

September 28<sup>th</sup>, 2022

The Honorable Joe Manchin, Chairman  
Senate Committee on Energy & Natural Resources  
304 Dirksen Senate Building  
Washington, DC 20510

The Honorable John Barrasso, Ranking Member  
Senate Committee on Energy & Natural Resources  
307 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

We write to express our deep concerns about S.4904, the Promoting Effective Forest Management Act of 2022. Rather than facilitating science-based forest restoration and stewardship, the legislation instead doubles-down on failed forest management policies and procedures. While some of the draft provisions may have merit, others are unnecessary, duplicative of existing authorities, or will actively cause ecosystem harm. Until substantial changes are made to the legislation, we urge you to oppose S. 4904.

Title I, Accomplishments Over Rhetoric, Section 101 (“Thinning Targets”) requires the federal land management agencies<sup>1</sup> to determine annual acreage targets for mechanical precommercial and commercial thinning, accomplish those acres, and then to double and then quadruple the number of acres logged through fiscal year 2027. The federal land management agencies already establish annual acreage targets, although accomplishment is based on available funding and staffing, factors that are not addressed in the legislation. Furthermore, acreage targets do not provide an accurate depiction of whether the highest priority acres are treated, or whether treatments are ecologically appropriate or effective in protecting communities. The term “thinning” has no consistent definition and often involves felling and removal of older forests and trees that can harm the environment. Additionally, there are other important metrics that should be used to determine forest management goals including impacts to climate and water quality. This section should be removed from the final bill.

Title I, Accomplishments Over Rhetoric, Section 102 (“Annual Reports”) requires the federal land management agencies to report numerous aspects of federal forest management. Because the agencies already collect and report this information to Congress, this section is unnecessary and duplicative of existing law, and will cause confusion and delay within the reporting agencies. This section should be removed from the final bill.

Title I, Accomplishments Over Rhetoric, Section 103 (“Transparency in Fire Mitigation Reporting”) requires the agencies to report acres treated to Congress and precludes “double-counting” acres that have not yet received their final treatment as completed. While we support the intent of precluding double-counting of acres, we do not support only reporting outputs (i.e., acres treated) as opposed to outcomes (i.e., whether watershed function has improved).

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<sup>1</sup> The legislation exempts from its application the Oregon and California Lands, 2.6 million acres of forested lands managed for multiple uses by the Bureau of Land Management in western Oregon. Sec. 2(2)(B).

Title I, Accomplishments Over Rhetoric, Section 104 (“Regional Carbon Accounting”) requires the federal agencies to determine whether federal forests are carbon sources or sinks. We support this provision.

Title I, Accomplishments Over Rhetoric, Section 105 (“Targets for Wildlife Habitat Improvement”). We are concerned this section would have unintended consequences. It would require forests to develop strategies to meet their wildlife habitat objectives, but the forest plans themselves already contain strategies to meet those objectives. The unintended harmful consequences of legislating such targets arise because there is an important element of flexibility needed when implementing forest plans through planning and approval of site specific projects. Forest plan objectives relate to species with different habitat needs. In practice, such unintended consequences cannot be known until project level surveys and assessments are performed. Legislating these objectives could create gridlock by making these project-level choices inflexible. We request this section be removed in the final bill.

Title II, Forest Management, Section 201 (“Land and Resource Management Plans”) requires the Comptroller General of the United States to report on the time necessary for the Forest Service to complete the forest plan revision process required by the National Forest Management Act, versus the time it would take for the Forest Service to complete the planning process under the provisions of law applicable to the National Park Service. This section is vague and its requirements would be impossible for the Comptroller to accurately assess: it does not identify which procedures or laws applicable to the National Park Service are considered superior and fails to recognize that the National Park Service and Forest Service have different statutory schemes and congressional intent. This section should be rectified or removed in the final bill.

Title II, Forest Management, Section 202 (“Management of Old Growth and Mature Forests”) would harm efforts to protect the nation’s mature and old-growth forests and trees. The land management agencies are in the process of implementing Executive Order 14072, *Strengthening the Nation’s Forests, Communities, and Local Economies*, which requires the agencies to develop policies to conserve “mature” and “old growth” forests. Section 202 would undermine this effort by needlessly adding additional layers of complexity to developing protective regulations. More importantly, section 202 undermines the goals of the EO by directing the Forest Service to focus logging activity on “mature forests,” which, under the section’s definition, would include all forests older than the culmination of mean annual increment. Further encouraging the agencies to log these forests would have disastrous ecological and climate impacts as they are some of the most biodiverse and carbon-rich forests managed by the federal agencies. Mature trees are also generally more fire resistant. In essence, section 202 does nothing to protect the nation’s climate-critical mature forests, rather it encourages the federal forest agencies to continue logging them. Therefore this section is harmful and should be removed from the final bill.

Title II, Forest Management, Section 203 (“Assessment of Process-Based Restoration Techniques”) requires the land management agencies to establish a pilot program to evaluate process-based aquatic restoration techniques on the experimental forests and ranges managed by the Forest Service. Natural climate solutions, such as beaver restoration to increase water storage capacity on the national forests, are worthwhile restoration tools, and we support this section.

Title II, Forest Management, Section 204 (“Intervenor Status”) allows local governments to intervene as a right in civil litigation challenging wildfire risk reduction actions or revenue-generating timber projects on the federal lands. This section is unnecessary because such governments already have the ability to intervene in such litigation, and there is no evidence that local governments have been unable to participate in litigation under the status quo. This section should be removed from the final bill.

Title II, Forest Management, Section 205 (“Utilizing Grazing for Wildfire Prevention”) requires the land management agencies to develop a strategy to increase grazing on federal lands to reduce wildfire risk. This provision is inconsistent with the best available science, which demonstrates that grazing *increases* wildfire risk and hazard. Livestock grazing exacerbates the introduction and spread of invasive species such as cheatgrass that increase fire severity and spread. Livestock grazing in dry southwestern forests has been shown to sharply increase the density of small trees that fuel crown fires by removing native grasses that otherwise compete with those trees. This section should be removed from the final bill.

Title III, Workforce, Section 301 (“Logging Workforce”) creates a training program to encourage entrance into the forest products (i.e., “logging”) workforce, and a loan program to facilitate the purchase of new logging equipment. This section is unnecessary: private industry (and public land grant universities) already provide for training for the forest products industry, and it is not appropriate for public funds appropriated through Congress to facilitate or subsidize this private industry and equipment acquisition. This section should be removed from the final bill.

Title III, Workforce, Section 302 (“Break-In-Service Consideration for Fire-Fighter Retirements”) requires the Secretary of Labor to promulgate regulations to ensure that wildland firefighters who take a voluntary break in service of not more than 9 months do not forfeit their retirement. We support this provision: currently, female wildland firefighters in particular have been penalized with the loss of their retirement for taking maternity or family leave. This provision ensures equitable treatment for caregivers and should be retained in the final bill.

Title IV, Cultural Change in Agencies, Section 401 (“Mandatory Use of Existing Authorities”) requires the federal agencies to use existing statutory categorical exclusions. This section is unnecessary because the Forest Service is already using these authorities across the National Forest System. Unfortunately, in many instances, use of certain CEs are inappropriate, fail to publicly disclose environmental effects and can cause environmental harm. Given that the BLM does not maintain a significant forest management program on its lands outside of the Oregon and California lands (which are exempted from the legislation), the language is surplusage. This provision should be removed from the final bill.

Title IV, Cultural Change in Agencies, Section 402 (“Curtailing Employee Relocations”) requires the Forest Service to curtail employee relocations, encourage the external hiring of line officers, and limits Forest Service reimbursement of employee relocation costs. While we support the intent of this section, it should be improved and clarified in the final bill. In particular, the section only applies to “line officers” and not other agency personnel that are essential to mission critical work and should preclude the reimbursement of relocation expenses for employees that transfer duty stations more than once every 4 years. We support incentivizing the recruitment and retention of well-qualified agency personnel and would recommend additional methods to do so for inclusion in the final bill.

In sum, S. 4904 is rushed legislation with many ill-considered concepts and proposals that can result in harm to forests, watersheds, wildlife and communities. As such, it should be opposed unless and until significant changes are made.

Sincerely,

Center for Biological Diversity  
Defenders of Wildlife  
Earthjustice

Environment America  
Oregon Wild  
Sierra Club  
Southern Environmental Law Center  
Standing Trees  
Western Environmental Law Center  
Western Watersheds Project  
Wild Heritage