

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Joe Manchin
Chairman
Senate Energy and Natural Resources
Committee
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
Senate Energy and Natural Resources
Committee
Washington, DC 20510

CC: The Honorable Debbie Stabenow, Chairwoman, Senate Agriculture Committee

Dear Leader Schumer, Leader McConnell, Chairman Manchin, and Ranking Member Barrasso,

On behalf of our millions of members and supporters, our organizations write to express our strong opposition to the inclusion of Chairman Westerman's and Representative Peters's legislation, the "Fix Our Forest Act" (FOFA) in any public lands package in the final months of the 118th Congress. All of our groups are supportive of legislation that will conserve our public lands and waters, but any attempt to include FOFA (especially the three specific sections of concern discussed below) in a public lands package will make such a package untenable, and unnecessarily controversial, and will cause our groups to oppose such a package.

This legislation purports to be about sound forest management and wildfire risk reduction, but it will stifle citizen voices, remove science from land management decisions, and legislate a rollback of the Endangered Species Act (ESA), National Environmental Policy Act (NEPA), and the National Historic Preservation Act (NHPA) on millions of acres of federal lands. As the Administration indicated through a Statement of Administration Policy (SAP), FOFA "contains a number of provisions that would undermine basic protections for communities, lands, waters, and wildlife; reduce opportunities for public input; and heighten the likelihood for conflict, litigation, **and delay on needed forest restoration and resilience work**" [emphasis added]. We have three primary concerns with the legislation which we view as poison pills that must be removed before final passage.

First, the Fix Our Forests Act encourages logging and other activities within designated fire-shed management areas and categorically excludes these activities from detailed NEPA review. Specifically, FOFA includes emergency authorities that will authorize ground-disturbing activities prior to any environmental analysis or Tribal consultation. Additionally, section 106(b) amends the Healthy Forests Restoration Act to increase numerous existing CEs to 10,000 acres, or 15 square miles, an acreage that the Forest Service has testified may have significant impacts. Treatment across this large acreage is almost certain to have significant impacts on sensitive wildlife habitat, drinking water sources, and ecosystems. Authorizing extensive timber harvest without objective and detailed environmental and administrative review is unacceptable because

it disregards the best available western and Indigenous knowledge, limits public involvement in federal decision making, and ultimately does not facilitate projects that keep our forests and communities safe from uncharacteristic wildfire.

Second, Section 121 of the bill contains several provisions that inappropriately and severely limit long standing judicial review standards for certain U.S. Forest Service and Bureau of Land Management actions. The legislation dramatically limits the time to seek judicial review to 120 days after the date of publication of a notice in the Federal Register of agency intent to carry out a fire management project: the current statute of limitations is 6 years. This abbreviated timeframe places an undue burden on interested parties and rural and frontline communities with limited resources and would likely have the unintended consequence of leading to more litigation, not less, as interested parties may be forced to file suit to protect their legal rights.

Third, Section 122 would weaken the ESA by broadly exempting the USFS and the BLM from the regulatory requirement under Section 7 of the ESA to reinitiate consultation when new information comes to light that indicates that implementation of land management plans may affect threatened or endangered species in a manner that was not previously anticipated. Reinitiation of consultation at the forest plan level is rare, but imperative because it provides the only mechanism to change management practices and apply them uniformly at the landscape scale, thereby avoiding extinction-by-a-thousand-cuts from consultation that occurs solely at the project level. A recent FOIA response revealed that reinitiation of consultation at the forest plan level based on new information (often climate change-related), newly-listed species, or new designations of critical habitat has only occurred 6 times between 2017-2020; a rare occurrence that when it did occur, was completed relatively quickly. Exempting the USFS and BLM from the requirement to reinitiate consultation would harm listed species and codify climate denial.

The passage of any public lands package that includes any of these three provisions will only serve to harm our public lands by removing expert scientific and public input from the process, anathema to a public lands package that is meant to protect these special lands and waters that are owned by the American public. Therefore, our organizations strongly oppose the inclusion of the Fix Our Forests Act in a public lands package, and will not support any package that contains the problematic language identified above. We urge members of Congress to pass a clean public lands package, without these provisions that would undercut our bedrock environmental laws.

Sincerely,

Center for Biological Diversity
Defenders of Wildlife
Earthjustice
Natural Resources Defense Council
Sierra Club
Silvix Resources
Southern Environmental Law Center

350 Bay Area Action
350 Eugene
350 Rutland County
Active San Gabriel Valley
Alaska Environment
Alaska Wilderness League
Allegheny-Blue Ridge Alliance
Archaeology Southwest
Arizona Trail Association
Athens County's Future Action Network (ACFAN-Ohio)
Atowi Project
Buffalo Trace Preservation Group
California Environmental Voters
California Institute for Biodiversity
Californians for Western Wilderness
CalWild
Cascadia Wildlands
Central Oregon LandWatch
Chattooga Conservancy
Clean Water Action California
Climate Action California
Climate Communications Coalition
Climate Writers
Colorado Wild Public Lands
Conservation Northwest
Dogwood Alliance
Eagle Summit Wilderness Alliance
EcoFlight
Endangered Species Coalition
Environment America
Environment California
Environment Colorado
Environment Florida
Environment Georgia
Environment Illinois
Environment New Mexico
Environment North Carolina
Environment Oregon
Environment Texas
Environment Virginia
Environment Washington
Environmental Law & Policy Center
Environmental Protection Information Center (EPIC)
Extinction Rebellion Vermont

Forest Keeper
Forests Forever
Friends of Animals
Friends of Bell Smith Springs
Friends of Blackwater, Inc.
Friends of the Bitterroot
Friends of White's Woods
Gallatin Wildlife Association
Gila Resources Information Project
Grand Canyon Trust
Great Old Broads for Wilderness
Great Old Broads for Wilderness, Cascade Volcano Chapter
Great Old Broads for Wilderness, Central/Eastern Oregon Broadband Chapter
Great Old Broads for Wilderness, Polly Dyer Seattle Broads
Great Old Broads for Wilderness, Willamette Valley Broadband
GreenLatinos
Heartwood
HG Conservation Solutions
Hispanic Access Foundation
Idaho Conservation League
Indiana Forest Alliance
Interfaith EarthKeepers
John Muir Project
Kentucky Heartwood
Klamath Forest Alliance
Klamath Siskiyou Wildlands Center
Los Padres ForestWatch
MA Sierra Club
Massachusetts Forest Watch
Natural Resources Law
New Mexico Interfaith Power and Light
New Mexico Natural History Institute
New Mexico Wild
Northeastern Minnesotans for Wilderness
Old-Growth Forest Network
Olympic Climate Action
Oregon Natural Desert Association
Oregon Wild
OSPIRG Students
Pacific Crest Trail Association
Partnership for Policy Integrity
PennEnvironment
Quiet Use Coalition
Rachel Carson Council

RESTORE: The North Woods
Salem Audubon Society
San Francisco Bay Physicians for Social Responsibility
San Juan Citizens Alliance
San Luis Valley Ecosystem Council
Santa Fe Forest Coalition
Sierra Forest Legacy
Soda Mountain Wilderness Council
South Umpqua Rural Community Partnership
Southeast Alaska Conservation Council
Southern Utah Wilderness Alliance
Standing Trees
StopVTBiomass
The Ocean Project
The Story of Stuff
The Wilderness Society
Thurston Climate Action--Tree Action Group
Tuleyome
Trust for Public Land
Upper Gila Watershed Alliance
Upper Valley Affinity Group (Vermont)
Utility Wildfire Prevention Task Force
Valley Women's Club of SLV Environmental Committee
West Virginia Highlands Conservancy
Western Leaders Network
Western Watersheds Project
Wild Hope
Wild Watershed
WildEarth Guardians
Wilderness Watch
Wilderness Workshop
Williams Community Forest Project
Will Harlan
Women's Earth and Climate Action Network
Wyoming Wilderness Association
Yaak Valley Forest Council