

around. But if you look at the facts, if you read the legislation that is now available, you will find it is really good legislation and all these worries and exaggerated claims about the bill are just not true.

I have a couple of additional points regarding premium support. It is a time-limited demonstration. It exists only for 6 years, starting in 2010. It would take an act of Congress to change it, an act to expand it. It cannot be extended or expanded by the Secretary or anybody else.

Fact No. 2, the demonstration will only affect limited areas of the country—up to six areas of the country only.

Fact No. 3, low-income beneficiaries are totally protected in any of these areas where premium support might occur.

Facts No. 4 and No. 5. There is no requirement for beneficiaries to enroll in the private plans. None. There is no inducement to enroll in any of these plans unless the plan happens to be a lot better than traditional fee-for-service Medicare which this bill strengthens.

How does this bill undermine traditional fee-for-service Medicare? How?

The fact is, it doesn't.

I will close by saying this is a good bill. It provides prescription drug benefits for seniors. Seniors need and deserve this help. It provides \$400 billion of help. We are not going to have this opportunity again. It is true that this bill is not perfect. But I think on the whole it is a very good. This bill is much closer to the Senate bill than it is to the House bill. It is about one-quarter away from the Senate bill. It is about three-quarters away from the House bill. Seventy-six Senators voted for the Senate bill. I think that the 76 Senators who voted for the Senate bill will find that in many respects, this bill is better than the Senate bill they supported. Additionally, when my colleagues look at the facts of this bill, they are going to find that this is pretty good legislation. It is something we should pass.

I hope people will look at the actual language and look at the facts and will support this bill.

The PRESIDING OFFICER (Mr. Cornyn). The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief. My colleague from Oregon and I wish to mention only briefly the health bill which was passed.

#### MORNING BUSINESS

Mr. CRAIG. Mr. President, the leadership asked that I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE HEALTHY FORESTS BILL

Mr. CRAIG. Mr. President, my colleague from Oregon is on the Senate

floor. We thought for a few moments we would talk about something that just passed the Senate which we think is landmark forestry legislation. It has come in several forms over the last year and a half. But we here in the Senate call it Healthy Forests. The President calls it Healthy Forests.

The House and Senate have worked together over the last year to try to resolve an issue that the American public has seen in the form of devastating wildfires across our public land and forests for the last several years. Of course, we watched the tragedy of San Bernadino in southern California and the greater Los Angeles area just in the last month and a half that was truly devastating not only to 3,700 homes and human life but hundreds of thousands of acres of wildlife habitat and watershed.

Clearly, as chairman of the Forestry Subcommittee of the Energy and Natural Resources Committee, Senator WYDEN and I have been working for the last several years to resolve this issue. My colleague from Oregon is the ranking member of that Forestry Subcommittee. We have known that the team effort in a bipartisan way to resolve this issue would produce a resolution. The answer is that it has.

The Senate and the House just passed a conference report that has our fingerprints all over it. Frankly, we are mighty proud of it. It moves us in the right direction of active management of these dead and dying, bug-infested, and drought-impacted forested areas that are creating phenomenal fuel loads that the American public has seen played out in wildfires across our western public land and forests for the last good number of years. It is a clear step in the right direction. It is a cautious step. We certainly do not take away the right of appeal, but we limit it.

We don't want an effort on the part of the Forest Service to do what we asked them to do to be tied up in the courts endlessly in many instances as it has been over the last several years. We also want them to be selective. We targeted most of our efforts in what we call the wildland-urban interface which will impact most of those forested areas where there is a substantial human presence in the form of homes and, obviously, communities.

At the same time, we also recognize that the problem exists elsewhere across our forested landscape. We allow that treatment of those areas with caution.

We have designated old growth definitions for protection. We have also limited it in the next decade to 20 million acres. For those critics who would suggest that this is a "ticket to log," that is purely political rhetoric to solve a political constituency problem that they have because they can't justify anymore the phenomenal loss of wildlife and watershed and habitat that we have seen over the last 4 or 5 years.

It is a cautious approach. It is certainly going to be limited in character.

Why? Because we want to prove to the American people that there is a way to manage our forests in a right and reasonable fashion; that it does not do what we did historically 40 years ago—logged by clear-cut or logged with substantial problems of erosion and watershed degradation and all of that.

This is a new day. We want to treat our forests differently. But we also understand that if we don't do something, our forestry experts have told us that we could see devastating wildfires for decades to come that will destroy the watershed, the wildlife habitat, and release huge amounts of carbon into the atmosphere; and, oh, yes, by the way, destroy a very valuable resource in the form of timber that might in some areas be allowed for logging or for reasonable approaches of commercial value of the thinning and cleaning.

All of that said, we have worked hard to produce a bill. My colleague from Oregon is on the Senate floor. I will yield to him for any comments he would want to make. We have other colleagues here who I think are going to address the issue of prescription drugs and Medicare reform.

But today is an important day in the Senate in the area of forestry and forest and public land management. I am proud of the work we have done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I want to commend Senator CRAIG. He and I have been working with Senator FEINSTEIN in particular on this legislation in the Energy and Natural Resources Committee. We have really been a triumvirate with respect to this issue.

I am so pleased to have a chance to be on the Senate floor today to speak on this conference report. This is the first forest management bill to pass both Houses in the U.S. Congress in 27 years. The fact is, the forestry legislation that is now on its way to the President of the United States will protect our communities. It will offer the first legal protection for old-growth trees, and it will create jobs.

As the distinguished Senator from Idaho, Mr. CRAIG, just noted, this legislation came together because at every stage of the process Senators said we want to get beyond the old rhetoric. We want to get beyond the polarization that has dominated this issue in the past, and we want to, in particular, take meaningful action to protect our communities.

That is what this legislation has been all about. The fires in the West, as the Senator from Idaho has known through his field hearings and other such sectors, have literally been infernos. We just felt it was critical to take steps to ensure that the rural West wouldn't be sacrificed.

I am proud today to rise in support of the conference report on H.R. 1904. This conference report is based upon the Senate-based wildfire bill compromise

brokered by Senators FEINSTEIN, CRAIG, COCHRAN, DOMENICI and myself passed by the Senate on October 30. With the good faith efforts of Representatives POMBO, GOODLATTE, and my friend and colleague from Oregon, Representative WALDEN, this conference report has made only minor changes to the Senate approved version. This legislation will get us back on track restoring forests, protecting the environment, and putting people back to work in rural communities.

This conference report is the first forest management bill to pass both houses of the United States Congress in 27 years. The last time Congress was able to send a forest management bill to the President of the United States, the President was Gerald Ford and it was the Nation's bicentennial. The bill was the National Forest Management Act of 1976.

The world has changed a lot in the last 27 years. Forest management and forest-related economies have changed dramatically. Americans have grown more interested in protecting the environment while using natural resources to support rural communities like those in my home state of Oregon. The conference report we passed today reflects some of those changes: it contains the first ever statutory recognition and meaningful protection of old growth forests and large trees, while streamlining a National Environmental Policy Act process that has seemed to favor paperwork over forest health.

This conference report will streamline restorative forestry in forests at risk of unnaturally catastrophic fires resulting from 100 years of fire suppression. It provides the authorities and guidelines for the Forest Service and Bureau of Land Management to treat unhealthy forests while preserving public input and protecting old growth it's a truly balanced approach to forest health.

There were times when I was not sure this day would come. After the Senate passed our version of H.R. 1904 on October 30, 2003, there was doubt and disagreement on how to proceed with the House of Representatives. As a solution to the gridlock threatening the final passage of wildfire legislation, Senator FEINSTEIN and I proposed informal meetings. The staffs of the two Houses reached the agreement on Title I, the forest health title, through these informal meetings that allowed for a formal conference on all the rest of the Titles. That conference was held Thursday, November 20. I lost a couple of provisions for Oregon that I cared deeply about. But, I am overall pleased that the forest health provisions worked out so diligently by both Houses were preserved intact.

The Senate said there were four features that were particularly important to us to maintain in the legislation.

First, we said we have to have the funding to do the job right. We are not

going to get this work done without funding to get this work done on the ground. I am very pleased with the conference report in that it keeps that funding intact. I am very pleased that the conference report will authorize \$760 million annually for the projects, a \$340 million increase over current funding. It also ensures that we spend the money in the right place. That is in the area known as the wildland/urban interface. The Senate took one approach, the House had other ideas. With some very minor tweaking, this, too, was preserved in terms of the work done by the Senate.

On the old-growth part of the legislation, I am especially pleased because all Americans value these unique treasures, our very large old-growth trees. Professor Jerry Franklin of the University of Washington is considered the leading authority on this subject. He says our provisions with respect to old growth are a major step forward. I am particularly pleased and honored to have Dr. Franklin's comments on this. He is the authority, as Chairman CRAIG knows, on this subject. For those who have followed the environmental aspects of the forestry legislation, let the word go out that Professor Jerry Franklin from the University of Washington, one of the most distinguished scholars in this field—not just now but at any time—believes this is a significant step forward in terms of environmental protection.

We were able to protect the public involvement aspect of forestry policy. Citizens all across this country—whether in Senator DODD's part of the world in Connecticut or any other part of the country—feel passionately about their natural resources and want to be involved in the debate over this process. As Senator CRAIG has noted, we have streamlined the process but we have preserved every single opportunity for the public to comment. Every opportunity that exists today, for the public to comment on forestry legislation, has been preserved in this bipartisan compromise.

Finally, the Senate conferees did very well at defending the Senate compromise. The Senate kept the number one issue the environmental community was concerned about off the table and preserved the Senate compromise position on judicial process. In negotiating this bill, I did not accept the notion that any special deference beyond the deference that is ordinarily due should be given to any agency determinations under the Act, except where explicitly provided in the statute's text. In fact, the conference report expressly rejected the House bill's language giving special deference to agency determinations.

This section, section 106 of Title I, limits venue for these hazardous fuels reduction cases exclusively to the district court for the district in which the federal land to be treated is located. It also encourages expedited review of jurisdictional and substantive issues

leading to resolution of cases as soon as practicable. In addition, this section limits the duration of any injunctions and stays pending appeal to 60 days and provides an opportunity to renew an injunction and stay pending appeal. It also requires the parties to the action to present updated information regarding the status of the authorized hazardous fuel reduction project in connection with such injunction and stay renewals. This last provision is intended to provide an incentive and opportunity for the parties to the complaint to work together to resolve their differences or explain to the judge why that is not possible over time.

This section also directs the courts to balance the impact to the ecosystem likely affected by the project of the short- and long-term effects of undertaking the agency action, against the short- and long-term effects of not undertaking the agency action. There can be environmental risks associated with both management action and inaction. America is acutely aware that the past few fire seasons have been among the worst in modern history in terms of effects on natural resources, people and private property. Air pollution problems are rising and wildland fires have forced thousands to evacuate. In 2002 in one state alone, Colorado, 77,000 residents were evacuated for periods of a few days to several weeks. Seventeen thousand people in Oregon's Illinois Valley were on half-hour evacuation notice the same year. In 2002, millions of dollars of property damage included the destruction of over 2300 homes and other buildings. It is becoming increasingly evident that while one cannot uncut a tree, similarly one cannot unburn a forest. In hazardous fuel reduction projects it is important to focus on the removal of the right vegetation to modify fire behavior—primarily surface and ladder fuels.

At the same time, there can also be adverse environmental consequences of hazardous fuel reduction projects, including but not limited to loss of wildlife habitat, increased sedimentation in streams, soil compaction, and fragmenting of unroaded areas. As documented by the General Accounting Office, poorly designed vegetation treatments in the past have contributed to increased fire risk by removing the large and fire resistant trees, while leaving highly flammable smaller trees behind.

This Act is intended to foster prompt and sound decision making rather than perfectly executed procedures and documentation. Environmental analyses should concentrate on issues that are essential to the proposed projects rather than on amassing needless detail. Section 106 is intended to reinforce Congress's desire that the totality of circumstances be assessed by the courts to assure that public interest in the environmental health of our forests will be served.

Let me be more specific about a few of the other provisions of this legislation. The Senate also prevailed in

keeping the Senate funding requirements and levels, preserving the Senate NEPA language on at-risk lands outside the wildland urban interface; preserving the Senate old growth and large tree protections, and preserving the Senate administrative appeals process.

The legislation changes the environmental review process so the Forest Service still considers the effects of the proposed project in detail, but can focus its analysis on the project proposal, one reasonable alternative that meets the project's goals and the alternative of not doing the project, instead of the 5-9 alternatives now often required. In the highest priority areas within one mile and a half of communities, the Forest Service need only study the proposed action and no alternatives. There is no relaxation from current law in any areas, however, in how closely the Forest Service must study the environmental effects of the project it is proposing to undertake.

The changes that were made to the Senate compromise on H.R. 1904 include more relief and respect for rural forested communities. This conference report allows a single action alternative to be analyzed under the National Environmental Policy Act inside the wildland urban interface defined as 1.5 miles from the community boundary. Within the area identified for protection as the wildland urban interface under a community fire plan, the agency is not required to analyze the "no action" alternative under NEPA, but is required to analyze two action alternatives. This conference report also limits the treatment of diseased forests to those with epidemics, whereas the Senate compromise allowed the treatment of forests with only an infestation of bugs.

This conference report preserves all current opportunities for public input and appeal, while streamlining the appeals process and eliminating some of its worst abuses. Not one current opportunity for public comment would be lost under the compromise. The compromise will require the Forest Service to rewrite their appeals process using the pre-decisional appeals and comment process that has been used by the Bureau of Land Management since 1984. It works by encouraging the public to engage in a collaborative process with the agency to improve projects before final decisions have been rendered upon them by the agency. This model places a premium on constructive public input and collaboration, and less emphasis on the litigation and confrontation of the post-decisional appeals process currently used by the Forest Service. The compromise is designed to move from the current model of confrontation, litigation and delay to one which places a premium on constructive, good faith public input. Whereas in the past, parties could "sandbag" the appeals process by not raising salient points in hopes of later derailing the entire proposed action in the

courts, parties would not be allowed to litigate on issues they had failed to raise in the comment or appeal period unless those issues or critical information concerning them arose after the close of the appeals process—as a result of the revised agency decision.

This conference report provides the first-ever statutory recognition and meaningful protection of old growth forests. Never before has Congress recognized by statute the importance of maintaining old growth stands. Under the compromise, the Forest Service must protect these trees by preventing the agency from logging the most fire-resilient trees under the guise of fuels reduction under these new authorities.

The issue of old growth continues to be the subject of considerable scientific inquiry and debate. What is not subject to debate is the special character and ecological value of old growth. Clearly, it is the intent of Congress that in interpreting the provisions of section 102(e), federal agencies affirmatively recognize the special importance of old growth forests while maintaining the deference they are due unless their determinations are arbitrary, capricious or an abuse of discretion.

This legislation is designed to address past mismanagement of federal forests, and to protect old-growth so that we don't repeat the mistakes of the past. The majority of old-growth stands are healthy, and don't require management. In some old-growth stands in the drier parts of the west, where natural fire regimes have been disrupted by a century of fire suppression, silviculture with a minimum of disturbance can be appropriate that will restore natural forest structure and fire regimes.

Where old growth stands are healthy, as they are throughout much of the forest on the west side of the Cascade Ridge in Oregon, the compromise requires that they be "fully maintained." Section 102(e) of the conference addresses the treatment by the Forest Service and Bureau of Land Management of old growth stands that may occur on authorized hazardous fuels treatment projects. Since recently issued resource management plans of the two agencies are supposed to provide guidance on the treatment of old growth Section 102(e) directs the agencies to rely on the old growth definitions contained in resource management plans that were established in the ten-year period prior to the enactment of the legislation.

Older plans must be reviewed, and if necessary, revised and updated, to take into account relevant information that was not considered in developing the existing definitions or other direction relating to old growth. Any revision or update must meet the requirements of subsection 102(e)(2), which requires the Secretary, in carrying out authorized hazardous fuels treatment projects, to fully maintain, or contribute toward the restoration of, the structure and composition of structurally complex

old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure. Nothing in the bill is intended to prohibit or restrict establishing other standards for old growth stands where purposes other than hazardous fuel management are being pursued under other authorities.

The intent of section 102(e)(4) is to avoid disrupting resource management plan revisions that are already underway. Comprehensive revision of older resource management plans may be preferable to separate amendments or updates for old growth standards, and the bill allows additional time for operating under older plans where revisions are in progress.

In negotiating this bill, I did not agree to the imposition of any more restrictive standards than the "substantial supporting evidence" explicitly set forth in the statute for members of the public's identification of old growth stands during scoping in subsection 102(e)(4)(C).

The compromise makes it less likely that old growth will be harvested under current law by mandating the retention of large trees and focusing the hazardous fuels reduction projects authorized by this bill on thinning small diameter trees.

In moving this legislation, it was my intent to see that the right work get done in the right way in the right place using the right tools. In other words, to see that the risk of catastrophic fire is reduced through legitimate hazardous fuel reduction activities.

These activities are referenced in Section 101(2) of the bill and are spelled out in detail in the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risk to Communities and the Environment, dated May 2002. That document lists the following tools as being appropriate for hazardous fuel reduction: prescribed fire, wildland fire use, and various mechanical methods such as crushing, tractor and hand piling, thinning, and pruning.

In other words, this bill does not authorize a new wave of large tree commercial timber sales. It must be noted that the bill emphasizes the avoidance of the cutting of large trees in Section 102(f), where it specifically states that protects must focus largely on small diameter trees, thinning, strategic fuelbreaks and prescribed fire to modify fire behavior and that projects maximize the retention of large trees.

Section 104(f) requires the agencies to focus on small diameter trees, thinning, fuel breaks and prescribed fire to modify unnaturally severe fire effects, and to maximize the retention of large trees. Large trees are important ecological components of most forest systems. In particular, they are often more fire and insect resistant

than smaller diameter trees, and therefore, with rare exceptions do not contribute to hazardous fuels overloads. They are also considered to be critical ecological legacies because they are essential to the desired future structure and composition of forests. However, large trees are now often underrepresented components of many forest types. In those forest types, forest health will not be restored without a diversity of age classes and types, including large trees.

Section 102(f) deals with federal agency treatment of large trees in authorized hazardous fuels treatment projects outside of the areas identified under section 102(e) and requires the Forest Service and Bureau of Land management to maximize the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands. From an ecological standpoint, and in regards to modifying future fire behavior, large trees are the very last ones that should be removed, if at all.

This is an appropriate limitation in that the last trees that need to be removed from an ecological sense, as well as to modify fire behavior, are the large trees. The clear intent of this legislation is to focus primarily on surface fuels such as brush and dead and down woody material and ladder fuels consisting of small diameter trees and saplings.

This direction is very important to me and I intend on remaining vigilant and responsive to concerns where projects veer from this important direction.

This conference report restores balance to healthy forests legislation by authorizing \$760 million annually for these projects. This is a \$340 million authorized increase over the currently appropriated level of \$420 million for hazardous fuel reduction projects. The conference report maintains the requirement that at least 50 percent of funds spent on restorative projects to be spent to safeguard communities which face the greatest risks from fire.

This conference report also includes improved monitoring language that will help Congress track the successes and failures of this legislation. Section 104(g) requires the Secretaries to monitor and assess the results of authorized projects and to report on the progress of projects towards forest health objectives. This evaluation and reporting will help guide the agencies in future hazardous fuels reduction treatments in existing project areas and in other project areas with similar vegetation types.

The Senate intends that treatments authorized under this Act be directed to restoration of fire-adapted ecosystems as well as hazard reduction. The threat of uncharacteristically severe fires and insect and disease outbreaks decreases when the structure and composition of fire-adapted ecosystems are restored to historic conditions. Thus, section 104(g)(4) directs

agencies to evaluate, among other things, whether authorized projects result in conditions that are closer to the relevant historical structure, composition and fire regime.

The Senate recognizes that fire ecologists have learned that fire is a landscape process and that treatments are most effective when conducted in accordance with landscape- or watershed-scale analyses. Section 104(g)(4) requires the agencies to evaluate project results in light of any existing landscape- or watershed-scale direction in resource management plans or other applicable guidance or requirements. Managers should also evaluate and use available relevant scientific studies or findings.

Section 104(g) also requires the Secretaries, in areas where significant interest is expressed, to establish a multiparty monitoring and evaluation process in order to assess the environmental and social effects of authorized hazardous fuel reduction projects and projects implemented pursuant to section 404 of this Act. Many forest-dependent communities support multiparty monitoring, which simply means that communities and individuals may participate with the Federal agencies in monitoring the projects. The Managers recognize the importance of multiparty monitoring as a way to rebuild trust between rural communities and the agencies.

In conclusion, we have a lot of work to do. We will have others raise questions about the ramifications of this legislation as it relates to the National Environmental Policy Act and other concerns. We want to get this done and implemented properly. As Chairman CRAIG and I have seen in the subcommittee on forestry, we know, for example, it will be tough to get all the funds that are going to be necessary to do these projects on the ground. Our bipartisan coalition is committed to doing that. Then we can turn our coalition to looking at other areas where we can find common ground and move forward in the natural resources area.

A lot of people never thought we would get to this day. Look at the editorials that have been written, some of the interest groups with respect to this legislation, and some of the attacks made on Members. I recall some of those to which Senator FEINSTEIN was subjected. She showed the courage to make it clear she would hang in there and work to get this legislation enacted.

We had a lot of Members of the Senate on both side of the aisle say they would put the public interests first, they would concentrate on protecting communities. That is what has brought us to this day.

I want to thank the following Senate staff for all their hard work on this important legislation: Lance Kotschwar and West Higginbotham of the Senate Agriculture Committee staff, Frank Gladics and Kira Pinkler of the Senate Energy and Natural Resources staff,

Calli Daly of Senator CRAIG's staff, John Watts of Senator FEINSTEIN's staff and Sarah Bittleman and Josh Kardon of my own staff. Josh Penry and Doug Crandall, staff from the House Resources Committee, did yeomen's work to get this bill to conference. These folks, and many others, put in countless and numerous evenings and weekends into this bill and they deserve our appreciation for their hard work and dedication.

This legislation will now go to the President's desk for his signature. I look forward to that happening. Just this week it snowed in Oregon—the fire season has passed for another year but it will come again next year as sure as the spring follows the winter. With this bill in place as law I am hopeful that we will be a bit better prepared.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, are we in morning business?

The PRESIDING OFFICER. That is correct.

#### MEDICARE

Mr. DODD. Mr. President, I will take a few minutes and comment on the upcoming debate on Medicare. Let me begin by expressing my appreciation and my respect for those who have worked on this issue for a great deal of time. I have nothing but the highest admiration for my colleagues, Senator BAUCUS, Senator GRASSLEY, Senator BREAUX, Senator KENNEDY, and others who have spent a great deal of time over the last number of months trying to put together a proposal to provide Americans with a comprehensive prescription drug benefit while not undermining the core program of Medicare which has served millions of Americans so well for the past 38 years. Whatever other views I may have on this proposal, it does not diminish my respect for the efforts they have made to put this bill together. I begin on that note.

Let me state the obvious. I don't know of many other programs that have enjoyed as widespread and as deep and profound a degree of support in our Nation's history as the Medicare Program. I cannot think of another program which has done as much for as many people as Medicare has over the past 38 years. When you look back at the statistics of the poor in America prior to 1965, without exception, the poorest group of Americans were older Americans, our senior citizens. That was, of course, because they had left the labor force and to what extent they had any coverage at all, it was usually lost upon their retirement. As happens when people age, health problems often emerge, people become sicker and require more help. America could only watch as parents and grandparents got sicker and poorer and faced great difficulty making ends meet.

Through a very extensive and elaborate and lengthy debate, our predecessor Congress, both in this body and