

Committee on Natural Resources
Subcommittee on Federal Lands
Oversight Hearing
1324 Longworth House Office Building
June 4, 2024
10:15 a.m.

Oversight Hearing titled *“Examining the President’s FY 2025 Budget Request for the U.S. Forest Service.”*

Questions from Chairman Westerman for the Honorable Randy Moore, Chief, U.S. Forest Service.

1. During the hearing, Representative Stauber asked about a “temporary” cap on backcountry permits in the Boundary Waters Canoe Area. In response, you said: *“So we are currently working with the local community to do just what you described. To date we have not made a lot of progress, but I would be willing to get back with you by the week’s end to give you more specifics on what we have been able to do within the community.”*

a. Did you get back with Representative Stauber by week’s end? We did not provide an answer by the end of the week, but did the week of June 5.

b. If not, why not?

Response: We were able to provide a response to Representative Stauber during the week of June 14.

Not applicable.

c. Will you commit to lifting the “temporary” cap on backcountry permits in the Boundary Waters Canoe Area?

Response: In 2022, the Superior National Forest (Forest) made adjustments in permit quotas for the Boundary Waters Canoe Area Wilderness (BWCAW) to address two wilderness character degradation issues prohibiting the Forest from meeting applicable land management plan and national wilderness standards. These issues included physical resource damage due to over-use and impacts on the wilderness experiences due to overcrowding. Since that time, the Forest has initiated development of a land management plan amendment for direction related to the BWCAW. During the amendment process, the Forest will consider all relevant information and establish any potential changes to permit quota levels.

d. What progress has the Forest Service made in reopening our national forests and ensuring we return to pre-pandemic levels of access?

Response: Visitation to National Forest System lands is above pre-pandemic levels and continues to grow by 2% to 3% annually. During the pandemic, there was a substantial increase in use of federal lands, as they became a refuge for those seeking a reprieve from quarantines and the mental, physical, and emotional benefits from experiencing the natural environment. In FY 2022, there were 159 million recreation visits to national forests and grasslands. While most national forests and grasslands are open for public use, temporary area closures may be imposed in some situations to address public health and safety concerns.

2. This committee has deep concerns with the Biden administration’s disproportionate focus on protecting so-called “old-growth” and “mature” forests, not least because it diverts agency efforts from addressing the wildfire crisis and because such terms are poorly defined. Yet the Forest Service recently published a Notice of Intent to amend all 128 national forest land management plans to provide direction on how to manage, conserve, and steward “old-growth” forest conditions.

a. In general, how long have forest plan revisions taken to complete in the last 5 years?

Response: In the last 5 years the Forest Service has signed 15 Records of Decisions for Land Management Plan Revisions under the 2012 Planning Rule. These revisions, on average, have taken 7.84 years to complete.

b. How long is the process of amending all 128 forest plans expected to take?

Response: The Department of Agriculture published a notice of intent to prepare an environmental impact statement for the proposed National Old Growth Amendment on December 20, 2023. The Department published a proposed plan amendment and draft environmental impacts statement on June 21, 2024. The Department anticipates completing the National Old Growth Amendment process in early 2025. While the Amendment is at a broader geographic scale than a forest plan revision (nationwide versus National Forest), the Amendment has a much narrower scope than a revision (management of old growth versus the entire plan).

c. Please provide an estimate of the total hours that the Forest Service’s staff has already spent and plans to continue spending on this “old-growth” amendment process.

Response: A core team of seven Washington Office employees are working on the National Old Growth Amendment full time; assuming they each work 2080 hours a year, this equates to 14,560 hours per year. In addition, there is significant support from the Planning Service Organization (composed of Regional Office employees), where staff have been reviewing plan components from every unit within the National Forest System to determine how the proposed amendment would compare to current plan direction. These overhead hours are more difficult to estimate because those employees work on the National Old Growth amendment alongside other projects. Forest Service timekeeping systems do not provide a breakdown of time spent on a per-project basis.

d. Absent this focus on “old-growth,” would Forest Service staff have more time to spend working on wildfire risk-reduction and NEPA-compliant forest management projects?

Response: The proposed National Old Growth Amendment responds, in part, to section 23001(a)(4) of the Inflation Reduction Act, passed by Congress and enacted into law on August 16, 2022, to advance the protection of old-growth forests. The proposed National Old Growth Amendment is being developed consistent with the Agency’s Wildfire Crisis Strategy. The Forest Service and Bureau of Land Management June 2024 threat analysis report shows that wildfire is one of the largest threats to old-growth forests. In developing the proposed National Old Growth Amendment, the Agency has relied primarily on Washington Office and Regional Office staff so as to not divert staff working on WCS projects on National Forests and Ranger Districts.

3. In January 2024, the Forest Service and the Bureau of Land Management (BLM) released an introductory report that identified wildfire, insects, and diseases as the leading threats to “mature and old-growth” forests and even admitted that “tree cutting” is a minor threat that generally “improved or maintained” the stands that had been managed. Given these findings, should the Forest Service instead focus on expanding its forest treatment efforts?

Response: The Mature and Old Growth (MOG) Threat Analysis shows that tree cutting has been a minor threat to MOG over the past 20 years and often has beneficial effects. The MOG Inventory released in April 2023 also shows that areas characterized as mature or old growth often contain either more undesirable species or high densities of desirable species than is ecologically sustainable. The proposed land management plan amendment emphasizes proactive management in old-growth forests to address these scenarios and compliments our work with the wildfire crisis strategy by providing consistent national management direction to maintain and improve old-growth forests with specific exceptions to reduce fuel hazards within the wildland urban interface or to protect communities or infrastructure from wildfire.

4. The 2012 Planning Rule consciously chose to leave old growth issues to the individual plan development process, rather than promulgating national standards or guidelines for old growth.

a. What changed between the adoption of the 2012 Planning Rule and April of 2021 when President Biden signed the Executive Order on Old Growth that made a single national approach the correct one?

Response: Broad scale land management plans and amendments are not unique to this effort—for example the Northwest Forest Plan and the Greater Sage Grouse Plan Amendments, among others, responded to large geographic scale management challenges. The National Old Growth Amendment responds to Executive Order 14072, Strengthening the Nation's Forests, Communities, and Local Economies, which, required the agency to define, inventory and analyze threats to mature and old-growth forests on federal land. The executive order also directed the agency to develop policies for management and conservation of old growth forests, and to address the threats they face. The purpose of the National Old Growth Amendment (NOGA) is to develop a consistent management framework for conserving, stewarding, recruiting and monitoring old-growth forests. The intent of this amendment is to foster the long-term resilience of old-growth forests and their contributions to ecological integrity across the National Forest System. The desire for policies that would accomplish this was first expressed by Chief Dale Bosworth in 1989. The Forest Service and the Bureau of Land Management published a threat analysis report in June 2024. The results of the threats analysis demonstrate that current management is not adequately addressing increasing threats to old growth from fire, insects, disease and climate change, and there is an urgent need to address these threats. The NOGA will add a consistent framework of plan components, as defined in the 2012 Planning Rule, to 122 Forest Plans. This additional guidance can then be used to design projects in a local ecological context, in collaboration with local communities of interest. The NOGA is being created and analyzed in an efficient, targeted process that will be accomplished in months, rather than the years it would take to develop or amend plans individually.

b. You were regional forester in Region 9 when this took place. Do you believe the Forest plans adopted in Region 9 when you were regional forester were adequately or inadequately protective of old growth?

Response: Land management plans in Region 9 and across the National Forest System contain various protective measures, known as plan components, that relate in some way to old growth. The proposed national amendment will build on these existing plan components and create a consistent national approach. The proposed national amendment will be adaptive and factor in the unique opportunities and challenges of a particular area with more flexibility to respond to rapid changes in wildfire behavior, drought, insects and disease. Throughout the amendment process we are engaging with tribes, cooperating agencies, and others who are interested through various platforms to ensure transparency and coordination at the local level.

c. Can you provide the committee with information regarding whether old growth has increased or decreased in the region since 2009 when the forest plans were last revised?

Response:

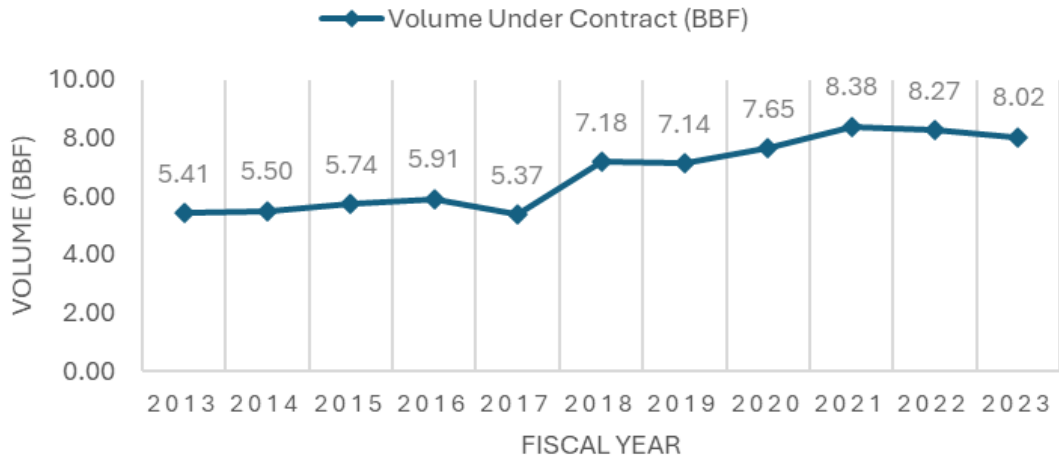
Our data shows that regional acres of both mature and old growth forests have increased since 2009 (by approximately 80,000 acres of old growth and 700,000 acres of mature forest). There are many complex factors that contribute to what constitutes mature and old growth forests and we would be happy to meet with you to talk about the nature of those in Region 9.

5. You mentioned that there is a large amount of timber under contract that has not yet been cut. Can you please provide the committee with the following information:

a. The volume under contract for as many previous fiscal years as possible, but at least the last 10 years.

The following table shows the timber volume under contract from 2013 through 2023 in Billion Board Feet (BBF). Over this period the volume under contract has increased from 5.41 BBF to 8.02 BBF. Volume under contract plays a critical role in supporting industry to withstand fluctuations in supply as well as secure financing for equipment and capital investments. It buffers purchasers from delays due to litigation, wildfire, or other disturbances.

VOLUME UNDER CONTRACT FY 2013-2023



b. The type of timber under contract – sawtimber, pulpwood, biomass, other convertible, etc.

Response: Unfortunately, due to a change in our accounting system we do not have accurate data to provide sound information prior to 2019. The following table shows the previous 5 years of volume under contract by product type.

Product Name	FY2019 (BBF)	FY2020 (BBF)	FY2021 (BBF)	FY2022 (BBF)	FY2023 (BBF)
Sawtimber	4.853	5.190	5.375	5.209	5.076
Pulpwood	1.400	1.546	2.043	2.007	1.711
Poles	0.001	0.000	0.000	0.000	0.002
Posts	0.009	0.014	0.014	0.012	0.011
Fuelwood	0.023	0.038	0.040	0.038	0.050
Non-Saw logs	0.486	0.479	0.592	0.661	0.682
Misc-Convertible	0.046	0.044	0.044	0.050	0.075
Cull Logs	0.025	0.022	0.016	0.021	0.075
Small Round Wood	0.000	0.000	0.000	0.000	0.001
Green Biomass	0.287	0.315	0.252	0.257	0.326
Dry Biomass	0.006	0.006	0.006	0.012	0.014
Grand Total	7.136	7.652	8.384	8.267	8.023

c. The volume of timber under contract but either under injunction or withdrawn due to litigation, by Forest Service region.

As of September 2023, there were 1,663.4 million board feet (MMBF) of timber affected by litigation across the Forest Service. Fiscal Year 2024 volume affected by litigation has not yet been calculated.

6. Can you provide the committee with a breakdown of the amount of volume under litigation by Forest Service Region?

Response: Please see the table below:

Timber Volume affected by litigation by Region in FY23 (As of September 2023)

Region	Volume Affected	Narrative of Affected Regions
Region 1	652.1 MMBF	289.3 MMBF in Idaho, 362.8 MMBF in MT
Region 2	None	
Region 3	None	
Region 4	41.1 MMBF	The Payette NF signed a new decision lifting suspensions on 3 of their 6 sales under contract affected by litigation. A 2nd NEPA decision is planned to be signed this Summer to enable the completion of the remaining 3 sales.
Region 5	900 MMBF	350,000 acres, none enjoined
Region 6	36 MMBF	Notable adverse decisions include the Sanpoil and Bulldog projects as well Eastside 21” Screen Amendment (six eastside forests) that affected multiple timber sales
Region 8	None	
Region 9	34.2 MMBF	Region has two projects under litigation: Wayne National Forest - Sunny Oaks Project Monongahela National Forest - Greenbrier Southeast Project
Region 10	None	

7. Chief Moore, during the hearing, there were several discrepancies regarding the amount of timber sold by the Forest Service in recent years. Please provide the amount sold annually, in billion board feet (BBF), by the Forest Service for the past 10 fiscal years.

Response: The following tables shows the amount of timber sold in billion board feet (BBF) by the Forest Service from fiscal years 2014 through 2023.

Year	Sawtimber (BBF)	Pulpwood (BBF)	Non-Sawtimber (BBF)	Fuelwood (BBF)	Total (BBF)
2014	1.715	0.52	0.14	0.291	2.83
2015	1.759	0.488	0.175	0.281	2.86
2016	1.824	0.508	0.177	0.291	2.94
2017	1.833	0.507	0.164	0.257	2.92
2018	1.975	0.554	0.254	0.255	3.18
2019	2.019	0.545	0.28	0.271	3.27
2020	2.017	0.621	0.212	0.217	3.21
2021	1.72	0.565	0.253	0.195	2.84
2022	1.798	0.564	0.21	0.189	2.93
2023	1.660	0.561	0.364	0.283	3.14

8. Does the Forest Service count personal use firewood as a timber accomplishment? If yes, has this always been the case?

Response: Yes, the Forest Service counts personal use firewood as a timber accomplishment and has done so since at least 1989, when our Periodic Timber Sale Accomplishment Reports (PTSAR) started to break out personal use volume as an accomplishment. There are no PTSAR reports available prior to 1989. On our cut and sold reports which started in 1977, firewood has also been reported. Prior to 1977, there is not reliable data on whether firewood was counted as a timber accomplishment.

9. How much has personal use firewood contributed to timber outputs during the past four years?

Response: The table below details personal use firewood volume sold compared to the total timber volume sold for each fiscal year between 2018 through 2023. From 2020-2022 free use firewood was broadly applied in response to the Covid-19 pandemic to benefit local communities and was not included in the volume sold totals (Per March 27, 2020 Letter to Regional Forester from Deputy Chief Chris French).

Personal Use Fuelwood volume sold compared to total volume sold from 2018 – 2023.

Fiscal Year	Personal Use Fuelwood (MBF)	Total Timber Program Accomplishments (MBF)	Personal Use as Percentage of the Timber Program
2023	362,951	3,144,898	11.54%
*2022	170,012	2,932,450	5.80%
*2021	171,584	2,844,803	6.03%
*2020	188,956	3,218,527	5.87%
2019	256,420	3,271,732	7.84%
2018	238,951	3,186,663	7.50%
* These fiscal years did not include free-use fuelwood into the total timber accomplishments. Free use fuelwood was broadly applied in response to the Covid-19 pandemic to benefit local communities (per letter dated 3/27/2020).			

10. How many fuel breaks have been established under the categorical exclusion that was created by the Infrastructure Investment and Jobs Act?

Response: Currently, the Agency has 71 projects using the Fuel Breaks CE category. Thirty-three projects are completed or in implementation. Thirty-eight projects are in environmental compliance.

a. Where are these fuel breaks located?

Response: The projects are located in 10 states and those states are: AZ (2), CA (17), CO (9), ID (4), MT (13), ND (1), OR (17), UT (4), WA (1) and WY (3).

b. How many total acres do they cover?

Response: The projects cover a total of 71,213 acres treated with this Categorical Exclusion. For FY24 there are 104,022 acres planned.

c. Did the Forest Service use commercial timber harvest to establish any of these fuel breaks? If so, please identify them.

Response: To date there are 9 projects out of the 33 completed that are planning to use commercial and non-commercial timber harvest. The table below provides greater detail:

List of projects by Region and Forest using the Fuel Break CE that are planning to use commercial and non-commercial timber harvest			
Region	State	Project Name	Forest
1	ID	Big Burn	Nez Perce-Clearwater
4	WY	Greys River Roadside Vegetation Treatments	Bridger-Tetons
5	CA	Grizzly Flat Community Fuel Break	Eldorado
5	CA	The Italian Project	Sierra
5	CA	UARP Transmission Line Fuel Break	Eldorado
5	CA	Sugar Pine Roadside Fuelbreaks Project	Tahoe
6	OR	Chemult Fuels Breaks: Highway 97	Fremont-Winema
6	OR	Chemult Fuels Breaks: Highway 138	Fremont-Winema
6	OR	27 Road Fuel Break Project	Mt. Hood

11. The committee has learned that of roughly 55 wood product facility closures in the last several years, 21 of them were in close proximity to the National Forest System.

a. Do you believe that the Forest Service should be striving to keep these facilities operating, so that they can help provide a market for wood products on the National Forest System?

Response: It is important to acknowledge that forest products facilities are part of a private-sector industry and that is in decline nationwide due to myriad factors outside of the wood supply

coming from National Forest System lands. That supply harvested from NFS lands has been essentially level for at least the last decade, as outlined above, while the volume under contract has grown appreciably. That being said, the Forest Service feels that the forest products industry is a critical partner in our ability to manage our National Forests. The Forest Service works collaboratively at all levels of the organization to implement actions that support the forest products industry. This includes actions on supply, wood innovations/financial support, contracting, and research and development.

b. If so, what is the agency doing to prevent future closures of wood products facilities?

Response: The Forest Service recognizes the vital importance of a stable supply of wood products to industry, communities, and our landscapes. Timber harvest serves as a crucial instrument and often the first step taken to implement a full suite of activities, such as prescribed fire, that lead to restored and protected watersheds, habitats, and the wildland urban interface for communities at risk. Our actions to support the wood products industry include:

- Timber Sales: The agency has steadily increased the number of acres restored through timber sales and resulting timber volume sold by more than a billion board feet or nearly 30% over the last 20 years.
 - GNA: In FY23, there were 507 active agreements, with 238 MMBF sold. This is up from 188 agreements, with 89 MMBF in FY18. GNA leverages cross-boundary opportunities to increase capacity.
 - Stewardship: In FY23, there was 1063 MMBF under stewardship authority compared to 793 in FY18.
- Volume under contract: Since 2013, the agency has increased volume under contract from 5.4 BBF to as much as 8 BBF in 2023. The Agency understands the value of volume under contract plays a critical role in supporting industry to withstand fluctuations in supply as well as secure financing for equipment and capital investments. It buffers purchasers from delays due to litigation, wildfire, or other disturbances.
- Restoration Plans: Staff at the unit level are working with partners to coordinate our 2025-2029 restoration plans (includes hazardous fuels, reforestation, and timber outputs) with stakeholders to ensure we are treating the right acres and providing wood products that match the needs of mills to keep them thriving.
- The agency is participating in an external Sustainable Biomass Program Regional Risk Assessment to determine if National Forest System meets the requirements of this program. This assessment would provide assurance that woody biomass is sourced both legally and sustainably for U.S. export of wood pellets and chips.
- The Forest Service is actively exploring novel contract mechanisms and using all available flexibilities to support a resilient timber industry. This includes: Emergency Rate Redeterminations; leveraging contracting tools like stewardship contracts where a contractor can do all the preparation and implementation work of a project; and ensuring that all timber contracts advertised include forest products that can be marketed by purchasers by making marginal material optional or subject to agreement. We also authorized Substantial Overriding Public Interest (SOPI) extensions for contracts with at least 20% pulp – providing relief from the decline of demand for paper products through

rate redeterminations and up to two additional years for implementation. To address concerns about longer-term supply assurances, we are incorporating lessons gleaned from previous 10-year contracts to develop future multi-year contracts and agreements which improve the predictability for facilities to receive a minimum amount of wood material.

- The Hazardous Fuels Transportation Assistance program provides financial assistance for the transport of a variety of hazardous fuels from National Forests or adjacent lands to utilization facilities. In the past year, we awarded \$15 million to 12 private industry entities in a pilot effort. Based on this success, we have just announced a solicitation for proposals for another round of awards that will total up to \$25 million this year.
- State, Private and Tribal Forestry continues to support sawmills and wood products industry through their core grant programs: Wood Innovations Grant, Community Wood Grant, and Wood Products Infrastructure Assistance Grant Programs that are funded through annual appropriations, the Bipartisan Infrastructure Law (40804(b)(3) and Division J), and the Inflation Reduction Act. These grants support market development and help strengthen industry through facility investments. Since 2021, the Forest Service has funded 288 facility or processing projects for over \$141 million.
- The Forest Service has worked with our partners across the country to implement critical hazardous fuels reduction and forest health projects as part of the Wildfire Crisis Strategy. We have provided almost \$33 million this fiscal year to partners to implement these projects and move wood material byproducts to utilization facilities.
- Through a collaborative effort with USDA Rural Development - Rural Business-Cooperative Service Branch, the Forest Service established the Timber Production and Expansion Guaranteed Loan Program (TPEP). This program will provide financial assistance through loan guarantees to lenders providing loans to entities seeking to establish, reopen, expand, or improve a sawmill or other wood processing facilities, and to forest workers, including loggers and other jobs, that supply materials to these sawmills and facilities, that are in close proximity to an identified unit of USFS National Forest System land. Approximately \$124 million will be available in loan guarantees, with loan guarantees of up to 90 percent. The program mimics the already existing OneRD loan guarantee program. The program is expected to launch in October 2024.

12. Across the country, timber mills are shutting down or significantly curtailing operations due to a lack of reliable timber supply. Congress has tried to assist by giving your agency tools like 20-year stewardship contracting authority, but the Forest Service has failed to fully utilize that tool. Given that your agency is planning to reduce timber harvesting levels, what concrete steps can the Forest Service take to sustain and expand forest products infrastructure?

Response: The Forest Service is committed to increasing the number of acres treated through all methods, including timber harvest, and recognizes the crucial role of our relationship with industry to accomplish our mission to sustain the health, resiliency, and productivity of the nation's forests and grasslands to meet the needs of present and future generations. The Forest Service will continue to leverage available funding, partnerships, and existing authorities to increase a range of treatment methods to meet landscape scale objectives, economically. By

doing so, we hope to support the mutual goals of the wood products industry and the Forest Service, providing the needed timber volume to support a healthy timber market. We will look for opportunities to use all available congressional authorities and programs to support fuels and forest health treatments

Additionally, we reference the response to question 11(b) to provide additional relevant information.

13. During questioning from Representative Pete Stauber, you said that the Forest Service would have met its Fiscal Year (FY) 2023 timber-harvesting goal “but for litigation.”

a. Please provide a list of all litigation that prevented the Forest Service from reaching this target.

Response: The table below provides the litigation list.

Region	Volume Affected	Associated litigation
Region 1	652.1 MMBF	<p>289.3 MMBF in Idaho, 362.8 MMBF in MT</p> <ul style="list-style-type: none"> • Center for Biological Diversity, et al. v. U.S. Forest Service, et al. 23-110 (D. Mont.) South Plateau Landscape • Alliance for the Wild Rockies et al v. U.S. Forest Service, et al., 23-290 (D. Idaho) Buckskin Saddle Restoration Project/Logging • Alliance for the Wild Rockies, et al v. Kaiser, et al., 23-03 (D. Mont.) Black Ram Project • Alliance For the Wild Rockies v U.S. Forest Service et al., 21-105 (D. Mont.), Ripley Project • Alliance for the Wild Rockies et al., v. Lannom, et al., 21-51, (D. Mont.), Horsefly Project • Flathead-Lolo-Bitterroot Task Force v. U.S. Forest Service, et al., 20-157 (D. Mont.), Soldier Butler Project • Friends of the Clearwater et al v. Higgins et al., 20-243 (D. Idaho), Brebner Flat Project • Alliance for the Wild Rockies v. Jeannie Higgins, et al., 19-0322 (D. Idaho), Hanna Flats Project • Center for Biological Diversity et al v. U.S. Forest Service, et al., 22-91 (D. Mont.), Knotty Pine Project

		<ul style="list-style-type: none"> • Alliance for the Wild Rockies v. Savage, et al., 15-54 (D. Mont.), East Reservoir Project • Friends of the Clearwater v. Cheryle Probert, U.S. Forest Service, 21-189 (D. Mont.), End of the World and Hungry Ridge
Region 2	None	
Region 3	None	
Region 4	41.1 MMBF	<ul style="list-style-type: none"> • Alliance for the Wild Rockies, et al v. Forest Service, et al., 19-445 (D. Id.), 21-35082 (9th Cir.), Lost Creek Boulder Project.
Region 5	900 MMBF	<p>350,000 acres, none enjoined</p> <ul style="list-style-type: none"> • Friends of the Big Bear Valley, et al. v. United States Forest Service, et al., 23-1609 (C.D. Cali.) North Big Bear Landscape Project
Region 6	36 MMBF	<p>Notable adverse decisions include:</p> <ul style="list-style-type: none"> • Kettle Range Conservation Group v. Smolden et al., 23-147 (D. Or.) Bulldog Project • Greater Hells Canyon Council et al v. Wilkes et al., 22-859 (D. Or.), Eastside Screens • Kettle Range Conservation Group v. United States Forest Service, et al., 21-161 (E.D. Wash.), Sanpoil Project
Region 8	None	
Region 9	34.2 MMBF	<ul style="list-style-type: none"> • West Virginia Highlands Conservancy v. United States Forest Service, et al., 23-6 (N.D. W.Va.), Greenbriar South East Project • Ohio Environmental Council v. United Forest Service, et al., 21-4380 (D. Ohio), Sunny Oaks Project
Region 10	None	

b. Please provide an estimate of the amount of timber, in BBF, that each lawsuit or settlement cited above prevented from being harvested in FY 2023.

Response: The table in response to question 13(a) includes the BBF estimates.

14. The Forest Service has lowered its timber-harvesting goal from 3.4 BBF in FY 2023 to 3.2 BBF for both FY 2024 and FY 2025.

a. Is the Forest Service currently on track to meet this reduced goal for FY 2024? If not, why not?

Response: We would be happy to brief the committee once our final accomplishments have been reported after the end of the fiscal year. Please contact Jacob Donnay, Director of Legislative Affairs at jacob.donnay@usda.gov to schedule the briefing.

Factors that impact the timber target include high contract costs, limited capacity in positions processing contracts, grants and agreements, litigation, decreased demand for pulp, and vacancies in key timber and interdisciplinary positions. Operating on continuing resolutions and receiving a budget late in the fiscal year also pose challenges for program continuity and predictability due to budget uncertainty. Regions are taking a variety of actions to mitigate these impacts, including building resilient outyear plans, using innovative contract mechanisms, increasing the use of designation by prescription or designation by description to decrease the need for marking, and employing virtual sale area boundaries.

b. Did the Forest Service lower these goals at least partially as a response to ongoing or anticipated litigation?

Response: There are many factors that are considered when setting the Agency's timber volume goals which include: market conditions, workforce capacity, funding levels, etc. Litigation can affect the planned targets that are set for National Forests, as these targets are based on long-term planning and analysis by forest managers. The Forest Service typically plans timber sales on a 5-year schedule, and while a variety of factors can lead to not achieving these targets (e.g. natural disasters, pandemics, budgets, market conditions, wildfires, litigation), the planned targets are not immediately changed due to these factors. As factors affecting timber sales occur, local timber managers adjust the projected outlook for timber to be offered on their plans, which can lead to adjustments in timber target goals at both regional and national levels.

The Forest Service takes a proactive approach to these potential fluctuations. One approach is by increasing volume under contract. Volume under contract plays a critical role in supporting industry by helping to withstand fluctuations in supply and secure financing for equipment and capital investments. It also buffers purchasers from delays due to litigation. Staff at the unit level are working with partners to coordinate our 2025-2029 restoration plans with industry, to ensure

we are treating the right acres and to the extent possible, providing wood products that match the needs of mills to keep them thriving. The agency is participating in an external Sustainable Biomass Program Regional Risk Assessment to determine if National Forest System meets the requirements of this program. This assessment would provide assurance that woody biomass is sourced both legally and sustainably for U.S. export of wood pellets and chips. The Forest Service has developed a robust Wood Innovations Program to provide financial and technical assistance to build markets and strengthen manufacturing capacity.

c. If so, please provide a list of all litigation that influenced this determination.

Response: The response to question 14(b) includes a response to this question.

15. The partial fix to the *Cottonwood* decision expired in March 2023. Please describe the effects that the *Cottonwood* decision, and litigation generally, continue to have on the Forest Service's ability to actively manage our nation's forests.

Response: The 2018 Omnibus Bill provided the Forest Service a five year "safe harbor" from litigation related to the reinitiation of consultation under ESA for land management plans. Since the sunseting of the initial safe harbor timeframe in March 2023, the Forest Service has received one lawsuit under the ESA regarding the Coastal Marten on the Siuslaw National Forest. See previous answers on litigation to understand the impacts of litigation in general.

16. Road access is especially important in those U.S. Forest Service lands that are located near and along the U.S.-Mexico border. A few years ago, I toured the Coronado National Forest in Arizona with CBP officials who stated that the inability to build proper access roads diminished agent mobility and reduced the effectiveness of border enforcement measures. This, in turn, poses dangers to officer safety when they must engage in the pursuit or apprehension of suspected perpetrators.

a. Will you commit to supporting the construction of more roads on Forest Service lands along the southern border to protect our law enforcement officers and increase operational control of the border?

Response: The Coronado National Forest (CNF) routinely works with U.S. Customs and Border Protection (CBP) on projects related to resource protection, surveillance, infrastructure, roads, and wells with safe implementation of these projects a primary focus. In recent years, the CNF partnered with CBP to properly construct new connector roads in the Cantinas Canyon and Zone 20 areas. Currently, the CNF is working with CBP to complete NEPA/USFWS Consultation for

road improvements and new construction of a third connector road segment in the Holden Canyon area as well as two new road alignments in the California Gulch area. These roads are aligned specifically to enhance the tactical capability of CBP and generally improve access in these remote and difficult to reach areas, while still minimizing impacts to land use interests and natural resources. The Coronado National Forest will continue supporting CBP with their efforts such as Integrated Fixed Towers (IFT), patrolling, surveillance blimps, and road construction/maintenance in an effort to address safety concerns and enhance CBP operational capability.

b. Have you had any discussions with Homeland Security Secretary Alejandro Mayorkas—or any top Homeland Security officials—about how to address these challenges?

Response: The Coronado National Forest coordinates with CBP to develop annual National Forest System Road maintenance priorities and responds to routine CBP road maintenance requests in the border area. This partnership effort is facilitated through an Interagency Agreement and improves access and patrol capabilities for CBP agents.

17. President Biden’s open-border policy has contributed to increased drug trafficking and cultivation on federal lands. The Forest Service recently detected more than 5,800 illegal cannabis cultivation sites within our national forests. Since illegal cultivation activities have sparked massive wildfires, their growing presence on national forest lands remains a serious concern. In fact, in this year’s budget request, the Forest Service admits that it has “likely underestimat[ed] the threat of [marijuana cultivation] activity on Federal public lands.”

a. What concrete steps is the Forest Service taking to reduce illegal drug production in national forests?

Response: In FY 2023, USDA Forest Service Law Enforcement and Investigations (LEI) personnel eradicated 117,375 marijuana plants and dismantled and reclaimed 56 marijuana cultivation sites in 10 national forests, which represents a 65 percent increase from the 34 sites dismantled and reclaimed in FY 2022. LEI will continue to refer these cases for prosecution. However, a significant trend in marijuana cultivation impairs LEI personnel’s ability to raid, rehabilitate, and investigate these sites: marijuana growers are routinely utilizing federally banned pesticides in the carbamate or organophosphate chemical class, particularly carbofuran, which has the tradename Furadan, or Methamidophos, which has the tradename Monitor, to treat their illicit crop. The presence of these and other highly toxic chemicals severely limits LEI personnel’s enforcement efforts because entry into and clean-up of these cultivation sites require specialized sampling equipment personnel with decontamination equipment and advanced training in recognition, testing, removal, and transportation of hazardous materials.

LEI will continue participating in the Office of National Drug Control Policy's High-Intensity Drug Trafficking Area Program and several multi-jurisdictional drug task forces, including the Organized Crime Drug Enforcement Task Force.

LEI is committed to working with partners to prevent cross-border smuggling activities that threaten the safety and security of Forest Service employees and the public on National Forest System lands near the southern and northern borders of the United States. LEI, recently provided a 20-person team in response to a national priority request for assistance with Department of Homeland Security (DHS) border operations. However, due to insufficient LEI staffing, additional DHS requests were not able to be fulfilled.

b. This year's budget request explains that when the Forest Service recently used new technology to survey a mere 4 percent of only 3 national forests, it found 77 illegal drug cartel cultivation sites that had gone undetected for 20 years. Given that this alarming figure pertains to just a fraction of our national forests, does the Forest Service plan to expand this kind of surveillance?

Response: Forest Service Law Enforcement and Investigations (LEI) would like to expand this type of surveillance. However, the cost of the requisite technology is high, and the associated workforce needed to address detected sites is limited. The recent decrease and high turnover in LEI personnel, despite expenditure of all appropriated funds, have led to a decline in experienced investigators and uniformed law enforcement officers with the expertise needed to conduct these types of investigations. The lack of sufficient personnel and experience has significantly affected LEI's ability to conduct investigations that lead to successful prosecutions of subjects involved in cannabis cultivation on National Forest System lands. For example, in the Pacific Southwest Region (California), where most of the cannabis cultivation sites are located, there are only nine special agents, which represents a significant decline from ten years ago, when there were 30 special agents. Over the last five years, there has also been a 60% decrease in uniformed LEI personnel in the Pacific Southwest Region 5. These declines have occurred even though all appropriated funds have been spent.

Based on the use of available technology, the number of contaminated sites is estimated to be 4,000 nationally. On average, a site that contains hazardous materials costs the Forest Service approximately \$90,000 to clean up. With current staffing and projected attrition, the number of unaddressed sites will likely rise.

18. The Forest Service budget requested decreased funding for the Joint Fire Science Program, which funds scientific studies on managing wildland fires. Why is this program being cut, while other budget items that are wholly unrelated to forest health are receiving increases?

Response: The small \$500 thousand decrease in the Joint Fire Science Program compared to FY 2023 is balanced by our ability to maintain support for the State, Private, and Tribal Forestry, Wildland Fire Management, and Hazardous Fuels programs. The amount requested in the 2025 budget would be an increase of \$1 million over 2024 enacted.

19. How many miles of road has the Forest Service decommissioned per year from FY 2004 to FY 2024? Please break down the annual figures by state, region, or both.

Response: From FY2004 to FY2024, the Forest Service has, on average, decommissioned approximately 500 miles of roads per year.

Decommissioned miles by region and fiscal year are provided in the following table:

System Roads Decommissioned (Miles)

Region	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	Grand Total
FS01	256	231	177	158	267	202	247	235	383	220	108	129	102	80	13	22	12			5	1	2848
FS02	15	29	133	66	46	36	86	139	300	149	122	75	30	37	12	12	18			1	4	1310
FS03	103	142	42	52	64	64	17	16	69	28	32	9	21	6	3	7	32	6		3		715
FS04	49	177	62	44	44	105	169	61	286	81	26	21	2	5		3	0	2		2	2	1139
FS05	65	51	51	28	146	54	28	47	274	75	11	18	4	9	34	4	2	1				902
FS06	66	136	82	112	39	301	296	192	208	115	97	96	55	58	53	19	25	13	21	6	9	1997
FS08	47	39	218	22	41	29	91	37	337	49	31	55	11	45	9	1						1062
FS09	53	46	41	20	2	48	71	41	223	64	81	15	22	56	19	1	8	9	1	3	1	824
FS10	5	1	3	0			20	1	23				18									71
Totals	659	852	809	502	648	838	1025	769	2103	781	508	416	265	296	143	68	98	31	21	20	17	10869

20. How many miles of road will the Forest Service decommission pursuant to the FY 2025 budget? Please break down this figure by state, region, or both.

Response: In FY2025, 137 miles of road decommissioning is planned. The following table identifies the planned road decommissioning by region:

FS REGION	FY25* (proposed)
1	1
2	0
3	5
4	91
5	0
6	40
7	0
8	0
9	0
10	0
TOTAL	137

21. In response to Chairman Tiffany’s question, “What is a green job?” you replied that a green job is a job that involves “working with the environment to keep it healthy and resilient.”

a. Earlier in the hearing, you stated that timber harvesting is “necessary” for effective forest management and reducing wildfire risk. By this logic, should timber-harvesting jobs qualify as “green jobs”?

Response: Yes, sustainable and science-based timber harvesting that is consistent with specific Land Management Plan direction, and is moving landscapes towards desired conditions, as outlined in these plans, may well meet the common definition of green jobs. A green job is

commonly understood to be any employment that contributes to preserving and/or restoring the environment and can include a variety of both traditional sectors, such as manufacturing and construction, or emerging green sectors such as renewable energy and energy efficiency. Sustainable forest management requires a variety of professions, such as foresters, ecologists, engineers, archaeologists, wildlife biologists, hydrologists, fire specialists, loggers, and many others, to be able to successfully implement forest restoration treatments. The wood products industry plays a critical role to the overall success. All these professions work together in a collaborative approach, to keep our National Forests healthy and resilient, meeting the mission of the Forest Service to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations.

b. If not, why not?

Response: The response to 21(b) is included in the response to 21(a).

22. The Forest Service has reduced its forest treatment goal for this year to just 4 million acres, which—by the agency’s own estimates—is inadequate for confronting the nation’s current wildfire risk. I’m concerned that the Forest Service is now shifting the goalposts to “outcome-based” metrics when, just a few short years ago, your agency – not Congress – set acreage-based targets. The Forest Service has also received \$11.5 billion in taxpayer funding to achieve this goal of treating 20 million acres in 10 years.

a. How are we supposed to hold the agency accountable if we’re not measuring progress based on acres treated?

Response: Thanks to the generational investments in the Bipartisan Infrastructure Law and the Inflation Reduction Act, the agency treated more acres of hazardous fuels in 2023 than at any point in the agency’s nearly 120-year history – over 4.4 million acres. The 2024 goal is a reflection of the resources from those two laws having largely been obligated and put to work out on the landscape and the agency’s planning to revert toward accomplishments more in line with historic appropriations from Congress. The agency strives to be transparent in our work to reduce wildfire risk and be held to account for that vital work. The Forest Service will always report on our acres accomplished to reduce hazardous fuels. Agency reporting metrics provide transparency on how hazardous fuels work is completed during a given fiscal year. This underpins the agency’s ability to demonstrate progress on projects that have a multiple-year cycle to complete.

b. How is this change in metrics consistent with the 10-year Wildfire Strategy?

Response: This shift toward outcome-based metrics is fully aligned with our Wildfire Crisis Strategy. This strategy is based on treating the right acres at a scale which will make a difference. The right acres are the ones which are the highest priority. Those are the acres which are transmitting the most wildfire risk to communities. Focusing on those acres will reduce wildfire risk where it matters the most. In addition, it is also important that we invest to maintain the acres which our Hazardous Fuels program has already put in a desired, low wildfire risk condition.

23. Wildfires do not respect administrative boundaries, which is why collaboration with states, Tribes, and other stakeholders is crucial for fire prevention. Within the Forest Service, the State, Private and Tribal Forestry organization is tasked with facilitating much of this needed cross-boundary work. The FY 2025 budget, however, decreases funding for that account by roughly \$32 million. The Wildland Fire Mitigation and Management Commission's most recent report found that federal agencies must do more to engage tribes in meaningful co-management agreements. So, why is this funding being reduced?

Response: The current budget environment requires the agency to make very difficult decisions about prioritization. Within that context, the FY2025 proposed State, Private, and Tribal Forestry (SPTF) budget is \$32 million below the FY 2023 enacted budget, \$30 million of the difference is due to the Forest Resource Information and Analysis Congressionally Directed Spending projects that Congress chooses to include in the enacted budget but are not proposed by the Administration. which requires tradeoffs to be made.

The remaining difference is a small decrease in the SPTF salaries and expenses budget line, which was a required tradeoff during the development of the FY 2025 budget. The small decrease in Salary and Expenses compared to FY 2023 is balanced by our ability to maintain support for the State, Private, and Tribal Forestry programs and is balanced by other funding sources we can use for salary like IRA and BIL. The amount requested in the 2025 budget would be an increase of almost \$11M over 2024 enacted.

24. President Biden's 30x30 Initiative is often described as a campaign to conserve 30 percent of U.S. lands and waters by 2030. Critically, however, the administration has failed to make clear what counts as conservation. For example, on the newly created conservation.gov, the administration lists most National Forest System land as not contributing, or only pending additions, to the national conservation goals.

a. Does the Forest Service share the view, apparently held by the Biden administration, that most of the National Forest System lands are insufficiently conserved?

- i. If so, please explain why.
- ii. If not, please explain why not.

Response: The formulation you reference is based on the premise that Forest Service lands are virtually all contributing to conservation, but a substantial proportion of them require science-based restoration to be fully functional. That's why many of these acres are framed by the Administration as not meeting the full goals for conservation, as additional funding from Congress would be needed to meet these purposes.

25. There is broad international and domestic consensus about the carbon benefits of using more wood products in construction. In fact, at the December 2023 COP 28 summit in Dubai, the U.S. and 16 other countries agreed to increase sustainable forestry and the use of wood products in construction as “a vital decarbonization strategy.” However, the U.S. currently imports about one third of its lumber. The Forest Service manages about 188 million acres of national forests, including some of the most productive forests in the world, but provides very little of our demand for lumber and other wood products. Do you believe that the Forest Service has a responsibility to sustainably manage a portion of its lands in a manner that meets some of our need for carbon friendly wood products?

Response: Yes. Many rural communities depend on the timber provided by Forest Service lands to support their livelihoods, culture, and heritage. The timber harvested is widely used in construction, pulp and paper products, energy, posts, poles, engineered wood, shaved and industrial wood products, for both community and individual benefit. Forest products are also a means to help offset the costs of forest restoration to improve habitat, carbon storage, and resilience to wildfire, disease, and invasive species. Wood is a sustainable, renewable, recyclable material that can be utilized in various ways to support human communities and provide important ecological benefits. The benefits to people, or ecosystem services, of National Forest System lands are important to quantify so we can assess the trade-offs and outcomes of management. Benefits include recreation opportunities, clean drinking water, clean air, forest products, food, energy, and minerals, among others.

In FY 2023, nearly 3.1 billion board feet (BBF) of wood products were harvested from National forests and grasslands. These harvested forest products in FY 2023 provided an estimated \$147 million in value. This is about 3% of the total timber harvest in the US across all lands. The U.S. is one of the few places in the world where wood is the dominant material used in new-home construction – 90% of homes built in 2019 were wood-framed. About 1.66 BBF of sawtimber was harvested from National Forest System lands in FY 2023, which is enough timber to build more than 117,000 houses. Forest products help offset the costs of providing for wildlife, water, climate change mitigation and adaptation, and other ecosystem services through forest restoration, prescribed burns, and treatments. Improving forest health and managing for resilient forests helps mitigate impacts that have intensified from climate change.

26. The Forest Service provides several important reports for tracking the agency's timber sale program and harvest trends, including the "Forest Products Cut and Sold report," "Periodic Timber Sale Accomplishment Reports," and "Harvest Trends on National Forest System Lands." The most recent data available in the "Harvest Trends on National Forest System Lands" report is from 2021. Please provide an updated version of this report and make this updated report available to the public on the Forest Service website.

Response: An updated "Harvest Trends on National Forest System Lands" has recently been finalized which updates the harvest data through fiscal year 2023. The report is currently accessible to the public on the follow webpage:

<https://www.fs.usda.gov/forestmanagement/reports/index.shtml>

Questions from Rep. Fulcher for the Honorable Randy Moore, Chief, U.S. Forest Service.

Just recently the Cybersecurity and Infrastructure Security Agency (CISA) of the Department of Homeland Security (DHS) forecasted a very high risk for wildfires in the West this year. Low precipitation combined with a high fuel mix creates a challenging problem for rural communities and the electric utilities that serve them. Electric cooperatives in my state are doing everything within their power to mitigate wildfire risk but extreme weather conditions remain an uncertainty and are ultimately hard to plan for because of the unknowns. These utilities are not for profit and all additional costs are borne by their customers.

Unfortunately, I understand the USFS is looking to charge utilities with power line corridors through their lands nearly \$3 million per fire incident for strict liability damages. Smaller, rural electric cooperatives and the communities they serve cannot bear this level of damages. Already these utilities are finding it difficult to obtain wildfire insurance. This level of damage would bankrupt these utilities. I'm curious about your authority to unilaterally increase strict liability damages for powerline corridors.

1. Could you confirm that this is accurate, and if so, will you work with my office to collaborate with utilities on this matter?

Response: The Forest Service has proposed to raise the strict liability limit in the agency's regulations from \$1 million to \$2.8 million per incident, consistent with the strict liability limit in the Bureau of Land Management's regulations. As provided by governing statutes, the strict liability limit in the Forest Service's regulations applies to all high-risk uses, not just powerline facilities. By statute and agency implementing regulations, the strict liability limit is capped at \$500,000 until March 23, 2028, for electric cooperatives that work with the agency to obtain an operating agreement for operation, maintenance, inspection, and vegetation management of their powerline facilities. The \$500,000 strict liability limit for electric cooperatives with an approved operating agreement would not be affected by the proposed increase in the strict liability limit. Strict liability does not equate to automatic liability. Rather, strict liability means liability without fault, i.e., without regard to negligence.

2. Under what authority can the USFS charge strict liability damages and how does the agency justify this one-size-fits all level of damages?

Response: The Federal Land Policy and Management Act (FLPMA), as passed by Congress, requires the Forest Service to include terms in powerline facility authorizations that carry out the purposes of FLPMA and the agency's implementing regulations. Specifically, FLPMA requires the Forest Service to include terms in powerline facility authorizations that protect federal property and federal interests. FLPMA further requires the agency to issue regulations regarding

terms included in powerline facility authorizations; to revise the regulations as needed; and to apply those regulations to every powerline facility authorization issued under FLPMA. In particular, FLPMA requires the agency to promulgate regulations implementing FLPMA that specify the extent to which holders of a powerline facility authorization will be liable to the United States for damage or injury incurred by the United States caused by the holders' use and occupancy of federal lands. FLPMA also requires any provision in the Forest Service's implementing regulations imposing strict liability in tort to include a limit on damages commensurate with the foreseeable risks or hazards presented, and to provide for any liability for damage or injury above that limit to be determined in accordance with ordinary rules of negligence. Consistent with FLPMA, the Forest Service's existing regulations require all holders of a special use authorization for a high-risk use and occupancy, such as an oil or gas pipeline, a dam with a high hazard assessment classification, or a powerline facility, to be strictly liable for all injury, loss, or damage caused by the holders' use or occupancy (i.e., liable without regard to the holder's negligence) up to \$1,000,000 per occurrence, as determined by a risk assessment. Liability for injury, loss, or damage over \$1,000,000 will be determined by the laws governing ordinary negligence.

Questions from Rep. Stauber for the Honorable Randy Moore, Chief, U.S. Forest Service.

1. Please provide an estimate of the number of acres of National Forests within the state of Minnesota would be covered by the old growth plan amendment, and specifically the number of acres that are needed to satisfy the requirements laid out in the Service's Notice of Intent (NOI) to provide for "connectivity, "recruitment," and "adjacency" in old growth management.

Response: The amendment will cover the forested portions of the Superior and Chippewa National Forests but there is no specific requirement for any number of acres to be allocated to any use. Implementation of requirements for connectivity, recruitment, and adjacency will be collaboratively assessed, including the development of an Adaptive Strategy for Old Growth Conservation as described in the recently released Draft Environmental Impact Statement and Proposed Action. This is in line with many comments we received from of a wide range of stakeholders stressing the importance of local input.

2. As you state during the hearing, prescribed fires are only one of the many critical tools used to prevent catastrophic fire on our nation's public and private lands. Last May, the EPA finalized a new ambient air quantity standard for fine particulate matter, otherwise known as PM2.5 NAAQS.

a. Can the Committee assume that the recent PM 2.5 NAAQS ruling will have zero impact on federal, state, and private land managers' ability to utilize controlled burns to safely manage our nation's forests?

Response: The Agency was consulted through the review process for the revised NAAQS standard and provided significant input throughout. The agency was clear that prescribed fire is a critical tool to reduce wildfire risk.

The agency is currently determining if there will be impacts on prescribed fire use in states where the revised standard is potentially being exceeded. In areas potentially above or near the revised annual Particulate Matter NAAQS, state air regulators are currently assessing sources of pollution which may be contributing to the elevated levels. In some areas, prescribed fires may be contributing to the elevated fine particulate matter which could result in the state needing to use the Exceptional Event Rule (EER) to demonstrate the impact on monitoring data and to have that data removed by EPA. The state may choose to be conservative in prescribed burn permit issuance to avoid such an EER demonstration for prescribed fire and subsequent workload.

Ultimately, EPA and state air regulators will have to decide how smoke from prescribed fire is handled under NAAQS.

b. As states develop implementation plans to meet EPA's new standard, how will USDA and EPA work collaboratively to ensure that the states implementing the new standard do not remove this critical fire prevention tool?

Response: The Agency was consulted through the review process for the revised NAAQS standard and provided significant input throughout and agrees that prescribed fire is a critical tool to reduce wildfire risk.

On November 9, 2023, the Secretaries of USDA and the Department of Interior (DOI) along with EPA Administrator and Director of Centers for Disease Control and Prevention (CDC) signed a Memorandum of Understanding (MOU) on Wildland Fire and Air Quality Coordination (Biden-Harris Administration Agencies Sign Interagency Agreement to Address Wildfire Risk and Protect Communities from Smoke | The White House) which is supporting work to allow strategic use of prescribed fire while addressing air quality objectives under the current Clean Air Act and subsequent rules. The interagency work is exploring the challenges of the new standard, application of the Exceptional Events Rule and through several "tabletop" efforts, exploring how to collaborate across fire and land management needs with public health and air quality partners. The efforts are building new communication strategies and providing practical community benefits which we are hopeful will allow more prescribed fire. The Forest Service has increased its regional and state smoke resources to help address potential issues with the new standard as they arise as well as help address smoke impacts on the public from wildfire.

c. Further, because fire doesn't know boundaries between federal and private lands and since private lands represent approximately 70% of total working forest acres, how is USDA working to ensure that all forests retain this critical management tool?

Response: As noted above, the USDA in its MOU with EPA, CDC and DOI has conducted tabletop exercises to help explore current challenges in addressing air quality and land management policies and efforts. One of the efforts was in Georgia where private landowners use of prescribed fire is widespread and the implications of the new standard and needed use of the Exceptional Event Rule was a focal point. The initial exercise resulted in new work groups and other southern states forestry and air quality managers are now considering the challenges and solutions that have developed from the work groups and follow-up effort.

d. Is the agency concerned about the impact the PM 2.5 NAAQS ruling will have on the future success of wood products market development, and if so, how is the Agency working to ensure that rural economic health and public health can be achieved cooperatively?

Response: We would refer you to EPA for specific answers to your question, but as USFS understands it, areas designated nonattainment with the PM 2.5 NAAQS in the future will trigger nonattainment new source review (NNSR) air permitting requirements that include more stringent implementation of Lowest Achievable Emissions Rates (LAER), purchasing Emission Reduction Credits (ERCs) to offset PM 2.5 emissions increases, and development of alternative

siting analyses for proposed projects. This could potentially impact many industries, including the wood products industry. The Forest Service is directly working with states to assist in use of the Exceptional Events Rule demonstrations for wildfire and if needed, prescribed fire, which should help minimize the number and sizes of new nonattainment areas. The Forest Service continues to support the wood products and wood energy sectors to enhance competitiveness and improve efficiency with advanced technologies.

3. The inflation reduction act (IRA) directed the General Services Administration (GSA) to acquire and install materials that have substantially lower levels of embodied greenhouse gas emissions, as determined by the EPA. In response, EPA developed a low embodied pilot program and interim determination that prioritized concrete, glass, asphalt, and steel as qualifying for the allocated IRA funding. Products with lower embodied carbon, including bio-based materials, were segregated into a separate category for “further exploration,” and tasked among others, USFS for developing guidance to support the purchase of bio-based materials, including wood products.

a. Your agency continues to invest in wood products through programs like the Wood Innovation Grant Program and the Community Wood Facility Grant Program. What steps has USFS taken to develop guidance per EPA’s request?

Response: The Forest Service has engaged with General Services Administration to advance and influence the use of wood in new construction. Further, the Agency has funded life cycle assessment work to support the awareness of low carbon building materials like mass timber. The Agency also commented to EPA regarding the importance of including wood materials in the Request for Information (RFI) to Support New Inflation Reduction Act Programs to Lower Embodied Greenhouse Gas Emissions Associated with Construction Materials and Products.

4. One of the most effective ways to reduce embodied carbon in buildings is to build with wood products. Structural wood products do not require the same energy intensive manufacturing process that is common for other building materials. Additionally, wood products are unique in the fact that they store carbon — these materials are approximately 50% carbon by dry weight.

a. Given this, why has this administration chosen to prioritize concrete, glass, asphalt, and steel?

Response: The Forest Service works to support efforts to improve the recognition for construction materials and products such as sustainably-harvested wood products that already have low embodied carbon and high levels of stored carbon that can be substituted in place of

many of the high embodied carbon materials produced and currently used in the construction sector. The Forest Service continues to support products that have inherently low embodied carbon, such as dimensional wood products and structural engineered wood. Dimensional wood and structural engineered wood are natural climate solutions that have been acknowledged by the Federal Government and Intergovernmental Panel on Climate Change (IPCC) to have low embodied carbon (Ritter et al. 2011; IPCC 2022; 2023a; 2023b).

b. Given USFS's investment into wood products, has your agency made any effort to ensure that wood products included in administration policies which purport to lower carbon?

Response: The Forest Service has supported the importance of wood products through actions such as the Response to Memorandum 1077-004 Climate Resilience and Carbon Stewardship of America's National Forests and Grasslands | USDA from Secretary Vilsack. As part of the Response to the Secretary's Memo, the Agency is gathering input to inform wood innovation and utilization of restoration byproducts to inform revisions to agency-wide guidance and direction. Specifically, the Memo asks for recommendations to support investment strategies that incentivize new utilization technologies and uses of forest restoration byproducts to enhance carbon sequestration while providing for economic opportunities. Creating and supporting markets for low value restoration byproducts that align with climate adaptation actions, reducing greenhouse gases, and storing carbon in long-lived wood products benefits the local forest product sector economies. It fosters a positive feedback loop that can enable implementation of fuel reduction and climate adaptation actions at an accelerated pace and scale, and, therefore, generates more sustainable and consistent supplies. This highlights the value of wood products to support climate resilience and economic development.

5. On March 9, 2023, the Forest Service proposed changes to its cost recovery regulations pertaining to Land Uses; Special Uses; Strict Liability Limit and Insurance. The agency proposed dramatically raising cost recovery fees for special use permits in the first four categories of cost recovery, eliminating the current 50-hour exemption for outdoor recreation permits. The 50-hour exemption was first implemented in 2006 in the final cost recovery rule to lessen the impact on small entities. The proposed rule increases cost recovery fees starting at \$255 for less than 8 hours of work and up to \$3,313 for processing costs that require between 40 and 64 hours. The final rule has not been published in the Federal Register.

a. Is the Forest Service still planning to eliminate the exemption for the first 50 hours of work?

Response: In developing the final special uses cost recovery rule, agency staff are considering public comments and the overall benefits and impacts of eliminating or retaining the 50-hour exemption, which applies only to recreation special use permits.

b. There are no refunds for categories 1 through 4 even if the agency does not respond or complete the work paid for under cost recovery. Are you planning to modify that portion of the rule to provide a refund if the agency fails to act?

Response: There is no provision in the Forest Service's cost recovery rule that provides for the agency to fail to act on an accepted application. Accordingly, there is no provision in the agency's cost recovery rule that provides for the Forest Service to accept the non-refundable processing fees for applications in minor categories 1 through 4 and fail to respond to the applicants or to complete processing the applications.

Per 36 CFR 251.58(c)(4)(i), when the Forest Service accepts a special use application, the agency must provide written notice to the applicant that the application has been formally accepted. The agency cannot bill an applicant a processing fee until the agency is prepared to process the application. For applications in minor categories 1 through 4, the agency's customer service standards in 36 CFR 251.58(c)(7) apply. Under these customer service standards, the Forest Service must endeavor to grant or deny an application that falls into one of these minor categories and that is subject to a categorical exclusion pursuant to the National Environmental Policy Act within 60 calendar days from the date of receipt of the processing fee. If the application cannot be processed within the 60-day period, the agency must notify the applicant in writing before the 30th calendar day of the 60-day period of the reason the application cannot be processed within the 60-day period, and the agency must provide the applicant with a projected date of when the agency plans to complete processing the application. For all other applications, including all applications that require an environmental assessment or an environmental impact statement, the Forest Service must notify the applicant in writing within 60 calendar days of acceptance of the application of the anticipated steps that will be needed to process the application.

c. Is the pre-decisional objection process for project-level actions subject to cost recovery?

Response: Yes. Costs incurred in responding to pre-decisional objections regarding a proposed special use are necessary for processing the application for that special use.

d. When does the Forest Service expect to publish the final cost recovery rule?

Response: The agency anticipates publishing the final rule in the winter of 2024.

6. The Forest Service has been encouraged to look at the expansion of categorical exclusions (CATEX's) for routine special recreation permit re-issuance. The agency has made some progress in implementing CATEX's for ministerial permit renewal. However, in designated wilderness, we are faced with hurdles outside the NEPA process, such as the Minimum Requirements Analysis (MRA) for activities that are prohibited in the wilderness but which may be necessary to fulfill the purposes of the Act. Some so called "non-conforming" uses are authorized by Congress when a Wilderness is designated. An example would be the authorization for motorboat towing service in the Boundary Waters Canoe Area Wilderness.

a. Does the MRA apply to these congressionally authorized uses?

Response: The MRA does apply to "special provisions" that Congress may have included when it designated a wilderness, and the analysis specifically accounts for such provisions. Section 4(c) of the Wilderness Act of 1964 prohibits certain uses within wilderness. While the law strictly prohibits permanent roads and commercial enterprise, other uses may be employed if they are determined to be necessary to meet minimum requirements to administer the area as wilderness. Certain special provisions identified in Section 4(d) of the Wilderness Act or subsequent legislation require that the wilderness-managing agency take action. Special provisions may also mandate that a particular (otherwise prohibited) use be allowed (e.g., the motorboat example mentioned above).

b. Are there additional categorical exclusions and streamlining actions the agency can take to improve the efficiency of issuing recreational special use permits?

Response: In 2020, several new and revised special uses-related CE categories were implemented under 36 CFR 220.6, the scope of which extended beyond ministerial decisions or actions. This includes 36 CFR 220.6 (d)(12), which allows for a CE to be used to approve the issuance of brand-new authorizations for recreation special uses that occur on existing roads or trails, in existing facilities, in existing recreation sites, or in areas where such activities are allowed – which captures the majority of NFS lands where our permit holders seek to operate. CEQ regulations further allow agencies to borrow another agency's CEs. The agency is also proposing changes to its campground concession, outfitting and guiding, and recreation event policies in its Recreation Special Uses Handbook (FSH 2709.14, chapters 40, 50 and 80) which aim to improve the efficiencies of issuing recreation special use permits for those types of uses.

7. In the Boundary Waters Canoe Area Wilderness, the Superior National Forest imposed a "temporary" cap on backcountry permits at 80% of the previous cap in response to increased use during the COVID-19 pandemic. When will this temporary cap be lifted?

Response: In 2022, the Superior National Forest (Forest) made adjustments in permit quota for the Boundary Waters Canoe Area Wilderness (BWCAW) to address two wilderness character degradation concerns precluding the Forest from meeting applicable land management plan and national wilderness standards. These concerns include physical resource damage due to over-use and impacts on the wilderness experiences due to overcrowding. The adjustment in the permit quota represents a 13 percent reduction in BWCAW overnight paddle and hiking permits during the permit quota season (May 1–September 30). Since that time, the Forest has initiated development of a land management plan amendment for direction related to the BWCAW. During the amendment process, the Forest will consider all relevant information and whether additional changes to the permit quota would be appropriate.

8. The Forest Service is revising SUDS, a web-based application used by Special Uses administrators to authorize permit leases and easements, amend these authorizations, and track billing information in the Recreation and Lands Programs. Program managers use the system to collect, analyze, maintain, and track data about special use permits and revenue, including data about land use and cost recovery.

a. What is the status of that revision, how much does it cost, and when do you expect it to be launched?

Response: In March 2024, the Forest Service ended its contract with the developer of the new application (SUDS NextGen). Since termination of the contract, the Forest Service’s Chief Technology Office (CTO) has completed an assessment to determine the cost and time required to complete the project and deliver a fully functional, modernized system. The CTO has estimated that it will take an additional \$4.7 to \$7.7 million dollars and 2 to 3 years to complete.

b. Are there any issues complicating SUDS implementation?

Response: A principal issue is the migration of data from the old system to the new system. System engineers, developers, and program specialists are creating tools to facilitate the migration, entry, and validation of data from the old system to the new system.

c. Will these changes interrupt the processing of special use permit applications?

Response: There will be no interruption of the processing of special use permit applications. The legacy system is operational and will be maintained until the new system is implemented and operational.