

OPENING STATEMENT
HONORABLE SCOTT McINNIS

HR, 5319, THE HEALTHY FORESTS REFORMS ACT

SEPTEMBER 5, 2002

Today we have the rare privilege hearing from America's two land-managers-in-chief -- Interior Secretary Gale Norton and Agriculture Secretary Ann Veneman -- on the most pressing issue facing land managers today - the wildfire crisis in the American West. I want to applaud both Secretary Veneman and my old friend from Colorado Secretary Norton - along with their Boss down the street a block or two - for their forward engagement in attacking this problem. After wrestling with the issue as Chairman of the Forests Subcommittee over the last couple years, it's become clear to me that it's going to take some good-old-fashioned elbow grease from those in the highest levels of our government to get the upper hand on this wildland epidemic. So I commend the President, Secretaries Norton and Veneman - as well the sub-cabinet officials here with us today, Undersecretary Rey and Assistant Secretary Watson - for your good faith leadership on this issue.

In the last 6 months, the American public has undergone a sea change in its understandings about our national forests. Mere months ago, many viewed these great natural resources in the same manner that they thought about grandma's antique China - if you shelter it from the elements, lock it up, and just plain leave it alone, it will be preserved in its present state for generations to come. Benign neglect, many believed, was the best way to protect this intergenerational asset.

Well, it's not news to anyone in this room that the 2002 fire season has smashed this myth like so much antique China under an anvil. After record setting fires in Colorado, Arizona and Oregon - and the thousands of other wildfires that have made this fire season among the worst in the last half century - the ill-informed mythology of laissez faire forest management is on life support. There's a fresh consensus in the American West that we need to -- no, we must! -- start managing our forests in a meaningful way.

For those not convinced of this dramatic change in public attitude, consider the growing list of once reticent Senate Democrats who have joined in the chorus of calling for big changes in the way we manage our forests -- names like Wyden and Feinstein. I guess one could even make the case that Senator Daschle is prepared to make a change or two in current law when it comes to managing our forests. More impressively, environmental groups that mere months ago embraced a "no cut" philosophy now propose thinning our forests, even if on a limited scale. Now, these environmental proposals are, in my estimation, little more than half measures, and a more cynical person might describe them as a political fig leaf to help deflect growing frustration with this movement on the wildfire issue. But their proposals are a start, and they underscore just how far even once ardent opponents of forest management have come. Today we will discuss a series meaningful legislative proposals focused on solutions. I want to briefly describe why I believe that my legislation -- The Healthy Forests Reforms Act -- is a reasoned and prudent approach to getting our arms around the West's wildfire crisis.

The legislation was built two principles that, I believe, are the beginnings of common ground and a bipartisan approach.

First, public input in forest management is a must. And yes, that includes the opportunity for aggrieved parties to challenge forest management projects administratively and in the federal courts under our new procedures. As a general maxim, public engagement is a necessary pre-condition of good, sound forest management.

The second principle underlying my legislation is this – at present, the process that governs management of our forests and rangelands simply moves too slowly given the massive size of the wildfire threat hanging over us. To say that our forest management process moves at a snail's pace is to insult the foot speed of a snail. I think that every Member here today would agree that it just flat doesn't make any sense that it takes hazardous fuels projects – in the wildland urban interface, near watersheds, anywhere – upwards of several years to work their way through the NEPA process and any subsequent appeals and lawsuits.

Senator Daschle's Black Hills project was ensnared in bureaucracy and lawsuits for over a decade. A thinning project in my District on the Routt National Forest aimed at slowing the spread of bark beetles took over a year and half just to work its way through the NEPA process. Incidentally, that project is now under administrative appeal. As the process drags-on, the beetles continue to spread, destroying a broad swath of once scenic forest.

In the Colorado case, the South Dakota case, and in more cases than I care to count, the slow moving nature of our management process has been a primary culprit in the decline of forest health and in the related rise in catastrophic wildfire.

So what do we do about?

Well, the authors of NEPA and its implementing regulations recognized that there would be emergency instances in which the federal government would need to use so-called alternative arrangements in weighing environmental effects in lieu of the more typically used (and typically slow moving) Environmental Assessment or Environmental Impact Statement processes. If the wildfire situation isn't an emergency, I don't know what is. So my bill directs the Council on Environmental Quality to establish an expedited environmental analysis process for fuels projects on at risk landscapes, placing reasoned limits on the amount of process and documentation required. This expedited process would still allow for extensive public input, including an opportunity to appeal and litigate projects, and require a complete assessment of environmental effects and public input. But instead of taking upwards of several years to complete, this administrative process would be complete in 120 days.

If 120 days isn't enough time for "process", I ask my Colleagues, how much is?

Next, my legislation would replace the current Forest Service appeals process, which invites conflicts, moves slowly and discourages meaningful public participation during the early formulation of projects, with a more collaborative predecisional review process. Unlike the current appeals framework, the predecisional review process would allow the appeals officer to enter into collaborative dispute resolution with appellants and other interested stakeholders, and authorizes the appeals officer to sign off on negotiated agreements, so as to avoid the months-long remand process.

Next, my legislation would continue to give opponents of thinning projects implemented under this process the authority to challenge agency actions in federal court. Once challenged in federal court, the Secretary would be required to stay the project for 45 days, during which time the court would decide on the merits of the overarching

cause of action. The legislation gives the judiciary the authority to appoint special masters to ensure disposition of legal challenges within the 45-day time frame. And it also includes the caveat that, if the judiciary feels like it can't dispose of the challenge in that time frame for Constitutional reasons, it can extend that deadline at its discretion.

Additionally, the Healthy Forest Act would apply the Black Hills National Forest sufficiency rider to the aforementioned thinning project in Colorado's Routt National Forest, with an understanding that other Members may wish to propose one time exemptions to thinning projects in their Districts that are similarly bogged down in bureaucracy, appeals or lawsuits. If nothing else, it will be interesting to find out if what's good for Mr. Daschle's goose is good for everyone else's gander.

My bill would expand stewardship contracting authority for the Forest Service and Department of Interior agencies, as the Administration has called for and my Colleague from Virginia Mr. Goodlatte has tirelessly championed in recent months. And it would authorize hazardous fuels reduction funding over the next 8 years at the levels requested by the bipartisan Western Governor's Association.

Lastly, the bill creates rigid monitoring safeguards to protect against the kind of Chicken Little attacks that some environmental groups have already begun to levy against the bill. It would require the General Accounting Office to conduct an annual programmatic assessment to ensure that this new expedited process is giving the public a meaningful opportunity to comment on projects, and to challenge those projects after the fact, both administratively and in the Courts. What's more, the bill directs the Secretaries of Interior and Agriculture to create a scientific monitoring panel, consisting in part of appointees of the Chairman and Ranking Member of this Committee and its counterpart in the Senate, to assess the relative success of fuels projects implemented under this act. The bill specifically requires that panel to catalogue any abuses, should they occur.

So what emerges, Colleagues, is a bill that gives our land managers the tools to move with greater dispatch to reduce the threat of wildfire, but in a way that provides hard-hitting and objective checks and balances.

As this process and my legislation move forward, I would say to my Democratic Colleagues that nothing in this bill is sacrosanct, except the underlying mission to establish a more reasoned and efficient process. I repeat the overture that I've made to a few of you personally already – lets sit down, work out the details, and move forward in a bipartisan way.

I hope that my Democratic Colleagues will see and accept this olive branch. Don't let the fiery rhetoric of those defending the status quo burn that down too.

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