To: Interested Persons  
From: Mike Anderson, The Wilderness Society  
Re: Trillion Trees Act  
Date: February 19, 2020

Following is a quick summary and analysis of H.R. 5859, the “Trillion Trees Act of 2020” (hereafter TTA), which Congressman Westerman introduced on February 12 along with nine Republican co-sponsors. A congressional hearing on the bill is scheduled for February 26 before the House Natural Resources Committee. This memo focuses mainly on provisions of the 59-page bill that affect national forest management; other provisions primarily affect state and private forests, forestry research, and international forestry. Commentary on the bill is shown in italics.

Section 2 (titled “Sense of Congress”) declares support for the United Nations’ “Trillion Trees Initiative,” with nations, corporations, and individuals from “around the globe.” The TTA foresees the United States taking a “leadership role” in the initiative, utilizing its “vast natural assets, robust wood product market, and technical expertise … to plant, manage, and utilize domestic forestland” and incentivizing the use of “sustainable building products to sequester carbon.” The House Republicans’ support of the Trillion Trees Initiative echoes President Trump’s surprise endorsement of the initiative during a speech at the World Economic Forum on January 21. The TTA was part of a package of climate change-related bills introduced by House Republicans on February 12 that focused on capturing and sequestering atmospheric carbon rather than acknowledging the need or taking any action to reduce carbon emissions. The TTA follows that general theme by focusing on forest carbon sequestration and timber production while ignoring the critical role of forest conservation to protect and build carbon stores.

Title I – Carbon Sequestration Through Reforestation Activities

Section 101 (titled “National Wood Growth Targets”) would require the Forest Service within two years to “set targets for increased total domestic wood growth for the purposes of capturing and storing carbon.” The targets would “be established at levels which represent the maximum feasible increase in the total wood volume [that] private, State, and Federal landowners can achieve….” This section provides potentially contradictory direction by stating that the targets must “be based on the best available scientific information,” while also stipulating that the targets “shall not negatively impact continued sustainable harvest on National Forest, State, Tribal, and private forestland.” For example, continued logging of old-growth temperate rainforests in the Tongass National Forest clearly would not serve the TTA’s purpose of capturing and storing carbon. Also, scientific studies indicate that extended harvest rotations can store more carbon than short-rotation harvests, but the bill apparently would not allow growth targets based on extended rotations if they would reduce harvest levels.

Section 102 would establish a “National Reforestation Task Force” and require it to recommend wood growth targets to the Forest Service. The 15-member task force would include seven
federal agency representatives and eight other members including two private forest landowners and a wood products manufacturer that receives at least one-quarter of its wood supply from federal timber sales. *Like Section 101, this section stipulates that the Task Force must make program and policy recommendations “while still maintaining yearly sustainable increases in the amount of board feet harvested from public lands.”* Sec. 102(b)(1)(D). Thus, even if best available science supports less logging to grow more carbon, the Task Force would be legally prohibited from recommending such a strategy. Notably, none of the 15 task force positions would go to a forest carbon scientist.

Section 103 (titled “Timber Survey Update”) would amend the Forest and Rangeland Renewable Resources Planning Act of 1974 [hereafter called the “RPA”] in three ways. First, the RPA currently requires the Forest Service to prepare a Renewable Resource Assessment every decade that includes “(6) an analysis of the rural and urban forestry opportunities to mitigate the buildup of atmospheric carbon dioxide and reduce the risk of global climate change.” Section 103(a)(1) of the TTA would replace that part of the RPA with the following language: “(6) an analysis of the total carbon storage capacity of the National Forest System based upon the lifecycle analysis established under section 103(b) of the Trillion Trees Act”; and “(7) an analysis of the forestry opportunities to sequester atmospheric carbon.” The bill would thereby eliminate the RPA’s explicit objective to “mitigate the buildup of atmospheric carbon dioxide and reduce the risk of global climate change.” Thus, not only would the TTA never add any mention of climate change to U.S. laws, but it would also remove one of the few instances in which climate change is mentioned in existing laws. Also, focusing the RPA’s analysis on “total carbon storage capacity” could be problematic because such a singular focus could have unsustainable and undesirable results such as increasing fuels and wildfire risk in fire-prone ecosystems.

Second, the RPA currently requires the Forest Service to report on three general topics in the decadal Assessment: (1) potential for increased fiber potential in the national forests, (2) potential for increased potential to utilize wood waste in the national forests and other forests, and (3) potential for increased technological efficiency in wood products facilities. Section 103(a)(2) of the TTA would add a fourth reporting requirement: “(4) the potential for increased atmospheric carbon storage through the utilization of forest and wood products and biproducts, including recommendations to Congress for actions which would lead to increased utilization of these materials in sequestering more atmospheric carbon.” Again, *this section of the bill focuses on utilization of forest products, ignoring the important role of forest conservation in carbon storage.*

Third, Section 103(b)(1) of the TTA would require the Forest Service to develop “computational models to evaluate the lifecycle forest carbon sequestration potential associated with active management of the National Forest System.” The bill would require the agency to consider eight factors: the rate of carbon storage in new and old wood growth, the amount of carbon released through tree mortality and catastrophic wildfire, the amount of carbon stored through “the manufacture of sustainable wood products,” and the net carbon stored through active management and “a sustainable cycle of harvest and regeneration.” Sec. 103(b)(2). The lifecycle
analysis would be used as the basis for the analysis of total carbon storage capacity of the National Forest System required by Section 103(a)(1). The bill makes no mention of the amounts of carbon released through logging and milling operations, log transport, or eventual building demolition, which are essential factors to consider in a valid carbon lifecycle model. Also, the bill focuses the model on “active management” of forests and ignores forest conservation (e.g. preservation or longer harvest rotations), thus creating a biased, logging-oriented model for determining the carbon storage capacity in the national forests.

Section 103(b)(3) would require the Forest Service to validate and independently test the carbon storage lifecycle models, comparing model predictions to field data on carbon stored in the national forests and testing hypotheses about the “net effects on land and atmospheric carbon stocks and other greenhouse gas impacts.” The Forest Service would be required to report to the Agriculture committees of Congress about the findings of the analysis using the lifecycle model within one year. Sec. 103(b)(4). One year could prove to be an unreasonably short deadline to develop and adequately validate the lifecycle models so they produce credible results.

Section 104 of the TTA (titled “Reforestation Programs”) would make additional changes to the RPA, along with changes to Stewardship Contracting Authority in the Healthy Forest Restoration Act and Good Neighbor Authority created by the 2014 Farm Bill. This section of the TTA is similar to bipartisan legislation, the Reforestation Act of 2019 (S. 3106), which was introduced on December 19, 2019, by Senators Udall, Portman, and Stabenow. For a summary of the Senate bill, see https://www.tomudall.senate.gov/imo/media/doc/Reforestation%20Act%20of%202019%20Bill%20Summary__%20FINAL%20wgraphic.pdf.

First, the TTA bill would revive a now-expired requirement of the RPA that the Forest Service inform Congress of the appropriations needed to reforest recently cutover forest land and the backlog of land needing reforestation. Sec. 104(a)(1)(C)(i). According to Senator Udall’s summary, there are 1.3 million acres in the Forest Service’s reforestation “backlog,” but the agency only has capacity to replant 200,000 acres per year. Udall’s summary also states that 80 percent of the backlog acres are the result of wildfires.

Second, Section 104 would add a new requirement in the RPA for the Forest Service to create a “priority list” of reforestation projects on National Forest System land that has become “understocked” or “significantly impacted by insect infestation or disease” as a result of wildfire, blowdown, or other unplanned event. Sec. 104(a)(1)(C)(iv). “Understocked” is defined as having a forest canopy cover gap of at least 50 acres or being “ecologically detrimental to the forest, as determined by the Regional Forester.” The projects would be ranked based on their carbon sequestration potential and other factors.

Third, Section 104 would amend the RPA’s Reforestation Trust Fund by increasing the maximum amount that can be transferred from the Fund from $30 million to $60 million per year. Sec. 104(a)(2)(B)(i). The trust fund, which Congress created in 1980, would continue to
receive off-budget revenues from tariffs imposed on imported timber and other wood products. *According to Senator Udall’s summary, the Reforestation Trust Fund receives an average of $97 million per year.*

Section 104 would also amend the Forest Service’s stewardship contracting authority in the Healthy Forest Restoration Act by allowing “priority” reforestation projects to use stewardship contracts. Sec. 104(a)(2)(C). The reforestation projects would be selected from the priority list established under Section 104(a)(1)(C)(iv).

Similarly, Section 104 would amend the agency’s Good Neighbor Authority established by the 2014 Farm Bill (and amended by the 2018 Farm Bill) to allow priority reforestation projects on national forest lands to be implemented by states, tribes, and counties. Sec. 104(a)(3).

Finally, Section 104(b) would amend the RPA by setting 2029 as the target year when (as stated in the RPA) “the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis.”

The remainder of Title I of the TTA consists of six sections (Sections 105 through 110) that involve private forests, the National Forest Foundation, and international forestry.

**Title II – Carbon Sequestration Through Improved Forest Management Activities**

Section 201 of the TTA would require the Forest Service and public land managers in the Interior Department to establish “priority areas on covered lands for wildland-urban interface protection, watershed protection, critical infrastructure, and wildlife habitat restoration projects.” Sec. 201(b)(1). In addition to prioritizing projects in priority lands that are at high-risk of wildfire or close to critical infrastructure or reservoirs, the bill would prioritize projects that “(i) increase storage capacity of carbon through new wood growth or (ii) reduce carbon emissions that result from tree mortality or wildfires.” Sec. 201(b)(3)(C). The federal land managing agencies would have to coordinate and consult with states, tribes, utilities, and others to ensure that projects are “(A) economically viable and (B) likely to avoid or minimize conflict with habitat for animals and plants, recreational users, cultural resources, and other uses of covered lands.” Sec. 201(b)(6).

Section 201 includes two provisions that could significantly undermine the *National Environmental Policy Act*. First, it allows the agency to bypass environmental review if the agency determines that a project “has been sufficiently analyzed by a previously completed EIS.” Sec. 201(b)(7)(A). Second, if the agency determines that environmental review is needed, the agency “shall rely on the analysis in any relevant EIS conducted when analyzing the potential impacts of the project.” Sec. 201(b)(7)(B). *The meaning of this language is both unclear and concerning. Conceivably, it could mean that a programmatic EIS prepared for a comprehensive*
national forest plan revision might be considered legally sufficient NEPA compliance for a project on “priority lands,” even though forest plan EISs do not consider site-specific, project-level impacts.

Section 201’s NEPA provisions evidently would not be limited to priority areas and projects but would apply broadly to forest and rangeland management projects anywhere on “covered land,” which is defined to include federal public lands where forest management practices are legally allowed. Thus, logging and livestock grazing activities on many millions of acres of federal public lands could become exempt from NEPA’s environmental review and public involvement requirements. Section 201 also includes a confusing and problematic reference to inventoried roadless areas in its definition of “covered land.” The definition could be interpreted to mean that road building and commercial logging activities are allowed in roadless areas if those activities are “consistent with the forest plan applicable to the area.” Sec. 201(a)(1)(D).

Congressman Westerman’s Resilient Federal Forests Act contained the same problematic language regarding inventoried roadless areas.

Section 202 delves into the controversial area of judicial review by requiring a court evaluating a request for injunctive relief to consider “potential decreased carbon storage through stand stagnation” and “the potential for increased carbon emission due to wildfire.” Sec. 202(a). The court would also be required to consider the “lifecycle analysis of carbon storage” developed pursuant to section 103(b) of the TTA. Sec. 202(b). In addition, the bill would also impose a maximum limit on the length of any preliminary injunctive relief of no more than 60 days, with limited exceptions. Sec. 202(c). These kinds of limitations on judicial review are unnecessarily divisive and undermine the independent role of the judiciary under the U.S. Constitution.

Similar to Section 104(a)(3) – which, as discussed above, adds priority reforestation projects to Good Neighbor Authority -- Section 204 amends the 2014 Farm Bill to include “activities to increase stored carbon.” In addition, the TTA amends the GNA more broadly by requiring that all revenues from timber sales conducted by a State “shall be retained and used by the [State] to carry out authorized restoration services on Federal land....” It is unclear how Section 204 relates to Section 104(a)(3) regarding carbon storage versus reforestation projects. It is also unclear how State retention of GNA revenues is relevant to carbon sequestration.

Title III – Market Incentives for Carbon Sequestration

The only section in this title of the TTA that potentially relates to national forest management is Section 302 regarding “carbon neutrality of sustainable biomass.” Section 302 would require the federal land management agencies, the Energy Department, and EPA to “establish policies for the use of forest biomass as an energy solution.” Sec. 302(2). Similar to an appropriations rider included in recent Interior Appropriations laws, the TTA would require policies that “reflect the carbon neutrality of forest bioenergy.” Sec. 302(2)(A). There remains considerable scientific controversy and uncertainty about whether and under what circumstances forest biomass is in fact carbon neutral.