



The voice of fish and wildlife agencies

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June 26, 2017

Hon. Rob Bishop, Chairman
House Natural Resources Committee
US House of Representatives
Washington, DC 20515

Hon. Raul Grijalva, Ranking Democrat
House Natural Resources Committee
US House of Representatives
Washington, DC 20215

Dear Chairman Bishop and Ranking Democrat Grijalva,

The Association of Fish and Wildlife Agencies (Association) is pleased to support H.R. 2936, the “Resilient Federal Forest Act of 2017” (RFFA). All 50 state agencies are members of the Association. Founded in 1902, the Association’s mission is to protect the interests and authorities of the states to manage fish and wildlife within their borders, including on federal land. The Association works closely with the federal land management agencies to deliver on the ground conservation of fish, wildlife and their habitats for our citizens.

The Association is particularly appreciative of changes made by the Committee staff at the request of the Association. These changes make more prominent in federal statute the states’ authority to manage fish and wildlife on US Forest Service (USFS) and Bureau of Land Management (BLM) lands. Nothing in the amended language is intended to change any existing federal, state or tribal authority. It simply makes more evident the state-federal jurisdictional relationship which Congress has affirmed. Federal-state cooperation in this arena is compelled because the USFS and BLM own the land and thus the habitat, and the state fish and wildlife agencies manage the fish and wildlife. Robust cooperation will provide that both land/habitat objectives and fish and wildlife population objectives are met.

The RFFA is vitally needed to restore the health of our Nation’s federal forests on USFS and BLM lands. Unfortunately, the USFS and BLM have fallen significantly behind in meeting objectives for early successional stage forest habitat, for a number of reasons. Significantly, federal court decisions and increasing uninformed litigation has created “paralysis by analysis” to quote a former USFS Chief. Congress mandated that the federal forests were to be managed for water quality, wildlife habitat, recreation, and timber harvest. Active forest management by the federal professional managers in cooperation with the state fish and wildlife agency professional managers has been replaced by natural resource management decisions being made by the federal courts. A return to active forest management will facilitate realization of all of the public values of federal forests.

The Association much appreciates that the fire-borrowing problem is addressed in HR 2936. While most catastrophic fires occur in the western United States, this is a national problem

because the funds for every national forest and public land unit are affected. This remedy will prevent the USFS and BLM from having to borrow from other appropriated line-items (for example, wildfire prevention, wildlife, recreation and water quality) to pay for the cost of catastrophic fire suppression, which cost consumes over 50% of the USFS budget. We respectfully urge the Committee to further protect the USFS budget by capping the 10-year average cost of catastrophic fire costs at its' current level. The 10-year average is used by the USFS in building their budget request. The 10- year average continues to rise and unless it is capped it will continue to erode other important budget line items such as wildlife, water quality, fire prevention and recreation in the President's budget.

The Association further appreciates the process relief provided to National Forest Plans (NFP) and (potentially) Resource Management Plans (RMP) developed by collaborative deliberation. It is appropriate that a collaborative-developed plan, which often takes years to deliberate and conclude, be subject to only two options under NEPA, proceed or not proceed. It is very reasonable to assume that the collaboratively deliberated process has examined and rejected the other options, and only the action or no action need be analyzed.

The bill's establishment of a pilot binding arbitration process as an alternative to litigation in each FS Region is certainly welcomed by the Association. Not only is the cost of defending the land management plan a burden on the agencies, but the planned for management work on the ground is lost, perhaps never to be resurrected on that site. We commend Congressman Westerman and the Committee for settling on this significant improvement to litigation reform that was in HR 2647 from the last Congress.

We also appreciate the increase in acreage ceilings for the statutorily endorsed Categorical Exclusions (CEs) under NEPA. CEs must avoid sensitive areas and must be consistent with standards and guidelines in Forest Plans. Early forest successional stage habitat, for instance, cannot be just incidental to be effective in providing habitat for deer, elk, wild turkey, neo-tropical migratory songbirds and other species which are dependent on this habitat type. While an acreage ceiling is an easy metric to measure success, the desired forest future condition should really determine the size of the timber harvest.

Additionally, the Association supports the proposed common-sense amendments to the Endangered Species Act. First, H.R. 2936 overturns the Cottonwood decision, which directs that if additional critical habitat is designated under an approved FP or RMP, a section 7 programmatic re-consultation of the entire FP needs to be done. The US Fish and Wildlife Service (USFWS) and the Obama Administration argued that the section 7 consultation needs only to be done on the project covering the additionally designated acreage of critical habitat. This remedy will greatly reduce the debilitating process that the federal court decision directs. Second, the bill affirms that no ESA section 7 consultation is required if the USFS or BLM determine during informal consultation that the proposed action is "not likely to adversely affect a species or designated critical habitat", which is already USFWS policy. And third, if any



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consultation on a categorical exclusion established by the bill is not concluded after 90 days, the action shall be considered to have not violated section 7 (a) (2) of the ESA.

The Association is committed to working with our partners in the USFS and BLM to manage our federal forests to fulfill their public values as Congress mandated. HR 2936 makes significant improvements to and would expedite the process that governs approval of the USFS and BLM management plans. We urge that your Committee expeditiously report HR 2936 from the Committee to the House floor.

We look forward to continuing to work with you to move this bill quickly through the legislative process. If you have any questions, please contact AFWA Government affairs Director Jen Mock Schaeffer, jenmock@fishwildlife.org.

Sincerely

President
Association of Fish and Wildlife Agencies
Executive Director
Florida Fish and Wildlife Conservation Commission