



To: House Committee on Natural Resources Republican Members
From: Subcommittee on National Parks, Forests, and Public Lands Republican Staff; Aniela Butler (Aniela@mail.house.gov), Brandon Miller (Brandon.Miller@mail.house.gov), & Shelley McGinnis (Shelley.McGinnis@mail.house.gov)
Date: April 4, 2022
Subject: Oversight Hearing on “*Investing in Wildfire Management, Ecosystem Restoration, and Resilient Communities: Examining the Biden Administration’s Priorities for Implementation of the Bipartisan Infrastructure Law*”

The Subcommittee on National Parks, Forests, and Public Lands will hold a hybrid oversight hearing on “Investing in Wildfire Management, Ecosystem Restoration, and Resilient Communities: Examining the Biden Administration’s Priorities for Implementation of the Bipartisan Infrastructure Law” on **Tuesday, April 5, 2022, at 10:00 am EDT** in room 1324 of the Longworth House Office Building and online via Cisco WebEx.

Republican members are encouraged to take advantage of the opportunity to participate in person from the hearing room.

Member offices are requested to notify Brandon Miller (Brandon.Miller@mail.house.gov) **no later than Monday, April 4th, at 4:30 pm EDT** if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee’s electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (Everett.Winnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The House Committee on Natural Resources had no meaningful opportunity to debate the provisions within its jurisdiction contained in the \$1.2 trillion so-called “Bipartisan Infrastructure Law” (BIL). Despite the name it has been given, only half of the bill focused on true infrastructure and the rest was chock-full of progressive and partisan boondoggles.
- The wildfire and ecosystem restoration provisions in the BIL do little more than light money on fire by throwing millions of dollars at the catastrophic wildfire crisis without enacting the meaningful regulatory reform necessary to ensure our lands are properly managed.



- To truly address the systemic issues plaguing our western landscapes, it is paramount that we provide the tools necessary to streamline onerous regulatory hurdles and stop the endless litigation bogging down responsible land management.
- In response to the influx of taxpayer dollars from the BIL, the U.S. Forest Service has announced a new 10-year strategy to address the wildfire crisis that puts forward goals to increase hazardous fuels treatments up to 20 million additional acres. Unfortunately, the strategy falls far short of treating the enormous 63 million acres of land that the Forest Service classifies as being at high-risk for wildfire.

II. WITNESSES

- **Mr. Jeff Rupert**, Director, Office of Wildland Fire, U.S. Department of the Interior
- **Ms. Jaelith Hall-Rivera**, Deputy Chief, State and Private Forestry, Forest Service, U.S. Department of Agriculture
- **Mr. Brian Ferebee**, Chief Executive of Intergovernmental Relations, Forest Service, U.S. Department of Agriculture

III. BACKGROUND

Overview

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act, H.R. 3684 (Public Law 117-58), also known as the “Bipartisan Infrastructure Law” (or BIL), which provided funding and new authorities intended to address a wide range of issues facing the nation, including public lands. The Senate air-dropped in new provisions under the Committee on Natural Resources’ jurisdiction that the Committee had no chance to mark up or meaningfully debate on the floor. Hasty drafting and little room for input left the bill riddled with technical errors, some of which Congress has already had to pass new legislation to fix.¹

The majority of the forestry, federal land, wildfire management, and ecosystem restoration provisions related to the U.S. Forest Service (USFS) and the Department of the Interior (DOI) contained in the BIL were enacted as part of *Division D—Energy, in Title VIII, Natural Resources-Related Infrastructure, Wildfire Management, and Ecosystem Restoration*.² Table 1 provides a section-level summary of the applicable authorizations for discretionary appropriations provided to USFS and DOI. *Division D—Other Authorizations* included some additional provisions related to land management that are discussed later in this memo.

¹ For example, Congress passed a technical fix to the Secure Rural Schools Act (Public Law 117-102) in March 2022 to address technical issues with implementing the BIL and ensure counties continued to receive proper payments.

² Congressional Research Service, “Forestry, federal land management, and wildland fire management provisions in the Infrastructure Investment and Jobs Act,” Katie Hoover, February 3, 2022, https://republicans-naturalresources.house.gov/UploadedFiles/IIJA_Forestry_Federal_Lands_and_Wildfire_Provisions_-_Final.pdf

Table 1. Authorization of Appropriations for Select Forest Service and Department of the Interior Activities in the Bipartisan Infrastructure Law
(dollars in millions)

Agency	Wildfire Risk Reduction (§40803)	Ecosystem Restoration (§40804)	Joint Chiefs Landscape Restoration Partnership Program (§40808)	Total
Forest Service	\$2,314.2	\$1,225.0	\$180.0	\$3,719.2
DOI	\$1,055.0	\$905.0	--	\$1,960.0
Total	\$3,369.2	\$2,130.0	\$180.0	\$5,679.2

Source: CRS, using the legislative text of the Bipartisan Infrastructure Law (BIL, P.L. 117-58).

Notes: This table reflects only those sections in Division D, Title VIII of P.L. 117-58 that provided authorizations for discretionary appropriations for USFS and/or DOI and excludes §40801.

Wildfire Risk Reduction (§40803)

Section 40803 of the BIL provides nearly \$3.4 billion over fiscal years (FY) 2022-2026 to conduct restoration treatments and improve the Fire Regime Condition Class of 10,000,000 acres of Federal or Tribal land that are located in the wildland-urban interface or in a public drinking water source area.³ Following are some of the major activities funded under Section 40803 of the BIL:

- *Federal Wildland Firefighters:* The BIL provides \$600 million to increase the base firefighter salary by \$20,000 (or 50 percent of their current salary, whichever is lesser) and provide the ability for USFS and DOI to convert 1,000 seasonal firefighters into permanent fire managers who conduct 800 hours of hazardous fuels reduction activities per year. Subsection (d) directs the agencies to create a new “Wildland Firefighter” occupational series. USFS is collaborating with DOI and the Office of Personnel Management (OPM) to develop a strategy and framework for the implementation of this provision.⁴ The BIL also includes provisions for developing recommendations to minimize firefighter exposure to line-of-duty environmental hazards and for programs to recognize and address the mental health needs of wildland firefighters.⁵
- *Hazardous Fuels Management and Community Wildfire Risk Reduction:* The BIL authorizes \$500 million for USFS and DOI to conduct timber harvesting and mechanical thinning activities to support fire-resilient stands, or to conduct precommercial thinning to promote wildlife habitat benefits. \$500 million is also made available to USFS and DOI to plan and conduct prescribed fire and related activities on federal lands. The BIL also authorizes \$200 million for USFS and DOI to employ labor crews or enter into contracts to perform hazardous fuel reduction activities on federal land, for using materials from treatments to produce wood products, and for conducting postfire restoration treatments on federal lands. In addition, the BIL authorizes \$500 million for

³ Public Law 117–58, November 15, 2021.

⁴ U.S. Department of Agriculture, “Bipartisan Infrastructure Law,” <https://www.fs.usda.gov/managing-land/infrastructure>.

⁵ Public Law 117–58, November 15, 2021.

USFS, in coordination with states, to award Community Wildfire Defense Grants to at-risk communities, including Indian tribes.⁶ Finally, the bill provides an additional \$500 million for installing fuel breaks.

- *Post-Fire Restoration:* BIL provides \$200 million, to be split evenly between USFS and DOI for post-fire restoration activities to be implemented within 3 years of a wildland fire.

- *Other:* The bill also includes:
 - \$100 million for preplanning fire response workshops and workforce training;
 - \$100 million for the Collaborative Forest Landscape Restoration Program;
 - \$20 million for the National Oceanic and Atmospheric Administration (NOAA) to operate a program to rapidly detect and report wildfires;
 - \$10 million for technology upgrades for radios;
 - \$30 million for a Reverse-911 telecommunications system;
 - \$50 million for a pilot program for slip-on tankers for firefighting;
 - \$20 million for the Southwest Ecological Restoration Institute;
 - \$20 million for the Joint Fire Science Program;
 - \$8 million for firewood banks,
 - \$10 million for wildfire detection equipment; and
 - \$1.2 million for a map of at-risk communities.

Ecosystem Restoration (§40804):

Section 40804 of the BIL authorizes \$2.1 billion for FY 2022-2026 for ecosystem restoration activities. This includes:

- \$300 million for stewardship contracts to restore ecological health;
- \$200 million for good neighbor agreements;
- \$400 million for facilities that purchase byproducts from ecosystem restoration;
- \$400 million for private lands ecosystem restoration;
- \$50 million to minimize stream bed disturbance;
- \$200 million for invasive species detection and eradication;
- \$100 million for recreation sites;
- \$200 million to restore native vegetation;
- \$200 million to implement a national revegetation effort; and
- \$80 million to restore water quality and fish passage.⁷

Other Provisions

While not explicitly part of today's hearing, there are several other provisions of note in the BIL that impact wildfire risk reduction and ecological restoration including:

⁶ *Id.*

⁷ *Id.*

- *Joint Chiefs Landscape Restoration Partnership Program (§40808)*: Section 40808 of the BIL authorizes funding, formalizes, and provides program direction for the Joint Chiefs Landscape Restoration Partnership to be implemented jointly by USFS and the Natural Resources Conservation Service (NRCS)⁸ to assist landowners with implementation of eligible activities to reduce wildfire risk, protect water supply or quality, or improve habitat for at-risk species on eligible lands.⁹
- *Fuel Breaks Categorical Exclusion (§40806)*: In addition to the funding authorizations outlined above, Section 40806 specifies that certain forest management activities performed on USFS and DOI Bureau of Land Management (BLM) lands, for which the primary purpose is to create and maintain linear fuel breaks, are categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA, Public Law 91-190).¹⁰ This Categorical Exclusion (CE) can be used to create fuel breaks up to 1,000 feet in width, not to exceed 3,000 acres, located primarily in the wildland-urban interface or a public drinking water source area.¹¹ USFS is developing guidance and a decision memo template to assist Forests and Regions in applying the new CE.¹²
- *Wildland Fire Mitigation and Management Commission Act of 2021 (§70201 et seq.)*: The Wildland Fire Mitigation and Management Commission Act of 2021 establishes a commission to study and provide recommendations to Congress focused on wildland fire management, including issues related to aerial wildland firefighting equipment.¹³ The U.S. Department of Agriculture (USDA), DOI, and the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA) announced the establishment of the Commission on December 17, 2021.¹⁴
- *REPLANT Act (§70302(a), §70302(b))*: The Repairing Existing Public Lands by Adding Necessary Trees (REPLANT) Act amends the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. §1601) by adding reforestation requirements for USFS after unplanned disturbance events such as wildfires on National Forest System lands. It directs USFS to develop a priority list for reforestation projects and requires the agency to submit reports to Congress estimating the funds necessary to achieve reforestation goals for nine years following enactment.¹⁵ Title III also removes the \$30 million per year expenditure cap from the Reforestation Trust Fund and allows USFS to

⁸ An agency of the United States Department of Agriculture (USDA) whose stated mission is to provide resources to farmers and landowners to aid them with conservation of private lands. For additional information, see: <https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/about/>

⁹ *Id.*

¹⁰ *Id.*

¹¹ US Forest Service, "Forest Provisions—Bipartisan Infrastructure Deal (Enrolled Bill)" https://republicans-naturalresources.house.gov/uploadedfiles/chart_fs_provisions_enrolled_bill_version.pdf.

¹² U.S. Department of Agriculture, "Bipartisan Infrastructure Law," <https://www.fs.usda.gov/managing-land/infrastructure>.

¹³ *Id.*

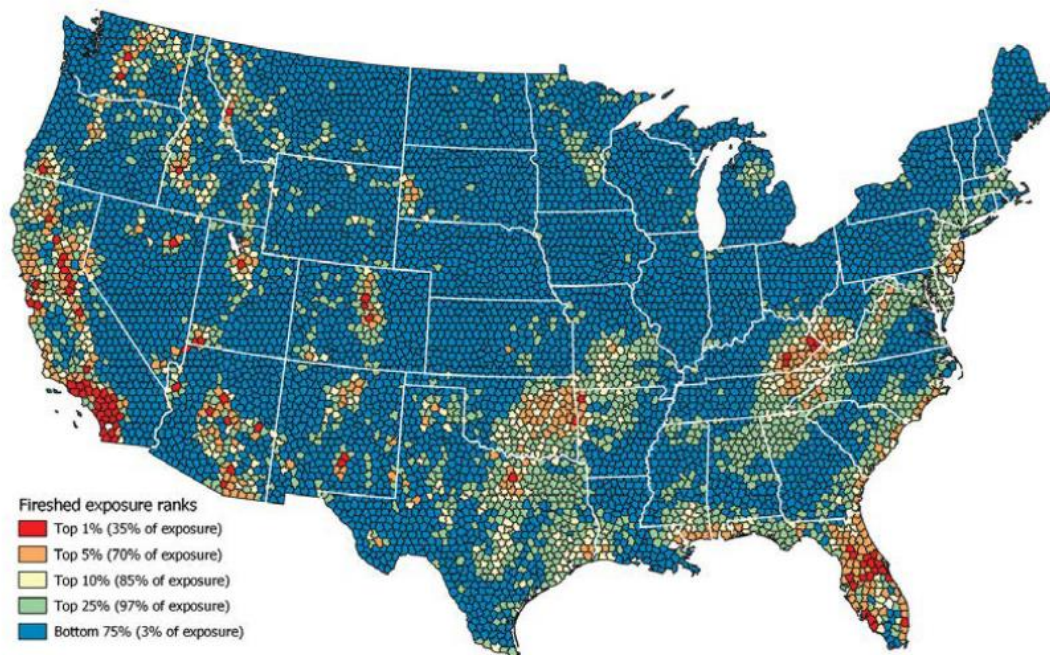
¹⁴ USDA, "USDA, DOI, and FEMA Jointly Establish New Wildland Fire Mitigation and Management Commission" December 17, 2021, <https://www.usda.gov/media/press-releases/2021/12/17/usda-doi-and-fema-jointly-establish-new-wildland-fire-mitigation>.

¹⁵ *Id.*

access additional funds already being collected through tariffs on foreign wood products. Congress originally created the Reforestation Trust Fund in 1980 to plant trees on national forests in the aftermath of natural disturbances such as wildfires.¹⁶

U.S. Forest Service 10-Year Strategy

On January 18, 2022, USDA Secretary Tom Vilsack and USFS Chief Randy Moore announced a new 10-year strategy to significantly increase fuels and forest health treatments, including treating up to an additional 20 million acres on national forests and grasslands and supporting treatment of up to an additional 30 million acres of other federal, state, Tribal, and private lands. BIL funds will be used to begin implementing this work. The strategy will focus on areas identified as being at the highest risk of wildfire, based on community exposure fireshed maps, including the Pacific Northwest, the Sierra Nevada Range in California, the front range in Colorado, and the Southwest.¹⁷



Source: Dr. Alan Ager, USFS Research Forester, Fire, Fuel and Smoke, May 2021

To assist in developing the strategy, USFS is collaborating with the National Forest Foundation to hold virtual roundtable events to share information and solicit input from employees and partners such as Tribes, state governments, and other federal agencies. Roundtable discussions will be incorporated into reports that will inform strategy implementation. The roundtables began in February 2022 and will conclude in June 2022.¹⁸

¹⁶ US Forest Service, “Fact Sheet: Forest Service Trust Funds” David C. Powell, February 2014 https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3794956.pdf

¹⁷ U.S. Department of Agriculture Forest Service, “Secretary Vilsack Announces New 10 Year Strategy to Confront the Wildfire Crisis,” January 18, 2022, <https://www.fs.usda.gov/news/releases/secretary-vilsack-announces-new-10-year-strategy-confront-wildfire-crisis>.

¹⁸ National Forest Foundation, “Wildfire Crisis Strategy Roundtables,” <https://www.nationalforests.org/collaboration-resources/wildfire-crisis-strategy-roundtables>.

As required by Section 601 of the BIL, DOI prepared a Wildland Fire Management Initial Spend Plan for the BIL funding.¹⁹ However, DOI has not announced a long-term wildfire strategy. Concerningly, DOI has not provided any information on how many additional acres they plan to treat with the hundreds of millions of dollars they have received under the BIL.

BIL Flaws and Implementation Concerns

Failure to Truly Address the Catastrophic Wildfire Crisis

Over 117 million acres (63 million for USFS; 54 million for DOI) of federal land are at high or very high risk of wildfire, representing nearly one-fifth of the combined federal lands administered by the agencies.²⁰ Across the United States, there are now 1 billion acres at risk of wildland fire.²¹ Due in large part to a mix of bureaucratic red tape, onerous regulations, and frivolous litigation, USFS has only carried out 2 percent of needed fuel reduction treatments per year.²²

While some may claim this dismal level of accomplishment is due to a lack of funding, which the BIL would address, USFS's budget has actually doubled over the past 10 years from \$4.9 billion in FY 2013 to \$10.9 billion in FY 2022.²³ While the influx of funding from the BIL for the reduction of hazardous fuels is welcome, as is the new fuel break CE, the lack of meaningful legislative reforms to address well-known management hurdles, such as environmental red tape and frivolous litigation, will undoubtedly fall short when it comes to significantly increasing the pace and scale of forest management on National Forest System lands. This newly announced strategy relies on the dubious notion that all of the "tools, the knowledge, and the partnerships are in place" to achieve a paradigm shift on wildfire management²⁴ when in fact many barriers within the federal government itself remain unaddressed.

¹⁹ Department of the Interior, "Wildland Fire Management Implementation of the Bipartisan Infrastructure Law Initial Spend Plan," <https://www.doi.gov/sites/doi.gov/files/wildland-fire-mgmt-bil-spend-plan-final-508.pdf>.

²⁰ Hoover, Katie. *Federal Wildfire Management: Ten-Year Funding Trends and Issues (FY2011-FY2020)*. <https://www.crs.gov/Reports/R46583?source=search&guid=8a080671120b4e7f92061e82e8a2bdf3&index=6>.

²¹ Chris French, Testimony before the Senate Energy and Natural Resources Committee, 6/24/21, <https://www.energy.senate.gov/services/files/AAF7DF40-2A47-4951-ADA4-4B124AD3894F#:~:text=In%20the%20United%20States%2C%20there,high%20risk%20of%20wildland%20fire.>

²² Fretwell, Holly, and Jonathan Wood. "Fix America's Forests: Reforms to Restore National Forests and Tackle the Wildfire Crisis." *PERC*, 12 Apr. 2021, www.perc.org/2021/04/12/fix-americas-forests-reforms-to-restore-national-forests-and-tackle-the-wildfire-crisis/.

²³ Information provided by CRS.

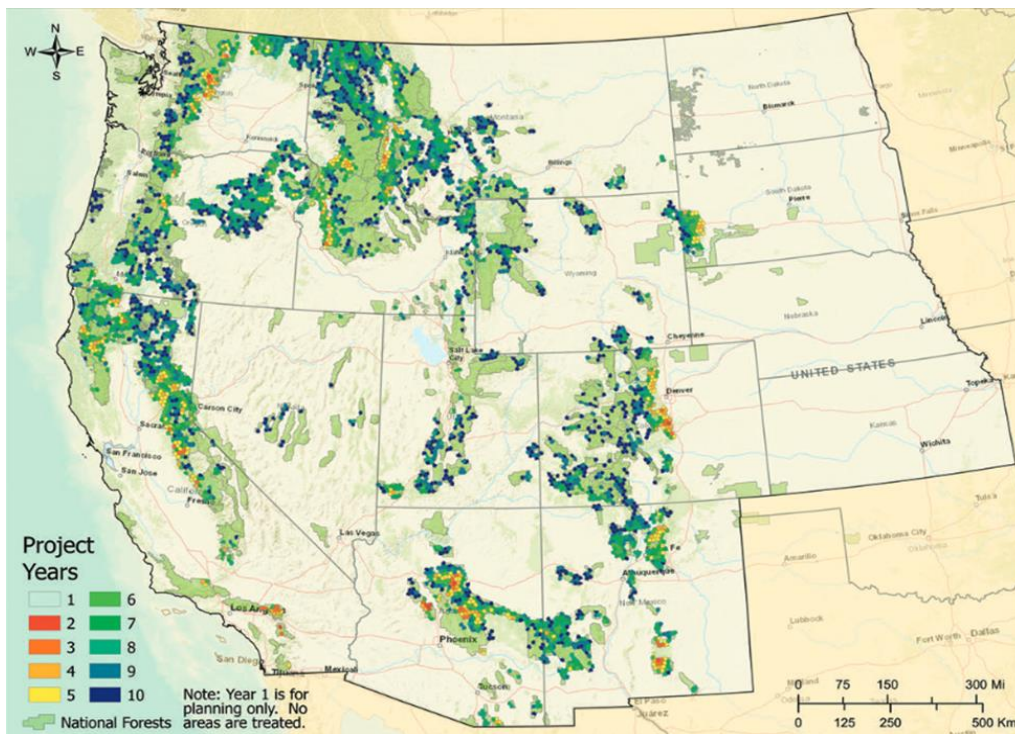
²⁴ U.S. Department of Agriculture Forest Service, January 18, 2022, <https://www.fs.usda.gov/news/releases/secretary-vilsack-announces-new-10-year-strategy-confront-wildfire-crisis>.

Table 2. USFS Acres of Land Treated Versus Overall Budget Totals: FY 2013-2021

Year	Acres Treated	Total Budget (in nominal dollars)
FY 2013	2.4 million	4.9 billion
FY 2014	2.3 million	5.5 billion
FY 2015	2.3 million	5.1 billion
FY 2016	3.1 million	6.4 billion
FY 2017	2.6 million	5.6 billion
FY 2018	3.2 million	6.6 billion
FY 2019	2.6 million	6.9 billion
FY 2020	2.4 million	7.5 billion
FY 2021	3.4 million	7.4 billion

Source: CRS compiled from USFS data.

In addition, there are several issues and outstanding questions with the 10-year strategy. First, the strategy relies heavily on State, Tribal, and private partners to conduct the majority of treatment work (30 million acres). USFS’s 20 million acres will be in addition to current treatment levels, which have averaged about 2-3 million acres per year.²⁵ Second, the BIL only provides funding for 5 years, creating a mismatch with USFS’s wildfire risk reduction plan. As the map below demonstrates, USFS is planning to complete the vast majority of this work in years 6 through 10 when, leaving tens of millions of acres across the West to burn in the interim.



Source: Dr. Alan Ager, USFS Research Forester, Fire, Fuel and Smoke, May 2021

²⁵ Wildfire Today, Bill Gabbert, January 19, 2022, <https://wildfiretoday.com/2022/01/19/forest-service-announces-10-year-initiative-to-increase-fuel-treatment/?sfw=pass1648585439>.

Similarly, the new Wildland Fire Mitigation and Management Commission reflects a positive acknowledgement of the scale of our wildfire crisis and need to develop better strategies across multiple agencies to better manage unhealthy forests. However, this new commission is duplicative of existing interagency federal efforts such as the Wildland Fire Leadership Council and the White House Wildfire Resilience Interagency Working Group. It is hard to see how an additional commission will produce different or better results than those programs that have already been established.

If given the chance, House Republicans would have offered significant improvements to the BIL to truly address the foundational obstacles that have historically blocked and delayed the type of responsible management necessary to tackle the catastrophic wildfire crisis. House Republicans have introduced legislation to expedite environmental analysis, reduce frivolous lawsuits, improve state, Tribal and local collaboration, and conduct landscape scale management to treat extremely high-risk areas and communities. Many of these provisions are also included in the Resilient Federal Forests Act (RFFA), H.R. 4614, a comprehensive forest management bill led by Ranking Member Westerman that would provide real solutions to restore forest health, increase resiliency to wildfire, and support the economic revitalization of rural communities.

This Congress, RFFA includes a brand-new landscape scale management concept that would rely on fireshed mapping technology to identify and treat the top 10 percent of high-risk areas and communities.²⁶ The devastation that can be inflicted by wildfire in these identified firesheds was seen just last year in when the Marshall Fire, which was the most destructive wildfire in Colorado history, destroyed 1,084 homes.²⁷ A post fire report prepared by USFS identified the area burned in the Marshall Fire as a top 10 priority fireshed in the State of Colorado, and the 41st priority fireshed out of a total of 7,688 across the country.²⁸ The report also found that the area had not been targeted for fuel treatments in the recent past.²⁹ RFFA offers critical tools that would enable USFS to achieve the type of landscape scale treatments that USFS envisions in the 10-year strategy.

Finally, while firefighter compensation, classification and support services are very serious issues and the investments made in the BIL are important and overdue, the reality remains that until the dire wildfire threat is truly addressed, brave wildland firefighters will continue to be sent into increasingly dangerous firefighting situations year after year. To truly help our wildland firefighting workforce, we need a dramatic increase of responsible forest management, which will reduce the severity of catastrophic wildfires. Regrettably, that is a solution the BIL falls short in providing.

²⁶ USDA Forest Service Rocky Mountain Region ,Alan Ager, et al. “Development and Application of the Fireshed Registry,” May 2021.

²⁷ Noelle Phillips, “Marshall Fire Destroyed 1,084 Homes Worth A Combined Half-Billion Dollars, Denver Post (Jan. 6, 2022), <https://www.denverpost.com/2022/01/06/marshall-fire-damage-estimates/>.

²⁸ U.S. Department of Agriculture Forest Service, Allan Ager, “Fireshed assessment of potential wildfire exposure to developed areas surrounding Boulder, Colorado” January 17, 2022, https://republicans-naturalresources.house.gov/UploadedFiles/FireshedRegistry_MarshallFire_Final_01192022.pdf

²⁹ *Id.*

Ecosystem Restoration and Reforestation Shortcomings

The BIL's funding for ecosystem restoration projects and the lifting the Reforestation Trust Fund cap are well-intentioned, however, offer only partial solutions to the ecosystem restoration and reforestation challenges facing our nation. As a result of decades of mismanagement and catastrophic wildfire, USFS currently has a reforestation backlog of approximately 1.3 million acres. Alarming, this figure is a conservative estimate and does not account for the millions of acres that have been burned in the last two years, which will likely add hundreds of thousands of acres in need of treatment to the existing backlog. Due to a variety of barriers, the agency is currently treating less than 5 percent of its reforestation needs annually.³⁰ Throwing money at this problem alone, with no long-term management strategy to ensure these new trees are not lost to catastrophic wildfire in the future is unwise. House Republicans have offered a much more comprehensive approach with the Trillion Trees Act, H.R. 2639, which in addition to increasing resources towards the Reforestation Trust Fund would also create a long-term seedling strategy, invest in new technology, and prioritize labor concerns. This approach is a better alternative to truly ensuring that our forests stay forests for generations to come.

³⁰ https://republicans-naturalresources.house.gov/UploadedFiles/Reforestation-FactSheet_final.pdf.