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P.O. Box 273362  
Ft. Collins, CO 80527

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October 3, 2017

G. Sam Foster,  
Executive Director

The Honorable Secretary Perdue  
Secretary of Agriculture  
Washington, DC

James Golden, Past  
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Dear Mr. Secretary:

Johnny Hodges,  
Secretary

We very much appreciate your letter to us dated July 19, 2017, concerning Executive Order 13790, Promoting Agriculture and Rural Prosperity in America. As the Chairman of the National Association of Forest Service Retirees (NAFSR), I am delighted that you value our ideas and suggestions regarding the Executive Order.

Richard Stem

Tom Thompson

Marlin Johnson

We have worked very hard the last few months to develop the best proposals for the Task Force that our membership believes are the highest priorities to promote rural prosperity and to improve the health of the nation's National Forests and Grasslands. I am enclosing our developed priorities in hopes that the Task Force will accept them in this manner.

Jack Troyer

Steven Eubanks

I also want to repeat our pledge to you, stated in our May 30, 2017 letter, that we are eager to help and we have great enthusiasm for this effort.

Michael Rogers

Ranotta McNair

Please call on us to assist in any way that we can add value towards meeting the objectives of the Executive Order.

Malcolm "Mac"  
Gramley

Sincerely,

Ronald Scott

*James L. Caswell*  
James L. Caswell

*G. Sam Foster*  
G. Sam Foster

Pete Griffin

Rich Guldin

Cc: Forest Service Chief, Tony Tooke

Hank Kashdan

Jane Kollmeyer

Enclosure

Bill Timko

Lee Nightingale

Susan Giannettino

Chiefs Emeritus

R. Max Peterson  
F. Dale Robertson  
Dale Bosworth  
Abigail Kimbell

NAFSR --- *Sustaining the Heritage*

## NAFSR Recommendations

### **To Implement the President's Executive Order to USDA**

On April 25, 2017, President Trump sent Executive Order (EO) 13790 to USDA Secretary Perdue entitled *Promoting Agriculture and Rural Prosperity in America*. Being part of USDA, the US Forest Service (USFS) can provide major contributions towards the implementation of this EO; and as such the National Association of Forest Service Retirees offers the following recommendations to the Task Force which Secretary Perdue Chairs.

The USFS, along with its many active partners, has a very long reach into and around most rural communities in America. The USFS is uniquely positioned to help increase prosperity for rural communities because of its authorities, its long history of working with communities, and its decentralized, organizational approach to decision making. In addition to directly managing 193 million acres of National Forests, the Agency has the responsibility to assist private landowners to manage over 500 million acres of forested land, as well as 65 million acres of urban forests.

The Agency also has a robust Research and Development branch that creates innovative and effective new forest management tools. Because of these authorities and management responsibilities, the USFS is well positioned to utilize the legislative, regulatory, and policy changes that the Task Force may choose to propose to the President to have a direct and enormous influence on rural prosperity in America. If the Task Force needs more information or assistance on any of the recommendations below, we will be happy to provide either.

### **Recommendations:**

#### **1) Wildfire Funding:**

**The Administration needs to put top priority and do whatever is necessary to get Congress to pass a wildfire funding bill that has been agreed to by almost everyone. Congress must reclassify catastrophic fires as national disasters and create the legislation, policy and processes to fund their suppression and recovery using the national disaster response fund.**

The first priority is wildfire funding. The current funding method (actually an unfunded mandate) places a serious stranglehold on the USFS because of the need to borrow money from other vital programs within the Agency in order to pay to fight catastrophic wildfires. It is almost an impossibility to manage a national action-oriented organization like the USFS when dollars appropriated for other purposes need to be held back to make sure adequate firefighting funds are available for the last three months of the fiscal year – July, August, and September. These are the worst months for major, expensive fires in the west! This situation puts the USFS in an almost unmanageable situation!

It is a complicated subject, but a lot of good effort has gone into creating a Congressional solution. However, Congress has failed to pass a bill. Congress must reclassify catastrophic fires as national disasters and create the legislation, policy and processes to fund their suppression and recovery from the national disaster fund. The budgeting process must be changed to discontinue

use of the 10-year average as the basis for estimating wildfire suppression costs as the number and severity of wildfires increases annually.

The Agency must work with insurers, communities and state governments to develop new ways to reduce the federal government's costs for wildfire suppression. This is especially important where increased cost is due to residential development within high hazard fire zones, resulting in increased insurer responsibility in the Wildland Urban Interface. Up-front assessments by local fire authorities within suburban and urban areas would help manage wildfire suppression costs.

## **2) ESA Consultation Process:**

**The Secretaries of the Interior and Agriculture should establish and implement regulations for an aggressive schedule for reviews of Endangered Species Act conflicts to reduce time spent on the never-ending consultation process.**

Our second priority is to recommend big changes to the "Consultation Process" in the implementation of the Endangered Species Act. The Act has many substantive requirements. However, there are options as to how it is administratively implemented. We recommend regulatory changes to the current consultation process that would be implemented in two phases.

Phase one would be to reauthorize and implement "counterpart regulations" similar to those in place earlier in the decade. The purpose of counterpart regulations is to enhance the efficiency and effectiveness of the consultation process under Section 7 of the ESA until such time as DOI (Fish and Wildlife Service) and DOC (NOAA—Fisheries) has completed development of Recovery Plans and designation of critical habitat. It fills the gap between the listing of a species and the completion of these mandatory regulatory requirements. These procedures are very complicated and sometimes it literally takes years for the regulatory agencies to complete the requirements.

Phase two begins after recovery planning and critical habitat designations decisions are made. Then, Fish and Wildlife Service and NOAA must leave it up to the judgment of USFS and BLM as to how these requirements are met in day-to-day planning and decision making. Forest Service and BLM should not be required to consult with Fish and Wildlife Service or NOAA on a case by case basis unless the Land Management Agencies decide some clarification of the Recovery Plan is needed.

It is counterproductive to give veto power to other Agencies over land management decisions and then expect to hold USFS and BLM responsible for end results. There simply has to be "finality" to decisions, so decisions can be implemented without being subjected to any new rules and requirements from the regulatory Agencies.

We do not believe that Congressional Action is necessary to make these changes. The Secretaries of Interior and Commerce can change the Administrative Regulations to stipulate that Land Management Agencies are responsible for complying with Recovery Plans and critical habitat requirements. New, or changes to existing, Recovery Plans apply only to new decisions made after a certain date. Streamlining consultation in this way will ensure that projects are implemented on the ground much timelier, efficiently and effectively and will contractually provide more jobs and benefits for rural citizens.

## **3. NEPA (Environmental Analysis Process):**

**The Council on Environmental Quality (CEQ) should eliminate most of their Regulations and get back to the basic requirements of the NEPA Act and maybe nullify some of the Court decisions based on those Regulations.**

In the beginning of the National Environmental Policy Act [NEPA (1970)], the Executive Branch became badly confused by saying that the “NEPA Environmental Analysis Process” was the same as the “Federal Decision-Making Process”. NEPA simply directed the Federal Agencies to fully consider environmental values along with social and economic values in making **MAJOR** decisions **SIGNIFICANTLY** affecting the quality of the human environment. In their confusion, policy makers adopted the NEPA process as its decision-making process, thereby putting an environmental bias into Federal decisions by forcing Agencies to justify why they are willing to disturb the environment to gain economic and social benefit and/or longer term environmental value. It would have been just as logical to continue using an economic or social decision-making model (we made decisions this way before 1970), using these objectives to drive decisions but adding the consideration of environmental values as required by NEPA.

This shift makes a huge difference to Agencies like the USFS and BLM. You start with economic or social objectives such as: create local jobs, provide timber to local mills, create recreational opportunities, thin the forest to improve forest health and reduce fire hazard, improve fish and wildlife habitat, focus on a sustainable future, etc. Analysis considers environmental effects to see if they are acceptable and/or need to be mitigated. That way, decision makers include environmental values in their decision-making process – all that is required by NEPA Act!

Misdirected results using the flawed interpretation of NEPA dramatically shifted USFS and BLM from objective-oriented organizations to an exclusive focus on environmental effects. The Agencies have been living with this situation since 1970. The process has been ingrained into CEQ Regulations and associated court cases.

**4) Alternatives to Appeals and Litigation:**

**We recommend immediate steps to enact legislation similar to that contained in H.R. 2647 to address policy and process reforms to speed action on integrated, collaboratively developed projects at a scale and scope that truly make a difference. We also recommend taking further legislative action to enact reforms that reduce incentives for filing “nuisance” litigation against proposed collaboratively developed forest management projects.**

It is difficult to overstate the enormous effect litigation, and especially the threat of litigation, has on the Forest Service, thereby reducing the amount of land it can treat. It is damaging when an important collaborative project, designed to improve a fire-prone forest adjacent to a threatened community, is delayed or halted even though it enjoys wide spread support.

The bond requirement, as part of legal challenges to collaborative projects, is one of the most important opportunities to reduce inappropriate challenges. Bonds are a very reasonable requirement and have our strongest possible support.

It is also discouraging to realize there is a financial incentive to pursue such litigation through the Equal Access to Justice Act (EAJA). We specifically support the definition of the phrase “ultimately prevails on the merits” to mean a court must rule in favor of the plaintiff on at least one cause of action in all actions brought by the plaintiff. Overall, we believe this important issue can be dealt with through legislation reform of EAJA and passage of the HR2677 bill. We

encourage full use of bond requirements and believe that courts are inappropriately ruling in cases on other than the merits of the case. This needs to be changed.

Another alternative to appeals and litigation is sorely needed to settle disputes. We think that documenting and utilizing USFS and BLM experience with “Collaborative Planning” would shed some insight into developing better designs for the conflict resolution process. We propose to achieve finality in making decisions as quickly as possible. USFS has control over the Appeals Process and can define what is appealable and what is not appealable in the Appeal Regulations. However, restricting litigation will require Congressional action which is a much tougher issue.

#### **5) Remove Barriers:**

**Review and remove regulations and procedures that discourage agencies from effectively working across jurisdictions and enable work to be accomplished on-the-ground.**

The large number of mandated requirements to work across several federal agencies causes enormous barriers for the USFS to meet its responsibilities in rural America. This includes such things as fire walls, financial regulations, and administrative procedures that make it very difficult to deliver effective programs and land use management at the local level. A good example of how it is currently working well is our current ability to treat forest fuels between different agencies across Federal, State and local lands.

A critical example of a barrier, especially with the US Forest Service, is the inability to hire enough qualified personnel to do the technical work within the agency. Both procedural difficulties placed in the hiring process by the Office of Personnel Management (OPM) and budgetary constraints resulted in a greatly diminished workforce throughout the agency. For example, the decline in staffing within the National Forest System is over 45% and additional problems are caused by shifting many people to firefighting responsibilities rather than their traditional jobs.

Historically many new, permanent employees initially came into the Forest Service as temporary or student hires. In the mid-2000s, OPM instituted the Pathways Program to replace the traditional programs and this change caused, and continues to cause, enormous turmoil in the agency resulting in breaking or disabling this critical intake mechanism for new employees. A review and revamping of the Pathways program in particular is needed to lead to an expedited recruitment and hiring system to help alleviate an over-worked workforce.

#### **6) Outdoor Recreation/Tourism:**

**Improved recreation infrastructure, such as access roads, bridges, and developed sites are a critical need to support and expand recreation opportunities and tourism that will bring needed income to rural businesses. Federal funding to these important programs must be increased.**

The Forest Service is a huge provider of outdoor recreation opportunities to a wide diversity of people, supporting 142,800 jobs, with contributions to the GDP of \$10.3 billion. Yet, drastically declining budgets have taken its toll on these opportunities. In 2014, the FS provided recreation opportunities to 147 million people. Recreation and trail use is up 15-40% over the last 10 years on any given Forest Service unit.

The positive effect on rural economies is huge and often provides some of the only good paying jobs in these communities. However, recreation and trails budgets are flat to declining and all maintenance budgets for roads, trails, and facilities are down 50-70%. The infrastructure on National Forests is critical to help support and grow the economy in rural America. However, continually reduced funding for these programs poses a serious and negative threat to businesses and employment in local communities.

**7) Reforestation:**

**USDA and OMB should develop a funded initiative to combine evolving innovations and technology in tree seed and seedling production with those of reforestation technology to greatly increase the acreage of reforestation in rural America on federal, state, and private lands.**

There is a desperate need to reforest millions of acres which have been deforested by wildfire, insects, diseases, drought and other natural disasters. It is ironic that the USFS is required to reforest after harvesting but there is no such requirement to reforest after wildfire.

For example, perhaps Burned Area Emergency Response (BAER) funds could be partially used for reforestation along with re-vegetation. Results of this effort will enhance forest health, soil stabilization, water quality, recreation, tourism, and air quality while providing jobs and economic input to rural economies nationwide. These efforts will insure that National Forests are healthy and productive providing all the values which they are known for worldwide.

**8) Federal Energy Tax Revenue:**

**USDA should actively support the existing federal energy tax revenue program, to develop a sustainable investment program to focus on the repair of rural road and bridge infrastructure important for management and public access.**

Evaluate and ameliorate the current situation of permitting and accessing oil, coal, and gas development throughout the National Forest System including innovative techniques. These techniques will bring efficiencies to the process in order to help the country become energy independent as well as providing strong paying jobs while increasing environmental protection. In addition, crumbling and outdated infrastructure (roads, bridges, etc.) on USFS and DOI lands hamper public access for oil and gas, recreation and other high value uses

**9) Biomass Renewable Energy:**

**Enact legislation and policy to ensure the fair treatment of biomass at the State and Local level as a renewable resource. Currently there are many conflicting laws, rules, and policies impeding business startups that could be improved in the realm of renewable energy.**

Great progress has been made in wind and solar energy production and related policies. However, in terms of biomass energy production, there are still many unnecessary restrictions that can be alleviated. If biomass energy production was expanded through incentives and policy changes, there would be many more acres, in serious need of treatment, that could be actively managed. [i.e., see report from the Governor of Wyoming at [wsfd.wyo.gov/forest-management/biomass-utilization](http://wsfd.wyo.gov/forest-management/biomass-utilization).] In addition, energy could be provided to remote communities based on the forest

which often surrounds them. Biomass energy is in fact a renewable resource and must be fully recognized as such.