FIX OUR FORESTS

Myth vs. Fact

The bipartisan **Fix Our Forests Act** by Chairman Bruce Westerman and Congressman Scott Peters will implement the most vital forest management projects immediately. FOFA passed in the House of Representatives by a vote of 268-151 including 55 Democrats in favor in 2024.

MYTH: Treatment across this large acreage is likely to have significant impacts on habitats, watersheds, and ecosystems.

FACT: It is critical that land managers are able to do forest management and restoration projects on a larger scale, matching the scale and urgency of the wildfire challenge. The Fix Our Forests Act maintains every single rule, regulation, and guardrail on how these emergency authorities can be used. **Nobody benefits if forests burn down while the Forest Service completes duplicative and lengthy environmental reviews.**

MYTH: The bill defines “hazardous fuels management activities” in a way that doesn’t require that the activity be intended to reduce hazardous fuels.

FACT: The bill **explicitly** ties the hazardous fuels management activities directed by this bill to reducing wildfire exposure and corresponding risk to communities, watersheds, and forest conversion. This definition would in no way expand the ability of the Forest Service mechanically thin, clear-cut log, or engage in any other activity they don’t already have the authority to.

Frequently Asked Questions

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Myth *vs.* Fact

MYTH: The bill does not focus on proven ways to protect communities, such as home hardening and science-based forest management projects close to communities.

FACT: The bill requires land managers to use the best available scientific information – including tribal knowledge and state-federal data sharing – in planning decisions. It also establishes a Community Wildfire Risk Reduction Program and a Community Wildfire Defense Research Program to improve community resilience and home hardening efforts.

MYTH: This legislation will open millions of acres of federal land to logging without scientific review and community input, which may increase the risk of wildfires.

FACT: The updated bill limits categorical exclusions to 10,000 acres, which the state of California has specifically asked for, based on the need to reduce the risk of wildfires. All practices in this bill are explicitly tied to scientifically proven methods to reduce wildfire risk.

MYTH: This bill is a rollback of environmental laws. The legislation requires no finding of an actual emergency and extends emergency provisions to areas comprising hundreds of thousands of acres.

FACT: The Fix Our Forests Act does not amend, alter, or rollback NEPA or the Endangered Species Act. The Wildland Fire Mitigation and Management Commission was clear that the wildfire crisis is an emergency. These emergency authorities provide land managers with the flexibility to do critical work now and complete paperwork simultaneously, focused on the highest risk areas., focused on the highest risk areas.

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Myth *vs.* Fact

MYTH: The bill removes Endangered Species Act consultation requirements.

FACT: The “Cottonwood fix” in the bill ensures that petitioners cannot stop all activities under a Forest Plan when a new endangered species or critical habitat is discovered, while maintaining the obligation of the Forest Service to reinitiate consultation on a project-by-project basis. The bill also directs the Forest Service to prioritize updating forest plans where conditions have significantly changed. Endangered species are not protected when wildfires burn down their habitats.

MYTH: The bill limits long standing judicial review standards for certain Forest Service and BLM actions.

FACT: FOFA recognizes the unique nature – and corresponding urgency – of forest management and wildfire mitigation projects.
Judges would still have the discretion to utilize existing balancing tests, but would more thoroughly look at how projects would effect ecosystems in the short- and long-term.

MYTH: The bill allows forest management projects to proceed even when a court finds a plan legally insufficient.

FACT: The litigation reform section of this bill only applies to high priority, high risk projects. It directs courts to stop projects that would cause environmental harm and when a project would not cause substantial harm, but is still deficient in some way, courts must work with agencies to fix problems with permits, instead of forcing agencies to start from scratch. Agencies would not be allowed to do any work that affects what is being addressed on remand at the agency.

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Myth *vs.* Fact

MYTH: The bill creates a restrictive standard for standing to sue by requiring a litigant to have participated in the rulemaking in a way that goes beyond the standard required by federal courts for Article III standing.

FACT: This is the existing litigation standard for countless surface transportation, renewable and fossil energy, transmission, aviation, and port projects. This provision is narrowly tailored to "need-to-complete" projects; just like similar provisions in the Federal Power Act, Natural Gas Act, and some Healthy Forest Restoration Act projects. This bill provides a comprehensive framework around meaningful community engagement and project planning that does not exist now. This bill provides a comprehensive framework around meaningful community engagement and project planning that does not exist now.

MYTH: The litigation provisions are "a solution in search of a problem" because only a small percentage of Forest Service NEPA reviews are challenged in court.

FACT: Public lands management projects are the most common subject of litigation (37%), the greatest share of which (47%) challenged critically necessary forest management projects. For all categories of NEPA challenges, the agencies won about 80% of cases on appeal without any changes to the review. These lawsuits did not change the agency's decision, the implementation of the project, or the effect of the project on the community. They simply delayed projects to starve it of resources and investment until it becomes infeasible. Just 10 groups filed 67% of the challenges to forest management projects, winning less than a quarter of cases. These lawsuits delayed projects an average of nearly four years for the 77% of lawsuits they lost.

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Myth *vs.* Fact

MYTH: The bill has no standards to protect old growth forests or long-term forest health and resilience.

FACT: The existing categorical exclusions that would be use used prioritize the retention of old-growth stands. Nothing in this bill would excuse a project from compliance under existing requirements and protections for old growth trees, either in statute or through administrative regulations (which the Biden Administration is actively pursuing.

Fireshed assessments specifically mandate compliance with existing land and resource management plans, which are the primary tool for ensuring old-growth retention and supporting forest health and biodiversity.