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SENATE

{ REPORT
{ 106-176

COMMUNITY FOREST RESTORATION ACT

OCTOBER 6, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1288]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1288) to provide incentives for collaborative forest restoration projects on National Forest System and other public lands in New Mexico, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Community Forest Restoration Act”.

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) A century of fire suppression, logging, and livestock grazing has altered the ecological balance of New Mexico’s forests;
- (2) Some forest lands in New Mexico contain an unnaturally high number of small diameter trees that are subject to large, high intensity wildfires that can endanger human lives, livelihoods, and ecological stability;
- (3) Forest lands that contain an unnaturally high number of small diameter trees have reduced biodiversity and provide fewer benefits to human communities, wildlife, and watersheds;
- (4) Healthy and productive watersheds minimize the threat of large, high intensity wildfires, provide abundant and diverse wildlife habitat, and produce a variety of timber and non-timber products including better quality water and increased water flows;
- (5) Restoration efforts are more successful when there is involvement from neighboring communities and better stewardship will evolve from more diverse involvement; and
- (6) Designing demonstration restoration projects through a collaborative approach may—
 - (A) Lead to the development of cost effective restoration activities;

- (B) Empower diverse organizations to implement activities which value local and traditional knowledge;
- (C) Build ownership and civic pride; and
- (D) Ensure healthy, diverse, and productive forests and watersheds.

SEC. 3. PURPOSES.

The purposes of this Act are—

- (1) To promote healthy watersheds and reduce the threat of large, high intensity wildfires, insect infestation, and disease in the forests in New Mexico;
- (2) To improve the functioning of forest ecosystems and enhance plant and wildlife biodiversity by reducing the unnaturally high number and density of small diameter trees on Federal, Tribal, State, County, and Municipal forest lands;
- (3) To improve communication and joint problem solving among individuals and groups who are interested in restoring the diversity and productivity of forested watersheds in New Mexico;
- (4) To improve the use of, or add value to, small diameter trees; and
- (5) To encourage sustainable communities and sustainable forests through collaborative partnerships, whose objectives are forest restoration; and
- (6) To develop, demonstrate, and evaluate ecologically sound forest restoration techniques.

SEC. 4. DEFINITIONS.

As used in this Act—

- (1) The term “Secretary” means the Secretary of Agriculture acting through the Chief of the Forest Service; and
- (2) The term “stakeholder” includes: tribal governments, educational institutions, landowners, and other interested public and private entities.

SEC. 5. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall establish a cooperative forest restoration program in New Mexico in order to provide cost-share grants to stakeholders for experimental forest restoration projects that are designed through a collaborative process (hereinafter referred to as the “Collaborative Forest Restoration Program”). The projects may be entirely on, or on any combination of, Federal, Tribal, State, County, or Municipal forest lands. The Federal share of an individual project cost shall not exceed eighty percent of the total cost. The twenty percent matching may be in the form of cash or in-kind contribution.

(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive funding under this Act, a project shall—

- (1) Address the following objectives—
 - (A) Reduce the threat of large, high intensity wildfires and the negative effects to excessive competition between trees by restoring ecosystem functions, structures, and species composition, including the reduction of non-native species populations;
 - (B) Re-establish fire regimes approximating those that shaped forest ecosystems prior to fire suppression;
 - (C) Preserve old and large trees;
 - (D) Replant trees in deforested areas if they exist in the proposed project area;
 - (E) Improve the use of, or add value to, small diameter trees;
- (2) Comply with all Federal and State environmental laws;
- (3) Include a diverse and balanced group of stakeholders as well as appropriate Federal, Tribal, State, County, and Municipal government representatives in the design, implementation, and monitoring of the project;
- (4) Incorporate current scientific forest restoration information;
- (5) Include a multi-party assessment to—
 - (A) Identify both the existing ecological condition of the proposed project area and the desired future condition; and
 - (B) Report, upon project completion, on the positive or negative impact and effectiveness of the project including improvements in local management skills and on the ground results;
- (6) Create local employment or training opportunities within the context of accomplishing restoration objectives, that are consistent with the purposes of this Act, including summer youth jobs programs such as the Youth Conservation Corps where appropriate;
- (7) Not exceed four years in length;

(8) Not exceed a total annual cost of \$150,000, with the Federal portion not exceeding \$120,000 annually, nor exceed a total cost of \$450,000 for the project, with the Federal portion of the total cost not exceeding \$360,000;

(9) Leverage Federal funding through in-kind or matching contributions; and

(10) Include an agreement by each stakeholder to attend an annual workshop with other stakeholders for the purpose of discussing the cooperative forest restoration program and projects implemented under this Act. The Secretary shall coordinate and fund the annual workshop. Stakeholders may use funding for projects authorized under this Act to pay for their travel and per diem expenses to attend the workshop.

SEC. 6. SELECTION PROCESS.

(a) After consulting with the technical advisory panel established in subsection (b), the Secretary shall select the proposals that will receive funding through the Collaborative Forest Restoration Program.

(b) The Secretary shall convene a technical advisory panel to evaluate the proposals for forest restoration grants and provide recommendations regarding which proposals would best meet the objectives of the Collaborative Forest Restoration Program. The technical advisory panel shall consider eligibility criteria established in section 5, the effect on long term management, and seek to use a consensus-based decision making process to develop such recommendations. The panel shall be composed of 12 to 15 members, to be appointed by the Secretary as follows:

(1) A State Natural Resource official from the State of New Mexico;

(2) At least two representatives from Federal land management agencies;

(3) At least one tribal or pueblo representative;

(4) At least two independent scientists with experience in forest ecosystem restoration; and

(5) Equal representation from:

(A) Conservation interests;

(B) Local communities; and

(C) Commodity interests.

SEC. 7. MONITORING AND EVALUATION.

The Secretary shall establish a multi-party monitoring and evaluation process in order to assess the cumulative accomplishments or adverse impacts of the Collaborative Forest Restoration Program. The Secretary shall include any interested individual or organization in the monitoring and evaluation process. The Secretary also shall conduct a monitoring program to assess the short and long term ecological effects of the restoration treatments, if any, for a minimum of 15 years.

SEC. 8. REPORT.

No later than five years after the first fiscal year in which funding is made available for this program, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The report shall include an assessment on whether, and to what extent, the projects funded pursuant to this Act are meeting the purposes of the Collaborative Forest Restoration Program.

PURPOSE OF THE MEASURE

The purpose of S. 1288 is to direct the Secretary of Agriculture to create a collaborative forest restoration program in New Mexico to experiment with new ways to restore forests and add value to small diameter trees.

S. 1288 is designed to improve the functioning of forest ecosystems, to enhance plant and wildlife diversity by reducing the unnaturally high number of small diameter trees on some of the forest lands in New Mexico, to develop, demonstrate, and evaluate ecologically sound forest restoration techniques.

Specifically, S. 1288 will integrate ecological, social, and economic values by: defining objectives for forested watersheds; creating training and employment opportunities based on restoration activity; and promoting value-added processing of small diameter trees in local communities. The bill is needed to restore the natural

fire regime to some forest lands and create a resilient forest while meeting the needs of communities in New Mexico.

BACKGROUND AND NEED

Human uses over the last century dramatically changed the structure of some of the pine forests in New Mexico. Currently, when fires are started by lightning in these forest, they burn with high intensity over large areas, not only killing most trees in the forest but also threatening human communities. In the past, the condition was quite different. For thousands of years, even as late as 1900, frequent, low-intensity fires were common in the pine forests of New Mexico. These fires were non-threatening surface fires of low intensity.

As a result of altering the intensity and frequency of fire, some forest lands in New Mexico now contain an unnaturally high number of small diameter trees and not enough large ones. This situation has repercussions for many of the values the forests provide including loss of wildlife habitat, impoverished watersheds, and fewer forest products and recreational opportunities.

LEGISLATIVE HISTORY

S. 1288 was introduced by Senator Bingaman on June 28, 1999. The Subcommittee on Forests and Public Land Management held a hearing on S. 1288 on July 27, 1999. At the business meeting on September 22, 1999, the Committee on Energy and Natural Resources ordered S. 1288 favorably reported, with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on September 22, 1999, by a voice vote of a quorum present, recommends that the Senate pass S. 1288, if amended as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act the "Community Forest Restoration Act."

Section 2 presents the findings.

Section 3 sets forth the purposes of the Act.

Section 4 defines the terms used in the Act.

Section 5(a) requires the Secretary to establish a cooperative forest restoration program in New Mexico to provide cost-share grants to stakeholders for experimental forest restoration projects.

Subsection (b) sets forth the eligibility requirements for projects to receive funding under the Act.

Subparagraph (1)(A) requires that a project, in order to receive funds, address the objectives of reducing the threat of large wildfires, and the effects of excessive competition between trees by restoring ecosystems, including reducing non-native species. It is the Committee's understanding that the negative effects of excessive competition between trees includes the reduction of the abundance and diversity of wildlife habitat, reduced variety of timber and non-timber products, and reduced water flows and quality.

Subparagraph (B) states that a project, in order to receive funds address the objectives of reestablishing historic fire regimes.

Subparagraph (C) requires that a project, in order to receive funds, address the objectives of preserving old and large trees. The Committee expects that projects that receive funding under this Act shall retain trees that will help to achieve the desired future condition, which would generally be those trees that were established prior to the turn of the century.

Subparagraph (D) states that a project, in order to receive funds, address the objectives of planting trees in deforested areas.

Subparagraph (E) requires that a project, in order to receive funds, address the objectives of improving the use of, or adding value to, small diameter trees.

Paragraphs (2) through (4) require that a project: comply with environmental laws; include a diverse and balanced group of stakeholders and government representatives in the design, implementation, and monitoring of a project; and incorporate current scientific information.

Paragraph (5) requires that a project include a multi-party assessment that identifies the existing and desired future condition, as well as a report on the impact and effectiveness of a project on the forest condition and the local community when it is completed.

Paragraph (6) requires that, where appropriate, a project create local employment opportunities including summer youth jobs such as those provided by the Youth Conservation Corps.

Paragraphs (7) through (9) state that a project may not exceed four years in length, or cost over \$150,000 in any one year, or \$450,000 in total. The Committee intends that the amounts identified in this paragraph not include Forest Service administrative expenses.

Paragraph (10) requires that a project include an agreement by each stakeholder to attend an annual workshop with other stakeholders to discuss the program and projects implemented through it.

Section 6 requires the Secretary to convene and consult with a technical advisory panel prior to selecting projects that will receive funding.

Section 7 requires the Secretary to establish a monitoring and evaluation process to assess the accomplishments of the collaborative forest restoration programs.

Section 8 requires the Secretary to submit a five-year report to the Congress that assesses the projects funded through the collaborative forest restoration program.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 4, 1999.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1288, the Community Forest Restoration Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria Heid Hall (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 1288—Community Forest Restoration Act

S. 1288 would direct the Forest Service to establish a cooperative program for forest restoration in New Mexico to provide grants for experimental forest restoration projects. The bill provides that the federal share of each project could not exceed 80 percent of the total cost of the project, subject to an annual limit of \$120,000 per project. The bill identifies the eligibility requirements for projects to receive funding under the program, but places no cap on the number of projects to be funded.

CBO estimates that implementing this bill would result in discretionary spending of about \$1 million a year, assuming appropriation of the necessary amounts. The cost of this program is uncertain because the level of activity would depend on whether eligible grantees submit proposals and provide matching funds. For purposes of this estimate, we assume that five to ten projects would be funded each year. Based on information from the Forest Service, we estimate that the agency would spend about \$200,000 per year to monitor, evaluate and report on the program. Enacting the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 1288 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The state of New Mexico, local governments in that state, or tribal governments could receive grant funds if they choose to participate in the program established by this bill. In order to receive such funds, these governments would be required to provide matching funds equal to at least 20 percent of the total cost of each project and to meet certain eligibility requirements. The cost of complying with these conditions would be voluntary.

The CBO staff contacts are Victoria Heid Hall (for federal costs), and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1288.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1288, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 22, 1999, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 1288. These reports had not been received at the time the report on S. 1288 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF RON STEWART, DEPUTY CHIEF, PROGRAMS
AND LEGISLATION, FOREST SERVICE, DEPARTMENT OF AG-
RICULTURE

Mr. Chairman and members of the subcommittee: Thank you for the opportunity to appear before you today to discuss S. 1288, the Community Forest Restoration Act.

I am Ron Stewart, Forest Service Deputy Chief for Programs and Legislation. I am accompanied today by Mike Williams, Assistant Director of Lands.

The Administration supports S. 1288, the Community Forest Restoration Act if amended to address concerns and incorporate suggested changes as described below.

S. 1288

S. 1288 directs the Secretary of Agriculture to establish a collaborative forest restoration program in New Mexico. Under the bill, the Secretary could make cost-share grants to interested stakeholders, such as tribal governments, educational institutions, landowners, and other public and private entities for experimental forest restoration projects.

The objectives of the legislation are: (1) to promote healthy watersheds by reducing threats from insects, disease, and unnaturally occurring catastrophic wildfire; (2) to enhance biodiversity; (3) to improve communication and joint problem solving among individuals and groups concerned with the management of New Mexico's forests; (4) to promote the use of small diameter trees; and (5) to encourage sustainable communities and forests.

The objectives of S. 1288 are goals that the Forest Service strongly supports; indeed, they represent ends that the agency has been actively pursuing under its existing permanent authorities and through pilot projects. In fact, the Camino Real Ranger District of the Carson National Forest was recently recognized for an innovations in government award by Harvard University's Kennedy School of Government for its collaborative stewardship project in northern New Mexico.

New Mexico, and many areas across the West have an unnaturally high density of small diameter trees. Our relatively arid forests of the inland west and Rocky Mountains, of which New Mexico is a part, are perhaps in the most serious condition. At present we have a number of important initiatives underway to help address these problems and S. 1288 will provide an additional option.

- First, the Forest Service has invited nominations for large-scale (i.e., 200,000 to 500,000 acre) watershed restoration projects which are now being evaluated;

- Second, under Section 347 of the fiscal year 1999 Interior appropriations bill, the Forest Service has entered into 28 stewardship end-results contracting pilot project testing a wide array of new administrative tools.

- Third, as part of the President's budget, the agency requested \$15 million for forest ecosystem restoration and improvement to accomplish watershed health objectives, although only funded by the Senate Interior Appropriations Subcommittee at \$5 million.

- Fourth, the Research, State and Private Forestry, and National Forest System branches of the Forest Service have been working together to develop a comprehensive strategy for achieving watershed restoration and fire protection goals through improved utilization of small diameter material.

- Fifth, we are placing greater emphasis on our watershed, wildlife and fish, and hazardous fuels reduction programs and budgets, all of which contribute to programs that improve watershed health.

- Finally, the Forest Service is actively pursuing a forest health risk mapping effort to help identify those areas at greatest risk from unnaturally occurring levels of catastrophic wildfire, insects, and disease and to thereby provide a more scientific basis for allocating resources in response to these needs.

Some aspects of the legislation either concern us or require clarification. Our principal concerns are as follows:

(1) Section 5(b) Eligibility Requirements: The Forest Service recommends that the eligibility requirements be modified to require that all projects meet restoration criteria in addition to one or more of the other criteria listed. It is extremely important to ensure that the stewardship work accomplished with these grants, first and foremost, addresses the restoration and land health priorities that exist on National Forest lands in New Mexico.

(2) Use of Federal Funds on Non-Federal Lands: Sections 5(b)(1)(A) and 5(b)(1)(B) indicate that projects that accomplish restoration work on federal, state, or tribal forest lands may all be eligible to receive funding under the bill. The legislation should clearly state whether the Secretary would have authority to expend federal funds on projects involving only non-federal lands or even a combination of federal and non-federal lands.

(3) Ceiling on Project Funding: Section 5(b)(8) provides that to be eligible to receive grant funding under the Act, a project must “not cost more than \$150,000 annually nor \$450,000 in total.” It is unclear whether these figures apply to just the federal funding portion of the total project cost, or to the total of the federal funds plus matching funds from other sources which under the terms of the bill would be at least 20 percent of the total project funding.

(4) Annual Workshop: Section 5(b)(10) requires that stakeholders attend an annual workshop. There is no reference as to the purpose of the workshop or who will conduct and pay for the workshop. Our understanding is that these workshops would be coordinated by the Forest Service for the purpose of stakeholders to meet, share, and learn from their common experiences. The bill should be clarified to reflect this.

Closing

In summary Mr. Chairman, we support the objectives and intent of S. 1288, and look forward to working with you to make the necessary changes and clarifications.

We thank the subcommittee for the opportunity to comment on this bill. I would be pleased to answer any questions you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1288 as ordered reported.