

Sierra Club | American Association for Justice | Defenders of Wildlife | Earthjustice | National
Parks Conservation Association | Natural Resources Defense Council | Southern Environmental
Law Center | The Wilderness Society

The Honorable Pat Roberts
The United States Senate
328A Senate Russell Office Building
Washington, DC 20510

The Honorable Debbie S. Stabenow
The United States Senate
324A Senate Russell Office Building
Washington, DC 20510

September 12, 2016

Re: H.R. 2647, Resilient Federal Forests Act, Substitute Amendment

Dear Chair Roberts and Ranking Member Stabenow:

On behalf of our millions of members, activists and supporters nationwide, the undersigned organizations urge you oppose the amendment in the nature of a substitute to the Resilient Federal Forests Act of 2015 (H.R. 2647) during tomorrow's committee business meeting. This legislation will not resolve the wildfire funding budget problem and will significantly undermine public participation in the management of America's public forestlands. Rather than promoting healthy forests, the bill encourages management actions that would threaten communities, wildlife, and clean water. The bill ignores the best available science on the restoration of forests, undermines bedrock environmental laws designed to provide for substantial public involvement and accountability in land management decisions, and poses a threat to ongoing and effective collaborative forest restoration efforts.

H.R. 2647 and the amendment in the nature of a substitute's proposed fix for the wildfire funding problem is insufficient; it does not address the spiraling costs of wildfire fighting and would, therefore, result in less annual funding for wildfire risk reduction and forest restoration programs. Congress should reject this proposal and pursue a comprehensive fix to the wildfire funding budget problem.

In addition, the legislation would not prevent wildfire on public lands, as claimed by the bill's authors. In fact, the bill would simultaneously undermine public trust in public land management decisions and encourage management actions that do not make public forestlands more resilient to wildfire. This includes:

- Section 201 undermines the purpose of the National Environmental Policy Act (NEPA), and therefore citizen involvement in public land decision-making, by requiring the development of only one action alternative for a broad swath of forest management activities, even in cases where it has already been determined that the proposed action will have a significant effect on the environment. The bill favors the preferences of a local management group while discounting alternatives brought forward by the public, including those that may have broad public support, meet forest restoration policy objectives, and are feasible. According to a 2012 Congressional Research Service report, robust environmental assessment saves time and reduces overall project costs by making better management decisions. Instead the bill before the Senate committee would have the twin effect of undermining citizen engagement and trust in public land

management decisions and ignoring the consideration of alternatives that will improve environmental outcomes.

- The bill authorizes four categorical exclusions (CE) that completely undermine the legitimate use of a NEPA tool. Under NEPA, CEs are to be used in cases where it has been determined that specific management actions will not have a significant effect on the environment either individually and cumulatively. The bill would therefore, in essence, make it lawful to cause significant harm to public lands, including municipal water supplies and habitat for at-risk species. The CEs in this bill seek to exempt projects from further NEPA review that claim to be done for a broad range of purposes including, but not limited to, hazardous fuels, water supply, salvage logging and early successional habitat.
- The bill includes language that could preclude the Secretary from using extraordinary circumstances. Current law provides a safeguard for the use of CE's by ensuring that an Environmental Assessment or Environmental Impact Statement is done when extraordinary circumstances dictate that the project will have a significant effects. The bill, however, redefines CE's in an effort to block that safeguard and to prevent managers from considering and assessing extraordinary circumstances. In doing so it puts both public safety and environmental resources at risk. The exclusion of extraordinary circumstances allows for harmful projects to proceed regardless of the impact on the environment. The bill attempts to eliminate a necessary consideration and sound safeguard to the use of CE's.
- The bill includes several problematic provisions that encourage non-federal entities to potentially unduly influence public land management actions. Title IV would allow private businesses, along with other undefined entities, to invest in and guide forest management activities, presumably to benefit their set of interests. Title III allows for federal land to be treated as non-federal land for forest management activities.
- The bill would drastically redefine the well-established role of the courts in upholding laws that govern public lands management. Section 403 would meddle with the existing legal framework for determining the balance of harms when considering whether to enjoin a forest management activity. Section 406 would entirely eliminate the existing practice of judicial review for a swath of forest management projects by replacing the courts with a binding arbitration process that also greatly restricts who can seek relief. Binding arbitration encourages rubber stamping potentially unlawful projects by disallowing a determination that the project actually complies with environmental laws. Collectively these provisions curtail citizen access to courts and enforcement of federal laws and exclude meaningful judicial oversight of forest management activities that may lead to irreversible damage to America's forests, wildlife, threatened and endangered species, and drinking water supplies.
- Finally, the legislation before the committee also attempts to appeal to public lands allies by including benign public land provisions. However, their inclusion does not make up for the harmful and ineffective impact that the substitute amendment will have on forest health and wildfire suppression and cost.

Recognizing the aforementioned concerns, our organizations remain opposed to H.R. 2647 amendment in the nature of the substitute. This bill does not address the fundamental issues needed to protect communities from severe wildfires, fails to address wildfire funding at the U.S. Forest Service, and does not protect America's forests or make them more resilient.

Thank you for your consideration,

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