

**Statement of Scott Horngren, Staff Attorney
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Before the

**Subcommittee on Public Lands and Environmental Regulation
Committee on Natural Resources
U.S. House of Representatives**

**Legislative Hearing on the *Restoring Healthy Forests for Healthy Communities Act*
and Other Federal Forest Reform Legislation**

April 11, 2013

Good morning Chairman Hastings, Ranking Member Grijalva, Congressman DeFazio and members of the Subcommittee. For the record my name is Scott Horngren and I am the Staff Attorney for the American Forest Resource Council (AFRC). AFRC is based in Portland, Oregon and represents nearly 60 forest products manufacturers in the states of Washington, Oregon, California, Idaho and Montana. Many of these companies depend heavily on the sale of timber from Forest Service and Bureau of Land Management forests for their survival. I am also here today speaking on behalf of the Federal Forest Resource Coalition (FFRC), a national coalition of forest products companies that rely on federal timber and collectively provide over 350,000 jobs and \$19 billion in payroll in 27 states.

I appreciate the opportunity to appear before the Committee in support of legislation to promote active, sustainable forest management and restore the health of our federal forests and rural communities. While my testimony is primarily focused on Chairman Hastings' "*Restoring Healthy Forests for Healthy Communities Act*", there are other concepts within the legislation before the Committee today that are also worthy of mention and support.

I come before you as a forester and attorney with over 25 years of legal experience defending forest management projects from litigation across the West. I have represented industry, county governments, and other municipalities as they have been forced to intervene to help defend federal forest management projects from frequent environmental lawsuits. While I've been pleased to represent my clients in a number of landmark legal victories, I'm afraid the legal and administrative hurdles to implementing common sense forest management projects have become insurmountable in many parts of the country. The resulting paralysis threatens the future of our federal forests and our rural, forested communities.

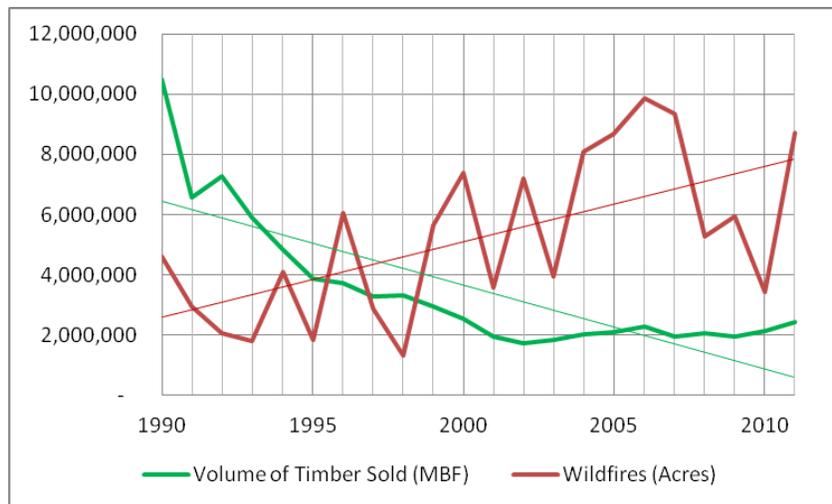
The Health of our Federal Forests Continues to Decline

It has been a decade since the passage of the bi-partisan Healthy Forests Restoration Act (HFRA). While the Act has yielded modest on the ground successes, I think we'd all

concede that we haven't reversed the alarming forest health trends threatening our federal forests. In fact, the numbers tell us we are heading in the wrong direction. The sad reality is that 2013 was the sixth year since the passage of HFRA that we burned over 8 million acres (9.3 million acres were burned last year). Meanwhile, last year the federal government spent over \$1.9 billion in direct fire suppression costs, with the Forest Service alone spending \$1.4 billion. This doesn't even account for other wildfire related spending, including preparedness, and rehabilitation and restoration of damaged lands.

At least 73 million acres of the National Forest System are at a moderate or severe risk of catastrophic wildfire and the threat is growing. Entire forests are being lost to insect infestations and catastrophic wildfire. The Northern Spotted Owl recovery plan reports that the primary source of habitat loss for that species is catastrophic wildfire. It is hardly surprising, however, as annual forest growth has far exceeded removals (harvest) for many years now. The reality is that there is a direct correlation between the severe reduction in the Forest Service timber sale program over the past 20 years and the ever-increasing acreage toll and fiscal cost of wildfire.

Forest Service Timber Sales vs. Total Acres of Wildfire, Since 1990:



Fortunately, I believe we can take action to reverse these trends, but we must act now to make necessary reforms. Many regions have lost the milling and logging infrastructure needed to restore the health of our federal forests. Other regions are on the brink of losing what remains of their forest products industry infrastructure. Ultimately these forests will only be restored if we provide certainty to the Forest Service, communities and private industry that these projects will be implemented. HFRA simply didn't go far enough to provide this level of certainty, which is essential to attracting investments in industry infrastructure and saving jobs in the woods. Responsible, sustainable forest management can restore the health of our forests and help enhance all the benefits we enjoy, including clean water, wildlife habitat, clean air, and recreation.

Our Rural, Forested Communities Continue to Suffer

Since the early 1990's and the listing of the Northern Spotted Owl county governments and schools in the Pacific Northwest have been receiving subsidized federal payments to replace timber revenue sharing payments. The program was taken nationwide with the passage of the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS). However, these payments only partially masked the illness affecting many rural, forested communities with large swaths of federal forest land. The illness ultimately stems from a lack of private sector employment, not a lack of local government services, as important as those services might be. In my home state of Oregon, unemployment rates in these communities ranges from 10-13%, while the unemployment rate in the Portland metro area stands at 7.5%. These stubbornly high levels of unemployment result in all the predictable social ills, including substance abuse, domestic violence, poverty, and hunger. The same stories can be told in rural, forested communities across the country.

As you well know, national SRS payment levels have been reduced by 40% between 2008 and 2012. The cuts have been more acute in states where timber revenues used to be the highest. For example, counties in Washington State have seen payments decline by 53% since 2008. Many politicians have spent the better part of two decades championing these empty, dwindling federal payments as proof of their "commitment" to the communities surrounded by our federal forests. These handouts fall far short of the contract that was made to neighboring communities when the federal forest reserves were established. Gifford Pinchot, who often articulated the responsibility the Forest Service had to neighboring communities, would be embarrassed by what is now taking place in our National Forests and in these rural, forested communities. Now that these payments have again expired we have a chance to develop real solutions to meet the needs of our rural communities.

As this Committee has explored in past hearings a number of states rely on sustainable timber management to generate substantial revenue for schools and other trust beneficiaries. The price received for state timber greatly exceeds the price received by the Forest Service because the states often have a clearer mandate for active forest management and their planning and project implementation costs are significantly lower. The Washington Department of Natural Resources is the best example and has consistently produced over \$125 million for beneficiaries annually while still providing habitat for listed species, clean water, and recreational opportunities. The DNR's level of return is over ten times the return from the national forests in Washington which have millions of more productive forest acres that currently receive little management. There is no reason a modest portion of the National Forests couldn't be managed to yield similar results since there is often no fundamental difference between the actual forests being managed.

Our domestic forest products industry is well positioned to help improve the health of our federal forests, create tens of thousands of new family wage jobs, and generate critical revenue for counties and the US Treasury *if* current constraints on log supplies are relieved. The greatest constraint on most mills in the West is the lack of timber being offered by the Forest Service, which in many areas is the dominant land owner. Mills in

these areas are often operating at 40-60% of capacity due to a lack of log supply, which puts them at a competitive disadvantage. Many mills would put on new shifts if they could secure additional supplies of logs. Many AFRC member companies currently struggle to survive by sourcing their raw materials from a 250 mile working circle while they watch their neighboring national forests die and burn due to a lack of management. It shouldn't be this way.

Meanwhile, lumber prices are currently over \$400/thousand board feet and nearly double the prices experienced in 2009. Experts are projecting that the lumber market will only get hotter as housing starts are expected to see significant increases between now and 2017. Those same experts predict that this demand will outstrip North American supply by 2015, which would result in increased lumber imports from Europe unless we increase domestic production. It is hard to believe that we would watch as our federal forests burn, our rural communities wither away and lumber is imported from overseas when we have the opportunity to meet the needs of all through active, sustainable forest management.

I respectfully offer the following recommendations for your consideration. Many of them are reflected in the legislation before the Committee today.

1. Designate an adequate and appropriate land base with a clear objective and mandate for active, sustainable timber management.

Managing a portion of the National Forests with a clear mandate to generate revenue for counties and jobs for local communities will help fulfill the promise that was made to our rural communities over a hundred years ago. It would also create more certainty in regards to timber supply, which is critical to maintaining and recruiting the forest products industry infrastructure needed to perform the restoration work required on the rest of the forest. Active forest management will also help reduce fuel loading, create strategic fuel breaks and create more diversity of wildlife habitat.

It is critically important that these areas be clearly identified and mapped so that the Forest Service, local communities, potential litigants and the courts understand that they are distinct and have a specific purpose. In many cases these areas will have existing roads and will have been harvested in the past. It makes good economic and ecological sense to focus ongoing, active timber management in these areas. I also believe that many other uses of the forest, including outdoor recreation and hunting, will continue to be enjoyed in these areas and would likely see improved access and opportunity.

2. Provide additional certainty to county governments, local communities and industry by making modest legislative reforms to address the analysis and legal paralysis crippling the management of our federal forests.

The legal and administrative hurdles to implementing sustainable timber management grow each and every year. It has become so complicated that 60-70% of the Forest Service's forest management budget is being spent on never ending analysis (i.e.,

paperwork) with little chance of mastering the legal gotcha game played by many litigants. Unless we reduce the amount of money the agency spends on analysis and process we will never restore the health of our federal forests or meet the needs of local communities. With the budget pressures currently facing the entire federal government, including the Forest Service, it is critical to creatively leverage the environmental analysis budget to go further.

The Congress can and should make modest reforms to how these requirements are being implemented. In previous hearings this Committee has identified many areas where our federal environmental laws, all well-intentioned, are working and where they aren't. Despite the inevitable sky is falling claims to the contrary, it is incumbent on legislators and a natural progression of the legislative process that the implementation of laws will be adjusted and tweaked when, in time, their interpretation or everyday use become skewed. Such is the case with the current interpretations, abuses of litigation, and needless delays around the implementation of forest management projects under the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA).

We can reform the most frequently abused gotcha games focused purely on process without weakening the substantive legal requirements for projects. This is accomplished in the legislation through the establishment of reasonable limits on the amount of analysis required to implement a project in a Forest Reserve Revenue Area. It also makes good sense to place reasonable time limits on agency consultations that can frequently stymie projects for years for no good reason. Finally, action should be taken to level the legal playing field for these projects by requiring litigants to post a bond equal to the taxpayer's cost of defending the project in court.

The reforms included in the legislation are critical to provide additional certainty to local communities that forest management projects will actually be implemented while also maintaining our commitment to environmental analysis and species protection. Sound projects in designated areas should not be subject to years of planning, appeals and endless litigation over even the smallest of points.

3. Identify and accelerate forest restoration treatments in critical areas where insects, disease, and hazardous fuel accumulation threaten entire forests and ecosystems.

In forest stands outside of those areas designated for active, sustainable timber management, a narrower set of new authorities should be provided to the Forest Service to reduce the costs of implementing forest restoration projects. H.R. 818 seeks to do this by expanding the use of HFRA authorities beyond their current limited geographic scope. The House version of the Farm Bill last year also included a Categorical Exclusion for forests experiencing severe and emerging forest health challenges. As the health of our forests continues to decline it is clear we must take meaningful steps to increase the pace of forest health treatments.

4. Explore alternative approaches for managing some federal forests, including through the application of trust mechanisms and state forest management.

This Committee has clearly shown that state natural resource and forestry agencies are capably managing state forest lands for the multitude of benefits we've come to expect from our public forests. This experience can be brought to bear to help restore the health of our national forests, whether that is through a trust proposal similar to that found in H.R. 1294 or an expanded Good Neighbor Authority in other areas.

The DeFazio-Walden-Schrader proposal for Bureau of Land Management (BLM) O&C forests in western Oregon also deserves your strong support. The Oregon and California (O&C) Grant Lands have a unique history having once been in private hands before being brought back under federal ownership. The O&C Act of 1937 directs that the over 2 million acres of these largely checkerboard forests be managed with timber production as the dominant use. This dominant use mandate was intended to provide revenue to local counties and raw materials to local industries through sustained yield timber management.

Despite this very clear legislative mandate and the fact that these forests grow over 1.5 billion board feet of timber each year, timber harvests on these forests have ground to a near halt. Actual timber harvest levels on these lands have fallen from approximately 1.1 billion board feet to less than 150 million board feet annually today. Administrative protests, litigation, and agency inaction have contributed to these severe reductions, which threaten county governments with bankruptcy and many of the remaining mills with permanent closure. Meanwhile, Secure Rural School payments to the O&C Counties, which are unique in that they help fund general government operations, have fallen from over \$115 million in 2007 to roughly \$36 million in 2012. Prisoners are being released from county jails early due to budget cuts. Sheriff patrols have been cut to the point that law enforcement is non-existent in many areas. Desperation is setting in.

The O&C legislation would put 1.5 million acres of the O&C lands into a public trust to be managed for sustained yield timber harvests to finally provide certainty to local communities. When enacted, the proposal is expected to annually generate over \$100 million for county governments, over 500 million board feet of timber and thousands of new jobs in hard-hit counties throughout western Oregon. It has garnered significant support across Oregon, including from the Oregon Legislature, dozens of Oregon counties and many newspaper editorial boards. It also enjoys the support of our industry.

Mr. Chairman, I appreciate the opportunity to appear before you today and would be happy to answer any questions from the Committee.