

**Statement of
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**House Committee on Natural Resources
Subcommittee on National Parks, Forests and Public Lands**

**H.R. 5744, Catastrophic Wildfire Prevention Act
H.R. 5960, Depleting Risk from Insect Infestation, Soil Erosion, and Catastrophic Fire Act
H.R. 6089, Healthy Forests Management Act**

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Introduction

Thank you for the opportunity to testify on H.R. 5744, the Catastrophic Wildfire Prevention Act; H.R. 5960, the Depleting Risk from Insect Infestation, Soil Erosion, and Catastrophic Fire Act; and H.R. 6089, the Healthy Forests Management Act. All of these bills attempt to reduce the risk of catastrophic damages resulting from wildland fire by defining new forest and fuels treatments policies on public lands managed by the Bureau of Land Management (BLM) and on National Forest System lands managed by the U.S. Forest Service. The Department of the Interior supports the goals of enhancing restoration for public forests and rangelands and mitigating the risks of wildland fire by working more effectively with our partners, and therefore supports H.R. 5960. However, the BLM cannot support measures that expedite restoration treatments, as well as commercial grazing and timber harvest, at the expense of the environmental review and public involvement in federal actions. As such, the Department opposes H.R. 5744 and H.R. 6089.

Background

The BLM is committed to sustaining the health, diversity, and productivity of forests and woodlands, which together comprise 58 million acres of public lands managed by the BLM. The mounting effects of insect infestations, disease outbreaks, prolonged drought, climate change, invasions of harmful non-native species, and the accumulation of fuels generate increased risks of catastrophic losses, including risks to life and property that may result from wildfire. These increasing pressures, coupled with increasing demands for uses of the public lands, may also result in the loss of natural and cultural resources, loss of wildlife habitat, and loss of recreational opportunities on the public lands.

Guiding all of the BLM's management actions – including forestry and fuels management – is the agency's land use planning process. This is an open, public process in which the agency's proposals for managing particular resources are made known to the public in advance of taking action. The BLM's plans are reviewed and analyzed by members of the public and stakeholders,

including state, tribal, and local agencies, and the BLM must address all comments on agency proposals and make its responses available to the public.

Similarly, the BLM is committed to providing the full environmental review, including analysis of alternatives, and public involvement opportunities required by the National Environmental Policy Act (NEPA) for all agency proposals for BLM-managed lands. NEPA emphasizes public involvement to give all Americans a role in protecting our environment. America's economic health and prosperity are inexorably linked to the productive and sustainable use of our natural resources. The NEPA process remains a vital tool as we work to protect our Nation's environment and revitalize our economy.

Fire

The Department, through the Office of Wildland Fire, coordinates fire prevention, mitigation, and response both within the Department and with external federal and non-federal partners. The National Cohesive Wildland Fire Management Strategy is an unprecedented collaborative planning and risk analysis that builds on successes of the past while incorporating a new collaborative approach to restoring and maintaining resilient landscapes, creating fire adapted communities, and managing wildfire response in a complex environment. The Department's approach to hazardous fuels reduction is integrated and coordinated across vegetation types, types of insect infestation and disease, and land ownership. The Department employs an integrated, multi-agency approach to wildland fire management, and looks forward to working with the Committee to ensure the objectives of legislation are achieved in an integrated manner.

Forest Restoration

The Healthy Forests Restoration Act of 2003 (HFRA) provides an authority for hazardous fuels treatments and other forest and rangeland restoration treatments. In 2011, the BLM conducted over 400,000 acres of restoration and hazardous fuels reduction treatments, including thinning, salvage, and prescribed burns. The mountain pine beetle epidemic is estimated by the BLM to affect forests on up to 1.3 million acres of BLM-managed public lands, changing the character and increasing the complexity of the restoration treatments that the BLM applies. The BLM takes seriously its responsibilities for protecting people, property, and resources from wildland fire, and uses a proactive approach to treat hazardous fuels.

Because the factors that cause increasing hazardous fuel loads cross jurisdictional boundaries, the BLM has increasingly adopted a landscape approach to resource conservation and hazardous fuel treatment. The BLM routinely works with partner agencies, organizations, and landowners to engage in land and watershed restoration and hazardous fuels reduction activities on federal, state, and private lands.

Stewardship Contracting

Stewardship contracting authority, established for the BLM in the FY 2003 Omnibus Appropriations Act, allows the BLM to award contracts for fuels treatment and removal, for a period of up to ten years, and to use the value of timber or other forest products removed as an

offset against the cost of services received. The BLM has enjoyed many successes in using stewardship contracting authority, accomplishing goals for hazardous fuels reduction, habitat restoration, jobs and revenue growth for local communities, and protection of local communities from wildland fire. From 2005 through 2011, the BLM offered 411 stewardship contracts on 101,238 acres of BLM-managed lands. The BLM's future strategy for stewardship projects includes increasing the size and duration of these projects.

Good Neighbor Authority

Currently, the BLM is authorized through a pilot authority to enter into Good Neighbor agreements and contracts with the Colorado State Forestry Division to perform watershed restoration and protection services on BLM lands in the State of Colorado when similar and complementary work is being performed on adjacent state lands. This authority has been extended until September 30, 2013. All Good Neighbor projects must comply with applicable environmental laws and regulations, including the appropriate level of environmental review under NEPA, and must be consistent with the applicable land use plans. BLM field units are encouraged to use the Good Neighbor Authority as a tool to achieve resource work identified through the regular land use planning processes.

H.R. 5744

H.R. 5744 requires the implementation of authorized wildfire prevention projects in forests and in threatened and endangered species habitat, and defines livestock grazing and timber harvesting and thinning as appropriate project tools to reduce fuel loads. The bill provides for a reduced period of public comment and environmental analysis for such projects, and establishes expedited administrative and judicial review. In addition, the bill requires research on the effects of a potential Endangered Species Act (ESA) listing on fuel loads, forage and timber. The Department of the Interior opposes H.R. 5744, because it limits public involvement in the land use planning and environmental analysis processes and because of the modifications it makes to the ESA.

Analysis

The goal of H.R. 5744 is to mitigate the risk of catastrophic damages from wildfire. However, the Department does not believe that H.R. 5744 will help achieve the mitigation efforts as the bill does not reflect BLM's most current methods for conducting assessments and determining management practices. It curtails the BLM's ability to use its public land use planning process to inform decision-making. The BLM uses science-based tools for assessing conditions, establishing utilization standards, and analyzing alternatives, and values both its ability to conduct science-based analyses and the input it receives from the public on the agency's proposed actions for managing particular resources. Further, the scope of the bill is unclear – language throughout is limited to forest systems, although the bill appears intended to apply to woodlands and rangelands as well.

H.R. 5744 allows fuels reduction projects, including timber harvest, in Wilderness Study Areas (WSAs). The BLM opposes this provision. The BLM has developed a non-impairment criterion

to meet the requirements in the Federal Land Policy and Management Act (FLPMA) that WSAs not have their suitability for wilderness designation impaired. H.R. 5744, if enacted, could result in the loss of suitability for wilderness designation in WSAs that the BLM has managed for non-impairment since FLPMA was enacted.

The bill imposes strict deadlines for public review and environmental analysis and “deems” a project NEPA compliant if the agency does not meet the deadlines. The bill restricts environmental analysis for projects including livestock grazing and timber harvest that are authorized under the bill to Environmental Assessments, limiting the BLM’s ability to perform analyses and use them to inform its decisions. The 30-day deadline for public comment, 60-day deadline for response to public petitions for designation, and 60-day deadline for project decisions is insufficient for full public participation, complete environmental analysis, and would not permit the examination of and response to all comments received during the public comment period.

For authorized wildfire prevention projects the bill deems an Environmental Assessment (EA) for a livestock grazing project to be sufficient for at least 10 years, while an EA for a timber harvest project is deemed sufficient for at least 20 years. These time frames limit the BLM’s ability to determine the appropriate scope of their NEPA analyses and would undermine the integrity of those analyses. These time frames also may be interpreted to restrict the BLM’s ability to be responsive to changes in resource conditions and significant new circumstances and information, as required by FLPMA and NEPA. The bill also eliminates the alternatives analysis, which lies at the heart of NEPA and is beneficial in informing agency decisions. The BLM gains important information about public and stakeholder perspectives and performs important analyses during its NEPA process. The BLM opposes provisions limiting public participation through the land use planning and NEPA analysis processes.

The Department strongly believes that forest health and related management practices are consistent with threatened and endangered species conservation. The Department is committed to working with land managers to ensure robust forest health management practices are in place. The Department has a longstanding position of acknowledging the importance of forest health management practices on species conservation, such as actions that limit forest fuel loads. However, the requirements in H.R. 5744 (Sec. 7) for additional research and assessments for ESA listings, critical habitat determinations, and recovery plans are unnecessary and would create an undue burden, and therefore the Department opposes this provision.

H.R. 5960

H.R. 5960 amends the Healthy Forests Restoration Act (HFRA) to provide for enhanced restoration work in priority watersheds and enhanced authority to perform cooperative restoration projects on public lands managed by the BLM and on National Forest System lands managed by the U.S. Forest Service. The bill adds mountain pine beetle infestations as areas eligible for applied silvicultural assessments under HFRA; directs the Secretary of Agriculture to designate insect and disease treatment and research pilot areas; and changes the funding source for the Healthy Forests Reserve Program. The bill authorizes stewardship contracting;

establishes the Good Neighbor Authority; and modifies the Emergency Watershed Rehabilitation Program.

The majority of the bill's provisions apply to lands and programs managed by the U.S. Forest Service; the Department of the Interior defers to the U.S. Department of Agriculture on provisions that apply exclusively to lands and programs under its management. As to provisions that impact public lands under its management, the Department of the Interior supports H.R. 5960 as outlined below. The BLM would also appreciate the opportunity to work with the sponsor and the committee on certain technical improvements to the bill.

Analysis

H.R. 5960 amends HFRA to add the mountain pine beetle to HFRA's list of insect infestations eligible for treatments and to add a new section (Sec. 405) authorizing the designation of insect and disease treatment and research pilot program areas. This beetle is one of several insect species of concern to BLM's forest management program; however, this section of the legislation is currently written to apply only to National Forests. The BLM would welcome the opportunity to work with the sponsor on technical changes that would include BLM-managed lands in the identification of pilot priority treatment areas.

H.R. 5960 permanently authorizes stewardship contracting to achieve land management goals. The BLM supports stewardship contracting authority, as it provides the BLM with needed flexibility to work with contractors to achieve the agency's land and forest health goals, and saves taxpayer resources because the value of forest products removed are used to offset the cost of the management action. However, the BLM would like to work with the sponsor on clarifying language to ensure the BLM is included in the intended authorities, that the Secretary of the Interior, as well as the Secretary of Agriculture is authorized to enter into contracts, and to address the full breadth of work included in the treatment types listed.

Finally, H.R. 5960 expands the Good Neighbor Authority, enabling the use of contracts and agreements between the Secretary of the Interior or Secretary of Agriculture and state Governors to perform authorized restoration work on federal land where similar work is being performed on adjacent state land. Building on successful implementation in Colorado, where the BLM's pilot authority enabled managers to achieve efficiencies, savings, and enhanced treatment effectiveness, H.R. 5960 authorizes the BLM to use this cross-boundary management tool on BLM-managed lands throughout the west. The authority provided by the bill is discretionary; each BLM office could determine on a case-by-case basis whether or not the Good Neighbor authority is a desirable option. All Good Neighbor projects would be undertaken in conformance with land use plans and comply with NEPA, if applicable. The BLM supports this authority and would like to work with the sponsor and the committee on technical improvements to restoration language.

H.R. 6089

H.R. 6089 declares the bark beetle epidemic, drought, and deteriorating forest health conditions on National Forest System lands and public lands to be an “imminent threat” and empowers the Governors of states, in addition to the Secretaries of Agriculture and of the Interior, to designate “high-risk” areas on these federal lands, and to propose and require the appropriate Secretary to implement emergency hazardous fuels reduction projects (defined to include non-clearcut timber harvests) within designated “high-risk” areas. The bill applies several HFRA authorities – reduced environmental analysis, special administrative review, and reduced judicial review – to the emergency hazardous fuels reduction projects as defined in H.R. 5960. The bill expands Good Neighbor Authority and Stewardship Contracting Authority. The Department of the Interior supports Good Neighbor Authority and Stewardship Contracting, and is committed to protecting lives, public land resources, and property from wildland fire. However, the Department opposes H.R. 6089 because it restricts opportunities for public review and environmental analysis, and because it enables state Governors to direct federal resource management actions on federal lands.

Analysis

The bill’s definition and designation of “high-risk” areas is exceedingly broad. With no limitations on the size, location, or present condition of such designations, the bill provides nearly unlimited authority for state Governors or the Secretary to establish a new designation without review, analysis, or public input. The bill requires Governors to consult with county governments and affected Indian tribes, but does not require consultation with the land-managing agency. Additionally, the inclusion of a future risk of insect infestation or disease (in addition to deteriorating forest health conditions) as a criteria for “high-risk” area designation makes the designation meaningless, as virtually all public lands with forests or vegetation are potentially at future risk of insect infestation or disease. The BLM opposes allowing state Governors (or the Secretaries) to designate management treatments outside of the land use planning process – which provides for public notification, public involvement, the input of stakeholders, consideration of sound science, and the analysis of alternative management options to inform federal agency land and resource management decisions.

The bill requires that initial “high-risk” areas be designated within 60 days of enactment of the Act. This short time frame would not provide the BLM sufficient time to analyze the effects of designations or consider input from the public, including ranchers, recreationists, and property owners. All of these uses would potentially be affected by the designation of an area as “high-risk,” yet the bill’s strict deadlines limit opportunities for those who use public lands to make their concerns known. The bill provides that “high-risk” areas will be designated for 20 years. This long time period fails to provide opportunities to adjust course during the 20 year period to respond to new circumstances or information, emerging threats, or to unanticipated impacts or changes in resource conditions. For example, the current mountain pine beetle outbreak had not even been detected 20 years ago.

Of serious concern, the bill requires the Secretaries to implement within 60 days projects proposed by a state Governor (or Secretary) for “high-risk” public lands. Requiring immediate

implementation of projects, without consideration or analysis of impacts or public input, prevents an open, public process and precludes environmental analysis. The authority provided to Governors in this provision presents additional concerns, essentially shifting the authority for resource management decisions and activities on federal lands to individual state Governors. By merely designating an area of the public lands as “high-risk”, under H.R. 6089, an individual state Governor can require BLM to manage federal lands and resources to meet the Governor’s objectives, without regard to national objectives, interests, or a fair return to the American people. Under the bill, such required projects would place a serious burden on available agency funding and resources, impacting the BLM’s ability to implement other BLM priorities, which include conventional and renewable energy development, leasing and permitting activities, and existing priority restoration work.

Finally, the bill excludes designated Wilderness and National Monuments from designation as “high-risk” areas. However, many other BLM lands include resources protected by federal law, including National Conservation Areas, National Scenic and Historic Trails, National Wild and Scenic Rivers, and Wilderness Study Areas. State Governors choosing to designate such areas as high risk areas would limit the BLM’s ability to comply with its obligations to protect such resources under federal law. For example, under federal law (P.L.105-83), the BLM has particular obligations to preserve and protect forest in the Headwaters Forest Reserve in California. State designation of this area as a “high-risk” area would decrease the BLM’s ability to manage for resources protected by federal law.

Conclusion

Thank you for the opportunity to testify about H.R. 5744, H.R. 5960, and H.R. 6089. I would be glad to answer any questions.