

**Fiscal Year 2013 Interior, Environment, and Related Agencies Budget**  
***Testimony by Robert Malmshheimer, PhD***  
***Chair, Committee on Forest Policy***  
***Society of American Foresters***  
**House of Representatives Committee on Appropriations,**  
**Subcommittee on Interior, Environment, and Related Agencies**  
**March 22, 2012**

Good morning Chairman and members of the Subcommittee. My name is Robert W. Malmshheimer, and I am a professor of forest policy and law at the SUNY College of Environmental Science and Forestry. I am here today to testify on behalf of the Society of American Foresters (SAF).

The Society of American Foresters (SAF), with more than 12,000 forestry professionals across the country in all segments of the profession, believes in sound management and stewardship of the nation's public and private forests. Funding for the Department of the Interior (DOI) and the USDA Forest Service (USFS), both contained in the Interior, Environment, and Related Agencies Appropriations bill, are particularly important to maintaining and improving the nation's forests.

We would like to begin by thanking the Administration for recognizing the importance of the USFS and forestry components of the DOI and maintaining funding at approximately FY2012 Enacted levels for USFS and the Bureau of Land Management (BLM). That said, the 751 million acres of forests in the US are subject to tremendous pressures from wildfires, insects, disease, invasive species, changing climates, and more. At the same time, people are relying on forests more and more for clean water and air, recreational opportunities, hunting, fishing, forest products, and scenic values. These pressures and harsh economic times force federal agencies to look for innovative ways to complete more work with limited resources.

SAF remains deeply concerned about these issues and the overall sustainability of the nation's forests. To that end, SAF urges a focus on several key areas that directly impact the range of programs within the DOI and USFS budgets. Key areas include:

- **Forest health on public and private forestlands**
- **Addressing barriers to active forest management**
- **SAF budget recommendations**

### **Forest Health**

As the largest professional society for foresters in the world, SAF represents the forest managers of both public and private forests in the US. Across the country, our forests are reaching a critical threshold that, if passed, could lead to even further negative impacts including: continued closures of established infrastructure; job losses to rural communities; pressure of invasive species; expanded areas of insects and disease; overstocked stands; increased risk of wildfire.

Since 1910, the US's forest area has been relatively stable, with a slight increase in the last two decades.<sup>1</sup> The current volume of annual timber growth is 32 percent higher than the volume of

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<sup>1</sup> US Forest Service (USFS). 2007. *U.S. Forest Resource Facts and Historical Trends*. Available online at <http://fia.fs.fed.us/library/brochures/docs/Forest%20Facts%201952-2007%20English%20rev072411.pdf>; last accessed March 2012.

annual removals. This, in part, has led to the need for restoration on 65 to 82 million acres of the National Forest System (NFS), as Chief Tidwell mentioned in his testimony to the Subcommittee on February 17, 2012.<sup>2</sup> In 2012, the USFS is proposing to complete only four million acres of restoration on NFS lands, yielding 2.6 BBF in forest products.<sup>3</sup> This is not enough to combat our nation's declining forest health, especially in light of the current bark beetle epidemic in the west that has led to unprecedented numbers of dead and dying trees. This low production level on public lands pressures private forestlands, which already provide 91 percent of wood production, to meet demand.<sup>4</sup>

Constraints on forests and forest management have led to a steady decline in the forestry-related job sector. From 2005 to 2010 primary (forestry and logging, paper, wood manufacturing, etc.) and secondary (residential construction, furniture, etc.) employment have seen a combined reduction of 920,507 total jobs. In fact, total US annual timber harvests are at their lowest levels since the 1960s. This lack of production led to the closure of more than 1,000 mills from 2005 to 2009, which decreased overall sawmilling capacity by 15 percent, and lowered production levels below 50 percent of capacity at the remaining mills.<sup>5</sup>

### **Barriers to Active Forest Management**

SAF understands that the economic downturn has impacted forest industries. However, in recent decades other factors have developed that also negatively affect the forestry profession and create barriers to active forest management. One of those barriers is the Equal Access to Justice Act (EAJA).

Last year the committee included report language in its budget recommendation that addressed the complexity and conflicts often associated with EAJA. The committee requested detailed reports on the disposition of EAJA applications, the amount of agency funds paid as the result of the Act, the names of the fee recipients and federal judges involved in EAJA cases, and the hourly rates of attorneys and expert witnesses.<sup>6</sup>

In 2011, Dr. Michael J. Mortimer, Director, College of Natural Resources at Virginia Tech University, and I completed a study on EAJA that examined concerns raised by interest groups, stakeholders, and Congressional members. The study, published as a peer-reviewed article in the *Journal of Forestry*, examined EAJA fees paid by USFS in litigation from 1999 to 2005. Our results, which analyzed data obtained through Freedom of Information Act (FIOA) requests and the analysis of public records, documented that federal agency EAJA fee records differed considerably. As Table 1 reflects, there was nearly a \$1 million difference between the data provided in 2006 by the Secretary of Agriculture to the US Senate Committee on Energy and Natural Resources (SCENR) and the records we obtained from the USFS, and the Secretary's

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<sup>2</sup> Tidwell, T. 2012. *Statement of Tom Tidwell, Chief, US Forest Service before the Senate Committee on Energy and Natural Resources Concerning The President's Budget Request for the US Forest Service in Fiscal Year 2013*. March 6, 2010. Available online at

[http://www.energy.senate.gov/public/index.cfm/files/serve?File\\_id=8f60d724-f8e5-4d57-9f01-b8a6837d9f5d](http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=8f60d724-f8e5-4d57-9f01-b8a6837d9f5d); last accessed March 2012.

<sup>3</sup> US Forest Service (USFS). 2012. *Increasing the Pace of Restoration and Job Creation on Our National Forests*. Available online at <http://www.fs.fed.us/publications/restoration/restoration.pdf>; last accessed March 2012.

<sup>4</sup> US Forest Service (USFS). 2010. *National Report on Sustainable Forests—2010*. Available online at [http://www.fs.fed.us/research/sustain/2010SustainabilityReport/documents/2010\\_SustainabilityReport.pdf](http://www.fs.fed.us/research/sustain/2010SustainabilityReport/documents/2010_SustainabilityReport.pdf); last accessed March 2012.

<sup>5</sup> Smith, B.W., and Guldin, R.W. 2012. *Forest Sector Reeling during Economic Downturn*. The Forestry Source January, 2012. Available online at [http://www.nxtbook.com/nxtbooks/saf/forestrysource\\_201201/index.php](http://www.nxtbook.com/nxtbooks/saf/forestrysource_201201/index.php); last accessed March 2012.

<sup>6</sup> US Congress. 2012. Department of the Interior, Environment, and Related Agencies Appropriations Bill 112<sup>th</sup> Congress First Session Report 112-151. Available online at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt151/pdf/CRPT-112hrpt151.pdf>; last accessed March 2012.

response was nearly double the total amount Department of Justice (DOJ) records indicate were paid.

**Table 1:** Comparison of US Forest Service Equal Access to Justice Act Payments, 1999 to 2005<sup>7</sup>

Forest Service FOIA Information	DOJ FOIA Information	Information provided to SCENR
\$6,137,583	\$3,526,632	\$7,002,530

Given these inconsistencies and the controversy surrounding EAJA payments, SAF supports the inclusion of EAJA reporting requirements in this year's budget. We believe that doing so will greatly improve the transparency of EAJA payments and provide policymakers and stakeholders with standardized information that they can use to assess the Act's performance. We would also like to thank Congresswomen Cynthia Lummis for her support of this issue; we support her proposed legislation, H.R.1966 "Government Litigation Savings Act."

### **SAF Budget Recommendations**

SAF understands that the Subcommittee has to make difficult decisions when funding federal agencies. We would like to commend the members of the Subcommittee for your continued focused efforts on forest sustainability. With this in mind, we will not give recommendations for all of the programs we support. Instead, we will focus on several of our top priorities and ask that the committee recognize that our support is not limited to the recommendations that follow.

SAF supports the FY2012 budget language to increase the NFS timber harvest from 2.4 BBF to 3.0 BBF this fiscal year. While SAF is encouraged by USDA Secretary Vilsack's announcement to increase harvest levels to 2.6 BBF in FY2012,<sup>8</sup> we support increased restoration efforts by the administration to restore priority watersheds. We look forward to continuing to work with Congress and the Administration to see increased restoration work.

USFS Research and Development (R&D) provides for essential research on priority areas such as disturbances (including wildfire), watershed restoration needs, local level emphasis, and strategic programs. R&D's Forest Inventory and Analysis (FIA) program is the backbone of US forestry knowledge, providing the only national census of forests across all ownerships. Through FIA, USFS (partnering with state forestry agencies and the private sector) collects and analyzes forest data to assess trends on issues such as forest health and management, fragmentation and parcelization, and forest carbon sequestration. FIA data also evaluates forest disturbance risks, such as wildfire, insects and disease, and spread of invasive species. SAF requests that Congress support FIA at no less than \$69 million in FY2013.

More than 50 percent of our Nation's forests are privately owned. This makes USFS State and Private Forestry (S&PF) allocations, used in part to assist in managing these lands, essential to the health of our forests. SAF strongly supports S&PF funding including the Forest Health Management (FHM) Budget Line Items (BLI) for both federal and cooperative lands. We recommend funding FHM BLI's at FY2012 enacted funding levels of \$112 million. These

<sup>7</sup> Mortimer, M.J., and R.W. Malmshiemer. 2011. The Equal Access to Justice Act and US Forest Service Land Management: Incentives to Litigate? *Journal of Forestry* 109(6): 352-358.

<sup>8</sup> US Forest Service. 2012. *US Forest Service highlights expansion of restoration of national forests and funding for Collaborative Forest Landscape Restoration projects*. US Forest Service Press Release Feb 2, 2012. Available online at <http://www.fs.fed.us/news/2012/releases/02/restoration.shtml>; last accessed March 2012.

dollars are critical for monitoring conditions of forest health on federal and nonfederal lands. Funds provide the assistance to prevent and mitigate insect and disease outbreaks as well as the spread of invasive species.

SAF strongly supports the Administration's request to permanently reauthorize Stewardship Contracting within the USFS Budget. The Stewardship Contracting authority is a successful tool used by the USFS and BLM to accomplish restoration work on multiple restoration projects simultaneously using funds provided by projects' timber revenues. It is also an important tool to carry out the Administration's priority Collaborative Forest Landscape Restoration Program. Without this authority, these programs would be unable to complete the work outlined in collaborative proposals. From 2006 to 2011 approximately 900 Stewardship contracts, which treated 545,625 acres, were awarded, including 208 contracts in 2011.<sup>9</sup>

SAF also commends the Administration for their request to fully fund the Collaborative Forest Landscape Restoration Program (CFLR). CFLR encourages collaborative, science-based ecosystem restoration of priority forest landscapes.<sup>10</sup> In two years, the projects selected in 2010 created 2,100 jobs and supplied approximately 2.3 MMBF.<sup>11</sup> To ensure CFLR's continued success, SAF and five other Steering Committee members along with approximately 140 members of other organizations, participate in the CFLR Coalition to support continued funding at \$40 million.

Hazardous Fuels funding is a critical component to USFS and DOI hazardous fuels reduction efforts. Funds are used to restore forest health and resilience and reduce the cost of suppressing wildfires. In 2011, over 74,000 wildland fires burned more than 8.7 million acres.<sup>12</sup> These funds are also used to assist the 66,700 communities across the country currently at risk of wildland fire. SAF recommends maintaining the FY2012 funding levels of \$318 million for the USDA Forest Service and \$184 million for the Department of the Interior.

One of the significant changes to the FY2013 Budget proposal includes the merger of seven BLIs into the proposed Integrated Resource Restoration (IRR) Line item that was enacted as a pilot program in three regions in the FY2012 budget. SAF recommends funding the seven BLIs at FY2012 levels if the committee does not enact IRR nationally.

I would like to close by discussing the decrease in the BLM's Public Domain Program found in the FY2013 Budget Justification. The proposed \$3.5 million is a 41 percent decrease in the program. This would reduce the number of employees managing 60 million acres from 80 employees to approximately 50. SAF recommends funding BLM's Public Domain Program at enacted FY2012 levels.

On behalf of the Society of American Foresters, I thank you for this opportunity.

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<sup>9</sup> Pinchot Institute for Conservation. 2012. *The Role of Communities in Stewardship Contracting: FY 2011 Programmatic Monitoring Report to the USDA Forest Service*. Available online at <http://www.fs.fed.us/forestmanagement/stewardship/reports/documents/2011/FinalFY11USFSMonEvalReport.pdf>; last accessed March 2012.

<sup>10</sup> US Forest Service. 2012. *Collaborative Forest Landscape Restoration Program*. US Forest Service Website. Accessible online at <http://www.fs.fed.us/restoration/CFLR/index.shtml>; last accessed March 2012.

<sup>11</sup> US Forest Service 2012. *Fiscal Year 2013 President's Budget Justification*. Available online at <http://www.fs.fed.us/aboutus/budget/2013/fy2013-justification.pdf>; last accessed March 2012.

<sup>12</sup> National Interagency Fire Center, Historical Wildland Fire Summaries, p. 9. Accessible online at [http://www.predictiveservices.nifc.gov/intelligence/2011\\_statssumm/intro\\_summary.pdf](http://www.predictiveservices.nifc.gov/intelligence/2011_statssumm/intro_summary.pdf); last accessed February 2012.