

**TESTIMONY OF
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UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
OVERSIGHT HEARING
ON
"IMPROVING INTERAGENCY FOREST MANAGEMENT TO STRENGTHEN TRIBAL
CAPABILITIES FOR RESPONDING TO AND PREVENTING WILDFIRES, AND S. 3014, A
BILL TO IMPROVE THE MANAGEMENT OF INDIAN FOREST LAND"**

JUNE 8, 2016

Chairman Barrasso, Vice-Chairman Tester, and members of the Committee, my name is Mike Black and I am the Director for the Bureau of Indian Affairs (BIA) at the Department of the Interior (Department). Thank you for the opportunity to provide testimony before this Committee on the topic of "Improving Interagency Forest Management to Strengthen Tribal Capabilities for Responding to and Preventing Wildfires, and S. 3014, a bill to Improve the Management of Indian Forest Land." The Department supports the goals of S. 3014 but has some concerns.

There are over 18 million acres of Indian forests in the U.S. held in trust by the federal government. There are 310 forested Indian reservations located in 24 states. Six million acres are considered commercial timberlands, nearly four million acres are commercial woodlands, and more than eight million acres are a mixture of noncommercial timberlands and woodlands. Commercial forests on trust land are producing nearly one billion board feet of merchantable timber every year.

The Office of Wildland Fire (OWF) coordinates the Department's wildland fire program with tribes and other partners to establish policies and budgets that are consistent and support the goals of the National Cohesive Wildland Fire Management Strategy and Secretarial Order 3336, Rangeland Fire Prevention, Management, and Restoration. OWF commits to, and provides, the strategic leadership and oversight to advance the three goals of the Cohesive Strategy, which are to: 1) restore and maintain fire-resilient landscapes; 2) create fire-adapted communities that will withstand the effects of a wildfire without the loss of life and/or property; and 3) safely and effectively respond to wildfire.

The vision of OWF is to significantly reduce the risk to wildland firefighters, communities, and landscapes. OWF's mission is to coordinate the Department's wildland fire program and provide the strategic leadership and oversight that result in a safe, cohesive, efficient, and effective wildland fire program for the Nation, which includes tribal trust lands.

Within the BIA, the Division of Forestry and Wildland Fire Management (DFWFM or Division) oversees the National Indian Forestry and Wildland Fire Management Program, which is a cooperative effort of the DFWFM, Intertribal Timber Council and individual Tribal governments on reservations. The Division is responsible for providing coordination, management, planning, oversight, and monitoring for all activities related to development and protection of trust forest resources, including the National Wildland Fire Program. The Division staff is headquartered in Washington, D.C.

Fire is a normal occurrence that is beneficial to landscapes when managed properly, however, population growth near forests and rangelands, past management practices, and changing climate have dramatically increased fire risk and fire costs. In recent years, Interior and the USDA Forest Service (Forest Service) have relied on funding transfers from non-suppression programs to fund extraordinary fire costs that exceed budgeted amounts. This affects other important programs, including tribal forest management and fire risk reduction activities on tribal lands.

FY 2017 Budget

Currently, the cost of suppression is planned in our budget process based on averaging historical costs over the preceding 10 years. The approach is not predictive, and does not assume that costs increase in future years.

The FY 2017 President's budget proposes to establish a new framework for funding fire suppression operations in the Interior and the Forest Service. It provides stable funding for fire suppression, while minimizing the adverse impacts of fire transfers on the budgets of other fire and non-fire programs. Both Interior and the Forest Service support this proposal.

Under this new framework, the FY 2017 budget includes \$276.3 million for fire suppression, which is 70 percent of the 10 year suppression average spending. Increases proposed in the 2017 budget include:

- \$6.9 million in Preparedness to maintain or strengthen initial and extended attack capacity:
 - \$2.8 million to enhance the initial attack capability of rural fire departments and rural fire protection associations;
 - \$1.6 million to purchase replacement vehicles for the BIA fire program, and,
 - \$1.5 million to cover utility costs for the Alaska Fire Service's leased space.

The budget includes \$20.4 million for Burned Area Rehabilitation, a \$1.5 million increase to address greater post-fire rehabilitation needs caused by the 2015 and 2016 fire seasons, and \$10.0 million for Facilities Construction and Deferred Maintenance, a \$3.6 million increase to address the deferred maintenance backlog, and \$30 million for the Wildland Fire Resilient Landscapes program.

The 2017 budget proposal for fire is similar to other bi-partisan legislation considered in Congress. It allows for a balanced suppression and pro-active fuels management and restoration program with flexibility to accommodate peak fire seasons but not at the cost of other Interior missions, or by adding to the deficit.

Department Initiatives

The Department continues to make fire management a priority through a set of initiatives. In 2015 the BIA announced the \$10 million dollar Reserved Treaty Rights Lands (RTRL) initiative that provides funding for tribal priorities in High and Very High wildland fire risk areas outside of Interior lands. In addition, the Department provided an initial \$10 million in funding for a pilot program, the Wildland Fire Resilient Landscapes Program. Approved proposals, known as Resilient Landscape Collaboratives, received funding to provide results within five to ten years. Two approved proposals will assist tribes. The Santa Clara Pueblo in New Mexico was awarded

\$800,000 to complete restoration of the natural fire regime on the mesa top lands, protecting ancient cliff dwellings, cultural sites, traditional food sources and watershed health. The Valles Caldera, also in New Mexico was awarded over \$1 million to improve the ability of ecosystems to recover from wildfires and other natural disturbance events, in order to sustain healthy forests and watersheds for future generations. The National Park Service is carrying out the work with partners that include the Jemez and Santa Clara Pueblos. Last month, Secretary Jewell announced another \$10 million in funding for 2016 support a second year of work for these projects.

S. 3014

S. 3014 would permit Indian tribes to propose and execute stewardship end result contracting to perform forest management activities on public land. Section 2 of S. 3014 amends the Tribal Forest Protection Act of 2004 to include a revised response timeline. The Department is concerned that the two year time limit contained within Section 2(C) is insufficient to “complete all environmental reviews.” From our past experience, requirements for consideration of effects on cultural resources (National Historic Preservation Act of 1966) and threatened and endangered species (Endangered Species Act of 1973) may take as long as three years or more to complete. For example, calling protocol for Mexican Spotted Owl requires two years and can be done only during particular seasons.

Section 3(a) of S. 3014 requires the Secretary to “approve or deny” a request within 180 days and to “consult with each State and unit of local government.” We are concerned that the time requirement of 180 days is insufficient for meaningful consultation to occur. The Department seeks clarity from the bill’s authors regarding the reason for the termination of authority under Section 3(10).

Section 3 of S. 3014 provides for Pilot Authority for Restoration of Federal Forest Land by Indian Tribes. This section amends the Tribal Forest Protection Act (TFPA) to establish required time-frames for the Bureau of Land Management (BLM) consideration of, and response to, tribally-proposed projects on BLM-managed land bordering or adjacent to Indian trust land. The purpose of the TFPA is to protect the Indian trust resources from fire, disease, or other threat from BLM lands. Section 3 amends the National Indian Forest Resources Management Act to authorize the Secretary to treat certain Federal forest land as Indian forest land for purposes of planning and conducting forest management activities. Section 3 would apply to all BLM-managed forest lands, including Oregon and California (O&C) and Coos Bay Wagon Road lands. The BLM has not experienced a backlog of TFPA requests since enactment in 2004 and does not see the need for the required time-frames. Presently there is appropriated funding available for the BLM to apply active forest management treatments to federal lands adjoining tribal lands. Tribes have the opportunity to provide input on proposed vegetative treatments adjoining tribal lands to help BLM set priority areas for treatment.

The Department notes one change between the original 2004 Tribal Forest Protection Act and Section 3(a) of S. 3014 that relates to the geographic scope of the project area. Under the original 2004 TFPA, a tribe may request to carry out projects on federal land that “borders on or is adjacent to” land managed by the BLM or the U.S. Forest Service, or where the Forest Service or BLM land presents a “feature or circumstances unique to that Indian tribe (including treaty rights or biological, archaeological, historical, or cultural circumstances)”. In contrast, the bill amends the National Indian Forest Resources Management Act to expand the scope of federal lands eligible for tribal management to include federal forest land ceded to the United States, within the boundaries

of a current or former reservation, or adjudicated by the Indian Claims Commission or a Federal court to be the tribal homeland of that Indian tribe. The amount of federal land that could be considered available under this new authority could significantly expand beyond those bordering or adjacent to federal lands. The expanded geographic scope may raise issues of conflict with existing uses and may require additional resources for the project area.

Section 3(c)(7) in S. 3014, speaks only to consistency with applicable Forest Management Plans under the National Forest System, and does not mention consistency with BLM Resource Management Plans. The Department recommends amending S. 3014 to include consistency with BLM Resource Management Plans.

Also, the Department is concerned with Section 5 of S. 3014 which provides that projects under this Act are to be funded from other amounts available to the Secretaries that are not otherwise obligated. It is unclear how Section 5 would impact the BLM's appropriated funding particularly when part of funding to manage the O&C lands is offset by timber sale receipts as provided in the 1937 O&C Act.

Finally, federal forest land management is shared between USDA and Interior and the bill appears to create confusion over roles and responsibilities each agency has under the new authority. The Department recommends clarifying language be provided.

Conclusion

Thank you for the opportunity to discuss the Department's activities on improving interagency forest management to strengthen our response to and prevention of wildfires, and to provide the Department's views on S. 3014. The Department continues to work with tribes to promote and increase tribes' capabilities to respond to and prevent wildfires and will continue to work closely with this Committee as well as our federal and state partners to address response and prevention. We also look forward to working with this Committee and the sponsors of S. 3014 to address the Department's concerns with S. 3014.

I am available to answer any questions the Committee may have.