

## STATEMENT

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## CONCERNING

H.R. 5541, the Federal Land Assistance, Management and Enhancement Act (FLAME)  
and H.R. 5648, the Emergency Wildland Fire Response Act of 2008

I have read the March 2008 letter from the five living former Chiefs of the Forest Service and Jack Thomas's written testimony in support of H.R. 5541. I have also read H.R. 5648. The letter from the five former Chiefs and Jack's testimony make an excellent case for why the present funding formula must be changed. The present formula has had a devastating effect on the ability of the Forest Service to meet its mission of "Caring for the Land and Serving People."

I believe both Bills have the potential to greatly improve the funding formula dilemma, and I suggest they be combined to capture the most positive attributes of each. They do not go far enough to truly treat the root cause of the wildfire issue, but more about that later.

The positive attributes of each Bill that should be included in the combined version, as well as areas of concern follow:

The positive attributes of H.R. 5541 – The FLAME fund can receive annual appropriations equal to the previous five- year average. Interest is earned on the unused portion. The funds are designated as emergency funds. The Declaration Criteria includes a situation where the costs for cumulative wildfire suppression activities are projected to exceed amounts annually appropriated. An annual report is required. FLAME requires a cohesive Wildland Fire Management strategy that has five required elements. Elements three, four and five are excellent, especially five. More on this later.

Areas of concern with H.R. 5541 - The ten-year rolling average could present a challenge as fire suppression costs have been escalating at a rapid rate, and five years may be more reflective of the situation.

Section (f) on page 7 – Treatment of Anticipated and Predicted Activities is a little confusing to me as it indicates the agencies have to continue funding anticipated wildfire suppression activities within the appropriate agency budget, and that is what is causing today's problems. I admit budgeting at this level is not my strong suit.

The positive attributes of H.R. 5648 – the Criteria for Declaration on page five are thorough and I suggest adding a statement to, (ii) Threat, that covers a concern for the medical health of local communities. The intense heavy smoke inversions in many communities have created health problems for people and I predict this issue will become a problem for fire management agencies in the future. The Authorization of Appropriations on page seven uses the previous five years for declared Wildland fire incidents. The (2) Review of Certain Fires section on page nine has some merit but I suggest that flexibility be incorporated if this section is in the final Bill. The flexibility should be on the ten million dollar cost figure, as size and costs of fires are increasing, as well as the requirement to review all of those fire incidents. In the future the Committee may want to relax or increase the requirement, depending on the cost of the reviews, and the level of trust between the Committee and the agency. I really like section (g) Support for Fire Ready Communities on pages nine – eleven, especially the encouragement and incentives for cities and counties to develop local codes for building in the wildland urban interface (WUI). I also like SEC.4. on Partnerships to Reduce Hazardous Fuels on National Forest System Lands. This could prove to be an important section if you incorporate some of my suggestions later in this document.

Areas of concern with H.R. 5648 – On page six (e) Reports on Fund Activities; there is a joint report requirement every six months. This could prove to be an onerous requirement as there is also a requirement for a report on every declared emergency wildland fire incident. Section (1) Transfer of Excess Funds for Reforestation on page eight has a requirement regarding the stratified cost index. The hotter, more costly fires may need reforestation and rehabilitation more than the fires that are below the stratified cost index.

#### Recommended Additions

Both H.R. 5541 and 5648 contain a mention of “Hazardous Fuels” but the primary focus of both Bills is funding for fire suppression. Funding is an important part of the solution equation, but it is only half of the solution. Treating half of the problem is analogous to a patient going to the Doctor with intense pain and the Doctor prescribes a strong painkiller without identifying or treating the “root cause.” The Forest Service is in immediate and intense pain, and the painkiller is a different funding formula, but that does not significantly reduce the cause of the pain to the agency or the people they serve.

There are three components to the “root cause.”

1. Climate: There is ample scientific evidence that we are warming. Our summers are earlier and longer, leading to longer drying periods and hotter fire seasons. We are also in a dry cycle. The February 2008 issue of National Geographic had an article, “Drying of the West”, where data from the Laboratory of Tree Ring Research at the University of Arizona was analyzed. The analysis area was the Colorado River Basin, but the trend is West wide. The twentieth century was the wettest 100 years of the past 1000 years. This is also the century when we started

our intense fire suppression efforts. The tree rings showed that before Europeans settled the West there were numerous droughts more severe and protracted than any since then. When you combine the possibility of drought with warming the situation in our forest becomes more critical.

2. Number of Trees: The combination of moisture and fire suppression has created forest conditions where we have significantly more trees than can be supported with normal moisture regimes. When you factor in the trends of warmer and dryer the need for action is even more critical. The impacts of an excess of trees have been demonstrated for a number of years by bark beetle epidemics all over the West. The Payette National Forest was in a drought period during my tenure there (1986-1992) and five different bark beetles were killing trees where we had not thinned the stands. Over 300,000 acres of the Payette burned in 1994 and another 390,000 acres in 2007, mostly in beetle killed stands. There was some re-burn in 2007 so the numbers are not additive. There are over 1,000,000 acres of beetle-killed lodgepole pine in Colorado and Wyoming, and the future is fairly certain without action. The excess live trees not only create moisture stress for the entire stand, but when they burn they are ladder fuel to move the fire from the ground to the crown which ensures the death of the very trees that should be saved.
3. Forest Service Management Challenges: The present system for appeals and litigation has progressed to the point where it is extremely difficult for the agency to act decisively, timely and efficiently on large-scale thinning and restoration projects. This is true even in cases where community health and safety concerns are demonstrated. The Equal Access to Justice Act (EAJA) has created an incentive program for organizations to file lawsuits. The requirements for a NEPA document for the “Federal Official to make a reasoned decision”, and those to defend in court are significantly different. The responsible official will spend considerably more time and money building a “bullet proof” document than one with sufficient information to make a reasoned decision.

We can't do anything about number one, climate, but we can do something about numbers two and three. In that vein of thought I recommend the following additions to whatever final Bill is proposed.

- A. Clearly define Congress's expectations for the mission of the Forest Service in Fire Management. This includes: a focus on reducing hazardous fuels to prevent the large quantities of carbon released into the atmosphere; reduce the chances of large catastrophic stand replacing fires; increase the safety of firefighters; reduce the impacts to the health and economic stability of communities; increase the resiliency and sustainability of the National Forests; sequester carbon in live trees that will have an improved chance of surviving a bark beetle epidemic and/or a wildfire.
- B. Direct the Secretaries of Interior and Agriculture to collaborate with the Governors of each state to identify the communities that are at risk and agree on a comprehensive strategy to reduce the risk to an acceptable

level. Once the communities are identified and a strategy is in place, NEPA will be suspended, the appeals process will be suspended, EAJA will become a two way street (loser pays) and a bond of a significant amount will be required to file a lawsuit. In a two and one half year period, from 2005 to 2007, Region One of the USDA Forest Service paid \$456,750 for attorney fees under EAJA. I recognize this will be difficult and controversial, but the situation is critical and calls for bold action by Congress. Rather than waiting for the situation to get so bad that you have no choice, take preventative action now. Enable the agencies to move quickly and efficiently to prevent the impacts associated with large catastrophic wildfires. You will also see a significant savings in the long run, which makes taxpayers happy. The math is based on general estimates with approximate ranges.

Fire Suppression - \$1000.00 to \$2000.00 per acre

Fire Rehabilitation - \$500.00 to \$1000.000 per acre

Impact to Communities – no estimate

Carbon into Atmosphere – millions of tons annually

Thinning will not prevent forest fires, but it will reduce the chances for a fire to grow in intensity due to accumulations of fuel. It will also aid in suppression efforts under all conditions. I have personally seen moving uncontrollable fires reduce their intensity, rate of spread and resistance to control when burning into a thinned area. The thinned biomass must be removed from the forest and ground fuels (needles, cones, limbs and trees) reduced to a prescribed tonnage per acre. This biomass has value as a direct fuel source as “fuel for schools” and as feedstock for conversion to liquid bio fuel. Approximately 70% to 80% of the ponderosa pine stands on National Forest System Lands in Montana will pay for the thinning and removal costs due to the value of excess commercial sized trees. Some subsidy will be required but it is far less than the amount that will be required for reforestation and rehabilitation after the stands burn.

- C. Change the definition of renewable biomass in the 2008 Energy Bill. The definition makes no sense when you consider the: cost of fuel; reliance on foreign oil; goal of twenty five percent of energy to come from renewable sources by 2025 (25x25); the amount of carbon being released from wildfire; impacts on air quality; the need for carbon sequestration; advances in technology to convert woody biomass to bio fuel and the huge quantities of available feed stock in our forests.

Thank you for the opportunity to testify before your Committee.

