

---

January 27, 2020

The Honorable Bobby L. Rush  
Chairman  
Subcommittee on Energy  
Committee on Energy and Commerce  
House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Fred Upton  
Ranking Member  
Subcommittee on Energy  
Committee on Energy and Commerce  
House of Representatives  
2322-A Rayburn House Office Building  
Washington, DC 20515

The Honorable Paul Tonko  
Chairman  
Subcommittee on Environment and Climate  
Change  
Committee on Energy and Commerce  
House of Representatives  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable John Shimkus  
Ranking Member  
Subcommittee on Environment and Climate  
Change  
Committee on Energy and Commerce  
House of Representatives  
2322-A Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Rush, Ranking Member Upton, Chairman Tonko, and Ranking Member Shimkus:

In advance of the Subcommittees' January 28, 2020 joint hearing, Out of Control: The Impact of Wildfire on Our Power Sector and the Environment, attached please find four Western Governors' items related to vegetation and wildfire management in utility corridors:


- An April 3, 2017 letter to the Chairman and Ranking Member of the House Natural Resources Committee requesting their expedited consideration of legislation supporting responsible vegetation management practices;
- Western Governors' Association (WGA) Policy Resolution 2017-10, National Forest and Rangeland Management, which addresses vegetation management in section B, paragraph 9;
- A copy of the Shared Stewardship Memorandum of Understanding executed between WGA and the U.S. Department of Agriculture (USDA) in December 2018, and;
- A December 11, 2019 letter to U.S. Department of the Interior Secretary David Bernhardt and U.S. Department of Agriculture Secretary Sonny Perdue describing the next steps in an effort under the MOU to improve vegetation management in and near transmission and distribution corridors to reduce the likelihood of wildfire.

I request that you include these documents in the permanent record of the hearing, as they articulate Western Governors' policy positions and recommendations on this important issue.

The Honorable Bobby L. Rush  
The Honorable Fred Upton  
The Honorable Paul Tonko  
The Honorable John Shimkus  
January 27, 2020  
Page 2

Thank you for your consideration of this request. Please contact me if you have any questions or require further information. In the meantime, with warm regards and best wishes, I am

Respectfully,



James D. Ogsbury  
Executive Director

Attachments



## WESTERN GOVERNORS' ASSOCIATION

Steve Bullock  
Governor of Montana  
Chair

Dennis Daugaard  
Governor of South Dakota  
Vice Chair

James D. Ogsbury  
Executive Director

### Headquarters

1600 Broadway  
Suite 1700  
Denver, CO 80202

303-623-9378  
Fax 303-534-7309

### Washington, D.C.

400 N. Capitol Street, N.W.  
Suite 376  
Washington, D.C. 20001

202-624-5402  
Fax 202-624-7707

[www.westgov.org](http://www.westgov.org)

April 3, 2017

Honorable Rob Bishop  
Chairman  
House Natural Resources Committee  
1324 Longworth House Office Building  
Washington, D.C. 20515

Honorable Raul Grijalva  
Ranking Member  
House Natural Resources Committee  
1329 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Bishop and Ranking Member Grijalva:

We understand there are plans to reintroduce bipartisan legislation – the Electricity Reliability and Forest Protection Act – that would, if enacted, help ensure reliable electricity service and reduce the risk of fires and fire hazards that result from inadequate vegetation management on power line rights-of-way. Western Governors supported such legislation in the 114<sup>th</sup> Congress ([H.R. 2358](#)) and urge the Committee to give such legislation expedited review upon its reintroduction.

Western Governors recognize the importance of appropriate fire management and proactive wildfire mitigation. Additionally, we are committed to safeguarding and enhancing the reliability of the region's electric transmission grid. Western Governors' Association (WGA) Policy Resolution [2016-06](#), *Wildland Fire Management and Resilient Landscapes*, and the 2013 WGA [Ten-Year Energy Vision](#) further elaborate on these priorities. Legislation such as that advanced by the House last year can play an important role in realizing these imperatives.

Governors support legislation that recognizes the need for efficient cross-jurisdictional coordination and enables utilities to take necessary actions to enhance grid reliability and reduce the threat of wildfires to and from electric transmission and distribution rights-of-way. We suggest that the legislation include the following key elements:

- Provide electric utilities defined authority to remove dangerous trees even if they exist outside a designated right-of-way and allow pruning or removal of trees;
- Require that rights-of-way be developed in coordination with the right-of-way holder;

Honorable Rob Bishop  
Honorable Raul Grijalva  
April 3, 2017  
Page 2

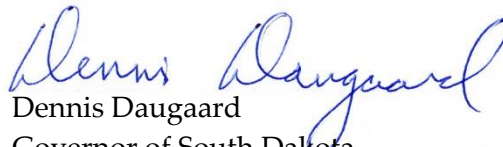
- Minimize the need for case-by-case or annual agency approval for routine vegetation management activities to facilitate inspection, operation and maintenance of the right-of-way and for activities necessary to control so-called “hazard trees” within or adjacent to the right-of-way;
- Require prompt review of vegetation management, facility inspection and operation and maintenance plans; and
- Require the relevant federal agency to apply National Environmental Policy Act categorical exclusion to plans developed in line with the legislation and on existing transmission and distribution rights-of-way.

Thank you for your leadership in advancing this important legislation, which seeks to provide another important tool for improving forest health across the West.

Respectfully,



Steve Bullock  
Governor of Montana  
Chair, WGA



Dennis Daugaard  
Governor of South Dakota  
Vice Chair, WGA

cc: House Natural Resources Committee Members



## Western Governors' Association Policy Resolution 2017-10

### *National Forest and Rangeland Management*

#### A. BACKGROUND

1. The American West encompasses a huge landmass representing 2.4 million square miles or over two-thirds of the entire country. Over 112 million people live in these states and they reside in large, densely populated cities, smaller cities and towns and in rural areas.
2. Perhaps more than any other region, terrain, forces of nature, and land ownership patterns in the West underscore the purpose and vital need for a more active federal role in forest management. Western states include more than 75 percent of our national forest and grassland system. These public lands serve as critical economic drivers, and they provide numerous conservation benefits, water supply, and recreational opportunities for Western communities and the nation.
3. States have a particular interest in improving the active management of federal forest lands. State governments have trust authority over water, wildlife and forest resources, along with primary authority and expertise to protect community health and safety. Poorly managed forests can have significant and broad impacts on the landscapes and communities of the West, including negative impacts to air quality and public health, degradation of rivers and streams and associated water quality (including drinking water), reduced forage for domestic livestock, impaired habitats for wildlife and fish, and the loss of forest products and associated jobs.
4. Relative to decades past and other forest landowners, 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, fuel build-ups and fire risk, and legacy impacts. Adding to this challenge are concerns about the economic and social vitality of rural communities that experience impacts from reduced timber supply and compromised forest health. Displaced workers, declines in school enrollment, aging demographics, property loss, business closures and revenue impacts due to wildfire, and high unemployment are not uncommon to these communities.
5. States are managers as well, and many Western states own extensive public land holdings that require forest products infrastructure to achieve community vitality and land management goals, including ecological restoration objectives and healthy and resilient forests.

6. The U.S. Forest Service 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.
7. In addition, the last decade has seen several large, very expensive wildfires, which have increased the U.S. Forest Service wildfire suppression costs from 13 percent of the agency's FY 1991 budget to nearly 50 percent over the last several fiscal years. Consequently, under the current agency budgeting framework, forest management, hazardous fuels reduction, habitat improvement, and outdoor recreation programs have been negatively impacted across national forests and Department of Interior lands.
8. An April 2015 study by the U.S. Forest Service, the *Collaborative Forest Landscape Restoration Program 5-Year Report, FY 2010 – 2014*, found that the past century of wildfire suppression and legacy management practices have contributed to forests being overstocked and primed for larger and more intense blazes, and that changes in land use and increasing social pressures make it difficult for the agency to let fire play its natural role of clearing the forest understory in certain forest types. Active forest management has historically played a pivotal role in the growth and mortality cycle of forests to manage fuel loading, which in turn can reduce fire-fighting costs and improve habitat resilience. Today, the U.S. Forest Service estimates that roughly 90,625 square miles – an area larger than Utah – is at high or very high risk of severe wildfire and in need of treatment.
9. Insect infestation and disease have damaged many of the forests throughout the West. Severe drought conditions that are impacting western states, particularly California, have only exacerbated insect infestations and tree mortality. The impacts go well beyond fire risk, and timber and fiber production are negatively impacted, threatening the viability of the surviving forest product infrastructure. The significant decline in forest health has also created serious threats and challenges to watershed integrity, wildlife and fisheries habitats, recreational uses, businesses and tourism. All of these impacts present substantial challenges for forest-dependent communities across the West.
10. The dire forest conditions, unmet management needs, and the failure to provide lasting protections for some landscapes have brought diverse stakeholders together to find solutions. Community collaboration on forest health projects is robust in numerous places across the West forging broad agreements among diverse stakeholders on projects that encompass fuels reduction, fiber production, habitat restoration, long-term protection for critical areas, and other community objectives. It is not uncommon to find mill owners, hunters and anglers, loggers, small business owners, conservationists, and local elected leaders working together around the table.

11. Collaborative planning and project implementation across National Forests and state and private forest lands on a larger scale allows for more diverse interests to address their particular needs for a landscape or a watershed. Taking a broad look at a landscape for planning purposes minimizes the challenges associated with managing lands for the benefit of a particular species or to address a specific need. Well-planned projects that are strategically placed across a landscape can result in a higher level of benefits than those that are more randomly or opportunistically placed. Processes associated with planning and implementing a project have become so time consuming and expensive for National Forests in particular that a disincentive often exists for their managers to proceed with management actions that are needed to attain desired ecological, social, and economic objectives.
12. Collaborative efforts have shown initial successes in reaching consensus, but 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 public and private forestlands and surrounding communities.
13. Despite this good work the full benefits of these collaborative efforts have not been realized on the land. Working constructively with collaborators requires resources to be productive and the federal agencies often lack the necessary staff and funding. In addition, the federal agencies have sometimes been reluctant to embrace collaboration, because they either have unclear legal authority to favor collaborative efforts or don't welcome the input.
14. Further, and even when collaborative forest health projects enjoy broad support from diverse stakeholders and the agencies, administrative objections and litigation remain a too frequent outcome. One result is that community collaborative efforts become fatigued, and future opportunities are lost. Another outcome is that Forest Service restoration projects often go through exhaustive, time-consuming analysis, driving up costs and preventing the agency from scaling up management to meet the scope of the problem.
15. Today the costs associated with planning and implementing a management project on National Forest lands are significantly more than those of the private sector. 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. This approach does not adequately address the larger socio-economic and ecological needs of our National Forests and dependent communities.

16. The 2014 Farm Bill provided the Forest Service with several new tools to accelerate forest restoration. A Governor could nominate landscapes substantially affected or threatened by insects and disease to the Secretary of Agriculture for designation as Priority Areas for expedited NEPA and administrative process and judicial review. 16 Western Governors nominated areas for this designation, the vast majority of which were approved by the Secretary of Agriculture.
17. In addition, the new Farm Bill authorities provided for a categorical exclusion (CE) for insect and disease projects on areas as large as 3,000 acres that are the product of a collaborative effort. The new CE has the potential to greatly magnify the role of collaboration and strengthen the results of those efforts, and to reduce the time and cost for forest health projects, resulting in on-the-ground restoration work that is accomplished more quickly and across a larger landscape. Not yet in wide use, the Farm Bill also added expanded "Good Neighbor" authority that enhances the ability of states to partner with the Forest Service and implement projects on federal land.
18. The shortcomings of federal forest management have also impacted local governments directly. In 1908, when Congress created the National Forest System, it also passed the National Forest Revenue Act in 1908 directing the Forest Service to share 25 percent of gross revenues with local governments. Then in 1976, Congress passed "Payments in Lieu of Taxes" (PILT) legislation providing federal payments to local governments regardless of gross revenues that result from timber harvest and other forest management activities. After revenues from the sale of timber dropped substantially, Congress passed the Secure Rural Schools and Self Determination Act (SRS) in 2000, allowing counties to choose between a payment based on historical average and the 25 percent revenue share. SRS has expired several times, and PILT has been subject to funding uncertainty as well. Western Governors support efforts to ensure counties and states continue to receive payments under the Secure Rural Schools program, and that these payments should be based upon historic federal land management receipts. These payments are vital to providing state and county public goods and services, such as roads, emergency response, and wildlife and natural resources protection in communities adjacent to federal lands.
19. There have been several efforts in Congress to reform federal forest management, and recent legislation reflects the continued frustration of Congress as it attempts to find a path forward to address this issue in a productive, bipartisan manner.

**B. GOVERNORS' POLICY STATEMENT**

1. Western Governors support sound forest management policies that maintain and promote ecologic, economic and social balance and sustainability.



2. Today, the Forest Service's forest management program is primarily a byproduct of restoration projects intended to reduce wildfire risk and/or improve forest resilience, water quality, watershed health, key wildlife habitat, and/or intrinsic value. Western Governors recognize and support these forest values, but also believe it is reasonable to expect that some portion of the federal landscape will be focused on long-term, ecologically-sound forest management — where jobs, forest products, and revenues are priorities and generated through sound stewardship.
3. Western Governors encourage the Forest Service to develop and help fund new technologies and wood based markets for some non-traditional products. USDA's Forest Products Laboratory is a hub for research and innovation. We should continue to encourage the application of their knowledge and experience in a practical way in the western United States so that some of the federally funded infrastructure that develops from such efforts could first be demonstrated on private lands. Also, since federal forests are now more focused on large landscape forest health projects, there is a good opportunity to ensure we have a broader suite of outlets, in addition to traditional sawmills and existing biomass facilities.
4. We can achieve sustainable forest management across every acre of our federal and nonfederal forestlands while including an equitable mix of uses to meet many ecological, social, and economic needs.
5. Western Governors believe that our citizens are capable of rolling up their sleeves and working together with the federal agencies to address difficult issues such as forest management, and that not enough is done to incent and reward the current collaborative work that is occurring across the West.
6. It is important to retain citizens' rights to question governmental decisions through administrative and legal means. However, there are situations where the threat of litigation is a key factor resulting in either delay of agency activity and progress or the stifling of productive collaborative work. The lack of funding and resources for federal agencies is also a significant factor. Western Governors believe an effort needs to be made to better understand the scope and scale of this problem. There may be an opportunity to further streamline appeals and litigation associated with National Forest decision making in association with other changes designed to incent collaboration and provide more certainty as to outcomes.
7. The 2014 Farm Bill authorities are significant expansions of Forest Service authority and are powerful new tools to boost forest management, promote collaboration, and limit the impacts of administrative objections and litigation. Western Governors encourage federal agencies to fully implement the tools provided in the 2014 Farm Bill.

8. Western Governors are on record as strong supporters of ending the practice of fire borrowing, and Congress should pass legislation to fund federal wildfires off-budget as many states already do, and ensure the Forest Service budget for forest restoration, recreation, road maintenance, hazardous fuels reduction, and wildlife/watershed protection is fully restored.
9. Western Governors believe clear, coordinated and consistent application of federal vegetation management practices is integral to maintaining the health of western forests, preventing dangerous and damaging fires, and maintaining grid reliability. The Governors support effective and efficient cross-jurisdictional coordination that enables utilities to undertake necessary vegetation management actions on federal transmission rights-of-way – and to do so without fear of strict liability imposition for necessary vegetation management actions taken adjacent to transmission rights-of-way.
10. Western Governors are well-suited to engage in a productive and bipartisan dialogue on the broader topic of federal forest management reform, engaging westerners and examining on the ground realities across western landscapes. Western states are land owners and managers and well understand the challenges associated with forest management under changing social, economic and environmental conditions.
11. A meaningful and successful discussion of forestry reform in the West will require a transparent and inclusive process that engages those diverse interests who have a direct stake in forest management outcomes. The impacts of forest management are felt most directly by those who live, work and recreate in and adjacent to those forests, so the discussion needs to begin there. This is perhaps where Western Governors can provide the most productive bipartisan contribution to this national discussion. Our nation’s forests belong to all Americans, and in the end and through their elected representation all Americans will determine the scope and success of any efforts to reform forest management.
12. There is significant dissatisfaction in the West among many stakeholders with the current level of National Forest management. There is a general sense that the current level of forest management is not meeting anyone’s needs, whether it’s putting logs on trucks, protecting water quality, addressing fire risk, protecting key habitats and landscapes, providing for recreation, or other important community needs. Successful forest management reform will achieve a balance among all of these important objectives, and provide the opportunity for certainty such that diverse interests will be encouraged to work together to achieve shared outcomes.
13. It is time to reconsider the business model of the U.S. Forest Service. Western Governors believe it may be possible 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.

14. Any discussion of forest management reform must include consideration of the financial relationship between the Federal and local governments, the existence of PILT, and the limited tax base for counties with significant federal ownership.
15. Western Governors support the recommendations identified over the course of the WGA National Forest and Rangeland Management Initiative, and incorporate the recommendations into this resolution by reference.

**C. GOVERNORS' MANAGEMENT DIRECTIVE**

1. The Governors direct the WGA staff, where appropriate, to work with Congressional committees of jurisdiction and the Executive Branch to achieve the objectives of this resolution including funding, subject to the appropriation process, based on a prioritization of needs.
2. Furthermore, the Governors direct WGA staff to develop, as appropriate and timely, detailed annual work plans to advance the policy positions and goals contained in this resolution. Those work plans shall be presented to, and approved by, Western Governors prior to implementation. WGA staff shall keep the Governors informed, on a regular basis, of their progress in implementing approved annual work plans.

*Western Governors enact new policy resolutions and amend existing resolutions on a bi-annual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.*



**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**THE WESTERN GOVERNORS' ASSOCIATION**  
**And The**  
**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**19-MU-11132001-027**

This Memorandum of Understanding (MOU) is hereby made and entered into by and between the Western Governors' Association, hereinafter referred to as "WGA," and the United States Department of Agriculture (USDA), Forest Service, hereinafter referred to as the "Forest Service."

Background:

WGA is an instrument of the Governors of 19 western states and three U.S. Pacific territories for bipartisan policy development, information exchange, and collective action on issues of critical importance to the West. Governors possess primary decision-making authority for management of state resources, including many resources on federal lands.

The mission of the Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. The Agency manages 193 million acres of public land, works with tribal governments, state and private landowners, and maintains the largest forest research organization in the world. Being a "good neighbor" is an essential component in all of the Agency's work.

**I. PURPOSE**

The purpose of this MOU is to establish a framework to allow the Forest Service and WGA to work collaboratively to accomplish mutual goals, further common interests, and effectively respond to the increasing suite of challenges facing western landscapes. Federal, state and private managers of forests and rangelands face a range of urgent challenges, among them catastrophic wildfires, invasive species, degraded watersheds, and epidemics of insects and disease. The conditions fueling these circumstances are not improving. Of particular concern, are longer fire seasons, the rising size and severity of wildfires, and the expanding risk to communities, natural resources, and firefighters. To address these issues, the Forest Service announced a new strategy outlining plans to work more closely with states to identify landscape-scale priorities for targeted treatments in areas with the highest payoffs.

The Forest Service will partner with state leaders and work shoulder-to-shoulder to co-manage risks, and identify land management priorities, using all available tools to reduce hazardous fuels, including mechanical treatments, prescribed fire, and management of unplanned fire in the right place at the right time, to mitigate them.

A key component of the Forest Service's new shared stewardship strategy is to prioritize investment decisions on forest treatments—in direct coordination with states—using the most advanced science tools to increase the scope and scale of critical forest treatments that protect communities and create resilient forests and rangelands.

As the chief elected officials of states, Governors expect to engage with federal officials on the formulation and execution of public policy. Governors also have specialized knowledge of their states' environments, resources, laws, culture, and economies that is essential to informed federal decision-making. By operating as authentic collaborators, the states and federal government can improve their service to the public by creating more efficient, effective, and long-lasting policy.

In consideration of the above premises, the parties agree as follows:

**II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:**

The Forest Service and WGA seek to proactively carry out projects to reduce hazardous fuels and improve forest and rangeland conditions in western states. To achieve landscapes that are more resilient to fire and other disturbances, the Forest Service and WGA will take a more integrated approach to prioritizing investments where they will have the greatest impact, and will work together to set priorities that address risk across broad landscapes. A collaborative approach that addresses risk across different ownership boundaries and habitat types will have direct and positive effects on land management practices and the constituents of western states.

**III. WGA SHALL:**

- A. Identify a key staff member within WGA to act as a coordinator/liaison in this relationship.
- B. Facilitate the involvement of western states and stakeholders in working with the Forest Service to achieve the purposes of this MOU.
- C. Collaborate on mutually agreed upon projects and other work in the pursuit of this MOU's overarching goals. Such projects may be defined within separate agreement(s).
- D. Meet with representatives of the Forest Service to identify strategic areas for collaboration and develop proposals to meet the purpose of this MOU.
- E. Encourage the development of projects and initiatives that promote collaboration in mutually-identified priority areas, including habitat conservation, water quality protection, restoration of wildfire and insect and disease-affected ecosystems.

- F. Evaluate risk through a joint commitment to examining options for managing western cross-boundary landscapes and providing a forum for state officials to collaborate with the Forest Service on actions to take.

**IV. THE FOREST SERVICE SHALL:**

- A. Work collaboratively with states to share decision space to reach agreements on priority areas that require treatments.
- B. Collectively evaluate risk through a joint commitment to examining options for managing risk and deciding with WGA what actions to take.
- C. Make reasonable efforts to: achieve consistency and avoid conflicts between federal and state objectives, plans, policies, and programs; and address and resolve all issues and concerns raised by states unless precluded by law.
- D. Collaborate on mutually agreed upon projects and other work in the pursuit of this MOU's overarching goals. Such projects may be defined within separate agreement(s).
- E. Consider and incorporate state and local data and expertise, including socioeconomic data, in development and analysis of federal actions.

**V. IT IS MUTALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:**

- A. The Forest Service and WGA are bound by all applicable federal, state, and local statutes and regulations.
- B. Both parties will communicate on a regular basis to enhance and develop the institutional arrangements necessary to facilitate the above activities.
- C. The Forest Service and WGA will jointly identify a list of initial projects, prioritized by greatest potential effect to meet the purpose of this MOU, with a target of summer 2019. The list should emphasize projects that can be successfully initiated during fiscal year 2020.
- D. The Forest Service, WGA and relevant state agency officials will conduct business pertaining to this agreement by means of in-person meetings, conference calls, or other means. In each calendar year, the Forest Service and WGA will meet at least once in person.
- E. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

**Principal Cooperator Contacts:**

<b>Cooperator Program Contact</b>	<b>Cooperator Administrative Contact</b>
Name: Bill Whitacre Address: 1600 Broadway, Suite 1700 City, State, Zip: Denver, CO 80202 Telephone: (303) 623-9378 Email: bwhitacre@westgov.org	Name: Dan Baer Address: 1600 Broadway, Suite 1700 City, State, Zip: Denver, CO 80202 Telephone: (303) 623-9378 Email: dbaer@westgov.org

**Principal Forest Service Contacts:**

<b>Forest Service Program Manager Contact</b>	<b>Forest Service Administrative Contact</b>
Name: Debbie Pressman Address: 1400 Independence Ave., Suite 202W City, State, Zip: Washington, DC 20250 Telephone: 202-720-7173 Email: Debbie.Pressman@osec.usda.gov	Name: Erin Connelly Address: 201 14 <sup>th</sup> Street SW City, State, Zip: Washington, DC 20250 Telephone: 202-205-1676 Email: econnelly@fs.fed.us

- A. NOTICES. Any communications affecting the operations covered by this agreement given by Forest Service or WGA is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the MOU.

To WGA, at WGA's address shown in the MOU or such other address designated within the MOU.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- B. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the Forest Service or WGA from participating in similar activities with other public or private agencies, organizations, and individuals.
- C. ENDORSEMENT. Any of WGA's contributions made under this MOU do not by direct reference or implication convey Forest Service endorsement of WGA's products or activities and does not by direct reference or implication convey the cooperator's endorsement of the Forest Service products or activities.
- D. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually

beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperators availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law.

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- E. USE OF FOREST SERVICE INSIGNIA. In order for WGA to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications prior to use of the insignia.
- F. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- G. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- H. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.



- I. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS AND ELECTRONIC MEDIA. WGA shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this MOU.
- J. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. WGA shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

*In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)*

**To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.**

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

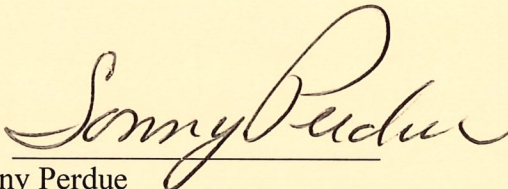
*"This institution is an equal opportunity provider."*

- K. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.
- L. DEBARMENT AND SUSPENSION. WGA shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should WGA or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- M. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- N. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature and is effective five years past the date of its signature at which time it will expire.

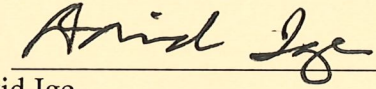
- O. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU.

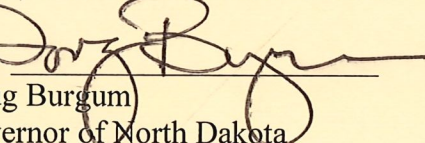
In witness whereof, the parties hereto have executed this MOU as of the last date written below.

**U.S. Department of Agriculture**

Date: 12/13/2018 By:   
Sonny Perdue  
Secretary of Agriculture

**Western Governors' Association**

Date: 12/13/2018 By:   
David Ige  
Governor of Hawai'i  
Chair, Western Governors' Association

Date: 12/13/2018 By:   
Doug Burgum  
Governor of North Dakota  
Vice Chair, Western Governors' Association

---

December 11, 2019

The Honorable David Bernhardt  
Secretary  
U.S. Department of the Interior  
1849 C Street, N.W.  
Washington, DC 20240

The Honorable Sonny Perdue  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, DC 20250

Dear Secretaries Bernhardt and Perdue:

In December 2018, the Western Governors' Association (WGA) and the U.S. Department of Agriculture (USDA) signed a [Memorandum of Understanding](#) (MOU) to establish a framework for the U.S. Forest Service (USFS) and WGA to work collaboratively to accomplish mutual goals, advance common interests, and effectively respond to the increasing suite of challenges facing western landscapes. The MOU has helped Western Governors and USDA identify shared priorities and collaborative projects to increase active management on western forests and rangelands. Included is an effort, announced by WGA and USDA in June 2019, to improve vegetation management in and near transmission and distribution corridors to reduce the likelihood of wildfire.

As an initial step in the vegetation management effort, WGA assembled a work group of state and federal wildfire experts, land managers, and utility sector leaders to help identify potential improvements to current processes and practices to promote fire-resilient landscapes and communities across the region. At its first meeting in October 2019, the group recommended that WGA facilitate a conversation between USFS, the Bureau of Land Management (BLM), states, and the utility sector regarding key issues and specific actions to improve vegetation management practices in utility corridors. These included:

- The implementation of Section 512 of the Federal Land Policy and Management Act, as enacted by section 211 of Division O of the Consolidated Appropriations Act, 2018 (FY18 Omnibus).
- USFS's recently issued proposed rule on Land Uses; Special Uses; and Procedures for Operating Plans and Agreements for Vegetation Management within and along Powerline Rights-of-Way ([FS-2019-0019](#)).
- The FY18 Omnibus Bill's language encouraging USFS and BLM to develop training programs on vegetation management decisions relating to electrical transmission and distribution systems. The work group emphasized the need for any such training programs to be developed with input from the utility sector.
- The FY18 Omnibus Bill's direction to USFS to pair the Wildfire Hazard Potential index and map with spatial data, in consultation with state and federal partners, for use at the community level. The utility sector has access to spatial data on structures and powerlines that could prove invaluable in these efforts. The group emphasized the need for improved data sharing, accessibility and standardization.

The Honorable David Bernhardt  
The Honorable Sonny Perdue  
December 11, 2019  
Page 2


- An examination of the use of Good Neighbor Authority and Stewardship Contracting Authority and other authorities or actions to better leverage the resources of public and private partners (including utilities) to complete necessary wildfire mitigation work on federal lands.


Several western states are already working with federal agencies and electric utilities on projects to reduce the risk of wildfire in utility corridors, including policy reviews, task forces, and pilot projects. These efforts have established a substantial body of work on vegetation management improvements and, where relevant, should be incorporated into WGA's and USDA's work under the MOU. Greater collaboration on vegetation management in utility corridors can also benefit other areas of land management, including the increased control of invasive species in corridors to further reduce risk of wildfire and improve habitat quality.

Western Governors appreciate the engagement of USDA through the MOU on this important land management priority, affecting about 3,000 transmission lines on USFS lands. We also appreciate the involvement of BLM in this effort, as the agency administers nearly 17,000 utility rights-of-way on public lands. Your active engagement with states through the USDA Shared Stewardship MOU will result in more effective USFS and BLM policy and improved collaboration between states and the federal government.

Western Governors look forward to continuing this important discussion on vegetation management and are eager to make progress on this important issue. Thank you for your attention to the urgent need to reduce the incidence of uncharacteristic wildfire in the West.

Sincerely,

  
Doug Burgum  
Governor of North Dakota  
Chair, WGA

  
Kate Brown  
Governor of Oregon  
Vice Chair, WGA

cc: Vicki Christiansen, Chief, U.S. Forest Service  
William Perry Pendley, Acting Director, Bureau of Land Management