

## RESILIENT FEDERAL FORESTS ACT OF 2015

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JUNE 25, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

together with

### DISSENTING VIEWS

[To accompany H.R. 2647]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2647) to expedite under the National Environmental Policy Act and improve forest management activities in units of the National Forest System derived from the public domain, on public lands under the jurisdiction of the Bureau of Land Management, and on tribal lands to return resilience to overgrown, fire-prone forested lands, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Resilient Federal Forests Act of 2015”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—EXPEDITED ENVIRONMENTAL ANALYSIS AND AVAILABILITY OF CATEGORICAL EXCLUSIONS TO EXPEDITE FOREST MANAGEMENT ACTIVITIES

Sec. 101. Analysis of only two alternatives (action versus no action) in proposed collaborative forest management activities.

Sec. 102. Categorical exclusion to expedite certain critical response actions.

Sec. 103. Categorical exclusion to expedite salvage operations in response to catastrophic events.

Sec. 104. Categorical exclusion to meet forest plan goals for early successional forests.

Sec. 105. Clarification of existing categorical exclusion authority related to insect and disease infestation.

- Sec. 106. Categorical exclusion to improve, restore, and reduce the risk of wildfire.  
 Sec. 107. Compliance with forest plan.

#### TITLE II—SALVAGE AND REFORESTATION IN RESPONSE TO CATASTROPHIC EVENTS

- Sec. 201. Expedited salvage operations and reforestation activities following large-scale catastrophic events.  
 Sec. 202. Compliance with forest plan.  
 Sec. 203. Prohibition on restraining orders, preliminary injunctions, and injunctions pending appeal.  
 Sec. 204. Exclusion of certain lands.

#### TITLE III—COLLABORATIVE PROJECT LITIGATION REQUIREMENT

- Sec. 301. Definitions.  
 Sec. 302. Bond requirement as part of legal challenge of certain forest management activities.

#### TITLE IV—SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT AMENDMENTS

- Sec. 401. Use of reserved funds for title II projects on Federal land and certain non-Federal land.  
 Sec. 402. Resource advisory committees.  
 Sec. 403. Program for title II self-sustaining resource advisory committee projects.  
 Sec. 404. Additional authorized use of reserved funds for title III county projects.

#### TITLE V—STEWARDSHIP END RESULT CONTRACTING

- Sec. 501. Cancellation ceilings for stewardship end result contracting projects.  
 Sec. 502. Excess offset value.  
 Sec. 503. Payment of portion of stewardship project revenues to county in which stewardship project occurs.  
 Sec. 504. Submission of existing annual report.

#### TITLE VI—ADDITIONAL FUNDING SOURCES FOR FOREST MANAGEMENT ACTIVITIES

- Sec. 601. Definitions.  
 Sec. 602. Availability of stewardship project revenues and Collaborative Forest Landscape Restoration Fund to cover forest management activity planning costs.  
 Sec. 603. State-supported planning of forest management activities.

#### TITLE VII—TRIBAL FORESTRY PARTICIPATION AND PROTECTION

- Sec. 701. Protection of tribal forest assets through use of stewardship end result contracting and other authorities.  
 Sec. 702. Management of Indian forest land authorized to include related National Forest System lands and public lands.

#### TITLE VIII—MISCELLANEOUS FOREST MANAGEMENT PROVISIONS

- Sec. 801. Balancing short- and long-term effects of forest management activities in considering injunctive relief.  
 Sec. 802. Conditions on Forest Service road decommissioning.  
 Sec. 803. Prohibition on application of Eastside Screens requirements on National Forest System lands.  
 Sec. 804. Use of site-specific forest plan amendments for certain projects and activities.  
 Sec. 805. Knutson-Vandenberg Act modifications.  
 Sec. 806. Exclusion of certain National Forest System lands and public lands.

### SEC. 2. DEFINITIONS.

In this Act:

(1) **CATASTROPHIC EVENT.**—The term “catastrophic event” means any natural disaster (such as hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect or disease outbreak) or any fire, flood, or explosion, regardless of cause.

(2) **CATEGORICAL EXCLUSION.**—The term “categorical exclusion” refers to an exception to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) for a project or activity relating to the management of National Forest System lands or public lands.

(3) **COLLABORATIVE PROCESS.**—The term “collaborative process” refers to a process relating to the management of National Forest System lands or public lands by which a project or activity is developed and implemented by the Secretary concerned through collaboration with interested persons, as described in section 603(b)(1)(C) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591b(b)(1)(C)).

(4) **COMMUNITY WILDFIRE PROTECTION PLAN.**—The term “community wildfire protection plan” has the meaning given that term in section 101(3) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511(3)).

(5) **COOS BAY WAGON ROAD GRANT LANDS.**—The term “Coos Bay Wagon Road Grant lands” means the lands reconveyed to the United States pursuant to the first section of the Act of February 26, 1919 (40 Stat. 1179).

(6) **FOREST MANAGEMENT ACTIVITY.**—The term “forest management activity” means a project or activity carried out by the Secretary concerned on National Forest System lands or public lands in concert with the forest plan covering the lands.

(7) **FOREST PLAN.**—The term “forest plan” means—

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest Service for a unit of the National Forest System pursuant to section 6 of the Forest

and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(8) LARGE-SCALE CATASTROPHIC EVENT.—The term “large-scale catastrophic event” means a catastrophic event that adversely impacts at least 5,000 acres of reasonably contiguous National Forest System lands or public lands.

(9) NATIONAL FOREST SYSTEM.—The term “National Forest System” has the meaning given that term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(10) OREGON AND CALIFORNIA RAILROAD GRANT LANDS.—The term “Oregon and California Railroad Grant lands” means the following lands:

(A) All lands in the State of Oregon vested in the United States under the Act of June 9, 1916 (39 Stat. 218), that are administered by the Secretary of the Interior, acting through the Bureau of Land Management, pursuant to the first section of the Act of August 28, 1937 (43 U.S.C. 1181a).

(B) All lands in that State obtained by the Secretary of the Interior pursuant to the land exchanges authorized and directed by section 2 of the Act of June 24, 1954 (43 U.S.C. 1181h).

(C) All lands in that State acquired by the United States at any time and made subject to the provisions of title II of the Act of August 28, 1937 (43 U.S.C. 1181f).

(11) PUBLIC LANDS.—The term “public lands” has the meaning given that term in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)), except that the term includes Coos Bay Wagon Road Grant lands and Oregon and California Railroad Grant lands.

(12) REFORESTATION ACTIVITY.—The term “reforestation activity” means a project or activity carried out by the Secretary concerned whose primary purpose is the reforestation of fire-impacted lands following a large-scale wildfire. The term includes planting, evaluating and enhancing natural regeneration, clearing competing vegetation, and other activities related to reestablishment of forest species on the fire-impacted lands.

(13) RESOURCE ADVISORY COMMITTEE.—The term “resource advisory committee” has the meaning given that term in section 201(3) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7121(3)).

(14) SALVAGE OPERATION.—The term “salvage operation” means a forest management activity undertaken in response to a catastrophic event whose primary purpose—

(A) is to prevent wildfire as a result of the catastrophic event, or, if the catastrophic event was wildfire, to prevent a re-burn of the fire-impacted area;

(B) is to provide an opportunity for utilization of forest materials damaged as a result of the catastrophic event; or

(C) is to provide a funding source for reforestation and other restoration activities for the National Forest System lands or public lands impacted by the catastrophic event.

(15) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) the Secretary of Agriculture, with respect to National Forest System lands; and

(B) the Secretary of the Interior, with respect to public lands.

## **TITLE I—EXPEDITED ENVIRONMENTAL ANALYSIS AND AVAILABILITY OF CATEGORICAL EXCLUSIONS TO EXPEDITE FOREST MANAGEMENT ACTIVITIES**

### **SEC. 101. ANALYSIS OF ONLY TWO ALTERNATIVES (ACTION VERSUS NO ACTION) IN PROPOSED COLLABORATIVE FOREST MANAGEMENT ACTIVITIES.**

(a) APPLICATION TO CERTAIN ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS.—This section shall apply whenever the Secretary concerned prepares an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for a forest management activity that—

(1) is developed through a collaborative process;

(2) is proposed by a resource advisory committee; or

(3) is covered by a community wildfire protection plan.

(b) **CONSIDERATION OF ALTERNATIVES.**—In an environmental assessment or environmental impact statement described in subsection (a), the Secretary concerned shall study, develop, and describe only the following two alternatives:

- (1) The forest management activity, as proposed pursuant to paragraph (1), (2), or (3) of subsection (a).
- (2) The alternative of no action.

(c) **ELEMENTS OF NON-ACTION ALTERNATIVE.**—In the case of the alternative of no action, the Secretary concerned shall evaluate—

- (1) the effect of no action on—
  - (A) forest health;
  - (B) habitat diversity;
  - (C) wildfire potential; and
  - (D) insect and disease potential; and
- (2) the implications of a resulting decline in forest health, loss of habitat diversity, wildfire, or insect or disease infestation, given fire and insect and disease historic cycles, on—
  - (A) domestic water costs;
  - (B) wildlife habitat loss; and
  - (C) other economic and social factors.

**SEC. 102. CATEGORICAL EXCLUSION TO EXPEDITE CERTAIN CRITICAL RESPONSE ACTIONS.**

(a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A categorical exclusion is available to the Secretary concerned to develop and carry out a forest management activity on National Forest System lands or public lands when the primary purpose of the forest management activity is—

- (1) to address an insect or disease infestation;
- (2) to reduce hazardous fuel loads;
- (3) to protect a municipal water source;
- (4) to maintain, enhance, or modify critical habitat to protect it from catastrophic disturbances;
- (5) to increase water yield; or
- (6) any combination of the purposes specified in paragraphs (1) through (5).

(b) **ACREAGE LIMITATIONS.**—

(1) **IN GENERAL.**—Except in the case of a forest management activity described in paragraph (2), a forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 5,000 acres.

(2) **LARGER AREAS AUTHORIZED.**—A forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 15,000 acres if the forest management activity—

- (A) is developed through a collaborative process;
- (B) is proposed by a resource advisory committee; or
- (C) is covered by a community wildfire protection plan.

**SEC. 103. CATEGORICAL EXCLUSION TO EXPEDITE SALVAGE OPERATIONS IN RESPONSE TO CATASTROPHIC EVENTS.**

(a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A categorical exclusion is available to the Secretary concerned to develop and carry out a salvage operation as part of the restoration of National Forest System lands or public lands following a catastrophic event.

(b) **ACREAGE LIMITATIONS.**—

(1) **IN GENERAL.**—A salvage operation covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 5,000 acres.

(2) **HARVEST AREA.**—In addition to the limitation imposed by paragraph (1), the harvest units covered by the categorical exclusion granted by subsection (a) may not exceed one-third of the area impacted by the catastrophic event.

(c) **ADDITIONAL REQUIREMENTS.**—

(1) **ROAD BUILDING.**—A salvage operation covered by the categorical exclusion granted by subsection (a) may not include any new permanent roads. Temporary roads constructed as part of the salvage operation shall be retired before the end of the second fiscal year beginning after the completion of the salvage operation.

(2) **STREAM BUFFERS.**—A salvage operation covered by the categorical exclusion granted by subsection (a) shall comply with the standards and guidelines for stream buffers contained in the applicable forest plan unless waived by the Regional Forester, in the case of National Forest System lands, or the State Director of the Bureau of Land Management, in the case of public lands.

(3) **REFORESTATION PLAN.**—A reforestation plan shall be developed under section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg

Act; 16 U.S.C. 576b), as part of a salvage operation covered by the categorical exclusion granted by subsection (a).

**SEC. 104. CATEGORICAL EXCLUSION TO MEET FOREST PLAN GOALS FOR EARLY SUCCESSIONAL FORESTS.**

(a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A categorical exclusion is available to the Secretary concerned to develop and carry out a forest management activity on National Forest System lands or public lands when the primary purpose of the forest management activity is to modify, improve, enhance, or create early successional forests for wildlife habitat improvement and other purposes, consistent with the applicable forest plan.

(b) **PROJECT GOALS.**—To the maximum extent practicable, the Secretary concerned shall design a forest management activity under this section to meet early successional forest goals in such a manner so as to maximize production and regeneration of priority species, as identified in the forest plan and consistent with the capability of the activity site.

(c) **ACREAGE LIMITATIONS.**—A forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 5,000 acres.

**SEC. 105. CLARIFICATION OF EXISTING CATEGORICAL EXCLUSION AUTHORITY RELATED TO INSECT AND DISEASE INFESTATION.**

Section 603(c)(2)(B) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591b(c)(2)(B)) is amended by striking “Fire Regime Groups I, II, or III” and inserting “Fire Regime I, Fire Regime II, Fire Regime III, or Fire Regime IV”.

**SEC. 106. CATEGORICAL EXCLUSION TO IMPROVE, RESTORE, AND REDUCE THE RISK OF WILDFIRE.**

(a) **AVAILABILITY OF CATEGORICAL EXCLUSION.**—A categorical exclusion is available to the Secretary concerned to carry out a forest management activity described in subsection (c) on National Forest System Lands or public lands when the primary purpose of the activity is to improve, restore, or reduce the risk of wildfire on those lands.

(b) **ACREAGE LIMITATIONS.**—A forest management activity covered by the categorical exclusion granted by subsection (a) may not exceed 5,000 acres.

(c) **AUTHORIZED ACTIVITIES.**—The following activities may be carried out using a categorical exclusion granted by subsection (a):

(1) Removal of juniper trees, medusahead rye, conifer trees, piñon pine trees, cheatgrass, and other noxious or invasive weeds specified on Federal or State noxious weeds lists through late-season livestock grazing, targeted livestock grazing, prescribed burns, and mechanical treatments.

(2) Performance of hazardous fuels management.

(3) Creation of fuel and fire breaks.

(4) Modification of existing fences in order to distribute livestock and help improve wildlife habitat.

(5) Installation of erosion control devices.

(6) Construction of new and maintenance of permanent infrastructure, including stock ponds, water catchments, and water spring boxes used to benefit livestock and improve wildlife habitat.

(7) Performance of soil treatments, native and non-native seeding, and planting of and transplanting sagebrush, grass, forb, shrub, and other species.

(8) Use of herbicides, so long as the Secretary concerned determines that the activity is otherwise conducted consistently with agency procedures, including any forest plan applicable to the area covered by the activity.

(d) **DEFINITIONS.**—In this section:

(1) **HAZARDOUS FUELS MANAGEMENT.**—The term “hazardous fuels management” means any vegetation management activities that reduce the risk of wildfire.

(2) **LATE-SEASON GRAZING.**—The term “late-season grazing” means grazing activities that occur after both the invasive species and native perennial species have completed their current-year annual growth cycle until new plant growth begins to appear in the following year.

(3) **TARGETED LIVESTOCK GRAZING.**—The term “targeted livestock grazing” means grazing used to for purposes of hazardous fuel reduction.

**SEC. 107. COMPLIANCE WITH FOREST PLAN.**

A forest management activity covered by a categorical exclusion granted by this title shall be conducted in a manner consistent with the forest plan applicable to the National Forest System land or public lands covered by the forest management activity.

## **TITLE II—SALVAGE AND REFORESTATION IN RESPONSE TO CATASTROPHIC EVENTS**

### **SEC. 201. EXPEDITED SALVAGE OPERATIONS AND REFORESTATION ACTIVITIES FOLLOWING LARGE-SCALE CATASTROPHIC EVENTS.**

(a) **EXPEDITED ENVIRONMENTAL ASSESSMENT.**—Notwithstanding any other provision of law, any environmental assessment prepared by the Secretary concerned pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for a salvage operation or reforestation activity proposed to be conducted on National Forest System lands or public lands adversely impacted by a large-scale catastrophic event shall be completed within three months after the conclusion of the catastrophic event.

(b) **EXPEDITED IMPLEMENTATION AND COMPLETION.**—In the case of reforestation activities conducted on National Forest System lands or public lands adversely impacted by a large-scale catastrophic event, the Secretary concerned shall achieve reforestation of at least 75 percent of the impacted lands during the five-year period following the conclusion of the catastrophic event.

(c) **AVAILABILITY OF KNUTSON-VANDENBERG FUNDS.**—Amounts in the special fund established pursuant to section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b) shall be available to the Secretary of Agriculture for reforestation activities authorized by this title.

### **SEC. 202. COMPLIANCE WITH FOREST PLAN.**

A salvage operation or reforestation activity authorized by this title shall be conducted in a manner consistent with the forest plan applicable to the National Forest System lands or public lands covered by the salvage operation or reforestation activity.

### **SEC. 203. PROHIBITION ON RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, AND INJUNCTIONS PENDING APPEAL.**

No restraining order, preliminary injunction, or injunction pending appeal shall be issued by any court of the United States with respect to any decision to prepare or conduct a salvage operation or reforestation activity in response to a large-scale catastrophic event. Section 705 of title 5, United States Code, shall not apply to any challenge to the salvage operation or reforestation activity.

### **SEC. 204. EXCLUSION OF CERTAIN LANDS.**

In applying this title, the Secretary concerned may not carry out salvage operations or reforestation activities on National Forest System lands or public lands—

- (1) that are included in the National Wilderness Preservation System;
- (2) that are located within an inventoried roadless area unless the reforestation activity is consistent with the forest plan; or
- (3) on which timber harvesting for any purpose is prohibited by statute.

## **TITLE III—COLLABORATIVE PROJECT LITIGATION REQUIREMENT**

### **SEC. 301. DEFINITIONS.**

In this title:

(1) **COSTS.**—The term “costs” refers to the fees and costs described in section 1920 of title 28, United States Code.

(2) **EXPENSES.**—The term “expenses” includes the expenditures incurred by the staff of the Secretary concerned in preparing for and responding to a legal challenge to a collaborative forest management activity and in participating in litigation that challenges the forest management activity, including such staff time as may be used to prepare the administrative record, exhibits, declarations, and affidavits in connection with the litigation.

### **SEC. 302. BOND REQUIREMENT AS PART OF LEGAL CHALLENGE OF CERTAIN FOREST MANAGEMENT ACTIVITIES.**

(a) **BOND REQUIRED.**—In the case of a forest management activity developed through a collaborative process or proposed by a resource advisory committee, any plaintiff or plaintiffs challenging the forest management activity shall be required to post a bond or other security equal to the anticipated costs, expenses, and attorneys fees of the Secretary concerned as defendant, as reasonably estimated by the Secretary concerned. All proceedings in the action shall be stayed until the required bond or security is provided.

(b) **RECOVERY OF LITIGATION COSTS, EXPENSES, AND ATTORNEYS FEES.—**

(1) **MOTION FOR PAYMENT.**—If the Secretary concerned prevails in an action challenging a forest management activity described in subsection (a), the Secretary concerned shall submit to the court a motion for payment, from the bond or other security posted under subsection (a) in such action, of the reasonable costs, expenses, and attorneys fees incurred by the Secretary concerned.

(2) **MAXIMUM AMOUNT RECOVERED.**—The amount of costs, expenses, and attorneys fees recovered by the Secretary concerned under paragraph (1) as a result of prevailing in an action challenging the forest management activity may not exceed the amount of the bond or other security posted under subsection (a) in such action.

(3) **RETURN OF REMAINDER.**—Any funds remaining from the bond or other security posted under subsection (a) after the payment of costs, expenses, and attorneys fees under paragraph (1) shall be returned to the plaintiff or plaintiffs that posted the bond or security in the action.

(c) **RETURN OF BOND TO PREVAILING PLAINTIFF.—**

(1) **IN GENERAL.**—If the plaintiff ultimately prevails on the merits in every action brought by the plaintiff challenging a forest management activity described in subsection (a), the court shall return to the plaintiff any bond or security provided by the plaintiff under subsection (a), plus interest from the date the bond or security was provided.

(2) **ULTIMATELY PREVAILS ON THE MERITS.**—In this subsection, the phrase “ultimately prevails on the merits” means, in a final enforceable judgment on the merits, a court rules in favor of the plaintiff on every cause of action in every action brought by the plaintiff challenging the forest management activity.

(d) **EFFECT OF SETTLEMENT.**—If a challenge to a forest management activity described in subsection (a) for which a bond or other security was provided by the plaintiff under such subsection is resolved by settlement between the Secretary concerned and the plaintiff, the settlement agreement shall provide for sharing the costs, expenses, and attorneys fees incurred by the parties.

(e) **LIMITATION ON CERTAIN PAYMENTS.**—Notwithstanding section 1304 of title 31, United States Code, no award may be made under section 2412 of title 28, United States Code, and no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay any fees or other expenses under such sections to any plaintiff related to an action challenging a forest management activity described in subsection (a).

## **TITLE IV—SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT AMENDMENTS**

### **SEC. 401. USE OF RESERVED FUNDS FOR TITLE II PROJECTS ON FEDERAL LAND AND CERTAIN NON-FEDERAL LAND.**

(a) **REPEAL OF MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.**—Section 204(e) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7124(e)) is amended by striking paragraph (3).

(b) **REQUIREMENTS FOR PROJECT FUNDS.**—Section 204 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7124) is amended by striking subsection (f) and inserting the following new subsection:

“(f) **REQUIREMENTS FOR PROJECT FUNDS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary concerned shall ensure that at least 50 percent of the project funds reserved by a participating county under section 102(d) shall be available only for projects that—

“(A) include the sale of timber or other forest products; and

“(B) implement stewardship objectives that enhance forest ecosystems or restore and improve land health and water quality.

“(2) **APPLICABILITY.**—The requirement in paragraph (1) shall apply only to project funds reserved by a participating county whose boundaries include Federal land that the Secretary concerned determines has been subject to a timber or other forest products program within 5 fiscal years before the fiscal year in which the funds are reserved.”.

### **SEC. 402. RESOURCE ADVISORY COMMITTEES.**

(a) **RECOGNITION OF RESOURCE ADVISORY COMMITTEES.**—Section 205(a)(4) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(a)(4)) is amended by striking “2012” each place it appears and inserting “2020”.

(b) TEMPORARY REDUCTION IN COMPOSITION OF COMMITTEES.—Section 205(d) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(d)) is amended—

(1) in paragraph (1), by striking “Each” and inserting “Except during the period specified in paragraph (6), each”; and

(2) by adding at the end the following new paragraph:

“(6) TEMPORARY REDUCTION IN MINIMUM NUMBER OF MEMBERS.—

“(A) TEMPORARY 6-MEMBER MINIMUM.—During the period beginning on the date of the enactment of this paragraph and ending on September 30, 2020, a resource advisory committee established under this section may be comprised of 6 or more members, of which—

“(i) at least 2 shall be representative of interests described in subparagraph (A) of paragraph (2);

“(ii) at least 2 shall be representative of interests described in subparagraph (B) of paragraph (2); and

“(iii) at least 2 shall be representative of interests described in subparagraph (C) of paragraph (2).

“(B) ADDITIONAL REQUIREMENTS.—In appointing members of a resource advisory committee from the 3 categories described in paragraph (2), as provided in subparagraph (A), the Secretary concerned shall ensure balanced and broad representation in each category. In the case of a vacancy on a resource advisory committee, the vacancy shall be filled within 90 days after the date on which the vacancy occurred. Appointments to a new resource advisory committee shall be made within 90 days after the date on which the decision to form the new resource advisory committee was made.

“(C) CHARTER.—A charter for a resource advisory committee with 15 members that was filed on or before the date of the enactment of this paragraph shall be considered to be filed for a resource advisory committee described in this paragraph. The charter of a resource advisory committee shall be reapproved before the expiration of the existing charter of the resource advisory committee. In the case of a new resource advisory committee, the charter of the resource advisory committee shall be approved within 90 days after the date on which the decision to form the new resource advisory committee was made.”

(c) CONFORMING CHANGE TO PROJECT APPROVAL REQUIREMENTS.—Section 205(e)(3) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(e)(3)) is amended by adding at the end the following new sentence: “In the case of a resource advisory committee consisting of fewer than 15 members, as authorized by subsection (d)(6), a project may be proposed to the Secretary concerned upon approval by a majority of the members of the committee.”

(d) EXPANDING LOCAL PARTICIPATION ON COMMITTEES.—Section 205(d) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(d)) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: “, consistent with the requirements of paragraph (4)”; and

(2) by striking paragraph (4) and inserting the following new paragraph:

“(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the county or counties in which the committee has jurisdiction or an adjacent county.”

**SEC. 403. PROGRAM FOR TITLE II SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.**

(a) SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.—Title II of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7121 et seq.) is amended by adding at the end the following new section:

**“SEC. 209. PROGRAM FOR SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.**

“(a) RAC PROGRAM.—The Chief of the Forest Service shall conduct a program (to be known as the ‘self-sustaining resource advisory committee program’ or ‘RAC program’) under which 10 resource advisory committees will propose projects authorized by subsection (c) to be carried out using project funds reserved by a participating county under section 102(d).

“(b) SELECTION OF PARTICIPATING RESOURCE ADVISORY COMMITTEES.—The selection of resource advisory committees to participate in the RAC program is in the sole discretion of the Chief of the Forest Service, except that, consistent with section 205(d)(6), a selected resource advisory committee must have a minimum of 6 members.

“(c) AUTHORIZED PROJECTS.—Notwithstanding the project purposes specified in sections 202(b), 203(c), and 204(a)(5), projects under the RAC program are intended to—



- “(1) accomplish forest management objectives or support community development; and
  - “(2) generate receipts.
  - “(d) DEPOSIT AND AVAILABILITY OF REVENUES.—Any revenue generated by a project conducted under the RAC program, including any interest accrued from the revenues, shall be—
    - “(1) deposited in the special account in the Treasury established under section 102(d)(2)(A); and
    - “(2) available, in such amounts as may be provided in advance in appropriation Acts, for additional projects under the RAC program.
  - “(e) TERMINATION OF AUTHORITY.—
    - “(1) IN GENERAL.—The authority to initiate a project under the RAC program shall terminate on September 30, 2020.
    - “(2) DEPOSITS IN TREASURY.—Any funds available for projects under the RAC program and not obligated by September 30, 2021, shall be deposited in the Treasury of the United States.”
  - (b) EXCEPTION TO GENERAL RULE REGARDING TREATMENT OF RECEIPTS.—Section 403(b) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7153(b)) is amended by striking “All revenues” and inserting “Except as provided in section 209, all revenues”.
- SEC. 404. ADDITIONAL AUTHORIZED USE OF RESERVED FUNDS FOR TITLE III COUNTY PROJECTS.**
- Section 302(a) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7142(a)) is amended—
- (1) in paragraph (2)—
    - (A) by inserting “and law enforcement patrols” after “including fire-fighting”; and
    - (B) by striking “and” at the end;
  - (2) by redesignating paragraph (3) as paragraph (4); and
  - (3) by inserting after paragraph (2) the following new paragraph (3):
    - “(3) to cover training costs and equipment purchases directly related to the emergency services described in paragraph (2); and”.

## **TITLE V—STEWARDSHIP END RESULT CONTRACTING**

- SEC. 501. CANCELLATION CEILINGS FOR STEWARDSHIP END RESULT CONTRACTING PROJECTS.**
- (a) CANCELLATION CEILINGS.—Section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c) is amended—
    - (1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and
    - (2) by inserting after subsection (g) the following new subsection (h):
  - “(h) CANCELLATION CEILINGS.—
    - “(1) IN GENERAL.—The Chief and the Director may obligate funds to cover any potential cancellation or termination costs for an agreement or contract under subsection (b) in stages that are economically or programmatically viable.
    - “(2) ADVANCE NOTICE TO CONGRESS OF CANCELLATION CEILING IN EXCESS OF \$25,000,000.—Not later than 30 days before entering into a multiyear agreement or contract under subsection (b) that includes a cancellation ceiling in excess of \$25,000,000, but does not include proposed funding for the costs of cancelling the agreement or contract up to such cancellation ceiling, the Chief or the Director, as the case may be, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives a written notice that includes—
      - “(A) the cancellation ceiling amounts proposed for each program year in the agreement or contract;
      - “(B) the reasons why such cancellation ceiling amounts were selected;
      - “(C) the extent to which the costs of contract cancellation are not included in the budget for the agreement or contract; and
      - “(D) an assessment of the financial risk of not including budgeting for the costs of agreement or contract cancellation.
    - “(3) TRANSMITTAL OF NOTICE TO OMB.—Not later than 14 days after the date on which written notice is provided under paragraph (2) with respect to an agreement or contract under subsection (b), the Chief or the Director, as the

case may be, shall transmit a copy of the notice to the Director of the Office of Management and Budget.”.

(b) **RELATION TO OTHER LAWS.**—Section 604(d)(5) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(d)(5)) is amended by striking “, the Chief may” and inserting “and section 2(a)(1) of the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 602(a)(1)), the Chief and the Director may”.

**SEC. 502. EXCESS OFFSET VALUE.**

Section 604(g)(2) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(g)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

“(A) use the excess to satisfy any outstanding liabilities for cancelled agreements or contracts; or

“(B) if there are no outstanding liabilities under subparagraph (A), apply the excess to other authorized stewardship projects.”.

**SEC. 503. PAYMENT OF PORTION OF STEWARDSHIP PROJECT REVENUES TO COUNTY IN WHICH STEWARDSHIP PROJECT OCCURS.**

Section 604(e) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6591c(e)) is amended—

(1) in paragraph (2)(B), by inserting “subject to paragraph (3)(A),” before “shall”; and

(2) in paragraph (3)(A), by striking “services received by the Chief or the Director” and all that follows through the period at the end and inserting the following: “services and in-kind resources received by the Chief or the Director under a stewardship contract project conducted under this section shall not be considered monies received from the National Forest System or the public lands, but any payments made by the contractor to the Chief or Director under the project shall be considered monies received from the National Forest System or the public lands.”.

**SEC. 504. SUBMISSION OF EXISTING ANNUAL REPORT.**

Subsection (j) of section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c), as redesignated by section 501(a)(1), is amended by striking “report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives” and inserting “submit to the congressional committees specified in subsection (h)(2) a report”.

## **TITLE VI—ADDITIONAL FUNDING SOURCES FOR FOREST MANAGEMENT ACTIVITIES**

**SEC. 601. DEFINITIONS.**

In this title:

(1) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) a State or political subdivision of a State containing National Forest System lands or public lands;

(B) a publicly chartered utility serving one or more States or a political subdivision thereof;

(C) a rural electric company; and

(D) any other entity determined by the Secretary concerned to be appropriate for participation in the Fund.

(2) **FUND.**—The term “Fund” means the State-Supported Forest Management Fund established by section 603.

**SEC. 602. AVAILABILITY OF STEWARDSHIP PROJECT REVENUES AND COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND TO COVER FOREST MANAGEMENT ACTIVITY PLANNING COSTS.**

(a) **AVAILABILITY OF STEWARDSHIP PROJECT REVENUES.**—Section 604(e)(2)(B) of the Healthy Forest Restoration Act of 2003 (16 U.S.C. 6591c(e)(2)(B)), as amended by section 503, is further amended by striking “appropriation at the project site from which the monies are collected or at another project site.” and inserting the following: “appropriation—

“(i) at the project site from which the monies are collected or at another project site; and

“(ii) to cover not more than 25 percent of the cost of planning additional stewardship contracting projects.”.

(b) **AVAILABILITY OF COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND.**—Section 4003(f)(1) of the Omnibus Public Land Management Act of 2009 (16 U.S.C.

7303(f)(1)) is amended by striking “carrying out and” and inserting “planning, carrying out, and”.

**SEC. 603. STATE-SUPPORTED PLANNING OF FOREST MANAGEMENT ACTIVITIES.**

(a) **STATE-SUPPORTED FOREST MANAGEMENT FUND.**—There is established in the Treasury of the United States a fund, to be known as the “State-Supported Forest Management Fund”, to cover the cost of planning (especially related to compliance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))), carrying out, and monitoring certain forest management activities on National Forest System lands or public lands.

(b) **CONTENTS.**—The State-Supported Forest Management Fund shall consist of such amounts as may be—

- (1) contributed by an eligible entity for deposit in the Fund;
- (2) appropriated to the Fund; or
- (3) generated by forest management activities carried out using amounts in the Fund.

(c) **GEOGRAPHICAL AND USE LIMITATIONS.**—In making a contribution under subsection (b)(1), an eligible entity may—

- (1) specify the National Forest System lands or public lands for which the contribution may be expended; and
- (2) limit the types of forest management activities for which the contribution may be expended.

(d) **AUTHORIZED FOREST MANAGEMENT ACTIVITIES.**—In such amounts as may be provided in advance in appropriation Acts, the Secretary concerned may use the Fund to plan, carry out, and monitor a forest management activity that—

- (1) is developed through a collaborative process;
- (2) is proposed by a resource advisory committee; or
- (3) is covered by a community wildfire protection plan.

(e) **IMPLEMENTATION METHODS.**—A forest management activity carried out using amounts in the Fund may be carried out using a contract or agreement under section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c), the good neighbor authority provided by section 8206 of the Agricultural Act of 2014 (16 U.S.C. 2113a), a contract under section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), or other authority available to the Secretary concerned, but revenues generated by the forest management activity shall be used to reimburse the Fund for planning costs covered using amounts in the Fund.

(f) **RELATION TO OTHER LAWS.**—

(1) **REVENUE SHARING.**—Subject to subsection (e), revenues generated by a forest management activity carried out using amounts from the Fund shall be considered monies received from the National Forest System.

(2) **KNUTSON-VANDERBERG ACT.**—The Act of June 9, 1930 (commonly known as the Knutson-Vanderberg Act; 16 U.S.C. 576 et seq.), shall apply to any forest management activity carried out using amounts in the Fund.

(g) **TERMINATION OF FUND.**—

(1) **TERMINATION.**—The Fund shall terminate 10 years after the date of the enactment of this Act.

(2) **EFFECT OF TERMINATION.**—Upon the termination of the Fund pursuant to paragraph (1) or pursuant to any other provision of law, unobligated contributions remaining in the Fund shall be returned to the eligible entity that made the contribution.

## **TITLE VII—TRIBAL FORESTRY PARTICIPATION AND PROTECTION**

**SEC. 701. PROTECTION OF TRIBAL FOREST ASSETS THROUGH USE OF STEWARDSHIP END RESULT CONTRACTING AND OTHER AUTHORITIES.**

(a) **PROMPT CONSIDERATION OF TRIBAL REQUESTS.**—Section 2(b) of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a(b)) is amended—

(1) in paragraph (1), by striking “Not later than 120 days after the date on which an Indian tribe submits to the Secretary” and inserting “In response to the submission by an Indian tribe of”; and

(2) by adding at the end the following new paragraph:

“(4) **TIME PERIODS FOR CONSIDERATION.**—

“(A) **INITIAL RESPONSE.**—Not later than 120 days after the date on which the Secretary receives a tribal request under paragraph (1), the Secretary shall provide an initial response to the Indian tribe regarding—

“(i) whether the request may meet the selection criteria described in subsection (c); and

“(ii) the likelihood of the Secretary entering into an agreement or contract with the Indian tribe under paragraph (2) for activities described in paragraph (3).

“(B) NOTICE OF DENIAL.—Notice under subsection (d) of the denial of a tribal request under paragraph (1) shall be provided not later than one year after the date on which the Secretary received the request.

“(C) COMPLETION.—Not later than two years after the date on which the Secretary receives a tribal request under paragraph (1), other than a tribal request denied under subsection (d), the Secretary shall—

“(i) complete all environmental reviews necessary in connection with the agreement or contract and proposed activities under the agreement or contract; and

“(ii) enter into the agreement or contract with the Indian tribe under paragraph (2).”.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—Section 2 of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a) is amended—

(1) in subsections (b)(1) and (f)(1), by striking “section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275))” and inserting “section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c)”; and

(2) in subsection (d), by striking “subsection (b)(1), the Secretary may” and inserting “paragraphs (1) and (4)(B) of subsection (b), the Secretary shall”.

**SEC. 702. MANAGEMENT OF INDIAN FOREST LAND AUTHORIZED TO INCLUDE RELATED NATIONAL FOREST SYSTEM LANDS AND PUBLIC LANDS.**

Section 305 of the National Indian Forest Resources Management Act (25 U.S.C. 3104) is amended by adding at the end the following new subsection:

“(c) INCLUSION OF CERTAIN NATIONAL FOREST SYSTEM LAND AND PUBLIC LAND.—

“(1) AUTHORITY.—At the request of an Indian tribe, the Secretary concerned may treat Federal forest land as Indian forest land for purposes of planning and conducting forest land management activities under this section if the Federal forest land is located within, or mostly within, a geographic area that presents a feature or involves circumstances principally relevant to that Indian tribe, such as Federal forest land ceded to the United States by treaty, Federal forest land within the boundaries of a current or former reservation, or Federal forest land adjudicated to be tribal homelands.

“(2) REQUIREMENTS.—As part of the agreement to treat Federal forest land as Indian forest land under paragraph (1), the Secretary concerned and the Indian tribe making the request shall—

“(A) provide for continued public access applicable to the Federal forest land prior to the agreement, except that the Secretary concerned may limit or prohibit such access as needed;

“(B) continue sharing revenue generated by the Federal forest land with State and local governments either—

“(i) on the terms applicable to the Federal forest land prior to the agreement, including, where applicable, 25-percent payments or 50 percent payments; or

“(ii) at the option of the Indian tribe, on terms agreed upon by the Indian tribe, the Secretary concerned, and State and county governments participating in a revenue sharing agreement for the Federal forest land;

“(C) comply with applicable prohibitions on the export of unprocessed logs harvested from the Federal forest land; and

“(D) recognize all right-of-way agreements in place on Federal forest land prior to commencement of tribal management activities.

“(3) LIMITATION.—Treating Federal forest land as Indian forest land for purposes of planning and conducting management activities pursuant to paragraph (1) shall not be construed to designate the Federal forest land as Indian forest lands for any other purpose.

“(4) DEFINITIONS.—In this subsection:

“(A) FEDERAL FOREST LAND.—The term ‘Federal forest land’ means—

“(i) National Forest System lands; and

“(ii) public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))), including Coos Bay Wagon Road Grant lands reconveyed to the United States pursuant to the first section of the Act of February 26, 1919 (40 Stat. 1179), and Oregon and California Railroad Grant lands.

“(B) SECRETARY CONCERNED.—The term ‘Secretary concerned’ means—

- “(i) the Secretary of Agriculture, with respect to the Federal forest land referred to in subparagraph (A)(i); and
- “(ii) the Secretary of the Interior, with respect to the Federal forest land referred to in subparagraph (A)(ii).”.

## **TITLE VIII—MISCELLANEOUS FOREST MANAGEMENT PROVISIONS**

### **SEC. 801. BALANCING SHORT- AND LONG-TERM EFFECTS OF FOREST MANAGEMENT ACTIVITIES IN CONSIDERING INJUNCTIVE RELIEF.**

As part of its weighing the equities while considering any request for an injunction that applies to any agency action as part of a forest management activity under this Act, the court reviewing the agency action shall balance the impact to the ecosystem likely affected by the forest management activity of—

- (1) the short- and long-term effects of undertaking the agency action; against
- (2) the short- and long-term effects of not undertaking the action.

### **SEC. 802. CONDITIONS ON FOREST SERVICE ROAD DECOMMISSIONING.**

(a) **CONSULTATION WITH AFFECTED COUNTY.**—Whenever any Forest Service defined maintenance level one or two system road within a designated high fire prone area of a unit of the National Forest System is considered for decommissioning, the Forest Supervisor of that unit of the National Forest System shall—

- (1) consult with the government of the county containing the road regarding the merits and possible consequences of decommissioning the road; and
- (2) solicit possible alternatives to decommissioning the road.

(b) **REGIONAL FORESTER APPROVAL.**—A Forest Service road described in subsection (a) may not be decommissioned without the advance approval of the Regional Forester.

### **SEC. 803. PROHIBITION ON APPLICATION OF EASTSIDE SCREENS REQUIREMENTS ON NATIONAL FOREST SYSTEM LANDS.**

On and after the date of the enactment of this Act, the Secretary of Agriculture may not apply to National Forest System lands any of the amendments to forest plans adopted in the Decision Notice for the Revised Continuation of Interim Management Direction Establishing Riparian, Ecosystem and Wildlife Standards for Timber Sales (commonly known as the Eastside Screens requirements), including all preceding or associated versions of these amendments.

### **SEC. 804. USE OF SITE-SPECIFIC FOREST PLAN AMENDMENTS FOR CERTAIN PROJECTS AND ACTIVITIES.**

If the Secretary concerned determines that, in order to conduct a project or carry out an activity implementing a forest plan, an amendment to the forest plan is required, the Secretary concerned shall execute such amendment as a nonsignificant plan amendment through the record of decision or decision notice for the project or activity.

### **SEC. 805. KNUTSON-VANDENBERG ACT MODIFICATIONS.**

(a) **DEPOSITS OF FUNDS FROM NATIONAL FOREST TIMBER PURCHASERS REQUIRED.**—Section 3(a) of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b(a)), is amended by striking “The Secretary” and all that follows through “any purchaser” and inserting the following: “The Secretary of Agriculture shall require each purchaser”.

(b) **CONDITIONS ON USE OF DEPOSITS.**—Section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

- (1) by striking “Such deposits” and inserting the following:
  - “(b) Amounts deposited under subsection (a)”;
  - (2) by redesignating subsection (c) as subsection (d); and
  - (3) by inserting before subsection (d), as so redesignated, the following new subsection (c):
    - “(c)(1) Amounts in the special fund established pursuant to this section—
      - “(A) shall be used exclusively to implement activities authorized by subsection (a); and
      - “(B) may be used anywhere within the Forest Service Region from which the original deposits were collected.
    - “(2) The Secretary of Agriculture may not deduct overhead costs from the funds collected under subsection (a), except as needed to fund personnel of the responsible Ranger District for the planning and implementation of the activities authorized by subsection (a).”.

**SEC. 806. EXCLUSION OF CERTAIN NATIONAL FOREST SYSTEM LANDS AND PUBLIC LANDS.**

Unless specifically provided by a provision of this Act, the authorities provided by this Act do not apply with respect to any National Forest System lands or public lands—

- (1) that are included in the National Wilderness Preservation System;
- (2) that are located within an inventoried roadless area unless the forest management activity to be carried out under such authority is consistent with the forest plan applicable to the area; or
- (3) on which timber harvesting for any purpose is prohibited by statute.

Amend the title so as to read: “A bill to expedite under the National Environmental Policy Act of 1969 and improve forest management activities on National Forest System lands, on public lands under the jurisdiction of the Bureau of Land Management, and on tribal lands to return resilience to overgrown, fire-prone forested lands, and for other purposes.”.

**PURPOSE OF THE BILL**

The purpose of H.R. 2647 is to expedite under the National Environmental Policy Act and improve forest management activities in units of the National Forest System derived from the public domain, on public lands under the jurisdiction of the Bureau of Land Management, and on tribal lands to return resilience to overgrown, fire-prone forested lands.

**BACKGROUND AND NEED FOR LEGISLATION**

H.R. 2647 addresses the declining health of America’s forested land managed by the United States Forest Service (USFS) and the Bureau of Land Management (BLM) due to a lack of active management.

The most significant result of this diminished forest health is the significant increase in catastrophic wildfire over the past 15 years. These catastrophic wildfires have a significant negative impact on watershed health, wildlife habitat, property, and human life. Since 2006, USFS has indicated more than 3,000 man-made structures have been destroyed. Most disturbingly, agency data indicates that 348 lives have been lost to catastrophic wildfire since 1995.

The alarming increase in catastrophic wildfire impacts can be attributable to the decrease in timber production. From the mid-1950s to the mid-1990s, USFS typically harvested between ten and 12 billion board feet annually. Since 1996, that number has declined to a range of 1.6 to 3.3 billion board feet. During this same period, the average number of acres burned increased to six million acres, up from 3.3 million acres.

The reason for the declining amount of timber production is two-fold: longer planning periods that result in increased time and money and leave our forests vulnerable to insect and disease, plus the chilling effect of unnecessary litigation on forest planning decisions. A 2012 USFS report estimated that between 65 million and 82 million acres are facing some level of threat of wildfire and are in need of restoration. This is more than one-third of the National Forest System. In 2014, USFS treated 2.9 million acres of land. At this pace, it would take the agency more than 20 years to treat this endangered land.

Prior to marking up H.R. 2647, the House Natural Resources Subcommittee on Federal Lands heard testimony from a variety of witnesses—including retired USFS employees, sportsmen groups,

and Indian tribes—about the declining state of health of our federal forests and opportunities for Congress to expand existing USFS and BLM tools to improve forest health. This legislation attempts to address the core issues facing USFS: lengthy and costly planning processes to complete needed hazardous fuel reduction projects and the threat of litigation forcing USFS and BLM to take an overly cautious approach to forest management. H.R. 2647 addresses these challenges by rewarding collaboration among interest groups and minimizing the threat of needless litigation while providing proven categorical exclusions under the National Environmental Policy Act for the agencies to use to engage in routine treatment of forested lands.

H.R. 2647 imposes no new requirements or burdens on USFS or BLM. It expands upon the successes of the Agricultural Act of 2014 (Public Law 113–79) and the Healthy Forests Restoration Act of 2003 (Public Law 108–148).

H.R. 2647 also retains many environmental safeguards to ensure that the respective land management agencies use these authorities in a reasonable and environmentally-safe manner.

#### COMMITTEE ACTION

H.R. 2647 was introduced on June 4, 2015, by Congressman Bruce Westerman (R–AR). The bill was referred to the Committee on Agriculture and in addition to the Committee on Natural Resources. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Federal Lands and the Subcommittee on Indian, Insular and Alaska Native Affairs. On June 10, 2015, the Natural Resources Committee met to consider the bill. The Subcommittees were discharged by unanimous consent. Congressman Westerman offered an amendment to the bill (007); it was adopted by voice vote. Congressman Crescent Hardy (R–NV) offered an amendment to the bill (001); it was adopted by voice vote. Congressman Dan Benishek (R–MI) offered and withdrew an amendment (011). Congressman Jared Polis (D–CO) offered an amendment (066); it was not adopted by a roll call vote of 16–22, as follows:

## Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 06-11-15

Recorded Vote # 1

Meeting on / Amendment on: Polis\_066 Amendment to H.R. 2647 (Rep. Bruce Westerman), "Resilient Federal Forests Act of 2015."

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI	X		
Mr. Young, AK		X		Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX				Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA	X			Mr. Polis, CO	X		
Mr. Wittman, VA		X		Mr. Graves, LA		X	
Mr. Sablan, CNMI				Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS			
Mr. Peirluisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA				Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA	X						
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	16	22	



Congressman Raúl M. Grijalva (D-AZ) offered an amendment (052). It was not adopted by a bipartisan roll call vote of 15–24, as follows:

## Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 06-11-15

Recorded Vote # 2

Meeting on / Amendment on: Grijalva\_052 Amendment to H.R. 2647 (Rep. Bruce Westerman), "Resilient Federal Forests Act of 2015."

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI	X		
Mr. Young, AK		X		Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO	X		
Mr. Wittman, VA		X		Mr. Graves, LA		X	
Mr. Sablan, CNMI				Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS			
Mr. Peirluisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA				Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA	X						
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	15	24	

No additional amendments were offered and the bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 22–15 on June 11, 2015, as follows:

## Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 06-11-15

Recorded Vote # 3

Meeting on / Amendment on: **On favorably reporting H.R. 2647 (Rep. Bruce Westerman), "Resilient Federal Forests Act of 2015."**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>	X			<b>Mr. LaMalfa, CA</b>	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mrs. Dingell, MI</i>		X	
<b>Mr. Young, AK</b>	X			<b>Mr. Denham, CA</b>	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Gallego, AZ</i>		X	
<b>Mr. Gohmert, TX</b>	X			<b>Mr. Cook, CA</b>	X		
<i>Mrs. Bordallo, Guam</i>		X		<i>Mrs. Capps, CA</i>		X	
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Westerman, AR</b>	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Polis, CO</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mr. Graves, LA</b>	X		
<i>Mr. Sablan, CNMI</i>				<b>Mr. Newhouse, WA</b>	X		
<b>Mr. Fleming, LA</b>	X			<b>Mr. Zinke, MT</b>	X		
<i>Mrs. Tsongas, MA</i>		X		<b>Mr. Hice, GA</b>	X		
<b>Mr. McClintock, CA</b>	X			<b>Ms. Radewagen, AS</b>			
<i>Mr. Peirluisi, Puerto Rico</i>		X		<b>Mr. MacArthur, NJ</b>	X		
<b>Mr. Thompson, PA</b>				<b>Mr. Mooney, WV</b>			
<i>Mr. Huffman, CA</i>		X		<b>Mr. Hardy, NV</b>	X		
<b>Mrs. Lummis, WY</b>	X						
<i>Mr. Ruiz, CA</i>		X					
<b>Mr. Benishek, MI</b>	X						
<i>Mr. Lowenthal, CA</i>		X					
<b>Mr. Duncan, SC</b>	X						
<i>Mr. Cartwright, PA</i>		X					
<b>Mr. Gosar, AZ</b>	X						
<i>Mr. Beyer, VA</i>		X					
<b>Mr. Labrador, ID</b>							
<i>Mrs. Torres, CA</i>		X		<b>TOTALS</b>	22	15	

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2647—Resilient Federal Forests Act of 2015*

Summary: H.R. 2647 would change the way the Forest Service conducts various activities related to forest management. The bill also would exempt lawsuits challenging certain forest management activities from the Equal Access to Justice Act (EAJA) and would require plaintiffs who sue the Forest Service for conducting such activities to post a cash bond to cover the agency's legal expenses if the agency wins the lawsuit.

Based on information provided by the Forest Service, CBO estimates that implementing the bill would cost \$10 million over the 2016–2020 period, assuming appropriation of the necessary amounts. Because H.R. 2647 contains provisions that would affect direct spending, pay-as-you-go procedures apply. However, CBO estimates that none of the provisions would have a significant effect on direct spending in any year and that enacting the bill would have a negligible net effect on direct spending over the 2016–2025 period. Enacting the legislation would not affect revenues.

H.R. 2647 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA) on plaintiffs, including public and private entities, seeking judicial review of some forest management activities on federal lands. CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 2647 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	2	2	2	2	2	10
Estimated Outlays .....	2	2	2	2	2	10

**Basis of estimate:**

*Limit on the use of certain funds for administrative costs*

The Knutson-Vandenberg Trust Fund (K–V Fund) consists of amounts generated by timber sales that can be retained and spent by the Forest Service to carry out activities related to forest management. The bill would prohibit the agency from using amounts in the K–V Fund to cover administrative costs for personnel working outside of ranger districts where those funds were generated. Under current law, the Forest Service spends, without annual appropriation, about \$2 million a year from the K–V Fund for that purpose. Because, under the bill, those amounts would no longer be available to cover those administrative costs, CBO estimates that implementing this provision would cost \$2 million a year over the 2016–2020 period, assuming appropriation of the necessary amounts. Based on information from the Forest Service, CBO expects this provision would not change total spending from the K–V Fund.

*Expedited environmental reviews and salvage operations*

H.R. 2647 would expedite certain activities related to managing forests, including environmental assessments and harvesting of salvage timber after natural disasters or certain other events. Based on information provided by the Forest Service, CBO expects that enacting those provisions could affect the timing of certain salvage timber sales; however, we estimate that expediting those sales would have no significant net effect on offsetting receipts in any year.

*Stewardship contracting*

The bill would allow the Forest Service and the Bureau of Land Management to determine the amount of appropriated funds they reserve to pay for the costs of canceling certain stewardship contracts. Under the Antideficiency Act, federal agencies cannot spend funds in excess of amounts specifically made available to the agency. Because, under the bill, the agencies might reserve insufficient funds to cover all the costs of canceled contracts, the legislation would effectively allow them to obligate sums greater than the appropriations they have available when they enter into the contracts—thus creating direct spending authority. However, the amount of funds set aside to cover cancellation costs for all multi-year stewardship contracts over the last 10 years averaged less than \$200,000 a year, and no contracts were cancelled over that period. We expect the agencies to continue to administer the stewardship contracting program in a similar way in the future, therefore CBO estimates that enacting this provision would have a negligible effect on direct spending.

The legislation also would amend the Healthy Forests Restoration Act to allow proceeds from activities conducted under stewardship contracts to be spent for various purposes, including providing certain direct payments to counties. The Forest Service has the authority under current law to retain and spend those proceeds; therefore, CBO estimates that enacting those provisions would have no net effect on direct spending.

*State-supported forest management*

H.R. 2647 would allow states to contribute money to a new federal fund and, subject to appropriation of those contributions, direct the Forest Service to use the funds to carry out certain activities related to managing forests. Any proceeds generated by those activities also would be deposited in the fund. CBO expects that states would not contribute to the fund until the Congress provided authority in future appropriations acts to spend amounts in the fund; therefore, we estimate that enacting this provision would not affect the federal budget.

*Elimination of certain restrictions on timber harvesting*

The bill would prohibit the Forest Service from enforcing provisions in existing land use plans that limit timber harvesting in certain areas to trees less than 21 inches in diameter. Because CBO expects that under the bill the Forest Service would shift certain timber sales from areas with low-value timber to areas with higher-value timber, enacting this provision would probably increase offsetting receipts from timber sales relative to current law. However, based on information provided by the agency, CBO estimates that any increase in receipts would not be significant in any year.

*Lawsuits related to certain activities related to forest management*

H.R. 2647 would require certain plaintiffs who sue the Forest Service to post a bond to cover the agency's legal expenses. Under the bill, if the Forest Service wins the lawsuit, an amount equal to the agency's legal expenses or the amount of the bond, whichever is less, would be awarded to the agency and would be classified as an offsetting receipt. The bill also would exempt lawsuits related to certain forest management activities from EAJA, which requires the federal government to pay attorneys' fees for certain plaintiffs that prevail in lawsuits against the United States. Based on information provided by the Forest Service regarding the number of plaintiffs likely to be affected, CBO estimates that enacting those provisions would reduce direct spending by a negligible amount each year.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting H.R. 2647 would have no significant net effect on direct spending over the 2016–2025 period, CBO estimates.

Intergovernmental and private-sector impact: H.R. 2647 would impose intergovernmental and private-sector mandates on plaintiffs, including public and private entities, seeking judicial review of some forest management activities on federal lands. CBO estimates that the aggregate cost of the mandates in the bill would fall below the annual thresholds established in UMRA for intergovern-

mental and private-sector mandates (\$77 million and \$154 million in 2015, respectively, adjusted annually for inflation).

The bill would impose a mandate by establishing bond requirements on plaintiffs seeking judicial review of some forest management projects carried out on federal lands. The value of the bond would be equal to the estimated litigation costs of the federal government. The cost of the mandate would be the purchase price of required bonds, typically 10 percent of the bond amount. CBO expects that both the number of forest management projects by federal agencies that would be litigated and the bond fee in those cases would be relatively small. Therefore, CBO expects that the annual cost of the mandate also would be small.

Additionally, the bill would prohibit plaintiffs from seeking a preliminary injunction to temporarily stop activities, such as salvage logging, on federal lands. By eliminating a right of action, the bill would impose a mandate. The cost of a mandate that eliminates a right of action is the forgone income and value of awards in such cases. Because such losses would generally not occur for the types of cases involved, CBO expects that the mandate would probably impose no costs.

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office (CBO) estimates that implementing the bill would cost \$10 million over the 2016–2010 time period, subject to appropriation. In addition, CBO concludes that enacting the bill would have a “negligible” net effect on direct spending over the 2016–2025 period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to expedite under the National Environmental Policy Act and improve forest management activities in units of the National Forest System derived from the public domain, on public lands under the jurisdiction of the Bureau of Land Management, and on tribal lands to return resilience to overgrown, fire-prone forested lands.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.



## COMPLIANCE WITH H. RES. 5

**Directed Rule Making.** The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

**Duplication of Existing Programs.** This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office (GAO) to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169). The bill does amend and improve a Secure Rural Schools and Community Self-Determination Act (SRS, Public Law 106–393) program that was identified in a 2011 GAO report as a development program that had similar or overlapping objectives with other development programs. The bill’s changes to the program will result in a more self-sustained and effective program of forest management and community development under SRS.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**HEALTHY FORESTS RESTORATION ACT OF 2003**

\* \* \* \* \*

**TITLE VI—MISCELLANEOUS**

\* \* \* \* \*

**SEC. 603. ADMINISTRATIVE REVIEW.**

(a) **IN GENERAL.**—Except as provided in subsection (d), a project described in subsection (b) that is conducted in accordance with section 602(d) may be—

- (1) considered an action categorically excluded from the requirements of Public Law 91–190 (42 U.S.C. 4321 et seq.); and
- (2) exempt from the special administrative review process under section 105.

(b) **COLLABORATIVE RESTORATION PROJECT.**—

(1) **IN GENERAL.**—A project referred to in subsection (a) is a project to carry out forest restoration treatments that—

- (A) maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease;

- (B) considers the best available scientific information to maintain or restore the ecological integrity, including maintaining or restoring structure, function, composition, and connectivity; and
- (C) is developed and implemented through a collaborative process that—
  - (i) includes multiple interested persons representing diverse interests; and
  - (ii) (I) is transparent and nonexclusive; or (II) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125).
- (2) INCLUSION.—A project under this subsection may carry out part of a proposal that complies with the eligibility requirements of the Collaborative Forest Landscape Restoration Program under section 4003(b) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303(b)).
- (c) LIMITATIONS.—
  - (1) PROJECT SIZE.—A project under this section may not exceed 3000 acres.
  - (2) LOCATION.—A project under this section shall be limited to areas—
    - (A) in the wildland-urban interface; or
    - (B) Condition Classes 2 or 3 in **Fire Regime Groups I, II, or III** *Fire Regime I, Fire Regime II, Fire Regime III, or Fire Regime IV*, outside the wildland-urban interface.
  - (3) ROADS.—
    - (A) PERMANENT ROADS.—
      - (i) PROHIBITION ON ESTABLISHMENT.—A project under this section shall not include the establishment of permanent roads.
      - (ii) EXISTING ROADS.—The Secretary may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.
    - (B) TEMPORARY ROADS.—The Secretary shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.
- (d) EXCLUSIONS.—This section does not apply to—
  - (1) a component of the National Wilderness Preservation System;
  - (2) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;
  - (3) a congressionally designated wilderness study area; or
  - (4) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.
- (e) FOREST MANAGEMENT PLANS.—All projects and activities carried out under this section shall be consistent with the land and resource management plan established under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for the unit of the National Forest System containing the projects and activities.

(f) **PUBLIC NOTICE AND SCOPING.**—The Secretary shall conduct public notice and scoping for any project or action proposed in accordance with this section.

(g) **ACCOUNTABILITY.**—

(1) **IN GENERAL.**—The Secretary shall prepare an annual report on the use of categorical exclusions under this section that includes a description of all acres (or other appropriate unit) treated through projects carried out under this section.

(2) **SUBMISSION.**—Not later than 1 year after the date of enactment of this section, and each year thereafter, the Secretary shall submit the reports required under paragraph (1) to—

(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(B) the Committee on Environment and Public Works of the Senate;

(C) the Committee on Agriculture of the House of Representatives;

(D) the Committee on Natural Resources of the House of Representatives; and

(E) the Government Accountability Office.

**SEC. 604. STEWARDSHIP END RESULT CONTRACTING PROJECTS.**

(a) **DEFINITIONS.**—In this section:

(1) **CHIEF.**—The term “Chief” means the Chief of the Forest Service.

(2) **DIRECTOR.**—The term “Director” means the Director of the Bureau of Land Management.

(b) **PROJECTS.**—The Chief and the Director, via agreement or contract as appropriate, may enter into stewardship contracting projects with private persons or other public or private entities to perform services to achieve land management goals for the national forests and the public lands that meet local and rural community needs.

(c) **LAND MANAGEMENT GOALS.**—The land management goals of a project under subsection (b) may include any of the following:

(1) Road and trail maintenance or obliteration to restore or maintain water quality.

(2) Soil productivity, habitat for wildlife and fisheries, or other resource values.

(3) Setting of prescribed fires to improve the composition, structure, condition, and health of stands or to improve wildlife habitat.

(4) Removing vegetation or other activities to promote healthy forest stands, reduce fire hazards, or achieve other land management objectives.

(5) Watershed restoration and maintenance.

(6) Restoration and maintenance of wildlife and fish.

(7) Control of noxious and exotic weeds and reestablishing native plant species.

(d) **AGREEMENTS OR CONTRACTS.**—

(1) **PROCUREMENT PROCEDURE.**—A source for performance of an agreement or contract under subsection (b) shall be selected on a best-value basis, including consideration of source under other public and private agreements or contracts.

(2) **CONTRACT FOR SALE OF PROPERTY.**—A contract entered into under this section may, at the discretion of the Secretary

of Agriculture, be considered a contract for the sale of property under such terms as the Secretary may prescribe without regard to any other provision of law.

(3) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chief and the Director may enter into a contract under subsection (b) in accordance with section 3903 of title 41, United States Code.

(B) MAXIMUM.—The period of the contract under subsection (b) may exceed 5 years but may not exceed 10 years.

(4) OFFSETS.—

(A) IN GENERAL.—The Chief and the Director may apply the value of timber or other forest products removed as an offset against the cost of services received under the agreement or contract described in subsection (b).

(B) METHODS OF APPRAISAL.—The value of timber or other forest products used as an offset under subparagraph (A)—

(i) shall be determined using appropriate methods of appraisal commensurate with the quantity of products to be removed; and

(ii) may—

(I) be determined using a unit of measure appropriate to the contracts; and

(II) may include valuing products on a per-acre basis.

(5) RELATION TO OTHER LAWS.—Notwithstanding subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) [the Chief may] and section 2(a)(1) of the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 602(a)(1)), the Chief and the Director may enter into an agreement or contract under subsection (b).

(6) CONTRACTING OFFICER.—Notwithstanding any other provision of law, the Secretary or the Secretary of the Interior may determine the appropriate contracting officer to enter into and administer an agreement or contract under subsection (b).

(7) FIRE LIABILITY PROVISIONS.—Not later than 90 days after the date of enactment of this section, the Chief and the Director shall issue for use in all contracts and agreements under this section fire liability provisions that are in substantially the same form as the fire liability provisions contained in—

(A) integrated resource timber contracts, as described in the Forest Service contract numbered 2400–13, part H, section H.4; and

(B) timber sale contracts conducted pursuant to section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a).

(e) RECEIPTS.—

(1) IN GENERAL.—The Chief and the Director may collect monies from an agreement or contract under subsection (b) if the collection is a secondary objective of negotiating the contract that will best achieve the purposes of this section.

(2) USE.—Monies from an agreement or contract under subsection (b)—

(A) may be retained by the Chief and the Director; and

(B) *subject to paragraph (3)(A)*, shall be available for expenditure without further **appropriation** at the project site from which the monies are collected or at another project site. **appropriation—**

(i) *at the project site from which the monies are collected or at another project site; and*

(ii) *to cover not more than 25 percent of the cost of planning additional stewardship contracting projects.*

(3) RELATION TO OTHER LAWS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the value of **services received by the Chief or the Director under a stewardship contract project conducted under this section, and any payments made or resources provided by the contractor, Chief, or Director shall not be considered monies received from the National Forest System or the public lands.** *services and in-kind resources received by the Chief or the Director under a stewardship contract project conducted under this section shall not be considered monies received from the National Forest System or the public lands, but any payments made by the contractor to the Chief or Director under the project shall be considered monies received from the National Forest System or the public lands.*

(B) KNUTSON-VANDERBERG ACT.—The Act of June 9, 1930 (commonly known as the “Knutson-Vanderberg Act”) (16 U.S.C. 576 et seq.) shall not apply to any agreement or contract under subsection (b).

(f) COSTS OF REMOVAL.—Notwithstanding the fact that a contractor did not harvest the timber, the Chief may collect deposits from a contractor covering the costs of removal of timber or other forest products under—

(1) the Act of August 11, 1916 (16 U.S.C. 490); and

(2) the Act of June 30, 1914 (16 U.S.C. 498).

(g) PERFORMANCE AND PAYMENT GUARANTEES.—

(1) IN GENERAL.—The Chief and the Director may require performance and payment bonds under sections 28.103–2 and 28.103–3 of the Federal Acquisition Regulation, in an amount that the contracting officer considers sufficient to protect the investment in receipts by the Federal Government generated by the contractor from the estimated value of the forest products to be removed under a contract under subsection (b).

(2) EXCESS OFFSET VALUE.—If the offset value of the forest products exceeds the value of the resource improvement treatments, the Chief and the Director may—

**[(A) collect any residual receipts under the Act of June 9, 1930 (commonly known as the “Knutson-Vanderberg Act”) (16 U.S.C. 576 et seq.); and**

**[(B) apply the excess to other authorized stewardship projects.]**

*(A) use the excess to satisfy any outstanding liabilities for cancelled agreements or contracts; or*

(B) if there are no outstanding liabilities under subparagraph (A), apply the excess to other authorized stewardship projects.

(h) CANCELLATION CEILINGS.—

(1) IN GENERAL.—The Chief and the Director may obligate funds to cover any potential cancellation or termination costs for an agreement or contract under subsection (b) in stages that are economically or programmatically viable.

(2) ADVANCE NOTICE TO CONGRESS OF CANCELLATION CEILING IN EXCESS OF \$25,000,000.—Not later than 30 days before entering into a multiyear agreement or contract under subsection (b) that includes a cancellation ceiling in excess of \$25,000,000, but does not include proposed funding for the costs of cancelling the agreement or contract up to such cancellation ceiling, the Chief or the Director, as the case may be, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives a written notice that includes—

(A) the cancellation ceiling amounts proposed for each program year in the agreement or contract;

(B) the reasons why such cancellation ceiling amounts were selected;

(C) the extent to which the costs of contract cancellation are not included in the budget for the agreement or contract; and

(D) an assessment of the financial risk of not including budgeting for the costs of agreement or contract cancellation.

(3) TRANSMITTAL OF NOTICE TO OMB.—Not later than 14 days after the date on which written notice is provided under paragraph (2) with respect to an agreement or contract under subsection (b), the Chief or the Director, as the case may be, shall transmit a copy of the notice to the Director of the Office of Management and Budget.

[(h)] (i) MONITORING AND EVALUATION.—

(1) IN GENERAL.—The Chief and the Director shall establish a multiparty monitoring and evaluation process that accesses the stewardship contracting projects conducted under this section.

(2) PARTICIPANTS.—Other than the Chief and Director, participants in the process described in paragraph (1) may include—

(A) any cooperating governmental agencies, including tribal governments; and

(B) any other interested groups or individuals.

[(i)] (j) REPORTING.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Chief and the Director shall [report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives] submit to the congressional committees specified in subsection (h)(2) a report on—

(1) the status of development, execution, and administration of agreements or contracts under subsection (b);

(2) the specific accomplishments that have resulted; and

(3) the role of local communities in the development of agreements or contract plans.

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**SECURE RURAL SCHOOLS AND COMMUNITY SELF-  
DETERMINATION ACT OF 2000**

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**TITLE II—SPECIAL PROJECTS ON  
FEDERAL LAND**

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**SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY  
CONCERNED.**

(a) **CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.**—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

(1) The project complies with all applicable Federal laws (including regulations).

(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

(b) **ENVIRONMENTAL REVIEWS.**—

(1) **REQUEST FOR PAYMENT BY COUNTY.**—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

(2) **CONDUCT OF ENVIRONMENTAL REVIEW.**—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

(3) **EFFECT OF REFUSAL TO PAY.**—

(A) **IN GENERAL.**—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

- (B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).
- (c) DECISIONS OF SECRETARY CONCERNED.—
- (1) REJECTION OF PROJECTS.—
- (A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.
- (B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.
- (C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.
- (2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.
- (d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.
- (e) IMPLEMENTATION OF APPROVED PROJECTS.—
- (1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and non-profit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.
- (2) BEST VALUE CONTRACTING.—
- (A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.
- (B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—
- (i) the technical demands and complexity of the work to be done;
  - (ii)(I) the ecological objectives of the project; and  
(II) the sensitivity of the resources being treated;
  - (iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and
  - (iv) the commitment of the contractor to hiring highly qualified workers and local residents.
- [(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—
- [(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—



[(i) the harvesting or collection of merchantable timber; and

[(ii) the sale of the timber.

[(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

[(i) For fiscal year 2008, 35 percent.

[(ii) For fiscal year 2009, 45 percent.

[(iii) For fiscal year 2010 and fiscal years thereafter, 50 percent.

[(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

[(D) ASSISTANCE.—

[(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

[(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed \$1,000,000 for any fiscal year during which the pilot program is in effect.

[(E) REVIEW AND REPORT.—

[(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

[(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.]

[(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

[(1) to road maintenance, decommissioning, or obliteration; or

[(2) to restoration of streams and watersheds.]

(f) REQUIREMENTS FOR PROJECT FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary concerned shall ensure that at least 50 percent of the project funds reserved by a participating county under section 102(d) shall be available only for projects that—

(A) include the sale of timber or other forest products; and

*(B) implement stewardship objectives that enhance forest ecosystems or restore and improve land health and water quality.*

*(2) APPLICABILITY.—The requirement in paragraph (1) shall apply only to project funds reserved by a participating county whose boundaries include Federal land that the Secretary concerned determines has been subject to a timber or other forest products program within 5 fiscal years before the fiscal year in which the funds are reserved.*

**SEC. 205. RESOURCE ADVISORY COMMITTEES.**

(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

(2) PURPOSE.—The purpose of a resource advisory committee shall be—

(A) to improve collaborative relationships; and

(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

(4) EXISTING ADVISORY COMMITTEES.—

(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, [2012] 2020, or an advisory committee determined by the Secretary concerned before September 29, [2012] 2020, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, [2012] 2020, shall be considered to be filed for purposes of this Act.

(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

(b) DUTIES.—A resource advisory committee shall—

(1) review projects proposed under this title by participating counties and other persons;

(2) propose projects and funding to the Secretary concerned under section 203;

(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

(5)(A) monitor projects that have been approved under section 204; and

(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

(c) APPOINTMENT BY THE SECRETARY.—

(1) APPOINTMENT AND TERM.—

(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

(d) COMPOSITION OF ADVISORY COMMITTEE.—

(1) NUMBER.—**[Each]** *Except during the period specified in paragraph (6), each* resource advisory committee shall be comprised of 15 members.

(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

(A) 5 persons that—

(i) represent organized labor or non-timber forest product harvester groups;

(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

(iii) represent—

(I) energy and mineral development interests; or

(II) commercial or recreational fishing interests;

(iv) represent the commercial timber industry; or

(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

(B) 5 persons that represent—

(i) nationally recognized environmental organizations;

- (ii) regionally or locally recognized environmental organizations;
- (iii) dispersed recreational activities;
- (iv) archaeological and historical interests; or
- (v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

(C) 5 persons that—

- (i) hold State elected office (or a designee);
- (ii) hold county or local elected office;
- (iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;
- (iv) are school officials or teachers; or
- (v) represent the affected public at large.

(3) **BALANCED REPRESENTATION.**—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category, *consistent with the requirements of paragraph (4).*

[(4) **GEOGRAPHIC DISTRIBUTION.**—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).]

(4) **GEOGRAPHIC DISTRIBUTION.**—*The members of a resource advisory committee shall reside within the county or counties in which the committee has jurisdiction or an adjacent county.*

(5) **CHAIRPERSON.**—A majority on each resource advisory committee shall select the chairperson of the committee.

(6) **TEMPORARY REDUCTION IN MINIMUM NUMBER OF MEMBERS.**—

(A) **TEMPORARY 6-MEMBER MINIMUM.**—*During the period beginning on the date of the enactment of this paragraph and ending on September 30, 2020, a resource advisory committee established under this section may be comprised of 6 or more members, of which—*

- (i) *at least 2 shall be representative of interests described in subparagraph (A) of paragraph (2);*
- (ii) *at least 2 shall be representative of interests described in subparagraph (B) of paragraph (2); and*
- (iii) *at least 2 shall be representative of interests described in subparagraph (C) of paragraph (2).*

(B) **ADDITIONAL REQUIREMENTS.**—*In appointing members of a resource advisory committee from the 3 categories described in paragraph (2), as provided in subparagraph (A), the Secretary concerned shall ensure balanced and broad representation in each category. In the case of a vacancy on a resource advisory committee, the vacancy shall be filled within 90 days after the date on which the vacancy occurred. Appointments to a new resource advisory committee shall be made within 90 days after the date on which the decision to form the new resource advisory committee was made.*

(C) *CHARTER.*—A charter for a resource advisory committee with 15 members that was filed on or before the date of the enactment of this paragraph shall be considered to be filed for a resource advisory committee described in this paragraph. The charter of a resource advisory committee shall be reapproved before the expiration of the existing charter of the resource advisory committee. In the case of a new resource advisory committee, the charter of the resource advisory committee shall be approved within 90 days after the date on which the decision to form the new resource advisory committee was made.

(e) *APPROVAL PROCEDURES.*—

(1) *IN GENERAL.*—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

(2) *QUORUM.*—A quorum must be present to constitute an official meeting of the committee.

(3) *APPROVAL BY MAJORITY OF MEMBERS.*—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2). *In the case of a resource advisory committee consisting of fewer than 15 members, as authorized by subsection (d)(6), a project may be proposed to the Secretary concerned upon approval by a majority of the members of the committee.*

(f) *OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.*—

(1) *STAFF ASSISTANCE.*—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

(2) *MEETINGS.*—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

(3) *RECORDS.*—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

\* \* \* \* \*

**SEC. 209. PROGRAM FOR SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.**

(a) *RAC PROGRAM.*—The Chief of the Forest Service shall conduct a program (to be known as the “self-sustaining resource advisory committee program” or “RAC program”) under which 10 resource advisory committees will propose projects authorized by subsection (c) to be carried out using project funds reserved by a participating county under section 102(d).

(b) *SELECTION OF PARTICIPATING RESOURCE ADVISORY COMMITTEES.*—The selection of resource advisory committees to participate in the RAC program is in the sole discretion of the Chief of the Forest Service, except that, consistent with section 205(d)(6), a selected resource advisory committee must have a minimum of 6 members.

(c) *AUTHORIZED PROJECTS.*—Notwithstanding the project purposes specified in sections 202(b), 203(c), and 204(a)(5), projects under the RAC program are intended to—

- (1) *accomplish forest management objectives or support community development; and*
- (2) *generate receipts.*
- (d) *DEPOSIT AND AVAILABILITY OF REVENUES.—Any revenue generated by a project conducted under the RAC program, including any interest accrued from the revenues, shall be—*
  - (1) *deposited in the special account in the Treasury established under section 102(d)(2)(A); and*
  - (2) *available, in such amounts as may be provided in advance in appropriation Acts, for additional projects under the RAC program.*
- (e) *TERMINATION OF AUTHORITY.—*
  - (1) *IN GENERAL.—The authority to initiate a project under the RAC program shall terminate on September 30, 2020.*
  - (2) *DEPOSITS IN TREASURY.—Any funds available for projects under the RAC program and not obligated by September 30, 2021, shall be deposited in the Treasury of the United States.*

## TITLE III—COUNTY FUNDS

\* \* \* \* \*

### SEC. 302. USE.

- (a) *AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—*
  - (1) *to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;*
  - (2) *to reimburse the participating county for search and rescue and other emergency services, including firefighting and law enforcement patrols, that are—*
    - (A) *performed on Federal land after the date on which the use was approved under subsection (b); and*
    - (B) *paid for by the participating county; [and]*
  - (3) *to cover training costs and equipment purchases directly related to the emergency services described in paragraph (2); and*
  - [(3)] (4) *to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.*
- (b) *PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—*
  - (1) *publish in any publications of local record a proposal that describes the proposed use of the county funds; and*
  - (2) *submit the proposal to any resource advisory committee established under section 205 for the participating county.*

\* \* \* \* \*

## TITLE IV—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

### SEC. 403. TREATMENT OF FUNDS AND REVENUES.

(a) **RELATION TO OTHER APPROPRIATIONS.**—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

(b) **DEPOSIT OF REVENUES AND OTHER FUNDS.**—**[All revenues]** *Except as provided in section 209, all revenues* generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.

\* \* \* \* \*

### SECTION 4003 OF THE OMNIBUS PUBLIC LAND MANAGEMENT ACT OF 2009

#### SEC. 4003. COLLABORATIVE FOREST LANDSCAPE RESTORATION PROGRAM.

(a) **IN GENERAL.**—The Secretary, in consultation with the Secretary of the Interior, shall establish a Collaborative Forest Landscape Restoration Program to select and fund ecological restoration treatments for priority forest landscapes in accordance with—

(1) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(3) any other applicable law.

(b) **ELIGIBILITY CRITERIA.**—To be eligible for nomination under subsection (c), a collaborative forest landscape restoration proposal shall—

(1) be based on a landscape restoration strategy that—

(A) is complete or substantially complete;

(B) identifies and prioritizes ecological restoration treatments for a 10-year period within a landscape that is—

(i) at least 50,000 acres;

(ii) comprised primarily of forested National Forest System land, but may also include land under the jurisdiction of the Bureau of Land Management, land under the jurisdiction of the Bureau of Indian Affairs, or other Federal, State, tribal, or private land;

(iii) in need of active ecosystem restoration; and

(iv) accessible by existing or proposed wood-processing infrastructure at an appropriate scale to use woody biomass and small-diameter wood removed in ecological restoration treatments;

(C) incorporates the best available science and scientific application tools in ecological restoration strategies;

(D) fully maintains, or contributes toward the restoration of, the structure and composition of old growth stands

according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health and retaining the large trees contributing to old growth structure;

(E) would carry out any forest restoration treatments that reduce hazardous fuels by—

(i) focusing on small diameter trees, thinning, strategic fuel breaks, and fire use to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(ii) maximizing the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands; and

(F)(i) does not include the establishment of permanent roads; and

(ii) would commit funding to decommission all temporary roads constructed to carry out the strategy;

(2) be developed and implemented through a collaborative process that—

(A) includes multiple interested persons representing diverse interests; and

(B)(i) is transparent and nonexclusive; or

(ii) meets the requirements for a resource advisory committee under subsections (c) through (f) of section 205 of Public Law 106-393 (16 U.S.C. 500 note);

(3) describe plans to—

(A) reduce the risk of uncharacteristic wildfire, including through the use of fire for ecological restoration and maintenance and reestablishing natural fire regimes, where appropriate;

(B) improve fish and wildlife habitat, including for endangered, threatened, and sensitive species;

(C) maintain or improve water quality and watershed function;

(D) prevent, remediate, or control invasions of exotic species;

(E) maintain, decommission, and rehabilitate roads and trails;

(F) use woody biomass and small-diameter trees produced from projects implementing the strategy;

(G) report annually on performance, including through performance measures from the plan entitled the “10 Year Comprehensive Strategy Implementation Plan” and dated December 2006; and

(H) take into account any applicable community wildfire protection plan;

(4) analyze any anticipated cost savings, including those resulting from—

(A) reduced wildfire management costs; and

(B) a decrease in the unit costs of implementing ecological restoration treatments over time;

(5) estimate—



- (A) the annual Federal funding necessary to implement the proposal; and
- (B) the amount of new non-Federal investment for carrying out the proposal that would be leveraged;
- (6) describe the collaborative process through which the proposal was developed, including a description of—
  - (A) participation by or consultation with State, local, and Tribal governments; and
  - (B) any established record of successful collaborative planning and implementation of ecological restoration projects on National Forest System land and other land included in the proposal by the collaborators; and
- (7) benefit local economies by providing local employment or training opportunities through contracts, grants, or agreements for restoration planning, design, implementation, or monitoring with—
  - (A) local private, nonprofit, or cooperative entities;
  - (B) Youth Conservation Corps crews or related partnerships, with State, local, and non-profit youth groups;
  - (C) existing or proposed small or micro-businesses, clusters, or incubators; or
  - (D) other entities that will hire or train local people to complete such contracts, grants, or agreements; and
- (8) be subject to any other requirements that the Secretary, in consultation with the Secretary of the Interior, determines to be necessary for the efficient and effective administration of the program.

(c) NOMINATION PROCESS.—

- (1) SUBMISSION.—A proposal shall be submitted to—
  - (A) the appropriate Regional Forester; and
  - (B) if actions under the jurisdiction of the Secretary of the Interior are proposed, the appropriate—
    - (i) State Director of the Bureau of Land Management;
    - (ii) Regional Director of the Bureau of Indian Affairs; or
    - (iii) other official of the Department of the Interior.
- (2) NOMINATION.—
  - (A) IN GENERAL.—A Regional Forester may nominate for selection by the Secretary any proposals that meet the eligibility criteria established by subsection (b).
  - (B) CONCURRENCE.—Any proposal nominated by the Regional Forester that proposes actions under the jurisdiction of the Secretary of the Interior shall include the concurrence of the appropriate—
    - (i) State Director of the Bureau of Land Management;
    - (ii) Regional Director of the Bureau of Indian Affairs; or
    - (iii) other official of the Department of the Interior.
- (3) DOCUMENTATION.—With respect to each proposal that is nominated under paragraph (2)—
  - (A) the appropriate Regional Forester shall—
    - (i) include a plan to use Federal funds allocated to the region to fund those costs of planning and carrying

out ecological restoration treatments on National Forest System land, consistent with the strategy, that would not be covered by amounts transferred to the Secretary from the Fund; and

(ii) provide evidence that amounts proposed to be transferred to the Secretary from the Fund during the first 2 fiscal years following selection would be used to carry out ecological restoration treatments consistent with the strategy during the same fiscal year in which the funds are transferred to the Secretary;

(B) if actions under the jurisdiction of the Secretary of the Interior are proposed, the nomination shall include a plan to fund such actions, consistent with the strategy, by the appropriate—

(i) State Director of the Bureau of Land Management;

(ii) Regional Director of the Bureau of Indian Affairs; or

(iii) other official of the Department of the Interior; and

(C) if actions on land not under the jurisdiction of the Secretary or the Secretary of the Interior are proposed, the appropriate Regional Forester shall provide evidence that the landowner intends to participate in, and provide appropriate funding to carry out, the actions.

(d) SELECTION PROCESS.—

(1) IN GENERAL.—After consulting with the advisory panel established under subsection (e), the Secretary, in consultation with the Secretary of the Interior, shall, subject to paragraph (2), select the best proposals that—

(A) have been nominated under subsection (c)(2); and

(B) meet the eligibility criteria established by subsection (b).

(2) CRITERIA.—In selecting proposals under paragraph (1), the Secretary shall give special consideration to—

(A) the strength of the proposal and strategy;

(B) the strength of the ecological case of the proposal and the proposed ecological restoration strategies;

(C) the strength of the collaborative process and the likelihood of successful collaboration throughout implementation;

(D) whether the proposal is likely to achieve reductions in long-term wildfire management costs;

(E) whether the proposal would reduce the relative costs of carrying out ecological restoration treatments as a result of the use of woody biomass and small-diameter trees; and

(F) whether an appropriate level of non-Federal investment would be leveraged in carrying out the proposal.

(3) LIMITATION.—The Secretary may select not more than—

(A) 10 proposals to be funded during any fiscal year;

(B) 2 proposals in any 1 region of the National Forest System to be funded during any fiscal year; and

(C) the number of proposals that the Secretary determines are likely to receive adequate funding.

## (e) ADVISORY PANEL.—

(1) IN GENERAL.—The Secretary shall establish and maintain an advisory panel comprised of not more than 15 members to evaluate, and provide recommendations on, each proposal that has been nominated under subsection (c)(2).

(2) REPRESENTATION.—The Secretary shall ensure that the membership of the advisory panel is fairly balanced in terms of the points of view represented and the functions to be performed by the advisory panel.

(3) INCLUSION.—The advisory panel shall include experts in ecological restoration, fire ecology, fire management, rural economic development, strategies for ecological adaptation to climate change, fish and wildlife ecology, and woody biomass and small-diameter tree utilization.

## (f) COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the “Collaborative Forest Landscape Restoration Fund”, to be used to pay up to 50 percent of the cost of ~~carrying out and~~ *planning, carrying out, and* monitoring ecological restoration treatments on National Forest System land for each proposal selected to be carried out under subsection (d).

(2) INCLUSION.—The cost of carrying out ecological restoration treatments as provided in paragraph (1) may, as the Secretary determines to be appropriate, include cancellation and termination costs required to be obligated for contracts to carry out ecological restoration treatments on National Forest System land for each proposal selected to be carried out under subsection (d).

(3) CONTENTS.—The Fund shall consist of such amounts as are appropriated to the Fund under paragraph (6).

## (4) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—On request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are appropriate, in accordance with paragraph (1).

(B) LIMITATION.—The Secretary shall not expend money from the Fund on any 1 proposal—

- (i) during a period of more than 10 fiscal years; or
- (ii) in excess of \$4,000,000 in any 1 fiscal year.

(5) ACCOUNTING AND REPORTING SYSTEM.—The Secretary shall establish an accounting and reporting system for the Fund.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund \$40,000,000 for each of fiscal years 2009 through 2019, to remain available until expended.

## (g) PROGRAM IMPLEMENTATION AND MONITORING.—

(1) WORK PLAN.—Not later than 180 days after the date on which a proposal is selected to be carried out, the Secretary shall create, in collaboration with the interested persons, an implementation work plan and budget to implement the proposal that includes—

- (A) a description of the manner in which the proposal would be implemented to achieve ecological and commu-

nity economic benefit, including capacity building to accomplish restoration;

(B) a business plan that addresses—

(i) the anticipated unit treatment cost reductions over 10 years;

(ii) the anticipated costs for infrastructure needed for the proposal;

(iii) the projected sustainability of the supply of woody biomass and small-diameter trees removed in ecological restoration treatments; and

(iv) the projected local economic benefits of the proposal;

(C) documentation of the non-Federal investment in the priority landscape, including the sources and uses of the investments; and

(D) a plan to decommission any temporary roads established to carry out the proposal.

(2) PROJECT IMPLEMENTATION.—Amounts transferred to the Secretary from the Fund shall be used to carry out ecological restoration treatments that are—

(A) consistent with the proposal and strategy; and

(B) identified through the collaborative process described in subsection (b)(2).

(3) ANNUAL REPORT.—The Secretary, in collaboration with the Secretary of the Interior and interested persons, shall prepare an annual report on the accomplishments of each selected proposal that includes—

(A) a description of all acres (or other appropriate unit) treated and restored through projects implementing the strategy;

(B) an evaluation of progress, including performance measures and how prior year evaluations have contributed to improved project performance;

(C) a description of community benefits achieved, including any local economic benefits;

(D) the results of the multiparty monitoring, evaluation, and accountability process under paragraph (4); and

(E) a summary of the costs of—

(i) treatments; and

(ii) relevant fire management activities.

(4) MULTIPARTY MONITORING.—The Secretary shall, in collaboration with the Secretary of the Interior and interested persons, use a multiparty monitoring, evaluation, and accountability process to assess the positive or negative ecological, social, and economic effects of projects implementing a selected proposal for not less than 15 years after project implementation commences.

(h) REPORT.—Not later than 5 years after the first fiscal year in which funding is made available to carry out ecological restoration projects under the program, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall submit a report on the program, including an assessment of whether, and to what extent, the program is fulfilling the purposes of this title, to—

- (1) the Committee on Energy and Natural Resources of the Senate;
- (2) the Committee on Appropriations of the Senate;
- (3) the Committee on Natural Resources of the House of Representatives; and
- (4) the Committee on Appropriations of the House of Representatives.

## TRIBAL FOREST PROTECTION ACT OF 2004

\* \* \* \* \*

### SEC. 2. TRIBAL FOREST ASSETS PROTECTION.

#### (a) DEFINITIONS.—In this section:

##### (1) FEDERAL LAND.—The term “Federal land” means—

(A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

##### (2) INDIAN FOREST LAND OR RANGELAND.—The term “Indian forest land or rangeland” means land that—

(A) is held in trust by, or with a restriction against alienation by, the United States for an Indian tribe or a member of an Indian tribe; and

(B)(i)(I) is Indian forest land (as defined in section 304 of the National Indian Forest Resources Management Act (25 U.S.C. 3103)); or

(II) has a cover of grasses, brush, or any similar vegetation; or

(ii) formerly had a forest cover or vegetative cover that is capable of restoration.

##### (3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

##### (4) SECRETARY.—The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to land under the jurisdiction of the Forest Service; and

(B) the Secretary of the Interior, with respect to land under the jurisdiction of the Bureau of Land Management.

#### (b) AUTHORITY TO PROTECT INDIAN FOREST LAND OR RANGELAND.—

(1) IN GENERAL.—[Not later than 120 days after the date on which an Indian tribe submits to the Secretary] *In response to the submission by an Indian tribe of a request to enter into an agreement or contract to carry out a project to protect Indian forest land or rangeland (including a project to restore Federal land that borders on or is adjacent to Indian forest land or rangeland) that meets the criteria described in subsection (c), the Secretary may issue public notice of initiation of any nec-*

essary environmental review or of the potential of entering into an agreement or contract with the Indian tribe pursuant to [section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275))] *section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c)*, or such other authority as appropriate, under which the Indian tribe would carry out activities described in paragraph (3).

(2) ENVIRONMENTAL ANALYSIS.—Following completion of any necessary environmental analysis, the Secretary may enter into an agreement or contract with the Indian tribe as described in paragraph (1).

(3) ACTIVITIES.—Under an agreement or contract entered into under paragraph (2), the Indian tribe may carry out activities to achieve land management goals for Federal land that is—

- (A) under the jurisdiction of the Secretary; and
- (B) bordering or adjacent to the Indian forest land or rangeland under the jurisdiction of the Indian tribe.

(4) TIME PERIODS FOR CONSIDERATION.—

(A) INITIAL RESPONSE.—*Not later than 120 days after the date on which the Secretary receives a tribal request under paragraph (1), the Secretary shall provide an initial response to the Indian tribe regarding—*

- (i) whether the request may meet the selection criteria described in subsection (c); and*
- (ii) the likelihood of the Secretary entering into an agreement or contract with the Indian tribe under paragraph (2) for activities described in paragraph (3).*

(B) NOTICE OF DENIAL.—*Notice under subsection (d) of the denial of a tribal request under paragraph (1) shall be provided not later than one year after the date on which the Secretary received the request.*

(C) COMPLETION.—*Not later than two years after the date on which the Secretary receives a tribal request under paragraph (1), other than a tribal request denied under subsection (d), the Secretary shall—*

- (i) complete all environmental reviews necessary in connection with the agreement or contract and proposed activities under the agreement or contract; and*
- (ii) enter into the agreement or contract with the Indian tribe under paragraph (2).*

(c) SELECTION CRITERIA.—The criteria referred to in subsection (b), with respect to an Indian tribe, are whether—

(1) the Indian forest land or rangeland under the jurisdiction of the Indian tribe borders on or is adjacent to land under the jurisdiction of the Forest Service or the Bureau of Land Management;

(2) Forest Service or Bureau of Land Management land bordering on or adjacent to the Indian forest land or rangeland under the jurisdiction of the Indian tribe—

- (A) poses a fire, disease, or other threat to—

- (i) the Indian forest land or rangeland under the jurisdiction of the Indian tribe; or
  - (ii) a tribal community; or
- (B) is in need of land restoration activities;
- (3) the agreement or contracting activities applied for by the Indian tribe are not already covered by a stewardship contract or other instrument that would present a conflict on the subject land; and
- (4) the Forest Service or Bureau of Land Management land described in the application of the Indian tribe presents or involves a feature or circumstance unique to that Indian tribe (including treaty rights or biological, archaeological, historical, or cultural circumstances).
- (d) NOTICE OF DENIAL.—If the Secretary denies a tribal request under [subsection (b)(1), the Secretary may] *paragraphs (1) and (4)(B) of subsection (b), the Secretary shall* issue a notice of denial to the Indian tribe, which—
  - (1) identifies the specific factors that caused, and explains the reasons that support, the denial;
  - (2) identifies potential courses of action for overcoming specific issues that led to the denial; and
  - (3) proposes a schedule of consultation with the Indian tribe for the purpose of developing a strategy for protecting the Indian forest land or rangeland of the Indian tribe and interests of the Indian tribe in Federal land.
- (e) PROPOSAL EVALUATION AND DETERMINATION FACTORS.—In entering into an agreement or contract in response to a request of an Indian tribe under subsection (b)(1), the Secretary may—
  - (1) use a best-value basis; and
  - (2) give specific consideration to tribally-related factors in the proposal of the Indian tribe, including—
    - (A) the status of the Indian tribe as an Indian tribe;
    - (B) the trust status of the Indian forest land or rangeland of the Indian tribe;
    - (C) the cultural, traditional, and historical affiliation of the Indian tribe with the land subject to the proposal;
    - (D) the treaty rights or other reserved rights of the Indian tribe relating to the land subject to the proposal;
    - (E) the indigenous knowledge and skills of members of the Indian tribe;
    - (F) the features of the landscape of the land subject to the proposal, including watersheds and vegetation types;
    - (G) the working relationships between the Indian tribe and Federal agencies in coordinating activities affecting the land subject to the proposal; and
    - (H) the access by members of the Indian tribe to the land subject to the proposal.
- (f) NO EFFECT ON EXISTING AUTHORITY.—Nothing in this Act—
  - (1) prohibits, restricts, or otherwise adversely affects the participation of any Indian tribe in stewardship agreements or contracting under the authority of [section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275))] *section 604*

*of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c) or other authority invoked pursuant to this Act; or*

(2) invalidates any agreement or contract under that authority.

(g) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the Indian tribal requests received and agreements or contracts that have been entered into under this Act.

## SECTION 305 OF THE NATIONAL INDIAN FOREST RESOURCES MANAGEMENT ACT

\* \* \* \* \*

### SEC. 305. MANAGEMENT OF INDIAN FOREST LAND.

(a) MANAGEMENT ACTIVITIES.—The Secretary shall undertake forest land management activities on Indian forest land, either directly or through contracts, cooperative agreements, or grants under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(b) MANAGEMENT OBJECTIVES.—Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives—

(1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in forest management plans by providing effective management and protection through the application of sound silvicultural and economic principles to—

- (A) the harvesting of forest products,
- (B) forestation,
- (C) timber stand improvement, and
- (D) other forestry practices;

(2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of forest management plans which are supported by written tribal objectives and forest marketing programs;

(3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity and a perpetual forest business;

(4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest land not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;

(5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;

(6) the management and protection of forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and



(7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values.

*(c) INCLUSION OF CERTAIN NATIONAL FOREST SYSTEM LAND AND PUBLIC LAND.—*

*(1) AUTHORITY.—At the request of an Indian tribe, the Secretary concerned may treat Federal forest land as Indian forest land for purposes of planning and conducting forest land management activities under this section if the Federal forest land is located within, or mostly within, a geographic area that presents a feature or involves circumstances principally relevant to that Indian tribe, such as Federal forest land ceded to the United States by treaty, Federal forest land within the boundaries of a current or former reservation, or Federal forest land adjudicated to be tribal homelands.*

*(2) REQUIREMENTS.—As part of the agreement to treat Federal forest land as Indian forest land under paragraph (1), the Secretary concerned and the Indian tribe making the request shall—*

*(A) provide for continued public access applicable to the Federal forest land prior to the agreement, except that the Secretary concerned may limit or prohibit such access as needed;*

*(B) continue sharing revenue generated by the Federal forest land with State and local governments either—*

*(i) on the terms applicable to the Federal forest land prior to the agreement, including, where applicable, 25-percent payments or 50 percent payments; or*

*(ii) at the option of the Indian tribe, on terms agreed upon by the Indian tribe, the Secretary concerned, and State and county governments participating in a revenue sharing agreement for the Federal forest land;*

*(C) comply with applicable prohibitions on the export of unprocessed logs harvested from the Federal forest land; and*

*(D) recognize all right-of-way agreements in place on Federal forest land prior to commencement of tribal management activities.*

*(3) LIMITATION.—Treating Federal forest land as Indian forest land for purposes of planning and conducting management activities pursuant to paragraph (1) shall not be construed to designate the Federal forest land as Indian forest lands for any other purpose.*

*(4) DEFINITIONS.—In this subsection:*

*(A) FEDERAL FOREST LAND.—The term “Federal forest land” means—*

*(i) National Forest System lands; and*

*(ii) public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))), including Coos Bay Wagon Road Grant lands reconveyed to the United States pursuant to the first section of the Act of February 26, 1919 (40 Stat. 1179), and Oregon and California Railroad Grant lands.*

(B) *SECRETARY CONCERNED.*—The term “Secretary concerned” means—

(i) the Secretary of Agriculture, with respect to the Federal forest land referred to in subparagraph (A)(i); and

(ii) the Secretary of the Interior, with respect to the Federal forest land referred to in subparagraph (A)(ii).

### ACT OF JUNE 9, 1930

AN ACT Authorizing the Secretary of Agriculture to enlarge treeplanting operations on national forests, and for other purposes.

\* \* \* \* \*

SEC. 3. (a) [The Secretary of Agriculture may, when in his or her judgment such action will be in the public interest, require any purchaser] *The Secretary of Agriculture shall require each purchaser of national-forest timber to make deposits of money, in addition to the payments for the timber, to cover the cost to the United States of (1) planting (including the production or purchase of young trees), (2) sowing with tree seeds (including the collection or purchase of such seeds), (3) cutting, destroying, or otherwise removing undesirable trees or other growth, on the national-forest land cut over by the purchaser, in order to improve the future stand of timber, (4) protecting and improving the future productivity of the renewable resources of the forest land on such sale area, including sale area improvement operations maintenance and construction, reforestation and wildlife habitat management, or (5) watershed restoration, wildlife habitat improvement, control of insects, disease and noxious weeds, community protection activities, and the maintenance of forest roads, within the Forest Service region in which the timber sale occurred: Provided, That such activities may be performed through the use of contracts, forest product sales, and cooperative agreements. [Such deposits] (b) Amounts deposited under subsection (a) shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, to cover the cost to the United States of such tree planting, seed sowing, and forest improvement work, as the Secretary of Agriculture may direct: Provided, That any portion of any deposit found to be in excess of the cost of doing said work shall, upon the determination that it is so in excess, be transferred to miscellaneous receipts forest reserve fund, as a national-forest receipt of the fiscal year in which such transfer is made: Provide further, That the Secretary of Agriculture is authorized, upon application of the Secretary of the Interior, to furnish seedlings and/or young trees for replanting of burned-over areas in any national park.*

(c)(1) *Amounts in the special fund established pursuant to this section—*

(A) *shall be used exclusively to implement activities authorized by subsection (a); and*

(B) *may be used anywhere within the Forest Service Region from which the original deposits were collected.*

(2) *The Secretary of Agriculture may not deduct overhead costs from the funds collected under subsection (a), except as needed to*

*fund personnel of the responsible Ranger District for the planning and implementation of the activities authorized by subsection (a).*

[(c)] (d) Any portion of the balance at the end of a fiscal year in the special fund established pursuant to this section that the Secretary of Agriculture determines to be in excess of the cost of doing work described in subsection (a) (as well as any portion of the balance in the special fund that the Secretary determined, before October 1, 2004, to be excess of the cost of doing work described in subsection (a), but which has not been transferred by that date) shall be transferred to miscellaneous receipts, National Forest Fund, as a National Forest receipt, but only if the Secretary also determines that—

(1) the excess amounts will not be needed for emergency wildfire suppression during the fiscal year in which the transfer would be made; and

(2) the amount to be transferred to miscellaneous receipts, National Forest Fund, exceeds the outstanding balance of unreimbursed funds transferred from the special fund in prior fiscal years for wildfire suppression.

\* \* \* \* \*

## DISSENTING VIEWS

H.R. 2647 claims to promote forest health and reduce wildfire risk on public lands by providing broad exemptions from environmental analyses required under the National Environmental Policy Act (NEPA) and restricting judicial review of authorized forest management activities. The bill applies to forests managed by the National Forest Service as well as those managed by the Bureau of Land Management. Sponsors of the bill claim that these sweeping exemptions of bedrock environmental safeguards, and disregard for the right of American citizens to confront their government, are necessary to incentivize collaboration and increase the pace and scale of restoration projects.

Unfortunately, the bill fails to address the biggest obstacle to restoration and collaboration: the cost of large wildfires. In recent years, firefighting costs have consumed over fifty percent of the Forest Service's budget, with the largest one percent of wildfires accounting for thirty percent of those costs. The costs of large, complex wildfires force the Forest Service to transfer funds away from programs that promote forest health and mitigate wildfire risk in order to fund wildfire suppression. This counterintuitive practice, commonly known as "fire borrowing," will continue to divert huge sums of money from forest management activities until Congress provides a solution. H.R. 2647 ignores this reality.

Instead of addressing the wildfire funding issue, which the Chief of the Forest Service has described as the agency's number one concern, this bill authorizes a range of forest management activities with limited environmental review and public participation.

Title I creates several new Categorical Exclusions (CE) under NEPA. CEs are reserved for categories of actions which do not individually or cumulatively have a significant effect on the human environment and, for which, neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required unless there are extraordinary circumstances, as described by the agency. All of the CEs established by H.R. 2647 lack the customary sideboards that determine the circumstances in which the covered activity has environmental impacts that require the preparation of an EA or EIS. Without articulating these extraordinary circumstances, the language becomes a waiver of NEPA's requirement.

The bill creates a CE to address insect or disease infestation, reduce hazardous fuels, protect municipal water sources, maintain, enhance, or modify critical habitat for threatened or endangered species, increase water yield, or any combination of these purposes. The CE can be up to 5,000 acres or up to 15,000 acres if the forest management activity is either developed through a collaborative process, proposed by a resources advisory committee, or covered by a community wildfire protection plan. The 2014 Farm Bill created

a CE for collaboratively-developed insect and disease treatment projects up to 3,000 acres in size that preserve old growth forests and focus on scientifically sound ecological restoration. This bill increases the project size five-fold while dropping the emphasis on old growth protection and sound science.

Second, the bill creates a CE for a salvage operation as part of restoration of National Forest Service System lands or other public lands after a catastrophic event. The area covered by the CE can be up to 5,000 acres, and the harvest area covered by the CE cannot exceed one-third of the area burned by the wildfire. This is 20 times larger than the current 250 acre authority for salvage logging CEs. At mark-up, the majority adopted an amendment that removed language that limited temporary road construction to one square mile. The amendment also removed a requirement to comply with standards and guidelines for stream buffers. Failure to adequately address stream protection and limit temporary road construction could lead to significant ecological impacts. Salvage logging operations occur in ecologically sensitive post-fire landscapes and require careful consideration.

Third, H.R. 2647 establishes a CE to improve, enhance, or create successional forests for wildlife habitat improvement and other purposes for management activities up to 5,000 acres. Establishment of early successional forests is typically achieved through clear cutting. Clear cuts are not currently authorized under Forest Service NEPA guidance and this bill could lead to nearly 8 square mile clear cuts with limited review of the impacts on wildlife, water quality, and other ecosystem services.

Lastly, an amendment was added to the bill at mark-up that creates a CE for projects intended to improve, restore, and reduce the risk of wildfire. This broad CE could apply to a multitude of management activities, including the use of pesticides in forests, without careful consideration. Current Forest Service practice excludes the use of herbicides or pesticides from consideration under the CE for hazardous fuels reduction which was authorized under the Healthy Forest Restoration Act of 2003.

Title II requires a NEPA environmental assessment to be completed within three months for a salvage operation or reforestation of National Forest System lands or public lands following a large-scale catastrophic event (over 10,000 acres). Rushing the NEPA process could have unfortunate long-term results, such as creating highly flammable tree plantations, if potential environmental effects are not well considered. Title II also requires the reforestation to achieve 75 percent of the fire-impacted lands within the five year period following the conclusion of the wildfire. The Forest Service testified in opposition to both of these unrealistic timelines and project goals.

Lastly, this section of the bill prohibits restraining orders and preliminary injunctions with respect to any decision to prepare or conduct a salvage operation or reforestation in response to a catastrophic event and prevents relief pending review from applying to any challenge to such a salvage operation or reforestation activity. Salvage operations should be considered on a case-by-case basis and subject to environmental review.

Title III would require litigants challenging projects developed under collaborative framework to put up a bond covering all litigation expenses of the government. Plaintiffs would only get their bond back if they prevailed on all their claims. Further, it would not allow litigants to recover attorney's fees under Equal Access to Justice Act (EAJA). It is a fundamental principle of American law and our system of separation of powers that citizens can turn to the legal system to hold the government accountable. A citizen holding their government accountable can ensure agency compliance with statutory mandates that Congress enacted, such as requiring public input and participation. Title III treats judicial review of agency decisions as an annoyance to be minimized. The result of this bill would be to prevent any plaintiffs except large companies with deep pockets, from bringing suit. The fee-shifting provisions in section 302 are especially extreme. The bill envisions a new world order: if the plaintiff loses, the plaintiff pays the government's fees; if the plaintiff fails to win every claim, the plaintiff pays the government's fees; and if the government loses, there is no return fee-shifting in favor of the plaintiff.

Sponsors of the bill claim they want to limit the federal government's power and to empower individuals, but this does the exact opposite—it's all about making sure the Federal government can do exactly what it wants without having to worry about pesky legal challenges filed by annoying American taxpayers. Our civil justice system is not designed to work to benefit the mighty and ignore the small and blocking access to the courts does nothing to make our forests more resilient.

Title IV amends the Secure Rural Schools and Community Self-Determination Act (SRS) Title II by repealing the existing requirement to dedicate at least 50 percent of the Title II funding to stream and watershed restoration or road maintenance or removal. Instead, it would require that at least 50 percent of the Title II funds in each county to be used exclusively for stewardship projects that "include the sale of timber or other forest products" and "implement stewardship objectives that enhance the forest ecosystems or restore and improve land health quality." This directs funds away from their original purpose, changing the orientation of the program from restoration to timber sale driven revenue generation.

Title VIII includes a provision that would require Forest Service land managers to consult with affected county commissioners and solicit possible alternatives prior to decommissioning any closed or primitive road that is located in a "designated high fire prone area" of the National Forests. Adding procedural hurdles does nothing to improve forest health or reduce wildfire risk.

All told, the potential effects of H.R. 2647 are difficult to enumerate. Significant collaborative efforts have brought together a diverse range of stakeholders to plan and implement forest management activities across the National Forest System. The top-down, Congress-knows-best approach advanced by this bill threatens to unravel the trust that has been developed and tear apart the incentive to collaborate. For that reason and those described above, we cannot support this bill in its current form.

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