

Written Public Testimony of Bill Crapser, Wyoming State Forester,
Chair-Elect of the Council of Western State Foresters and member
of the National Association of State Foresters

Submitted to the House Natural Resources Committee on “*The Impact of Catastrophic Forest Fires and Litigation on People and Endangered Species: Time for Rational Management of our Nation’s Forests*”

July 24, 2012

On behalf of the Council of Western State Foresters and the National Association of State Foresters, I thank Chairman Hastings and Ranking Member Markey for the opportunity to appear before the Committee today. The Council of Western State Foresters (CWSF) represents the directors of the state forestry agencies of seventeen western states and six Territorial Islands. The National Association of State Foresters (NASF) represents the directors of the state forestry agencies of all fifty states, eight territories, and the District of Columbia. State Foresters manage and protect state and private forests across the U.S., which make up two-thirds of the nation’s forests, and work closely with our federal partners to deliver forestry programs and wildfire protection.

It is no secret that our forests, regardless of ownership, face significant threats to their overall health.¹ These threats come in many forms including land-use change, native and invasive insects and diseases, long-term drought, and wildland fires that continue to grow in size and intensity. One commonality among these threats is that they cross forest boundaries and ownerships. For those of us in the West, forests span across federal, tribal, state and private ownerships which makes responding to wildland fire and insect and disease infestations especially complex. In order to protect all of our forests from these threats and to sustainably manage forested landscapes to maximize the goods and services that they provide – including clean air and water, recreational opportunities, and forest products and jobs – it is crucial that we work together to find ways to actively manage all of our forests to provide for their long-term health and sustainability.

Wildland Fire Impacts

Wildland fire protection and management has become an increasingly expensive endeavor and is expected to continue to grow in complexity and cost. More people in fire-prone landscapes, larger and more frequent wildland fires, long-term drought, and unhealthy landscapes have created a wildland fire situation that can easily overwhelm fire management efforts, frustrate fire management entities, and results in billions of dollars in suppression costs each year. The

¹ See *Threats to Western Private Forests: A Framework for Conservation and Enhancing the Benefits from Private Working Forests in the Western U.S.* Last accessed July 19, 2012 at http://www.wflccenter.org/news_pdf/359_pdf.pdf.

Western Governors' Association summed up the situation in a recent policy resolution stating that "[t]he health of the national forests and range lands has deteriorated due to a reduction in management The wildfire season is longer, more extreme, and wildfires are larger."² The scope of the wildland fire problem is immediately evident in the Forest Action Plans³ completed by all state forestry agencies, wherein wildland fire was uniformly identified as a significant priority issue.

We can all talk about the problem in general terms, but it is important to recognize the enormous impact that these fires have on everyday Americans who make their home in fire prone landscapes. In 2011, more than 74,000 wildland fires burned over 8.7 million acres across all forest ownerships.⁴ These large fires leave a wake of damage and destruction not only in our forests but also in our communities. In my home state of Wyoming our fire season has just begun, yet we have already burned more than 350,000 acres and lost more than 30 homes. The damage is even greater in the Front Range of Colorado where large wildfires have taken several lives and destroyed more than 700 homes.⁵ There are an estimated 66,700 communities across the country currently at risk of wildland fire.⁶ State Foresters and our partners continue working with communities every day to prepare Community Wildfire Protection Plans, but we are faced with the reality of continually declining forest health and increasing wildland fire threat making our work to protect communities all the more difficult.

As discussed above, the damage that results when high fuel loads, long-term drought and severe weather conditions all come together can be devastating to communities, economies and ecosystems. Already this year the intermountain West has experienced historic fires in terms of size, severity and destruction. But the immediate suppression and rehabilitation costs and destruction amount to only a fraction of the true impact.

In a report completed by the Western Forestry Leadership Coalition examining "*The True Cost of Wildfire in the Western U.S.*" the range of total costs stemming from wildland fires, including costs of suppression, rehabilitation and indirect costs, was found to be 2 to 30 times greater than the reported suppression costs.⁷ Given the enormous true costs of wildfire, which are often incurred for many years after the last ember has gone cold, the report calls attention to

² Western Governors' Association Policy Resolution 12-10: Wildland Fire Management and Resilient Landscapes. Last accessed July 19, 2012 at <http://www.westgov.org/policies>.

³ See Forest Action Plans website. Last accessed July 19, 2012 at www.forestationplans.org.

⁴ National Interagency Fire Center, Historical Wildland Fire Summaries, pg. 9. Last accessed July 19, 2012 at http://www.predictiveservices.nifc.gov/intelligence/2011_statssum/intro_summary.pdf.

⁵ *Long, hot summer: Wildfires thrive on drought, heat and wind*, Los Angeles Times. Last accessed July 19, 2012 at <http://articles.latimes.com/2012/jul/02/nation/la-na-fires-ahead-20120702>.

⁶ National Association of State Foresters, Communities at Risk Report FY2011. Last accessed July 19, 2012 at <http://stateforesters.org/files/2011-NASF-finalCAR-report-FY11.pdf>.

⁷ True Cost of Wildfire in the Western U.S. at pg. 2. Last accessed July 19, 2012 at http://www.wflccenter.org/news_pdf/324_pdf.pdf.

“insufficient emphasis on active management before fire” and recommends that investments in forest management be targeted to improve forest health and treat forests overstocked with hazardous fuels before they burn.⁸ While no amount of active management will eliminate fire from forest ecosystems, active management can effectively reduce fire hazard, improve the overall health and resiliency of the forest and provide a sustainable supply of timber other forest products and associated jobs. In order to break the current cycle of continued forest fuel accumulation and larger, more destructive wildland fires, we need to refocus our efforts to actively and sustainably manage all forests.

National Cohesive Wildland Fire Management Strategy

When Congress approved the Federal Land Assistance, Management, and Enhancement (FLAME) Act in 2009 it signaled that business as usual in terms of fire suppression and management was no longer working. A major piece of the FLAME Act is the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy), which is a collaborative effort to identify, define, and address wildland fire management problems and opportunities for success across the country. Recently, the three regions (West, Northeast and South) completed unified regional strategies focused not solely on wildland fire suppression, but also exploring issues of natural resource management and the social and economic implications of landscape-scale management and wildland fire management. These efforts were guided by the three goals of the Cohesive Strategy, which relate directly to addressing the impact of wildland fire on people and ecosystems – the focus of today’s hearing:

1. Restore and Maintain Landscapes: Landscapes across all jurisdictions are resilient to fire-related disturbances in accordance with management objectives.
2. Fire-adapted Communities: Human populations and infrastructure can withstand a wildfire without loss of life and property.
3. Wildfire Response: All jurisdictions participate in making and implementing safe, effective, efficient risk-based wildfire management decisions.⁹

In the recently released Phase II Report of the Cohesive Strategy there is an upfront recognition that fire is a natural disturbance mechanism across forest ecosystems and that an unintended consequence of wildland fire suppression in the 20th century are the millions of acres of overstocked forests.¹⁰ Aggressive and effective fire suppression coupled with a lack of active management – i.e. timber harvest, thinning and prescribed fire – has resulted in large fuel accumulations across the West exceeding the historic range of variability and leaving forests,

⁸ *Id.* at 13.

⁹ A National Cohesive Wildland Fire Management Strategy: Phase II National Report, pg 2. Last accessed July 19, 2012 at

http://www.forestsandrangelands.gov/strategy/documents/reports/phase2/CSPHaseIIReport_FINAL20120524.pdf.

¹⁰ *Id.* at 3.

communities and the people who live in them vulnerable uncharacteristic and catastrophic wildland fire.

The FLAME Act, which called for the development of the Cohesive Strategy, was built, in part, to protect the ability of the federal agencies to accomplish other resource benefits by establishing wildland fire reserve accounts. However, as the fire season in the West continues, we face a very real threat of fire transfers from key U.S. Forest Service programs that support active management because these reserve accounts have been targeted for transfers in this time of budgetary constraints. In order for the FLAME Act to function as intended and retain the ability of the U.S. Forest Service to implement active management and accomplish non-suppression objectives, the FLAME Funds must be supported by Congress and protected from future transfers.

Barriers to success

While we have a growing consensus that active management is needed to break the current cycle of fuel accumulations and increasingly destructive wildland fires, we have not yet turned the corner to fully implementing active management at a landscape scale. Addressing policy barriers identified by the regions that could interfere with the goals of the Cohesive Strategy, the Phase II report states that “[l]andscape scale restoration is often difficult to achieve due to complex process requirements of Federal laws, rules, and policies.”¹¹ State Foresters continue to support efforts to provide federal land management agencies with the tools they need to succeed in implementing appropriate active management on all forest lands – such as extending the stewardship contracting authority, expanding the good neighbor authority and fully utilizing authorities made possible through the Healthy Forests Restoration Act.¹²

The Phase II Report of the Cohesive Strategy also identifies the fear of litigation as a potential barrier to landscape scale restoration.¹³ Mortimer and Malmshemer (2011) found that the U.S. Forest Service is the agency most commonly litigated on procedural matters under the National Environmental Policy Act.¹⁴ Because of this, there has been strong interest around the impact of the Equal Access to Justice Act (EAJA) as a fee-shifting statute that may ultimately influence management of National Forest System lands. Their 2011 study established that the number of

¹¹ A National Cohesive Wildland Fire Management Strategy: Phase II National Report, pg 39. Last accessed July 19, 2012 at

http://www.forestsandrangelands.gov/strategy/documents/reports/phase2/CSPHaseIIReport_FINAL20120524.pdf.

¹² See National Association of State Foresters Resolution No. 2011-12: Landscape-Scale Management in the Vicinity of Federal Lands. Last accessed July 19, 2012 at http://www.stateforesters.org/sites/default/files/publication-documents/2011-2-NASF-Resolution-Landscape-Management-Federal-Vicinity_0.pdf.

¹³ A National Cohesive Wildland Fire Management Strategy: Phase II National Report, pg 39. Last accessed July 19, 2012 at

http://www.forestsandrangelands.gov/strategy/documents/reports/phase2/CSPHaseIIReport_FINAL20120524.pdf.

¹⁴ Mortimer, M.J. and R.W. Malmshemer. 2011. The Equal Access to Justice Act and US Forest Service Land Management: Incentives to Litigate? *Journal of Forestry* 109(6): 352.

lawsuits against the U.S. Forest Service is increasing even though litigation against the agency generally has a low probability of success. Their study concluded that the original intent of the EAJA has drifted with its use in national forest management litigation. We would carefully consider any modifications to the EAJA that may be needed reaffirm the original intent of the act and address any current issues with the system.

Finally, by way of an example of how implementation and interpretation of federal laws and regulations can constrain active management, the NASF recently submitted comments to the U.S. Fish and Wildlife Service concerning expansion of incentives under the Endangered Species Act (ESA). The NASF noted that the use of the regulatory hammer causes confrontation with private forest landowners and that positive, voluntary incentives for landowners to manage their lands to provide habitat for threatened and endangered species would be more productive.¹⁵

This same concern unfolds slightly differently on federal lands. Arguably, laws such as the ESA have placed too much focus on single species versus a comprehensive approach to resource management that looks at the full suite of ecological, economic and social issues and opportunities. To be effective, regulations should be able to accommodate both modern science and modern collaborative approaches to addressing the needs of diverse stakeholders.

Conclusion

As of July 16, 2012, the National Interagency Fire Center reports that over 33,000 wildland fires have occurred burning 3.7 million acres nationwide. The nation's forests will continually be subject to an increasing threat of wildland fire until barriers to active management are removed. Most importantly, the lack of forest management has left life and property vulnerable to catastrophic wildfire. I appreciate the opportunity to appear before the Committee today to offer perspectives shared by state foresters regarding the impacts of wildland fire. I would like to thank the Committee for its continued leadership and support of active, sustainable management of all forest lands.

¹⁵ NASF Letter: Comments on USFWS Expanding Incentives. Last accessed July 19, 2012 at <http://www.stateforesters.org/nasf-letter-comments-usfws-expanding-incentives>.