

October xx, 2020

Dear Senators,

On behalf of our millions of members and supporters nationwide, we write to urge opposition to S.4431 the “Emergency Wildfire and Public Safety Act of 2020” introduced by Senators Steve Daines (R-MT) and Dianne Feinstein (D-CA). With devastating fires burning in the West, we certainly recognize the extraordinary pressure to legislate solutions. But S. 4431 is a misguided step in the wrong direction that will not adequately protect communities from wildfire. Rather than advancing best scientific practices to safeguard communities, the bill promotes logging of national forests many miles from communities while undermining bedrock environmental laws and an independent judiciary. Some provisions in the bill could actually exacerbate the wildfire crisis and divert limited resources from where they are most needed

Rather than supporting S.4431 in the name of fire safety, we urge support by the Senate for legislation which focuses on science-based methods to mitigate wildfire risk. The most effective way to protect communities from wildland fires through cost-share grants to create defensible space and fire-safe retrofits, rather than logging miles away from communities. Empirical evidence, including the Forest Service’s former top fire science researcher, has demonstrated that the most effective means of protecting structures is to create defensible space immediately around the building and install fire safe retrofits—not logging miles away from communities.

Most important to this issue is the reality that human caused climate change has increased droughts; in turn, this has increased fire risk and prevalence in the West. In addition to mitigation efforts, we urge the Senate to address the root causes of climate change.

Our primary concerns with S. 4431 include:

- Section 101 seeks to establish “three pilot projects” that would proceed through expedited environmental and judicial processes. These “forest landscape projects,” which could each be as large as 117 square miles, will leave forests with diminished environmental protection and legal protections.

Moreover, management activities including but not limited to logging/thinning and creating firebreaks up to a one-half mile wide would be governed by short-circuited environmental and judicial review procedures. This would happen by undercutting the National Environmental Policy Act (NEPA) to limit the number of alternatives (Sec. 101(d)(2)) and the scope of environmental analysis topics to be analyzed. (Sec. 101(d)(3)).

- Section 103 of S.4431 creates a categorical exclusion for the creation of fuel breaks, but the efficacy of these treatments is speculative at best (flying embers do not stop at firebreaks), and would be permitted in roadless areas and other sensitive areas. Congress already has given the Forest Service considerable legislative authority to expedite the creation of fuel breaks and other hazardous fuel reduction activities in the “Fire Funding and Forest Management Fix” that was signed into law March 23, 2018, and the agency has more than 30 other authorities for this kind of land management. There is no evidence suggesting that the Forest Service needs additional authority to reduce hazardous fuels including doing work adjacent to communities.
- Section 104 codifies and broadens existing agency authority to declare an “emergency situation” to implement actions purportedly to mitigate harm to life, property, or important natural or cultural resources on National Forest System land or adjacent land. Of significant concern is that

this section is designed to expedite post-fire logging that the best available science concludes is a very destructive land management practice, causing harm to soils, water quality, and wildlife habitat that sets back natural regeneration and reduces carbon sequestration in the forest. S. 4431 will lead to rushed and poorly planned logging projects with major impacts on soil, streams, and wildlife, and could result in increased wildfire risk.

- The goal of Section 105 of the bill is to exempt the Forest Service and Interior Department agencies from the requirement to re-initiate Endangered Species Act Section 7 consultation based on new information, thereby reducing protections for threatened and endangered species even if those activities would hasten extirpation. The bill would disqualify new information about endangered species produced by federal, state, tribal and fish and wildlife agencies, nongovernmental organizations, and other scientific experts. This section goes significantly beyond the “Cottonwood” language included in the 2018 Omnibus Act that overrode a Ninth Circuit Court of Appeals decision and threatens the integrity of the ESA consultation process by allowing federal land managers to ignore most sources of relevant scientific information.
- Section 301 would lift the current export ban on unprocessed timber from federal lands in the west. We oppose this precedent-setting provision that could result in the unintended consequence of creating unsustainable demand for federal timber.

In short, this bill does not advance policies that will adequately mitigate fire risk to homes and communities most at risk from wildfires. Over 50% of freshwater supplies in the West come from national forests. Increased levels of intensive logging could result in the dumping of sediments into watersheds, pollution of critical drinking water supplies, and potentially cost taxpayers and counties hundreds of millions of dollars.

Again, we appreciate the urgency with which Senators want to address the fire crises in the West. However, we encourage Senators to support legislation that is science-based and better suited to protect communities than S. 4431. Moreover, to truly address fires and their root causes, the Senate must address the climate crisis—which is exacerbating grassland, chaparral, and forest wildfires. Rather than proposals to expedite backcountry logging, Congress should enact policies that provide communities with grants to develop community plans, update wildfire hazard maps, improve emergency response, and implement home and critical infrastructure hardening.

Respectfully submitted: