

**Statement of Lynn Scarlett
Deputy Secretary
U.S. Department of the Interior
Subcommittee on Forestry, Conservation, and Rural Revitalization
Committee on Agriculture, Nutrition, and Forestry
H.R. 4200, the "Forest Emergency Recovery and Research Act"
August 2, 2006**

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 4200, the Forest Emergency Recovery and Research Act. In recent years, our forests and rangelands have experienced uncharacteristically intense fires as well as extensive outbreaks of disease and insect infestations. To address conditions that increase risks of catastrophic fires, the Administration and the Congress have provided Federal land managers with tools to expedite activities to restore public forests and rangelands to healthy conditions. These tools are making a difference as the Forest Service and Interior's agencies, by end of FY 2006, will have reduced hazardous fuels since 2001 on over 19 million acres of public and Tribal lands, including over 3 million acres treated to achieve other land management objectives.

However, when fire, drought, insect epidemics, or other catastrophic events occur on public lands, procedural delays under current laws still prevent timely implementation of recovery and restoration activities. Failure to undertake timely recovery actions after these events has adverse environmental, economic, and community impacts. H.R. 4200 would help agencies avoid these impacts by providing tools to agencies to expedite recovery and restoration activities. The Administration strongly supports the land management provisions of H.R. 4200, but objects to spending provisions in Title IV of the bill.

In testimony before the House Resources Subcommittee on Forests and Forest Health on November 10, 2005, we objected to the spending provisions in Title IV of the bill and indicated we would also like to work with the sponsor and the Committee to address some technical concerns. On May 17, 2006, the House of Representatives passed an amendment in the nature of a substitute to H.R. 4200 that addressed most of our concerns and eliminated the funding provisions to which we had objected. We look forward to working with the Committee to address our remaining concerns. The Department strongly supports the House-passed version of H.R. 4200. However, as noted above, the Administration continues to object to the spending provisions in Title IV, and welcomes the opportunity to work with the Committee to resolve our concerns.

Within the 261 million acres of public lands managed by the Bureau of Land Management, approximately 55 million acres are forests and woodlands. Of these 55 million acres, 2.2 million acres comprise Oregon and California Railroad lands and Coos Bay Wagon Road lands (O & C lands of Western Oregon). Over the past several years, the Department of the Interior agencies and Forest Service have been aggressively reducing risks of catastrophic wildland fires and the threats they pose to communities in the wildland urban interface.

The President's Healthy Forests Initiative of 2002 directed the Department of the Interior agencies and the Forest Service to expedite reductions in hazardous fuels on public lands, restore ecosystems, and protect lives and communities. To facilitate this work, the Administration developed new procedures, including streamlining consultations under the Endangered Species Act (ESA) and expanding use of categorical exclusions under the National Environmental Policy Act, to expedite fuels reduction and related projects. The Congress has supplemented these tools with additional funding and legislative authorities that include the Healthy Forests Restoration Act, Tribal Forests Protection Act, and the stewardship contracting authority provided in the FY 2003 Omnibus Appropriations Act (Section 323 of P.L. 108-7).

From 2001 through the end of FY 2006, Interior Department agencies will have treated nearly 7 million acres through the hazardous fuels reduction program (plus another 1 million acres of landscape restoration), including implementation of 82 stewardship contracts by BLM covering 22,000 acres, with 45

contracts covering 19,500 acres planned for FY 2006. Using HFI/HFRA tools, the BLM increased the hazardous fuels treatments from 13 projects treating 358 acres in FY 2003 to 882 treatments on 129,000 acres in FY 2005. BLM plans for FY 2006 are to reduce hazardous fuels on 107,000 acres (1,059 treatments) using HFI/HFRA authorities.

These projects have generated significant benefits by improving forest and rangeland health and reducing risks of catastrophic fire. Consider three examples. In June of last year, the rapidly responding Jerome, Idaho, rural fire department and BLM crews held a wildland fire to just four acres because fuels treatments altered fire behavior. Fish and Wildlife Service personnel kept the Old 64 Fire to one-half acre at the Alligator River National Wildlife Refuge last year because of previous fuels treatments. Fuels treatments on the Pechanga Indian Reservation enabled Tribal firefighters to successfully protect homes and concentrate resources to suppress the Morales Fire last fall.

H.R. 4200 builds upon tools developed for hazardous fuels treatments by providing expedited procedures for use in recovery actions in the wake of fires and other catastrophic events. Post-fire situations often require a rapid coordinated response to assure effectiveness of recovery and restoration efforts. Moreover, the environmental threats typically do not stop at ownership boundaries. Treatments limited to one side of a jurisdictional boundary are often less effective than actions coordinated within a broader ecosystem. Current authorities and procedures make coordinated decision making among Federal, state, and local land managers difficult. For example, the BLM missed an opportunity to coordinate salvage and restoration activities with an adjacent landowner in the area burned by the Timbered Rock Fire in 2002 in Oregon. The adjacent landowner moved ahead immediately with salvaging, and within one year salvaged and replanted all 9,000 acres of burned lands. By comparison, because of the procedural requirements to salvage and re-plant on Federal lands, most of the BLM portion of the burned area was not salvaged; although a portion was re-planted. In such cases, coordination among Federal, State, and local land managers, as under H.R. 4200, would increase the likelihood of effective restoration on a landscape or watershed basis.

In the aftermath of Hurricane Katrina, the Administration reminded Federal land managers that the National Environmental Policy Act (NEPA) should be used to facilitate, not impede, actions necessary to preserve life and resources. The Council of Environmental Quality's (CEQ) regulations already offer some alternative arrangements when emergency actions are necessary. Guidance from CEQ on "Emergency Actions and NEPA" (September 8, 2005) emphasizes that Federal agencies can maintain environmental stewardship by ensuring that response and revitalization activities do not inadvertently create unnecessary future environmental challenges.

H.R. 4200 takes this procedural tool a step further. To provide Federal land managers with the authority to respond rapidly to deteriorating environmental conditions, the bill establishes a process for "pre-approved management practices" that may be implemented immediately after a catastrophic event to recover the economic value of timber resources and undertake reforestation and revegetation.

The need for this authority is acute on BLM's rangelands as well as forest and woodlands. For example, after the 67,000 acre Jackie's Butte fire near Vale, Oregon (1999), the BLM proposed a 33,000 acre emergency stabilization and rehabilitation project to drill and seed the site to re-establish sagebrush steppe communities critical to wildlife and the ranching community. The project met with protests, appeals, and delays to the point that the fall seeding window was missed. Though some 28,000 acres were eventually seeded due to light snow pack in the winter, the rehabilitation benefits were significantly less than would have occurred had the project been implemented during the optimum seeding window.

Under current Department and BLM Fire Management Plans and Resource Management Plans, land managers determine post-fire activities by assessing damage caused by the fire and associated suppression activities as soon as safely possible. These assessments result in plans that are immediately implemented to stabilize lands damaged by fire and firefighting activities. Erosion control and replanting activities also occur based on the assessment of the risk for erosion and intrusion of invasive species. The BLM testified before the House Resources Subcommittee on Forests and Forest Health on July 15,

2004, with specific details on the planning and implementation of post-fire rehabilitation and restoration activities.

H.R. 4200 would replace some current BLM planning and program operations for post-catastrophic event recovery and restoration activities with a new system of pre-approved management practices for events affecting 1,000 or more acres of Federal land. A list of pre-approved management practices is to be developed by the Secretary. The public will have the opportunity to review and comment on a list of pre-approved management practices through the Federal rulemaking process. Once approved, these management practices, including management intervention to foster reforestation or other recovery on damaged Federal land, could be implemented immediately after a catastrophic event and issuance of a decision document pursuant to section 104(f), without further environmental review under NEPA. The list and use of pre-approved management practices under Sec. 104 of the bill, and the use of emergency procedures under Sec. 105 of the bill, are deemed to satisfy NEPA requirements. The Secretary is granted exclusive authority for the decision to use emergency procedures. Judicial review of BLM actions is permitted only after exhaustion of the Department's appeals process. This approach is intended to reduce the time before implementation of recovery and restoration activities can be undertaken.

By authorizing rapid responses to prevent the loss of deteriorating timber resources after a catastrophic event, H.R. 4200 strives to make post-fire landscape and community economic recovery a priority. The Administration supports these goals. We are currently expanding our capacity to encourage community-based enterprises that help achieve forest and rangeland health objectives. Fuels projects and post-fire recovery can produce significant amounts of small diameter woody materials. Many small communities have lost conventional sawmills and other utilization infrastructure. Better coordinated technical support, investment and incentives can enhance development of infrastructure and help commercialize new technologies that make profitable use of forest and rangeland resources made available through emergency salvage and recovery projects.

H.R. 4200 also addresses one of the Department's most vexing problems—the inability to implement recovery actions on fire-damaged lands despite agency compliance with current laws. In recent cases such as the Timbered Rock fire, the Environmental Impact Statement was developed with extensive public participation in the NEPA process and included a peer-reviewed science research component. Nonetheless, subsequent litigation resulted in BLM being prohibited from conducting many of the proposed restoration activities, including salvage logging of 17 MMBF (million board feet) of dead and dying timber worth \$1.3 million. In the BLM's portion of the Biscuit Fire in Oregon, where the Bureau proposed to harvest 2.4 MMBF of dead and dying timber worth \$124,000, a judge recently lifted restrictions on harvest of post-fire materials. Unfortunately, in the years during which the BLM has been responding to the litigation, the timber has deteriorated to the point that it is almost unsalvageable. In the last two years, it has lost 75% of its value. Under H.R. 4200, the BLM and Forest Service would be authorized to undertake “pre-approved” recovery and restoration activities within months, rather than years, after a catastrophic event.

The House-passed version of H.R. 4200 contains several new provisions to enhance our agencies' efforts to implement recovery actions in partnership with State, Tribal, and local governments. For example, the bill clarifies that:

- peer review includes independent, third-party peer review;
- agencies must consider the recommendations contained in Community Wildfire Protection Plans for post-fire management of damaged Federal lands;
- in preparing plans for recovery activities, agencies must consider factors such as forest type, standing and down dead wood, watershed, water quality, wildlife habitat, and soils applicable to the damaged Federal lands.

In addition, the revised bill provides for preference to be given to local contractors for implementing pre-approved management practices or catastrophic event recovery projects. The original two-year period for carrying out pre-approved management practices is eliminated.

The House-passed version of H.R. 4200 eliminates the provisions concerning use of unobligated balances and wildland fire management funds to which we had objected in our testimony on November 10, 2005.

The tools and authorities provided in H.R. 4200 would expedite recovery of both resources and communities in a meaningful timeframe after a catastrophic event on public lands. I would be happy to answer any questions.