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Forest Service Planning NOI  
C/O Bear West Company  
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Via email: [fspr@contentanalysisgroup.com](mailto:fspr@contentanalysisgroup.com)

**Re: Defenders of Wildlife Comments on National Forest System Land Management Planning NOI, 74 Fed. Reg. 67165 (Dec. 18, 2009)**

Dear Content Analysis Team:

On behalf of the more than 1 million members and supporters of Defenders of Wildlife (“Defenders”), we thank you for the opportunity to submit these comments in response to the Forest Service’s notice of intent (“NOI”) to prepare an environmental impact statement to document environmental analysis for a new planning rule (Title 36, Code of Federal Regulations, Part 219) to implement the National Forest Management Act (16 U.S.C. § 1600; “NFMA”).

Defenders is a national non-profit, public interest conservation organization headquartered in Washington, D.C, and with field offices throughout the United States. Defenders is dedicated to the protection of all native wild animals and plants in their natural communities. Our programs encourage protection of entire ecosystems and interconnected habitats while also protecting predators and other keystone species that serve as indicators of ecosystem condition. Defenders employs science, public education and participation, media, legislative advocacy, litigation, and proactive on-the-ground solutions in order to prevent extinction of species, associated loss of biological diversity, and habitat alteration and destruction. We are particularly concerned about the impacts of climate change on wildlife and ecosystems.

This letter augments Defenders' other comments,<sup>1</sup> responds to key principles and questions posed within the NOI, and highlights planning policy issues that Defenders believes must be effectively addressed within the rulemaking process. The primary planning policy issues addressed in this document are: 1) the role of science in the rulemaking and forest planning processes; 2) sustaining biological diversity and forest ecosystems in the context of climate change, and; 3) the role of plans in agency decision-making and the importance of public participation.

Defenders supports the agency's stated goal to construct a planning rule that enables us to "protect, reconnect, and restore national forests and national grasslands..." and agrees that viewing the rule as an opportunity "to integrate forest restoration, watershed protection, climate resiliency, wildlife conservation, the need to support vibrant local economies"<sup>2</sup> into national forest planning is the correct approach, as well as a challenging one. This vision of integrated, multi-objective planning is sound, but will require diligent and thoughtful policymaking. Many of the policy issues identified in the NOI are emerging and not well developed from an operational perspective, particularly in the area of climate change planning, adaptation project implementation and monitoring. For example, as we discuss below, the development of operational definitions and effective evaluation metrics of "resiliency" are nascent. Climate change adaptation planning will also require the agency to operate at inter-agency planning scales that dwarf traditional unit-based planning efforts, while retaining the ability to assess, manage and monitor diversity at all levels of biological organization. The Forest Service has a history of working at these scales from which to build. For example, groundbreaking multi-scaled biodiversity planning occurred within regional conservation planning efforts such as the Northwest Forest Plan and the Sierra Nevada Framework of 2001. The Forest Service will need to continue to employ fundamental and appropriate conservation principles while also determining how best to apply new tools and thinking to traditional problems and emerging challenges.

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<sup>1</sup> Defenders is also a signatory to a group comment letter submitted February 16, 2009, and we adopt and incorporate those comments herein by reference.

<sup>2</sup> 74 Fed. Reg. at 67166.

## **I. Ensuring a Strong Role for Science**

Defenders appreciates this administration's strong commitment to science-based policymaking and stresses the importance of incorporating independent scientific perspectives and knowledge into this rulemaking process. Indeed, the application of policy-relevant science to the rulemaking process, as well as forest planning efforts, is essential. Regarding the development of the new forest planning regulations themselves, Defenders has publicly called for the use of a Committee of Scientists ("COS") to support the rulemaking (see Attachment A, Letter to Secretary Vilsack, "New NFMA Planning Rulemaking Process." Dec. 16, 2009). We are disappointed that the agency is choosing to not convene the COS. It is imperative, given this decision, that the Forest Service clearly delineate how science information and knowledge will influence the rulemaking process. We believe this is possible without the COS, though more challenging, and strongly recommend that the agency develop robust independent mechanisms to instill this rulemaking process with well-structured scientific perspectives.

Structured scientific input should directly address specific science-policy and management questions and should help shape a variety of alternative approaches to address complex emerging and nascent science-policy questions, including those related to biodiversity management and measurement, ecosystem resilience and restoration, adaptation policy, uncertainty and adaptive management, and other thorny science-policy matters. Not only would well structured scientific input provide independent value to effectively framing and solving complex science-policy problems, it would contribute enormously to overall public confidence and perceived legitimacy for the policymaking process. Failure to instill the rulemaking process with objective scientific input thus risks producing a final rule that yet again is mired by conflict and controversy. We therefore believe that investments in scientific input are sound investments.

Just as the rulemaking process must incorporate targeted science input to successfully address policy problems, effective forest plan decisions also must be based on science. The 2000 planning rule, developed in consultation with a Committee of Scientists, provides the Forest Service with a useful framework for incorporating science into the forest planning process. The 2000 planning rule provides guidance on science-based planning and decision-making, offering tools such as science-based assessments, analyses and monitoring programs, science consistency

evaluations, and science advisory boards to ensure that plans and plan decisions are well grounded in science.<sup>3</sup> We encourage the Forest Service to include in the revised rule similar explicit provisions that outline the role of science in planning and decision-making.

## **II. Sustaining Biological Diversity and Forest Ecosystems**

Twin concepts, sustainability and the provision of biological diversity (“biodiversity”), are central to the mission of the Forest Service (“To sustain the health, diversity and productivity of the Nation’s forests and grasslands...”<sup>4</sup>) and therefore must be central to the new planning rule. A failure to sustain our forest and grassland ecosystems and species will result in the diminishment and potential loss of all values derived from the system, including innumerable social and economic benefits traditionally associated with forest productivity. Indeed, failure to maintain resilient forest ecosystems will result in great losses to forest productivity measured in our ability to disturb and then recover those systems. These factors lead to the conclusion that sustaining biodiversity on our national forests is the agency’s greatest responsibility.

The 1999 COS report that formed the basis of the 2000 rule addressed the inseparability of twin sustainability and biodiversity objectives, stating that “the sustainability of ecological systems is a necessary prerequisite for strong, productive economies (and) enduring human communities....”<sup>5</sup> As such, the 2000 planning rule reflects the same: “The first priority for planning to guide management of the National Forest System is to maintain or restore ecological sustainability of national forests and grasslands to provide for a wide variety of uses, values, products, and services.”<sup>6</sup> The new planning rule should continue to use this general conceptual framework of sustainability to guide rulemaking, forest planning and decision-making.

Sustaining forest systems is premised on sustaining the biodiversity of the system, commonly defined as the composition, structure and function of ecosystems across levels of biological

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<sup>3</sup> See 36 C.F.R. §§ 219.22-219.25 (2000).

<sup>4</sup> See <http://www.fs.fed.us/aboutus/mission.shtm.l>

<sup>5</sup> See Chapter Two: Committee of Scientists. 1999. Sustaining the people’s lands: recommendations for stewardship of the National Forests and Grasslands into the next century. U.S. Dept. of Agriculture, Washington, D.C.

<sup>6</sup> 36 C.F.R. § 219.2.

organization.<sup>7</sup> The agency must adopt a comprehensive biodiversity management approach that includes assessing, maintaining, restoring and monitoring of landscape, ecosystem, species and genetic diversity. Species diversity is particularly important because diversity objectives are assessed *primarily* at the species-level, including the monitoring of individual species.<sup>8</sup> Past NFMA regulatory efforts to reduce Forest Service biodiversity assessment and monitoring provisions to a single scale of biological organization – focusing on ecosystem metrics of diversity while relaxing mandatory species-diversity elements – have questionable utility for effectively conserving biodiversity.

It is a bedrock statutory obligation of NFMA that the Forest Service must “provide for diversity of plant and animal communities...”<sup>9</sup> While there have been “challenges in implementing the species viability requirements of the 1982 rule”<sup>10</sup> we respectfully submit that some of those challenges were self-imposed by the agency (e.g. not funding and implementing monitoring programs), and feel that an ambiguously broad claim of “exacerbated challenges” caused by climate change is not sufficient to dismiss bedrock species diversity provisions in this planning rule. We would suggest that the burden of proof is on the agency to demonstrate why climate change makes it impossible to sustain key elements of biodiversity in forest systems. Indeed, we are not aware of any scientific justification behind the logic to abandon species diversity assessment and monitoring programs. In fact, as climate change drives communities and ecosystems to disassemble, and species to shift ranges and life cycle schedules, and otherwise respond to climate change in different ways, the utility of ecosystem- or habitat-based metrics may diminish. The development of workable species-diversity provisions is feasible; a planning rule that fails to robustly account for species diversity runs counter to sound conservation policy and is unacceptable.

### **America’s Wildlife Heritage Act**

Defenders believes that legislation now pending in the House, America’s Wildlife Heritage Act, H.R. 2807 (See Attachment B), effectively addresses several of the specific biodiversity policy

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<sup>7</sup> Perry, D.A. 1994. Forest Ecosystems. Hopkins Press.

<sup>8</sup> *Id.*; Hunter, M.L. 1999. Maintaining Biodiversity in Forest Ecosystems. Cambridge University Press.

<sup>9</sup> 16 U.S.C. § 1604 (g)(3)(B).

<sup>10</sup> 74 Fed. Reg. at 67168.

and management concerns raised in the NOI, and should be used as a guide for the Forest Service's planning rule development. Defenders, along with a broad coalition of national, regional and local conservation groups; sportsmen's organizations; state fish and wildlife organizations; small businesses; and many others support the Heritage Act.<sup>11</sup> The Heritage Act provides the agency with clear biodiversity policy objectives; efficient methods to evaluate, monitor, and adjust management actions; while recognizing the management complications posed by climate change.

### **Sustaining biodiversity**

Assessment, management, and monitoring of biodiversity must occur at appropriate biological and spatial scales. The Heritage Act defines diversity objectives at both the ecosystem and species levels, directing land management plans to guide actions and provide "habitats and ecological conditions"<sup>12</sup> that will "maintain sustainable populations of native species"<sup>13</sup> within the area covered by the plan. The Heritage Act defines a "sustainable population" of fish or wildlife as one which has a "high-likelihood of persisting..." over time, based on measurable criteria.<sup>14</sup>

The NOI states that managers will need "flexibility to be able to adjust plan objectives and requirements where there are circumstances outside of agency control..."<sup>15</sup> The "high-likelihood" standard found in the Heritage Act (as well as the 2000 planning rule) recognizes that viability assessments are risk assessments that must specify a probability of persistence over a time horizon, but that level of risk is a policy, not a scientific decision.<sup>16</sup> A "high likelihood" standard also acknowledges that management plays a finite role in contributing to the persistence of fish and wildlife, and that species will be impacted by circumstances "outside of agency control," such as changing biophysical conditions affected by climate. The Heritage Act provides a mechanism for the Forest Service, based on "best available science," to make a determination that "conditions beyond (the agency's) authority make it impossible...to maintain

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<sup>11</sup> See <http://www.YourLandsYourWildlife.org>.

<sup>12</sup> America's Wildlife Heritage Act, § 5(b)(1).

<sup>13</sup> *Id.*, § 4(a).

<sup>14</sup> *Id.*, § 3(7).

<sup>15</sup> 74 Fed. Reg. at 67167.

<sup>16</sup> Dr. Barry Noon, personal communication.

a sustainable (fish and wildlife) population.”<sup>17</sup> In those situations, the Heritage Act directs managers to take all possible actions to sustain the population, and to take no action that would increase the likelihood of that population’s extirpation, thus providing a clear decision-structure for these challenging management scenarios.

These arguments that biodiversity is being impacted by “issues outside of the agency’s control” stem, fundamentally, from an inability to assess, manage, and monitor biodiversity at the appropriate spatial scale, and reduce managers’ ability to effectively sustain resilient forest systems at the landscape level. Defenders recognizes the policy challenges associated with differing ecological and administrative boundaries, and also realizes that the Forest Service cannot unilaterally resolve inter-agency conservation planning issues. With enlightened leadership, including from the Department of Agriculture and the Forest Service, inter-agency climate planning should take steps to encourage appropriate scaling of climate policy decisions.

The Heritage Act accounts for critical issues of scale and ecological populations that transcend national forest unit boundaries, directing the Forest Service (along with the Bureau of Land Management, and in coordination with the states and other landowners) to manage at the landscape scale. If a wildlife population extends across “more than one planning area”, then managers must “coordinate the management of lands” across neighboring national forests (and BLM units) “in order to maintain a sustainable (fish or wildlife) population.”<sup>18</sup> By scaling-up the frame of analysis, managers are better able to address factors contributing to the sustainability of a population, and therefore assess and control actions that affect the resiliency and integrity of forest systems at landscape scales.<sup>19</sup>

Maintaining landscape level diversity, and in particular maintaining and restoring landscape connectivity to support species adaptation, has been of particular interest to policymakers recently.<sup>20</sup> Interest in landscape level connectivity is currently being driven by climate change considerations, as well as landscape level energy development (e.g. transboundary transmission

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<sup>17</sup> America’s Wildlife Heritage Act, § 4(c).

<sup>18</sup> *Id.*, § 4(b).

<sup>19</sup> Noss, R.F., A.Y. Cooperrider. 1994. Saving Nature’s Legacy, Protecting and Restoring Biodiversity. Defenders of Wildlife and Island Press.

<sup>20</sup> See Western Governors’ Association, Wildlife Corridors and Crucial Habitat Initiative, <http://www.westgov.org>.

lines) impacts on ecosystems. The heightened awareness and concern underscores the need to immediately protect core areas of habitat (e.g. roadless areas), maintain buffer areas around core habitats, and maintain and restore habitat connectivity between core habitats.

The Heritage Act recognizes that fish and wildlife truly “know no boundaries” and must be cooperatively managed at the landscape scale across agency jurisdictions, particularly in the era of climate change, which is likely to have profound impacts on the geographic distribution of many organisms. Maintenance and restoration of species level diversity, for wide-ranging species or species expected to experience range-shifts due to climate change, requires the maintenance and restoration of landscape level connectivity. The Heritage Act, again serving as a model for the development of connectivity policy and inter-agency planning, encourages the Forest Service (and BLM) to coordinate with “the National Wildlife Refuge System and National Park System, other Federal agencies, State fish and wildlife agencies, other State agencies with responsibility for management of natural resources, tribes, local governments, and non-governmental organizations engaged in species conservation in order to: 1) maintain sustainable populations of native species...; (2) develop strategies to address the impacts of climate change on native species...; and (3) establish linkages between habitats and discrete populations.”<sup>21</sup> Defenders suggests that the Forest Service develop similar policy guidance for the new planning rule, in support of the “all-lands” approach<sup>22</sup> and the associated policy goal to “protect, connect and restore” ecological systems.

Although the Forest Service, in these regulations, can only directly address its land holdings, we recommend that the agency include provisions in the rule to effectively coordinate landscape conservation with the Forest Service State and Private forest program, the Natural Resources Conservation Service and other USDA agencies, and with its partners at the Department of the Interior, as well as states, tribes and other entities. This will enable the Forest Service to achieve Secretary Vilsack’s “all-lands” vision for land conservation.

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<sup>21</sup> America’s Wildlife Heritage Act, § 6(a).

<sup>22</sup> 74 Fed. Reg. at 67169.



## **Climate Change Adaptation Strategies**

Incorporating climate change resiliency into the planning rule and protecting, reconnecting and restoring national forests and grasslands is a challenging task that will require planning for and implementing climate change adaptation strategies through an active adaptive management framework. The planning rule must allow the Forest Service to anticipate, prepare for, and respond to the expected impacts of climate change in order to promote ecological resilience in natural systems, and to allow these systems to respond to change.

Climate change adaptation strategies include actions that increase the resistance and resilience of a system to climate change and those that help facilitate change toward a functional future state in response to climate change. Resistance strategies are those designed to keep a system or species from changing in response to climate change. These types of strategies may help to “buy time” for a system in the short term until other adaptation strategies are developed, but are unlikely to be viable over longer time periods due to the pace of climate change. Resilience strategies are those that aim to support an ecosystem or species by increasing the amount of change that a system can absorb without undergoing a fundamental shift to a different set of processes and structures. Removing invasive species from an ecosystem to increase its ability to recover from other disturbances, preserving ecological heterogeneity in a landscape, or maintaining or restoring structural and compositional diversity within forest stands, are resilience building strategies that enable a system to maintain ecological functions and biodiversity. These types of strategies are often emphasized as an early response to climate change because they are more robust to a range of future climate scenarios and because there is less uncertainty in how species and systems will respond to these interventions; these types of strategies should be considered the backbone of a strong climate change adaptation response.

While management responses that resist change and build resilience may be preferable alternatives for early implementation,<sup>23</sup> more targeted strategies to manage and direct ecosystem and species-level responses to climate change while maintaining resiliency will become increasingly necessary as managing towards “historical” or “current” ecological conditions

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<sup>23</sup> Lawler, J.J., T.H. Tear, C. Pyke, M.R. Shaw, P. Gonzalez, P. Kareiva, L. Hansen, L. Hannah, K. Klausmeyer, A. Aldous, C. Bienz, and S. Pearsall. Resource management in a changing and uncertain future. *Frontiers in Ecology and the Environment*.

becomes unfeasible.<sup>24</sup> “Facilitation” strategies include direct interventions to facilitate a change in the state of a system or species toward a desirable future state, including conservation of native species, intact ecological functions, and essential ecological services. Facilitation actions “mimic, assist, or enable ongoing natural adaptive processes such as species dispersal and migration, population mortality and colonization, changes in species dominances and community composition, and changing of disturbance regimes,”<sup>25</sup> and are more appropriate for dealing with large scale climate change projected in the future. Actions to facilitate change may include increasing landscape connectivity and permeability to allow species and ecological communities to shift in response to climate change, translocating sensitive species that are unable to keep pace with climate change, altering the plant species (or genotypes) used in restoration projects, or applying managed disturbances to achieve desired future outcomes. These actions carry greater risk and uncertainty because they often depend on specific climate change trajectories, and because ecological responses to these types of interventions will be difficult to predict.

All adaptation strategies discussed above, but particularly facilitative approaches, require careful planning, monitoring, and re-evaluation as part of an active adaptive management framework to ensure that activities are not counterproductive to adaptation objectives, and that conservation investments consider future changes and are re-prioritized as needed. Despite uncertainty, management agencies cannot spend years developing adaptation strategies and delaying implementation until more information is available; strategies must be designed and implemented now with refinement throughout the process as we learn more. Using information and scenarios from pre-planning assessments, the Forest Service can first address uncertainty by developing alternative management responses that will be implemented in an experimental approach, with appropriate monitoring and research capabilities to study the effectiveness of different approaches. This approach should include explicit identification of desired future condition of the system in question, development of measurable objectives to achieve ecological sustainability, protection of ecosystem services and species diversity, and the use of adaptive management to monitor and refine goals and objectives. Incorporation of science-based

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<sup>24</sup> Galasowitch, S., L. Frelich, and L. Phillips-Mao. 2009. Regional climate change adaptation strategies in a midcontinental region of North America. *Biological Conservation* 142, 2012-2022.

<sup>25</sup> Millar, C.I., N.L. Stephenson, and S.L. Stephens. 2007. Climate change and forests of the future: managing in the face of uncertainty. *Ecological Applications* 17, 2145–2151.

objectives and adaptive management throughout the process will help to avoid conflict and establish a sound baseline for addressing the impacts of climate change.

## **Monitoring**

You can't manage what you don't measure. Indeed, we cannot manage for sustainable forest systems if we don't develop metrics to evaluate those systems; we will fail. Yet monitoring has too often been viewed as a discretionary item of forest management and planning. According to Noss:

Monitoring is often done poorly or incompletely, partly due to budget constraints. Funding sources, from Congress on down through agencies, rarely give monitoring high priority; monitoring is usually the first thing to be dropped when budgets are reduced or when competing activities need more money. Yet in spite of this spotty track record, agencies and land managers often use the promise of monitoring to justify questionable projects.<sup>26</sup>

The FY11 Forest Service budget justification reveals no additional funding in the Inventory and Monitoring budget. Meanwhile, the budget unveils a new Integrated Resource Restoration program to fund “restoration projects aimed at repairing damage to the natural diversity and ecological dynamics of national forests...and enhancing forest and watershed resiliency...”<sup>27</sup>

The *only* way to evaluate performance towards diversity and resiliency objectives is through a comprehensive biodiversity monitoring program that is truly adaptive. The new planning rule must provide the monitoring framework to support the Forest Service's important restoration and resiliency goals.

The NOI states that “plans will need to anticipate climate change-related uncertainty and be adaptive to new science and knowledge about changing conditions on the ground” and “be able to adjust plan objectives and requirements...”<sup>28</sup> Despite decades of rhetoric in support of adaptive management, the Forest Service has yet to truly invest in the monitoring and decision-

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<sup>26</sup> Noss, 1994, p.298.

<sup>27</sup> USDA Forest Service. Fiscal Year 2011, President's Budget, Budget Justification. p.7-4.

<sup>28</sup> 74 Fed. Reg. at 67167.

making structures necessary to manage adaptively. Given the uncertainty associated with climate change and the relationship between resiliency and biodiversity policy objectives, monitoring and active adaptive management are no longer optional.<sup>29</sup> The new planning rule must establish a comprehensive monitoring program to accomplish these adaptive management objectives and evaluate achievement of diversity goals.

Again, the Heritage Act serves as a useful policy model for establishing a comprehensive yet efficient diversity monitoring program. The Heritage Act recognizes that information is the key to sound decision making; the strategic collection of a variety of information types is the best way to structure adaptive problem solving and reduce uncertainty. Information is essential so that managers can take early proactive actions to sustain fish and wildlife populations, thereby reducing the need to list those species under the Endangered Species Act.

The Heritage Act recognizes that monitoring of complex ecosystems requires a surrogate-based approach; what is needed is the appropriate mix of information tailored to effectively respond to and evaluate management actions, and provide “red flags” to indicate if forests are at risk of losing their integrity, resiliency or at-risk fish and wildlife. “[M]onitoring is an essential, not discretionary, component of adaptive management” and is the most effective way to reduce uncertainty associated with changing ecosystem conditions as well as to evaluate the “effects of management practices on ecosystem composition and processes”, including ecosystem resiliency.<sup>30</sup>

The Heritage Act requires the measurement of three tiered components that indicate the health, integrity and resiliency of forest systems, also known as a “pluralistic” approach that combines “coarse filter” habitat or ecosystem level diversity screens with “fine filter” species-level metrics for focal and at-risk populations.

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<sup>29</sup> “Active” adaptive management approaches management implementation strategies as opportunities for deliberate experimentation and hypothesis testing to reduce uncertainty and gain knowledge whereas “passive” adaptive management seeks to improve existing management approaches through learning.

<sup>30</sup> Noon, personal communication.

First, the Heritage Act requires assessment and measurement of “habitats and ecological conditions”<sup>31</sup>; allowing managers to take a “coarse filter” look at the forest system. However, “coarse filter approaches based on dominant vegetation communities and their successional stages are often poor predictors of the status and distribution of animal species.”<sup>32</sup> According to Perry, the “coarse filter” approach “is not without problems. Species can be lost from communities that are otherwise intact (or at least give the appearance of being intact).”<sup>33</sup> Defenders believes that existing biodiversity planning science does not support a monitoring strategy and decision-making structure focused exclusively at the ecosystem level of diversity.

The Heritage Act acknowledges consensus scientific understanding that population of species are a key metric in evaluating the condition of ecological systems. In particular, “keystone” species play a pivotal role in ecosystem processes, including for example nutrient transport, seed dispersal, pollination, hydrology, and disease control. Loss of certain keystone species may have significant implications on the resiliency, stability and productivity of ecosystems as these ecosystem attributes are “embedded within the ecosystem and species diversity components of ecological sustainability. As such, any failure to restore or maintain (resiliency, stability or productivity) will be reflected in changes to species composition and viability.”<sup>34</sup> In other words, species diversity metrics act as measures for broad Forest Service policy objectives, including those expressed by the Secretary, the NOI, and the FY11 budget justification.

Because not all species contribute equally to ecosystem processes, it is possible to monitor a subset of focal species. The Heritage Act defines focal species as those “selected for monitoring because (their condition) provide(s) useful information” and “insights to the integrity of the ecological systems to which they belong.”<sup>35</sup> “Focal species” act as bellwethers of change, and can be used to measure the success of restoration actions, or detect the effects of climate change on forests, fish and wildlife. Similar to the 2000 planning rule, the Heritage Act’s use of focal species is distinguishable from the management indicator species (“MIS”) approach employed in the 1982 planning rule, in that “focal species used in the evaluation of viability do not directly

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<sup>31</sup> America’s Wildlife Heritage Act, § 5(b)(1).

<sup>32</sup> Noon, personal communication.

<sup>33</sup> Perry, 1994, p.540.

<sup>34</sup> *Id.*; Noon, personal communication.

<sup>35</sup> America’s Wildlife Heritage Act, § 3(2).

represent the population dynamics of another species.”<sup>36</sup> Focal species groups and focal species may be selected on a number of criteria that are linked to particular management questions and objectives, as well as to conceptual models of how the ecosystem works. For example, focal species may be grouped based on their conservation condition, risk factors (i.e. threats such as climate change), or ecological characteristics, such as habitat associations or ecological functions (particularly useful for assessing ecosystem resiliency). By tiering focal species monitoring to management actions, such as resiliency building thinning operations for example, managers can practice active adaptive management and increase knowledge of the role particular keystone species play in the stabilization of ecosystems.<sup>37</sup>

Finally, measurement is taken of “species-of-concern”, including endangered or threatened species, those recognized by state Natural Heritage Programs and state comprehensive wildlife conservation strategies, and other species “for which scientific evidence raises a concern regarding the species’ sustainability...” However, monitoring is only required for those populations “not adequately assessed” by habitat and focal species monitoring screens and “for which there is reasonable concern regarding potential reductions in distribution or abundance”<sup>38</sup> within the planning area, thus eliminating the costly monitoring of populations for which little evidence of risk is available.

Together, these three tiers of monitoring information provide managers with a tangible portrayal of the condition of the forest system, and the means of evaluating the achievement of land management objectives and actions. Consistent monitoring under this type of framework shall provide the basis for intelligent adaptive management. However, the Forest Service must make an institutional commitment to sustain monitoring programs over time. Defenders is committed to using all of the political and policy tools at our disposal to ensure that the Forest Service has the capacity to conduct comprehensive diversity monitoring programs. Indeed, at a time when the federal government’s natural resource agencies are ramping up a commitment to climate change planning and action, the resources and capacity to conduct the biodiversity monitoring so critical to success in this endeavor must be marshaled. In addition, the Forest Service is

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<sup>36</sup> Noon, personal communication.

<sup>37</sup> *Id.*

<sup>38</sup> America’s Wildlife Heritage Act, § 5(b)(3)

fortunate to have one of the premier research and development branches in the public or private sector, and Forest Service Research and Development is well equipped to develop and support biodiversity monitoring programs, in concert with other federal agencies (including the Department of the Interior and the Fish and Wildlife Service), state agencies, universities and other partners.

Arguments for abandonment of species-diversity monitoring provisions are being made based on yesterday's arguments over cost and feasibility, including claims associated with data-intensive population viability assessments based on costly demographic and population dynamics data. Innovations in science and technology are now available to produce these types of decision-relevant information in a cost-effective manner. Advances in statistical methods, survey design, as well as new approaches to genetic monitoring, facilitate species-level monitoring in a cost effective fashion.<sup>39</sup> Defenders looks forward to working with the agency, as well as the scientific community, in the application of these new innovative tools to the forest planning process.

### **III. Ensuring Strong Plans through Strong Public Participation**

Last but not least, the NOI raises questions about the forest planning process, including both what plans actually do and how the public should be involved in their development. Pursuant to the fundamental structure of NFMA, there is no question that forest plans make real and binding decisions and are not merely visionary guidance documents, as the previous administration tried to frame them. Because plans make real decisions and have real consequences, moreover, providing the opportunity for public participation and collaboration is crucial. These principles have, until recently, been hallmarks of national forest planning. Accordingly, Defenders strongly urges the agency to return to a structure and process that the public is comfortable with and confident in. The 1982 planning rule, coupled with robust compliance with the National Environmental Policy Act ("NEPA"), provide a process in which interested parties understand how to participate, how their input will be used, and what the recourse is if the applicable processes are not followed.

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<sup>39</sup> Noon, personal communication.

## **The Role of Forest Plans**

Forest management plans make broad based decisions regarding activities that take place on our national forests. Thus, although they may indeed provide a vision for a planning area, they go beyond merely providing aspirational guidance. Like zoning ordinances, land management plans make important and binding decisions on a large scale, creating both an overarching framework for how the forests should be used, as well as binding provisions to implement that framework.<sup>40</sup> Land management plans are required by NFMA to include binding standards that ensure the protection of forest resources.<sup>41</sup>

## **The Importance of NEPA**

Just as the role of science is important during both the development of the planning rule and in the development of forest plans themselves, the application of NEPA at both of these scales is equally important to ensure that the public and decisionmakers get the benefit of the best scientific information possible.

The planning rule itself must comply with existing regulations and case law on NEPA requirements for programmatic documents.<sup>42</sup> As with all large scale planning processes, NEPA requires that the agency make its best efforts to use the best information available to make reasonable projections about the consequences of its actions and various alternatives. The agency should not engage in a “crystal ball” analysis, projecting down to specific results of speculative actions, but it should analyze a range of possible outcomes. As explained by federal courts twice in recent years, the agency has a duty to analyze the reasonably foreseeable impacts of its planning rules on the environment, including factors such as biodiversity, watershed health, and vulnerability to the effects of climate change.<sup>43</sup>

Robust NEPA compliance at the forest plan level is equally important. As the agency is well aware, NEPA is the broadest of all our environmental statutes, ensuring that all federal agencies

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<sup>40</sup> Citizens for Better Forestry v. U.S. Dept. of Agric., 341 F.3d 961 (9th Cir. 2003) (holding that forest plans have environmental impacts and that to hold otherwise would be to assume that Congress imposed useless procedural safeguards) (quoting Idaho Conservation League v. Mumma, 956 F.2d 1508, 1516 (9th Cir. 1992)).

<sup>41</sup> 16 U.S.C. § 1604.

<sup>42</sup> See, e.g., Citizens, 341 F.3d 961; Idaho Conservation League v. Mumma, 956 F.2d 1508.

<sup>43</sup> Citizens for Better Forestry v. U.S. Dept. of Agric., 632 F. Supp. 2d 968 (N.D. Cal. 2009); Citizens for Better Forestry v. U.S. Dept. of Agric., 481 F. Supp. 2d 1059 (N.D. Cal. 2007).



– from those that govern our federal lands and the wildlife that live there, to those that authorize large scale industrial activities on private lands – take a hard look at the environmental consequences of their actions. With this time tested structure in place that is familiar to the agency, the public, and the courts, there is no need to start from scratch, but rather simply apply existing regulations and case law governing NEPA compliance on programmatic decisions.

Indeed, NEPA and the Council on Environmental Quality (“CEQ”) regulations that guide implementation of the statute across the federal government, provide numerous mechanisms essential to the forest planning process.<sup>44</sup> Scoping, as provided for under NEPA, is critical to defining the issues to be addressed throughout the forest planning process.<sup>45</sup> Robust scoping with a variety of public meeting formats prior to the development of a proposed rule should be used to avoid unduly limiting either alternatives considered or the scope of analysis.

Furthermore, as explained in the CEQ regulations, NEPA documents should be written in plain language that is readily understandable by the general public.<sup>46</sup> In-depth comparative analysis that highlights the consequences of different alternatives is at the heart of the NEPA process and cannot be replaced by overly technical comparison charts, which have become increasingly common in NEPA documents.<sup>47</sup> In addition, for those reviewers with technical expertise, all relevant technical information and analyses should be readily obtainable on Forest Service websites. Making these materials available to the public when the analysis documents are circulated for review, rather than placing the burden on the public to request them, will help speed the public review process and limit the need for lengthy extensions of comment periods.

The agency should not consider different process choices in its revised regulations. Rather, the agency should use the flexibility already contained in the NEPA and NFMA regulations to help address local needs. Creating multiple processes would be unnecessary, inefficient, and confusing to the public.

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<sup>44</sup> See generally 40 C.F.R. § 1500. *et seq.*

<sup>45</sup> See generally *id.* § 1501.7.

<sup>46</sup> *Id.* § 1502.8.

<sup>47</sup> *Id.* § 1502.14.

### **The Need for Administrative Appeals**

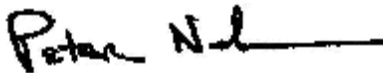
Finally, the Forest Service should retain the post-decisional appeal process contained in the 1982 regulations as the most appropriate means to ensure public understanding and involvement in the process, and to ensure appropriate coordination with NEPA compliance. These procedures provide an appropriate balance of encouraging public participation early in the process without creating unduly burdensome requirements that limit citizen enforcement of NEPA and NFMA.

### **Conclusion**

The new planning rule provides the Forest Service with an opportunity to put in place legitimate, science-based planning provisions that will support durable forest plans, sound decisions and meaningful actions to sustain biodiversity and forest systems in the climate change era. Defenders looks forward to working with the agency to accomplish these shared objectives.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink that reads "Peter Nelson" followed by a horizontal line.

Peter Nelson  
Director, Federal Lands Program  
Defenders of Wildlife

# **ATTACHMENT A**

- AMERICAN BIRD CONSERVANCY • AMIGOS BRAVOS •
- ARIZONA WILDERNESS COALITION • ARIZONA ZOOLOGICAL SOCIETY •
- BARK • BEAR RIVER WATERSHED COUNCIL • BIODIVERSITY CONSERVATION ALLIANCE •
- CALIFORNIA WILDERNESS COALITION • CALIFORNIANS FOR WESTERN WILDERNESS •
- CENTER FOR BIOLOGICAL DIVERSITY • CENTER FOR NATIVE ECOSYSTEMS •
- CENTER FOR SIERRA NEVADA CONSERVATION •
- CENTRAL SIERRA ENVIRONMENTAL RESOURCE CENTER • CHATTOOGA CONSERVANCY •
- CHEROKEE FOREST VOICES • COLORADO ENVIRONMENTAL COALITION •
- COLORADO MOUNTAIN CLUB • COLORADO WILD • CONSERVATION NORTHWEST •
- DEFENDERS OF WILDLIFE • EARTHJUSTICE • ENVIRONMENT AMERICA •
- ENVIRONMENTAL PROTECTION INFORMATION CENTER • FOREST ISSUES GROUP •
- FRIENDS OF BLACKWATER • FRIENDS OF THE CLEARWATER •
- FRIENDS OF THE KALMIOPSIS • GEORGIA FOREST WATCH •
- GIFFORD PINCHOT TASK FORCE • GRAND CANYON TRUST •
- GRAND CANYON WILDLANDS COUNCIL •
- GREAT OLD BROADS FOR WILDERNESS • GREATER YELLOWSTONE COALITION •
- GREEN BERKSHIRES INC • HELLS CANYON PRESERVATION COUNCIL •
- HIGH COUNTRY CITIZENS' ALLIANCE • IDAHO CONSERVATION LEAGUE •
- INDUSTRIAL WIND ACTION GROUP • JACKSON HOLE CONSERVATION ALLIANCE •
- KENTUCKY HEARTWOOD • KLAMATH FOREST ALLIANCE •
- KLAMATH-SISKIYOU WILDLANDS CENTER •
- KOOTENAI ENVIRONMENTAL ALLIANCE • LOS PADRES FORESTWATCH •
- MOUNT SHASTA BIOREGIONAL ECOLOGY CENTER •
- NATIONAL CENTER FOR CONSERVATION SCIENCE AND POLICY •
- NATIONAL PARKS CONSERVATION ASSOCIATION •
- NATURAL RESOURCES DEFENSE COUNCIL •
- NEW MEXICO WILDERNESS ALLIANCE • NORTHCOAST ENVIRONMENTAL CENTER •
- OLYMPIC FOREST COALITION • OREGON NATURAL DESERT ASSOCIATION •
- OREGON WILD • PACIFIC RIVERS COUNCIL • PEW ENVIRONMENT GROUP •
- PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY •
- QUIET USE COALITION • RESTORE: THE NORTH WOODS •
- ROCKY MOUNTAIN RECREATION INITIATIVE • ROGUE VALLEY AUDUBON SOCIETY •
- SAN LUIS VALLEY ECOSYSTEM COUNCIL • SAFE: SAVE OUR ANCIENT FOREST ECOLOGY •
- SELKIRK CONSERVATION ALLIANCE • SHEEP MOUNTAIN ALLIANCE • SIERRA CLUB •
- SIERRA FOOTHILLS AUDUBON SOCIETY • SIERRA FOREST LEGACY • SISKIYOU PROJECT •
- SKY ISLAND ALLIANCE • SODA MOUNTAIN WILDERNESS COUNCIL •
- SOUTHERN APPALACHIAN FOREST COALITION •
- SOUTHERN ENVIRONMENTAL LAW CENTER •
- SUSTAINABLE OBTAINABLE SOLUTIONS • TEXAS CONSERVATION ALLIANCE •
- THE CLINCH COALITION • THE LANDS COUNCIL • THE WILDERNESS SOCIETY •
- TONGASS CONSERVATION SOCIETY • UMPQUA WATERSHEDS INC •
- UPPER GILA WATERSHED ALLIANCE • VIRGINIA FOREST WATCH •
- VIRGINIA WILDERNESS COMMITTEE • VOICES FOR PUBLIC LANDS •
- WASHINGTON WILDERNESS COALITION • WEST VIRGINIA HIGHLANDS CONSERVANCY •
- WEST VIRGINIA WILDERNESS COALITION • WESTERN LANDS PROJECT •
- WESTERN NORTH CAROLINA ALLIANCE • WESTERN WATERSHEDS PROJECT •
- WHITE MOUNTAIN CONSERVATION LEAGUE • WILD SOUTH • WILD UTAH PROJECT •
- WILD VIRGINIA • WILD WILDERNESS • WILDEARTH GUARDIANS •
- WILDERNESS WORKSHOP • WILDLANDS CPR • WILDLAW •
- WILDWEST INSTITUTE • WYOMING OUTDOOR COUNCIL •
- WYOMING WILDERNESS ASSOCIATION • XERCES SOCIETY •

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December 16, 2009

The Honorable Thomas J. Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, D.C. 20250

Subject: New NFMA Planning Rulemaking Process

Dear Mr. Secretary:

On behalf of more than 100 organizations and our millions of members, we write to express our strong and continued support for effective science-based management of our National Forests. We are encouraged that this administration is committed to improving forest planning and ensuring that science is an integral part of agency decision-making. Accordingly, we urge you to establish a Committee of Scientists to inform any updating of the national forest planning rules.

We appreciate the direction that you have already provided to the Forest Service regarding development of forest planning rules. In your August 14<sup>th</sup> speech in Seattle, you stated:

*The Forest Service planning process provides an important venue to integrate forest restoration, climate resilience, watershed protection, wildlife conservation, the need for vibrant local economies, and collaboration into how we manage our National Forests. Our best opportunity to accomplish this is in developing a new forest planning rule for our National Forests.... I have asked Chief Tidwell to develop a new planning rule to ensure management and restoration of our National Forests with a goal to protect our water, climate and wildlife while creating local economic opportunity.*<sup>1</sup>

We also strongly support the direction President Obama set early in his administration regarding the important role of science in guiding agency policy-making, in which he stated:

*Science and the scientific process must inform and guide decisions of my Administration on a wide range of issues, including improvement of public health, protection of the environment, increased efficiency in the use of energy and other resources, mitigation of the threat of climate change, and protection of national security. The public must be able to trust the science and scientific process informing public policy decisions.*<sup>2</sup>

We believe that the best way to inform any forest plan rulemaking process is through a Committee of Scientists, as provided by the National Forest Management Act (NFMA).<sup>3</sup> Well-structured scientific

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<sup>1</sup> Prepared remarks of Secretary Tom Vilsack, Seattle, Washington, August 14, p. 6,  
<http://www.fs.fed.us/video/tidwell/vilsack.pdf>

<sup>2</sup> Presidential Memorandum on Scientific Integrity for the Heads of Executive Departments and Agencies, March 9, 2009, [http://www.whitehouse.gov/the\\_press\\_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-9-09](http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-3-9-09)

<sup>3</sup> 16 U.S.C. § 1604(h)

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input is necessary to address environmental challenges and critical issues affecting our national forests, including climate change, ecosystem restoration, ecological services, and wildlife viability. Furthermore, a Committee of Scientists, coupled with a robust National Environmental Policy Act public involvement process, would significantly help as you pursue a scientifically sound, and legally defensible forest planning rule. In drafting the NFMA, Congress correctly perceived that an expert committee of natural resource scientists representing diverse disciplines is key to ensuring a well-informed rulemaking process that results in a scientifically sound, practical, and lasting forest planning rule.

We would also note that the Bush administration failed twice to produce legally and scientifically sound NFMA regulations. The 2005 and 2008 regulations remain the only planning regulations in history that did not seek the advice of a Committee of Scientists as provided for in NFMA. Instead the Bush administration sought to short-circuit consideration of wildlife and biological diversity by holding a “workshop”. Their fundamentally flawed process resulted in an almost entirely standard-less approach to national forest planning that was controversial from start to finish. Not coincidentally, both the 2005 and 2008 regulations were struck down by federal courts.

Establishing a Committee of Scientists to assist in any significant changes to the forest planning rule is a better course. We look forward to working with you as you pursue scientifically sound, legally defensible and durable forest planning regulations that will help guide the management of our National Forests as they take on the unprecedented challenge of climate change while ensuring the protection of the watersheds and wildlife on which so many Americans depend. Thank you for your consideration and attention to this important matter.

Sincerely,

George Fenwick  
President  
American Bird Conservancy

Erik Molvar  
Executive Director and Wildlife Biologist  
Biodiversity Conservation Alliance

Brian Shields  
Executive Director  
Amigos Bravos

Ryan Henson  
Senior Conservation Director  
California Wilderness Coalition

Kevin Gaither-Banchoff  
Executive Director  
Arizona Wilderness Coalition

Michael J. Painter  
Coordinator  
Californians for Western Wilderness

Jeff Williamson  
President  
Arizona Zoological Society

Kieran Suckling  
Executive Director  
Center for Biological Diversity

Alex P. Brown  
Executive Director  
Bark

Josh Pollock  
Conservation Director  
Center for Native Ecosystems

Dan Miller  
Executive Director  
Bear River Watershed Council

Karen Schambach  
President  
Center for Sierra Nevada Conservation

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John Buckley  
Executive Director  
Central Sierra Environmental Resource Center

Nicole Hayler  
Program Coordinator  
Chattooga Conservancy

Catherine Murray  
Executive Director  
Cherokee Forest Voices

Elise Jones  
Executive Director  
Colorado Environmental Coalition

Katie Blackett  
Chief Executive Officer  
Colorado Mountain Club

Ryan Demmy Bidwell  
Executive Director  
Colorado Wild

Dave Werntz  
Science and Conservation Director  
Conservation Northwest

Barbara Ullian  
Coordinator  
Friends of the Kalmiopsis

Wayne Jenkins  
Executive Director  
Georgia ForestWatch

Emily Platt  
Executive Director  
Gifford Pinchot Task Force

Bill Hedden  
Executive Director  
Grand Canyon Trust

Kelly Burke  
Executive Director  
Grand Canyon Wildlands Council

Rodger Schlickeisen  
President and CEO  
Defenders of Wildlife

Trip Van Noppen  
President  
Earthjustice

Alison Adams  
Preservation Associate  
Environment America

Scott Greacen  
Executive Director  
Environmental Protection Information Center

Barbara Rivenes  
President  
Forest Issues Group

Judith Rodd  
Director  
Friends of Blackwater

Gary Macfarlane  
Ecosystem Defense Director  
Friends of the Clearwater

Veronica Egan  
Executive Director  
Great Old Broads for Wilderness

Mike Clark  
Executive Director  
Greater Yellowstone Coalition

Eleanor Tillinghast  
President  
Green Berkshires, Inc.

Greg Dyson  
Executive Director  
Hells Canyon Preservation Council

Dan Morse  
Executive Director  
High Country Citizens' Alliance

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Rick Johnson  
Executive Director  
Idaho Conservation League

Lisa Linowes  
Executive Director  
Industrial Wind Action Group

Louise Lasley  
Public Lands Director  
Jackson Hole Conservation Alliance

Jim Scheff  
Director  
Kentucky Heartwood

Kimberly Baker  
Forest and Wildlife Protection Coordinator  
Klamath Forest Alliance

Stephanie Tidwell  
Executive Director  
Klamath-Siskiyou Wildlands Center

Terry J. Harris  
Executive Director  
Kootenai Environmental Alliance

Jeff Kuyper  
Executive Director  
Los Padres ForestWatch

Michelle Berditshevsky  
Director  
Mount Shasta Bioregional Ecology Center

Dominick DellaSala  
President and Chief Scientist  
National Center for Conservation Science &  
Policy

Thomas C. Kiernan  
President  
National Parks Conservation Association

Frances Beinecke  
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Natural Resources Defense Council

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New Mexico Wilderness Alliance

Scott Greacen  
Conservation Committee Chair  
Northcoast Environmental Center

Bonnie Phillips  
Executive Director  
Olympic Forest Coalition

Brent Fenty  
Executive Director  
Oregon Natural Desert Association

Steve Pedery  
Conservation Director  
Oregon Wild

Christopher A. Frissell, Ph.D.  
Director of Science and Conservation  
Pacific Rivers Council

Joshua Reichert, Ph.D.  
Managing Director  
Pew Environment Group

Jeff Ruch  
Executive Director  
Public Employees for Environmental  
Responsibility (PEER)

Tom Sobal  
Coordinator  
Quiet Use Coalition

Mike Kellett  
Executive director  
RESTORE: The North Woods

Rosalind McClellan  
Director  
Rocky Mountain Recreation Initiative

Alex Maksymowicz  
President  
Rogue Valley Audubon Society



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Christine Canaly  
Director  
San Luis Valley Ecosystem Council

Rob Schaeffer, Ph. D  
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SAFE: Save Our Ancient Forest Ecology

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Selkirk Conservation Alliance

Hilary White  
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Sheep Mountain Alliance

Carl Pope  
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Sierra Club

Don Rivenes  
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Sierra Foothills Audubon Society

Craig Thomas  
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Sierra Forest Legacy

Shane Jimerfield  
Executive Director  
Siskiyou Project

Melanie Emerson  
Executive Director  
Sky Island Alliance

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Southern Appalachian Forest Coalition

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Southern Environmental Law Center

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Executive Director  
Sustainable Obtainable Solutions

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Director  
The Clinch Coalition

Mike Petersen  
Executive Director  
The Lands Council

William H. Meadows  
President  
The Wilderness Society

Carol Cairnes  
President  
Tongass Conservation Society

Ken Carloni  
President  
Umpqua Watersheds, Inc.

Donna Stevens  
Executive Director  
Upper Gila Watershed Alliance

Bud Watson  
Executive Director  
Virginia Forest Watch

Laura Neale  
President  
Virginia Wilderness Committee

Scott Silver  
Representative  
Voices for Public Lands

Terry Fernsler  
Executive Director  
Washington Wilderness Coalition

---

Hugh Rogers  
President  
West Virginia Highlands Conservancy

Scott Silver  
Executive Director  
Wild Wilderness

Mike Costello  
Campaign Coordinator  
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WildEarth Guardians

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Bethanie Walder  
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Wildlands CPR

Jonathan B. Ratner  
Director  
Western Watersheds Project

Ray Vaughan  
Executive Director  
WildLaw

Dave Holaway  
President  
White Mountain Conservation League

Matthew Koehler  
Executive Director  
WildWest Institute

Tracy Davids  
Executive Director  
Wild South

Laurie K. Milford  
Executive Director  
Wyoming Outdoor Council

James Catlin, PhD  
Project Coordinator  
Wild Utah Project

Liz Howell  
Executive Director  
Wyoming Wilderness Association

David Hannah  
Conservation Director  
Wild Virginia

Scott Hoffman Black  
Executive Director  
Xerces Society for Invertebrate Conservation

cc: Director John Holdren, Office of Science and Technology Policy  
Undersecretary Harris Sherman, US Department of Agriculture  
Deputy Undersecretary Jay Jensen, US Department of Agriculture  
Chief Tom Tidwell, USDA Forest Service

## **ATTACHMENT B**

HR 2807 IH

111th CONGRESS  
1st Session  
**H. R. 2807**

To sustain fish, plants, and wildlife on America's public lands.

**IN THE HOUSE OF REPRESENTATIVES**

**June 10, 2009**

Mr. KIND (for himself and Mr. JONES) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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**A BILL**

To sustain fish, plants, and wildlife on America's public lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the `America's Wildlife Heritage Act'.

**SEC. 2. FINDINGS.**

Congress finds the following:

- (1) Fish and wildlife are fundamental parts of America's history and character, and fish and wildlife conservation is a core value shared by all Americans. All future generations deserve the opportunity to benefit from and enjoy a diverse array of fish and wildlife species.
- (2) Fish and wildlife conservation provides economic, social, educational, recreational, emotional, and spiritual benefits. The economic value of hunting, fishing, and wildlife-associated recreation alone is estimated to contribute \$122,000,000,000 annually to the American economy. Fish and wildlife habitats, including forests, grasslands, riparian lands, wetlands, rivers, and other bodies of water are an essential component of the American landscape, and are protected and valued by Federal, State, and local governments, tribes, private landowners, conservation organizations, and millions of American sportsmen and outdoor recreationists.

- (3) States possess broad trustee and police powers over fish and wildlife within their borders.
- (4) The States and the Federal Government both have management responsibilities affecting fish and wildlife, and should work cooperatively in fulfilling these responsibilities.
- (5) The American landscape is rapidly changing, particularly in the Western United States where the majority of the Federal public lands are found, increasing the importance of sustaining fish and wildlife and their habitats on our public lands.
- (6) Federal public lands are critical to the future of fish, plant, and wildlife species in America. Federal public lands help to protect endangered and threatened species from going extinct and help prevent species from becoming endangered in the first place. These lands complement the conservation of fish, plants, and wildlife on private lands by providing comparatively intact tracts of land that serve as refuges from human development and other pressures. Federal public lands also help keep common species common, including species valued for hunting and fishing.
- (7) Federal public lands provide habitats for species impacted by the effects of global climate change and will play an important role in the ability of fish, plants, and wildlife to adapt to and survive global warming's mounting impacts.
- (8) Consistent with long-standing principles of multiple use and sustained yield management, the goal of sustaining the diverse fish, wildlife, and plant communities that depend on our Federal public lands should guide the stewardship of America's public lands.

### **SEC. 3. DEFINITIONS.**

In this Act:

- (1) **DESIRED NON-NATIVE SPECIES**- The term `desired non-native species' means those wild species of plants or animals that are not indigenous to a planning area but are valued for their contribution to species diversity or their social, cultural, or economic value.
- (2) **FOCAL SPECIES**- The term `focal species' means species selected for monitoring because their population status and trends are believed to provide useful information regarding the effects of management activities, natural disruptions, or other factors on unmeasured species and to provide insights to the integrity of the ecological systems to which they belong.
- (3) **NATIVE SPECIES**- The term `native species' means species of plants and animals indigenous to a planning area.
- (4) **PLANNING AREA**- The term `planning area' means any geographic unit of National Forest System lands or Bureau of Land Management lands covered by an individual management plan.
- (5) **SECRETARY**- The term `Secretary' means--

- (A) the Secretary of the Interior, with respect to land under such Secretary's jurisdiction; and
  - (B) the Secretary of Agriculture, with respect to land under such Secretary's jurisdiction.
- (6) SPECIES-OF-CONCERN- The term `species-of-concern' means the following:
- (A) A species listed as an endangered species or threatened species, or proposed or identified as candidates for such listing, under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
  - (B) A species designated with a Global, State, or Taxon status ranking of G1, G2, G3, S1, S2, T1, T2, or T3 by a State Natural Heritage Program.
  - (C) A species of greatest conservation need identified by State comprehensive wildlife conservation strategies.
  - (D) Other species identified by the Forest Service or the Bureau of Land Management for which scientific evidence raises a concern regarding the species' sustainability in a planning area.
- (7) SUSTAINABLE POPULATION- The term `sustainable population' means a population of a species that has a high likelihood of persisting well distributed throughout its range within a planning area for a period of at least 50 years into the future, based on the best available scientific information, including information obtained through the monitoring program under section 5, regarding its abundance, distribution, habitat quality, and reproduction and survival rates.

#### **SEC. 4. SUSTAINABLE POPULATIONS.**

- (a) Management Direction- Each Secretary shall plan for and manage planning areas under the Secretary's respective jurisdiction in order to maintain sustainable populations of native species and desired non-native species within each planning area, except that management for desired non-native species shall not interfere with the maintenance of sustainable populations of native species within a planning area.
- (b) Management Coordination- If a population of a species extends across more than one planning area, each Secretary shall coordinate the management of lands in the planning areas containing such population in order to maintain a sustainable population of such species.
- (c) Extrinsic Conditions- If a Secretary, using the best available science and after providing notice to the public by publication in the Federal Register and opportunity for public comment for a period of at least 60 days, determines that conditions beyond such Secretary's authority make it impossible for the Secretary to maintain a sustainable population of a native species or desired non-native species within a planning area, or, under the circumstances identified in paragraph (2), within two or more planning areas, such Secretary shall--

(1) manage lands within the planning area or areas in order to achieve to the maximum extent possible the survival and health of that population; and

(2) ensure that any activity authorized, funded, or carried out within the planning area does not increase the likelihood of extirpation of the population in such planning area or areas.

(d) Compliance- Each Secretary shall ensure that land management plans for a planning area under the Secretary's respective jurisdiction, actions implementing or authorized under such plans, and other activities that may affect the maintenance of sustainable populations conducted under the Secretary's jurisdiction comply with this section.

## **SEC. 5. MONITORING AND EVALUATION.**

(a) Establishment of Monitoring Programs- To provide a basis for determining the sustainability of native species and desired non-native species populations for purposes of section 4, each Secretary shall adopt and implement, as part of the land management planning for a planning area, a strategically targeted monitoring program to determine the status and trends of such species populations in such planning area.

(b) Monitoring Program Requirements- The monitoring programs established under subsection (a) shall designate focal species representing the diversity of ecological systems and species present in the planning area, identify species-of-concern in the planning area, and provide for--

(1) the monitoring of the status and trends of the habitats and ecological conditions that support focal species and species-of-concern;

(2) population surveys of the focal species identified in the monitoring program using methods sufficient to ensure that monitoring of habitats and ecological conditions pursuant to paragraph (1) is providing accurate information regarding the status and trends of species' populations in the planning area; and

(3) population surveys of species-of-concern whose populations are not adequately assessed by monitoring pursuant to paragraphs (1) and (2) and for which there is reasonable concern regarding potential reductions in distribution or abundance within such planning area in order to evaluate information regarding population status and trends.

(c) Cooperation With State Entities and Other Agencies- Each Secretary shall develop and implement, to the maximum extent practicable, the monitoring program established under this section, including the selection of native species and desired non-native species, habitat, and ecological conditions to be monitored and methodologies for conducting such monitoring, in cooperation with State fish and wildlife agencies and in coordination with other State agencies with responsibility for management of natural resources. Each Secretary shall consider and utilize relevant population data maintained by other Federal agencies, State agencies, tribes, or other relevant entities.

## **SEC. 6. COORDINATION.**

(a) Management Coordination- To the maximum extent practicable and consistent with applicable law, each Secretary shall coordinate the management of planning areas with the management of the National Wildlife Refuge System and National Park System, other Federal agencies, State fish and wildlife agencies, other State agencies with responsibility for management of natural resources, tribes, local governments, and non-governmental organizations engaged in species conservation in order to--

- (1) maintain sustainable populations of native species and desired non-native species;
- (2) develop strategies to address the impacts of climate change on native species and desired non-native species;
- (3) establish linkages between habitats and discrete populations;
- (4) reintroduce extirpated species, where appropriate, when a species population is no longer present; and
- (5) conduct other joint efforts in support of sustainable plant and animal communities across jurisdictional boundaries.

(b) Coordination With Conservation Activities- In planning for the management of lands for the purpose of maintaining sustainable populations of native species and desired non-native species in a planning area, each Secretary shall, to the maximum extent practicable and consistent with Federal law--

- (1) consult with and offer opportunities for participation to adjoining Federal, State, tribal, local, and private landowners, State and tribal fish and wildlife agencies, and other State and tribal agencies with responsibility for management of natural resources; and
- (2) coordinate such management planning with relevant conservation plans for fish, plants, and wildlife and their habitats, including State comprehensive wildlife strategies and other State conservation strategies for species, National Fish Habitat partnerships, North American Wetland Conservation Joint Ventures, and the Federal-State-private partnership known as Partners in Flight.

(c) No Effect on National Wildlife Refuge or National Park Systems- Nothing in this section affects the laws or management standards applicable to lands or species populations within the National Wildlife Refuge System or National Park System.

## **SEC. 7. IMPLEMENTING REGULATIONS.**

Not later than one year following the date of enactment of this Act, each Secretary shall issue regulations implementing all provisions of America's Wildlife Heritage Act.

## **SEC. 8. CONSTRUCTION.**

Nothing in this Act shall be construed to--



- (1) affect the authority, jurisdiction, or responsibility of each of the several States to manage, control, or regulate fish, plants, and wildlife under the laws and regulations of each of the States; or
- (2) authorize a Secretary to control or regulate within a State the fishing or hunting of fish and wildlife within the State except insofar as the Secretary may exercise authority granted to him or her under other laws.

*END*