

STATEMENT OF
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U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE
BEFORE THE SUBCOMMITTEE ON FEDERAL LANDS
COMMITTEE ON NATURAL RESOURCES
REGARDING
H.R. XX – “FOSTERING OPPORTUNITIES TO RESTORE ECOSYSTEMS THROUGH SOUND TRIBAL
STEWARDSHIP ACT”

May 20, 2025

Chairman Tiffany, Ranking Member Neguse, and Members of the Subcommittee, thank you for the opportunity to provide testimony on the FORESTS Act, which would authorize the Secretary of Agriculture (USDA) and the Secretary of Interior to enter into agreements with Indian Tribes for the performance of certain forest management activities on Federal lands, including the performance of forest land management activities, biochar demonstration projects, and sawmill infrastructure demonstration projects.

The USDA Forest Service manages 193 million acres of national forests and grasslands, including lands in the Pacific Northwest that are in proximity to Tribal lands. The Forest Service works closely with the Tribal Nations through land stewardship, including forest management, wildfire mitigation, resource restoration, and cultural preservation efforts. The Administration maintains the trust relationship between Tribal Nations and the Federal government.

The Forest Service appreciates the opportunity to provide testimony regarding this draft legislation and respectfully offers the following comments and recommendations for the Subcommittee’s consideration. We welcome the opportunity to continue working with the Subcommittee to address outstanding technical concerns.

H.R. XX, “Fostering Opportunities to Restore Ecosystems through Sound Tribal Stewardship Act”

Sec. 2. Management of Indian forest land amends the National Indian Forest Resources Management Act to allow Indian Tribes to request that certain Federal forest lands be treated as Indian forest lands for the purposes of forest management, provided the lands have historic, cultural, or economic relevance to the Tribe. Sets conditions for access, revenue sharing, rights recognition, and timber sales, including first refusal rights for Tribes. It also requires the Secretary to issue regulations within 120 days.

While the Forest Service supports robust Tribal shared stewardship, this provision raises numerous complex and sensitive legal and operational concerns regarding federal, state, and

Tribal civil and criminal jurisdiction, various Constitutional doctrines, overlapping Tribal interests over the same landscape with complicated histories, potential conflicts with the Forest Service's existing authorities, and ramifications regarding the conflation and comingling of the Secretary of the Interior's trustee obligations under its governing statutes. We welcome further discussion with the Committee on these matters.

Sec. 3. Tribal and Alaska Native biomass demonstration project extension and Sec.4 Tribal and Alaska Native biochar demonstration project amend the Tribal and Alaska Native biomass demonstration programs through 2032, and establish demonstration programs for Tribes and Alaska Native Corporations to support the development and commercialization of biochar from forest biomass. Biochar projects must use Federal land feedstock and be evaluated for job creation, forest health, innovation, and proximity to high-risk wildfire areas. At least four new projects per year must be implemented under this program. The establishment of biomass and biochar demonstration programs ensures continued opportunities for Tribes to utilize stewardship agreements to convert low-value forest biomass into useful products, supporting both forest health and Tribal economies.

The Forest Service supports the extension of the biomass demonstration project and related amendments to the Tribal Forest Protection Act. We would like to work with the Committee to ensure that the definitions, eligibility criteria, and funding mechanisms are aligned with the existing terms in the Tribal Forest Protection Act.

Sec. 5. Tribal prescribed burn and cultural burn demonstration projects delegates to Tribes the authority to conduct prescribed and cultural burns on Federal lands under multi-use burn plans. The provision allows delegation of planning and implementation authority to Tribes and supports the use of regional personnel to meet federal staffing requirements. It enhances Tribal cultural practices while contributing to wildfire risk reduction.

The Forest Service supports the amendment to the Tribal Forest Protection Act by establishing a Tribal prescribed burn and cultural burn demonstration project. We would like to work with the Committee to ensure that the Tribe's authority is appropriately described and that definitions, eligibility criteria, including qualification standards, and funding mechanisms are aligned with the existing terms in the Tribal Forest Protection Act. We also welcome a discussion on the extension of the Federal Tort Claims Act to Tribal employees who are carrying out the prescribed and cultural burns and other currently authorized activities under the Tribal Forest Protection Act, as well as Tribal preference in subcontracting.

Sec. 6. Tribal Forest Protection Act amendments introduces a "deemed approved" clause if the agency does not respond within 120 days. It also mandates environmental review and contract completion within two years and provides updated statutory language and definitions to streamline implementation.

The Forest Service understands the goals of these amendments and does not oppose the automatic approval of the Tribe's proposal. We do recommend qualifying that the proposal is deemed approved only to the extent it is consistent with applicable law. Additionally, the bill contains some definitions that would disqualify Alaska Native Corporations (ANC) and ANC-owned land. Lastly, we have legal and operational concerns about conducting an environmental review after a project is approved. We welcome further discussions with the Committee on these matters.

Sec. 7. Indian Tribe sawmill infrastructure demonstration project establishes a 20-year pilot program for Tribes to develop or expand sawmills near Federal lands affected by wildfires or classified as high-risk firehedges. Projects must demonstrate benefits such as job creation, restoration capacity, and forest health improvements. Areas lacking existing processing infrastructure are given priority.

The Forest Service supports the establishment of the Tribal sawmill infrastructure demonstration project as it is aligned with Executive Order 14225—Immediate Expansion of American Timber Production. We note that “Tribal lands” is not defined and welcome the opportunity to ensure that Alaska Native Corporation-owned land is included, given the current definition of “Indian Tribe,” and to provide additional technical assistance to ensure Congressional intent is met.

Sec. 8. Land management goals under stewardship end result contracting Projects amends existing law to include retention and expansion of wood processing infrastructure on Tribal lands or in partnership with Tribes. This provision aims to improve contract viability and support localized forest restoration capacity.

The Forest Service supports this amendment to the Healthy Forests Restoration Act.

Sec. 9. Good neighbor agreements clarifies that Tribes are eligible partners under Good Neighbor Authority, adjusts revenue provisions accordingly, and requires the Forest Service and BLM to conduct outreach to Tribes every five years or upon request. This section also identifies and aims to reduce barriers to Tribal participation.

The Forest Service supports clarifying the eligibility of Indian Tribes to enter into Good Neighbor agreements by uncoupling it from the term “Governor.” Although the Forest Service continually engages with Tribal Nations and Alaska Native Corporations to discuss available co-stewardship authorities with the Forest Service, we do not oppose the codification of this outreach.

Sec. 10. Wood for Life directs the Forest Service to establish or expand the Wood for Life Program, partnering with Tribes and nonprofit organizations to deliver firewood from hazardous fuels projects to Tribal communities. The program prioritizes wildfire risk reduction, high firewood needs, and local job creation across all Forest Service regions.

The Forest Service welcomes additional discussion with the Subcommittee on this section to achieve the goal of providing Tribal communities with firewood from hazardous fuel reduction projects. We recommend, for example, defining “Indian Tribe” and adding “Tribal organizations” as eligible entities. We note that the Forest Service does not enter into self-governance compacts under Title IV of the Indian Self-Determination and Education Act because that authority is specific to the Department of the Interior; nor contracts under Title I of that Act, beyond activities authorized under the Tribal Forest Protection Act, because it is specific to the Indian Health Service and the Bureau of Indian Affairs.

Sec. 11. Report on Indian forest land or rangeland wildland fire pay Requires the Secretaries of Agriculture and the Interior to report to Congress on base and premium pay rates for wildland firefighters serving on Indian forest land or rangeland, including those hired under Tribal self-determination contracts. This aims to ensure parity and transparency in firefighter compensation.

The Forest Service recommends deleting the Secretary of Agriculture from this provision. The Forest Service has no jurisdiction or authority over fire pay on Indian forest land or rangeland. Although the bill references the definition of Indian forestland and rangeland from the Tribal Forest Protection Act, that definition originates from the National Indian Forest Resources Management Act, 25 USC 3101, which is administered by the Department of the Interior.

Sec. 12. Rule of application clarifies that nothing in the Act should be interpreted as altering a State’s jurisdiction to manage fish and wildlife on land and water within the State, including public lands, or altering any existing Tribal treaty rights.

The Forest Service does not object to a reservation of rights provision, particularly ensuring that nothing in the bill affects Tribal treaty rights. However, particularly with section 2 of the bill that deems certain public lands “Indian lands,” more consideration and clarification regarding civil and criminal jurisdiction is highly recommended.

We wish to thank Chairman Hurd, Ranking Member Leger Fernandez, and members of the Subcommittee for the opportunity to present the USDA Forest Service’s views on this proposed legislation.