

RIM FIRE EMERGENCY SALVAGE ACT

APRIL 1, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3188]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3188) to expedite the planning and implementation of salvage timber sales as part of Forest Service and Department of the Interior restoration and rehabilitation activities for lands within the Stanislaus National Forest and Yosemite National Park and Bureau of Land Management lands adversely impacted by the 2013 Rim Fire in California, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rim Fire Emergency Salvage Act”.

SEC. 2. EXPEDITED SALVAGE TIMBER SALES IN RESPONSE TO THE CALIFORNIA RIM FIRE.

(a) SALVAGE TIMBER SALES REQUIRED.—As part of the restoration and rehabilitation activities undertaken on the lands within the Stanislaus National Forest and the Bureau of Land Management lands adversely impacted by the 2013 Rim Fire in California, the Secretary of Agriculture, with respect to affected Stanislaus National Forest lands, and the Secretary of the Interior, with respect to affected Bureau of Land Management lands, shall promptly plan and implement salvage timber sales of dead, damaged, or downed timber resulting from that wildfire.

(b) EXPEDITED IMPLEMENTATION.—

(1) LEGAL SUFFICIENCY.—Due to the extraordinary severity of the Rim Fire occurring on the Federal lands described in subsection (a), salvage timber sales

conducted under such subsection shall proceed immediately and to completion notwithstanding any other provision of law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(2) ADMINISTRATIVE AND JUDICIAL REVIEW.—Salvage timber sales conducted under subsection (a) shall not be subject to—

(A) administrative review, including, in the case of the Forest Service, the notice, comment, and appeal requirements of section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102-381; 16 U.S.C. 1612 note); or

(B) judicial review in any court of the United States.

Amend the title so as to read:

A bill to expedite the planning and implementation of salvage timber sales as part of Forest Service and Department of the Interior restoration and rehabilitation activities for lands within the Stanislaus National Forest and Bureau of Land Management lands adversely impacted by the 2013 Rim Fire in California.

PURPOSE OF THE BILL

The purpose of H.R. 3188, as ordered reported, is to expedite the planning and implementation of salvage timber sales as part of Forest Service and Department of the Interior restoration and rehabilitation activities for lands within the Stanislaus National Forest and Bureau of Land Management lands adversely impacted by the 2013 Rim Fire in California.

BACKGROUND AND NEED FOR LEGISLATION

The Yosemite Rim Fire Emergency Salvage Act (H.R. 3188) was introduced in the wake of the devastating Rim Fire in California's Sierra Nevada Mountains. The Rim Fire first began on August 17, 2013, allegedly due to an abandoned campfire. This fire became the third largest wildfire in California's history and burned approximately 257,000 acres—over 400 square miles—of the Stanislaus National Forest and Yosemite National Park, in addition to destroying 11 residences and over 100 other structures. The total cost of fire suppression is estimated to be over \$127 million.

While the Forest Service has begun the process of offering a limited amount of salvage timber for sale from the Rim Fire to restore areas that will impact the City of San Francisco's hydroelectric dam and power plants, the agency admits that “[it] will take much longer to approve other areas for salvage logging” due to the National Environmental Policy Act (NEPA).

According to the Society of American Foresters, post-fire restoration, including salvage of dead timber, is in many cases necessary to reduce wildfire risk from future fires, reduce insect, disease, and invasive species infestations, as well as improve forest regeneration, wildlife habitat, and finally, reduce watershed impacts and erosion. It is also necessary to implement salvage projects as soon as possible before the economic value of the timber is lost due to deterioration, thus making it more expensive to complete restoration and reforestation activities as the revenues from salvage timber sales are made available to fund such work.

H.R. 3188 would assist in the restoration process by directing the Secretaries of Agriculture and the Interior to “promptly” implement salvage timber sales of dead and damaged timber as a result of the

Rim Fire. The legislation would categorically exclude such timber sales from time-consuming analysis under NEPA and other applicable federal laws, and would also prohibit frivolous appeals and litigation to ensure that projects would not be delayed.

During Natural Resources Committee markup of the bill, the Committee adopted an amendment offered by Congressman Tom McClintock (R-CA) to exclude Yosemite National Park from lands affected by this legislation.

COMMITTEE ACTION

H.R. 3188 was introduced on September 26, 2013, by Congressman Tom McClintock (R-CA). The bill was referred to the Committee on Agriculture, and in addition to the Committee on Natural Resources. Within the Natural Resources Committee, the bill was referred to the Subcommittee on Public Lands and Environmental Regulation. On October 3, 2013, the Subcommittee held a hearing on the bill. On November 14, 2013, the Natural Resources Committee met to consider the bill. The Subcommittee on Public Lands and Environmental Regulation was discharged by unanimous consent. Congressman McClintock offered an amendment designated .072 to the bill; the amendment was adopted by voice vote. No further amendments were offered to the bill, and the bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a record vote of 16 to 15, as follows:

Committee on Natural Resources

U.S. House of Representatives

113th Congress

Date: November 14, 2013

Recorded Vote #: 1

Meeting on / Amendment on: H.R. 3188, To adopt and favorably report the bill to the House, as amended, by a vote of 16 yeas and 15 nays. The long title of the bill was amended.

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Hastings, WA, Chairman	X			Mr. Duncan of SC	X		
<i>Mr. Defazio, OR, Ranking</i>		X		<i>Mr. Cardenas, CA</i>		X	
Mr. Young, AK				Mr. Tipton, CO	X		
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Horsford, NV</i>		X	
Mr. Gohmert, TX				Mr. Gosar, AZ			
<i>Mr. Pallone, NJ</i>				<i>Mr. Huffman, CA</i>			
Mr. Bishop, UT	X			Mr. Labrador, ID	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Ruiz, CA</i>		X	
Mr. Lamborn, CO	X			Mr. Southerland, FL	X		
<i>Mr. Holt, NJ</i>		X		<i>Ms. Shea-Porter, NH</i>		X	
Mr. Wittman, VA				Mr. Flores, TX	X		
<i>Mr. Grijalva, AZ</i>		X		<i>Mr. Lowenthal, CA</i>		X	
Mr. Broun, GA	X			Mr. Runyan, NJ			
<i>Ms. Bordallo, GU</i>		X		<i>Mr. Garcia, FL</i>			
Mr. Fleming, LA	X			Mr. Amodei, NV			
<i>Mr. Costa, CA</i>				<i>Mr. Cartwright, PA</i>		X	
Mr. McClintock, CA	X			Mr. Mullin, OK	X		
<i>Mr. Sablan, CNMI</i>		X		Mr. Stewart, UT	X		
Mr. Thompson, PA				Mr. Daines, MT	X		
<i>Ms. Tsongas, MA</i>		X		Mr. Cramer, ND			
Ms. Lummis, WY				Mr. LaMalfa, CA	X		
<i>Mr. Pierluisi, PR</i>		X		Mr. Smith, MO	X		
Mr. Benishek, MI				<i>Vacancy</i>			
<i>Ms. Hanabusa, HI</i>		X					
				TOTALS	16	15	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 3188—Rim Fire Emergency Salvage Act

H.R. 3188 would direct the Secretaries of the Interior and Agriculture to conduct salvage sales of dead, damaged, or downed timber resulting from the 2013 Rim Fire in California. Sales of salvage timber under the bill would be exempted from certain laws related to the environment and forest management. In addition, sales conducted under the bill would not be subject to administrative or judicial review.

CBO estimates that implementing H.R. 3188 would have no significant net impact on the federal budget. Because enacting the bill would affect offsetting receipts, and thus direct spending, pay-as-you-go procedures would apply; however, CBO estimates that the net effect on direct spending would be negligible. Enacting H.R. 3188 would not affect revenues.

Under current law, we expect that the Forest Service will sell significant amounts of salvage timber from areas affected by the 2013 Rim Fire over the next several years. In addition, based on information provided by the Forest Service, CBO expects that other factors, including a lack of manufacturing capacity and hazardous weather conditions in the affected areas, would prevent the Forest Service from significantly increasing the amount of salvage timber sold if the bill was enacted. Finally, CBO expects that any increase in the amount of salvage timber sold in the affected areas would be partially offset by reductions in the sale of such timber in other national forests.

H.R. 3188 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 3188 would impose a private-sector mandate, as defined in UMRA, on plaintiffs by eliminating a right of action to seek judicial review of sales of salvageable timber on some federal lands affected by the Rim Fire. The cost of eliminating a right of action is the foregone income and value of awards in such cases. Because such losses would generally not occur for the types of cases involved, the

mandate would probably impose no costs. Consequently, CBO estimates the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates (\$152 million in 2014, adjusted annually for inflation).

On February 5, 2014, CBO transmitted a cost estimate for H.R. 2954, the Public Access and Lands Improvement Act, as posted on the website of the House Committee on Rules on January 30, 2014. Title IX of H.R. 2954 contains provisions similar to those contained in H.R. 3188, and the CBO cost estimates are the same.

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs) and Amy Petz (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing H.R. 3188 would have no significant net impact on the federal budget. Because enacting the bill would affect offsetting receipts, and thus direct spending, pay-as-you-go procedures would apply; however, CBO estimates that the net effect on direct spending would be negligible.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to expedite the planning and implementation of salvage timber sales as part of Forest Service and Department of the Interior restoration and rehabilitation activities for lands within the Stanislaus National Forest and Bureau of Land Management lands adversely impacted by the 2013 Rim Fire in California.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

H.R. 3188 requires salvage logging in the areas affected by the Rim Fire, one of the largest fires ever recorded in the Sierra Nevada Mountains, while waiving all aspects of the National Environmental Policy Act and a list of other landmark environmental laws.

Planning, environmental review, and public comment are all important components of forest management. Taking any of those pieces out of the equation threatens our forests and the resources Congress has pledged to protect.

The jury is still out on the merits of salvage logging after wildfires. In fact, many scientists agree that post-fire logging upsets a critical component of forest ecology and should be done on a case-by-case basis, and then only after careful review.

H.R. 3188 fails to review the merits of salvage logging or assess when and how it may be appropriate in the context of the Rim Fire.

The Rim Fire may have been an opportunity to reexamine the post-wildfire management tools available to the Forest Service and Bureau of Land Management. Instead, H.R. 3188 turns it into an opportunity to score a few political points.

While the majority amended the bill in committee to remove Yosemite National Park from the scope of the bill, H.R. 3188 sets a terrible precedent.

PETER A. DEFazio.
RAÚL M. GRIJALVA.

EXCHANGE OF LETTERS

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January 31, 2014

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The Honorable Doc Hastings
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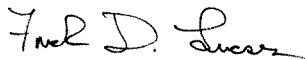
Dear Chairman Hastings:

I am writing you regarding H.R. 3188, the Yosemite Rim Fire Emergency Salvage Act, to expedite the planning and implementation of salvage timber sales for lands within Stanislaus National Forest and Yosemite National Park. As you are aware, the bill was primarily referred to the Committee on Agriculture, while the Committee on Natural Resources was given an additional referral. An amended version of H.R. 3188 was favorably reported out of your Committee on November 14, 2013.

I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I agree to discharge H.R. 3188 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim on this or similar matters. Further, the Committee on Agriculture reserves the right to seek the appointment of conferees, if it should become necessary.

I ask that you insert a copy of our exchange of letters into the Congressional Record during consideration of this measure on the House floor. Thank you for your courtesy in this matter and I look forward to continued cooperation between our respective committees.

Sincerely,


Frank D. Lucas
Chairman

cc: The Honorable John A. Boehner, Speaker
The Honorable Collin C. Peterson
The Honorable Peter DeFazio
Mr. Thomas J. Wickham, Parliamentarian

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TOOD YOUNG
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January 31, 2014

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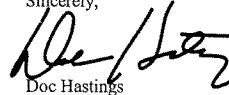
Dear Mr. Chairman:

Thank you for your letter regarding H.R. 3188, the Yosemite Rim Fire Emergency Salvage Act. As you know, the Committee on Natural Resources ordered favorably reported the bill, as amended, on November 14, 2013. A copy of the amended bill text was forwarded to your staff. I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Agriculture will forego action on the bill.

The Committee on Natural Resources concurs with the mutual understanding that by foregoing consideration of H.R. 3188 at this time, the Committee on Agriculture does not waive any jurisdiction over the subject matter contained in this or similar legislation. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Agriculture represented on the conference committee. Finally, I would be pleased to include your letter and this response in the bill report filed by the Committee on Natural Resources, as well as in the *Congressional Record* during floor consideration, to memorialize our understanding.

Thank you for your cooperation.

Sincerely,



Doc Hastings
 Chairman

cc: The Honorable John A. Boehner, Speaker
 The Honorable Peter DeFazio
 The Honorable Collin C. Peterson
 The Honorable Tom McClintock
 The Honorable Thomas J. Wickham, Parliamentarian