still in the public comment phase on joint agency guidance for stewardship contracting, so we would oppose subsequent legislation restricting our ability to consider what you have just recently asked us to do.

With regard to judicial review provisions in S. 1352, I think based on the Senators' interest, we ought to review those for you for the record.

With regard to venue-shopping, venue-shopping is a unique problem when the agency action being challenged is multi-jurisdictional in reach, such as a forest plan that affects a national forest that lies in two or more judicial districts. But with regard to specific projects, which these bills reference, both of them, S. 1352 and S. 1314, venue-shopping has not proven to be that big a problem. Indeed, because of the standing requirements that courts have imposed to show local interest and harm and local people who have demonstrated interest in harm in a project that is being challenged, today plaintiffs that are challenging individual projects almost always bring them in the venue where the project is occurring.

With regard to the time limits on preliminary injunctions or TRO's—and I think S. 1352 covers both—it could be helpful to have the courts revisit those, but without any subsequent guidance as to what they are to do, it will rest entirely on the individual jurist to decide whether the notification is at all meaningful to his or her deliberations. Certainly if the circumstance that is changing in the field is the ignition of a fire, by that time notifying the judge that things have changed is not going to do much good in terms of informing his decision on how he might like to proceed. And indeed, we have circumstances today where areas that have been affected by injunctions, like the Jimtown Project on the Deer Lodge National Forest in Montana, in fact burned while the injunction and deliberations were pending.

In conclusion, the administration is deeply committed to seeing a piece of legislation pass as soon as possible. The President has spoken directly and eloquently to that.

It is, however, as well our expectation that when Congress does pass a piece of legislation in this area, there will be a significant expectation that things on the ground will change dramatically and that work will be done faster and better and cheaper. And we will

bear the burden of that expectation. So if the legislation does not result in that kind of an outcome being possible, then our land managing agencies will be set up to fail, and that is something that we cannot let happen.

So with that, I would conclude by indicating we are interested in continuing to work with the committee and with the Senate to try produce a piece of legislation that will meet that expectation and allow for more rapid treatment to occur on the ground so that we do not have to return next year to discuss this matter. Thank you very much.

[The prepared joint statement of Ms. Watson and Mr. Rey follows:]

PREPARED STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE AND REBECCA WATSON, ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. Chairman: On May 20, 2003, President Bush called on Congress to move as quickly as possible to pass the Healthy Forests Restoration Act of 2003 (H.R. 1904) and get it to his desk for signature. We appreciate your willingness to schedule this hearing today on H.R. 1904 and two other forest health bills, S. 1314, and S. 1352. The Departments of Agriculture (USDA) and the Interior (DOI) strongly support H.R. 1904. We would like to work with the Committee to make technical amendments to clarify and strengthen H.R. 1904. The Administration opposes S. 1314 and S. 1352 because the focus of these bills is too narrow and because neither bill contains the flexible, comprehensive approach to forest health and hazardous fuels reductions set out in H.R. 1904.

BACKGROUND

The need for action to restore our Nation's public forests and rangelands to long-term health has never been greater. Catastrophic fires are just one consequence of the deteriorating forest and rangeland health that now affects more than 190 million acres of public land, an area twice the size of California. Last year alone, wildfires burned over 7.2 million acres of public and private lands, leading to the destruction of over 800 structures and the evacuation of tens of thousands of people from hundreds of communities. Although wildland fire activity so far this year has been one-third less than the average of the last ten years, we have seen some indications of the potential for destructive wildfires. On June 17, 2003, the Aspen Fire blew out of the Pusch Ridge Wilderness in southern Arizona and overwhelmed the community of Summerhaven, Arizona destroying 329 homes, businesses and other structures. This fire was declared contained on July 15, 2003, nearly a month after it started. We are seeing some critical situations in the southwest, and northward. Large portions of thirteen western states and parts of Alaska and Hawaii have the potential for above average fire activity this fire season.

In addition to fire, Federal forests and rangelands across the country face unusually high threats from the spread of invasive species and insect attacks. Insects and pathogens have historically existed in our forests and rangelands. However, the frequency, extent and timing of recent outbreaks are out of the ordinary. Changes in tree stand density, as well as in species composition and structure, due to decades of excluding or immediately suppressing fire, the lack of active management, and extended drought, are factors that have significantly affected insect infestation outbreak patterns. The result is the death of millions of trees across millions of acres in California, Utah, Arkansas, Michigan, Minnesota, the Mid-Atlantic States and the South. Often when these areas burn with uncharacteristic intensity, they become very susceptible to invasive species, further prolonging poor forest and rangeland health.

While Federal, State and local land managers have attempted to restore forest and rangeland health and prevent these catastrophic wildfires and infestations, their efforts have been severely hampered by unnecessary and costly procedural delays that can prevent them from acting in a timely manner to protect communities and avert ecological crises. Excessive analysis, ineffective public involvement, and management inefficiencies trap land managers in costly procedural delays, where, in some cases, a single project can take years to move forward. In the meantime, communities, wildlife habitat and forests and rangelands continue to suffer. Fires and insect infestations that begin on public lands can spread to private lands

as well, causing significant property damage and threats to public health and safety. The Aspen fire in Arizona is a case in point.

Recognizing the impending crisis, President Bush proposed the Healthy Forests Initiative in August 2002. The President directed Federal agencies to develop several administrative and legislative tools to restore deteriorated Federal lands to healthy conditions and assist in executing core components of the National Fire Plan. Since the President's announcement last August, Federal agencies have taken several regulatory steps to implement components of the Healthy Forests Initiative.

The Secretaries have taken several administrative actions to accomplish these objectives, which include the following:

- *Endangered Species Act Guidance*—On December 11, 2002, the Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) issued joint guidance documents to facilitate and improve the design, review, approval and implementation of HFI projects. The guidance allows multiple projects to be grouped into one consultation and provides direction on how to consider and balance potential short- and long-term beneficial and adverse impacts to endangered species when evaluating projects. The goal is to recognize that project-specific, short term adverse impacts need to be weighed against the longer-term watershed level benefits such projects will achieve.
- *CEQ Memorandum & Model Environmental Assessment Projects*—CEQ Chairman Connaughton issued guidance addressing the preparation of model environmental assessments (EA) for fuels treatment projects. The guidance addresses the purpose and content of an EA, specifically, that EAs should be focused and concise. These guidelines are now being applied on both Forest Service and DOI agency fuels treatment projects and some of these model EAs are now out for public comment.
- *Appeals Process Reform*—Both USDA and DOI made rule changes designed to encourage early and meaningful public participation in project planning, while continuing to provide the public an opportunity to seek review or appeal project decisions. This allows more expedited application of hazardous fuels reduction projects.
- *Categorical Exclusions (CE)*—Both USDA and DOI have established new categorical exclusions, as provided under the National Environmental Policy Act, for certain hazardous fuels reduction projects and for post-fire rehabilitation projects. These new CEs shorten the time between identification of hazardous fuels treatment and restoration projects and their actual accomplishment on the ground. The agencies have compiled an extensive scientific record demonstrating that similar projects did not result in significant environmental effects either individually or cumulatively.
- *Proposed Section 7 Counterpart Regulation*—FWS and NOAA Fisheries have proposed Section 7 joint counterpart regulations under the ESA to improve Section 7 consultation procedures for projects that support the National Fire Plan. The proposed regulations would provide, in some situations, an alternative, to the existing Section 7 consultation process by authorizing the agencies to make certain determinations without project-specific consultation and concurrence of the FWS and NOAA Fisheries.

The recently passed Consolidated Appropriations Resolution, 2003 (P.L. 108-7) contains stewardship contracting authority, which gives agency land managers a critical tool to implement projects necessary to achieve land management goals. This provision allows the BLM and the Forest Service to enter into long-term stewardship contracts with the private sector, non-profit organizations, local communities, and other entities. In FY 2003, the Bureau of Land Management will implement stewardship contracting on a limited basis, and the Forest Service will implement stewardship contracting much as it did during the pilot program. Joint agency guidance for long-term implementation is currently out for public comment. For the permanent authority, programmatic direction will include, among other things, descriptions of goals, monitoring, and treatment of receipts.

We believe these administrative actions will provide Federal land managers with important tools they need to restore these lands to a condition where they can resist disease, insects, and catastrophic fire. However, the Administration believes that the additional tools and authorities that are provided in H.R. 1904 are still needed to address the severity of forest health conditions in a meaningful timeframe.

H.R. 1904

Title I of H.R. 1904 would improve processes which now significantly contribute to costly delays, and allow timely implementation of critical fuels reduction projects.

The title would provide more efficient procedures for USDA and the DOI to plan and conduct hazardous fuels projects on up to 20 million acres of Federal land that are most at-risk from wildfires while preserving public input in agency decision-making. The title would allow the agencies to focus the proposed alternatives they would have to analyze for proposed hazardous fuels reduction projects, but otherwise would maintain requirements for public notice and input. We believe this authority would provide the agencies with the latitude necessary to reduce the risk of damage to communities and municipal water supplies and at-risk Federal lands from catastrophic wildfires. Projects would be selected through a collaborative process involving local, tribal, state, Federal and non-governmental entities as described in the 10-Year Comprehensive Strategy and Implementation Plan. National program allocations and local project selections would attempt to optimize wildfire risk mitigation over time. Title I would require the Secretary of Agriculture to establish an administrative review process for these projects as an alternative to the current legislatively mandated appeals process. The title also would clarify the standard for injunctive relief against actions that are necessary to restore fire-adapted forests or rangelands and would provide timeframes for judicial review.

Title II of H.R. 1904, which parallels already existing authority, would authorize a \$25 million grant program for each of the fiscal years 2004 through 2008. The Secretaries would be authorized to make grants to persons who own or operate a facility that uses biomass or to make grants to persons to offset the cost of projects to add value to biomass. This authority would help encourage investment in energy generation and other commercial utilization of low value or non-merchantable biomass, including wood, chips, brush, thinnings, and slash removed to reduce hazardous fuels, to reduce the risk of disease or insect infestation, or to contain disease or insect infestation.

Title III of H.R. 1904 would authorize a \$15 million program within the Forest Service for each of the fiscal years 2004 through 2008, to provide State forestry agencies technical, financial and related assistance for the purpose of expanding State capacity to address watershed issues on non-Federal forested lands. This authority, which parallels existing authority, would allow USDA and DOI to work collaboratively with other interests to manage and conserve non-Federally forested lands.

Title IV of H.R. 1904 would require the Secretaries of Agriculture and the Interior, with the assistance of universities and forestry schools, to develop an accelerated program on certain Federal lands to combat infestations by bark beetles, including Southern pine beetles, hemlock woolly adelgids, emerald ash borers, red oak borers, and white oak borers. This title also would authorize the Secretaries to conduct applied silvicultural assessments on certain Federal lands. An assessment of a site of not more than 1,000 acres would be deemed to be categorically excluded from further documentation under the National Environmental Policy Act. We believe this will allow us to quickly design and test methods of responding to insect outbreaks.

Title V of H.R. 1904 authorizes a \$15 million Healthy Forests Reserve Program within the Forest Service working in cooperation with the Secretary of the Interior, for each of the fiscal years 2004 through 2008 for the purposes of protecting, restoring and enhancing degraded forest ecosystems on private lands to promote the recovery of threatened and endangered species. This authority also parallels existing authority for the Forest Service.

Title VI of H.R. 1904 would direct the Secretary of Agriculture to carry out a comprehensive program to inventory, monitor, characterize, assess and identify forest stands nationwide. In carrying out such a program, the Secretary would also be directed to develop an "early warning system" for potential catastrophic threats to forests. Title VI authorizes \$5 million for each of the fiscal years 2004 through 2008.

S. 1314 AND S. 1352

While the USDA and DOI appreciate the emphasis in S. 1314 and S. 1352 on the wildland-urban interface, these bills impose restrictions that would likely impede rather than facilitate implementation of hazardous fuels reduction projects. The restrictions in S. 1314 and S. 1352 that limit funding of hazardous fuels reduction treatments to areas within an arbitrary, one size fits all distance from a community may have unintended adverse consequences. For example, in several recent incidents, communities have been threatened by fires that began outside the fuel treatment limits proposed in S. 1314 and S. 1352, and then moved close to—or through—communities. Resources in the path of the fires including watersheds, local infrastructure and wildlife habitat suffered damage that also affected these communities. The requirement to limit hazardous fuels reduction projects to the area proposed by

these bills is actually contrary to the 10 Year Comprehensive Strategy and Implementation Plan which calls for projects to be implemented at the local level in a broad collaborative manner. In addition, Federal land managers need the flexibility to conduct hazardous fuels reduction and restoration treatments in areas identified by application of sound science and land management experience, rather than by an arbitrary distance.

In addition, S. 1352 focuses on forested lands, and not the other woodlands and rangelands managed by the BLM and the Forest Service. Many communities at risk from catastrophic wildland fire may not be bordered by forests. Other vegetation types, such as grasslands in condition class 1, and especially grasslands and shrublands infested with invasive species may pose more serious risks to individual communities than condition class 3 forested lands. It would be better to allow for the exercise of informed management flexibility by agency professionals with local collaboration, to identify the specific high risk areas based on actual conditions in that area.

Additionally, the public participation provisions in S. 1352 seem to duplicate existing processes. Further, S. 1352 provides for a petition process during scoping or public comment. It is unclear how or whether the petition provision, which is an appeals process, fits with the expedited appeals process also provided for in the bill. Both the DOI and the USDA have public notice and NEPA scoping processes already in place. Those processes assure opportunities for public input. In addition, allowing a petitioner to seek protective designation for large trees or old growth has the potential to create controversy on a tree-by-tree basis. We need to focus on hazardous fuels reduction projects based on science, not on individual trees.

Both S. 1314 and S. 1352 establish categorical exclusions from detailed NEPA documentation for certain fuels reduction projects. Categorical exclusions are, in general, established by rulemaking procedures to provide for more efficient review of actions for which an agency has sufficient information to find that, except where there are extraordinary circumstances, the category of actions do not, individually or cumulatively, have a significant effect on the environment. USDA and DOI agencies have already completed such a comprehensive review of hazardous fuels reduction activities and established by rule 2 new categorical exclusions. Because the agencies' categorical exclusions for hazardous fuels treatment and post fire rehabilitation are new and just now being implemented, we believe that legislation on this matter is not necessary at this time.

Also, S. 1314 places significant limitations on implementation of the stewardship contracting authorized by section 323 of P.L. 108-7 (the Consolidated Appropriations Resolution, 2003). We believe this impedes our goal of restoring forest and rangeland health cost-effectively. Stewardship contracting authority is a much needed tool to help agencies address the enormity of the forest and rangeland health challenge. It is based on collaboration and cost effective fuels treatment. Both USDA and DOI have begun to implement this authority. We are still in the public comment phase on joint agency guidance for stewardship contracting.

S. 1314 would prohibit the ability of the Secretary of Agriculture to implement the Administration's Competitive Sourcing Initiative. The Administration strongly opposes this provision. A Statement of Administrative Policy issued July 16, 2003 concerning restrictions to competitive sourcing found in H.R. 2691, the Department of Interior and Related Agencies Appropriations Bill, FY 2004, recommended the President veto the bill if the final version contained this restriction.

S. 1314 would also establish a mandatory spending account to cover excessive fire suppression costs for the Forest Service. The Administration opposes the creation of this type of mandatory spending account because there is uncertainty about how it would affect the agency's ability to transfer funds from other accounts for emergency fire suppression activities.

Finally, S. 1352 authorizes grants for biomass utilization, but limits eligibility to facilities located within the boundaries of an eligible community. An eligible facility should be defined as one that supports an eligible community, but it should not be restricted to those facilities located within the boundaries of the community. In order to lessen transportation costs, an operator may decide to locate its facility closer to where the biomass is found, rather than the community where it is to be processed. What is important to the community is that such a facility is close enough to allow for reasonable commuting by employee residents of the community.

CONCLUSION

Mr. Chairman, USDA and DOI are committed to working with Congress, State, local and tribal officials and the public to advance common-sense solutions to protect communities and people, and to restore forest and rangeland health. All of the bills

considered today are based on the premise that active management is necessary to restore and maintain healthy forests in some areas, and that the current legal and regulatory framework does not allow this management to occur in a timely way. Overall, we find that H.R. 1904 provides the much needed authorities sought by the President's Healthy Forest Initiative to achieve these goals. We strongly support H.R. 1904 and look forward to working with the Committee as it moves through the legislative process.

Thank you for the opportunity to comment on these three bills. We will be glad to answer any questions you may have.

Senator BURNS. Thank you, Mr. Secretary.

I just have one question. Last year the Congress provided sufficiency language to allow a number of projects on the Black Hills National Forest to move forward without NEPA, appeals, or litigation. Now we are talking about that. Can you tell me what progress has been made on those projects under those circumstances?

Mr. REY. All of those projects are proceeding on the schedule that was agreed to as part of the legislation. We will be submitting to the Congress this week our second report, as the legislation required. I will submit that for the record of the committee's deliberations. What that report will show is that the projects that were laid out in the legislation are proceeding on the time schedule that we anticipated they would be completed in.

Senator BURNS. Senator Bingaman.

Senator BINGAMAN. Thank you very much for being here.

Let me ask about one of the issues I asked the Governors about, and that is, how do we solve this problem of the Forest Service having to borrow from the accounts that are intended to be spent for these types of thinning activities and use that money in order to fight fires? Then we have gotten into this pattern where we borrow from those accounts, we fight the fires, and then 6 months or a year later, we come back and restore some or all of that money. I think it is fair to say that in the last year or 2, it has been some rather than all of that money.

I gather you take exception to what I have proposed in the bill I introduced which says there should be direct authority to borrow from the Treasury. What alternative do you suggest, if you do object to what I have proposed? What other way is there to fix this problem?

Mr. REY. We have two alternatives that we would suggest for your consideration. One was an alternative that was proposed in last year's administration budget proposal and that was the creation of a government-wide emergency contingency reserve. But another equally valid alternative is to deal with the issue through supplemental appropriations bills.

The system that we are operating under now served us reasonably well for a number of years. It is not serving us well now. I think we would agree with you in that regard. It served us well in years when we had outstanding trust fund balances from which we could borrow without having diminished working program funds. Those balances have not been repaid over the years, and so they have been drawn down now, which presents us with the problem of borrowing from program funds.

However, we have installed new software to compile real-time expenditure reports from all of our fire incidents so we can now give you a real-time estimate of where we are in the fire fighting fund-

ing process in any given year which should conceivably give the Congress more than adequate time to respond if there is a need for additional money through the passage of a supplemental. Indeed, if the Congress passes the supplemental that is currently pending before the August recess, we will not likely have to borrow anything through the month of August and maybe beyond or maybe at all, depending on how the fire season unfolds.

So those are two other alternatives. The supplemental one, of course, imposes a greater burden on the appropriators, but it also imposes a greater degree of oversight on the part of the Congress over what we are doing. I think the problem with simply just giving us the authority to go borrow it out of the Treasury is that it leaves both the appropriators and the budget committees catching up in the next cycle with what we have done without the kind of oversight that you ought to demand from us.

Senator BINGAMAN. Well, let me just say I think it is a question of do we want to leave the appropriators without the oversight or do we want to delay the projects. That is sort of the situation we find ourselves in right now. I would be inclined to go ahead and give you the authority to borrow the funds and do the work that is needed to keep these projects on track rather than assume that Congress is going to pass a supplemental appropriation bill every time there is a bad fire season. I just do not know that that is a realistic expectation.

Let me ask one other subject. We had a little discussion with the Governors about the extent of the court interference with the decisions that are being made, the extent to which the courts are the problem. Let me just give you some figures, and then if you could check these. You probably do not have the information right here, but obviously if you do, I would like to hear it, but otherwise just check them and get back to me.

This is information again from this GAO report. In the two States of New Mexico and Arizona, where Senator Kyl and Senator McCain and Senator Domenici and I are most interested, 91 percent of the acreage covered by decisions involving fuel reduction activities were categorically excluded from NEPA review, according to what they determined. 78 percent of the decisions involving fuel reduction activities were categorically excluded from NEPA review, and 91 percent of the decisions went unchallenged. There was not a single case that was litigated during the 2 years that they looked into. Is that consistent with what you have found, or would you like a chance to review that?

Mr. REY. We have parsed the data a little bit more closely. I have come to believe that GAO reports are like onions. When I worked on that side of the dias, they were useful to make agency administrators cry. Now that I am on this side of the dais, you have to peel the layers off to really get to exactly what is being said.

Senator BINGAMAN. Usually peeling layers off makes me cry when I am cleaning onions.

[Laughter.]

Mr. REY. What GAO did was a total, all guts and feathers computation of projects to evaluate the impact of appeals, and they included both projects that were covered by categorical exclusions, prescribed burnings, personal use fuel wood projects, as well as a

number of others. And those are never appealed. So consequently, if you kick those into the database, you are going to find a lower frequency of appeals.

If you focus on the projects that are both necessary and controversial, which are mechanical fuels treatment projects, thinning, some commercial timber sales, you get a different picture. There what you find is roughly 59 percent were appealed. Indeed, in that universe, even 52 percent of those kinds of projects in the wildland-urban interface were appealed. So even in areas where we believe there is the most agreement on proceeding, we are still seeing a significant amount of appeals.

Senator BINGAMAN. Let me just ask this. This must just be a mistake that GAO made because they determined that in the two States, Arizona and New Mexico, in the 2 years, fiscal year 2001 and fiscal year 2002, there was not a single decision that was litigated. And you say that is wrong.

Mr. REY. No. We have not gotten to that. Their numbers on the number of cases that were litigated is correct, 23 lawsuits. On the one hand, you can say that that is a relatively insignificant number of the total inasmuch as it is only 3 percent. But there are three things that I think are worth noting about those lawsuits.

First of all, those are the largest projects, projects like Rodeo-Chediski recovery, and of course, that is being litigated now. It is not in GAO's database because it is 2003. You will find that virtually all of our large 2002 post-fire recovery projects are being litigated, without exception, virtually all. McNally will be litigated. Star fire, which is 2000, will be litigated. Rodeo-Chediski is already being litigated. I have no doubt that Biscuit will be litigated once we actually produce a decision there. So that is the first thing. The big ones, the ones that matter, the ones that have the most significant effects on the ground, positive or negative, depending on your point of view, are the ones that are going to be litigated.

Secondly—

Senator BINGAMAN. So these are post-fire salvage—

Mr. REY. Right. In this particular instance, yes.

Senator BINGAMAN. You are saying those are the ones that get litigated.

Mr. REY. That is right.

Secondly, the lawsuits have precedential value so that when we get an adverse decision, we have to adjust our program of work to account for what the judge has told us to do or not to do.

And that brings me to my third point, which is those precedents involve real-world changes in how we do business and how fast we can execute activities. In the Bitterroot, we essentially rewrote the record of decision inside Judge Molloy's courtroom to the specifications that occurred during the settlement negotiations that ensued after the litigation. I am not saying that is bad or good. I signed the settlement agreement, so I guess by definition I agreed to some measure of it. But that does not mean that the work that is getting done on the ground and the work that gets done subsequently, as we look at what we faced in Bitterroot, is going to get done quickly. So very few lawsuits can have very significant effects.

I think there is a fourth point to be made about delays, both delays with regard to lawsuits which can be significant, extending

over years, as well as delays in the case of administrative appeals that decide within 90 days. 90 days does not sound like a lot. But most of these projects have time-sensitive windows of operation on the ground. Some of those are driven by weather. You cannot do work after a certain time at certain elevations, or in the converse, you cannot do work after certain periods of time when you are in fire season because it is too dangerous to have crews in the woods doing the work. Some of those time windows are driven by endangered species concerns.

So if the 90-day delay knocks you out of a time window, it is not a 90-day delay, it is a 1-year delay because you are going to have to wait until the next window opens during the next operating season to do that work. So it is a different perspective than we bring to that here if you think about it in the context of what our field managers face.

Senator BINGAMAN. Thank you very much.

Senator BURNS. Thank you, Senator Bingaman. I totally agree with that. Of course, we better come up and mention about the KV fund that used to establish quite a lot of funds for fire fighting and those kind of things.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Mr. Chairman.

I would like to go back to the situation on the Kenai Peninsula in Alaska, Mr. Rey. As I had mentioned before, we are talking over 5 million acres of spruce bark beetle kill throughout the State. Four million of that we believe is around the Kenai area in south central Alaska. Ninety-four thousand acres are in the Chugach National Forest. I had mentioned in response to Chairman Domenici's question as to how much of this is being treated, and my comment, I think was, it is just literally a drop in the bucket.

But as I understand the fuel treatments to date in the areas on the Kenai, in and around the Chugach, we have got a little over 8,400 acres on the Chugach National Forest. We have treated 500 acres in and around Cooper Landing and only 200 acres in and around Moose Pass. Again, these are the pictures that we had seen earlier. So out of 4 million acres, we are talking about being able to treat a couple of hundred acres around one community, 500 acres around another community, and in total in the Chugach only a little over 8,400 acres.

Now, I understand that the Kenai area has been reclassified from a condition class 1 to a condition class 3. Can you explain to me how the reclassification is going to help us deal with additional treatments or making the treatments happen in these areas and how the legislation that is before us can get us to the point where we can actually start making a difference out there?

Mr. REY. The Kenai was originally classified as condition class 1 because of the long duration of fire frequency. Fire visits the Kenai Peninsula on the average of once every 150 years.

There are two things that go into condition class designations, though, fire frequency as well as stand condition. Once we had pandemic stand mortality, as a result of the spruce bark beetle infestation, our field scientists believed that it was appropriate to reclassify the Kenai as condition class 3.

The principal benefit of that will be that it will allow us to use the categorical exclusions that we finalized last month on the Kenai Peninsula to accelerate the program of work that we have underway by reducing the amount of NEPA analysis and consequent funding and time that would be required to do that work. And I think that will have a material effect in getting more work done in critical areas on the Kenai.

At the same time, I do not want to leave a misimpression in your mind. We are not going to treat 4 million acres on the Kenai. The program of work on the Kenai is going to be concentrated in trying to make sure that we have as much protection as possible including secure escape routes for the communities on the Kenai Peninsula. Treating the totality of the area is a virtual impossibility in large part because there is little or nothing to be done with the dead trees that are on there.

There was the potential some years ago to try to use the existing infrastructure on the Kenai Peninsula—by infrastructure, I mean mill infrastructure—to accelerate the rate of treatment. At that time, the larger treatments that were proposed for the Moose Pass area were both appealed and subsequently litigated, thereby snuffing out that opportunity, and the mill infrastructure that could have made use of that material is now gone.

Senator MURKOWSKI. So with H.R. 1904, in addition to helping with the judicial review and NEPA process, you are hopeful that we will be able to address some of the issues that we have seen on the Kenai then?

Mr. REY. Absolutely.

Senator MURKOWSKI. Thank you.

Mr. REY. Both through H.R. 1904 and through some of the administrative mechanisms that we have already got underway.

Senator BURNS. Senator Wyden.

Senator WYDEN. Thank you, Mr. Chairman, and I thank both of our witnesses. I think you have heard me say repeatedly, you have heard Senator Feinstein say repeatedly we want to get a bill. We want to get a significant measure passed. I believe that the House bill does not have 60 votes to get out of the U.S. Senate.

Now, I want to give you, Secretary Rey, the chance to disagree with that. If you think you've got 60 votes, I would like you to tell us that now. But if you do not, give me your sense about what the bottom line issues are as we try to move ahead now to get a bipartisan coalition of 60 votes and get it to the President's desk. So do you think there is 60 votes in the Senate for H.R. 1904?

Mr. REY. I will defer to your judgment. Since I have moved to this side of the dais, I do not trust my ability as a vote counter anymore.

Senator WYDEN. What do you think if I am right that are not? I am quite certain there are not. What do you think are the bottom line issues to get the 60 votes?

Mr. REY. I think you narrowed the issue to the one that will be the most difficult to resolve in your colloquy with the Governors in that I think, as you look across the details in these bills, most of them probably can work their way through to a conclusion but for the question of what, if anything, to do with judicial review. I think what we have said to your staff in discussions that we have had

with them is that to us, given the current disposition of jurisprudence in this area, judicial review is where you can give us the most help. I appreciate that that is a very difficult ask because it is not an easy issue to address because the judicial process is something that a lot of people do not want tampered with.

It is, however, something that Congress has dealt with in the past, not seldom, but often when circumstances warranted. There are 11 different instances in the past where Congress has flatly prohibited the issuance of injunctive relief in different areas of law where the Congress felt that was a necessary predicate to serve a larger public purpose. There are seven other instances where Congress imposed statutory provisions prescribing findings and conditions for injunctive relief or dictating the terms of relief. There are seven other instances where Congress imposed statutory limitations on the duration of injunctive relief, somewhat similar to what is proposed in your legislation. There are five other instances where statutory deadlines for seeking judicial review were imposed, hard deadlines, as is the case in H.R. 1904. There were three instances where statutory provisions were passed requiring courts to give weight to certain factors or findings when a court issued injunctive relief as H.R. 1904 would propose. And there are four other instances where statutes prescribed other special procedures for requests for injunctive relief.

So this is not an area where Congress has legislated infrequently. It is an area where Congress has legislated carefully, to be sure, but where there were overriding societal concerns that needed to be addressed. And it is an unpleasant challenge before us, but the threshold question is what do we want to protect more? The current judicial process or the forests?

Senator WYDEN. Well, I appreciate your saying you agree with me that that is the key issue and obviously we are going to work with you on it. Senator Feinstein and I have made it clear that we are committed to looking at balance changes in this area.

I will tell you that I think there are other areas where the administration is going to have to be open. I, for example, would like to hear you say for the record that you are open some old growth protection. That is not in H.R. 1904. Obviously, that is something of great concern not just in the West but here in the Congress. Is the administration open to including some old growth protection as part of an effort to get a balanced bill that would have 60 votes?

Mr. REY. We are open to addressing the old growth issue as virtually all of our forest plans do. I do not look at it as an issue that is intrinsically related to the one that is addressed in these bills, but we are not averse to talking about the issue either in the context of this legislation or some other bill that deals with the issue more directly.

Senator WYDEN. Thank you, Mr. Chairman.

Senator BURNS. Senator Smith.

Senator SMITH. Thank you, Mr. Chairman.

Secretary Rey, I wrote you recently about the silviculture study of Oregon State University's College of Forestry in which they outlined the ecological consequences of the Biscuit fire. I am wondering if you have seen that, know of it, and if there is any way

you are planning to incorporate its scientific findings into rehabilitating the Biscuit area.

Mr. REY. I have seen both your letter and the study, and the study is being evaluated by the team that is developing the environmental impact statement for the Biscuit fire recovery, which at present is scheduled to be released sometime in November of this year, the draft EIS. So their findings will be considered.

The county commissioners who helped put together the study, in cooperation with Oregon State University, had asked for a more specific request and that is that the plan of work that they lay out as what believe to be the most appropriate alternative for the Biscuit fire recovery be included as an alternative in the draft environmental impact statement, and I have asked our review team to look at that question as well.

I suspect that one of the things we may come back to the county commissioners with is if they want that alternative put through the analytical process, as part of the EIS, which could be done, that they offset part of the cost of that perhaps using some of the county schools title II money for that purpose. So that is what I have asked our review team to consider.

Senator SMITH. Mr. Secretary, earlier in my opening statement, I quoted from Judge Haggerty in an opinion that he enjoined salvage fuels reductions in eastern Oregon. He indicated that, left to himself, he would not have done that, but that he felt bound by precedent, by NEPA to stop this. Judge Molloy also enjoined salvage in the Bitterroot Mountains of Montana, and yet Judge Martone of Arizona allowed salvage of the Rodeo fire to move forward based on long-term forest health benefits.

I wonder if you can compare these decisions in the Northwest versus the Southwest. Is there any rationale or consistency to them, and what can we learn from them as we try to get right this judicial review issue?

Mr. REY. They were looking at some different things. Both Judge Haggerty and Judge Molloy were looking at a request for a preliminary injunction and balancing the harms associated with issuing or not that injunction request. Judge Martone was looking at the amount of deference that should be granted to our interpretation of what our own categorical exclusions mean, and so they had a little bit different question before them, applying somewhat different standards of jurisprudence thereto.

In Judge Martone's case, there is a certain amount of deference to be granted the agencies even in the Ninth Circuit when the question is how well an agency is interpreting its own regulations. In the case of Judge Haggerty and Judge Molloy, they were being presented what is the more classical question of a project that is challenged. There are alleged impacts associated with the project should an injunction issue. And the long track of jurisprudence that has evolved over 40 years on that question has evolved as a result of challenges to commercial timber sales. So over time judges have developed the respectable view in evaluating whether a preliminary injunction to a commercial timber sale should issue or not, that you cannot uncut a tree, so therefore we ought to enjoin the sale while we talk about it.

Now today if a plaintiff wants to challenge a fuels treatment project or a fire recovery project, even though the facts are different, it is in their interest to present the facts to look as closely as they can to the facts that you would see in a commercial timber sale to elicit from the judge the same result. And that is the result that Judge Haggerty issued notwithstanding his concerns or qualms for doing so because he felt he was bound by the precedent of the existing jurisprudence that has developed over the past 40 years.

What H.R. 1904 does, in asking the courts or directing the courts to look at this a little differently, is that in layman's terms, it tries to balance the valid proposition that you cannot uncut a tree against the equally valid proposition that you cannot unburn a forest. And that is why we think the provision is useful.

Senator SMITH. On H.R. 1904, I believe I have heard you opine that the administration is for that bill.

Mr. REY. We have indicated our support for the measure.

Senator SMITH. In conclusion, Mr. Chairman, I think I also heard you say that you will for us, on a scientific basis, as much as you can pull away the politics, evaluate the Wyden-Feinstein bill and Senator Bingaman's bill as well, the Bingaman-Daschle bill. There are a lot of Senators here because this is so critically important an issue and we really want to get something done. We want to do as much as is possible. So your opinion on that from a scientific perspective would be very much appreciated.

Mr. REY. We will do the comparison both from the issues of science but also on the issues of procedure and law which, in the case of all three bills, since they are process bills, are actually the more important questions.

Senator SMITH. Thank you.

Senator BURNS. Senator Feinstein.

Senator FEINSTEIN. Thanks very much, Mr. Chairman.

Mr. Rey, I thought your comments were very interesting. I for one would certainly be prepared to add to any bill, ours or any other, the programs you mentioned on page 8 and 9 of your written remarks. There are five specific programs there that I think are advantageous and should be included in virtually any bill that passes.

Secondly, I would like to mention, if I might, a letter from the forester, Mr. Bosworth, dated July 21, and an attached memorandum, which is the National Fuel Treatment Priorities that he sent out, clearly points out that funding would be targeted on a priority basis to the wildland-urban interface and areas in condition classes 2 or 3 in fire regimes 1, 2, or 3 with highest risk reduction potential.

I would like to talk to my cosponsor about changing our language to include that language in the bill and specifically to giving the Governor of the State—we confine it, but I would willing to let the Governor of a State, in consultation with the Federal Government, set the actual percentage. If a Governor wanted to take it all in one area versus another area—this goes back to discussions that we, Senator Wyden, have had with Senator Kyl because his State's configuration and needs are somewhat different from California. Yet, as Ms. Watson pointed out, we have got a half a million acres just waiting to blow up, infested with bark beetles. That clearly has to

have a priority in the State. And the Governor certainly would be one to know that in conjunction with the national entities. So I for one would have some flexibility there.

I think when it comes right down to it, H.R. 1904 will not find 60 votes, and I think we go to the administrative appeals and the judicial process as the two areas really of contention. There, Mr. Rey, we have tried to go as far as we possibly could. I consulted all the way along on this bill with The Wilderness Society to try to see that we would have something that might be acceptable. I do not think they accept changing the temporary injunction to 60 days, but I would even go to 30 days because there is an emergency out there. I think we have set with administrative appeals, if you take your categorical exclusion language in the beginning of your written remarks on page 5 and your appeals process reform, it would seem to me that—let me say this.

One of the reasons there is so much objection, I have found, to changing the judicial review is because other organizations are worried that codifying a change would get the camel's nose under the tent and there would be changes forthcoming in a host of different areas so that it becomes a very tricky issue once you get into it and understand the concerns of a myriad of other agencies.

But I think a TRO ought to go fast. You either make your point or you do not make your point. I think what we have done with respect to the administrative changes is that essentially we sped up the process in three ways. One round of public comment, not three or two. Shortening the appellate process from 90 to 60 days. That is a codification, and allowing the appeals officer to make the changes rather than remanding the project I think are considerable improvements. You disagree, Mr. Rey?

Mr. REY. On that particular point, I do not. Where S. 1352 presents the best benefits are in the specific areas that you have identified, that is to say, with projects that require environmental assessments to give the reviewing officer who is reviewing a project under appeal the authority to issue a new record of decision and to move it forward into litigation. So that is a helpful change.

What I tried to do is to look at all three bills in their totality to try to evaluate which of them was going to give our scientists and land managers the most opportunity and the most tools to effect a change in the situation that we currently face on the ground. If we look at the bills in their totality, then I am afraid I must say it is not close. H.R. 1904 gives us more to work with.

At the same time, there are helpful elements of all three bills, and the nature of the discussion will be to try to blend those together as best we can to achieve a result.

Senator FEINSTEIN. Is it true that essentially what you want is that the agency would not be required to consider any less environmentally damaging alternative to a project? And an appeal would not be present. There would be no appeal?

Mr. REY. No. The latter is not the case. The former I would express slightly differently.

What H.R. 1904 does is to say that in the context of a fuels reduction project, what you are really evaluating is should you do the project or not and that those are the two alternatives that are most squarely on the table and that you can look at some mitigating

measures for the going forward alternative and array some of those without creating a whole range of alternatives. Now, let me explain why that is important.

A typical environmental impact statement today has anywhere from 6 to 15 alternatives. Let us say the average is nine, because that is probably about what it is. Each of those alternatives is subject to a full analysis which chews up analytical time, the expertise of people on the ground, computer time to array the alternatives so that the requirement of NEPA to consider a full range of alternatives is fairly met. And on commercial projects, particularly large, complicated ones, that has become the norm and appropriately so.

In this case, what we are really talking about is are we going to do a treatment in a particular location or are we not. If we are, we can talk about some mitigating measures to inform the public of what we might do and discuss those. But those are the two alternatives that are really important for the public to evaluate and to make an assessment as to whether it is justified to pursue this particular project.

Now, an average EIS costs the Forest Service today about \$1.5 million to \$2 million, and you can divide that cost roughly equally among the alternatives that we are forced to evaluate because that is where most of the cost consideration comes in. So if you do the simple math and you take a project from nine alternatives on the average to two alternatives, you are going to save roughly two-thirds of the cost of doing the project, which we hope allows us to then do more projects more quickly.

So on that particular part of H.R. 1904, we think there is some utility to what is being proposed, just as I think there is some utility to the proposition in S. 1352 that on a project on appeal, the reviewing officer should be able, instead of remand and starting it over, to actually change the project and then allow it to go forward. I view those as both helpful alternatives.

Senator FEINSTEIN. My time has expired and I really appreciate that. Could I just quickly ask, are you saying then that what you want are reduced number of alternatives?

Mr. REY. What I am saying is that that is an approach in H.R. 1904 that we support. It is certainly not the only way to expedite our procedures.

Senator FEINSTEIN. Thank you.

Senator BURNS. Senator Kyl. In my estimation we have wasted too much time with the first two panels. I would like to get the debate started on the next one, and that is going to take another hour. So you folks who want to give up lunch, why, welcome to the caucus.

Senator Kyl.

Senator KYL. I appreciate that interesting introduction of my effort to further elucidate the issues, Mr. Acting Chairman.

[Laughter.]

Senator KYL. I would like to make three points if I could and ask Mr. Rey a question by showing you something you are not going to be able to see very well, but I want to pass it around. This is an infrared satellite photograph of a portion of the Rodeo-Chediski

fire of Arizona just about a year ago, and it makes two points and I think I am going to ask Mr. Rey about the third.

The first point that it makes is that thinning and prescribed burning have a dramatic effect in stopping and slowing down fires. You cannot see it very well from a distance, but on just one area here, the red is dead. The green is still alive. This area here is an area that was treated. Mr. Chairman, you can see that. The red goes right up to it and stops. There are other areas in there too. I have flown it, I have walked it, and I have seen it. The evidence is incontrovertible that these kinds of projects stop the fires as well as to provide all the other benefits to healthy forests.

The second thing—and I know Senator Feinstein is on the way out and I will give you a personalized copy of this. But what it also shows is that thin area treatments, whether they be urban-wildland interface or protecting roads or utility lines or watersheds, frequently do not work. This photograph is replete with examples of small area treatments, maybe a half a mile wide or a mile wide. You cannot see them from a distance, but here is one right here. They simply frequently do not stop a fire that has gotten out of control. You can see that the red has totally inundated that area, notwithstanding the fact that it was treated. There are a variety of reasons for that, mostly having to do with the dynamics of a big, dramatic fire that is frequently plume-driven or influenced. It simply moves too fast and too dramatically to be stopped by these smaller area treatments, so you need large-area treatment.

Now, the third thing that I want to illustrate by this—and this gets to the question I want to ask you, Mr. Rey—is about a third of this fire occurred on the White Mountain Apache Indian Reservation. They immediately set to work complying with the same environmental laws that you all have to comply with at the Department of the Interior and the Department of Agriculture. They did their work in analyzing the environmental impact of a salvage operation and proceeded to do the salvage operation, and they have completed their salvage operation, salvaging about 60 percent of what they had hoped to be able to salvage. And we have yet to start salvage on the Forest Service.

It seems to me that there is a reason why that goes directly to your testimony, Mr. Rey. While the same environmental considerations drive both the Apache Tribe and the Forest Service to decide what to do and how to do it, it is very difficult to sue the Apache Tribe either administratively or legally. It is not hard at all to sue the U.S. Forest Service or the Department of the Interior.

So the Forest Service smartly said, we are going to start with a categorical exclusion, some roads, trails, utility corridors, and some other areas that are very narrow and at least get that salvage operation underway. Boom. Hit with a lawsuit from a group from New Mexico, and it was not until about 2 weeks ago that Judge Martone's ruling came down saying you can proceed with that little, itty-bitty piece of Forest Service. I do not think they have started that yet.

But you all have not even completed the environmental review for the vast area, and I was just up there this last Saturday, and I was told that bluing is already occurring on some of this timber.

The first time you could get in there would be the fall, and it may be too late—it already is too late—for much of it.

You indicated in your testimony that you are having to spend a lot of time, energy, and money on preparing these projects so that they will not only enable you to win in court if they are ever appealed, but to withstand the administrative appeals or to ward them off. I presume that the difference in the amount of time it took for the Apaches and the Forest Service is partially reflected by the different kinds of work that you decided to do in order to try get around—not get around, but to provide an incentive for people not to sue or to win the lawsuits.

So really a two-part question. What did occasion such a great delay for salvage of this area that the Apaches have now already finished salvaging on? And secondly, what are the kinds of things in the legislation, primarily the bill H.R. 1904, that are the kinds of things that would help to solve this specific kind of problem illustrated by this specific fire?

Mr. REY. I think you have outlined the differences accurately. It is a difference in expectation for what will happen once a final decision is made. The tribe is, as you said, subject to the substantive requirements of the same laws that we are, but they are unlikely to be challenged once their decision is final. We, on the other hand, are almost certainly going to be challenged and in expectation and in anticipation of that, we do a lot more analysis and procedural work, which may not materially affect the substantive outcome of the decision at all.

Five years from now, we can go take a look. We can test the hypothesis. We can look at the Apache ground we can look at the Forest Service ground. I am willing to tell you now, just predicting the outcomes, that the Apache ground is going to look better.

What has taken so long so far is the clear certainty that upon challenge, we would need an EIS that would withstand judicial review, and that would require us to develop a full range of alternatives, a detailed cumulative effects analysis, and all of the other portions of what case law under NEPA has required over time.

The one help that H.R. 1904 provides is in narrowing that range of alternatives, we could save a considerable amount of time and money than we have already invested in this particular project without likely changing the substance of what we would propose. So that is the essence of it.

The second thing in H.R. 1904 that would be helpful is that when that EIS is challenged, as it would almost certainly be, the standard that the judge would use to decide whether a preliminary injunction should issue, when he is faced with that question as a result of the question that Judge Martone was faced with in the pending litigation, we have a better chance of prevailing.

Senator KYL. Thank you very much.

Senator BURNS. Thank you, Senator Kyl. We are going to call our next panel in. I have a couple of questions, but I will address them to you in writing. I thank you for coming this morning.

I am embarrassed for this committee. The next panel is the one that should be heard, and those are the people on the ground. Who cares whose nose is under the tent, when we have been operating under the present system for 30 years and we know the results and

we know the situation where we find ourselves, and they do not have guts enough to change it.

Thank you for coming this morning. I appreciate that very much. And you are right. Do they want to protect the process, or do they want to protect the forests? It is pretty simple to me. I do not know. Maybe I ain't very smart, but it is pretty simple to this Senator. Thank you for coming this morning.

We will call the next panel. We have Ms. Laura McCarthy who is with the Forest Trust out of Santa Fe, New Mexico; Dr. Wally Covington, Ecological Restoration Institute of Northern Arizona University; Mr. Mike Nivison, county commissioner from Otero, New Mexico; Bruce Vincent, Communities for the Great Northwest out of Libby, Montana; Ms. Sara Duncan, Denver Water Development; Tom Robinson, Grand Canyon Trust from Flagstaff, Arizona. And that looks like it.

Thank you for coming today. I know the importance of this because it is a very important issue to your communities. So we are just going to ramble right on through. Then I will have to, some way, get the information out to the rest of the Senators.

Ms. Laura McCarthy please. We are looking forward to your testimony.

**STATEMENT OF LAURA McCARTHY, FOREST TRUST,
SANTA FE, NM**

Ms. MCCARTHY. Thank you for the opportunity. I was a Forest Service fire fighter and a NEPA planner for 12 years, and for the last 7 years I have directed programs at the Forest Trust in New Mexico. The trust's professional forestry staff are on the ground and in communities seeing daily the challenges that wildfire creates.

As we have been talking about, Western forests are adapted to wildfire. Our efforts to reduce fire risk must leave room for fire to play its natural role. If we replace fire suppression with another uniform, one-size-fits-all set of practices, then 50 years from now we may find that we have created a new, unintended crisis.

I will summarize seven brief concerns about the Healthy Forest Restoration Act, the details of which are in my written testimony.

First, the Forest Trust has reviewed the science behind fuel reduction treatments and found only tenuous, empirical support for the idea that thinning alone will reduce fire risk. The research is much more certain about the beneficial effects of prescribed fire, but that is the more difficult practice to implement.

I do not want to get into dueling science because, after listening to all the discussion this morning, we really need to seek common ground. I guess I want to make the point that we need to act now and we need to recognize the limits of our data. So what the means to me is that research, experimentation, and adaptive management must be integrated into the national fuel reduction program so that we can develop the science as we go and make sure that our treatments are effective.

Second, H.R. 1904 proposes old solutions to the insect problem, solutions that we already know will not work. The science about bark beetles and wildfire and the interactions between them is even less developed than research about the effects of thinning. We

do know two things: first, that bark beetle populations typically explode with normal drought cycles, usually about twice per century; and second, that preemptive salvage ahead of insect infestation, as was done in the 1970's and 1980's with the spruce budworm and the spruce bark beetle, will hinder forest recovery in the long run.

The categorical exclusion in H.R. 1904 for salvage of trees that may be infested is risky. We advocate a moderate approach that funds research on new, integrated pest management treatments and ensures the application on the ground.

My third point is that H.R. 1904 and S. 1352 rely on national scale condition class data to determine where to expedite NEPA. This is a mistake. The scientists who develop condition class are clear that their national data are not accurate at the scale used to locate projects. H.R. 1904 uses condition class to set de facto priorities. The priority setting process in the 10-year implementation plan will become irrelevant.

I have to add that yesterday, because of the travel airline industry, I had a 2-hour meeting with an official with the Department of Homeland Security in the Sandia National Lab, and we discussed human-ignited wildfire as a terrorist strategy. And I am very serious about this because consider the scenario where we have drought conditions. Just consider that. It is a low-tech action, but 10 people in 10 strategic locations could really hurt this country. As a forester, I would hate to see that happen. I do not have anything concrete to offer on this topic today, that is, the homeland security, but I just want to say that in the process of setting national priorities, we need for the Forest Service and the Department of the Interior to be working with the Department of Homeland Security to consider the threats, the vulnerability and the consequences from a national security perspective.

Fourth, H.R. 1904 does nothing to benefit the rural communities that depend on forests for their livelihoods, at least from the perspective of the Southwest. The bill makes a simplistic assumption that removing barriers to forest industry will pay for fuel reduction work, but in a region that has already lost its forest infrastructure, the bill does not consider the economic interests of our local communities. To address the needs of people in the rural West, the legislation must directly target forest-dependent communities.

Fifth, in light of the discussion today, this might be surprising, but in my view and my experience, the expedited NEPA process will hurt some communities' ability to be heard. The possibility of appeal, though almost never used by communities, gives them leverage to raise their concerns over and over until they are addressed. The steps to expedite NEPA in H.R. 1904 should be scaled back significantly, not eliminated, but scaled back.

Sixth, we all recognize that communities need protection, and with help from the Department of Homeland Security, we will address the threats to our population. The flexibility in S. 1352 is important. We also need to build into legislation a mechanism to shift resources from community protection, as that is accomplished, to wildland forest treatments because we need to do both. The question is the sequencing, the timing.

And finally, normal forest growth can return fuel loads back to pretreatment levels within 15 years. So we are going to be back

where we started if we do not maintain our investment. We must require long-term plans to clean out fuels as they accumulate through natural process in areas that we have invested in with treatments. Otherwise, the next generation is going to find themselves facing the same set or perhaps a different set of related fire problems that we are trying to solve today.

That concludes my testimony.

[The prepared statement of Ms. McCarthy follows:]

PREPARED STATEMENT OF LAURA MCCARTHY, FOREST TRUST, SANTA FE, NM

Mr. Chairman and members of the Committee, thank you for the opportunity to testify today. I have worked for the U.S. Forest Service as a firefighter and a NEPA planner, and I now direct the policy program at the Forest Trust in New Mexico. The Forest Trust operates several programs that include consulting forestry on private lands, a research center, and technical assistance to forest-dependent communities.

Western forests are adapted to wildfire. It is important that our efforts to reduce fire risk leave room for fire to play its natural role. If we replace fire suppression with another, widespread and uniform set of practices, then 50-100 years from now we may find out that we have created a new, unintended forest crisis. I don't think anyone wants to make that mistake and I will explain the basis for our concerns in this testimony.

RESEARCH ON FUEL REDUCTION TREATMENTS

We need to take action that is based on the best information we can gather. At the same time, we must be realistic about the certainty of the information we have before us. Ever since the Forest Service proposed fuel reduction treatments in the Southwest, the Forest Trust wanted to understand the scientific foundation for the hypothesis that fuel reduction treatments will modify fire behavior in overstocked forests. Over a four-year period we examined more than 250 research papers covering prescribed fire, mechanical thinning, a combination of thinning and fire and commercial logging. The primary findings were:

1. The current research is, in general, inconclusive with respect to the effectiveness of mechanical thinning in changing wildfire behavior. This is because study methods and research results vary greatly. Only one quantitative empirical study has been completed.
2. The effectiveness of prescribed burning in changing post-treatment wildfire behavior is clearly demonstrated in many studies.
3. The limited number of studies that investigated the effectiveness of thinning and prescribed burning in combination produced equivocal results. More research is needed before firm conclusions can be reached.
4. We found no published scientific research on the positive effects of commercial logging on post-treatment fire behavior.

These and other findings in the Forest Trust report led us to conclude that a significant investment is needed in basic and applied research to provide a credible scientific basis for the design, implementation, and evaluation of alternative treatment methods. As an example of the kind of research that is needed, the literature review showed that tree density, which is the main variable controlled by foresters through thinning, is only one of several factors affecting fire behavior. The distance from the ground to the base of the tree crown, and the amount and arrangement of surface vegetation and dead woody material, also play important roles, although research has not yet provided information about how these interrelated factors alter fire behavior. Currently, fuels management focuses on reducing tree density and not on influencing the other factors that affect fire behavior.

The Forest Trust surveyed the prescriptions in use for ponderosa pine fuel treatments in the Southwest and found that about half of the thinning prescriptions focused only on tree density. Many of these prescriptions did not include specifications for modifying crown base height, surface vegetation, or dead materials. The survey also found many excellent prescriptions from projects in places like Flagstaff, Arizona where the Ecological Restoration Institute is located. Yet most public lands do not double as research forests. The simplicity and lack of variety of the prescriptions in use, coupled with the tenuous scientific support for tree density as a factor that significantly influences fire behavior, is therefore cause for concern.

What This Means for Legislation

H.R. 1904, S. 1314 and S. 1352 seek to expedite fuel reduction treatments because of the social imperative to reduce the wildfire risk to communities. Since there is inconclusive evidence that thinning alone will reduce fire risk, we have an opportunity to use the expedited treatments to help forest managers test specific combinations of thinning and prescribed fire treatments through rigorous experimentation that develops site- and weather-specific data. In addition, we need to require that research, experimentation, and adaptive management are integrated into our national fuels reduction program. Only by doing so will we be able to determine which fuel treatments are effective and where they should be employed. Science and adaptive management will also help us identify and cease ineffective practices.

INSECT MORTALITY AND WILDFIRE RISK

The wildfire situation is complicated by the interaction of wildfire, drought and insects, whose populations have reached epidemic proportions in many states. Western bark beetles are native insects that grow to epidemic levels about twice per century, corresponding with natural cycles of drought. The current epidemic of bark beetles is exacerbated by past management—the same practices that increased the risk of catastrophic wildfire. The narrow range of treatments prescribed for a wide variety of forest ecosystems in the last century simplified many forests, thereby weakening the forests' resilience to natural increases in insect populations.

As with thinning, we need to use the best information available to us. Unfortunately, we know even less about beetle-wildfire interactions than we do about the effects of thinning on fire behavior. The correlation between beetle-kill and increased fire risk is not well quantified in the scientific literature, and the results of recent studies are equivocal. For example, a 2003 study in the journal *Ecology* noted that little quantitative research has been conducted to test the hypothesis that insect mortality increases fire risk. The study looked at subalpine forests in Colorado and produced results that “do not support the long-standing notion that insect-caused mortality increases fire risk.” The study found no increase in the number of wildfire ignitions, but did not look at increases in fire severity because of the difficulty of controlling experimental variables such as weather.

Wildfire behavior in forests that have sustained insect mortality is also not well understood. For example, experienced foresters in the Southwest concur that the fire risk in insect-killed pinon pine trees decreases in 2-3 years, as soon as the needles have dropped, a phenomenon that is also true for Englemann spruce. In contrast, insect-killed ponderosa pine trees become more flammable, because the insects stimulate pitch to concentrate in the tree boles and flammability remains high until the pitch decomposes. The differences in fire behavior of various tree species affected by insect mortality are not well quantified. Forest managers need this information to know when and how to develop treatment plans and to anticipate areas of higher fire risk after insect outbreaks.

Field experience also tells us that thinning to reduce fuel loads could inadvertently spread bark beetles in areas with live trees. Thinning, to foresters, means the cutting of live trees to reduce forest density and to increase the resilience of the remaining forest. Thinning generates substantial slash, and the attraction of bark beetles to slash is well documented. The timing of thinning and the treatment of slash during a beetle epidemic are critical. As a result, some Districts in the Southwest are adding controls on the timing of slash disposal to their contracts and prohibiting thinning during the insect breeding season.

Preemptive salvage of trees that may face insect mortality is an old practice, but it will not solve our problem. To foresters, salvage means the cutting of dead or damaged trees to recover their economic value. Preemptive salvage means cutting or thinning trees before they are damaged to obtain economic value, with a secondary benefit of lowering overall stocking and improving forest resilience. However, preemptive salvage that we have conducted in the past, in Western forests with spruce bark beetles and in Eastern forests with spruce budworm, has had poor results. The salvage harvests in these examples removed most, if not all, of the trees of economic value, including the sources of seed and shade for future regeneration. The forests in these examples did not regenerate adequately and the preemptive salvage depleted the long-term timber supply.

Preemptive salvage in areas affected by western bark beetles that are in drought conditions will likely fail. The freshly cut trees, presence of slash, and current conditions of overstocking and drought will allow the insect populations to increase and kill the rest of the stand, and could make regeneration difficult in the face of continuing drought.

What This Means for Legislation

H.R. 1904 includes both research and categorical exclusions for preemptive salvage of trees in areas that are, or may be, vulnerable to insect attack. The salvage could minimize economic losses, but it also may increase the intensity of the insect problem by creating new breeding grounds in the slash. A more reasonable solution, found in S. 1314, is to make funds available for information gathering programs on native and non-native insects that impact large areas of forest and to apply this information to the local management of insect-infested areas.

CONDITION CLASS

The national-scale fire regime condition class data should not be used to locate local projects to reduce forest fuels. Fire regime condition class was developed by the Forest Service, Rocky Mountain Research Station for the purpose of "providing national-level data on the current condition of fuel and vegetation." Examples of national-level data are: (1) summaries of the total acres at risk of wildfire; and (2) total acres of forests that have missed two or more natural cycles of fire. The scientists who developed the national-scale data explicitly state in their report and on their web site that the data are not accurate at the scale used to locate projects to reduce forest fuels. Yet this is exactly how most of the legislation that has been introduced would use condition class.

The Forest Trust tested the accuracy of condition class using the published national data and maps of current vegetation on the Santa Fe National Forest. Our test corroborated the authors' concern that condition class may be inaccurate at the project level. Thus, use of condition class to site projects may result in significant errors that will allow many high-risk forests to be overlooked while low-risk areas are treated.

Instead of using national condition class data to decide which areas of forest need fuel reduction treatments most and where to expedite NEPA, we should be using the process of priority setting that has come out of the Western Governor's Association 10-Year Comprehensive Strategy and Implementation Plan. Steps to carry out the priority setting actions in the Implementation Plan are already underway. The Departments of Agriculture and Interior, National Association of State Foresters, and National Association of Counties signed a memorandum of understanding in January 2003 to jointly develop a process to identify and prioritize fuel reduction treatments. The National Association of State Foresters is close to finalizing standard criteria for identifying high risk communities and high priority projects across the nation. These criteria will enable the states to produce collaborative plans in a short time and to involve all levels of government and interested stakeholders in deciding which forests should be treated each year. The process will be led by the states and will not be encumbered by NEPA. Projects on federal land that are selected as priorities will be subject to NEPA, but the review process should be smoother because of the public support for high priority projects.

What This Means for Legislation

H.R. 1904 will allow NEPA exemptions for hazardous fuel reduction projects in condition classes 2 and 3. The proposal has two problems. First, the national condition class data are not accurate enough to be used to determine project locations. If condition class is used to decide where projects should be expedited, planners will be faced with the difficult decision of correcting the data by hand, or waiting three or more years for the next iteration of more accurate condition class data. Second, there is not sufficient funding to meet all of the fuel reduction needs in condition class 2 and 3 forests. The projects that are easiest to get through NEPA will be the first to be funded. The link between NEPA exemptions and condition class in H.R. 1904 will create a de facto priority setting process that will make irrelevant the Comprehensive Strategy, and efforts at collaboration and planning at the state and local level.

COMMUNITIES

From our experience in New Mexico and with community-based forestry partners in other parts of the United States, we have learned that people in forest-dependent communities care about three things: (1) protecting their homes and property; (2) obtaining living-wage employment in the forest; and (3) restoring the health and resiliency of both their communities and forests. H.R. 1904 makes the assumption that removing barriers for forest industry by increasing access to wood will improve local economies and help pay for fuel reduction work. Yet this assumption is too simplistic. We have learned from past experience that forest-based economic developers encounter many barriers including contracting procedures, consistent supply, and

investment in value-added processing. To address the needs of people in the rural West, we need legislation that directly benefits economically disadvantaged, forest-dependent communities.

What This Means for Legislation

S. 1314 and S. 1352 both contain provisions that will stimulate local economic development and create markets for the by-products of hazardous fuel reduction. The essential components of legislation to benefit rural communities are: (a) an emphasis in the hazardous fuel reduction program on projects that benefit small businesses that add value to small diameter wood and woody debris; (b) consistent use of local preference and best value contracting; and (c) equal priority in the ranking process for poor communities that do not have the economic resilience (such as homeowner's insurance and investment assets) to survive a wildfire.

ENVIRONMENTAL REVIEW

H.R. 1904 addresses the "process predicament," as it has been called by the Forest Service, despite several studies to the contrary. The General Accounting Office and Northern Arizona University published studies indicating that appeals are not causing significant delays to project implementation. In fact, there is increasing evidence that insufficient funding for hazardous fuel reduction projects that are "NEPA ready" is the cause of delays. Our research staff has repeatedly been told by District personnel in New Mexico and Arizona that projects that cleared NEPA, and were therefore on our list to survey, were on hold because of insufficient funding. Our experience, coupled with the studies about the appeals, leads us to conclude that expedited NEPA procedures will not result in significant increases in the rate of fuel reduction treatment. Rather, we fear that the changes to NEPA in H.R. 1904 will trigger a public backlash and weaken social acceptance of fuel reduction treatments, causing additional delays.

The appeals process is also important to communities, although they use it differently than other interest groups. Residents use the NEPA process to communicate their concerns to agency personnel about projects that will affect areas of forest they care about. Communities use the possibility of appeal as leverage to assure their concerns are heard. In one New Mexico example, a number of residents in Lama were upset with a Forest Service proposal to thin forest adjacent to their community in order to protect the town of Questa, 5 miles to the northeast. Nearly all of the forest south of Lama had burned in the 1996 Hondo Fire, and the residents worried that the proposed new thinning would ruin the little forest they had left. The Forest Service had difficulty understanding Lama's concerns at first, but the NEPA process meant they had to listen. Eventually, and with the aid of a Collaborative Forest Restoration Program grant, the community and Forest Service found a solution that would protect homes in Lama and Questa and preserve the forest values at risk.

What This Means for Legislation

The NEPA exemptions in H.R. 1904 will protect most hazardous fuel reduction projects from appeal, eliminate the development of alternatives in environmental assessments, and limit judicial review. The unfortunate fallout from these provisions of H.R. 1904, which are intended to speed up "process," will be to weaken public trust, erode social acceptance of hazardous fuel reduction, and clog the courts with disputes that could be resolved in 90 days through the current appeals process. The provisions for expedited process in H.R. 1904 should be scaled back to limited modifications of appeal procedures and the use of categorical exclusions in community protection zones and municipal watersheds.

SHORT- AND LONG-TERM OBJECTIVES

The Forest Trust believes that first and foremost, communities must be protected from catastrophic wildfire. Accordingly, most hazardous fuel reduction funds should, in the short-run, be allocated to protect communities. The funding ratio should be re-authorized at specified intervals to ensure that there is a shift to forest restoration treatments as community protection is achieved. The level of funding allocated will determine the rate of transition from community protection to forest restoration.

Keeping forests healthy will require an up-front investment in fuel reduction and restoration and a commitment to managing future fuel accumulations. Some scientists estimate that 15 years after thinning and slash disposal, new forest growth will create fuel accumulations that are back up to the pre-thinned level. A regular program of prescribed burning and wildfire use, coupled with thinning in some instances, will maintain fuel loads at normal levels and prevent natural fires from be-

coming catastrophic. This management strategy is essential to contain fire suppression costs over the long-run. If we do not require and fund these maintenance treatments, the current federal investment in hazardous fuel reduction will be lost.

What This Means for Legislation

Allocate the majority of fuel reduction funding for community protection and the remainder to restoration of wildland forests. Review and re-authorize the percentages periodically. State flexibility should be built into the percentage allocation, as in S. 1352, so that restoration projects in wildland forests are not excluded where they are needed. H.R. 1904 and S. 1352 do not address the need for maintenance treatments to prevent excess fuel accumulation after the initial fuel reduction activity. A section on long-term maintenance, as in S. 1314, requiring managers to plan prescribed fire and wildland fire use in treated areas, is essential to restore natural fire regimes and to ensure that future generations do not find themselves saddled with the same fire problem we face today.

Senator BURNS. Thank you very much.

Now, Mr. Tom Robinson who is from the Grand Canyon Trust, Flagstaff, Arizona. Thank you for coming today, by the way.

STATEMENT OF TOM ROBINSON, DIRECTOR OF GOVERNMENT AFFAIRS, GRAND CANYON TRUST, FLAGSTAFF, AZ

Mr. ROBINSON. Thank you. Thank you for this opportunity to testify. My name is Tom Robinson and I am the director of government affairs at the Grand Canyon Trust. We are a regional conservation organization dedicated to protecting and restoring the canyons and forests of the Colorado Plateau. We have a long and proud history of seeking pragmatic solutions to difficult environmental problems.

My verbal remarks are intended to supplement what I have submitted for the record.

We remain perhaps the only environmental advocacy group in the Nation proactively working to restore ecologically degraded forests. We look forward to the time when our fire-adapted Ponderosa pine forests in northern Arizona are restored to a condition where fire is allowed to play its natural role as a frequent, but low intensity visitor.

Our founding of the now famous Greater Flagstaff Forest Collaborative is illustrative of our strong belief that fully restored forests at the large landscape level will require restored public trust in the agencies who manage them. For the past 6 years, we have staked out the radical middle which, as you know, is a very precarious place to be. We believe that H.R. 1904 will destroy our ability to hold the middle ground. It will do so by further eroding public trust which is very hard earned. When an agency that has had great difficulty meeting the letter and spirit of our Magna Carta environmental law, the National Environmental Policy Act, is then allowed to operate with less public involvement and fewer constraints, public trust is destroyed at all levels. Forest restoration activities that would allegedly benefit forest ecosystems, particularly at a large landscape level, and human communities should not need to be shielded from a law whose very goals are to encourage productive and enjoyable harmony between man and his environment, to promote efforts which will prevent or eliminate damage to the environment, to enrich the understanding of ecological systems and natural resources. Large landscape restoration is a new discipline which will require more information, not less information.

We add our voice to the loud chorus of people calling for Congress to prioritize community protection. It is here where we find the greatest convergence of need and sociopolitical agreement. This is the place to target millions of dollars immediately.

Why do we believe this if our main goal is large landscape forest restoration? We view community protection in the context of ecological restoration. Communities that are relatively fire-safe or fire-adapted will be a prerequisite to extensive applications of prescribed fire that ecological restoration will require. Fire-adapted communities provide citizens with the reduced risk and confidence to embrace extensive applications of restorative wildland fire and similarly provide land managers with a relative freedom from risk.

This must be the Forest Service's mission in the dry West and the agency must not be allowed to stray from this mission. In Arizona, the Forest Service continues to facilitate the cutting of 200-year-old fire-adapted Ponderosa pines on the north rim of the Grand Canyon wile homes in southern Arizona burn for lack of fuels treatment money right now. This management behavior destroys public trust and it must stop.

Finally, appeals and litigation have not been a problem for our work in northern Arizona. When one of our projects was challenged, the appeals process did its job and resolved careless agency errors. I am amazed that nobody here has discussed what we consider to be the number one problem, the inability of the Forest Service to follow good and well-reasoned Federal laws. I think the Rodeo-Chediski situation is a good example. What happened there—and I am not going to defend the challenge that the Forest Service received—once again, was that the agency issued categorical exclusions that were beyond the scope of existing authority. They went beyond the law and they were challenged. The judge basically leaned on two of them, and on the third one, he basically said, that one is too large for your authority. You have to go back and do an EIA. Once again, that proves my contention. If they had stayed within the scope of authority, they may have been challenged, but it would not have gotten very far.

This is why we have proposed a super-NEPA team in the regional office with funding attached to it so the agency can do its job and can issue lawful decisions.

Thank you very much for this opportunity.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF TOM ROBINSON, DIRECTOR OF GOVERNMENT AFFAIRS,
GRAND CANYON TRUST, FLAGSTAFF, AZ

Thank you for the opportunity to testify today. My name is Tom Robinson and I am the Director of Government Affairs at Grand Canyon Trust. Grand Canyon Trust is a regional conservation organization dedicated to protecting and restoring the canyon country of the Colorado Plateau. We have a long and proud history of seeking pragmatic solutions to difficult environmental problems.

Throughout the past century domestic livestock grazing, fire suppression, industrial logging and climate have caused many fold increases in small trees and other forest fuels in the dry ponderosa pine forests of the southern Colorado Plateau. Today, when combined with favorable weather and climate conditions, these fuels are facilitating increasingly large, severe, and ecologically anomalous stand replacing fires that can threaten ecological and human communities. Though similar histories have caused similar conditions in other frequent fire adapted dry forests in the interior west, there is no more dramatic or extensive example of these phe-

nomena than in the ponderosa forests of the Mogollon Rim country in northern Arizona.

It's in these forests around Flagstaff, Arizona, that Grand Canyon Trust has been working to restore degraded and fire prone ponderosa forests since 1997. Our efforts include founding the Greater Flagstaff Forests Partnership (GFFP) in cooperation with the U.S. Forest Service and subsequently becoming involved in all aspects of ecological restoration and hazardous fuels reduction—from project design, implementation and monitoring to hiring thinning contractors and providing low-interest loans to local small-diameter wood processors. We are intimately familiar with the innumerable details of this work and have invested significant institutional resources toward seeing these programs to fruition. Grand Canyon Trust remains one of the very few environmental groups proactively working to thin and burn degraded frequent fire adapted forests in the western United States.

Our testimony addresses reoccurring themes from the various legislative proposals now before the Senate. We will also discuss elements and priorities we believe are appropriate for legislation in 2003. Our testimony is based on our experience and the ecological, social, and economic circumstances of northern Arizona. The points we raise may or may not be applicable to other parts of the country with different ecological, social, and economic circumstances.

THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) AND FUELS REDUCTION

The Healthy Forests Initiative and some legislation being considered in the Senate are in part predicated on the notion that detailed environmental and public reviews required by implementing regulations of NEPA are slowing fuels reduction. In our experience this isn't the case. In Flagstaff, the Greater Flagstaff Forests Partnership and Coconino National Forest have about 14,000 acres of NEPA cleared thinning and/or burning ready to implement. 6300 of these acres have been NEPA cleared for more than two years. As of June 2003 about 1800 acres have been implemented (at least partially). NEPA approved acres exceed acres treated by approximately 12,200 acres. NEPA planning exceeds implementation by an average of approximately 2400 acres per year. Environmental and public reviews set forth in regulations implementing NEPA are not delaying fuels treatments. Circumventing detailed NEPA analysis, as some 2003 wildfire legislation seeks to do, is unlikely to improve the timeliness or effectiveness of hazardous fuels reduction projects where we work.

Though we do not believe that the Forest Service is mired in a “process predicament”, we do believe that the quality of NEPA planning could be improved. There are systematic management and personnel problems within the Forest Service unrelated to the regulatory environment of NEPA that affect the quality, effectiveness, and efficiency of planning. These include (1) fragmented and delayed analyses due to personnel transfers and/or re-assignments (most notably to fight fire); (2) inadequate staffing levels and prioritization; and, (3) lack of relevant expertise (law, conservation biology) utilized during the planning process. These problems can result in avoidable mistakes, unlawful decisions, and analyses that are at best marginally commensurate to the guiding intent of NEPA or to contemporary principles of conservation science.

Notwithstanding these problems, NEPA planning far outpaces fuels reduction implementation in Flagstaff and the notion that circumventing detailed NEPA analyses will improve the timeliness or effectiveness of hazardous fuels reduction projects is, in our experience, baseless. Thus, we do not support the idea of streamlining NEPA planning in order to facilitate hazardous fuels reduction treatments.

APPEALS AND FUELS REDUCTION

The Healthy Forests Initiative and some legislation being considered in the Senate are in part predicated on the notion that the administrative appeals process is slowing fuels reduction. We believe this assertion represents an incomplete and incorrect view of the administrative appeals process.

In our experience, administrative appeals have not delayed projects beyond the standard review period when those appeals were found to have no merit. The only case in which an administrative appeal significantly delayed a GFFP project is when appellants correctly identified avoidable and careless mistakes committed during the planning process—mistakes rendering the Forest Service's NEPA decision unlawful. In this case, the administrative appeals process did exactly what it was designed to do: it provided a process to administratively resolve a legitimate dispute. As long as the Forest Service continues rendering unlawful decisions, we believe that the administrative appeals process is the best mechanism by which to administratively resolve legitimate disputes before they go to court.

Our experience is generally consistent with two independent reports released in 2003 that also fail to support the notion that the administrative appeals process is to blame for slow implementation of fuels projects. A report released by the GAO¹ found that that during FY 2001 and 2002 only 24% of fuels reduction projects were appealed, 79% of those appeals were processed within 90 days. In contrast, only 3% of fuels reduction projects were litigated, but 43% of these were still in court at the time of the GAO survey. In total, 95% of all projects reviewed were ready for implementation within the standard 90-day review period. The Northern Arizona University Ecological Restoration Institute's report titled "Analyzing USDA Forest Service Appeals"² found that, despite claims that appeals are impeding hazardous fuels reduction projects, theirs was the first effort to actually systematically analyze the appeals process. Their preliminary analysis revealed that (1) the appeals process is used by a broad range of interests including grazing permittees, timber companies, conservation groups and citizens, (2) the total number of appeals filed annually has been decreasing since 1998, and (3) about 1/3 of appeals are filed by individual citizens.

Legislative proposals before the Senate implicitly raise a fundamental question regarding our expectations of federal agencies: Should we expect federal agencies, as we do the citizenry, to follow federal laws and regulations? Or should we instead accommodate unlawful agency decisions by shielding them from laws, or, worse yet, from well established standards of judicial review? As a matter of principle and public accountability, we believe the former is the responsible course.

Based on our experience and the aforementioned independent reports, we believe that proponents of exempting hazardous fuels reduction projects from administrative appeals have failed to provide evidence that meets standards we believe are appropriate to promulgating legislation.

IMPROVING THE TIMELINESS AND EFFECTIVENESS OF HAZARDOUS FUELS REDUCTION

Although there are literally millions of acres of frequent fire adapted forest at risk of ecologically anomalous stand replacing wildfires in the southwestern and western United States, the resources available to implement hazardous fuels reduction projects are limited.

For example, the Arizona governor's office recently identified 230,000 acres of federal, tribal, state and private lands in and around Arizona's most threatened communities, transportation and utility corridors in need of hazardous fuels reduction treatments at an estimated cost of over \$230 million.³ It's paramount then that we carefully direct limited resources toward the highest priority lands. The question at hand is not where hazardous fuels reduction is needed; rather, it is where and how we prioritize hazardous fuels treatments within the constraints of limited time, resources, and sociopolitical agreement this year as a first step toward resolving the larger western wildfire issue.

Because 824 homes and structures have burned in Arizona wildfires in the past 18 months, because there is broad national consensus that avoiding further losses like those Arizona has experienced should be the first priority of federal forest and fuels management, and because time, resources, and political agreement are limited for goals exceeding that of protecting communities, we believe an appropriate goal for legislation in 2003 is to begin hazardous fuels work in communities at risk. Toward those ends we provide the following recommendations:

- Reduce home/structure ignitability: Legislation should facilitate and/or establish programs that assist and encourage homeowners to reduce the ignitability of homes and structures through a combination of vegetation and fuels management and, when necessary, replacing flammable building materials. This should include a combination of market based incentives, low interest loan programs, and grants programs for homeowners and homeowner associations.
- Prioritize fuels treatments for the WUI: Legislation should prioritize hazardous fuels reduction across ownerships within the Wildland Urban Interface and in watersheds containing municipal water supply systems. Legislation should not preclude hazardous fuels reduction treatments within high priority lands in frequent fire adapted forests outside the WUI. Those lands should be identified

¹ General Accounting Office. 2003. Information on Forest Service Decisions Involving Fuels Reduction Activities. GAO-03-689-R.

² Cortner, H. and J. Vaughn. 2003. Analyzing USDA Forest Service Appeals. Northern Arizona University Ecological Restoration Institute. Available online at: <http://www.eri.nau.edu/pdf/FS-appeals-database.pdf>.

³ State of Arizona Executive Office of Governor Janet Napolitano. Press Release: GOVERNOR NAPOLITANO ISSUES EMERGENCY PROCLAMATION ON BARK BEETLE DEVASTATION, CALLS ON PRESIDENT BUSH TO PROVIDE FUNDS.

and prioritized according to standardized methodologies on a state by state basis and their funding and implementation generally should not precede work inside the WUI. Legislation should require that communities establish long-term fuels management plans and schedules.

- Direct funding to hazardous fuels treatments: Legislators must recognize that fuels treatments are expensive will not occur unless there is money to implement them. Even fuels treatments that employ commercial thinning regularly exceed \$500 per acre. Legislation must provide money to fund hazardous fuels projects and must be directed toward specific acres according to specific priorities and implementation timelines.
- Use existing planning authorities: Rather than establishing duplicative expedited procedures, legislation should encourage agencies to employ existing hazardous fuels categorical exclusion authorities when conducting hazardous fuels reduction projects on federal land within the Wildland Urban Interface. These authorities allow federal agencies to categorically exclude from detailed NEPA analysis thinning projects up to 1000 acres in size and prescribed burning projects up to 2000 acres in size. If expedited procedures are enacted, which we discourage, they should be strictly confined to within .5 miles of communities at risk.
- Limitations: Legislation should ensure that all hazardous fuels projects adhere to land and resource management plans, protect old and large trees, not compromise roadless area or wilderness area values.
- Follow the Comprehensive Strategy: Legislation should be explicitly framed in terms of the four goals and three guiding principles of the Western Governor's Association 10-Year Strategy Implementation Plan for collaboratively reducing wildfire risks to communities and the environment. Legislation should include total acreage limitations and a five year sunset provision.

Our position does not preclude our support for ecologically cautious restoration of frequent fire adapted forests distant from communities. Indeed, we're an environmental group and these forests most concern our mission. We believe that true ecological restoration must become the next paradigm for federal management of frequent fire adapted forests if we believe that social and economic elements of sustainability ultimately depend on sustainable ecosystems. Grand Canyon Trust views community protection in the context of ecological restoration. Communities that are relatively fire safe, or fire adapted, will be a prerequisite to extensive applications of prescribed fire that ecological restoration will require (and this is to say nothing of the immediate need to protect communities from the high intensity wildfires that, unfortunately, are a future inevitability in southwestern forests). Fire adapted communities provide citizens with the reduced risk and confidence to embrace extensive applications of restorative wildland fire, and similarly provide land managers with the relative freedom from risk to conduct burns in a safer social and political context.

We also believe restoration planning requires an ability to evaluate and track local treatment scenarios within a regional ecological context in order to systematically prioritize limited resources and analyze effects. Restoration planning will also require a rationale and transparent decision making environment that allows stakeholders to "negotiate values" by comparing the relative costs, benefits, and uncertainties of different treatment scenarios. Our inability to understand these implications fuels much of the controversy surrounding restoration of wildlands. In short, we believe ecological restoration will require combining the best of NEPA's guidance with state-of-the-art spatial data, models, decision support tools, and discursive democratic processes. This is radically different than normal Forest Service project planning, and far exceeds the scope of legislative proposals being considered today.

Ecological restoration also raises policy, funding, implementation, monitoring, and long-term management issues. True ecological restoration of frequent fire adapted forests would address all factors that have contributed to ecosystem decline, including the removal of larger and older trees, overgrazing, and ubiquitous fire suppression. Sadly, we are still contending with all of these stress factors in National Forests of the Southwest today. Until we address these issues we will not return to healthier forests, fire hazard reduction will be only a temporary affair, and future generations will ultimately be saddled with the same perils of ecosystem neglect that we're contending with today.

Thank you for the opportunity to testify before the Committee today.

Senator BURNS. Thank you, Tom.

Now we move to Dr. Wally Covington, Ecological Restoration Institute, Northern Arizona University at Flagstaff, Arizona. How good is your football team going to be this year?

STATEMENT OF DR. W. WALLACE COVINGTON, DIRECTOR, ECOLOGICAL RESTORATION INSTITUTE, NORTHERN ARIZONA UNIVERSITY

Dr. COVINGTON. Well, I do not know. We will see.
[Laughter.]

Dr. COVINGTON. It is always a roll of the dice, but we will soon know, Montana being one of our playmates.

Well, thank you very much for inviting me to testify again on this very important problem of forest health. I am Regents' Professor of Forest Ecology. My appointment is in the School of Forestry at Northern Arizona University and I direct the Ecological Restoration Institute. Governor Napolitano pointed out that I serve on her Forest Health Advisory Council. Before that, I served on Governor Hull's in the State. I have recently been invited to serve on Governor Richardson's New Mexico Forest Health Council and, of course, agreed to do so. I will travel anywhere I can to try to help solve this very important problem.

I have a Ph.D. in forest ecosystem analysis from Yale University, an M.S. in ecology from the University of New Mexico, and have been involved in this work now for close to 30 years, 28 years now. My work is focused primarily on restoration of the dry forests of the West, first, through prescribed burning alone and then through combinations of prescribed burning, thinning, and other treatments as ways to effectively and efficiently restore forest health.

I have two major points. First is that we need to move forward with large-scale restoration-based fuel treatments, not just thinning and not just around urban interfaces, but we need to tackle the whole problem. We need to do it very rapidly.

My second point is that a comprehensive restoration should be addressed not just thinning alone or reintroducing fire, but also looking at the other major sources of ecosystem degradation that are in place throughout the forests of the West. If we merely treat the symptom of unwanted fire behavior, we are condemning ourselves and our progeny to be plagued by continuing problems in the future, species extinction, rare species becoming even rarer yet, and unwanted and unnatural disturbance regimes. So with that then, we need to move forward with large-scale restoration-based fuel treatments.

The rate of increase in destruction of our western forests is really alarming. I think we are familiar with that. Currently the pace of our treatments, our comprehensive restoration treatments is way out of whack with the amount of forest areas that we are losing to these severe catastrophic fires and unnatural bark beetle outbreaks in some types.

I advocate using what I consider to be a reasonable assumption that our treatments should be at least on the pace and at the scale that these disturbances are occurring. If we wind up protecting just the urban areas and the rest of the landscape is destroyed, which is a path that we are flirting with right now, people are not going

to want to live in the West. People are living in the West to live in wild landscapes.

The second point that I would make is that we need to do landscape assessments. In a landscape assessment, one of the areas that clearly will come out as needing treatments are places that people live. They are kind of nest sites for human beings. But we will also find, I think, that people will value wilderness areas, national parks, hot spots for biological diversity. And down in our country, Mexican spotted owl nest sites are especially threatened by these large wildfires. So these priorities I think need to be set by collaborative groups at the local level, much as the Flagstaff Forest Partnership that Tom Robinson alluded to earlier.

The next point I would make—Laura made this one—is that clearly we have a good bit of knowledge, but in solving this problem, we need to bring the best research and science integrated in an adaptive management process to learn while we are doing. And it needs to be a fairly formal adaptive management process, not just tinkering with things, but coupling treatments with monitoring and evaluation.

So with that, I think, for the sake of saving some time, I will just conclude here, that it really is necessary that we think clearly about this, use the best science that is available. We need to be careful about how we define, for example, restoration treatments. What is a restoration? We need to be careful about using the term “old growth.” The term “old growth” can be defined artificially, as often is the case. A multi-story kind of dense forest stand in the case of Ponderosa pine is a contemporary definition of old growth stands in Ponderosa pine. It is a completely unnatural phenomenon. We need to be careful to use as our reference points, I think, natural conditions.

So finally, I would conclude with just saying again, knowing what we know now, I think it would be grossly negligent for us not to move forward rapidly. I think we can do this. We are doing this in some situations. We need to expand it vastly. I know that the three bills that are being considered now are all trying to achieve that. There are certainly elements in each bill that will help us to do that, and I would just urge the committee to move forward apace and help us solve this big problem.

Thank you.

[The prepared statement of Dr. Covington follows:]

PREPARED STATEMENT OF DR. W. WALLACE COVINGTON,
ECOLOGICAL RESTORATION INSTITUTE, NORTHERN ARIZONA UNIVERSITY

Chairman Domenici, and members of the Committee, thank you for this opportunity to testify on forest health problems and to offer some solutions. Many of you have seen me before this Committee in the past. I look forward to the day when my testimony will no longer be needed because we are implementing restoration treatments at the pace and scale commensurate with the problem.

My name is Wallace Covington. I am Regents' Professor of Forest Ecology at Northern Arizona University and Director of the Ecological Restoration Institute. I have been a professor teaching and researching fire ecology and restoration management at NAU since 1975. I am a member of Governor Janet Napolitano's Arizona Forest Health Advisory Council. My role on that committee is to help develop guiding principles for the design and implementation of restoration-based fire fuel reduction and forest health projects based on the best available science. In addition I am a member of the National Commission on Science for Sustainable Forestry.

I have a Ph.D. in forest ecosystem analysis from Yale University and an M.S. in ecology from the University of New Mexico. Over the past 27 years I have taught graduate and undergraduate courses in research methods, ecological restoration, ecosystem management, fire ecology and management, forest management, range management, wildlife management, watershed management, recreation management, park and wildland management, and forest operations research. I have been working in long-term research on fire ecology and management in ponderosa pine and related ecosystems since I moved to Northern Arizona University in 1975. In addition to my publications on forest restoration, I have co-authored scientific papers on a broad variety of topics in forest ecology and resource management including research on fire effects, prescribed burning, thinning, operations research, silviculture, range management, wildlife effects, multiresource management, forest health, and natural resource conservation.

I will focus my remarks on two important changes that are needed to reverse the trend of increasing catastrophic wildfires.

- First, we need to move forward with large scale restoration-based fuel treatments that are commensurate with the threat of catastrophic fire.
- Second, we need to use comprehensive restoration-based treatments as opposed to just thinning trees. If we don't we are merely treating a symptom, condemning ourselves to be plagued by continuing problems in the future, and will lose the opportunity to solve many of the problems associated with degraded forest ecosystems—including bark beetles and disease.

We Need To Move Forward With Large Scale Restoration-Based Fuel Treatments That Are Commensurate With the Wildfire Threat

The accelerating increase in the severity and size of wildfires in the West indicates that average annual losses over the next two decades will be in excess of 5-10 million acres per year. Using the reasonable assumption that preventative restoration treatments should at least be at the pace and scale of losses to severe stand replacing fire, one would conclude that we should be treating 5-10 million acres per year. Our current pace and scale is woefully inadequate given the scope of the problem. Unless we accelerate treatments rapidly and immediately we will never get ahead of the problem.

The fires of 2000, 2002 and now 2003 have focused policy attention on the need to create defensible perimeters around communities in the wildland/urban interface. Without a doubt communities should be a priority for protection. However, defining a community as only homes misses the whole reason why people live in forest communities.

My hometown, Flagstaff, Arizona is a tourist dependent community. In the summer it is a cool haven for people from Phoenix to escape oppressive heat. In the winter it is a playground for skiers and snow-based recreation. The town is populated by people who often choose to make less money in return for the non-monetary value of living in an exquisitely beautiful place. A fire of the magnitude of the Rodeo/Chediski fire—almost half a million acres—would destroy one of the communities most important natural assets. The aesthetic and economic value of the forest is immeasurable. Imagine Flagstaff, Santa Fe, New Mexico, Durango, Colorado or any other mountain town surrounded by a sea of blackened trunks. The spiritual, social and economic value of being there is gone.

Besides the inextricable link of people to the forest, there are many important environmental and resource benefits provided by forests, such as water, wildlife, recreation and wood fiber. To protect these values will require landscape scale treatments in the greater forest.

The Need for Landscape Assessments To Identify Key Elements of the Landscape for Protection

The logical and efficient way to strategically and comprehensively address the threat of unnatural wildfire is to look at the problem from a landscape perspective. Using a collaborative community process with a definite timeframe, we can identify important elements of the landscape for protection, identify the location and type of restoration fuel breaks that would reduce the risk of unnatural fire, and prioritize areas for treatments. Areas that are at highest risk or where we can gain the greatest advantage for fire protection would logically be treated first. This type of approach is not widely used but should be so that limited resources are used effectively.

ADAPTIVE MANAGEMENT PROVIDES THE PROPER FRAMEWORK FOR ACTION

Working at the landscape scale concerns some individuals and organizations. However, there is an approach that will ensure that we are learning from and evolving.

ing treatments based on best available information—it is a “learning by doing” approach known as active adaptive management. No one is talking about tinkering here and this isn’t just some new fangled academic idea. Adaptive management is rooted deep in theory and practice, having sprung from the evolutionary operations approach long used in optimizing complex chemical engineering problems. Crawford S. Holling (University of Florida) and Carl Walters (University of British Columbia) and their intellectual “offspring” have developed this approach as a tried and true procedure for solving complex resource management problems, monitoring and evaluating a range of policy options, and then feeding resulting knowledge back into the ongoing resource management endeavor.

There are quantifiable approaches to adaptive management. However, a “soft systems” approach might be most appropriate for restoration of ponderosa pine and related frequent fire landscapes. This is an approach used by the Greater Flagstaff Forests Partnership. The Partnership is attempting to plan and implement restoration-based fuel reduction projects on 100,000 acres in and around Flagstaff. The Partnership is engaged in planning for its third major treatment—an area of 30,000 acres. Information learned from the monitoring of earlier treatments applied in 1998 is being used to design the next series of treatments.

The safest way to advance treatment design and implementation is to apply scientifically rigorous adaptive management principles. By scientifically rigorous I mean that the design of landscape scale restoration treatments must be based on:

1. Comprehensive awareness of solid science (not ideologically driven, selective citation of existing knowledge).
2. Implementing large-scale, adaptive management experiments to test ideas.
3. Monitoring fundamental parameters to determine treatment effectiveness.
4. Objective scientific analysis of the results.
5. Further adaptation of management experiments suggested by these monitoring observations.
6. Sharing, publicizing and publishing results for lay audiences, policy makers, resource management professionals, and the scientific community.

We need to use comprehensive restoration-based treatments as opposed to just thinning trees. If we don’t we are merely treating a symptom, condemning ourselves to be plagued by the problem again in the future, and will lose the opportunity to solve many of the problems associated with degraded forest ecosystems.

I am gravely concerned that in our urgency to treat forests quickly, we will do it incorrectly by focusing solely on removing trees. If we do that we will squander the opportunity to provide a comprehensive solution to all the problems confronting degraded forests.

We have been in open revolt against nature in the dry forests of the West since settlement. It is time to start managing in harmony with natural tendencies. Science-based forest restoration treatments are consistent with natural tendencies. Comprehensive restoration is superior to forest thinning alone for one significant reason—restoration treatments simultaneously improve forest health (the underlying cause of catastrophic fire) while reducing fire risk. Restoration treatments permit the safe reintroduction of low intensity ground fire that we can let burn without threatening people and homes and most importantly plays a vital role in restoring the forest.

RESTORATION HAS MANY BENEFITS

The benefits of ecological restoration and diligent land stewardship in ponderosa pine and related ecosystems are many and they are sustainable indefinitely. Ecological restoration:

1. Eliminates unnatural forest insect and disease outbreaks—such as the current bark beetle epidemic;
2. Enhances native plant and animal biodiversity;
3. Protects critical habitats for threatened or endangered species;
4. Improves watershed function and sustainability;
5. Enhances natural beauty of the land;
6. Improves resource values for humans, not just for current, but also for future generations.

DESIGNING RESTORATION TREATMENTS

There is no “one size fits all” restoration treatment. Intelligent restoration treatments are based on the historic conditions of the land. We know that ponderosa pine forests in the Southwest burned frequently with the net effect of killing small trees and enhancing fewer, large trees. We know that the real diversity of the ponderosa

pine forest is below your knees in the grasses and shrubs and that they need fire and light to survive. We also know that the Southwest is prone to periods of sustained drought and that there are only so many trees per acre that can be sustained in an arid climate.

Ecological restoration should strive towards emulating, insofar as is practical natural ecosystem patterns and processes. In the discipline of ecological restoration we refer to these natural conditions as "reference conditions". In most cases for ponderosa pine forests this includes fewer trees per acre; retaining older trees and removing the excess trees thus opening up the forest canopy to promote increased numbers and species of plants and grasses.

Research across the Intermountain West has shown that restoration treatments substantially reduce fire hazard by thinning trees to decrease tree canopy density, break up interconnected canopy fuels, raise the crown base height, and then reduce accumulated forest floor fuels and debris with prescribed fire. Where tree density is great, fire alone is inadequate. Without thinning, fire can lead to increased mortality, especially among old growth trees. This is the typical case over most of the ponderosa pine type throughout the West.

Restoration thinning enhances the productivity (growth) of trees, allowing young trees to develop old-growth characteristics such as large size and full crowns. Perhaps most importantly, restoration has been shown to increase rapidly the productivity of native understory grasses and herbs, the species that make up 90-99% of the plant biological diversity in western fire-adapted forests. The resources provided by abundant understory vegetation—seeds, flowers, fruits, and cover—translate into key wildlife habitat components. For example, the number of butterfly species and individuals increased within two years in Arizona sites that had received ecological restoration treatments.

Our research in cooperation with land management agencies and community groups shows that restoration treatments are operationally sound. There are some very simple restoration-based sideboards for designing alternative prescriptions that are straightforward and well supported. They include:

1. Retain all trees which predate settlement;
2. Retain post-settlement trees needed to re-establish pre-settlement structure;
3. Thin and remove excess trees;
4. Rake heavy fuels from base of trees;
5. Burn to emulate natural disturbance regime;
6. Seed with natives/control exotics.

WE KNOW WHAT TO DO AND IT MAKES ECONOMIC SENSE

I have great faith in our scientific understanding of how to restore degraded forest. Yet I am frustrated that with so much knowledge at hand we remain mired in ideological disputes. Recently, the School of Forestry at Northern Arizona University completed an economic study analyzing the cost of restoration versus taking no action in ponderosa pine forests. This preliminary analysis shows that it is cost effective to spend up to \$505/acre to restore forests to prevent catastrophic fire and avoid associated fire suppression costs. In other words, if we spend money to restore forests now, we will avoid spending that much on just suppression, rehabilitation and lost timber value in the future. This figure doesn't even take into account what is spent on lost property, lost property taxes, lost fire fighter lives and the full reality of losses associated with catastrophic fire. Based on this figure, a back of the envelope assessment shows that to treat the condition class 3 lands identified in the Intermountain West (and we really wouldn't want to treat all those acres of different forest types) it would cost \$6 billion dollars. With our annual suppression costs rising to above \$1 billion per year, and an annual federal budget that exceeds two trillion dollars the logic to spend the money and get this done is overwhelming.

In conclusion I want to say exactly what I have said to Congress before. Knowing what we now know, it would be grossly negligent for our generation not to move forward with large scale restoration-based fuel treatments in the dry forests of the West. Inaction is clearly the greatest threat to the long-term sustainability of these western ecosystems.

Thank you for the privilege to speak before the Committee.

Senator BURNS. Thank you, Dr. Covington.

And I would say that your full statement will be made part of the record, so if you want to summarize. Ms. Sara Duncan, Denver, Colorado.

Senator KYL. Mr. Chairman, may I just interrupt one second?

Senator BURNS. Yes.

Senator KYL. I have a luncheon meeting to chair, as you know, and you are supposed to be there too. So I am going to go do that, and I will keep your seat warm for you, but may I apologize to the remainder of the panel for leaving before I hear your testimony and thank especially the two Arizonans who are here. Despite some conflicting views, I value both of their friendship and advice and I hope that we will continue to receive it in a significant quantity. Thank you, Mr. Chairman.

Senator BURNS. Thank you, Senator.

Ms. Sara Duncan, please. Water Department, Denver.

STATEMENT OF SARA DUNCAN, COORDINATOR OF INTERGOVERNMENTAL AFFAIRS, DENVER WATER BOARD, DENVER, CO

Ms. DUNCAN. Yes. Denver Water supplies water to one in four citizens in Colorado, approximately 1.2 million people. Of these people that you are talking about in the wildlife-urban interface, I am sure that it has not been considered that municipal watersheds in the forests are as or more impacted than these communities that are in the forests. It is absolutely critical that whatever legislation is passed, that it address the urban-wildlife interface as well as the municipal watersheds. They are not mutually exclusive. The enabling act of the Forest Service, in fact, gave them that very specific task of protecting and developing municipal watersheds.

Denver Water, unfortunately, has become the poster child as victims of Forest Service management. We have suffered six fires in the last 6 years in our Upper South Platte drainage. I have attached to my testimony exhibit A that will show where those fires occurred, and I would hope that both my testimony and the photographs become part of the permanent record.

In addition, we have really as a defensive measure also been a group that has been trying to restore ecologically degraded forests. Before the Hayman fire started, we did quite a bit of restoration work around our Cheesman Reservoir, and it was interesting. When the fire hit, those areas that we had not treated burned like crazy. Those 80 or so acres out of the 138,000 acres burned by the Hayman fire last year that were treated and the fuel was removed, every building that was in there was left standing. Some of the trees will be lost, for sure, but every building was left standing. In fact, I would invite this committee to come and see us as the petri dish of forest fires except that I know that you all have in your own areas further examples of what the devastation of forest fires can do.

Enough blame has been laid at the Forest Service so that we know that their policies have not worked well, but we also feel that Congress has contributed to the problem. Not to mince words, we think taking decision making away from trained professionals has been a bad idea and has really contributed to the problem.

In addition, we feel that decision making has been weighted toward recreation and non-use instead of the multiple use sustained yield that has been part of the Forest Service mantra for years until recently.

And finally, we feel that we need a clear political statement that money, a realistic time table—not 10 years, not 20 years, but we are probably talking about generations to clear up this problem—and the appreciation of forest management must be implemented.

I know that you will think I am ungrateful for coming and criticizing Congress when you were kind enough to invite me, but we are also very sympathetic to what you have to do in the balancing. We do not want to say that the environmental considerations are not important, but the idea of not having a clear forest engagement—and I did not hear anyone from the Forest Service say this. It was not in the film to begin with—that looks at municipal watersheds that are in the forests really fails to protect the source of water. And source water protection was a great part of the 1996 amendments to the Safe Drinking Water Act. We know Congress is concerned about it, and we want to make sure in your decision making that you account for it.

No action is not palatable. It is not environmentally responsible. We think that Congress needs to take an action and we hope that we can contribute to it, but we are talking about the health and safety not only of our forests, but also of our citizens. Thank you.

[The prepared statement of Ms. Duncan follows:]

PREPARED STATEMENT OF SARA DUNCAN, COORDINATOR OF INTERGOVERNMENTAL AFFAIRS, DENVER WATER BOARD, DENVER, CO

Mr. Chairman and Members of the Committee: Thank you for allowing me to appear before you to address the important issue of forest health and municipal water supply. The Denver Water Board is a municipal corporation that supplies water to over one million people: that is one of four people who live in Colorado. Denver Water's supply is dependent on water generated within the boundaries of watersheds located on Forest Service and other public lands. Denver's water system gathers diffuse surface flows originating on public watersheds and moves the water to treatment plants and drinking water systems sometimes located as much as 80 miles away from the water's origin.

Since 1996, Denver Water has been the victim of six fires in its Upper South Platte watershed, a major water supply and delivery system for Denver Water. [see Exhibit "A"]* The effects of these fires on Denver's system have varied, but the overall result is one of vitiated water quality. For example, approximately twenty miles of the South Platte River is subject to fire erosion that has resulted in severely reduced water quality, high stream turbidity, and diminished reservoir capacity due to erosion and foreign debris caused by the fire. The cost to date of mitigating fire impacts is in excess of \$5,600,000 with an anticipation of higher costs to be paid in part by our customers [see Exhibit "B"].

In order to maintain the physical integrity of water and of water collection systems, it is imperative that public lands are in a condition that does not contaminate water or impair the ability to move water to its place of beneficial use. [see Exhibit "C"]. An ongoing federal commitment is necessary in order to limit the damage to municipal watersheds from fire.

As a result of dealing with forest fires, Denver Water views the three bills before you, S. 1314, S. 1352, and H.R. 1904, and finds the following observation apply to all three bills and may be useful in your decision-making on what contributes to a healthy forest:

- Fuel reduction can control or limit fires—Select cutting and fuel reduction limited damage to Denver Water's property during the recent Hayman Fire. The Hayman fire completely consumed trees on acreage surrounding Denver Water's Cheesman Reservoir. At Cheesman Reservoir where Denver Water used Forest Service recommended techniques, fire intensity was diminished and four caretaker houses, an office and maintenance facilities survived the fire and stand today in a sea of charred trees and blackened soil: Of the 8,000 acres Denver Water owns at the Cheesman site almost everything burned to extinction except

*All exhibits have been retained in committee files.

for the treated area. The techniques favored in the Forest Health legislation did work in this limited instance. We had more forest management to do at Cheesman, but the Hayman fire got there first.

- Impacts of a forest fire on a municipal population are not limited to the wildland/urban interface—Any legislation that limits forest health techniques to an area within 1/2 mile of an at-risk community or in the wildland/urban interface would fail to provide water source protection. In the west, municipal watersheds cover many, many square miles and are located far away from the city service area. Denver water relies on watersheds over 80 miles from its treatment plants. Other major water suppliers have supplies stretched over even longer distances. If legislation limits the application of forest health techniques to a certain mileage it would diminish the effect of federal relief from wildfire problems.
- Cooperative projects should receive first priority in funding—Denver Water along with state and federal forest agencies developed a process for forest management on the Upper South Platte drainage that served the needs of all agencies involved. Implementation of the plan was not in place at the time of the Hayman fire except for a small parcel at Cheesman Reservoir. Cooperative efforts such as this should be given the highest priority and sufficient funding to respond to immediate hazards.
- A realistic time limit to deal with forest problems is needed—It is estimated the life of Denver Water's reservoirs impacted by the fire will be reduced by forty years due to increased sediment. Dredging of Cheesman Reservoir will solve some problems, but will not prevent the continued inflow of sediment. Erosion and attendant water quality degradation will occur for the next thirty years. Ten years is a short time to assure forest health when it took over a century of Forest Service policies to create the present fuel-loading problem. The 10-year implementation process endorsed by the Western Governor's Association incorporated in all bills under discussion should be treated as the first step in a long-range response to responsible forest management.
- Funding must be spent to address all forest issues, including watersheds—It seems irresponsible to spend funds for forest health within 1/2 mile of the wild-life/urban interface when adverse conditions in a municipal watershed could impair water for many people outside this limited area. Both S. 1314 and S. 1352 fail to recognize the tremendous costs involved in addressing fire damage and the benefit from protecting watershed that serve large populations. For example, dredging costs to Denver Water's reservoir most impaired by sediment and other debris created by fires on the South Platte are estimated in the \$15,000,000 to \$20,000,000 range. The water serves 1/4 of Colorado's population, and therefore the benefits of improved forest health to Denver Water's watershed would affect a large number of people.

Denver's Board of Water Commissioners has declined to take a position on the process of public review and NEPA compliance contained in all bills. It is Denver's expectation that whatever legislation is passed will provide a sufficient opportunity to assure technical compliance with existing laws as well as the flexibility to respond to forest management emergencies.

Denver Water is aware that fire is a natural phenomenon on forest lands. However, two of the recent fires were man-caused, and all fires have been difficult to control due to forest conditions. We appreciate your efforts to address the issues of fire, forest health, municipal benefits and environmental concerns. If Denver's experience can be a useful tool in addressing these issues, please consider us a resource. Denver Water would be happy to provide you with any information you need.

Senator BURNS. Thank you.

Mr. Bruce Vincent who is with Communities for a Great Northwest from my State of Montana. Welcome.

**STATEMENT OF BRUCE VINCENT, EXECUTIVE DIRECTOR,
COMMUNITIES FOR A GREAT NORTHWEST, LIBBY, MT**

Mr. VINCENT. Thanks, Senator. It has been a long day. Thank you for hanging in there with us.

I am a fourth generation Montanan and a third generation practical applicator of academic forest management theory. That is what I call a logger. I moved back to Montana after completing college and I moved back for two environmental reasons. The first en-

vironmental reason was the natural environment. You know where we live. Stunning scenery, wonderful wildlife, clean air, clean water, tree-shrouded mountains. That is why I like living in Libby.

I also moved back for the cultural environment. The last vestige of what built the greatest Nation on earth is alive and well in our rural timber towns. Hard-working, hard-playing, community-oriented, family-oriented, church-oriented, school-oriented people inhabit the town that I call home and thousands of timber communities around America.

I quickly learned, though, that there is a third environment that is going to dictate the health of the first two, and that third environment is the political environment and the political environment in timber towns for the last 15 years has been sometimes destructive, oftentimes violent, and it is leading us to a juncture in the road that is going to have a conclusion.

I heard a lot of debate around the room today, good discussion. We have had this discussion since 1988 that I know of, vigorous discussion. In 1988 we had a log haul to Darby, Montana. We had a log haul because we were concerned with the abuse of the appeals process that was stymieing management and we were afraid that the Bitterroot Forest was going to burn down. In 2000 it did.

In 1988, we also had a log haul, a rally. The Silver Fire Roundup it was called in the Siskiyou area of Oregon, Grants Pass. We were there because of the appeals process that was being abused and we were afraid that the area was going to burn down. In 2002 it did.

In 1995, we went to Phoenix. We were in Phoenix because we were afraid that the largest contiguous stand of pine trees on the planet was falling into disrepair and because of systematic abuse of the appeals and citizen participation process, it was going to burn to the ground. In 2002 it did.

I live in the area that Senator Craig explained was a site of the largest recorded fire in North American history, 3 million acres in actually essentially 6 hours of firestorm. You have a couple of hundred fires started. Let them smolder for a couple of weeks and then blast it with some 75-mile-an-hour winds, and it makes the Rodeo look like a picnic. There are now a quarter million people living in the immediate area of that burn in 1910, and we are very fearful. We have been fearful for 15 years, and now it is time for something to happen.

I have given you my complete report. I would like it to be part of the record, Senator. There are some things in H.R. 1904 that we support. Anything that is going to take aggressive action to actually do something is going to be supported by the communities that are at risk in this discussion.

Particularly the area of judicial reform, something in the appeals and judiciary have got to change or we are never going to get anything on the ground. Senator Daschle was the Majority Leader of this esteemed body and he saw that he needed put an umbrella of protection over local resolution in his State in order to actually implement anything. South Dakota is not the only State that needs that protection. We have got to do something.

H.R. 1904 recognizes that doing nothing does have consequences. All of us recognize that. It addresses a number of other things and I address them in my comments. But I am not here to do much

more than just plead. I am here to plead because it is time for help, not rhetoric, not flowing words, but help. It is time for action. Those of us who live in the combat zone know the politics of this issue. We know it all too well.

We also know that in politics reality does not have a great to do with what happens in the outcome. It is actually the public's perception of reality that dictates, and that reminds me of Will Rogers' old statement. It ain't what you don't know that's a problem; it's what you know that ain't so that's a problem.

In American forestry there is a lot that the American public historically has not known. They have known a lot that ain't so. Well, you know what? They are not stupid. They are learning, and I think America is tired. I think America is tired and ready for some new leadership. They are tired as they watch forestry unfold 500,000 acres of smoke and fire at a time. They are tired of watching disease and insect infestations explode on public lands and land in their private forest treasures. They are tired about arguing about wildlife habitat and then watching such habitat be managed into oblivion. They are tired of watching the clean water sources of the future be vaporized. Those of us who live in the forest that you guys are debating right now plead with you to show the leadership and statesmanship that we need now to move forward.

It is going to be possible you are going to meager action. You are going to take meager action that is politically expedient, but do nothing to substantially improve the ability of the forest managers to manage on the ground. We beg you to not go that route because ultimately where we live reality is the dictator, and right now that dictator is managing our forests and will continue to do so until this body helps us fix our problems. Thank you.

[The prepared statement of Mr. Vincent follows:]

PREPARED STATEMENT OF BRUCE VINCENT, EXECUTIVE DIRECTOR, COMMUNITIES FOR A GREATER NORTHWEST, LIBBY, MT

Mr. Chairman and members of the Committee: I am honored and sincerely appreciate the opportunity to testify before you. Today I would like to both thank you, and plead with you.

I am a fourth generation Montanan and a third generation practical applicator of academic forest management theory, a logger. I am co-owner of Vincent Logging, a small family business in Libby, Montana. I serve as the volunteer President of Communities for a Great Northwest (CGNW), a non-profit group dedicated to educating its members and the public about the difficult choices we face in trying to provide for humankind while protecting the environment. CGNW membership includes hundreds of farming, ranching, mining, and logging families and rural main street businesses and elected bodies that live in the area that would be impacted by the President's Healthy Forest Initiative.

I moved back to Montana after competing college for two environmental reasons. First, I moved back because of the natural environment of clean air, clean water, abundant wildlife and beautiful tree shrouded, snow covered mountains. Secondly I moved back because of the cultural environment filled with the hard working, hard playing, community oriented, family oriented, school oriented people of our rural resource managing area.

I soon learned that it a third environment that would dictate the health of the natural and cultural environment I love and that is the political environment. The last 15 years of destructive, sometimes violent debate over the future of what we all love our forests—has led us to a political crossroads in which the future of our forests and forest families will be determined.

As we move through this critical juncture in domestic forest history, I'd like to thank the Senate and House members that have been steadfast in moving H.R. 1904 forward. This legislation takes some critically important steps toward restoring the long term forest health of our nation. It is time for those steps to be taken.

Areas of particular concern addressed include:

- H.R. 1904 strengthens the ability of local managers to implement common sense forest health restoration programs.

Because of our love of the forest environment, those who live in forested areas have engaged in tens of thousands of hours of local debate over what we want the future to look like in our forests. Through consensus groups, collaborative groups, National Forest Congress Groups, sustainable community groups we have spent the last decade learning to find local resolution on countless forest health management issues.

These local achievements in resolution are the cornerstone of hope for the future forest ecosystems of America and while we have been able to find common ground in locality after locality, the litigative nature of the environmental conflict industry has disallowed implementation of our work.

- H.R. 1904 modernizes and expedites the appeals framework and legal framework.

Tragically, in countless areas including northwestern Montana, we have seen our work at resolution and our ground treatments to deal with our forest health problems halted by court decisions based not upon environmental concerns or infractions but based upon procedural technicalities raised by out of the area litigants. Our outdated, archaic system of procedures has turned into a lucrative money pit for those inclined to destroy our local collaborative attempts in the legal form of a scud-missile-from-afar.

I'd like to applaud Senator Daschle for having the courage one year ago to protect from this type of outside litigation his state's local resolution processes within the Black Hills. However, South Dakota is not the only state needing this protection.

While using softer techniques than Senator Daschle was compelled to use, H.R. 1904 modernizes and expedites the appeals framework and legal framework within which we resolve forest issues and move toward implementation. It does so without compromising on the public's right to involvement in those processes.

- H.R. 1904 recognizes that doing nothing may have consequences.

In the face of the legal onslaught against management of our forests, the insect, disease, wind throw and fire mortality on our nations public and private forestlands has skyrocketed during the last decade. Scientists have made their concerns known both to the Forest Service and to Congress at numerous hearings. They have been telling us of our problem in publication after publication including the 1999 GAO Report that stated that the single biggest environmental threat facing the interior west's forest was forest, habitat and watershed loss due to single-event, catastrophically huge, catastrophically hot fires.

On our forest, the Kootenai, the U.S. Forest Service estimates a growth rate of some 492 million board feet of timber per year. They also estimate a mortality rate of around 300 million board feet per year. With human management removal never reaching those lofty numbers and averaging only 60 million board feet for the last decade we've been stacking up some impressive tonnages of fuel in our forest. That's why we are one of those interesting red blotches on the map of forest health problems.

This fuel is a source of great fear in our area. While political winds are blowing this discussion of forest health all over the map from year to year one thing remains certain: We can pretend the fuel buildup does not exist, but reality is the ultimate dictator and our watersheds, our endangered species habitat, our game habitat, our view sheds, our recreation areas, our air sheds and our hopes of leaving a healthy forest for future generations are all paying the price of that pretending.

Sadly, we are watching daily as our fears are borne true in the Bitterroot fires of Montana, the Rodeo fire of Arizona, the Hayman fire of Colorado, the Biscuit fire of Oregon and the unnamed fires yet to visit our lands this summer.

H.R. 1904 directs the court system to analyze the long and short term impacts of letting "nature take it's course" when considering injunctive relief.

- H.R. 1904 recognizes that our forest health problem is national in scope.

Forest health issues abound throughout the nation. While fire is a major concern in the West, the destruction of public and private forest lands and the ensuing destruction of watersheds and critical habitat for wildlife have reached epidemic proportions in the Southeast, the Midwest and the East.

The situation has grown so dire that wildlife conservation groups have now joined in asking the federal government to correct the direction of America's forest management and have stated that they "believe that the prevention of uncharacteristic fires, insect infestations and disease outbreaks is essential to sustain fish and wild-

life populations and other elements of healthy ecosystems and is, therefore, in the public interest.”

H.R. 1904 would support the thorough study and monitoring of forest health issues on public and private lands. H.R. 1904 also recognizes that private landowners need assistance in studying and dealing with their forest health management issues and provides support for such action.

- H.R. 1904 recognizes that much of the forest health problem lies beyond the Wildland Urban Interface.

While directing funding and treatment regimes to concentrate early on treatments close to at risk communities, H.R. 1904 rightly allows the local managers to broaden forest health management to include areas of concern outside the immediate areas of human habitation. This is imperative for two reasons.

First, our watersheds, our wildlife habitat, our recreation areas and our forest health problems do not exist in a vacuum around our towns our forests consist of large and small dynamic and inter-connected ecosystems that must be dealt with as a whole.

Second, fires do not always start near urban areas. Consider the fire that roared into Showlow, Arizona, 30 miles wide with flames licking 300 feet in the air. Small buffers around our communities will not safeguard our water, our habitat, our air or our people.

- H.R. 1904 recognizes that restoring forest health includes dealing positively with biomass.

The materials removal regimes that will be necessary to achieve forest health goals will yield materials that currently have little market value. However, these materials have potential for positive economic and environmental use in value-added manufacturing and electrical generation and H.R. 1904 includes grant monies that will jump-start the process of realizing this potential.

H.R. 1904 thankfully addresses many other issues that forest managers tell us will enable them to do a better job of stewarding the forests we live in and love.

As in the past when I've come to DC, in addition to thanking you for working on our issue, I come with a plea for help. Not nice words, not flowing rhetoric. Help. Help for the Forest I live in and love and help for the forest communities of our nation.

Senators, it is time for action. Those of us who live in the combat zone of this political issue know what needs to be done—including mechanical removal of decades of fuel buildup in a traveling mosaic that minimizes the chances that natural fire occurrences will generate catastrophically huge, catastrophically hot fire. This removal can be followed by prescribed fires that give us the many benefits that cool, ground hugging fires bring to our ecosystems. We have proof that this process has potential in areas like this summer's fire near Helena, Montana, and season 2000's fire near Eureka, Montana, where we have seen lower, ground hugging fire in managed areas and ferociously hot fires in areas left unmanaged.

It is physically possible to restore the health of the forests of our nation. The question before you is whether or not it is politically possible. We understand the politics of the debate. We also understand that in politics reality is secondary to the public's perception of reality. When it comes to forests, the old Will Rogers line comes to mind: "It ain't what you don't know that is a problem; it's what you know that ain't so that is a problem."

Historically, the American public knew a lot that "ain't so" about our forest issues—but the American public is not stupid. The truth about our forest realities has never been clearer to them and with each tragic loss of forest the picture becomes even more clear. However, it is going to take leadership and statesmanship to move common sense reform of forest management processes through our elected bodies.

America is ready for this new leadership. America is tiring of watching as forestry unfolds in 500,000 acres swaths of fire and smoke across the western landscape. America is tiring of watching the disease and insect infestations explode off of public lands and into their private forest treasures. America is tired of arguing about wildlife habitat and then watching such habitat be mismanaged into oblivion. America is growing concerned about clean water sources for the future and does not enjoy watching much of the source of that water fall into disrepair.

Those of us who live in the forests you are debating plead with you to show the necessary leadership and statesmanship now. It is certainly possible that you will take meager actions that are politically expedient but do nothing to substantially improve our forest manager's ability to do the right thing on the ground. We beg you to not go that route.

We ask instead that you choose to do what the American people of 2025 will be thankful for. We ask that you take action that our children and their children will be thankful for. We ask that you take action that modernizes the management process and restores common sense approaches to the forest health issues currently plaguing us.

H.R. 1904 is a great step in the right direction. Please, move on this bill. Every day that you wait adds to our problem. Every day that you wait compromises our ability to promise future generation's healthy wildlife habitat, healthy watersheds, healthy air sheds, and beautiful view sheds.

It has been an honor and a privilege to come before you today.

Thank you. I will be happy to answer any of your questions.

Senator BURNS. Thank you.

Now we move to Mr. Mike Nivison, County Commissioner. I am an old county commissioner, so welcome. I am going to listen very closely to you.

**STATEMENT OF MICHAEL NIVISON, CHAIR,
OTERO COUNTY COMMISSION, OTERO, NM**

Mr. NIVISON. Well, I am going to be speaking on behalf of some of your constituents from Montana as well.

I know the GAO report and many scientists such as Dr. Covington have predicted what is happening was going to happen.

We violated some principles of economic development in the fact that our infrastructure to take care of these problems has now been degraded. Senator Kyl and Senator Domenici, we share something in common. We have one mill left in each State. Both of those are Indian mills. I would suggest, as was suggested earlier, how can the Native Americans take care of their problem when I have 100,000 acres in the middle of my national forest that they possess that is totally restored when I cannot do that around the perimeter of that. They use best management practices and the same laws that exist for the National Forest Service.

We ask the question about is it lack of money, is it environmentalism. There are a lot of answers. I know in your State of Montana, Senator, in talking with the mills up there, 20 billion board feet of timber comes in from Canada every year and we are only able to cut less than 2 billion board feet of our resource in this country. It is something that we have got to address.

We put together a program called the CPR program which stands for National County Partnership Restoration. We have embraced several States. The original States were New Mexico, Arizona, and Colorado. Since, we have legislation in the State of Montana. We have legislation pending in Wyoming. We are working with South Dakota and have been invited to Alaska by Richard Coose who is also a 33-year retiree of the National Retired Association of Foresters who is also a commissioner up there who is concerned.

The CPR program has moved forward. In the last couple of years that we have come back to Washington, we have been unable to be embraced by the agency and funded to the extent that this project would require. We would hope to move this CPR program across the West. As Laura mentioned in her testimony, this is not a one-size-fits-all. The concept of the CPR program is to create a skeleton and let each community put its own clothes on it. We work with the 29 forested counties in Montana, as well as the Governor and Senator Laible. I have an addendum to my testimony in the full packet from those folks.

Senator BURNS. It will be made part of the record, by the way.
Mr. NIVISON. Okay.

Really, the Montana Coalition of Forested Counties would like to see their infrastructure maintained. We cannot fix this problem without that.

The National Fire Plan has \$3.2 billion in it, and I would suggest if we could get this down to the local level to where the problems are, the money would get on the ground. I think there has been a suggestion through the Governors that this be done. The agency has a problem distributing the money. It would eliminate that. It would eliminate the tug of war in Congress between States to be eliminated by distribution on affected areas in affected States.

I also feel that this National Fire Plan money—it does not put Congress in the dilemma of finding new money. That money does exist already.

States, local governments, tribes have the authority and responsibility for the health, safety, and welfare of their citizens. I am sure as a past county commissioner that was the echo that you would hear. The Federal Government needs to enlist these and the grant universities and do this outsourcing. Without this local collaboration, we are not going to get anywhere.

As many people here have said, I think people on the ground and in the trenches, as I am, are losing sight that anything is going to get done. I am here also today to plead to get out of this gridlock and out of this analysis paralysis. We need to savor our existing infrastructure. We need to fix trade agreements. We need to use best science that does exist. We need to treat all areas of the forests to create good watersheds, air quality, and good wildlife habitat.

I believe that the policies need to be streamlined all across the board because it is just not happening. All my communities in my county—their watersheds are at risk. I have examples of a 640-gallon-a-minute spring that is now less than 40 that feeds the community. They cannot find new water. In my town, we punched seven new wells last year. We do not have adequate water supplies. Unless we address these big watersheds, we have a problem.

I believe as a Nation we have a national environmental disaster. I think in all areas we have the ability to fund and fix hurricanes, tornadoes, floods, and fires in large cities, our 911. We need to see this for what this is. There is a Ground Zero in New York City, but I would suggest to you that we have a Ground Zero in our national forests. This is something that needs to be treated as such. I, as Governor Martz, do not want to come back here next year. I have lost 120 structures in the last 3 years. We need action and we need leadership.

And I want to thank you for inviting me to testify.
[The prepared statement of Mr. Nivison follows:]

PREPARED STATEMENT OF MICHAEL NIVISON, CHAIR,
OTERO COUNTY COMMISSION, OTERO, NM

Dear Sir: The reports and a host of creditable scientists have alerted the public to the fact that large catastrophic fires would occur. Reports show that 60 percent of the forest is dead or diseased across the West. Several problems face our natural resource in the forest.

The first principal of economic development is to take care of existing business and diversify. We are violating this principal and our natural resource infrastructure has now been critically degraded. In addition, new infrastructure to handle small diameter has yet to be developed.

Two mills exist in Region III, New Mexico and Arizona; these are tribal mills. What is it that Native Americans understand that cannot be implemented by the Federal Government? In the Lincoln National Forest, the Mescalero Tribe has shown us the way to manage the forest effectively. Using Best Management Practices, the Mescalero Tribe is restoring their forest and is doing so with the same laws that exist on the National Forest land. In the past, there were 23 mills in Arizona alone; now only one tribal mill exists, The White Mountain Apache.

Is the problem radical environmentalism? Is it lack of money or trade agreements that allow 20 billion board feet of lumber to cross the border of Canada when only two (2) billion of our own renewable resource is going to be harvested? I would suggest that all of these and many more have contributed to what is now an environmental disaster.

The Western Governors and Congress have asked for collaborative groups to be formed, based on sound science and expressed in a ten year plan. The National Forest County Partnership Restoration known as CPR was formed three years ago in New Mexico, Arizona, and Colorado. Since this time, many other states such as Montana, Wyoming, Alaska, and South Dakota have engaged in this collaboration. As the CPR moves forward we find ourselves in a dilemma. The thresholds set forth by the WGA and Congress has been met with accountability, always taking the high road. The partnership felt it had responded to the fullest possible extent.

In the past three years the agency at a National level has been unable to invest itself fully and completely in this co-partnership with State and Local government. Only total trust and cooperation at all levels can create a partnership. The CPR program has three forests mentioned in the line item "Hazardous Fuel Reductions in the National Fire Plan" and as yet has not been fully funded and embraced.

The National Fire Plan is \$3.2 billion, which I believe needs to be re-described to reflect an emphasis on restoration and prevention. Instead of reacting to symptoms we need to take care of the problem. The question that needs to be answered is how can the agency get the money to State and Local Governments and Tribes to help them solve this environmental disaster.

Congress set up the National Fire Plan Money for the Western Governors. If money were sent to the affected governors, Local Governments and Tribes it would do the following:

1. It would put the money at the local and state level where the problems are. The money would "Get on the ground" where it should be.
2. It would allow the problem not be an agency problem in monetary distribution. Instead, Congress would direct it the affected areas.
3. It would allow Congress to avoid the political tug-of-war from State to State as those decisions would be made by assessment and need for diseased watershed and catastrophic fire; then to be distributed to the affected states.
4. The National Fire Plan money is existing money and requires no "New" funds from Congress, only redirection.
5. States, Local Governments and Tribes have the authority and responsibility for the health, safety and welfare of their citizens plus the ability to exchange monies and contract with the Federal Government. Federal government enlists land grant universities and special expertise as needed (outsourcing).

I believe we have "Local" agency cooperation but unless we come to terms with this disaster and an action plan is implemented immediately we will fail. Recognition and funding at all government levels must occur while the momentum and integrity of the many people across the Nation who have dedicated themselves to this mission are still intact. My fear, as I interact with local leadership, is many are losing sight of hope.

The agency has recognized the "Analysis paralysis" but has remained in "Gridlock" in terms of the scope of this enormous task. Outside influences are to blame but the agency must also recognize and correct its own institutional weakness. And have "The will" to move forward with co-partners. Agencies cannot do business as usual but must develop a willingness to seek help outside its own borders. This problem is bigger than all of us, so it will take all of us to fix it.

On the Lincoln, I have had to declare five emergencies in the last several years. All are Forest related and are devastating to our local economy and families. As elected officials we are charged with the health, safety and welfare of our citizens. We cannot accomplish this without the cooperation of our neighbors:

1. We need to save our existing infrastructure.

2. Fix trade agreements "Charity begins at home."
3. Use best science (it does exist).
4. Treat all areas of our forest in order to maintain good water sheds, good air quality, and good wildlife habitat.
5. Create a mosaic on the landscape to accommodate all species instead of single species managing.
6. NEPA's purpose is to protect the environment and stimulate the health and welfare of man.

Current rules and policies do not allow us to act in a timely fashion. We need to maintain the integrity of the law but streamline and re-think policies to be effective. We have 130,000 NEPA compliant acres on the Lincoln but cannot treat because of lack of funding or lengthy process.

Over 120 structures have been lost on the Lincoln National Forest in the past three years. No family will be made whole; of the seven families I monitored, only two remain intact because of fire related causes. One of my sheriffs who was waiting to rebuild until the flooding stopped from the Scott Able fire, will never get to move home; he passed away just a few months ago of cancer.

I have many communities whose water and watersheds are at risk. One example would be a community with a 640 GPM spring that now flows less than 40 GPM. The question is asked: Should we treat the urban interface, wild lands, watersheds or wild life habituate? My answer to you is all the above. I do believe this can be accomplished. All of New Mexico is at risk from water shortage; we are a land-water based culture; without water the land is worthless.

This Nation has an environmental disaster. In all other areas we have the will to fund and fix hurricanes, tornados, flood and fires in our large cities. We need to see this for what it is. New York has its Ground Zero, I would tell you today this is what we face in our National Forest. We look to you for leadership. An action to start now embracing all Federal, State, Local Governments and Tribes.

Senator BURNS. Thank you, commissioner, and I appreciate your testimony.

Mr. Robinson, does this figure up in the Kootenai National Forest concern you when our annual growth is around 42 million cubic feet a year and we lose 97.3 million cubic feet to mortality and disease?

Mr. ROBINSON. I really cannot comment on that because I do not know the situation.

Senator BURNS. Why can you not comment on it?

Mr. ROBINSON. Because I do not know the forest that well.

Senator BURNS. It does not make any difference. I gave you the figure. Does this concern you as a figure of forests? I do not care. We can move it to the Grand Canyon. On a forest down there. If I gave you that figure, would that concern you?

Mr. ROBINSON. Well, oftentimes forest mortality is higher than forest growth. It depends on the situation.

Senator BURNS. In other words, you do not care.

Mr. ROBINSON. No. What I am saying is that it is not always an unnatural situation, and it depends on the situation. I did not say I did not care.

Senator BURNS. Okay.

Does that concern you, Ms. McCarthy?

Ms. MCCARTHY. It does. As a forester, you have to look at the balance between growth and mortality and use the science about the natural process of insect cycles and figure out if the cause is related to human actions and then take an integrated pest management approach. It is of concern and it would require some treatment, but what that treatment is I could not specify.

Senator BURNS. Would you give that same advice to a corn farmer in Iowa?

Ms. MCCARTHY. Well, actually I think that is where the integrated—

Senator BURNS. Insect cycles and—

Ms. MCCARTHY. But that is where the insect pest management strategy comes from. It came from agriculture and it has been applied successfully in forestry.

Senator BURNS. It is not working in the Custer or the Kootenai.

I just throw them out there because I think when you look at a case-by-case basis and communities, I will say again—and I think the Under Secretary for Agriculture hit it on, are you going to protect the process or are you going to protect the forests? And do you care about the people who work there? That is what it boils down to. I heard a lot of community people here who have the same kind of concerns.

So we will look at your testimony. We will leave the record open for comments from the other Senators. I will let them ask their own questions. They will probably do it through correspondence. And if you would reply to that. You would also reply to the committee so that we can have you on record.

Again, I am embarrassed for the committee because we went a little too long. We spent too much time with probably folks—I would have rather had a debate right here at this table because that is the way I do it over in Commerce, but I'm not in control here.

[Laughter.]

Senator BURNS. So we are going to leave it like it is.

But if you will respond to the committee, why, we will take that response very seriously. And again, thank you for coming.

Mr. VINCENT. Thank you, Senator.

Senator BURNS. We are adjourned.

[Whereupon, at 1:08 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I

Responses to Additional Questions

[Responses to the following questions were not received at the time this hearing went to press.]

QUESTION FROM SENATOR KYL FOR TOM ROBINSON

Question 1. Mr. Robinson had indicated that homes in southern Arizona burned for lack of fuels treatment money. Please substantiate this.

QUESTIONS FROM SENATOR BUNNING FOR PANEL II

Question 1. The recent rash of wildfire outbreaks that have occurred in the western United States have turned our focus on wildfire prevention and forest restoration studies and initiatives. However, many states in other areas of the country also boast forests that have been and will be subject to forest fires. Kentucky, in particular, is home to two large forest areas: the Daniel Boone National Forest and the Land Between the Lakes National Recreation Area. How will any restoration-based fire fuel reduction and forest health projects address the different geographical needs of these regions?

Question 2. There has been concern raised over the allocation of funds for fire fuel reduction projects. Some citizens fear that too much money will be diverted away from developing wildfire protection in and around communities and instead utilized for backwoods thinning and fuel reduction projects. The concern has been raised that such a distribution of funds will leave many communities that surround forests vulnerable to fire. How will any restoration-based fuel reduction and forest health projects address the need to provide protection for the areas immediately around communities, in addition to deep forest and backwoods areas?

QUESTIONS FROM SENATOR CAMPBELL FOR SARAH DUNCAN

Question. How long does it take after a fire before you can go back to business as usual in delivering Denver residents' their water?

Question. What is the best way for Congress to address the issue of improving forest health and ensuring adequate water supplies?

QUESTIONS FROM SENATOR CAMPBELL FOR MARK REY

Question. For many years, EPA classified Denver as not meeting clean air standards. I understand that several factors probably contributed to Denver's air problems. However, the way I understand it, clean air regulations do not take wildfire effects into consideration.

Question. Could you please talk a little bit about the bad health effects fires have on people and cities' ability to meet clean air requirements?

Question. Biomass is becoming an important alternative to traditional sources of energy. The language in H.R. 1904 provides incentives for using biomass byproducts for energy production, yet includes certain limits. It seems that some larger cities do not fit into the preferred community definition but will be considered as a "Person."

Question. Some cities that fall outside the 50,000 person limit in H.R. 1904 are considering installing biomass units as an environmentally sound part of their energy mix. However, the costs of the fuel may inhibit this course. What is your opinion on broadening the language so that cities with populations greater than 50,000 people can benefit under this bill?

QUESTIONS FROM SENATOR MURKOWSKI FOR MARK REY

Question 1. A recent Report by the General Accounting Office addressed appeals involving fuels reduction projects on national forest system lands. The study focused on the number of hazardous fuels reduction projects that were appealed and/or litigated during FY 2001 and FY 2002 and found that opponents of forest thinning appealed 590 of all hazardous fuels reduction projects eligible for appeal under the FS's appeal statute. How will H.R. 1904 alleviate this apparent administrative gridlock?

Question 2. The landownerships of the Kenai Peninsula, where there is extensive spruce bark beetle damage, consists of lands owned by the federal government, the state, private individuals, University trust lands, and native corporations. In what way will H.R. 1904, "The Healthy Forest Restoration Act" assist these landowners in reducing uncontrolled fire risks and achieving healthier stands of trees?

Question 3. I recently learned that the Kenai lands managed by the US Forest Service were reclassified as Condition Class 3 from Condition Class 1. Can you explain to me the rationale for this re-classification and will these lands be fully covered for treatment eligibility under H.R. 1904?

Question 4. Title II of H.R. 1904 addresses biomass and the lack of current markets for the volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities. How will this title assist landowners on the Kenai, both public and private, in creating opportunities for biomass projects? In addition, what is the Forest Service and the U.S. Department of the Interior doing in regards to biomass utilization to date on the Kenai Peninsula?

Question 5. You mentioned during this hearing that the forested lands on the Kenai (in particular, on the Chugach National Forest) are dead with little possibility of treatment. Can you explain why treatment cannot occur on these public lands? Are there any incentives in H.R. 1904 to create fuels reduction projects on timber which is no longer deemed marketable?

Question 6. What grant programs are available under the State & Private Forestry Program of the U.S. Forest Service in Alaska that can allow for fuels reduction or biomass incentive programs for private and native corporation landowners?

Question 7. For fuels treatment projects on federal lands in the State of Alaska, in particular, on the Kenai Peninsula, is it your opinion that in order for any of these initiatives to take place, a public access infrastructure would be required or, are there creative ways to still treat such lands without an extensive road system?

QUESTIONS FROM SENATOR MURKOWSKI FOR REBECCA WATSON

Question 1. Can you tell me how H.R. 1904 will allow for expedited fuels treatment projects on the Kenai National Wildlife Refuge and what fuel treatment projects, to date, have been accomplished on the refuge?

Question 2. The landownerships of the Kenai Peninsula, where there is extensive spruce bark beetle damage, consists of lands owned by the federal government, the state, private individuals, University trust lands, and native corporations. In what way will H.R. 1904, "The Healthy Forest Restoration Act" assist these landowners in reducing uncontrolled fire risks and achieving healthier stands of trees?

Question 3. Title II of H.R. 1904 addresses biomass and the lack of current markets for the volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities. How will this title assist landowners on the Kenai, both public and private, in creating opportunities for biomass projects? In addition, what is the Forest Service and the U.S. Department of the Interior doing in regards to biomass utilization to date on the Kenai Peninsula?

Question 4. For fuels treatment projects on federal lands in the State of Alaska, in particular, on the Kenai Peninsula, is it your opinion that in order for any of these initiatives to take place, a public access infrastructure would be required or, are there creative ways to still treat such lands without an extensive road system?

APPENDIX II

Additional Material Submitted for the Record

STATEMENT OF THE NATURE CONSERVANCY, ARLINGTON, VA

The Nature Conservancy's Involvement with Fire Restoration. Over the past 40 years the Conservancy has been engaged in a wide variety of ecological management activities, including managing thousands of prescribed fires to restore ecosystem health at hundreds of sites across the United States. Our restoration work relies on working with partners, applying credible science and using an adaptive management approach.

Policy Recommendations. Based on our on-the-ground experience, we recommend:

- Hazardous Fuels Reduction projects should be prioritized in the wildland-urban interface and water supply areas. Although projects will be selected primarily because of public safety, they also can provide important lessons for ecosystem restoration in larger landscapes.
- The agencies should begin conducting a small number of ecosystem restoration projects outside the wildland-urban interface. These areas should be selected based on a clear and compelling need for ecological restoration as well as their value in demonstrating how agencies, communities, and scientists can work cooperatively in planning and taking action on a landscape scale. Expedited approval processes are not necessary or appropriate in those areas.
- In non-WUI projects, and where possible in the WUI, agencies must set ecosystem restoration goals and apply adaptive management principles, including: improving collaboration, working from a landscape-scale perspective, setting measurable ecological objectives and desired future conditions, identifying uncertainties, monitoring to ensure that objectives are being met and uncertainties addressed, and then assessing and adapting practices where necessary. Our own experience and the history of natural resource management clearly show that well meaning managers will make mistakes and that large-scale restoration is fraught with uncertainty. Adaptive management will allow us to move forward with much needed restoration while reducing unintended consequences and maximizing learning. The result will be better investment of taxpayer funds, healthier ecosystems and safer communities.
- Congress needs to devote significantly more resources to appropriate treatment and restoration of altered fire regimes in fire-adapted ecosystems. Continuing to divert scarce public funds for suppression will result in higher long-term costs, both ecological and financial.
- Congress should consider some form of subsidy to develop facilities to utilize small diameter biomass at appropriate locations. In the long run, the absence of markets for millions of tons of small diameter trees that currently have little economic value will be a major barrier to restoration of larger landscapes.

The Nature Conservancy is dedicated to protecting the biological diversity of life on Earth. The Conservancy has more than one million individual members and programs in all 50 states and 30 countries. Our conservation work is grounded in sound science, strong partnerships with other landowners, and tangible results at local places. Please visit our website at nature.org.

CONTACT: Louise Milkman, 703-247-3675, lmilkman@tnc.org

STATEMENT OF CENTER FOR NATIVE ECOSYSTEMS, COLORADO MOUNTAIN CLUB, COLORADO WILD, HIGH COUNTRY CITIZENS' ALLIANCE, WESTERN RESOURCE ADVOCATES, WESTERN SLOPE ENVIRONMENTAL RESOURCE COUNCIL, AND THE WILDERNESS SOCIETY

Mr. Chairman, and members of the Senate Energy and Natural Resources Committee, seven conservation organizations throughout the state of Colorado, Center for Native Ecosystems, Colorado Mountain Club, Colorado Wild, High Country Citizens' Alliance, Western Resource Advocates, Western Slope Environmental Resource Council, The Wilderness Society, would like to thank you for the opportunity to provide recommendations and comments on H.R. 1904, the "Healthy Forests Restoration Act of 2003" on behalf of the more than 44,000 members and supporters of our organizations in the state of Colorado.

Responsible wildfire legislation will build on existing consensus that mitigating the risk to communities targets limited resources to communities themselves and recognizes that environmental and public participation laws do not create undue project delays. We have grave concerns that H.R. 1904 stands in sharp contrast to this widespread consensus and echo the concerns raised by over 50 locally-elected Colorado officials in letters addressed to Rep. Scott McInnis and/or Senators Wayne Allard and Ben Nighthorse Campbell.

Based on our experience with forest and fire management practices in Colorado, we offer the following set of recommendations followed by our specific concerns with H.R. 1904.

FIRE AND FUEL REDUCTION ON NATIONAL FOREST LANDS IN COLORADO:
RECOMMENDATIONS FOR THE FUTURE

The goal of national fire policy should be to reduce the threat of fires to humans and homes, and to restore forests to a more natural fire regime. We recommend several specific ways to achieve this goal:

Protect Life and Property

Protecting lives, homes and communities should be the highest priority of our national fire policy. To prevent loss of lives and homes, fire safety efforts should focus on maintaining defensible space in the immediate vicinity of homes in the wildland-urban interface. Where fire poses an immediate threat to homes and communities, it should be suppressed.

- Implement Forest Service Program that Prioritizes the Wildland-Urban Interface. Equally important, but currently lacking, is a Forest Service policy that prioritizes prescribed burning and thinning in the wildland-urban interface. For example, in a letter to Regional Forester Rick Cables, Rep. Mark Udall recently questioned why the Rocky Mountain Region of the Forest Service implemented a scant 38% of fuel reduction projects in the wildland-urban interface.

The GAO has frequently questioned the Forest Service's fiscal and performance accountability. In a January 2002 report, *Severe Wildland Fires, Leadership and Accountability Needed to Reduce Risks to Communities and Resources*, the GAO simply could not tell whether the Forest Service had focused nearly \$800 million in National Fire Plan funds on the wildland urban interface or somewhere else. In 2001, the Forest Service even opposed a provision in the Interior Appropriations bill that would have required it to spend a modest 60% of its fire plan funding in the wildland-urban interface.

- Create Defensible Space around Homes and Communities. The Forest Service's own studies show that the best way to protect homes in forested areas is to create defensible space in the immediate vicinity of the structure (i.e., thinning trees, removing underbrush, etc.) and to build with non-flammable materials (i.e., metal roofs, fire-resistant glass, etc.).

Specifically, the research of Jack Cohen of the Forest Service's Fire Sciences Laboratory shows that these measures within 40 meters of a structure are the most important factors determining whether that structure will survive a forest fire—and that fuel reduction measures in the distant backcountry have little impact on a structure's fate (Cohen, Jack D. 2000. Preventing disaster: home ignitability in the wildland-urban interface. *Journal of Forestry* 98(3): 15-21).

- Provide Incentives for Landowners to Reduce Fire Risk around Homes. To help homeowners create and maintain defensible space around their homes, we need programs (at the state, county, and/or municipal level) that provide incentives and resources to help landowners refurbish their houses with non-flammable materials and conduct fuel reduction measures on their properties. Given the huge sums being spent fighting fires such measures could be more cost-effective

for taxpayers, as well as reduce the loss of property and the risk to firefighters who are putting their lives on the line to save peoples' homes.

- Urge Counties to Adopt Fire-Wise Zoning and Building Codes. Already 1.3 million Colorado residents, 30% of the State's population, live in forested areas considered to be at high risk from forest fires. And the challenge of protecting lives and property from fire is only going to grow as development increases in Colorado's wildland-urban interface. To counter this trend, municipalities and counties need to: (1) develop and implement sensible land-use planning that directs new building out of harm's way; and (2) adopt fire-wise building codes that require the use of nonflammable construction materials and fire-smart landscaping.
- Maintain an Effective Firefighting Force. It is essential to maintain a highly trained and adequately supported fire suppression force to protect lives and property. We support the funding necessary to maintain an effective community protection firefighting program.

Restore Ecological Health

In the backcountry, where human lives and property are not at risk, the focus of our national forest policy should be to restore natural fire cycles and forest conditions. Fuel reduction efforts should focus on the use of prescribed fire to restore natural fire cycles and, where ecologically necessary, thinning smaller trees and underbrush. Commercial logging of bigger, older trees for fire-risk reduction is NOT scientifically justified.

- Acknowledge Fire's Role. Federal land managers should adopt comprehensive management plans that acknowledge the natural role fire plays in maintaining forest ecosystems, and that they educate the public on the importance of natural fire regimes. Where lives and property are not at stake fire suppression should be undertaken only under limited circumstances, such as when fire threatens critical or rare components of ecosystems (such as old growth forest and endangered species habitat) while these elements are being restored to healthy levels.
- Return Forests to Natural Conditions and Fire Cycles, Specific to Each Forest Type. In certain fire-evolved forest types—such as lower-elevation ponderosa pine—fire suppression and other activities including livestock grazing and logging large trees have allowed stand densities to increase above natural or pre-European-settlement era conditions. In such fire-dependent forest types, we support vegetation “treatments”—such as thinning and prescribed fire—as necessary to restore natural conditions and processes.

We note, however, that forest ecosystem types with longer fire cycles have not been significantly impacted by the past century of fire suppression and are thus well within their historic range of natural variability in terms of stand densities. For example, high-elevation Englemann spruce-subalpine fir forests typically burn every 300-400 years, are still at natural densities, and thus do not need to be “restored.” It is only in the lower elevation forests in the wildland-urban interface, where fuel reduction is needed to reverse a century of human fire suppression, that thinning would be appropriate for these forest types.

- Utilize Prescribed Fire Where Safe and Appropriate. In terms of restoring natural conditions and processes, obviously fire itself is the most natural restoration mechanism and has been shown to be particularly effective at reducing fuel loads. (The Hayman Fire, which appeared to stop when it reached the Polhemus Prescribed Burn area and the Schoonover Wildfire area, may be a good illustration of this point.) However, where there is a high risk of a stand-replacing fire (i.e., a fire that burns so hot that it kills virtually all vegetation and may damage soils) or an uncontrollable fire that would threaten the wildland-urban interface, some mechanical thinning may be appropriate in certain forest types before conducting prescribed burning.

It is also essential that prescribed burning be implemented only when and where conditions will allow for its safe use. While prescribed burning does contribute to air pollution and can aggravate the health of people with asthma and breathing difficulties, it generally results in far less pollution than uncontrolled forest fires. We believe that the federal agencies should significantly increase the annual amount of acreage which is prescribed burned, and urge states to cooperate and support these efforts.

- Protect Old and Large Trees. In circumstances where science dictates that mechanical thinning is necessary to reduce fuel loads before fire can be safely reintroduced, such restoration treatments should protect old and large trees. In addition to being more fire-resistant, larger trees and old-growth forests are a

scarce and important ecological value in Colorado's lower-elevation forests and should be preserved.

- **Keep Roadless Areas Wild.** Roadless areas are critical wildlands, and are generally healthier ecosystems than logged and roaded areas. Forest Service studies have found that of the 89 million acres of National Forestlands that have a moderate to high risk of stand-replacing fires, less than 16 percent are in inventoried roadless areas. In addition, roadless areas tend to be farther from homes and communities and thus are not usually at issue in wildland-urban interface fuel reduction efforts. We therefore take issue with the timber industry exploiting the public's fear about forest fires to promote commercial logging in roadless areas. Such traditional logging would not reduce the risk of fire adversely affecting humans and their properties, and actually can increase forest flammability. Furthermore, building more logging roads into the backcountry only increases the risk of wildfires as most fires are started, whether deliberately or inadvertently, by humans along forest roads—e.g., from hot catalytic converters on vehicles, discarded cigarettes, or abandoned campfires.

However, while we oppose commercial logging in roadless areas because of the wildland, recreation and wildlife values that logging destroys, we do not oppose restoration treatments—including mechanical thinning where scientifically justified—in certain ecosystems (low elevation, dry forest types with frequent low intensity fire regimes) where these treatments are necessary to restore natural conditions and processes, and where such treatments can be undertaken while maintaining or improving roadless character. We note, however, that scientists are still in disagreement over what level of intervention is necessary to restore different forest types, and the Forest Service has proposed few roadless projects to date that meet this restoration goal. We also note that there are tens of millions of acres of forest lands adjacent to communities and homes outside of roadless areas that can and should be treated first. The Forest Service estimates that there is at least 20 years of fuel reduction work that is needed just within the wildland-urban interface. Any fuel reduction or forest restoration projects in roadless areas must avoid construction of new roads, and should preserve the wild character of the landscape.

Build Public Support for Forest Restoration and Fire Management

In order to restore the public's faith in federal land management, the Forest Service should focus its efforts where there is public consensus, pursue only scientifically justified projects, include the public in designing and implementing fuel reduction and forest restoration projects, design projects to maximize learning by setting up experiments and control areas and applying adaptive management, and continue to build scientific understanding of fire and forest management.

- **Focus on Areas of Consensus.** There is virtual agreement by all interests—in both the public and scientific arenas—on the need to pursue important fuel reduction efforts in the wildland-urban interface to reduce risk in the immediate vicinity of homes and communities. The federal agencies should therefore focus their efforts and resources there, rather than wasting money and political goodwill on controversial and scientifically questionable logging projects in the backcountry. By avoiding, or at least greatly reducing, controversy and pursuing consensus projects, the federal agencies would be more efficient, effective, and would help to build a successful track record and rebuild public faith and support. There is at least two decades of fuel reduction work to do in the wildland-urban interface alone—meanwhile scientists could be researching and creating public consensus on the more complex and controversial issues of restoring natural fire cycles in the backcountry.
- **Don't Cut Out the Public.** "Streamlining" compliance with environmental laws that guarantee public input and review as a way of speeding fuel reduction projects is a shortsighted approach that would likely lead to the approval of ill-considered and poorly designed projects, could result in huge delays due to litigation, and would destroy opportunities to build consensus around projects that could benefit both the public and the land. We strongly oppose legislation aimed at broadly limiting the application of environmental laws for fuel reduction or salvage projects. Improved public education is also critical to creating understanding and support for the restoration of fire's role in forests. This education would not happen under laws where the public has little or no input on proposed projects.
- **Pursue Scientific Understanding by Appointing a Fire Review Panel.** In order to learn as much as possible about fire behavior, we support directing State Foresters to convene an impartial, non-partisan, scientific panel of fire and forest ecology experts to help clarify the lessons to be learned from recent fires—as

requested by Rep. Udall of the Layman fire. In Colorado, the Hayman, Coal Seam, and Missionary Ridge fires occurred in areas with different ecosystem types that had been managed differently by federal and other land management agencies, including areas where previous forest fires had occurred and where some fuel treatment had been conducted. Examination of the behavior of these fires, the factors that led to their intensity, and the way the fires behaved when they encountered these previously affected or treated areas will be instructive in designing future risk-reduction projects, to the benefit of both land managers and the public, and will move us beyond the “blame game” to pursuing scientifically based solutions.

- Convene a Stakeholders Forum to Build Consensus on Future Fuel Reduction Projects. Another mechanism for building public consensus would be for State Foresters to convene a meeting of stakeholders to reach agreement on where, when, and what fuel reduction treatments are appropriate. This would build on recent efforts (e.g., the 1998 Forest Health summit convened by Colorado’s then-Governor Romer) that reach consensus that forest health management efforts should be directed at the “red zone” (AKA the wildland-urban interface).

THE HEALTHY FORESTS RESTORATION ACT OF 2003, H.R. 1904, FAILS TO ADDRESS THESE RECOMMENDATIONS

The scope of H.R. 1904 is extremely broad, applying to virtually all forested landscapes in the United States through the bill’s various titles. However, as Title I of the bill is most focused on providing legislative direction for forest fire management pertaining communities-at-risk, our review focuses on the provisions of this Title alone.

H.R. 1904 Fails to Prioritize Community Protection

The Forest Service has limited resources. The best way to reduce the risks of fires to homes and lives is to focus on forest areas immediately around communities.

- H.R. 1904 does not focus scarce federal funding and resources where they would do the most good: in the Community Protection Zone adjacent to at-risk communities. Instead, the bill will continue to allow the Forest Service and Department of Interior to conduct misguided logging projects deep in the backcountry in the name of “fuel reduction.” In fact, these plans would provide more help to timber companies than to fire-threatened and cash-starved communities.
- Through block grants to states, responsible legislation will provide funds for fuel reduction on private, state and tribal lands—which comprise 85 percent of the forested land near vulnerable communities—as well as on federal lands. This approach would put the limited available funds to use where they are most effective: at the sites where forest fires pose a real threat to human lives and homes.
- H.R. 1904 does not, however, prioritize projects that would create a crucial defensible space around western communities. Instead it calls for logging 20 million acres of federal lands, often far from any community, and provides virtually no funding for fuel reduction on non-federal lands. What scant funds the bill provides to local communities are buried within new programs in the bill that are not dedicated to protecting communities from forest fires.

H.R. 1904 Unnecessarily Restricts Meaningful Public Participation and Binds the Hands of an Independent Judiciary

There is also significant concern about the chilling effect that H.R. 1904 would have on the basic democratic principal of public participation in the management of public lands.

Academic and government research refutes notions that environmental and public participation laws interfere with the timely implementation of fuel reduction projects. Two General Accounting Office (GAO) reports and an independent study by Northern Arizona University point to the fact that the overwhelming majority of fuel reduction projects proceed unobstructed within the 90-day period allowed by law.

- The bill seeks to eliminate the most important part of the National Environmental Policy Act (NEPA)—the requirement that alternatives to agency actions be considered. The Council on Environmental Quality has called this consideration of alternatives the “heart of NEPA.”
- H.R. 1904 also seeks to significantly interfere with our nation’s independent judiciary. It requires a court to limit preliminary injunctions of logging projects carried out under the bill to 45 days, unless the court affirmatively acts to renew the injunctions. It also seeks to force any courts, including appellate

courts, to issue a final ruling on a case in 100 days. It even attempts an astounding change in the American legal standard that governs how courts determine equitable relief for an injured party.

In sum, solutions to the problem of severe wildfire risk currently exist that are rooted in consensus rather than controversy. These explicitly prioritize community protection and recognize that public participation and environmental laws play a critical role in safeguarding the public's interests in the management of their lands. Any responsible wildfire legislation must specifically direct federal land management agencies and appropriate funding to address community risk mitigation in an open and democratic process. Unfortunately, H.R. 1904 fails to address either of these criteria at the expense of communities and lives.

The problem of increased fuel loading near homes and communities did not appear overnight. Likewise, this problem will not be solved overnight. Rather, a well designed program of treatments in the highest priority areas, designed and implemented with public consensus, will, over time, protect our at-risk communities and restore our forests to a more natural state.

We appreciate the opportunity to provide to the committee our comments and recommendations.

ADDENDUM TO MIKE NIVISON TESTIMONY SUBMITTED BY RON CHRISTENSEN,
CHAIRMAN, EASTERN ARIZONA COUNTIES ORGANIZATION

It is with grave concern for the future of our forests and communities that I provide these comments on the Healthy Forest Restoration Act of 2003.

While this act is a good start toward addressing regulatory roadblocks to on-the-ground Forest Restoration, we believe that truly effective and timely restoration can be accomplished with this legislation by addressing the following points:

- The 20,000,000 acre limitation of acreage provision in Section 102(c) limits the National Forests to treating a small percentage of high fire risk forested lands in the United States. Section 201 of this bill notes that 190,000,000 acres are at risk of catastrophic fire in the near future. We therefore request that the limitation of acreage provision be either stricken or raised to 190,000,000 acres.
- Section 102(d) eliminates vast areas in critical need of treatment, and needs to be stricken. Acts, such as the Endangered Species Act, National Wilderness Preservation, and Congressional establishments of at-risk Wildlife Refugees encumber vast acres of forest lands, several of which are near communities and other critical infrastructure.
- To provide more flexibility to the Secretary in emergency situations, we request that you amend Title I, Section 104(a) of the bill to add language allowing the Secretary to issue categorical exclusions under NEPA for those areas deemed by the Secretary to be in an emergency situation, as defined by regulation.
- Section 105 can be further strengthened and avoid excessive delays by including language that allows projects to commence at the time the decision document is signed, regardless of any attempt for a person(s) to seek administrative redress.
- We agree with and fully support the Biomass project provision of Title II, and encourage this Congress to both authorize and allocate the \$25,000,000 appropriation.
- Arizona's Governor and forested counties have declared a state of emergency due to insect infestations impacting almost one million acres of public and private land. Therefore, we request that new language be added to Section 401(b), Section 402, and Section 403(a) that specifies the impact of Western insects including the Western Bark Beetle, IPS, Roundhead Pine Beetle, and exotic Spruce Aphid.

Jamestown, CO, May 21, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

Re: H.R. 1904

DEAR SENATOR CAMPBELL: This week, the House passed H.R. 1904 and this measure will soon be before the Senate. The Town Government of Jamestown is opposed to the measure in its present form and it is our hope that it can be amended to include provisions that will ensure that federal dollars are spent first and foremost on defending homes and communities. Good legislation should focus resources in the Community Protection Zone in the following ways:

1. emphasize educating the public about measures they can take to make their homes and property safe from wildfire;
2. provide funding to communities to conduct thinning projects on and immediately adjacent to their property in the Community Protection Zone;
3. encourage programs that foster cooperation between communities, State agencies and federal agencies to best protect property and lives.

Unfortunately, H.R. 1904 does not provide local communities with the necessary tools to mitigate risk from future fires. Despite the fact that 85% of the land within the Community Protection Zone is non-federal, H.R. 1904 channels funds to federal land projects. We respectfully request that you work to amend the legislation to prioritize protecting communities through locally-based initiatives.

Sincerely,

KENNETH F. LENARCIC,
Mayor.

Aspen, CO, June 2, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

Hon. WAYNE ALLARD,
Dirksen Senate Office Bldg., Washington, DC.

Re: "Healthy Forests Restoration Act"

DEAR SENATORS: As you know, fires wreaked havoc in a number of Colorado communities last year, highlighting the need to support communities in their efforts to safeguard home, lives, and property. I am writing to ask you to amend the "Healthy Forests Restoration Act" by including provisions that provide communities with the resources they need to safeguard lives and property. As I see it, good legislation should focus resources in the Community Protection Zone in the following ways:

1. emphasize educating the public about measures they can take to make their homes & property safe from wildfire;
2. provide funding for communities to conduct thinning projects on and immediately adjacent to their property in the Community Protection Zone;
3. encourage programs that foster cooperation between communities, state agencies and federal agencies to best protect property and lives.

Unfortunately, the "Healthy Forests Restoration Act" does not provide local communities with the necessary tools to mitigate risk from future fires. Despite the fact that 85 percent of the land within the Community Protection Zone is state, private, or tribal, this bill channels resources to federal lands, providing no support to communities for locally-based mitigation initiatives that are so desperately needed. This will not protect lives or communities. Please amend the legislation to prioritize homes and lives.

Sincerely,

TERRY PAULSON,
Aspen City Council Member.

Boulder, CO, June 19, 2003.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

Re: Healthy Forests Restoration Act

DEAR SENATOR CAMPBELL: As a Boulder City Council member, last year I witnessed a wildfire come perilously close to destroying homes of many Boulder citizens. The wildfire was not on federal land, but on privately and city owned land. This episode illustrates that it is the local communities that are on the front line in fighting many wildfires. The wonderful rain have received this year has created an abundance of growth that later this summer turn into fuel for even greater wildfires. Funding for local communities is absent From Representative McGinnis' "Healthy Forests Restoration Act."

I urge you to consider the amending of the bill to provide funding to at risk communities in fighting wildfires so that wildfires in these interface zones receive some degree of priority.

Very truly yours,

DAN W. CORSON.

TOWN OF HAYDEN,
Hayden, CO, June 23, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Building, Washington, DC.
Re: Healthy Forests Restoration Act

DEAR SENATOR CAMPBELL: As you know, fires wreaked havoc in a number of Colorado communities last year, highlighting the need to support communities in their efforts to safeguard homes, lives and property. The Hayden Town Board of Trustees is writing to ask you to amend the "Healthy Forests Restoration Act" by including provisions that provide communities with the resources they need to safeguard lives and property. As we see it, good legislation should focus resources in the Community Protection Zone in the following ways:

1. emphasize educating the public about measures they can take to make their homes and property safe from wildfire;
2. provide funding for communities to conduct thinning projects on and immediately adjacent to their property in the Community Protection Zone;
3. encourage programs that foster cooperation between communities, state agencies and federal agencies to best protect property and lives.

Unfortunately, the "Healthy Forests Restoration Act" does not provide local communities with the necessary tools to mitigate risks from future fires. Despite the fact that 85 percent of the land within the Community Protection Zone is state, private or tribal, this bill channels resources to federal lands, providing no support to communities for locally-based mitigation initiatives that are so desperately needed. This will not protect lives or communities. Please amend the legislation to prioritize homes and lives.

Sincerely,

CHARLES G. GROBE,
Mayor.

GARFIELD COUNTY,
BOARD OF COUNTY COMMISSIONERS,
Glenwood Springs, CO, June 25, 2003.

Hon. WAYNE ALLARD,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR ALLARD: I am writing this letter as a Garfield County Commissioner, however not on behalf of my Board of County Commissioners. I would like to thank you for your leadership and efforts to find a solution to the threat wildfires pose to our communities in Colorado. There are approximately 50 bills in front of you this year on this issue, I am certain that some address the concern specifically and others need further scrutiny, I am writing specifically about H.R. 1904. If the Senate is going to pass a wild land fire mitigation bill, please make sure it is targeted to meet that goal and not become a broad authorization for timber extraction.

If the goal is to protect communities and municipal water supplies from wildfire impact, why target remote forests rather than concentrating on a range of solutions for populated areas? H.R. 1904 enables millions of acres to be considered for "fuels reduction projects".

Many of the fires in the west do not occur in areas of dense pine forest-land. For example, the Coal Seam Fire in Glenwood Springs last summer spread because of wind conditions and was fueled primarily with scrub oak and grass. Existing wind and wind generated from the fire caused it to jump a railroad corridor, the Colorado River an Interstate and a roadway, totaling approximately 1/2 mile. During a fire, embers fly, logs roll downhill and extreme wind conditions are created by the fire itself, each of these occurrences cause these fires to spread. Even in dense forest areas, I am not convinced that "fuels reduction projects" will prevent the risk of fire or would even significantly slow a fire down that had the momentum of the Coal Seam or Hayman Fires, unless we allow extreme clear-cutting and even that would not eliminate the risk of a fire jumping to another wooded area.

H.R. 1904 places a great deal of emphasis on natural resource extraction for commercial use; for this reason, I believe it should be referred to as a commercial forest biomass extraction bill to better define the discussion Congress should be having. The implications of a bill dealing with wild land fire mitigation and the enhancement of commercial activity in our forests are quite different.

The impacts if increased logging projects may include disturbance to wildlife and ecosystems, an increase in roadways, heavy traffic, noise increased pollution and

viewscape concerns. If “fuels reduction projects” are encouraged throughout the west in National Forests, on BLM land and in Wilderness areas and at the same time we establish a grant program to improve the commercial value of forest biomass, for economic reasons, use will realistically go beyond healthy forest efforts.

I am concerned that H.R. 1904 will not adequately enable communities and homeowners to mitigate the risk of future wildfires. Please consider the approximately 49 other wild land fire mitigation bills coming before you and support one that emphasizes the following:

1. Educating the public about measures they can take to make their homes and property safe from wildfire;
2. Provide funding to communities to conduct thinning projects on and immediately adjacent to their property in the Community Protection Zone;
3. Encourage programs that foster cooperation between communities, state agencies and federal agencies to best protect property and lives.

I thank you in advance for your thoughtful consideration.

Sincerely,

TRESI HOUPT,
Garfield County Commissioner.

EAGLE COUNTY BOARD OF COMMISSIONERS,
Eagle, CO, July 1, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

Re: Healthy Forests Restoration Act

DEAR SENATOR CAMPBELL: As an Eagle County Commissioner, I understand the dangers of fire in our national forests. I have seen first hand last summers Durango and Glenwood Springs’ fires damage to local communities. I am writing to ask you to amend the Healthy Forests Restoration Act of 2003 by including provisions that provide communities with the resources they need to safeguard lives and property. These are the same recommendations from the Northwest Colorado Council of Governments.

Please provide direction to federal land managers to establish local multi jurisdictional wildlife mitigation working groups comprised of elected officials from affected municipalities and counties and policy level personnel from fire districts and state and federal land and resource management agencies to:

1. Assesses wildfire hazards and assess community with respect to risks and vulnerabilities.
2. Emphasize educating the public about measures they can take to make their homes & property safe from wildfire;
3. Provide funding for communities to conduct thinning projects on and immediately adjacent to their property in the Community Protection Zone;

I am in agreement to the “how to” of addressing wildfire mitigation. However, I do not think that it is appropriate land managers to develop and implement wildfire mitigation actions unilaterally.

Respectfully,

ARN M. MENCONI,
Eagle County Commissioner.

COSTILLA COUNTY COMMISSIONERS,
San Luis, CO, July 16, 2003.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building, Washington, DC.

Hon. WAYNE ALLARD,
Dirksen Senate Office Building, Washington, DC.

Re: H.R. 1904, “Healthy Forest Restoration Act of 2003” (HFRA)

DEAR SENATORS ALLARD AND CAMPBELL: As you know, widespread forest fires damaged property throughout Colorado during last year’s drought, emphasizing the need to support local communities in efforts to safeguard homes and property. However, the Healthy Forests Restoration Act passed by the House of Representatives in May 2003 does not ensure any increased protection for communities at risk from fires. Protecting communities and property must be the top priority for any federal fire legislation. We are writing this letter to express dissatisfaction with the

“Healthy Forest Restoration Act of 2003” and are asking you to help protect forested lands adjacent to homes and communities by:

1. Including provisions in companion senate legislation to provide communities with resources to safeguard property from devastating wildfires in interface areas of high forest fire risk.
2. Rejecting the bill’s reliance on scaling back the National Environmental Protection Act because reducing public participation is not a valid way to mitigate forest fire risk to property.

This bill virtually ignores community prioritization and does not establish any criteria to assess the risk of property loss from forest fires in wild land-urban interface areas. With local, state and federal budgets struggling to make ends meet, it is important that we make every dollar count in protecting communities and homes from forest fire risk. This means directing resources where they are most needed to save property! the Community Protection Zone—the forested areas adjacent to homes and communities. While debate over wildfires has centered on the management of National Forests, almost 85% of the land within the Community Protection Zone is private, state or tribal. To protect homes and communities, federal legislation must provide grant opportunities to states and local governments for fuel wood reduction projects within the Community Protection Zone on private lands.

MONTANA COALITION OF FOREST COUNTIES,
July 17, 2003.

U.S. SENATE,
Committee on Energy and Natural Resources, Dirksen Office Building, Washington, DC.

Re: What H.R. 1904 means to Montana

HONORABLE SENATORS: As Chairman of the Montana Forest Counties Coalition, and a County Commissioner I applaud you today for your consideration of the President’s Healthy Forests Restoration Act of 2003.

Western States and local rural communities need the relief necessary in H.R. 1904 immediately. Congress needs to act and act in a decisive manner to bring us assistance with NEPA and judicial review. Currently in Montana even the salvage projects identified on previous fires have been litigated and stopped on minor technicalities. These projects are not being stopped by those with legitimate concern about the project, but by those radical few that hope to see the complete demise of the wood products industry in our state. H.R. 1904 would address this problem by requiring the prompt filing of lawsuits and by requiring the courts to consider the full range of effects.

The situation in Montana is real and imminent; we have only 9 remaining small independent mills left in the state to even deal with the problem when relief comes. Loss of our mill infrastructure commits us to the let it burn alternative, an alternative that is not acceptable considering Montana has 1.4 million acres identified in Condition Class 3, and over 10 million acres in need of some form of treatment.

I strongly urge you to support H.R. 1904 and appreciate your consideration of this proactive piece of legislation.

Sincerely,

DONNA J SEVALSTAD,
Chairman.

Ketchikan, AK, July 17, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Energy and Natural Resources Committee, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on the Healthy Forest Restoration Act. I support H.R. 1904 and the direction it provides for the federal agencies and public in starting to restore healthy forests. It needs to be passed quickly and without modification.

I am serving my sixth year as an elected Ketchikan, Alaska Borough Assembly member. I have been a professional forester over 40 years and currently serve as the Chair of the Alaska Section of the Society of American Foresters. I retired from the US Forest Service with 33 years of service in Wyoming, Colorado, and Alaska. I provide my comments from the experience and perspective of a local elected official, a professional forester, and a retired employee.

We are dramatically seeing the results of “let mother nature manage” our nations forestlands for the last two decades. The annual destruction of millions of acres of forestland by uncontrolled wildfires, insects, and disease is the result of no, to little, to delaying management of the forest. The ongoing loss of many small communities economy, infrastructure, and families is the result of no, to little, to delaying management of the forestlands these communities have depended on for decades. All of this totally unnecessary!

Active and timely forest management based on science, common sense, local knowledge, and local management will provide healthy forestlands. Healthy forests will not prevent fires, or insect infestations, or diseases from occurring. But, managed healthy forests will minimize the damage and cost of these destructive occurrences. Forest management activities such as thinning to maintain the desired tree densities should in the long run pay for the activity. The local management goals for an area or watershed, be the goal for community protection, water production, wildlife habitat, or other resource goal will determine the desired tree density and size.

Forest management goals and activities must be planned and executed in cooperation with local communities. The provisions of the Healthy Forest Restoration Act will help bring science, common sense, and local cooperation back to the timely management of our nation’s public lands.

I applaud the President, the Senate, and House for supporting this legislation.

Sincerely,

RICHARD L. COOSE,
Assembly Member.

MONTANA STATE SENATE,
Helena, MT, July 17, 2003.

U.S. SENATE,
Committee on Energy and Natural Resources, Washington, DC.
Re: Healthy Forests Act of 2003

HONORABLE COMMITTEE MEMBERS: In the summer of 2000 Montana suffered one of the most catastrophic fire seasons since the fires of 1910. Not only was the fire devastating to our forests, watersheds and communities, but it was unnecessary. In the Bitterroot National Forest we lost over 300,000 acres of timberland and over 70 homes. The litigated compromise between the Forest Service, logging industry and environmental groups resulted in just over 14,000 acres of timber restoration on Federal lands and the law suits continue.

This cycle of burn, litigate and vacillate, must end. Our National Forests, our National treasure is in jeopardy from management paralysis as a result of the Forest Service’s inability to manage these forests. It is not that the Forest Service is unwilling to manage the forests, but just that they are unable as a result of the mistrust between the various polarized factions. How many homes must be lost, how many lives disrupted, how many acres destroyed and how many watersheds decimated before we say “that’s enough”? Now is the time to proceed forward with the National Forest County Partnership Restoration Program (CPR program for short).

Congress has asked us for a direction in the management of our forests and the CPR program is our response. It is a collaborative effort among agencies, environmental groups and local communities to resolve forest conflict and to focus on restoring our forests. CPR is “bottom up, rather than top down management program” that allows local communities, along with state and federal agencies to address the health of our National Forests utilizing the best available science.

During Montana’s 2003 legislative session we passed Senate Joint Resolution 7 which supports the National Forest County Partnership Restoration Program that was established by the 106th Congress for implementation in National Forests in Montana and other Western States. Montana is ready to proceed, ready again to manage our forests, but we need your help. Our nation spends billions of dollars on fire suppression, isn’t it time to spend a small percentage of that money on restoration? Restoration today will reduce the severity of fires tomorrow, improve our watersheds, protect our habitat and most importantly secure our communities. Please fund a Western States CPR program to protect and preserve our National Treasure!

Most sincerely,

SENATOR RICK LAIBLE,
Montana Senate.

NAVAJO COUNTY BOARD OF SUPERVISORS,
Holbrook, AZ.

Hon. PETE DOMENICI,
U.S. Senate, Energy and Natural Resources Committee, Washington, DC.

DEAR CHAIRMAN: The Apache-Sitgreaves National Forest County Partnership Restoration (CPR) Program is pleased to comment on our efforts to bring all of our agencies and stakeholders together to resolve the Western Forest Health Issue.

Last year our CPR Partners in Arizona lost nearly one half million acres of beautiful forests, had entire communities destroyed and over 20,000 people driven into the night. We are continuously under siege from wildfire threat, as we watch our forests dying around us.

To solve this crisis will take years. And, our approach will never be effective until we accomplish three goals. First, federal, tribal, state, county and local governments must sit at the table as equal partners and perform their prescribed roles under their authorities with maximum effectiveness. Second, the effort must not be piecemeal, but comprehensive, at the level of entire State, National and Tribal Forests. That is, we must act to restore a 1 million acre National Forest, even though the watershed treatments occur 1000 acres at a time. And, third, it is unfortunate that the federal treasury must issue the funds for the crisis. However, it is a federal public issue, and we are fortunate to have whatever funds we can to combat this crisis, and the willingness of all levels of government to be engaged. These funds should be available, as determined necessary, to all governments that are committed to this common effort.

Sincerely,

PETE SHUMWAY,
Supervisor, Navajo County, AZ.

SWEETWATER COUNTY CONSERVATION DISTRICT,
Farson, WY, July 18, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Energy and Natural Resources Committee, Washington, DC.

DEAR CHAIRMAN DOMENICI: On November 8th and 9th, 2002, the Sweetwater County Conservation District participated in the National Forest County Partnership Restoration Program (CPR) conference held in Rawlins, Wyoming. The Wyoming Association of Conservation Districts and the National Association of Forest Service Retirees hosted the conference. The U.S. Department of Agriculture, Department of the Interior, local and State governments, and federal agency personnel were represented with members of the Public from around the West and Alaska also in attendance.

The Sweetwater County Conservation District participated in the Rawlins Conference to learn how to better utilize limited resources in coordinated efforts with federal agencies.

Sweetwater County, Wyoming comprises almost seven million acres of predominantly semi-arid desert. The Bureau of Land Management administers approximately five million acres of that with about 96,000 acres administered by the U.S. Forest Service and U.S. Fish and Wildlife Service. We bring this information to the Committee Members' attention from a perspective that Western desert villages, municipalities, industries and wildlife are fully dependent on our Nation's forested lands for our water resource, even though we may not be situated in an Urban/Wildfire location. Our desert stream water comes from the Upper Green River Basin of the Colorado River System and travels hundreds of miles from watersheds in the National Forests prior to reaching our desert areas. Without healthy forests, our desert lands are at risk; together these affect our entire ecosystems.

Wyoming has been blessed the past three fire seasons with having no disastrous fires as have recently occurred in our sister States of Arizona, Colorado, Montana, New Mexico and Oregon. Forests in Wyoming do suffer though from the same effects of insect infestation, vegetative disease and excess fuel buildup. (We currently have 10 wildfires burning in Wyoming.) These are parallel conditions that resulted in the Rodeo-Chediski, Bitterroot, Biscuit and Hayman fires. It is only a matter of time before Wyoming's Medicine Bow National Forest, Bighorn National Forest or Shoshone National Forest go up in smoke and devastate vast amounts of wildlife, critical wildlife habitat and the municipal watersheds that go hand in hand with that landscape.

The Sweetwater County Conservation District has asked Otero County, New Mexico County Commissioner Michael Nivison to include our perspective in his testi-

mony to your Committee on July 22, 2003. The Healthy Forest Restoration Act being debated should be viewed as a bipartisan effort in the same way that interdependencies are found between high elevation desert lands and National Forests. Our mutual dependency on forest health and on each other can only serve as an example of the critical need for Congress to implement a strategy that local, State, Tribal and federal governments or agencies can efficiently use to work toward healthy forests that benefit the entire landscape and ultimately our Nation.

Respectfully submitted,

MARY THOMAN,
Chairman.

BOARD OF COUNTY COMMISSIONERS,
Montrose County, CO, July 18, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Energy and Natural Resources Committee, Washington DC.

DEAR CHAIRMAN: Our collaborative working group of the Grand Mesa, Uncompahgre, Gunnison National Forest County Partnership Restoration Program (CPR), is pleased to comment to your Committee on our efforts toward forest restoration.

Of greatest importance, Congress and the Administration need to fully embrace the expanded involvement of tribal, state, county and local governments in this effort. We feel all governments must be respected as full partners in this process. All governments must be invited into a shared governance setting to address this National Emergency. It seems most difficult to make this happen. Their roles and authorities are always different, but we must make them equal partners in the common task. Procedures must be developed to improve these partnership interactions.

The county governments in the CPR Program are committed to their partnership in resolving this emergency, and we will continue to work at making our collaborative partnerships stronger.

Sincerely,

DAVID UBELL,
Commissioner.

BLACK HILLS REGIONAL MULTIPLE USE COALITION,
Rapid City, SD, July 18, 2003.

Hon. PETE DOMENICI,
Chairman, Senate Energy & Natural Resources Committee, Washington, DC.

DEAR SENATOR DOMENICI: The Black Hills Regional Multiple Use Coalition represents a diverse spectrum of stakeholders who advocate for the sustained multiple-use management of the Black Hills National Forest in South Dakota and Wyoming. Among our 38 member groups are livestock and agricultural producers, motorized and non-motorized recreationists, sportsmen, forest products companies, and community economic development interests. We write today to plead for the help of you and your colleagues in passing comprehensive, meaningful legislation that would empower the U.S. Forest Service to protect the forests our members cherish and depend upon from the onslaught of insect epidemics and catastrophic wildfire.

In the last three years, over 280,000 acres of the 1.2 million-acre Black Hills National Forest were either scorched by wildfire or seriously infested with forest insects. The Forest Service estimates that still another staggering 466,000 acres of our forest have grown significantly outside their historic fire regime and stand at high risk to catastrophic wildfire. Epidemic populations of mountain pine beetle killed approximately 300,000 trees in 2001, up 2700 percent from levels only three years prior. Recent inventories show that yet another 370,000 trees were killed by this insect last year, and forecasting data collected by Forest Service entomologists project only more doom and gloom to come. The Forest Service, arrested within a straight jacket of conflicting procedure, analysis, and statute, is simply accomplishing too little, too slowly to alleviate these threats to our forests.

As you may already know, the Black Hills National Forest faced an insect and wildfire problem so abysmally severe, and remedial action through conventional Forest Service procedures faced barriers so insurmountable, that a site-specific piece of legislation was necessary to begin to break the impasse. The South Dakota Congressional Delegation convened a group of forest stakeholders, including our organization, which eventually crafted a compromise that would allow expeditious thinning and fuels reduction on roughly 8,000 acres of beetle-infested and high wildfire risk

areas, in exchange for additional Wilderness designation in the Black Hills. After five months of arduous negotiation, this compromise was included as an amendment to the Supplemental Defense Appropriations Bill of 2002 and came to be known as the "Black Hills Fire Prevention Agreement."

Though it was and continues to be the subject of much controversy, we believe a louder and more important statement was made in the necessity of this legislation's passage: the 'process' is broken. There is simply no reason, especially in the face of a situation so dire as Beaver Park's was, that a special Act of Congress should be required each time the Forest Service sees the need to implement a project for the protection of basic public safety and forest resources.

To illustrate this point further, the Black Hills legislation of 2002 also mandated the completion of a comprehensive Environmental Impact Statement, called the "Elk, Bugs & Fuel" EIS, to address the breadth of the mountain pine beetle epidemic in the northern Black Hills. The legislation only authorized insect- and fire-risk reduction treatments on 8,000 acres of our forest, a small 'band-aid' for the gaping wound of tens of thousands of acres currently infested or at-risk, the EIS was to implement something closer to a 'cure' and do so on a required completion timeline of July 31, 2003.

Recently, the Forest Service published a Draft of "Elk, Bugs & Fuel." Because of the egregious length of time required to complete the various aspects of Forest Service analyses, and the absence of latitude available to the Forest Service to prioritize fuels and insect treatment objectives, the project is doomed to ineptitude. Through its assessment, the Forest Service estimated that 79 percent of the 44,000+ acres it analyzed were at moderate or high risk to catastrophic fire, and 61 percent were at moderate or high risk to mountain pine beetle infestation. The forest management activities "Elk, Bugs & Fuel" proposes to execute would decrease these risks by an embarrassingly insufficient nine and three percent, respectively.

The Forest Service is in need of a vehicle through which they can prioritize forest health and wildfire risk reduction treatments, and implement these treatments in an expeditious fashion. We cannot 'think small' when it comes to addressing forest health; these problems exist because entire landscapes are ecologically out of whack. The Forest Service must, as a product of whatever legislation is eventually passed, be able to complete comprehensive forest health projects like "Elk, Bugs & Fuel" 1) quicker, and 2) better.

Much of the debate on the issue of forest health legislation has revolved around "where" and "how" the Forest Service should be allowed to complete projects under expedited procedures, primarily as this relates to the Wildland-Urban Interface (WUI). However, when deliberating upon this issue it is important to remember several fundamental considerations.

First, commensurate with the landscape-scale of the forest health problem is the scale of the impacts that catastrophic fire and insect events wreak upon the forest resource and the public. Water quality, air quality, wildlife habitat, scenic values, and forest infrastructure all suffer from the effects of unnatural fires and rampant forest disease outbreaks. This means that, although a given wildfire may not directly threaten homes and communities, these publics will nonetheless have to endure polluted drinking supplies, flooding and landslides, chronic respiratory ailments, decreased property values, slumping tourism-based economics, and 'homeless' Threatened or Endangered species. Therefore, we believe it is necessary to approach this situation by heavily prioritizing treatments within the WUI, while balancing this emphasis with addressing the equally important broader forest resource and multiple-use concerns that may exist outside areas formally defined as WUI.

Second, a 'canned', one-size-fits-all definition of WUI will simply never work. As difficult as the proposition of 'trusting the Forest Service' is to swallow for many, ourselves included, resource managers must be allowed to do their jobs. With all due respect, Congress cannot anticipate all the on-the-ground resource concerns involved in the crafting and implementation of a forest project. Often, for instance, a definition of WUI based upon an arbitrary distance from the city limits of identified at-risk communities would fail to include anything but private land ownership over which the Forest Service simply has no management influence. Such a definition would also necessarily be insensitive to concerns like slope, topography, existing fuels conditions and forest type, not to mention excluding unincorporated municipalities and subdivisions that do not fall under the formal definition of a "community."

Thank you for your time and consideration, we hope you and your colleagues see fit to bring legislative pragmatism to bear on this very desperate situation.

Sincerely,

TOM TROXEL,
Director.

FOREST TRUST,
Santa Fe, NM, August 4, 2003.

Hon. PETE DOMENICI, *Chair*,
Hon. JEFF BINGAMAN, *Ranking Member*,
U.S. Senate, Committee on Energy and Natural Resources, Washington, DC.

DEAR SENATOR DOMENICI AND SENATOR BINGAMAN: Thank you for the opportunity to testify before the Committee on Energy and Natural Resources on July 22, 2003 about forest health and fire legislation. I wish to make one additional set of comments for the Committees' consideration related to the practice of "fire borrowing."

In bad fire years when the Forest Service expenditures for fire suppression exceed the budgeted amount, the agency borrows funds from other programs. As USDA Undersecretary Mark Rey explained, the borrowing practice worked when the Forest Service had Knutsen-Vanderberg funds to borrow from, but with the decline of the timber sale programs these funds have not been replenished and the Forest Service must borrow from its other program funds. The problem is that the programs whose funds are "borrowed" are critical to reducing fuels and are important if we are going to reduce the suppression of catastrophic wildfires. The fire borrowing practice has direct impacts on small businesses that comprise much of the workforce for the fuel reduction treatments .

I will provide you with two examples from 2002 in New Mexico that illustrate why the fire borrowing practice needs to be stopped:

1. Las Humanas Cooperative in the East Manzano Mountains has a forestry services business that depends largely on fuel reduction projects on the Cibola-National Forest. The Forest Service worked for several years to complete the NEPA documentation for the Thunderbird fuel reduction and restoration project. Las Humanas expected to bid on the Thunderbird project in 2002 and had the workforce in place to do the job. The funds for the contract were borrowed during the 2002 fire season. As a result, the contract was not advertised until after the 2003 budget for the Forest Service was passed in March 2003. After this 6-month delay, Las Humanas had lost part of its workforce and had to shoulder the expense of training new employees.

2. American Forest Products is a small business in Cuba, New Mexico that was awarded a grant through the Collaborative Forest Restoration Program. The grant funds were borrowed in the 2002 fire season and provided a major setback to American Forest Products. This fledging business has received over \$300,000 in assistance from the Economic Action Program for purchase of equipment to chip forest biomass from thinning projects, and a pilot gasification plant from the Forest Products Lab that runs on chips and heats the local schools. The diverted funds were needed to perform thinning that would provide the biomass for the chips, the gasifier, and the school heat. The diverted funds were also intended to keep a local crew employed in the woods after a 3-month training period that was paid for with funds from the National Forest Foundation. American Forest Products could not keep the crew employed after the grant funds were diverted, and they found other work. Once the grant was finally awarded in March 2003, American Forest Products had to spend some of the treatment dollars on training of new employees.

The fire borrowing practice hurts small businesses and hinders the national effort to reduce forest fuels. With the fire situation intensifying in the Northern Rockies, and fire borrowing already starting with 2003 funds because the House did not provide emergency funds, the Congress needs to take action to prevent this practice in the future.

Thank you for considering these comments about fire borrowing. We appreciate the opportunity to contribute our experiences to the Committee record.

Sincerely,

LAURA MCCARTHY,
Program Director.