

Subcommittee on Oversight and Investigations
Bruce Westerman, Chairman
Hearing Memorandum

September 25, 2017

To: All Subcommittee on Oversight and Investigations Members

From: Majority Staff, Subcommittee on Oversight and Investigations (x5-7107)

Hearing: Oversight hearing entitled “*Exploring Solutions to Reduce Risks of Catastrophic Wildfire and Improve Resiliency of National Forests*”

The House Committee on Natural Resources, Subcommittee on Oversight and Investigations will hold an oversight hearing entitled, “*Exploring Solutions to Reduce Risks of Catastrophic Wildfire and Improve Resiliency of National Forests*” on **September 27, 2017 at 3:00 p.m. in Room 1334 of the Longworth House Office Building**. The hearing will focus on potential solutions to reducing the federal government’s fire suppression costs and need for improved forest management practices.

Policy Overview:

- The United States has suffered one of the worst wildfire seasons in recent history this year. According to the National Interagency Fire Center, as of now, more than 8.5 million acres have burned in 2017 so far—more than 47% higher than the 10 year average.¹
- Fire suppression costs consume an overwhelming portion of the United States Forest Service’s (USFS) budget and impede its ability to engage in other duties necessary to fulfill its mission “to sustain the health, diversity, and productivity of the Nation's forests and grasslands.”² In 2016, the Department of the Interior and the USFS spent almost \$2 billion combined on wildfire suppression.³
- Interjurisdictional coordination challenges and an accumulation of hazardous fuels in national forests due to a lack of active forest management increase fire risk to communities and threaten the federal government’s ability to rein in firefighting costs.
- Increased utilization of commercial thinning activities reduces fire risk, provides ecological benefits, and can provide the federal government with additional financial resources to better manage our forests.

¹ <https://www.nifc.gov/fireInfo/nfn.htm>

² <https://www.fs.fed.us/about-agency/what-we-believe>

³ National Interagency Fire Center, https://www.nifc.gov/fireInfo/fireInfo_documents/SuppCosts.pdf (last visited Sept. 21, 2017).

- Improving coordination with partners such as states, tribes and other stakeholders provides USFS with an opportunity to implement improved and efficient forest management practices and minimize the impacts of catastrophic fire.

Invited Witnesses (in alphabetical order):

Mr. Greg Chilcott
 County Commissioner
 Ravalli County Board of Commissioners
 Hamilton, Montana

Dr. Dominick DellaSala
 Chief Scientist
 Geos Institute
 Ashland, Oregon

Mr. Lawson Fite
 General Counsel
 American Forest Resource Council
 Portland, Oregon

Mr. Philip Rigdon
 President
 Intertribal Timber Council, Yakama Nation
 Toppenish, Washington

Background:

The Urgent and Escalating Wildfire Threat

The 2017 wildfire season will go on record as one of the worst wildfire seasons in United States history.⁴ Wildfires have already burned more than 8.5 million acres this year, on track to surpass the annual averages for acres burned over the past ten years.⁵ This year, fires have damaged popular recreation sites,⁶ produced hazardous air quality,⁷ threatened national parks,⁸ destroyed sage grouse and other endangered species habitat,⁹ and jeopardized water supplies.¹⁰

⁴ Steven DuBois, *2017 Wildfire Season in US West Far Worse than Expected*, ABC NEWS, Sept. 7, 2017, <http://abcnews.go.com/International/wireStory/wildfire-weary-western-us-coughs-late-season-surge-49673121>.

⁵ Ben Guarino & Tim Craig, *Wildfires Have Burned and Area the Size of Maryland*, WASH. POST, Sept. 8, 2017, https://www.washingtonpost.com/news/science/wp/2017/09/08/wildfires-have-burned-an-area-the-size-of-maryland/?utm_term=.133c1d80432e.

⁶ DuBois, *supra* note 4.

⁷ *Id.*

⁸ Cecelia Smith-Schoenwalder, *Worsened by Climate, Blazes Will Hurt Western Water – USGS*, ENERGY & ENV'T NEWS, Sept. 8, 2017, <https://www.eenews.net/greenwire/stories/1060060133>.

⁹ <http://www.bendbulletin.com/localstate/5438582-151/summer-lake-wildfire-threatening-homes-sage-grouse-habitat>

¹⁰ *Id.*

According to USFS, the size and complexity of fires, as well as the frequency of catastrophically large and intense fires, has increased in recent years.¹¹

Fire Suppression Issues at the Forest Service

Ballooning Costs

Even before the end of this fiscal year, USFS set a new record by spending **more than \$2 billion** fighting forest fires.¹² Fire suppression spending has expanded from 15% to 55% of the Forest Service’s budget.¹³ USFS receives annual wildfire management appropriations for its two wildfire accounts: the Wildland Fire Management (WFM) account and the Federal Land Assistance, Management, and Enhancement (FLAME) Act account.¹⁴ The FLAME account functions as a reserve fund for wildfire suppression and is used for transfers to the WFM account when certain conditions are met.¹⁵ If USFS expends the WFM suppression activity account and FLAME account in a particular fiscal year, the Interior, Environment, and Related Agencies Appropriations Act grants USFS the authority to transfer funds from other accounts to pay for further suppression activities.¹⁶ These transfers are sometimes referred to as “fire borrowing.”¹⁷ In early September, USFS Chief Tony Tooke reported that the agency began transferring funds that potentially could exceed \$300 million from other accounts to meet the costs of fighting wildfires in the Northwest.¹⁸

Divergence from Intended Mission

Congress charged USFS with the considerable responsibility of managing 193 million acres of land,¹⁹ maintaining our national forests for “outdoor recreation, range, timber, watershed, and wildlife and fish purposes,” and “developing[ing] and administering[ing] the renewable surface resources of the national forests for multiple use and sustained yield.”²⁰ In 2015, USFS Chief Thomas Tidwell stated that the cost of fire suppression had a “debilitating”

¹¹ U.S. Dep’t of Agric., U.S. Forest Serv., Fiscal Year 2018 Budget Justification 145 (2017), available at <https://www.fs.fed.us/sites/default/files/usfs-fy18-budget-justification.pdf>.

¹² Press Release, U.S. Dep’t of Agric., Forest Service Wildland Fire Suppression Costs Exceed \$2 Billion (Sept. 14, 2017), available at <https://www.usda.gov/media/press-releases/2017/09/14/forest-service-wildland-fire-suppression-costs-exceed-2-billion>.

¹³ Valerie Richardson, *Wildfires in the West Revive Push to Thin Federal Forests*, WASH. TIMES, Sept. 7, 2017, <http://www.washingtontimes.com/news/2017/sep/7/wildfires-in-the-west-revive-push-to-thin-federal/>.

¹⁴ KATIE HOOVER ET AL., CONG. RESEARCH SERV., R44082, WILDFIRE SUPPRESSION SPENDING: BACKGROUND, ISSUES, AND LEGISLATION 8 (2017).

¹⁵ KATIE HOOVER & KELCI BRACMORT, CONG. RESEARCH SERV., R43077, WILDFIRE MANAGEMENT APPROPRIATIONS: DATA, TRENDS, AND ISSUES 3 (2016)

¹⁶ *Id.* at 12 & n.32.

¹⁷ *Id.* at 12.

¹⁸ Catherine Boudreau, *Republicans Aim to Overhaul Fire Management, Budget by Year’s End*, POLITICO, Sept. 13, 2017, <https://www.politicopro.com/agriculture/whiteboard/2017/09/republicans-aim-to-overhaul-fire-management-budget-by-years-end-092862>.

¹⁹ U.S. Forest Serv., Meet the Forest Service, <https://www.fs.fed.us/about-agency/meet-forest-service> (last visited July 26, 2017).

²⁰ Multiple-Use Sustained-Yield Act, Pub. L. 86-517, 74 Stat. 215 (1960) (codified at 16 U.S.C. §§ 528-531).

impact on the agency's other activities and forced it to shift its staff in addition to its resources.²¹ Non-fire programs and projects—as well as the communities that depend on them—have suffered as a result.²²

Presence of Hazardous Fuels

An estimated 58 million acres of the National Forest System are at **high risk** for an ecologically destructive wildland fire.²³ Vegetation that serves as fuel for wildfires has been accumulating rapidly in national forests, damaging forest health and contributing to the risk of large, intense fires.²⁴ One Forest Service ecologist reported that forest fuels have reached “powder keg levels.”²⁵

Primarily, USFS reduces hazardous fuels through timber sales, mechanical treatments, or prescribed burns.²⁶ However, problems with the USFS hazardous fuels reduction activities have persisted.²⁷ In 2016, the United States Department of Agriculture's Office of the Inspector General issued a report determining that USFS lacks a cross-agency method for prioritizing hazardous fuels treatment projects,²⁸ overstated the number of acres treated by hazardous fuels projects,²⁹ and potentially charged activities to the wrong budget line item.³⁰

Coordination Challenges

As fires can cross jurisdictional boundaries, intergovernmental cooperation plays an essential role in managing fire-prone areas and fire suppression. Wildfire management involves coordinated activities among federal, state, and local authorities.³¹ Federal land management agencies, including USFS, work with other entities to reduce wildfire risk through fuels

²¹ See Hearing to Review the 2015 Fire Season and Long-Term Trends: Hearing Before the Subcomm. on Conservation and Forestry of the H. Comm. on Agric., 114th Cong. 8-9 (statement of Thomas Tidwell, Chief, U.S. Forest Service).

²² See *id.* at 9.

²³ OFFICE OF INSPECTOR GENERAL, U.S. DEP'T. OF AGRIC. FOREST SERVICE WILDLAND FIRE ACTIVITIES – HAZARDOUS FUELS PROJECTS 1 (2017), available at <https://www.usda.gov/oig/webdocs/08601-0004-41.pdf>.

²⁴ *Id.*

²⁵ Matthew Daily, *Forest Service Spends Record \$2B Battling Forest Fires*, WASH. POST, Sept. 14, 2017, available at https://www.washingtonpost.com/politics/forest-service-spends-record-2b-battling-forest-fires/2017/09/14/9b2e61e2-9997-11e7-af6a-6555caeb8dc_story.html?utm_term=.883ee85943f8.

²⁶ *Federal and Non-Federal Collaboration, Including through the Use of Technology, to Reduce Wildland Fire Risk to Communities and Enhance Firefighting Safety and Effectiveness: Hearing Before the S. Energy and Natural Res. Comm.*, 115th Cong. 3 [hereinafter *S. Hearing*] (statement of Victoria Christiansen, Deputy Chief, State and Private Forestry, U.S. Forest Service), available at https://www.energy.senate.gov/public/index.cfm/files/serve?File_id=72600CFC-5367-422C-8ADE-A5F901DB7E0C (hearing record not yet available).

²⁷ OFFICE OF INSPECTOR GENERAL, *supra* note 23, at 3-4.

²⁸ *Id.* at 5.

²⁹ *Id.* at 13.

³⁰ *Id.* at 19.

³¹ See HOOVER & BRACMORT, *supra* note 15, at 2.

reduction, fire preparedness, prevention, and education activities.³² USFS has emphasized coordination with nonfederal entities to reduce wildfire risks.³³ However, both federal officials and other stakeholders have noted that increased collaborative planning, among other things, could strengthen the ability of federal land management agencies and other entities to reduce wildfire risk.³⁴

Federal, state, and tribal authorities have acknowledged the need to address jurisdictional issues when fighting fires as well.³⁵ The federal government is charged with responding to wildfires that start on federal land, while states bear responsibility for responding to all other fires, unless a federal agency is responsible for that land under a cooperative agreement.³⁶ According to USFS, State Foresters and local fire departments act as first responders for almost 75% of wildfires.³⁷ However, fires that start on federal lands are generally much larger.³⁸

Solutions to Reduce Risks

Commercial Thinning

Thinning involves cutting or harvesting selected trees to reduce the density of a stand of trees. In addition to reducing fire risk, thinning can confer numerous benefits by improving forest health, increasing wildlife habitat availability, and generating valuable forest products.³⁹ USFS may perform thinning through a variety of programs, such as the Hazardous Fuels program, the Vegetation and Watershed Management program, and the Forest Products program.⁴⁰

The removal of wood products with commercial value can help offset the cost of other forest management activities by generating receipts that can be reinvested in to the forest or by exchanging timber for forest management services.⁴¹ USFS's Stewardship Contracting authority allows USFS to exchange forest products for ecological restoration services performed by a non-

³² GOV'T ACCOUNTABILITY OFFICE, GAO-17-357, WILDLANDS FIRE RISK REDUCTION: MULTIPLE FACTORS AFFECT FEDERAL-NONFEDERAL COLLABORATION, BUT ACTION COULD BE TAKEN TO BETTER MEASURE PROGRESS 14 (2017).

³³ See *S. Hearing*, *supra* note 26, at 1 (statement of Victoria Christiansen, Deputy Chief, State and Private Forestry, U.S. Forest Service).

³⁴ See GOV'T ACCOUNTABILITY OFFICE, *supra* note 32, at 41-42.

³⁵ See Ann McCreary, *Practical, Political Issues Aired in Okanogan County Meeting*, METHOW VALLEY NEWS, May 13, 2016, <http://methowvalleynews.com/2016/05/13/cantwell-hears-local-officials-responders-on-wildfires/>.

³⁶ HOOVER ET AL., *supra* note 14, at 1.

³⁷ See *S. Hearing*, *supra* note 26, at 1 (statement of Victoria Christiansen, Deputy Chief, State and Private Forestry, U.S. Forest Service).

³⁸ HOOVER ET AL., *supra* note 14, at i (summary page).

³⁹ See, e.g., U.S. Dep't of Agric., U.S. Forest Serv., Forest Stand Improvement Commercial Thinning, Georgia Practice Job Sheet-666 (2016), available at <https://efotg.sc.egov.usda.gov/references/public/GA/ForestStandImprovementCommercialThinning666.pdf>

⁴⁰ See U.S. DEP'T OF AGRIC., *supra* note 11, at 87-90, 94-95, 97-100.

⁴¹ Oversight Hearing on Seeking Better Management of America's Overgrown, Fire-Prone National Forests, Subcomm. on Federal Lands of the H. Comm. on Natural Res., 115th Cong. 7-8 (statement of James L. Cummins, Executive Director, Wildlife Mississippi), available at https://naturalresources.house.gov/uploadedfiles/testimony_cummins.pdf.

federal entity.⁴² Under this goods-for-services arrangement, a contractor performs forest management and restoration work on forest system lands and in exchange may keep forest products it removes from the land as payment for their services.⁴³ However, the feasibility of Stewardship projects hinges on the necessary processing capacity and infrastructure to add value to the vegetation removed from the forest. The Government Accountability Office noted that community and tribal members reported that improving timber processing capacity could help lessen wildland fire risk.⁴⁴ USFS must leverage its ability to generate receipts from forest products to support its multiple-use management mission, particularly with fire suppression engulfing so much of its resources.

Effective Partnerships

USFS can combat the wildland fire threat and reduce suppression costs by improving intergovernmental coordination and leveraging partnership opportunities to improve forest management across the system. The agency already possesses several authorities and tools. For example, Good Neighbor Authority authorizes USFS to enter into agreements with states to perform restoration activities and forest management activities, including hazardous fuels reduction, when states undertake similar projects on adjacent state or private land.⁴⁵ Additionally, the 2008 Farm Bill requires states to prepare assessments and strategies for forest resources in order to be eligible for certain funding.⁴⁶ Among other things, it directs state officials to coordinate with other parties, including the federal land management agencies, in preparing these plans.

However, USFS may not be maximizing its potential to collaborate with other entities when managing its forests. For instance, federal officials and stakeholders have reported in the past that sometimes federal officials at land management agencies and nonfederal entities do not employ tools such as the Good Neighbor Authority and Tribal Forest Protection Act of 2004 due to lack of knowledge of how to use them.⁴⁷ Promoting successful intergovernmental cooperation and stakeholder engagement will ensure that USFS uses its resources most effectively.

⁴² Agriculture Act of 2014, Pub. L. No. 113-79, sec. 8205 129 Stat. 649, 928 (2014).

⁴³ See 16 USC § 6591c (2015).

⁴⁴ See GOV'T ACCOUNTABILITY OFFICE, *supra* note 32, at 41-42.

⁴⁵ Consolidated Appropriations Act, 2014, Pub. L. No. 113-76, div. G, tit. IV, sec. 417, 128 Stat. 5, 341-42 (2014); Pub. L. No. 113-79, sec. 8206. 128 Stat 649, 921-23.

⁴⁶ Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, sec. 8002, 122 Stat. 924, 1280-81 (2008).

⁴⁷ See GOV'T ACCOUNTABILITY OFFICE, *supra* note 32, at 21-22.