



May 10, 2023

The Honorable Bruce Westerman
Chairman
House Committee on Natural Resources
Washington D.C. 20515

The Honorable Raúl Grijalva
Ranking Member
House Committee on Natural Resources
Washington D.C. 20515

Dear Chairman Westerman, Ranking Member Grijalva, and Members of the Committee,

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express our views on H.R. 2989, the Save Our Sequoias Act, which is being heard before the Committee on May 10, 2023. We respectfully request that this letter be included in the hearing record.

TWS has many concerns with H.R. 2989, particularly with the proposed changes to the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA), the Wilderness Act of 1964, and administrative and judicial review.

Section 6 of H.R. 2989 mandates that certain forest management activities be carried out as “Protection Projects,” which may then be implemented before conducting a NEPA analysis, an ESA consultation, or a NHPA consultation, thereby waiving the requirements of these three important statutes. Carrying out a project prior to initiating NEPA, ESA, or NHPA processes would make any subsequent implementation of those laws moot and would subvert the very purpose of ensuring environmental harm is minimized and mitigated before a project begins.

Sections 6 and 7 further shortcut environmental reviews by exempting both Protection Projects and reforestation and rehabilitation activities from NEPA compliance by declaring that these projects are “hereby designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement” under NEPA (Sec. 6(a)(4)(A)).

H.R. 2989 excuses Section 6 Protection Projects from complying with the ESA’s requirement to avoid harm to critical habitat by declaring that all Protection Projects are consistent with improving the health and resilience of critical habitat for threatened and endangered species (Sec. 6(a)(4)(C)(i)). TWS is concerned that the bill’s subsequent requirement to use the ESA informal consultation process (Sec. 6(a)(4)(C)(ii)) is therefore contradicted and rendered meaningless by the bill’s allowance for Section 6 Protection Projects to be implemented prior to initiating ESA consultation. Similar to our concerns around the NEPA provisions, the only way to avoid harm to critical habitat is to conduct these consultations before project implementation. The ESA consultation process is a vital safeguard for more than 400 listed species that are found in the National Forest System. Proper planning and management of these public lands offer the best opportunity for recovery of many of these imperiled species whose unique requirements for survival exist on federal lands.

The bill would also limit judicial review of Section 6 Protection Projects by restricting choice of court venue, specifying the duration of preliminary injunctions, and constraining the court’s ability to enjoin

projects. In addition, the bill would eliminate agency oversight of Protection Projects by exempting them from the Forest Service's normal administrative objection process (Sec. 6(a)(2)(B & C)).

During the 58 years since it was enacted, the Wilderness Act of 1964 has remained essentially intact. H.R. 2989 would break that precedent by amending the Wilderness Act specifically to allow giant sequoia reforestation activities in designated wilderness areas burned by wildfires (Sec. 7(c)). It is neither necessary nor appropriate to amend the Wilderness Act to conduct giant sequoia reforestation work in wilderness areas. While managed reforestation in designated wilderness is not typical, the Wilderness Act does not prohibit reforestation activities as long as they comply with the Act's requirements, including its limitations on building roads and using motorized equipment or mechanical transport. The open-ended amendment proposed in Section 7 of H.R. 2989 potentially could sweep aside any limits on such activities in designated wilderness areas.

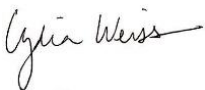
The theme tying the above-mentioned provisions together seems to be a desire to expedite forest management work in the sequoia groves to increase resilience to uncharacteristic wildfire. While TWS greatly appreciates the wildfire threats these groves and much of our national forests have faced in recent years, weakening bedrock environmental laws and undermining our country's legal system are not the answers.

Decades of fire suppression combined with the effects of climate change have put many of our public lands at risk from uncharacteristic wildfire. The U.S. Forest Service and other land management agencies have needed the resources to scale-up work in a way that can meaningfully deal with this threat. Thankfully, they received these resources with the passage of the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, and although these bills passed relatively recently, we have already seen the positive effects. In the sequoia groves alone, the Giant Sequoia Lands Coalition stated that in 2022, they were able to more than double their annual goal of acres treated.¹ All of this progress was achieved due to increased resources, not by weakening bedrock environmental laws.

Furthermore, during budget hearings by both the Senate Energy and Natural Resources Committee and House Committee on Natural Resources, Subcommittee on Federal Lands (occurring on April 18 and April 26, respectively), U.S. Forest Service Chief Randy Moore stated that 85 percent of all projects are completed using categorical exclusions (CEs), meaning the agency does not need to prepare an environmental impact statement or environmental assessment before implementing the project. This extraordinarily high percentage is further evidence that additional amendments to NEPA are unwarranted.

Based on the information above, The Wilderness Society opposes the H.R. 2989, the Save Our Sequoias Act. Thank you for considering our views.

Sincerely,



Lydia Weiss
Senior Director, Government Relations
The Wilderness Society

¹ Heller, Marc. "Giant sequoias better protected from fire, group says" E&E News, December 15, 2022.