

**Statement of Leslie Weldon**  
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**Forest Service**  
**United States Department of Agriculture**  
**Before the United States Senate**  
**Committee on Energy and Natural Resources**  
**Subcommittee on Public Lands, Forests and Mining**  
**November 20, 2013**  
**Concerning**  
**S. 1479**  
**Catastrophic Wildfire Prevention Act of 2013**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 1479, which proposes to expedite forest management projects relating to hazardous fuels reduction.

USDA acknowledges the need to increase the pace and scope of restoration on this nation's forests, but opposes S. 1479 because of numerous provisions which would reduce environmental analysis, resource protections, and the opportunities for public participation in agency decision making. We are concerned that this approach will repolarize forest policy in a way that is detrimental to our goal of restoring the nation's forests.

USDA defers to the Department of the Interior regarding the impact of the legislation on the Department's programs and authorities.

S. 1479 would direct the Secretary to carry out authorized wildfire mitigation projects in at-risk forests and on threatened and endangered species habitat. Authorized wildfire mitigation projects are projects that reduce hazardous fuels, restore forests or watersheds, or protect threatened and endangered species habitat, and include livestock grazing and

timber harvests. The Secretary would be required to review a petition to designate National Forest System land as an at-risk forest and as threatened and endangered species habitat within 60 days of its receipt to determine whether to make the designation.

The bill would alter the process for reviewing a proposed wildfire mitigation project. The Secretary would be required to publish a notice of the project in the *Federal Register* and provide a 30-day comment period for the public to submit written comments on the proposal to the Secretary. Within 60 days of publication, the Secretary would be required to designate the final authorized wildfire mitigation project and publish notice of the designation in the *Federal Register*. Persons who commented on the proposal would have 30 days to submit written comments on the final project.

If the proposed project includes timber harvesting or grazing, the Secretary would be required to complete an environmental assessment (EA) under National Environmental Policy Act (NEPA) within 30 days of the initial *Federal Register* notice of the proposed project. If that deadline is not met, the project would be deemed compliant with all requirements of NEPA. An EA would be considered sufficient for grazing for a minimum of 10 years and for a timber harvest project for a minimum of 20 years. Only the proposed agency action would need to be considered in the EA.

Compliance with the notice and review requirements of Section 4 for any authorized wildfire mitigation project would be deemed to satisfy the requirements NEPA, Section 14 of the National Forest Management Act, the Endangered Species Act, and the Multiple Use Sustained Yield Act.

The administrative and judicial review provisions of the Healthy Forests Restoration Act of 2003 would apply.

#### COMMENTS AND CONCERNS

There are many programs within the Forest Service that can reduce the risk of catastrophic wildland fires. These include Integrated Resource Restoration, Collaborative Forest Landscape Restoration, Hazardous Fuels, Federal and cooperative

Forest Health programs, Stewardship Contracting, Good Neighbor Authority, State Fire Assistance and others. One example is the Western Watershed Enhancement Partnership announced this past summer as part of the President's Climate Action Plan, which reduces the risk of wildfire to critical water supplies. Approaches to restoring fire-adapted ecosystems often require treatment or removal of excess fuels (e.g., through mechanical thinning, prescribed fire, or a combination of the two) that reduce tree densities in uncharacteristically crowded forest, and application of fire to promote the growth of native plants and reestablish desired vegetation and fuel conditions.

Fuel treatments result in healthier ecosystems that are more resilient to disturbance and a changing climate and that provide the many benefits society wants and needs, including climate resilience, clean water, scenic and recreational values, wood products, biodiversity, community preparedness to better withstand wildfire, and safer conditions for firefighters. Fuel treatments change fire behavior, decrease fire size and intensity, divert fire away from high value resources, and can result in reduced suppression costs.

In FY 2012, the Forest Service treated a total of 2 million acres, which included 1.2 million acres of prescribed fire treatments, 662,500 acres of mechanical treatments to reduce hazardous fuels, and 141,300 acres of wildfire management to reduce hazardous fuels. The wildland-urban interface (WUI) remains the highest priority. Nearly 1.3 million acres of the total hazardous fuels reduction acres were in the WUI. Of these treatments, 93 percent of the acres treated were identified as a treatment priority in a community wildfire protection plan or an equivalent collaborative plan. Hazardous fuels treatments also produced 2.8 million green tons of wood biomass used for energy and nearly 500 million board feet (MMBF) of wood products. We are working with the Department of the Interior and our partners to improve the implementation of these activities on NFS and other public lands.

While the Administration is very supportive of reducing wildfire risk, the Administration believes that some provisions in the bill would reduce environmental analysis, resource protections, and opportunities for public participation in agency decision making. The Administration's concerns with S. 1479 are outlined below.

Section 3 of S. 1479 would allow authorized wildfire mitigation projects to be carried out in inventoried roadless or wilderness study areas. Statutorily designated wilderness study areas are typically managed in a manner so as to maintain their wilderness character and potential. The 2001 Roadless Area Conservation Rule also contains a general prohibition of road building in inventoried roadless areas. The Roadless Rule already permits timber cutting only under limited exceptions, such as removing small diameter timber to reduce the risk of uncharacteristic wildfire effects while maintaining or improving roadless area characteristics. As such, the Section 3 provisions appear unnecessary.

Section 4(c) provides that domestic grazing may be used in an authorized wildfire mitigation project, but in such cases, utilization standards shall not be applied. USDA does not object to including grazing in authorized wildfire mitigation projects, but we do not support doing so without the application of utilization standards. Utilization is commonly understood to be that portion of the current year's forage growth lost to grazing or trampling. Utilization standards are set on a site-specific basis to prevent key forage species from being detrimentally affected by grazing use in the long term. Utilization standards help prevent excessive forage removal or soil erosion which could lead to permanent reduction in forage production and grazing capability. Appropriate utilization levels would help meet the objectives of wildfire mitigation projects and help retard fire spread, while supporting key species sustainability on a site.

Section 5 of S. 1479 would make several changes to the environmental review process under NEPA. Our comments below discuss our recent improvement in implementing NEPA and some specific concerns, but we want to emphasize that the Secretary is keenly interested in working with the Committee to further our NEPA efficiency efforts without adding unnecessary complexity.

Over the past several years, the Forest Service has emphasized the importance of collaboratively developing hazardous fuels reduction and restoration proposals; collaborative development builds the community support necessary to implement projects efficiently. This investment in collaboration takes more time early in the process but allows future projects to be planned and implemented more efficiently as trust and

working relationships are in place. Agency experience with the Uncompahgre Plateau Collaborative, the Deshutes Collaborative, the Four Forest Restoration project in the Southwest, and the Black Hills National Forest Pine Beetle Restoration Project are examples of successful large scale collaborative efforts which will speed implementation over a longer time horizon.

The Agency is also identifying NEPA efficiencies by focusing on improving Agency policy, learning and technology. We are expanding the use of focused EAs, expanding categories of actions that may be excluded from documentation in an EA or an environmental impact statement (EIS), and applying an adaptive management framework to NEPA. These NEPA process improvements will increase decision-making efficiencies, resulting in on-the-ground restoration work getting done more quickly and across a larger landscape. The goal of this effort is to ensure that the Agency's NEPA compliance is as efficient, cost-effective, and up-to-date as possible.

S. 1479 would prescribe time frames for preparing an EA for an authorized wildfire mitigation project that includes timber harvesting or livestock grazing that are less flexible than current Agency NEPA requirements, undermines public participation, and would require the publication of two *Federal Register* notices for each project which is not the most effective way to notify the public and ask for comment on a local project.

American forests are experiencing great changes due to drought, changing climate, wildfire, and insects and disease. To respond, our decision making must be dynamic and flexible so that changing conditions can be quickly addressed and environmental degradation can be stopped. The bill's 10 and 20 year NEPA sufficiency may not be helpful with rapidly changing conditions, such as an insect and disease outbreak which would require a new timber prescription, or a wildfire which would necessitate widespread watershed rehabilitation and salvage harvesting.

Section 6 of S. 1479 requires implementation of the Healthy Forests Restoration Act objections process for covered activities. Pursuant to section 428 of the Consolidated Appropriations Act of 2012, the Forest Service recently promulgated new regulations

governing pre-decisional objections for activities implementing land and resource management plans that are documented in environmental assessments. The new objection process essentially mirrors the pre-decisional objection process established in the HFRA, except where otherwise directed by the Appropriation Act. The agency believes that the new objection process already assures an administrative review process that is more aligned with our collaboration efforts and emphasizes public involvement and resolution of concerns where possible before decisions are made.

Section 4(b)(2) of S. 1479 requires that an authorized wildfire mitigation hazardous fuels project be designed to result in a change from Fire Regime Condition Class (FRCC) II or III to FRCC I. A newer tool, the wildland fire potential (WFP), which is an indicator of the relative potential for severe wildfire, has proven useful in addition to the FRCC. Though we may generally agree that it may be desirable to shift the composite vegetation characteristics (e.g. species composition, canopy closure) of any given planning area towards those more resembling the natural (or historical) range of variation, we believe there may be important biophysical conditions at the site and/or local scale that could be overlooked by the use of this coarse-scale approach.

Under section 5(c) of the bill, the emergency procedures described at 50 CFR 402.05 would apply to authorized wildfire mitigation projects. This would appear to greatly expand the scope of applicability of the existing regulations to expedite consultation. Currently, 50 CFR 402.05 establishes an alternative set of consultation procedures to support the emergency response to natural disasters, national defense emergencies, and/or mass casualty threats to American citizens. The Department opposes treating authorized wildfire mitigation projects, even those laudably designed to restore a set of desired habitat conditions, as an emergency as outlined in 50 CFR 402.05.

We would like to thank the members for their interest in this important topic, and would like to work with the Committee on these strategies. The Forest Service recognizes, and has stated in previous testimonies, the need for increasing the scope and scale of our restoration efforts in the face of the threats we are facing today from not only wildfire, but also insects, disease and invasive species and the compounding implications of a

changing climate. This is a very high priority and we continue to explore options to increase restoration activities across large landscapes. Our intent is to do so in an ecologically sound manner using a fully transparent process that utilizes the best available scientific information and effectively involves the citizens who would benefit from these activities.

This concludes my prepared statement. I would be happy to answer any questions you may have.