



January 5, 2015

JOHN A. KITZHABER, MD
Governor

Mr. Tom Imeson, Chair
Oregon Board of Forestry
2600 State Street
Salem, OR 97310

Dear Chairman Imeson:

Last January I appeared before the Oregon Board of Forestry to congratulate you and your colleagues on your fine work in developing the Board's Federal Forest Actions policy. At that meeting I also provided you with my own perspective about how we might renew federal forest management policy to enhance social, economic and environmental benefits from public lands, and incorporate those policies into an "All-Lands" forest management approach throughout the State.

Today I am attaching discussion draft documents that contain my more detailed thinking about ways Forest Service policies can be modernized. I would like to use these drafts to begin an honest conversation about the future of National Forest management. It is my hope that we can reach a critical mass of support for ways that we might fix the problems that are pulling us apart.

These proposals build on Oregon's dry-side National Forest collaborative efforts and ongoing conversations related to BLM's O&C lands. These drafts also build on the Board's efforts and include input from the Oregon Departments of Fish and Wildlife and Environmental Quality. I welcome any discussion and debate these proposals may generate but also believe it is time to congressionally institutionalize the conservation gains of the last twenty years while providing for a more certain levels of sustainable resource use.

But Oregonians can't do it alone. We must work to find common ground with other states. For this reason I will make Forest Service renewal one of my top priorities as Vice Chair and, in June, Chair of the Western Governor's Association. It is my hope that the Association can use these discussion drafts as a foundation for crafting a bi-partisan West-wide set of recommendations for the Obama Administration and Congress' consideration.

I would appreciate hearing the Board's perspectives on these suggestions and will make my staff available to meet with you at your convenience. I will also be reaching out to others who engage on National Forest management issues to solicit their feedback as well. Thank you again for the Board's leadership on this important issue.

Sincerely,



John A. Kitzhaber, M.D.
Governor

JAK/sb

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Forest Service Renewal Summary

Discussion Draft – 1/5/15 – Discussion Draft

Why We Need Forest Service Renewal - Oregon contains more than 30 million acres of forested land. This is 48% of Oregon's total landmass. It's therefore no surprise that forestry issues are a significant part of my job as Governor. My staff and I work on issues related to private forests, state forests, the Bureau of Land Management's Oregon and California Lands and, of course, national forests managed by the USDA Forest Service. In the past, the management and oversight of these lands has, more often than not, occurred in silos determined by ownership. This has not always served people or the surrounding and broader communities, nor has it served the forests themselves.

I have spoken recently about the need to take an "all lands" approach to forestry issues. This doesn't mean doing away with existing boundaries. Instead, it means reconsidering what mix of attributes and services should come from various lands. It also means improving how we balance environmental protection, conservation, and resource use. We initiated this approach by convening our Oregon and California Land panel process in 2013. I am now proposing to expand this effort to Oregon's largest land manager, the Forest Service.

The Forest Service is funded by American taxpayers to manage land in the public trust. Each decision this federal agency makes is on behalf of all U.S. citizens, yet its actions have profound impacts on individual States, Counties, and especially local communities. As summarized in these pages, I believe many of the underlying legislative and administrative policies that guide the Forest Service's work need to be updated and improved so that a fair mix of environmental values can be conserved and forest uses can be delivered with more certainty.

If done right, Forest Service managers will have a better foundation from which to make forestry decisions. Even better, they can make these decisions in a more efficient and cost effective manner. Congress should act to modernize our environmental and natural resource policies to institutionalize the conservation gains we have made in recent decades while ensuring that a portion of forested land is available for some level of production.

Context - Until the early 1990s, the Forest Service emphasized traditional sustained yield timber production on national forests. As a result of public demand for more conservation, the Forest Service's timber sale program was reduced by approximately 80 percent nationally and 90% in Oregon where national forests make up 60 percent of the forested land base.

Today, the Forest Service's timber program is primarily a byproduct of various restoration activities. While this shift is warranted and should continue, it is also reasonable to expect that some portion of the federal landscape will remain focused on long-term, ecologically-sound forest use. Further, it's important to recognize that achieving forest restoration goals across the Federal landscape will also require extensive management.

Our environmental and forest management laws are strong and must remain strong. However, most of the forest management laws and policies that provide our current structure were drafted in an era that is much different than today. As a result, forest managers today operate under a constrained decision space as they work to address contemporary social, economic and environmental issues

Further complicating these challenges is an outdated public narrative about the management of these lands that is tied to our current system of authorities and defined by win-lose dichotomies and expectations.

My thinking about what we need to do to renew the Forest Service is aspirational and includes specific policy proposal that Congress should consider. A summary is provided below.

Forest Service Renewal Summary

Discussion Draft – 1/5/15 – Discussion Draft

OPPORTUNITY – Reform the Forest Service Business Model. - Today an estimated 60 percent of a project's cost is associated with planning compared to on-the-ground work. This is in large part due to often complicated and extensive environmental compliance, increased public involvement, and appeals and litigation. There is an opportunity to reform the Forest Service business model in a manner that reduces project planning costs, sources funds from non-federal partners and recognizes that large revenues from commodity programs no longer exist.

OPPORTUNITY: Institutionalize Ecosystem Conservation as an Alternative to Single Species and Use Management - Over the last 30 years implementation of legislation focused on particular purposes associated with the NEPA, ESA and CWA have, when combined, made it difficult to implement active management projects on many national forests. The results of subsequent court decisions have further limited the ability of forest managers to apply an ecosystem approach to achieving both conservation values and commercial outputs. There is an opportunity to integrate ESA, CWA and NFMA mandates through an ecosystem approach.

OPPORTUNITY – Establish Conservation Emphasis Areas and Forestry Emphasis Areas on Each National Forest - The Forest Service's multiple use mandate and new planning rule is focused on defining an equitable mix of uses that can be achieved on a forest-by-forest basis. However, there is an opportunity to further develop a land use allocation system that maintains conservation gains that have been secured over that last 20 years while also identifying those areas where sustainable, ecologically-based timber harvest and other uses can occur.

OPPORTUNITY – Reform Public Involvement at the project Level to Incent and Reward Collaboration - Collaboration has shown initial successes in reaching consensus, and the Forest Service has fully funded national collaborative programs and is requesting more funding support. While these programs are growing, there is a shortage of formal mechanisms that encourage their creation. While the new planning rule promoted Forest Service collaboration, there is an opportunity to institutionalize and expand on the progress that place-based collaboratives have made in places like eastern Oregon and Northern Arizona.

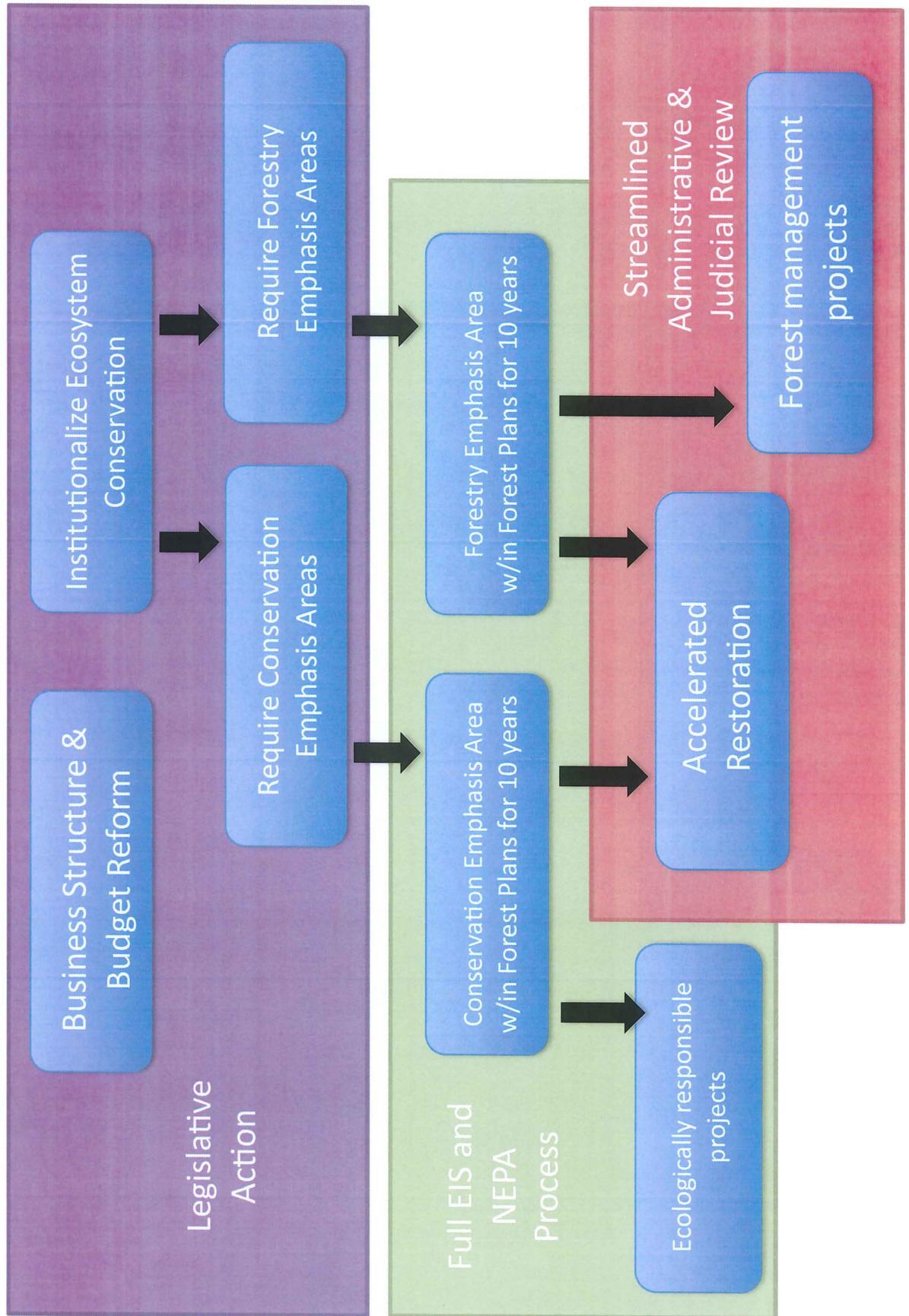
OPPORTUNITY – Streamline Judicial Review, and Provide Adequate Conflict Resolution Mechanisms - As written, NEPA requires federal agencies to analyze and disclose the environmental effects of any action taken. NEPA is inherently a procedural statute as opposed to one that manages conflict or adequately consider more recent ecosystem management approaches. It is important to retain citizens' rights to question governmental decisions through administrative and legal means. Yet there is an opportunity to streamline National Forest appeals and litigation when and where a landscape ecosystem approach that delineates both Conservation and Forestry Emphasis Areas is employed.

OPPORTUNITY – Replace Traditional Financial Relationship between Rural Counties and Federal Land Management Agencies. In response to concerns by local governments about the impact of creating national forests, the Forest Service has been sharing 25% of timber harvest and other revenues with local counties since 1908. To appropriately maintain the financial relationship between the Federal and local governments, there is an opportunity to create new compensation mechanisms that consider the existence of PILT payments but also recognize that the tax base in counties with significant federal land is limited.

In making these suggestions, it is my intent that they work together. Meaning, for example, streamlined judicial review in Forestry Areas should only occur if Conservation Areas are identified to protect water quality, T&E habitat or other conservation purposes. Only then can we assure certainty for all social, economic and environmental attributes of our Nation Forests.

Forest Service Renewal

Discussion Draft – 1/5/15 – Discussion Draft



A Case for Forest Service Renewal

Discussion Draft – 1/5/15 – Discussion Draft

Why We Need Forest Service Renewal

Oregon contains more than 30 million acres of forested land. This is 48% of Oregon's total landmass. It's therefore no surprise that forestry issues are a significant part of my job as Governor. My staff and I work on issues related to private forests, state forests, the Bureau of Land Management's Oregon and California Lands and, of course, national forests managed by the U.S. Forest Service. In the past, the management and oversight of these lands has, more often than not, occurred in silos determined by ownership. This has not always served people or the surrounding and broader communities, nor has it served the forests themselves.

I have spoken recently about the need to take an "all lands" approach to forestry issues. This doesn't mean doing away with existing boundaries. Instead, it means reconsidering what mix of attributes and services should come from various lands. It also means improving how we balance environmental protection, conservation, and resource use. We initiated this approach by convening our Oregon and California Land panel process in 2013. I am now proposing to expand this effort to Oregon's largest land manager, the USDA Forest Service.

The Forest Service is funded by American taxpayers to manage land in the public trust. Each decision this federal agency makes is on behalf of the entire U.S., yet its actions have profound impacts on individual States, Counties, and local communities. As summarized in these pages, I believe many of the underlying legislative and administrative policies that guide the Forest Service's work require updating and improving so that a fair mix of environmental values can be conserved and forest uses can be delivered with more certainty. We need policies that match current conditions and demands, and are nimble enough to allow adaptation to change – including changing climates, markets, and public values.

If done right, Forest Service managers will have a better foundation from which to make forestry decisions. Even better, they can make these decisions in a more efficient and cost effective manner. Congress should act to modernize our environmental and natural resource policies to institutionalize the conservation gains we have made in recent decades while ensuring that a portion of forested land is available for some level of production. At the same time, we must craft a new public narrative about these lands based on principles of sustainability that recognize people, communities, and environment.

My thinking on this subject is aspirational and includes specific proposals to:

- Reform the Forest Service business model;
- Institutionalize conservation gains;
- Provide an adequate balance of ecological and socio-economic outputs;
- Provide incentives for collaboration;
- Streamline judicial review while maintaining public participation and accountability, and provide adequate conflict resolution; and,
- Replace the traditional financial relationship between rural counties and federal land management agencies with a more sustainable model.

Context

Oregonians – indeed all Americans – live in a nation where landowners manage for a different mix of environmental, social, and economic benefits. Industrial private forestlands often

emphasize timber production to supply forest products that people demand. Many states own and manage state forestlands under mandates to fund education, local governments, or other state services. Conservation owners, such as land trusts, manage forests to conserve open space and preserve unique ecosystems. At the federal level, the Department of Agriculture manages 189 million acres of publicly-owned national forests to provide an array of benefits for all Americans.

Beginning with the Wilderness Act in 1964, Congress enacted a suite of environmental laws, including the National Environmental Policy Act (NEPA), Clean Water Act (CWA), Endangered Species Act (ESA), National Forest Management Act (NFMA) and Federal Land Policy Management Act (FLPMA). These, along with additional statutes and regulations, provide direction for national forest management decisions.

Until the early 1990s, the Forest Service emphasized traditional sustained yield timber production on national forests. Over time, changing social attitudes and scientific findings resulted in challenges to this management approach because non-commodity benefits such as water quality, fish and wildlife habitat, and viewshed protection were not adequately sustained. Federal land management shifted, resulting in an approximately 80 percent reduction of the Forest Service's timber sale program between 1990 and 2013. In Oregon, Forest Service lands make up 60 percent of the forested land base, but they have produced less than one-tenth of statewide timber harvest over the last 15 years.

Today, the Forest Service's timber program is primarily a byproduct of restoration projects intended to reduce wildfire risk and/or improve forest resilience, water quality, watershed health, threatened and endangered species habitat, and/or intrinsic value. While this shift toward addressing non-timber forest values is warranted and should continue, it is reasonable to expect that some portion of the federal landscape will remain focused on long-term, ecologically-sound forest management — where jobs, forest products, and revenues are priorities and generated through sound stewardship. Further, it's important to recognize that achieving other conservation goals across the federal forest landscape will require extensive management, especially goals related to forest health and fire issues.

Our environmental and forest management laws are strong and must remain strong. However, most of the forest management laws and policies that provide our current structure were drafted in an era when natural resource management and socio-economic and legal systems were much different than today. As a result of legacy laws and policies—and the legacy forest conditions that were created—forest managers today operate under a constrained decision space as they work to address contemporary issues such as climate change, invasive pests and diseases, habitat diversity, concerns about fuel build-ups and fire risk, and other legacy impacts. Adding to this challenge are concerns about the economic and social vitality of rural communities that experience impacts from reduced timber supply. Displaced workers, declines in school enrollment, aging demographics, and high unemployment are common to the complexion of these communities. Many communities' mill infrastructure has been reduced or eliminated. Ironically, losing mills is now not just a human concern but an impediment to achieving ecological restoration objectives.

Further complicating these challenges is an outdated public narrative about the management of these lands that is tied to our current system of authorities and defined by win-lose dichotomies and expectations.

In making these suggestions my intent is that they work together. Meaning, for example, streamlined judicial review in Forestry Emphasis Areas should only occur if Conservation Emphasis Areas are identified to protect water quality, T&E habitat or other conservation purposes. Only then can we assure certainty for all social, economic and environmental attributes of our national forests.

OPPORTUNITY – Reform the Forest Service Business Model.

The USDA Forest Service's business model has historically been based on a combination of federal appropriations that were supplemented with revenue from resource sales and fees. Until the early 1990s, the Forest Service was a net contributor to the Federal Treasury. Over the past 20 years, timber sales have dramatically declined. This, combined with the more recent trend of reduced annual appropriations, means the Forest Service has not had adequate revenue to fund its multiple-use mandate.

At the national level, Forest Service funding has been further affected by fire preparedness and suppression costs that have grown from 15 percent to more than 40 percent of annual Forest Service appropriations. These costs result from greater fire frequency and fire intensity across the nation, increased focus on protecting homes and other developments in the wildland-urban interface, and the chronic pattern of diverting funds from forest management to meet yearly suppression demands. This puts the Forest Service on a treadmill of increased spending on the symptoms of unhealthy forests while failing to catch up with or fundamentally address the underlying causes.

Finally, there is the issue of Forest Service project management. Today, in Region 6, an estimated 60 percent of a project's cost (i.e. timber sale, forest restoration treatment) is associated with project planning compared to on-the-ground work. This is in large part due to often complicated and extensive environmental compliance, increased public involvement, and appeals and litigation. While new investments in collaboration often lead to consensus solutions in many areas, it also substantially increases time and cost. Moreover, Forest Service managers are less likely to provide budget resources to risky projects for fear of litigation.

The permanent authorization of Stewardship Contracting and the Good Neighbor Authority in the 2014 Farm Bill are excellent steps forward to begin to address business model and budget structure constraints. Yet an opportunity exists to reform the Forest Service business model in a manner that reduces project planning costs, sources funds from non-federal partners and recognizes that the agency no longer generates large revenues from commodity programs.

Proposed Reforms:

- Provide specific authorization for the USFS to supplement its budgets and staff with funds provided by either states or local governments to achieve accelerated implementation of management projects where supported by a forest collaborative group.
 - Give borrowing authority to the Forest Service and allow the USFS to repay the state or local government investment with net revenues generated by timber revenue from the project.
- Increase appropriations to federal land management agencies to a level that recognizes the true cost of environmental review and the achievement of public land objectives deemed important to the public (e.g., fire resilience, habitat restoration, recreation).

- While increased appropriations are warranted for certain purposes, administrative cost savings must also be a priority. Specifically, efficiency gains in project planning and implementation should be pursued, including the use of available and emerging technology, collaborative partnerships, and partnership resources.
 - Include a budget note for a report within three years that the agency has identified and implemented specific cost efficiency gains.
 - Clarify statutory provisions as needed that the intent of NEPA can be achieved by using sampling methodology that does not require extensive surveying.
- Authorize the Wildfire Funding Act to fund 30 percent of the 10-year suppression cost average outside of the USFS budget, and eliminate internal “fire borrowing” through full implementation of the FLAME Act.
- Revise Agency performance measures and metrics to provide incentives and improve accountability for the broad set of environmental, social and economic outputs that the National Forests provide to the public as well as cost savings and forest health objectives.
 - Reward large landscape restoration planning and project implementation – using the best available tools and strategies to improve forest and watershed function and condition, and generate tangible local social and economic benefits. These tools include mechanical treatment, prescribed fire and use of natural fire.
 - Track collaborative outcomes relative to an increased pace and scale of restoration and cost savings objectives.
- Remove obstacles and provide incentives to markets for woody biomass and other bio-energy in federal energy and forest policy in a manner that continues to protect conservation values, especially large snags, downed logs and soils including carbon and organic matter. Adding market value to small diameter material, which is a focal point of forest restoration and fire risk reduction needs across the West, deserves greater attention.

OPPORTUNITY: Institutionalize Ecosystem Conservation as an Alternative to Single Species and Use Management.

Over the last 30 years, integrated implementation of legislation focused on particular purposes associated with NEPA, ESA and CWA have, when combined, made it difficult to implement Forest Plans and forest management activities on many National Forests.

In Oregon, this approach has hampered the implementation of the Northwest Forest Plan, which was initially drafted as an ecosystem management framework. The Northwest Forest Plan set aside approximately 75 percent of federal land in western Oregon from regeneration harvests while allowing regeneration harvest on the remaining 25 percent. The rationale supporting the Northwest Forest Plan was that saving 75 percent provided sufficient habitat, while the remaining 25 percent could be managed without risk of irreversible environmental damage. Similar allocations between conservation and sustainable management exist on Oregon’s eastside forests and on National Forests throughout the nation.

The land allocations in the Northwest Forest Plan resulted from a science-based risk assessment process that provided for an array of conservation and timber management uses. In practice, the absolute requirement to manage for all species, and to consult on threatened and endangered species and/or water quality within lands allocated to harvest, has resulted in the implementation of a drastically different timber management program than initially prescribed. Responding to

administrative and court settlements, the current federal timber program in western Oregon relies almost exclusively on thinning in stands less than 80 years old. Estimates suggest that the Forest Service will have all available stands thinned within two decades.

The results of these policies and subsequent decisions have limited the ability of forest managers to apply an ecosystem approach to achieving both conservation values and commercial outputs. More generally, well meaning laws that require a single-species or issues focus do not allow managers the necessary discretion and flexibility to restore whole ecosystems in cases where active management may be required, as in Oregon's fire dependent forests.

We can better integrate the implementation of ESA, CWA and NFMA in context of an ecosystem approach to maintaining habitat for threatened and endangered species, water quantity and quality, and intrinsic qualities related to older forests.

Proposed Reforms:

- Update appropriate statutes – such as the ESA and CWA – to allow for the creation of ESA type habitat conservation plans that can be applied to Forest Service lands. The habitat conservation plans could serve as a companion document to a Forest Plan(s) where threatened or endangered species or water quality issues exist and:
 - Be based on an “ecosystem allocation” system to maintain, restore, and protect an appropriate mix of late, mid and/or early successional stages associated with the listed species on each National Forest.
 - Identify appropriate passive and active practices for each ecosystem allocation, including any allocations where only passive management is employed, and where natural fire may be used in combination with advance active vegetation treatments to create and/or maintain stand structure and successional stages.
 - Identify dominant and secondary uses that would occur for each ecosystem allocation.
 - Identify where and when conservation habitat can be taken given that an ecosystem plan has been implemented.
- Require the Council on Environmental Quality to convene and initiate a joint agency rulemaking between the Forest Service, US Fish and Wildlife Service, National Marine Fisheries Service, and other federal agencies as needed to determine how appropriate risk ratings should be integrated into a Federal habitat conservation plan and where, when and how consultation should occur.
 - In this context, the agencies should consider weighting ecosystem viability as the primary metric to determine the risk of extirpation for individual species.
 - The purpose of this rulemaking would be to complete upfront analysis and consultation that then allows project level decisions to be implemented within the context of all ecosystem allocations.
- Require each National Forest to identify high value conservation areas for Congress to consider in a broad legislative package to institutionalize, restore, and protect special places in a manner that allows active management so long as it is consistent with the primary restoration and protection purpose.
- Where approved habitat conservation type plans exist, allow individual management projects to move forward within Forestry Emphasis Areas (see below) without additional consultation.

OPPORTUNITY – Establish Conservation Emphasis Areas and Forestry Emphasis Areas on Each National Forest.

Over the last 20 years, the Forest Service has migrated from emphasizing timber production to emphasizing non-commodity benefits. In some cases, this is because new land use allocations have been created. In others, this results from the goals and mandates, and accumulated case law, associated with environmental legislation that were not drafted in an integrated manner.

Where active management has been prescribed in a Forest Plan, processes associated with planning and implementing a particular project have become so time consuming and expensive that a disincentive often exists for forest managers to proceed with management actions envisioned in their Forest Plans and needed to attain desired ecological, social, and economic objectives.

The multiple-use mandate does not need to be achieved across every acre, but rather should be defined by an equitable mix of uses that can be achieved on a forest-by-forest scale. The Forest Service's new planning rule is focused on achieving these outcomes. However, an opportunity exists to further develop a land use allocation system that maintains the conservation gains that have been secured over that last 20 years while also recognizing where sustainable, ecologically-based timber harvest outcomes can be concentrated for each National Forest. Where such acres are identified for forest management, the issue of ESA consultation needs to be addressed as it creates instability around projects — even projects that are restoration based.

Proposed Reforms:

- The National Forest Management Act should be modified to require that each national forest:
 - Identify *Conservation Emphasis Areas* to distinguish portions of the landscape where the primary purpose of forest management activities is to maintain ecosystem functions. Conservation Emphasis Areas should include the majority of habitat that is required to achieve clean water standards and meet the terms of the Habitat Conservation Plan as outlined above. Timber harvest and other management activities should be allowed in these areas only as required to restore or maintain ecosystem functions.
 - Identify *Forestry Emphasis Areas* where the primary purpose is to achieve some level of long-term sustainable timber production. Such Forestry Emphasis Areas should be designed to promote the best silvicultural practices, including regeneration harvest, if appropriate, for each forest type and bio-physical environment. The design should also minimize, to the extent practicable, environmental impacts and impact on other forest uses given that it is a Forestry Emphasis Area.
 - Allows suitable management actions at appropriate intensities necessary to achieve the desired conditions in those forests where an accelerated program of active restoration is required.
 - Modify these emphasis areas, if necessary, on a decadal basis through the forest planning process.

- *Adaptive Management Areas* should be identified on each national forest where different forest management practices, conservation approaches, and theories can be tested after being crafted in a manner that supports the assumption that they will not lead to

extirpation of species or an ecosystem if that Adaptive Management Area fails to achieve its ecosystem objectives. Since the intent of individual management actions would be to monitor and learn, proposed actions should continue through streamlined administrative and judicial review. Statutory changes to NFMA, NEPA, and ESA should be explored as needed to ensure streamlined objectives for the areas.

- Modify the ESA and CWA to recognize that vegetation-altering projects in Forestry Emphasis Areas that are consistent with a Federal habitat conservation plan and that attain ecosystem and species outcomes should be allowed to move forward, with streamlined oversight through the following tiered approach.
 - Require ESA consultation at the landscape level/Forest Plan level based on allocations of Forestry Emphasis Areas and Conservation Emphasis Areas, and whether those allocations and associated management approaches will not jeopardize a listed species.
 - Modify project-level ESA consultation for projects up to a Congressionally designated acre limit. If proposed project-level management actions comply with an approved Forest Plan management approach for which consultation has previously occurred, only a notification and consistency document process is required between the action agency and ESA consultation agencies.

OPPORTUNITY – Reform Public Involvement at the project Level to Incent and Reward Collaboration.

Although current law clarifies that public land managers must obtain public input—and some authorities speak directly to required collaboration — the law also limits forest managers’ ability to include the public in actual management decisions unless they enroll a formal advisory committee per the Federal Advisory Committee Act.

Driven by years of polarization, frustration, and impacts that have been wrought by litigation, declining agency budgets, and pendulum shifts in management, forest collaborative groups have self-organized across Oregon and the nation. These groups are generally bound by a desire to optimize sustainable active forest management, protection of environmental attributes, and delivery of commercial products and non-commodity uses.

Successful collaboratives include broad representation from communities of place and communities of interest. To be effective partners, collaborative groups must develop the capacity to engage with the Forest Service. The USFS Region 6 Collaborative Capacity Land Stewardship Program is one such competitive grant program that funds capacity development of Oregon’s collaboratives.

Collaboration has shown initial successes in reaching consensus, and the Forest Service has funded national collaborative programs and is requesting more funding support. While these programs are growing, there is a shortage of formal mechanisms that encourage their creation in areas with conflict or reward their success within the context of public process. Further, there is little to no formal incentive for the management agencies and collaboratives to ensure collaborative work happens in a timely and efficient manner that achieves a pace and scale of management that matches the ecological, social, or economic needs of a national forest and surrounding community. Finally, and importantly, there are few mechanisms in place to move forward when collaboratives do not reach agreement.

While the 2012 National Forest planning rule promoted Forest Service collaboration, the opportunity exists to institutionalize and expand the progress that place-based collaboratives have made in places like the dry-side forests of Oregon.

Proposed Reforms:

Clarify in statute that collaboration is a standard business practice for the Forest Service and that each national forest should establish collaboratives that include broad representation from both communities of place and communities of interest.

- Authorize and fund a budget line item so that if a collaborative is created and passes a certain set of threshold criteria (representation, size, etc.), it would be eligible for funding.
 - Funding would be provided to collaborative groups through a third-party to develop a collaborative's capacity to be an effective partner by providing funds for staffing, facilitation, travel reimbursement, monitoring, etc.
 - Funding would be tied to performance measures related to producing agreement on management actions that occur at a pace and scale commensurate with the ecological needs relevant to the collaborative's geographic area and that demonstrate improvements in economic and local community benefits. If there are no agreements after two years, the funding stops.
 - Funding would allow collaborative groups to participate and/or lead activities such as field assessments and surveys, unit layout, timber marking, and monitoring of forest management projects.
 - Ensure appropriation funding is allocated to internal agency capacity to adequately manage collaborative groups.
- Amend the Federal Advisory Committee Act to allow the Forest Service to more efficiently include collaborative partners in NEPA Identification Teams associated with project planning.
- Create performance measures that indicate whether collaboratives are increasing forest management pace and scale objectives and whether the agency is engaging collaboratives in a manner that decreases management costs associated with appeals and litigation.
- For successful collaborative projects, provide for an accelerated review, appeal and litigation process (see below).

OPPORTUNITY – Streamline Judicial Review, and Provide Adequate Conflict Resolution Mechanisms.

When it comes to National Forest management actions, Americans enjoy the ability to participate in and challenge agency decisions at multiple levels. Specific to forest management actions proposed by the Forest Service or Bureau of Land Management, the public is granted the opportunity to participate in the formation of project proposals, submit objections through an administrative review process, and litigate if they feel the agency or an agency action has violated a federal law. The same extensive administrative and judicial review process applies to both high-level Forest Plans and individual management actions.

Today, the costs associated with planning and implementing a management project on National Forest lands are double those of the private sector. This is true even where ecologically based landscape level plans such as the Northwest Forest Plan exist to protect a majority of a forest. This cost, along with the time associated with drafting, analyzing, incorporating public involvement, and responding to appeals and/or litigation at the project level, lead many federal managers to focus their limited staff, funds and time on projects with the least likelihood to be

challenged. While this approach allows existing Congressional timber targets to be met in the short term, the USFS will eventually run out of these types of projects. Further, this approach does not adequately address the larger socio-economic and ecological needs of our National Forests and dependent communities.

Procedural challenges under the National Environmental Policy Act (NEPA) have been most successful, although there have been major region-wide lawsuits related to ESA, NFMA, and CWA that have had large regional ramifications. This speaks more to the complexity and layers of goals and mandates placed on the Forest Service by the nation's environmental laws rather than to any intentional federal policy goal.

As written, NEPA requires federal agencies to analyze and disclose the environmental effects of any action taken. NEPA is inherently a procedural statute; however, projects can be stopped based on one or two interpretational differences even if the Forest Service has followed the majority of procedures. Importantly, NEPA was intended to analyze and disclose effects of individual management actions and does not allow the more recent ecosystem management approach to adequately consider effects at the landscape scale. NEPA was also not drafted as a conflict resolution mechanism, and its current implementation does not resolve disagreements on complex science or different tools that are used to analyze a proposed management action.

It is important to retain citizens' rights to question governmental decisions through administrative and legal means. Yet there is an opportunity to streamline appeals and litigation associated with National Forest decision making when and where a landscape ecosystem approach that delineates both Conservation and Forestry Emphasis Areas is created.

Proposed Reforms to streamline Judicial Review and provide adequate Conflict Resolution:

- Require each national forest, or multiple forests subject to availability of funds, to undertake a landscape-scale Environmental Impact Statement (EIS) within 18 months to identify allocations and management direction for both Conservation Emphasis Areas and Forestry Emphasis Areas. The EIS would undergo a thorough environmental analysis and public review process (including both administrative and judicial review) that, once approved, has a life of 10 years. Projects would then be tiered to an approved EIS throughout the 10 year planning period and would require:
 - Additional NEPA review for projects that deviate significantly from the EIS.
 - Additional NEPA review for projects that comply with the EIS and are greater in size than a Congressionally designated acre limit.
 - A decision memo and Categorical Exclusion (CE) for suitable and agreeable "small" projects as defined by Congress.
 - A time limit placed for the completion of an environmental review and/or include a process to define scientific sufficiency for project-level analysis.
 - Environmental review if a forest collaborative reaches consensus that includes:
 - Categorical Exclusion for projects less than a Congressionally agreed upon acreage or of certain action types.
 - Environmental Analysis for larger collaboratively agreed-to projects that are consistent with the landscape EIS.
 - An EA for projects at the sub-watershed scale for restoration projects developed with a forest collaborative that increase resilience of fire-adapted forests.

- Modify judicial review requirements to provide an array of dispute resolution opportunities that are dependent on the planning level and level of individual participation.
 - Allow for full judicial review at the forest planning level for those who engaged the public involvement process.
 - Individual projects within Conservation Emphasis Areas should proceed through a full administrative and judicial review.
 - Individual projects developed through a forest collaborative group effort and tied to a Forest Plan-level ecosystem allocation approach (whether within Conservation or Forestry Emphasis Area) should proceed through a Special Master or arbitration process in lieu of judicial review for individuals who were involved in the collaborative group process.
 - For those who were not involved in the collaborative process, posting of a bond would be required as part of litigating the action and advance arbitration would also be required.
 - Modify the Equal Access to Justice Act or other statutes as needed in order to ensure that litigants who unsuccessfully challenge a collaboratively developed management project are responsible for paying the federal governments costs in defending that action.

OPPORTUNITY – Replace Traditional Financial Relationship between Rural Counties and Federal Land Management Agencies.

In response to concerns raised by local governments about the impact of creating the National Forest System, Congress passed a provision in the Agriculture Appropriations Act in 1908, commonly known as the National Forest Revenue Act, directing the Forest Service to share 25 percent of gross revenues with local governments. During the formation of the Forest Service in the early 20th century, the agency used the concept of sustained yield of timber to build support for its creation. Then in 1976, Congress passed "Payments in Lieu of Taxes" (PILT) legislation that provides federal payments to local governments regardless of gross revenues that result from timber harvest and other forest management activities.

The significant timber programs of the 1960s through 1980s set a precedent for the amount of revenue forest management provided to local governments. Annual payments, however, were characterized by significant fluctuations since they were tied to market dynamics.

More recently, revenues from the sale of timber dropped substantially. Local governments that were dependent on large contributions from the federal timber program found that they lacked adequate financial resources to fund local services. In 2000, Congress passed the Secure Rural Schools and Self Determination Act (SRS). SRS temporarily allowed counties to choose between two forms of payment. One calculated SRS payments based a historical average and the other used the 25 percent revenue share per the 1908 law. The SRS law has expired several times and counties have recently been dependent on one-year extensions at greatly reduced payment levels. Given the current policy framework, many cash-strapped local governments are demanding that harvest levels be significantly increased to drive the 1908 revenue sharing agreements.

To appropriately maintain the financial relationship between the Federal and local governments, compensation mechanisms should consider the existence of PILT payments but also recognize that the tax base in counties with significant acreages of federal land is limited, and that local economies are dependent upon work within the National Forests.

Proposed Reforms:

- Provide permanent authorization for an off-budget appropriation for Payment in Lieu of Taxes (PILT), or similar replacement program, as the base for all county payments. PILT should be based on current average property taxes for private forestland in each applicable county.
- Create and begin to capitalize a Public Land Trust Fund that would be used to fund county payments over the long-term. The Fund could be invested in financial markets. Once adequately capitalized, annual payments to counties could be made from annual interest payments. The fund could be:
 - Capitalized through some combination of asset sales, land sales, commodity revenues (including timber), direct appropriations, and/or state or other partner contributions.
 - Built over a 5-10 year period.
 - Managed independent from the federal government, such as by States in trust for local governments.
- Provide a five-year extension of Secure Rural Schools as a part of any long-term solution regarding county payments.

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