

Testimony of Dale Bosworth
Chief, U.S. Forest Service
Before the Subcommittee on Forests and Forest Health
Committee on Resources
U.S. House of Representatives

Regarding H. R. 4200, Forest Emergency Recovery and Research Act

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Introduction

Mr. Chairman and members of the Subcommittee, thank you for inviting me to talk with you today about H.R. 4200, the Forest Emergency Recovery and Research Act. A little over three years ago, President Bush recognized the need to restore our Nation's public forests and rangelands to long-term health with the introduction of the Healthy Forests Initiative. The President directed federal agencies to develop tools to allow federal land managers to reduce hazardous fuel conditions in a timely manner. The Congress passed legislation that allowed for long term-stewardship contracts to implement management goals including fuel reduction projects. This committee also was instrumental in enacting the Healthy Forest Restoration Act of 2003 (HFRA) which is helping to address severe forest health conditions in a meaningful time frame.

While we now have tools to assist us in treating forest and grasslands to recapture healthy conditions we have need of similar tools to help us recover and restore areas after natural events which are catastrophic in nature such as wildfire, hurricanes, tornados and other wind events, ice storms, insect and disease infestations, and invasive species impacting millions of acres of forests annually across the United States. The recent hurricanes along the Gulf of Mexico destroyed cities, tragically took many lives and disrupted millions of others. These storms also caused moderate to severe damage to about twenty million acres of woodlands, including private, state and federal ownerships across the Gulf States from Texas to Florida. In 2005, wildland fires burned over 8.4 million acres throughout the nation and destroyed over 800 structures. Invasive nonnative insects and diseases pose great risks to America's forests and have risen to catastrophic levels over the recent past including the decimation of Western White Pine in the Northern Rockies by a non-native blister rust, sudden oak death which has the potential to affect many susceptible eastern oaks, the death of millions of ash trees by the emerald ash borer in Michigan, Indiana and Ohio, Asian long-horned beetle, and hemlock woolly Adelgid. Bark beetles in the western states killed trees covering 19.3 million acres between 1999 and 2003 and in 2004 in Colorado alone over 7 million trees were killed over 1.5 million acres. Southern pine beetle attacks in Tennessee decimated over 350 thousand acres of valuable pine stands. These are some examples of the scope of the challenges to our resource managers and we are using our current authorities to address these matters.

We believe H.R. 4200 would provide some innovative authorities to improve the ability of the Secretary to promptly implement recovery treatments in response to catastrophic events affecting Federal lands. While these treatments include the removal of dead and damaged trees, the bill covers the entire spectrum of resource needs. Reforestation treatments, road and trail rehabilitation, and infrastructure repair are among other commonly critical aspects of post-disturbance recovery covered by the bill. H.R. 4200 also would support the recovery of non-federal lands damaged by catastrophic events, and would provide similar authority for Forest Service experimental forests. The Department strongly supports the goals of the legislation and its intent to get recovery actions accomplished promptly while focusing on maintaining sound environmental decision-making and public involvement, but we have objections to the spending provisions in Title IV and are prepared to work with the Committee on these provisions.

I would like to take you through each title and provide our views.

TITLE I – Response to Catastrophic Events on Federal Lands

Section 101 directs the Secretary to develop research protocols to collect and analyze scientific information about the effectiveness and ecological impacts of our recovery and emergency stabilization activities. The protocols would undergo peer review and be submitted to Congress no later than 180 days after enactment. They also would be made available to the public. Section 101(d) would authorize post catastrophic event research projects to be conducted in accordance with these protocols.

In the area of post-fire tree removal there is great debate, much of which is centered on the lack of scientific studies. The Forest Service testified before this subcommittee in July of 2004 and reported on the research paper titled "Environmental

Effects of Post-Fire Logging: Literature Review and Annotated Bibliography.” In this paper, Forest Service research scientists, McIver and Starr reviewed the existing body of scientific literature on logging following wildfire. Twenty-one post fire logging studies were reviewed and interpreted. McIver and Starr concluded that while the practice of salvage logging after fires is controversial, the debate is carried on without the benefit of much scientific information. They also concluded that the immediate environmental effects of post-fire logging is extremely variable and dependent on a wide variety of factors such as the severity of the burn, slope, soil texture and composition, the presence or building of roads, types of logging methods, and post-fire weather conditions.

We realize that there are gaps in what we know about post-fire restoration, and we are encouraged that H.R. 4200 helps address this issue through greater integration of management and science. The bill strengthens the agency’s ability to improve the effectiveness of post-disturbance management practices through the application of adaptive management procedures that couple management and scientific research in the design, data collection and analysis of post-disturbance management actions. The bill’s provisions on research protocols, monitoring and forest health partnerships would improve the environmental quality of decisions through continuous learning and adaptation while forging partnerships between managers, researchers, communities and interested citizens.

Section 102 would direct to the Secretary to conduct catastrophic event recovery evaluations, depending on the scope of the event. Evaluations would be required for catastrophic events over 1,000 acres but may be used for smaller events. The required evaluation must be completed in 30 days from the conclusion of the catastrophic event. The evaluation would be developed using an interdisciplinary approach, public collaboration and public notice of each evaluation and any public meetings. A rapid evaluation provides land managers and the public needed information on resource damage and how to proceed with recovery efforts.

Section 104 authorizes the Secretary to prepare a list of pre-approved management practices that may be immediately implemented after conducting a catastrophic recovery evaluation for a period up to two years. The list would be prepared using notice and comment rulemaking and would be subject to peer review. To comply with consultation under the Endangered Species Act, the Secretary may use emergency procedures as provided under the ESA regulations. A decision document must be issued not more than 30 days after the Secretary determines under Section 102(d) whether to implement a pre-approved management practice and the practice must be immediately implemented without further NEPA. Once established, the list of pre-approved management practices would provide the agency an important tool to accelerate our ability to implement recovery activities.

Section 105 would authorize the Secretary to utilize alternative arrangements to develop and analyze a recovery or research project. In conducting an environmental analysis, the Secretary would not be required to study or develop more than the proposed agency action and the alternative of no action under NEPA. A decision document must be issued no later than 90 days after the evaluation has been completed and must be immediately implemented. This authority would greatly enhance our ability to work collaboratively to develop proposed recovery projects.

The list and use of pre-approved management practices under Section 104 of the bill, and the use of alternative arrangements under Section 105 of the bill, are deemed to satisfy NEPA requirements under Section 103(b).

The Department supports the inclusion of a pre-decisional administrative process in Section 106. We believe that a pre-decisional objection process would encourage more up front participation in the public involvement processes and preserve the opportunity for those that do participate to express concerns about a proposed decision. Public interest is better served through mutual efforts to resolve differences before a decision document is signed rather than by trying to resolve those differences after a decision is made.

Section 107 would direct the Secretary to standardize the collection and reporting of reforestation needs in response to catastrophic events through agency-wide guidance. These requirements are similar to recommendations made in a recent GAO audit report (GAO-05-374), but are not entirely consistent with those recommendations. The agency has submitted and is working on a Statement of Action in response to the GAO audit report. We would like to recommend that the section be adjusted to reflect the GAO recommendations and the requirements to align with them.

Section 108 would provide that nothing in Title I effects the Secretary’s use of other statutory or administrative authorities to conduct a catastrophic event recovery project or catastrophic event research project that is not conducted under the alternative arrangements in Section 105. Section 109 would exempt sections of the bill from The Federal Advisory Committee Act, the Act would not apply to the peer/independent review in Section 101(b), the monitoring process in Section 104(h) or 105 (f) and the preparation of a catastrophic event recovery or research evaluation.

TITLE II – Restoring Landscapes and Communities Impacted by Catastrophic Events

Equally significant are the bill's provisions for working across boundaries, particularly with local communities, Tribes, and State agencies. Often, highest priority recovery needs are those that directly benefit private lands and neighboring jurisdictions. Moreover, the effectiveness of post-disturbance recovery efforts – such as those related to water quality and weed control - often depends upon coordinated action across multiple jurisdictions. The bill will assist in the prompt development of coordinated recovery efforts. The Secretary may provide both technical and financial cost-share assistance to assist in the preparation of landscape assessments and implement special recovery projects identified in the assessments.

TITLE III – Experimental Forests

Section 302 would authorize the use of pre-approved management practices on experimental forests.

Section 303 would authorize the use of alternative arrangements in Section 105 in experimental forests.

TITLE IV – General Provisions

Section 401 would provide that the Secretary is not required to promulgate regulations to implement this Act.

Section 402 would provide authority to the Secretary to use unobligated balances to implement catastrophic event research and recovery projects. The bill also provides authority to use wildland fire management funds for pre-approved management practices and catastrophic event recovery/research projects related to wildland fire. The Knutson-Vandenberg Fund and the Forest Service Salvage Fund could be used for pre-approved management practices and for catastrophic event recovery and research projects. Additionally, FEMA would be authorized to reimburse the Secretary concerned for any assistance provided to non-federal land designated by the President as a federal disaster area. While we support the new procedural authorities contained in H.R. 4200, we object to the new spending provisions in Title IV of the bill.

Summary

Mr. Chairman, we believe H.R. 4200 would provide several innovative measures to land managers to promptly respond to emergency resource recovery on both federal and non-federal ownerships. The bill would provide direction for rapid response to catastrophic events and allows managers and partners to spend less time planning and more time doing. The bill integrates strong science with management and public participation while providing additional flexibility on where and how we can use these tools. As stated previously, The Department strongly supports the goals of the legislation and its intent to get recovery actions accomplished promptly while focusing on maintaining sound environmental decision-making and public involvement, but has objections to the spending provisions in Title IV of the bill. We would like to work with the Committee to address these objections and some additional technical issues.

This concludes my statement. I am glad to answer questions.