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Subcommittee on Forests and Forest Health  
Committee on Resources  
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H.R. 4200, the “Forest Emergency Recovery and Research Act”

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Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 4200, the Forest Emergency Recovery and Research Act. In recent years, our forests and rangelands have experienced uncharacteristically intense fires as well as extensive outbreaks of disease and insect infestations. To address conditions that increased risks of catastrophic fires, the Administration and the Congress have provided Federal land managers with tools to expedite activities to restore public forests and rangelands to healthy conditions. These tools are making a difference as the Department's agencies have reduced hazardous fuels since 2001 on 6.3 million acres of public and Tribal lands.

However, when fire, drought, insect epidemics, or other catastrophic events occur on public lands, procedural delays under current laws still prevent timely implementation of recovery and restoration activities. Failure to undertake timely recovery actions after these events has adverse environmental, economic, and community impacts. H.R. 4200 helps agencies avoid these impacts by providing tools to agencies to expedite recovery and restoration activities. The Administration strongly supports the land management provisions of H.R. 4200, but objects to the spending provisions in Title IV of the bill. We would also like to work with the sponsor and the Committee to address some technical concerns.

Within the 261 million acres of public lands managed by the Bureau of Land Management, approximately 55 million acres are forested and woodlands. Of these 55 million acres, 2.2 million acres comprise Oregon and California Railroad lands and reconveyed Coos Bay Wagon Road grant lands (O & C lands of Western Oregon). Over the past several years, the Department of the Interior agencies and Forest Service have begun reducing risks of catastrophic wildland fires and the threats they pose to communities in the wildland urban interface.

The President's Healthy Forests Initiative of 2002 directed the Department of the Interior agencies and the Forest Service to expedite reductions in hazardous fuels on public lands, restore ecosystems, and protect lives and communities. To facilitate this work, the Administration developed administrative procedures, including streamlining consultations under the Endangered Species Act (ESA) and expanding use of categorical exclusions under the National Environmental Policy Act, to expedite fuels reduction and related projects. The Congress has supplemented these tools with additional funding and legislative authorities that include the Healthy Forests Restoration Act, Tribal Forests Protection Act, and the stewardship contracting authority provided in the FY 2003 Omnibus Appropriations Act (Section 323 of P.L. 108-7).

To date, Interior Department agencies have treated 6.3 million acres, including implementation of 83 stewardship contracts covering 30,000 acres, with 35 projects covering 12,600 acres planned for FY 2006. Using HFI/HFRA tools, the BLM increased the hazardous fuels treatments from 13 projects treating 358 acres in FY 2003 to 566 projects treating 97,152 acres in FY 2005. BLM plans for FY 2006 are to reduce hazardous fuels on 117,898 acres (467 projects) using HFI/HFRA authorities.

These projects have generated significant benefits by improving forest and rangeland health and reducing risks of catastrophic fire. Here are three examples: In June of this year, the rapidly responding Jerome, Idaho, rural fire department and BLM crews held a wildland fire to just four acres because fuels treatments altered fire behavior. Fish and Wildlife Service personnel kept the Old 64 Fire to one-half acre at the Alligator River National Wildlife Refuge last year because of previous fuels treatments. Fuels treatments on the Pechanga Indian Reservation enabled Tribal firefighters to successfully protect homes and concentrate resources to suppress the Morales Fire last fall.

H.R. 4200 builds upon tools developed for hazardous fuels reductions by providing expedited procedures for use in recovery actions in the wake of fires and other catastrophic events. Certain post-fire situations require a rapid coordinated response in order to assure effectiveness of recovery and restoration efforts. Moreover, the environmental threats typically do not stop at ownership boundaries. Treatments limited to one side of a jurisdictional boundary may be less effective than actions coordinated within a broader ecosystem. Current authorities and procedures make coordinated decision making among Federal, state, and local land managers difficult. For example, after the 2002 Grizzly

Gulch fire in South Dakota, restoration activities on intermingled non-Federal land got underway well before the Environmental Assessment (EA) covering the Federal lands was completed. Insect infestation moved in, so that by the time the EA was completed and logging could begin on the Federal lands, much of the remaining timber had become unmerchantable. Similarly, the BLM missed an opportunity to coordinate salvage and restoration activities with an adjacent landowner in the area burned by the Timbered Rock Fire in 2002 in Oregon. The adjacent landowner moved ahead immediately with salvaging and replanting the burned area, and within one year salvaged and replanted all 9,000 acres of his burned lands. By comparison, because of the procedural requirements to salvage and re-plant on Federal lands, most of the BLM portion of the burned area is not yet fully treated. In such cases, coordination among Federal, state, and local land managers, as under H.R. 4200, would increase the likelihood of effective restoration on a landscape or watershed basis.

In the aftermath of Hurricane Katrina, the Administration reminded Federal land managers that the National Environmental Policy Act (N EPA) should be used to facilitate not impede actions necessary to preserve life and resources. The Council of Environmental Quality's (CEQ) regulations already offer some alternative arrangements when emergency actions are necessary. Guidance from CEQ on "Emergency Actions and N EPA" ( September 8, 2005) emphasizes that Federal agencies can maintain environmental stewardship by ensuring that response and revitalization activities do not inadvertently create unnecessary future environmental challenges.

H.R. 4200 takes this procedural tool a step further. To provide Federal land managers with the authority to respond rapidly to deteriorating environmental conditions, the bill establishes a process for "pre-approved management practices" that may be implemented immediately after a catastrophic event to recover the economic value of timber resources and undertake reforestation and revegetation.

The need for this authority is acute on BLM's rangelands. For example, after the 67,000 acre Jackie's Butte fire near Vale, Oregon (1999), the BLM proposed a 33,000 acre emergency stabilization and rehabilitation project to drill and seed the site to re-establish sagebrush steppe communities critical to wildlife and the ranching community. The project met with protests, appeals, and delays to the point that the fall seeding window was missed. Though some 28,000 acres were eventually seeded due to light snow pack in the winter, the rehabilitation benefits were significantly less than would have occurred had the project been implemented during the optimum seeding window.

Under current Department and BLM Fire Management Plans and Resource Management Plans, land managers determine post-fire activities by assessing damage caused by the fire and associated suppression activities as soon as safely possible. These assessments result in plans that are immediately implemented to rehabilitate lands damaged by fire and firefighting activities. Erosion control and replanting activities also occur based on the assessment of the risk for erosion and intrusion of invasive species. The BLM testified before this Subcommittee on July 15, 2004, with specific details on the planning and implementation of post-fire rehabilitation and restoration activities.

H.R. 4200 would replace some current BLM planning and program operations for post-catastrophic event restoration activities with a new system of pre-approved management practices for events affecting 1,000 or more acres of Federal land. A list of pre-approved management practices is to be developed by the Secretary. The public will have the opportunity to review and comment on a list of pre-approved management practices through the Federal rulemaking process. Once approved, these management practices, including management intervention to foster reforestation or other recovery of the damaged Federal land, could be implemented immediately after a catastrophic event, without further environmental review under N EPA. The list and use of pre-approved management practices under Sec. 104 of the bill, and the use of alternative arrangements under Sec. 105 of the bill, are deemed to satisfy N EPA requirements. The Secretary is granted exclusive authority for the decision to use alternative arrangements. Administrative appeals of proposed Federal agency management actions parallel those available under the Healthy Forests Restoration Act for hazardous fuels reduction projects, and judicial review of Department of the Interior actions is permitted only after exhaustion of the Department's appeals process. This approach is intended to reduce the time before implementation of recovery and restoration activities can be undertaken.

By authorizing rapid responses to prevent the loss of deteriorating timber resources after a catastrophic event, H.R. 4200 strives to make post-fire landscape and community economic recovery a priority. The Administration supports these goals. We are currently expanding our capacity to encourage community-based enterprises that help achieve forest and rangeland health objectives. Fuels projects and post-fire recovery can produce significant amounts of small diameter woody materials. Many small communities have lost conventional sawmills and other utilization infrastructure. Better coordinated technical support, investment and incentives can enhance development of infrastructure and help commercialize new technologies that make profitable use of forest and rangeland resources made available through emergency salvage and recovery projects.

H.R. 4200 also addresses one of the Department's most vexing problems—the inability to implement recovery actions on

fire-damaged lands despite agency compliance with current laws. In recent cases such as the Timbered Rock fire, the Environmental Impact Statement was developed with extensive public participation in the NEPA process and included a peer-reviewed science research component. Nonetheless, subsequent litigation resulted in BLM being prohibited from conducting many of the proposed restoration activities, including salvage logging of 17 mmbf (million board feet) of dead and dying timber worth \$1.3 million. In the BLM's portion of the Biscuit Fire in Oregon, where the Bureau proposed to harvest 2.4 mmbf of dead and dying timber worth \$124,000, a judge recently lifted restrictions on harvest of post-fire materials. Unfortunately, in the three years during which the BLM has been responding to the litigation, much of the wood has deteriorated. The timber now has only marginal, if any, value. Under H.R. 4200, the BLM and Forest Service would be authorized to undertake "pre-approved" recovery and restoration activities within months, rather than years, after a catastrophic event.

While we support the new procedural authorities contained in H.R. 4200, the Administration objects to the new spending provisions in Title IV of the bill.

As previously stated, the tools and authorities provided in H.R. 4200 would expedite recovery of both resources and communities in a meaningful timeframe after a catastrophic event on public lands. I would be happy to answer any questions.