

**Alaska Wilderness League \* Allegheny Defense Project \* American Bird Conservancy \* American Rivers \* Bark \* Center for Biological Diversity \* Conservation Northwest \* Defenders of Wildlife \* Earthjustice \* Environmental Protection Information Center \* Gifford Pinchot Task Force \* Heartwood \* Kentucky Heartwood \* Klamath Forest Alliance \* KS Wild \* Lose Padres ForestWatch \* Natural Resources Defense Council \* Northcoast Environmental Center \* Oregon Wild \* RESTORE: The North Woods \* Safe Alternatives for our Forest Environment \* Sierra Club \* Soda Mountain Wilderness Council \* Southern Environmental Law Center \* The California Chaparral Institute \* The Lands Council \* The Wilderness Society \* Umpqua Watersheds, Inc. \* Western Environmental Law Center \* WildEarth Guardians \* Wild Virginia**

June 2, 2015

The Honorable Tom McClintock, Chairman  
Subcommittee on Federal Lands  
1324 Longworth House Office Building  
United States House of Representatives  
Washington DC 20515

The Honorable Niki Tsongas, Ranking Member  
Subcommittee on Federal Lands  
1324 Longworth House Office Building  
United States House of Representatives  
Washington DC 20515

Dear Chairman McClintock and Ranking Member Tsongas:

On behalf of our millions of members, activists and supporters, we write to express our strong opposition to the discussion draft bill, the so-called “National Forest Improvement Act of 2015,”<sup>1</sup> that will be heard in the Subcommittee on Federal Lands on June 3, 2015. We respectfully request that this letter be included in the subcommittee hearing record for the legislation.

This damaging legislation contains numerous harmful and polarizing provisions that severely undermine the balanced set of laws and policies that govern the National Forest System and would result in severe degradation of the environmental, social and economic values that all Americans enjoy from our national forests. Under the pretext of “forest health” and “collaboration,” the bill does the opposite by moving towards analysis-free, high-risk production-based logging on our national forests and reducing collaboration. Forest management and collaboration are further weakened by provisions that roll back National Environmental Policy Act (NEPA) safeguards and eliminate other vital conservation requirements that support science-driven solutions to wildfire through increased habitat resiliency and restoration. Other provisions in the bill frustrate the purposes of the Secure Rural Schools and Community Self-Determination Act (SRS) by reallocating SRS funds away from restoration and land stewardship in favor of timber sale projects and by prejudicing the composition of the Resource Advisory Committee (RAC) boards. Still other sections significantly limit citizen access to the courts, thereby waiving the public’s ability to seek judicial review of projects that may damage forests and communities. Finally, this legislation is unnecessary, as the Forest Service already has ample authority under current law and policy to manage for uncharacteristic fire, restore forest ecosystems and provide for multiple uses on our public lands.

---

<sup>1</sup> According to the hearing announcement, the title of the discussion draft bill is “The Returning Resilience to our Overgrown, Fire-prone National Forests Act of 2015.”

**The discussion draft recklessly rolls back NEPA requirements for a broad range of forest management activities.**

Titles I and II of the bill dismantle the application of NEPA to Forest Service decision-making in a variety of ways. Title I, sec. 102 limits consideration of alternatives for a range of loosely defined forest projects, while Title II, sec. 202 drastically shortens the time the Forest Service has to assess reforestation activities after a large scale wildfire, limiting the effectiveness of NEPA analysis. In addition, Title I, secs. 103-106 introduce a slew of new “categorical exclusions” (CEs) that exempt a broad range of forest management activities from environmental review under NEPA entirely. The CE’s apply to a dubious set of project types, including undefined forest health projects and salvage logging. Application of these CEs would undermine NEPA, as CEs should only be employed in limited cases where effects to the environment are well documented and understood to be insignificant. It is imperative that the Forest Service comply with NEPA on complex forest management projects to avoid risks to wildlife, watersheds and communities.

The bill attempts to justify application of some of these CEs by only making them available to projects developed via a “collaborative process,” proposed by a Resource Advisory Committee or covered by a community fire protection plan. But the Forest Service need only perform very limited public engagement actions to meet the “collaborative process” standard (as defined under the 2014 Farm Bill), setting a low bar for project planning that could apply to a wide range of detrimental activities, including intensive logging operations. Such a process also severely dilutes the effectiveness that broader public participation brings. By arbitrarily limiting participation based almost solely on geographic proximity to a given resource, publicly vested expertise that might reside outside a given area is nullified. Furthermore, it is unclear how determinations would be made as to whether the CEs are consistent with overarching forest plans, thus possibly undermining the National Forest Management Act. By waiving requirements for the Forest Service to engage in the transparent, informed, public decision-making process under NEPA, the legislation potentially facilitates intensive logging and other unsustainable commercial activity to the detriment of our forests, wildlife, watersheds and communities.

**The discussion draft limits citizen access to the courts and curtails judicial review of forest projects.**

Titles II and III severely undermine the public’s access to the courts when plaintiffs believe the government failed to follow the law. Title III, sec. 302 requires plaintiffs to post a bond equal to anticipated costs and broadly defined “expenses” associated with litigation—a provision intended to close the courthouse door to all but the wealthy. Plaintiffs would then need to meet a high-bar requirement to “ultimately prevail on the merits in all actions” in order to see a return of the bond. The bill (Title III, sec. 302) also waives recovery under the Equal Access to Justice Act for these types of challenges, and Title II, sec. 204 prohibits federal courts from enjoining any project related to forest fire restoration. By rolling back judicial review and citizen access to the courts, the legislation effectively renders bedrock federal laws unenforceable, allowing poorly conceived projects to proceed without accountability and jeopardizing conservation of our nation’s natural resources.

**The discussion draft undermines the Secure Rural Schools program by re-directing funds away from restoration projects to logging and prejudicing the composition of Resource Advisory Committees.**

Currently, a proportion of SRS program funds are used for collaboratively developed restoration projects designed by RACs composed of diverse stakeholders. Title IV, sec. 401 fundamentally changes this allocation by directing at least 50 percent of the funds away from these collaborative restoration projects

toward timber sale projects. Title IV, sec. 402 further undercuts the program by reducing RAC membership from 15 members representing diverse interests from around the state to 6 local residents. In effect this eliminates the potential for broad support for projects and allows for the silencing of stakeholder groups who may not agree with certain proposals developed by special interest groups.

**The discussion draft establishes a state-supported management program that may lead to unsustainable logging in national forests.**

Title VI, sec. 603 establishes a “State-Supported Forest Management Fund” through which states, counties, public utilities and other entities could invest into a fund (augmented by appropriations) and then help decide how those monies are spent on forest management projects developed through a “collaborative process” or other low-bar requirements described above. Similar to the distorted RAC program in Title IV, the fund would create an incentive to generate and maximize revenues from logging activities in order to perpetuate the fund.

**The discussion draft eliminates vital conservation requirements and imposes damaging procedural hurdles for managing national forests.**

Title VII strips critical protections from forests and natural resources by requiring the Forest Service to jump through additional procedural hoops before decommissioning roads and prohibiting the agency from applying “Eastside Screens,” forest management standards on forests east of the Cascades in Oregon and Washington designed to protect older forests and associated wildlife. Conversely, the same section would allow the Forest Service to circumvent the normal forest plan amendment process to carry out otherwise unapproved projects. This provision—and those throughout the bill—could apply to an array of ecologically sensitive areas, since it contains no requirements to avoid wilderness study areas, Wild and Scenic River corridors, threatened and endangered species habitat, streams and riparian areas, and other critical areas.

**The Forest Service already has ample authority under current law and policy to manage multiple uses on the National Forest System, rendering the discussion draft unnecessary.**

Current law and policy create a forest management framework that enhances agency efficiency and flexibility in managing national forests lands without jettisoning key conservation principles and judicial processes. The 2012 National Forest Planning Rule and its implementing directives allow for local planning to address local conditions on national forests. The 2003 Healthy Forest Restoration Act (HFRA) expedites the decision-making process for hazardous fuels treatments, and the 2014 Farm Bill expanded HFRA authority to include insect and disease resiliency projects. The Collaborative Forest Landscape Restoration Program established in 2009 supports community-based restoration forests across the West.

In addition, the Forest Service has a variety of administrative tools it utilizes to address forest health and fire-related threats. For example, current regulations already allow the agency to act in emergency situations to protect communities and important natural and cultural resources without having to prepare NEPA documentation beforehand. In fact, the Forest Service utilized an “Emergency Situation Determination” to expedite the removal of hazardous trees following the 2013 California Rim Fire. In addition, the agency was able to expedite NEPA review for the larger scale Rim Fire Recovery Project within less than a year of the fire, which authorized over 15,000 acres of salvage logging, providing more than enough timber for local mill capacity, such that not all timber sales were even bid on.

Together these authorities and programs have supported science-based restoration on millions of acres of national forests, increasing timber harvest, addressing wildfire threats and supporting thousands of local jobs, while sustaining wildlife, watersheds and other public values on these lands. Rather than imposing damaging legislation such as the discussion draft, Congress should continue to support the successful application of current law and policy on our national forests and focus on the one and only legislative reform actually needed—fixing the fire budget.

Thank you for considering our concerns with the discussion draft. We urge you to reject this damaging and needless bill for its harmful effects on our forests, wildlife, watersheds and communities.

Sincerely,

Alaska Wilderness League  
Allegheny Defense Project  
American Bird Conservancy  
American Rivers  
Bark  
Center for Biological Diversity  
Conservation Northwest  
Defenders of Wildlife  
Earthjustice  
Environmental Protection Information Center  
Gifford Pinchot Task Force  
Heartwood  
Kentucky Heartwood  
Klamath Forest Alliance  
KS Wild  
Lose Padres ForestWatch  
Natural Resources Defense Council  
Northcoast Environmental Center  
Oregon Wild  
RESTORE: The North Woods  
Safe Alternatives for our Forest Environment  
Sierra Club  
Soda Mountain Wilderness Council  
Southern Environmental Law Center  
The California Chaparral Institute  
The Lands Council  
The Wilderness Society  
Umpqua Watersheds, Inc.  
Western Environmental Law Center  
WildEarth Guardians  
Wild Virginia

Cc: Members of the Committee on Natural Resources, U.S. House of Representatives