

# United States Senate

WASHINGTON, DC 20510

October 3, 2016

The Honorable Lisa Murkowski  
Chairman  
Energy and Natural Resources Committee  
United States Senate

The Honorable Maria Cantwell  
Ranking Member  
Energy and Natural Resources Committee  
United States Senate

The Honorable Fred Upton  
Chairman  
Energy and Commerce Committee  
U.S. House of Representatives

The Honorable Frank Pallone  
Ranking Member  
Energy and Commerce Committee  
U.S. House of Representatives

The Honorable Rob Bishop  
Chairman  
Natural Resources Committee  
U.S. House of Representatives

The Honorable Raúl Grijalva  
Ranking Member  
Natural Resources Committee  
U.S. House of Representatives

Dear Chairmen Murkowski, Upton, and Bishop and Ranking Members Cantwell, Pallone, and Grijalva:

As conference negotiations on comprehensive energy legislation continue, we write to share our common priorities and urge you to include strong reforms that are needed to improve the health of forests in our states and address the chronic challenges that are impeding current forest restoration efforts.

Similar to previous years, the 2016 fire season has had devastating impacts in California. Over 630,000 acres have burned in 6,434 wildfires fires thus far, hundreds of homes have been destroyed, and, worst of all, seven Californians have lost their lives. Persistent drought, warming temperatures, and insect infestations, among other challenges, have resulted in tens of millions of dead trees and a forest health crisis that increases the likelihood of additional severe wildfires in the future. Meanwhile, in Montana, over seven million federally controlled acres are at high risk of wildfire, with nearly five million impacted by beetle kill, and fires this year have resulted in nearly 100,000 acres burned and the loss of sixteen homes.

As you know, over half of the Forest Service's budget is now spent on preparing for wildfires, performing hazardous fuels reduction, or suppressing fires. The share of the agency's budget related to wildfire is projected only to grow, threatening to further crowd out other management and multiple-use priorities. As cosponsors of the *Wildfire Disaster Funding Act*, we urge you to include reforms in the final energy bill to enable the Forest Service to pay for fighting extraordinary wildfires similarly to how other agencies pay for disaster responses – through funding that is unconstrained by stringent spending caps. We believe this reform is critically needed and appropriate considering that natural conditions such as chronic drought unquestionably elevate the risk and severity of wildfires.

We also recognize that increasing the pace and scale of forest management can reduce the severity of wildfires. We support several avenues contained in Chairman Murkowski's and Ranking Member Cantwell's discussion draft (ENR draft) and urge the inclusion of the following:

- The ponderosa pine and dry-site mixed conifer pilot project.
- Apply the 3,000-acre categorical exclusion contained in the 2014 Farm Bill to include collaboratively developed projects that reduce hazardous fuel loads and protect watersheds in drought-stricken and other impaired areas.
- Allow federal agencies to utilize an Action and No Action analysis for collaboratively developed projects that require an environmental assessment or environmental impact statement.
- Support additional funding for fire-risk mapping.
- Include provisions that enable the productive use of dead trees in high hazard areas, whether as energy feedstocks or wood products, including by authorizing the Forest Service to enter into twenty-year forest stewardship contracts (as included in ENR draft Sec. 331) in order to facilitate long-term investment decisions, and by encouraging mobile processing technologies.
- Provide additional opportunities to expand markets for biomass products and beetle-strained timber by streamlining forest product certifications, increasing public awareness and marketability of biomass and wood products produced from areas impacted by drought and beetles, and increasing export opportunities.

- Include and strengthen ENR draft language, Sec. 331(c)(5), requiring courts to give substantial deference to the expertise of the Secretary when determining whether federal agencies' actions were arbitrary and capricious under the *Administrative Procedures Act*.

In addition, we urge inclusion of provisions that the Forest Service has called for to incentivize its collaborative planning processes, as stated in Chief Tidwell's July 16, 2015, testimony on S. 1691. In his testimony, Chief Tidwell expressed support for a pilot arbitration program. There are nearly thirty active lawsuits in Region 1 and Region 5 that slow the Forest Service's consensus-driven, science-based forest management efforts.

Finally, and consistent with S. 3310, we support expanding landscape-scale restoration and cross-boundary projects to assist with the management of privately owned lands and further reduce wildfire risks on federal, state, county, tribal, or private lands that are in proximity to each other. We support empowering state foresters to carry out such projects using Good Neighbor Authority contracts and the hazardous fuels funds that the Forest Service provides them. We also encourage implementing cross-boundary projects that leverage multiple programs, initiatives, and funding sources.

Thank you for your consideration of our views and for your work on the energy conference. We look forward to further discussions with you as your deliberations continue.

Sincerely,

  
STEVE DAINES  
United States Senator

  
DIANNE FEINSTEIN  
United States Senator