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LEGISLATIVE & POLICY UPDATE – 110TH CONGRESS WRAP-UP

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With the Presidential election right around the corner, Congress' work for this session has drawn to a close and positioning for a possible lame duck session and the next congressional session has begun. This *WFLC Legislative & Policy Update* will provide information on some of the major issues that the Council of Western State Foresters (CWSF) worked on in the 110th Congress as well as a status update on several pieces of legislation that we have been monitoring. This document is posted at www.wflcweb.org/infomaterials/issue_briefs.php. For more information on any of these issues or pieces of legislation, please contact Caitlyn Peel.

1. Fire Suppression Funding Fix

This issue has been the number-one focus and priority for the State Foresters. Two pieces of legislation were introduced, the Federal Land Assistance, Management and Enhancement (FLAME) Act [H.R. 5541] and the Emergency Wildfire Management Act [H.R. 5648]. The FLAME Act was marked-up by the House Natural Resources Committee and passed by the House of Representatives in July of this year. Unfortunately, the version of the bill approved by the House did not include the 'emergency designation' of the FLAME Fund and instead included language legislating the 10-year average requirement for fire suppression (emergency and initial attack) funding within the Forest Service budget. State Foresters have joined with other organizations in contacting media and congress to inform them about concerns with the legislation as passed by the House.

On the Senate side, Senator Boxer (D-CA) introduced the house-passed version of the FLAME Act in July 2008 [S. 3256]. S. 3256 was referred to the Senate Energy and Natural Resources Committee, but the bill was not added to the committee calendar before congressional adjournment. The Budget, Energy and Natural Resources and Appropriations Committee staff in both chambers have met to discuss this issue in hopes of finding a solution to this budgeting problem that does not create jurisdictional issues or tie anyone's hands during the congressional budget and appropriations process.

Fire transferring focused congressional attention to the need for a solution to this problem and the State Foresters will continue to work with our partner organizations and congressional staff to craft a solution that can be supported on the Hill and by the organizations impacted by the ever increasing suppression costs. NASF, with CWSF assistance, will be holding a partner meeting this January to re-energize and re-engage the broad array of organizations with an interest in this issue. More information on this meeting will be available soon.

2. FY09 Appropriations and Disaster Supplemental

The House and Senate Appropriations Committees marked-up their Interior and Environment spending bills, but the FY09 Interior and Environment appropriations bills never reached the House or Senate floor. The House and Senate appropriators rejected the Administration's budget proposal and chose instead to invest in State & Private Forestry Programs that the Administration had slated for decimation. Congress recently passed, and the President signed, a Continuing Resolution (CR) that will fund the government through March 9, 2009. The CR continues the funding at FY08 levels, which in an ironic twist are actually FY06 levels. This is due to the unprecedented number of continuing resolutions in

recent years. These levels are significantly higher than the funding proposed by the Administration for FY09.

A disaster supplemental package was attached to the CR and included much needed funding for the USFS and BLM to address the overwhelming costs of this year's fires. The package included \$910 million for firefighting costs, fire prevention efforts and restoration activities. \$775 million was directed to the USFS including \$610 million for wildfire suppression activities to repay all the funds borrowed to support the Agency's fire suppression activities and conduct other necessary suppression activities. Also included in the package was \$175 million for hazardous fuels reduction projects, with a focus on the western US to address mortality from forest pests. This \$175 million was split into \$125 for state and private activities and \$50 million for national forest land projects. There was \$100 million included for rehabilitation of burned areas, some of which will be directed to California to help address the significant impacts from this year's fires. Lastly, \$25 million was included in the package to address firefighter retention. No final details have been released on these specific funding levels, but it is important to note that the USFS was able to 'pay back' all the funds that they had to borrow from non-fire programs to fund the fire suppression activities that were undertaken this year.

3. Good Neighbor Authority

Senator Barrasso (R-WY) introduced the 'Good Neighbor Forestry Act' [S. 3302] (GNA) with five bipartisan cosponsors from western states. The bill would permanently establish the current pilot GNA authorities in CO and UT and would allow the USDA Forest Service (USFS) and the Department of the Interior (DOI) to enter into cooperative agreements with western State Forestry Agencies to complete forest, rangeland and watershed restoration and protection projects on Federal land that abuts state and private lands where similar treatments will be occurring. The authorization is specific to those states with National Forest System land or Bureau of Land Management land west of the 100th meridian.

Currently Colorado and Utah have successful pilot GNA agreements/programs. Utah's authorization for GNA was set to expire this year but their program was extended via language in the CR. Colorado's program is set to expire in 2009. A letter of support for this legislation was sent to the sponsors. The WFLC has drafted a policy statement on cross-boundary opportunities including GNA, the Wyden Amendment and other authorities that will be on the agenda for the WFLC November meeting in San Diego.

4. Secure Rural Schools and PILT

The reauthorization of the expired Secure Rural Schools and Community Self Determination Act [PL 106-393] was introduced as several stand-alone bills by Congressmen Sali (R-ID) and Defazio (D-OR) and Senators Wyden (D-OR) and Craig (R-ID) respectively [H.R.1635, H.R. 17, S. 380, S. 779]. Nearly a half-dozen attempts were made for passage of the reauthorization as a rider to numerous pieces of legislation throughout the 110th Congress. The reauthorization and funding was not retained in any of those vehicles and was finally included, and approved, in the Emergency Economic Stabilization Act [PL 110-343].

The bill funds the Secure Rural Schools program at \$3.3 billion through 2012 while scaling-down payments every year. The formula for receipt distribution has been changed to be based on the federal forestland acreage in each state rather than the value of past timber harvests. The Payment in Lieu of Taxes program also is fully funded for two years. The President signed the Economic Stabilization Act into law on October 3, 2008. More information on the implementation of the reauthorized program and important deadlines are available at www.fs.fed.us/srs.

5. Forest Landscape Restoration Act

Senator Bingaman (D-NM) and Congressman Grijalva (D-AZ) introduced companion Forest Land Restoration Act bills [S. 2593 and H.R. 5263] in the 110th Congress. The Forest Landscape Restoration Act is designed to address landscape scale forest health problems by establishing a program that will fund large landscape-scale projects, up to 50,000 acres, for restoration purposes. The program encourages collaboration, utilization of the best available science, local economic development, and leveraging local resources with national and private resources. The program includes authorized funding at \$40 million per year for 10 years. The money can be used for up to 50% of the implementation costs of a landscape-scale project and will be matched with money for planning and carrying out the project from the involved Forest Service Region and other sources.

The Senate Energy and Natural Resources Committee held a hearing, marked-up and reported their amended version of the bill favorably. H.R. 5263 was referred to the Committee of Natural Resources which held a subcommittee hearing on the bill in July. The bill was also referred to the Agriculture Committee, which took no action on the bill.

NASF has sent a letter in support of the bill's goals, but expressed concern that the bill does not provide any funding to the agency, which raises the possibility of appropriated funding being siphoned away from current programs with demonstrated success to an untested program. S. 2593 has been included in a Senate public lands omnibus bill [S. 3213] which includes around 149 other bills. The Senate has been making motions of returning for a lame duck session in November and floor consideration of this bill could get consideration at that time. Similarly, recent statements from the Speaker of the House indicate that a lame duck session is a possibility in the House of Representatives and if the Senate passes this omnibus bill, the House could consider it in late November or early December.

6. Fire Safe Communities Legislation

Senator Feinstein (D-CA) introduced the Fire Safe Communities bill [S. 2390] with Senator Bingaman (D-NM) as a co-sponsor in November 2007. The bill provides granting opportunities for fire safe communities, including those that adopt model 'fire safe' ordinances for their community. The CWSF provided comments on the draft bill to Senator Feinstein's office and NASF sent a letter supporting the goals of the legislation, but requesting that this new program not become an 'earmark' from the State Fire Assistance funding or other important State & Private Forestry programs. Neither bill moved forward in the 110th Congress.

The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. A companion bill [H.R. 5218] was introduced in the house by Representative Mark Udall (D-CO) and Representative Bob Filner (D-CA) which was referred to the House Agriculture Subcommittee on Department Operations, Oversight, Nutrition and Forestry.

7. Climate Change Legislation

Climate change was a major discussion point in the 110th Congress and is expected to be more on the fore-front in the 111th Congress. Several bills addressing climate change were introduced this last session, but the two that received the most attention were the 'Lieberman-Warner' bill [S. 2191 – *America's Climate Security Act*] and the 'Bingaman-Specter' bill [S. 1766 – *Low Carbon Economy Act*]. There were many other pieces of legislation introduced but none were so intensely discussed.

Both of these bills are intended to reduce greenhouse gas (GHG) emissions and both developed a cap and trade system. These two bills were similar, but included different targets for reduction and methods for credit allocation. The Lieberman-Warner bill is more aggressive on GHG caps whereas the

Bingaman-Specter bill has a more progressive safety valve. Important to the forestry community, the Lieberman-Warner bill established an emergency wildland fire suppression fund that would receive monies from the auction of cap and trade receipts. The mandatory funding would be set at \$1.1 billion a year. Lieberman-Warner also sets aside funds for research on soil carbon and other land management activities that could benefit carbon sequestration. As consideration of the L-W bill approached in July?, the bill was re-crafted into the Boxer-Lieberman-Warner bill (S. 3036), but stalled in the Senate after not receiving enough votes to shut off debate (60 votes).

The positioning of the climate change discussion in the next Congress has already begun. Representatives Dingell (D-MI) and Boucher (D-VA) have introduced a discussion draft of their legislation, also setting up a cap and trade system. The draft bill outlines a number of options for distributing emission credits and it will serve as the starting point for discussions in 2009. The Western Forestry Leadership Coalition (WFLC) membership will be approving a position statement titled *A Framework for Forests and Climate Change: Western Region Principles* at the upcoming meeting in San Diego. This document will help guide our involvement in the climate change and global warming debate.

8. Farm Bill Implementation

After many fits and starts, Congress and the President finally approved the 2008 Farm Bill [P.L. 110-246] in June 2008. The forestry community made a big impact during the drafting of this bill as well as during the negotiations via the formation of the Forests in the Farm Bill Coalition. Many programs in the Conservation Title, Energy Title and others included expanded opportunities for private forest landowners. As the implementation process is moving forward for the numerous provisions contained in the Farm Bill, the CWSF and NASF are weighing in on opportunities for private forest lands owners. Detailed information on the Farm Bill can be found on the WFLC website in the members-only section. (<http://www.wflcweb.org/members/index.php>).

9. 111th Congress

In the 111th Congress, we can expect a lot of activity focused on the economic stability of our country to divert attention from some of the priorities of the new Administration and Congressional members. Climate Change legislation is expected, although the economic issues of the day will lend a different flavor to the discussion and approval of this important legislation. We can expect to see a focus on the Forest Service fire suppression budgeting issue, and it will be important for the key constituents to continue to push for a solution to this issue as it will be easy for congressional members to focus on other items. Large-scale public lands forest restoration legislation can also be expected, if the omnibus public lands bill isn't finalized during the possible lame duck sessions.

Please contact Caitlyn Peel, Governmental Affairs Director: 303-445-4363 with any questions.

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