

Written Testimony for Mr. Rick Dice
President of the National Wildfire Suppression Association and
CEO of PatRick Environmental
House Natural Resource Committee Hearing
on the Effects of the Endangered Species Act on Wildfires
July 24, 2012

Chairman Hastings, Ranking Member Markey and Committee Members, first I want to thank you for this opportunity to testify before the committee. My name is Rick Dice, and I am President of the National Wildfire Suppression Association as well as CEO of PatRick Environmental Inc. which provides fire resources to multiple federal and state agencies for wildland fire suppression and other emergency efforts.

The National Wildfire Suppression Association (NWSA) represents over 250 private wildland fire service contractors who can rapidly deploy over 10,000 professional emergency services employees. NWSA fields the large 20 person firefighting crews, airplane/helicopter pilots, hazard tree fallers, support staff, and fire overhead personnel. These people put their lives on the line to assist with wildland fire suppression efforts as well as many other emergency incidents.

Our members and my employees work under hazardous conditions of smoke, heat, the danger of wildland fires, the aftermath of natural disasters, and other emergency incidents with an army of federal, state, and local agency responders. When lives, wildland, and property are on the line government agencies must have confidence in all resources that are a part of the overall wildland fire suppression operation. Since 1991, NWSA has provided the highest levels of training and certification. This training meets or exceeds all federal requirements for our employees and the equipment we provide to government agencies. This enables us to work cooperatively with government agencies to provide the best possible fire suppression resources, ensuring the lowest possible risk to life and the wildland being protected.

During the time we are engaged in this discussion today, NWSA firefighters and employees of my own company are engaged in wildland fire suppression efforts across the United States. This effort is being hindered and firefighters are exposed to more danger, because of the significant unnatural buildup of the forest and rangeland fuels on federal lands.

This buildup of hazardous fuels is in part due to the incredibly cumbersome planning process our federal land managers must now go through to comply with the Endangered Species Act (ESA) of 1973, the Federal Land Policy and Management Act (FLPMA) of 1976, and the National Environmental Policy Act (NEPA) of 1969. I can tell you this based on my experience gained working in the woods, working on wildland fires, and working in partnership with federal land manager across the country for over forty years since these laws were created.

It is insightful to know that in the 1970's, I built my company as a forest fuels management business. In the initial years we treated fuels to help reduce the risk of wildfire, preventing insect infestations, and conducting restoration activities. In the early 70's, ninety percent of my businesses income was derived from fuels management and hazardous fuels reduction work. Now, in 2012, forty years later, ninety percent of the businesses income is derived from wildland fire suppression work. This is evident when you look at the number of fires we worked on in our first twenty years of business (1971-1991 only 59 fires) compared to the number we worked on in the last twenty years (1992-2012 a whopping 1095 fires). We once worked in the woods to proactively prevent and or reduce damage from wildfires, now we only react to these larger catastrophic wildland fires after the ignition occurs. These larger fires have increased in intensity, frequency and are well outside the historic levels both throughout the forest, rangeland, and forest interface areas.

The Endangered Species Act, Federal Land Policy Management Act, and the National Environmental Policy Act individually provide important environmental safeguards. Collectively they overlap in contradictory ways that make it nearly impossible for the federal land managers, local elected officials, partnership groups, and private companies to navigate through the paperwork related to the laws. The result at times appears to be legal gridlock. These laws need to be updated in order to address the issues of our time. Forty years after their original enactment, many interpretations have been made by differing individuals and agencies. These issues have changed during this time and we need legislative tools to address today's significant environmental issues and continue to provide protection, meanwhile enabling our agency managers the ability to accomplish appropriate presuppression and suppression activities in our forest and rangelands. Initial attack of wildland fires is crucial to being able to suppress fires at the

smallest possible acreage. The current Endangered Species Act in many cases affects these actions by creating obstacles which are counterproductive to these suppression efforts. The following incidents cited are examples of this:

- On the Bobby Creek Fire in SW Oregon the use of mechanized heavy equipment was denied. There are probably many reasons for this within their forest management plans which are driven by the ESA.
- Across the nation, Water holes are not useable due to ESA regulations usually involving turtles. Some sites have become unusable because heavy equipment is needed to clean them out and the Forests has elected not to go through the ESA and NEPA process because of time and costs.
- Across the nation, the use of aerial delivered retardant is becoming increasingly restrictive on where it can be used due to agency concerns related to compliance with ESA or the threat of a lawsuit because of wetlands/streams and the occurrence of Threatened and Endangered (T&E) plants and animal species.
- There have been situations where helicopters were not able to dip water out of the river due to salmon. An example of this was on the North Umpqua River in Douglas County during the Apple fire of 2002. The alternate dip site was about a 10 minute flight, while the Umpqua river was in site of the fire. The concern is this type of situation hinders the wildland firefighter's ability to successfully suppress the fire, and due to this costs are greatly increased.

It is commonly known that wildfires, tornadoes, ice storms, insect infestation, and windstorms are frequent occurrences which often leave our national forests dying, prone to additional catastrophic events, and in desperate need of recovery and restoration. When unnatural amounts of dead and dying trees are left to lie and eventually rot in our federal forest lands, excessive fuel loading occurs which results in more intense fires with greater rates of spread and more resistance to control. With the current excessive fuel loadings and the intense wildland fires they produce

detrimental effect on the health of our forests, the watersheds, and air quality. They also pose a significantly greater danger to our firefighters and the inhabitants of local communities, not to mention the problems posed to people far from the firelines with health issues related to smoke.

We believe that the ESA is an important law and one deserving of updating in order to focus on restoration rather than litigation and to provide our federal land managers the tools to protect our natural resources from continued catastrophic wildfires. This updating will allow them the ability to reduce the unnatural buildup of fuels and ensure that firefighters have the opportunity to protect lives, land, and property when fire occurs.

I am not an ESA legislative expert, but I would like to suggest a few Updates to ESA that you may consider as you move forward.

Require the science in ESA decisions to be reviewed. Call it peer-reviewed science. It's my belief that all decisions related to ESA need to be reviewed by another set of competent eyes to ensure the best possible course of action. There are other federal laws in which the science is reviewed before making a decision. The Marine Mammal Protection Act has a review commission for all decisions made under the law and any government action relating to marine mammals. They also conduct stock assessments, review recovery plans and make recommendations regarding marine mammals on the ESA list of endangered species. The Food and Drug Administration has 30 peer-review groups called advisory committees. I believe that the ESA would greatly benefit from peer review groups such as these.

My second suggestion would be to require the secretaries responsible for an ESA decision to get "boots-on-the-ground" data from states and private landowners. This would assist in the making of more informed decisions.

Americans consume vast amounts of wood products so it makes sense, to use our updated environmental laws and updated labor standards, to actively manage and utilize our country's own resources while using the best information we can get our hands on. Let's make sure that when ESA decides to list or delist that the decisions made are as well informed as possible.

In Summary, our NWSA members are in place across the nation, located in rural areas and ready to take on more projects which will impact our Nation's forest and rangelands overall health.

If Congress is frustrated by the current state of our federal lands and wants to see its health improved, and is frustrated by the courts and their interpretation of laws, then it is congresses responsibility to change the law. No one else can make this happen. With your oversight in making sensible changes and the updating of the ESA so that land managers can propose and implement projects which reduce fire severity. These individuals have the capability, desire and skills to rapidly help reduce the fire risk through fuels management work and if necessary suppression activities. This will help to create a healthy forest landscape and provide community wage jobs which support local economies while reducing the severity of wildfires.

Thank you again chairman Hastings and committee members for the time allotted for this important presentation. The ESA laws need to be changed in order to combat these fires and the impact that they have on our forest, communities, wildlife, and their habitat. These changes and updates of the law will enable our forest managers to do the restoration efforts needed to protect the wildlife and their habitat. The current law allows litigation or the threat of litigation to stop the needed implementation of restoration projects by our land managers. From someone who has worked in the woods for over forty years, I thank you for the time to have this important discussion and I would be happy to take any questions.