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Chairwoman Cathy McMorris
NEPA Draft Report Comments
c/o NEPA Task Force
Committee on Resources
1324 Longworth House Building Office
Washington, DC 20515

February 3, 2006

Dear Chairwoman McMorris:

First of all, I want to thank you and Congressman Pombo for having the vision and tenacity to reach out and "touch the third rail and Magna Carta" of environmental law, NEPA. I also want to thank you and the other members of the Task Force Committee for providing this report and the 22 recommendations for improving and updating the NEPA process.

As a County Forester for five counties in northeastern California, I can assure you that your efforts are timely and urgently needed as we struggle to fully implement the fuel reduction and forest restoration activities authorized under the Herger-Feinstein Quincy Library Group Healthy Forest Restoration Act. An Act that was passed by the House of Representatives with a vote of 429-1. In other words, every Democrat and Republican in the House of Representatives voted for this collaborative pilot project and now it was time to move on and get the projects implemented on the ground.

Since the passage of the Act over 130 appeals and lawsuits have been filed against the pilot project and 75% of those appeals have been filed by just six environmental organizations. Since my April 18th e-mail message to you in support of this effort, the Meadow Valley fuel reduction project on the Mt. Hough Ranger District of the Plumas National Forest has been through the Eastern District Court of California and the Ninth Circuit Court of Appeals in San Francisco because of frivolous claims by the environmental crisis industry. In both courts, the quality and integrity of the environmental review and analysis performed by the professionals in the Forest Service was upheld by the courts, thus vindicating the agency from the frivolous claims of the environmentalists.

The Meadow Valley project was a FY-2004 project and it was finally settled in the second quarter of FY-2006. The basic claims against the Forest Service were: 1) Forest Service failed to comply with NEPA by only developing an EA and not an EIS, 2) Forest Service failed to consider cumulative impacts of future projects, 3) Forest Service failed to consider cumulative impacts of past and present projects and 4) Forest Service failed to consider highly uncertain effects or unique and unknown risks on owls and communities. The ruling in each of these claims was that the Forest Service did in deed comply with NEPA and took the required "hard look" as charged by NEPA. In both courts, the judge simply stated that this case is all about the environmental community "not agreeing with the decision made by the Forest Service". In other words, if you don't get what you want in the NEPA decision, appeal the decision and go to court. This is the strategy of the obstructionists and it must be stopped if the land management agencies are going to meet their objectives under the National Fire Plan and the Healthy Forest Restoration Act.

Since this January 19th ruling in the Ninth Circuit Court of Appeals, the primary appellant (Sierra Nevada Forest Protection Campaign) has served a letter of intent to file another lawsuit against the Creeks fuel reduction and forest restoration project on the Eagle Lake Ranger District of the Lassen National Forest. Even though this project was analyzed under an EIS as requested, the enviros keep marching on with their funded strategy to stop and or delay the successful implementation of the H-FQLG Pilot Project. As such, the citizens in the impacted communities

continue to be at risk from catastrophic forest fires while losing critically important social and economic opportunities generated under the Act and implemented through these projects.

As we move through the financial constraints of the War in Iraq and Hurricane Katrina, it is important that the NEPA process costs be reviewed and brought under control. In California 45% of the forests annual operating budget is being spent in the NEPA process to build "bullet proof documents" while fewer funds are being spent on the ground to protect communities and watersheds from catastrophic forest fires.

In addition to my duties as Counties' QLG Forester, I also have the pleasure to serve on the Board of Directors for the California Fire Safe Council. We have over 160 County and community Fire Safe Councils throughout the state and they are all actively engaged in the development and implementation of Community Wildfire Protection Plans that call for the strategic reduction of hazardous fuel conditions within their communities and associated Wildland Urban Interface (WUI) areas.

The primary funding source for these fuel reduction activities are federal funds that come through the National Fire Plan – Community Assistance Grants or Title II funds under the Secure Rural Schools and Community Self-Determination Act. Under both funding mechanisms, federal employees are involved in the grant selection and approval process and this triggers NEPA reviews of projects on private property. Since we have the California Environmental Quality Act (CEQA) and the California Forest Practice Act (CFPA) which are the most stringent environmental state laws and reviews in the nation, adoption of recommendation 3.2 is urgently needed. Currently 20-35% of the limited grant funds that go to local FSC's for fuel reduction activities on private property are being spend on NEPA and CEQA processes. This is an expensive and time consuming duplicative process and recommendation 3.2 is right on track to solve this problem

In addition to the twenty two recommended improvements, I urge your committee to include some form of performance bond payment that must be filed by the appellants in frivolous lawsuits and winner take all. The agency pays for the NEPA work and court costs out of their annual operating budget and these result in fewer acres being treated on the ground. Since the enviros get to file for legal and court costs when they win, it is only fair that the Forest Service be able to recover their costs when they win.

Again, thank you for the opportunity to provide my comments and support for this important task and please keep me informed and involved as you move forward.

Cordially,

Frank Stewart
Counties' QLG Forester