



March 22, 2023

The Honorable Doug LaMalfa
United States House of Representatives
408 Cannon House Office Building
Washington, DC 20515

The Honorable Jimmy Panetta
United States House of Representatives
304 Cannon House Office Building
Washington, DC 20515

Dear Representatives LaMalfa and Panetta:

On behalf of the National Association of Counties (NACo), the only organization representing the nation's 3,069 counties, parishes, and boroughs, I write to express support for H.R. 1586, the *Forest Protection and Wildland Firefighter Safety Act*. Thank you for your leadership in introducing legislation to protect forests and communities from catastrophic wildfire by creating a Clean Water Act (CWA) exemption for federal, state, local, and tribal firefighting agencies to use fire retardant to fight wildfires.

Fire retardant is essential to contain and combat wildfires. Land management agencies have operated since 1993 under the assumption that a National Pollutant Discharge Elimination System (NPDES) permit is not required for the use of fire retardant because regulations specifically state that fire control is a "non-point source silvicultural activity."

Unfortunately, a recent lawsuit against the Forest Service attempts to require a NPDES permit under the CWA to use fire retardant. The plaintiffs also request an injunction on the use of fire retardant until the Forest Service receives this permit, which could take years. If the injunction is granted and fire retardant is not available for use in 2023, the risk to the environment, economies and livelihoods of forested communities will be immense, as wildfires have been increasing in size, duration and destruction to communities, reaching crisis-level conditions. This would further jeopardize water supplies by requiring agencies to use limited, existing water sources to combat fires without the benefit of retardant drops, while also increasing the risk of fire spreading to the very watersheds supplying national forest counties.

H.R. 1586 would prevent this catastrophic outcome by ensuring firefighting agencies are not subject to this unnecessary level of regulation, especially in emergency situations. Agency directives prohibit the direct delivery of fire retardant into waterbodies or surrounding buffer zones except to protect life and safety. Between 2012 and 2019, out of 56,868 total retardant drops, only 376 (less than one percent) were directly into the water, due to either misapplication or to protect life and safety. This lawsuit is a solution in search of a problem. H.R. 1586 would stop this lawsuit from jeopardizing our environment and communities.

NACo stands ready to work with you to reduce the risk of catastrophic wildfire and protect communities. Counties encourage swift passage of the Forest Protection and Wildland Firefight Safety Act.

Sincerely,

A handwritten signature in black ink that reads "Matthew D. Chase". The signature is written in a cursive style with a large, prominent loop at the beginning of the word "Matthew".

Matthew D. Chase
Executive Director
National Association of Counties