



July 20, 2023

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U.S. Forest Service  
Director, Policy Office  
201 14th Street SW  
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Washington, DC 20250–1124

**RE: Comments on Advanced Notice of Proposed Rulemaking, “Forest Service Functions,” RIN, 0596-AD59; 88 Fed. Reg. 24497 (Apr. 21, 2023)**

The Western Urban Water Coalition (WUWC or Coalition)<sup>1</sup> appreciates this opportunity to provide comments on the U.S. Forest Service’s advanced notice of proposed rulemaking (ANPRM) requesting public comment on how the Forest Service should adapt current policies to protect, conserve, and manage the national forests and grasslands for climate resilience. 88 Fed. Reg. 24497 (Apr. 21, 2023).

**I. Western Urban Water Coalition**

WUWC was established in 1992 to address the West’s unique water supply and water quality challenges that threaten the environmental quality, economic sustainability, and growth of the western population centers. WUWC consists of the largest urban water utilities in the West, which together serve more than 40 million urban water consumers in 20 major metropolitan areas across seven states. Some of these utilities also operate wastewater, natural gas, and electric, including hydroelectric, facilities.

WUWC members are public utilities dedicated to providing a reliable, high-quality urban water supply for present and future generations. As operators of urban water supply systems, WUWC members serve the health, environmental, and economic needs of their communities every day of the year. WUWC advocates for effective and practicable approaches to the implementation of environmental protection programs in a time when water sources are being diminished by

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<sup>1</sup> WUWC consists of the following members: Arizona (Central Arizona Project, City of Phoenix and Salt River Project); California (Eastern Municipal Water District, East Bay Municipal Utility District, City of Los Angeles Department of Water and Power, The Metropolitan Water District of Southern California, San Diego County Water Authority, Santa Clara Valley Water District, and City and County of San Francisco Public Utilities Commission); Colorado (Aurora Water, Colorado Springs Utilities, and Denver Water); Nevada (Las Vegas Valley Water District, Southern Nevada Water Authority, and Truckee Meadows Water Authority); New Mexico (Albuquerque Bernalillo County Water Utility Authority); Utah (Salt Lake City Public Utilities and Washington County Water Conservancy District); and Washington (Seattle Public Utilities).

climate change, drought, and other factors, and the development of sustainable supplies is vital. Their mission has proven more critical now than ever considering the essential role of clean water in combatting the spread of disease and maintaining public health, livelihoods, and sustenance during times of crisis, including the COVID pandemic.

WUWC members regularly engage with the Forest Service in obtaining and operating under rights of way, special use, and other authorizations for water infrastructure facilities and operations that provide critical water supplies to the citizens and areas served by WUWC members. WUWC members are active collaborating partners with the Forest Service and other agencies and stakeholders in forest restoration, climate resiliency, watershed protection and restoration, and other vegetation management and “green” infrastructure initiatives and activities. The Coalition members have decades of experience participating in NEPA and related environmental analyses with the Forest Service.

## **I. General Comments**

Changing natural conditions present an extreme challenge to Western water providers. Drought, floods, fire, and other extreme weather events are occurring with increased frequency and unpredictability. Delivering clean, reliable, sustainable, and high-quality water to consumers begins with responsible watershed and forest management. Tens of millions of acres of Western national forestland managed by the federal government are overgrown, unhealthy, and in need of immediate, large-scale forest restoration treatments and vegetation management to reduce the risk and impacts of catastrophic wildfires. Water providers are collaborating with federal agencies to proactively reduce the risk of catastrophic wildfires in water supply watersheds.

Western water providers encounter uncertainties and overly bureaucratic procedures concerning decision-making and authorization processes within various federal agencies, such as the U.S. Department of Agriculture, Bureau of Land Management, U.S. Forest Service, National Park Service, and others, which directly impact watershed management. For instance, Western water providers face challenges in finalizing local/regional MOUs and agreements with the Forest Service due to signature approval requirements from Washington D.C. This results in delays that affect both budget and implementation. Extended project timelines can be further exacerbated by a lack of communication and accountability between local and regional offices and agencies, causing projects to become further delayed. WUWC urges the Forest Service to consider its existing national forest system land management and regulatory processes and develop procedures to streamline the processes so that stakeholders can more quickly and effectively remediate many of the issues facing our forests and watersheds.

## **II. Specific Comments**

### **A. Development of New Policies to Conserve and Manage the National Forests**

The Forest Service is inviting comments on how it should adapt current policies and develop new policies and actions to conserve and manage the national forest and grasslands for climate resilience. The Forest Service is focused on how it can provide for ecological integrity and support social and economic sustainability over time.

We do not recommend that the Forest Service needs additional tiers of plans (e.g., “regional” or “landscape” plans), or other changes to its land and resource management planning regulations, unless it is to simplify and speed up the process for developing, updating, and implementing forest plans and plans targeted at priority watersheds.

WUWC does recommend that the USFS National Forest Planning Units and Ranger Districts incorporate wilderness areas into NEPA and other assessments for wildfire mitigation and other climate resilience planning and projects. This will help affected parties understand, prepare for, and where appropriate implement managed fire and other treatments in and adjacent to wilderness areas. WUWC would also like to see increased funding for NEPA interdisciplinary teams to collaborate with multiple stakeholders, including water utilities, on desired conditions for the landscape and watershed. Finally, WUWC recommends that the Forest Service expand the Good Neighbor Authority (GNA) to post-fire recovery implementation and work towards shared stewardship in post-fire activities to expand the capacity limitations of the Forest Service.

WUWC further requests the Forest Service to work with Congress and states to address liability concerns, insurance availability, and contracting issues that oftentimes limit many climate resilience efforts. For example, the Forest Service should lead a collaborative effort with states to develop legislation and policy to limit liability for certified and insured burners and reduce insurance requirements to protect burn practitioners from claims. State-developed risk pools can also ensure private practitioners can access the insurance protections they need to complete climate resilience activities. Likewise, Congress should develop legislation to support a compensation fund for burn damages to third parties that can quickly provide financial relief in instances where burn practitioners adhered to identified best practices. These funds could also be used to immediately rebuild critical watershed resources damaged by fires that would otherwise be delayed due to inadequate insurance coverage.

## **B. Prioritization of Planning Management Decisions of the National Forest System**

The Forest Service is soliciting comments on how it should assess, plan, and prioritize conservation and climate resilience at different organizational levels. Specifically, the Forest Service seeks input on how national and regional strategic planning should address the planning, projects, and activities that promote conservation and climate resilience.

WUWC requests that the Forest Service consider all values impacted by wildfire, such as water supply watersheds and infrastructure, rather than a narrow scope solely focused on structures and Wildland Urban Interface (WUI) when completing prioritization assessments. WUWC also recommends that the Forest Service incorporate source water protections as a value-at-risk into existing wildfire mitigation and recovery programs.

The Forest Service should also evaluate trade-offs when evaluating conservation and climate resilience plans. It should prioritize water supply watersheds in areas that may be relatively unpopulated for planning and implementation purposes. These water supply watersheds are becoming increasingly important and provide a reliable and sustainable water supply for many major metropolitan areas. The Forest Service should also continue to prioritize the landscape

areas that it has identified as high-risk fire sheds in its April 2022 and January 2023 “Confronting the Wildfire Crisis” reports.

WUWC also recommends that the Forest Service prioritize post-fire recovery practices. Post-wildfire impacts in the West cause increased erosion, sedimentation, and water quality issues that decrease Western water storage and damage water delivery infrastructure. Hiring a full-time recovery coordinator in each National Forest in the West should be prioritized. And each National Forest should invest in pre-fire planning for post-fire recovery plans for increased efficiencies during project implementation (e.g., the Wildfire Ready Watershed model in Colorado).

There should also be increased flexibility and functionality of NRCS’s Emergency Watershed Protection Program for use on the National Forest, rather than just non-federal lands. NRCS should also establish clearer, more predictable, and replicated processes for funding and enrolling private landowner participation in cross-boundary fuel treatments.

The Forest Service should increase research in identifying the best locations and appropriate species for reforestation investments given climate stressors to improve successful revegetation. Finally, the Forest Service should prioritize adequate seed availability and invest in upgrading nursery infrastructure to meet growing reforestation needs due to wildfires.

### **C. Practices that Foster Climate Resilience on Forests and Grasslands**

The Forest Service is seeking input on the kinds of conservation, management, or adaption practices that may be effective at fostering climate resilience on forests and grasslands at different geographic scales.

WUWC recommends that the Forest Service focus its efforts on targeting hazardous fuels and treating areas in high-risk acres for water supplies. We suggest that the Forest Service utilize new innovative equipment or techniques for steep slope treatments and management, instead of only targeting easy access acres that may not be as meaningful for water supplies.

WUWC also wants to emphasize that climate change has created “fire years” rather than “fire seasons.” This requires more personnel for not only firefighting but also personnel to meet prescribed fire and fuel treatment needs. The Forest Service also needs to develop strategies to scale its workforce and equipment as necessary to meet current demands. This means the Forest Service should consider the effects of climate change beyond current conditions in planning efforts to anticipate future climate conditions and risks to water supply watersheds. The Forest Service should develop a dedicated workforce for specific program areas, such as a fuels treatment and prescribed fire workforce, as well as a recovery workforce. With more personnel occupied with fire suppression, dedicated workforces are needed to ensure program delivery in mitigation and recovery.

The Forest Service should also consider regulatory reform to facilitate implementing many of the suggested practices outlined in this letter. One of the major impediments to completing necessary infrastructure investments and implementing practices that foster climate resilience has been the cost and complexity of meeting regulatory requirements. While it is, of course, necessary to adequately consider and mitigate the environmental impacts consistent with legal requirements

before implementing management plans, compliance can be accomplished in a much more efficient manner. The Fiscal Responsibility Act's codification of the One Federal Decision approach is a good starting point, and a coordinated permitting office should be considered.

For example, the West faces an enormous backlog of thinning treatments, prescribed burns, and other forest-management projects critical to reducing the threat of catastrophic wildfires that pose existential threats to whole ecosystems. The magnitude and accelerating pace of the problem demands immediate action, including regulatory reforms aimed at streamlining environmental reviews, clearing away legal barriers, and reducing litigation through efficient conflict resolution so that essential projects can proceed more rapidly before critical habitats and watersheds are damaged beyond repair. Without regulatory reform, many of the management practices will not be implemented until it is too late.

WUWC further recommends that the Forest Service utilize Potential Operational Delineations (PODs) in wildfire mitigation implementation and managed wildfire, including creating fuel breaks along POD lines and using prescribed fire and managed fire within PODs.

#### **D. Cross-Jurisdictional Considerations for Forest Service Management**

The Forest Service is asking for comments on how Forest Service management, partnerships, and investments should consider cross-jurisdictional impacts of stressors on forest and grassland. It is seeking input on a landscape scale, including activities within the WUI. WUWC recognizes that the health of our forests, our watersheds, and our economy are deeply connected. The watersheds on National Forest lands are the largest drinking water source in the United States, and catastrophic wildfires continue to devastate drinking water supply watersheds because of the lack of effective forest management. The pace and scale of forest treatments must be accelerated to protect source water supply watersheds.

WUWC urges the Forest Service to dedicate funding for the U.S. Forest Service Water Source Protection Program (WSPP), as well as seek an increase in funding beyond the \$10 million authorized by the WSPP in the 2018 Farm Bill, which was established to encourage partnerships between water utilities and the Forest Service. These partnerships would improve forest health and benefit downstream communities, often bringing in significant new investments from non-federal partners. Despite widespread interest in the WSPP, which could catalyze much-needed investments in our forests, it has not received dedicated funding, and the \$10 million authorized by the 2018 Farm Bill is far too little given the much greater investment necessary to reduce wildfire risks and restore forest health. As growing populations and climate change place additional stress on our forests and watersheds, Congress must invest in programs that support local, collaborative solutions to these challenges.

WUWC also advises the Forest Service to secure appropriate state funding through the USFS Office of State & Private Forestry for non-federal land fuel treatments in critical water supply watersheds to complement the work on the National Forest. Funding could also be used for watershed collaboratives to hire coordinators. Congress should also consider establishing a new cost-share authority that would allow states, federal partners, and Tribal Nations to use a certain percentage of appropriations to enter into cooperative cost-share agreements to better implement large-scale climate resilience work.

WUWC also would like the Forest Service to hire partnership coordinators in each National Forest to facilitate partnerships. The diversity of the Western landscape and climate cautions against any “one size fits all” approach when it comes to creating partnerships with local communities. These partnership coordinators could help develop cross-jurisdictional assessment teams for post-fire recovery as part of the Burned Area Emergency Response process to expand the capacity limitations of the Forest Service and provide consistency in management across state and local agencies.

### **E. Performance Metrics and Indicators for Adaptive Management**

The Forest Service is requesting information on types of key outcome-based performance measures and indicators to help it track changing conditions, test assumptions, evaluate effectiveness, and inform continued adaptive management.

WUWC suggests that the Forest Service include metrics that consider a reduction of risk to water supply watersheds. This would go beyond the number of acres treated and would focus on the percentage of canopy cover reduction in water supply watersheds or percentage of water supply watershed treated. Additionally, for post-fire recovery, the Forest Service should consider adopting the RAD model (Resist, Accept, or Direct), to collaboratively develop landscape recovery expectations and goals.

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This rulemaking is an opportunity for the Forest Service to address our comments and those of others who support meaningful progress in actions on the ground to address watershed and water supply conditions that have been degraded or are threatened by catastrophic wildfire and other consequences of climate change and lack of appropriate active management on national forest system lands. Our members are experienced, on-the-ground partners with the Forest Service and states in the implementation of forest restoration, climate resiliency, and watershed protection and restoration. Based on this experience, WUWC is prepared to assist the Forest Service, other federal and state regulatory agencies, and members of Congress in addressing this important issue. WUWC looks forward to continued dialogue and collaboration as the Forest Service completes its policy adaptation process.

Thank you for the opportunity to provide these comments. For more information, please contact me at (303) 739-7378 or [mbrown@auroragov.org](mailto:mbrown@auroragov.org), or WUWC’s national counsel, Ted Boling, at (202) 661-5872 or [TedBoling@perkinscoie.com](mailto:TedBoling@perkinscoie.com).

Very truly yours,



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