



October 26, 2016

The Honorable Lisa Murkowski  
Chairman  
Energy and Natural Resources Committee  
United States Senate

The Honorable Maria Cantwell  
Ranking Member  
Energy and Natural Resources Committee  
United States Senate

The Honorable Rob Bishop  
Chairman  
Natural Resources Committee  
U.S. House of Representatives

The Honorable Raul Grijalva  
Ranking Member  
Natural Resources Committee  
U.S. House of Representatives

The Honorable Fred Upton  
Chairman  
Energy and Commerce Committee  
U.S. House of Representatives

The Honorable Frank Pallone  
Ranking Member  
Energy and Commerce Committee  
U.S. House of Representatives

Dear Chairmen Murkowski, Upton and Bishop and Ranking Members Cantwell, Pallone and Grijalva:

As conference negotiations on comprehensive energy legislation continue, Congress has the opportunity to work in support of several priority issues for America's counties. On behalf of America's 3,069 counties, boroughs and parishes, I write to encourage the members of the conference committee to work together in the spirit of bipartisanship to address the following critical issues for our nation's county governments.

### **Reauthorize the Secure Rural Schools Program**

Counties urge Congress to act before the end of the year to reauthorize the Secure Rural Schools (SRS) program for FY 2016 and beyond.

The SRS program provides crucial support to local schools, transportation infrastructure, law enforcement and other county services in more than 720 counties and 4,000 school districts nationwide, impacting nine million students across 41 states. Unfortunately, the SRS program expired on September 30, 2015 and has yet to be reauthorized. If the Secure Rural Schools program is not reauthorized, forest counties and schools will not receive another SRS payment.

Historically, the federal government has shared 25 percent of federal forest revenues with counties to compensate them for the federal ownership of forests. Federal forest lands cannot be taxed at the local level, yet counties must still provide essential services on forest lands. Due to steep reductions in timber revenue sharing resulting from national policies that limited revenue-generating activities within federal forests, current 25 percent revenue sharing payments are no longer sufficient to support the services forest counties must provide.

When the authorization for SRS lapsed in FY 2014, forest payments to counties decreased by over 80 percent. Counties and school districts nationwide faced dramatic budgetary shortfalls and began preparations to halt

infrastructure projects, terminate employees, cancel teacher contracts and reduce numerous other services as a result. In that instance, Congress reauthorized the SRS program retroactively and provided full SRS payments to counties. However, by that time services had already been impacted in many counties and school districts.

Today, counties across the nation face the same uncertainty and are preparing to take similar action should Congress fail to reauthorize SRS before the end of the year. Counties urge Congress to provide local governments with the budgetary certainty they need to continue providing critical services to our shared constituents. We encourage you to work swiftly to reauthorize the SRS program for FY 2016 and into the future.

### **Provide Greater Flexibility for Counties Under Title III of SRS**

Counties encourage Congress to provide additional flexibility in the utilization of funds under Title III of the SRS program and to work to ensure equitable revenue sharing with counties for revenues generated through the Forest Service's stewardship contracting authority.

Counties provide critical services such as law enforcement and search and rescue for residents and visitors on U.S. Forest Service (USFS) lands. Title III of SRS provides critical resources to counties to support search and rescue, fire protection and other emergency services performed by the county on federal land.

Section 404 of the House Amendments to S. 2012, the North American Energy Security and Infrastructure Act of 2016, would provide additional flexibility for counties to use a portion of SRS program funding to ensure county first-responders have the equipment and training they need to provide emergency services on forest service land and support law enforcement on federal lands.

In 2012, the Government Accountability Office (GAO) issued a report on how SRS Title III funds were being spent and made recommendations to significantly restrict what expenditures should be allowable. The USFS adopted GAO's recommendations, which has caused considerable hardship for counties. For example, one Oregon county has been allotted about \$278,000 per year from SRS Title III, but can only spend about \$20,000 a year because of the strict new parameters. Congress intended SRS Title III funds to support not just actual search and rescue activities but also the significant costs to train and equip the emergency services personnel who provide these costly services on federal public lands.

Counties encourage conferees to include Section 404 of the House Amendments to S. 2012 as a part of the final conference legislation. Enacting this common sense legislative language would restore original Congressional intent and ensure forest counties can continue providing high-quality first-responder services for county residents and the millions of public lands visitors each year.

### **Support Stewardship Contracting Revenue Sharing with Counties**

In 2003, the U.S. Forest Service and Bureau of Land Management were given new stewardship contracting authority by Congress (P.L. 108-7). Stewardship contracting authority allows the USFS to implement forest management projects supported by revenues generated through the sale of forest products yielded by the management project.

Counties support stewardship contracting as one of the many tools at land managers' disposal to responsibly manage our federal lands. However, since its inception, revenues generated through stewardship contracting have been exempt from revenue sharing with counties. Forest revenue sharing payments support critical county services. Counties support and are active partners in stewardship contracting initiatives across the

United States. However, stewardship contracting revenues must be shared equitably with county governments consistent with historic practices.

Section 503 of the House Amendments to S. 2012 is one proposal that builds on the historic compact between forest counties and the federal government by extending forest revenue sharing to USFS revenues generated through stewardship contracting projects. Sharing revenues from stewardship contracting will provide much needed support for forest counties, their roads, schools and other critical services to help offset the presence of non-taxable federal lands within their jurisdictions.

NACo encourages the conferees to include legislative language to further strengthen stewardship contracting forest revenue sharing between counties and the federal government.

### **Enact Comprehensive Forest Management Legislation**

NACo supports enacting comprehensive forest management legislation and we continue to encourage the House and Senate to work together to pass comprehensive legislation to reform federal forest management practices before the end of the year.

Congress must work to reverse the decline in our federal forests by enacting meaningful forest management reforms that improve forest health and restore forest production. Counties believe that active management of federal lands and forests must be done in a sustainable manner to ensure the health of our federal lands for generations to come and we are intergovernmental partners with the federal government in achieving these goals.

The health of our federal forests has a direct effect on public health, safety and economic wellbeing of counties across the United States. Not only do unhealthy forests increase community wildfire risk, they can also negatively impact community access to clean water and air, threaten wildlife habitats and reduce county opportunities for forest-related tourism and job creation.

NACo applauds legislative proposals to:

- Promote forest management activities that cross federal, state and private land boundaries;
- Encourage landscape-wide forest management projects on federal forest lands;
- Provide funding flexibility to reinvest unused fire suppression dollars into reducing wildfire risks in at-risk communities;
- Streamline analysis and expedite review of forest management activities;
- Accelerate hazardous fuels reduction work in the areas at greatest risk for catastrophic wildfire;
- Implement new technologies that will provide new tools and capabilities to combat wildfire and ensure that existing tools and technologies are certified and available when they are needed most;
- Invest over \$500 million in communities with the greatest fire risk to expand Firewise and other community-passed programs, develop and implement community wildfire protection plans, carry out wildfire risk assessments and implement cross-jurisdictional hazardous fuels reduction projects.

Counties strongly support proposals in the House and Senate to streamline environmental regulations for locally-supported and collaboratively-developed forest health projects and for critical forest health projects across our forest system. Counties across the United States have engaged in collaborative efforts to address their natural resources challenges. By bringing together a broad cross section of local stakeholders into

collaborative processes, counties, industry, outdoorsmen, conservationists and federal and state land managers have built consensus on some of the most complex natural resource management challenges.

As the conferees continue their work, NACo asks that you include provisions in the final conference report to address the negative impacts of excessive litigation, which have created a culture of “analysis paralysis” within federal land management agencies and have hampered collaboratively developed forest projects across the nation. In recent years, costly litigation has slowed or prevented the timely implementation of forest health projects and created a checkerboard of conflicting judicial opinions resulting in inconsistent application of federal environmental laws and regulations and crippling regulatory burdens for counties and federal agencies alike. Proposals before the House and Senate that would require a court to balance the short and long term effects of a forest management activity against the short and long term effects of taking no action by issuing an injunction should be thoroughly considered. We also encourage the conferees to consider alternative dispute resolution options, such as arbitration, as a means of reducing forest project litigation and incentivizing collaborative forest management activities.

Counties want to know that if they invest their taxpayers’ time and money and engage with their federal partners in support of responsible active management, those investments will be upheld by their federal agency partners and the courts and result in project completion.

#### **End “Fire-Borrowing”**

Counties encourage Congress to enact a permanent legislative solution to end the budgeting practice commonly known as “fire borrowing,” which draws down funds from non-firefighting accounts to pay for federal firefighting needs. The drawdown of funds through fire borrowing negatively impacts the ability of the federal government to undertake important forest health and fire prevention activities and places the safety of forest communities at risk. We urge Congress to enact a legislative fix to the method of funding wildfire suppression on national forests and grasslands by providing access to funding outside of the statutory discretionary limits for emergency purposes. We support a legislative solution that enables the Forest Service to access a discretionary disaster cap adjustment after the amount spent on fire suppression exceeds 70 percent of the 10-year average of fire suppression costs. This approach allows federal agencies to invest additional resources in forest and rangeland restoration and management and responsibly funds annual fire suppression activities.

#### **Enact the Public Lands Renewable Energy Development Act**

We request that Congress include the Public Lands Renewable Energy Development Act (PLREDA; H.R. 2663 and S. 1407) in the final conference agreement. The reforms included in PLREDA will support a timelier review of renewable energy project applications, expedite project development and extend royalties and lease income from solar and wind projects developed on federal lands to their home counties.

Counties appreciate that the Senate recently adopted the siting and permitting provisions of PLREDA in S. 2012 via S. AMDT 3286. However, it is important to note that this amendment failed to advance the bill’s revenue sharing component. As renewable energy resources are developed, counties will be called upon to provide essential infrastructure and county services to support energy facilities. Counties build and maintain 45 percent of America’s roads and 39 percent of the nation’s bridges and invest millions of dollars annually to provide public safety, health, solid waste disposal and other essential services on federal public lands as well as private lands. The costs of providing essential county services on public lands can be significant, especially in the geographically large, public lands counties of the west – those who could benefit most significantly from this

legislation. PLREDA strikes a careful balance, encouraging the development of renewable energy resources and sharing rents and royalties with local governments to offset the costs.

PLREDA's balanced approach to renewable energy development is what has garnered it broad stakeholder support from counties, governors, the energy industry, sportsmen and environmental groups as well as eight bipartisan Senate cosponsors and 69 bipartisan House cosponsors. In order to ensure PLREDA's balanced approach is maintained, counties urge you to adopt the full scope of PLREDA as a part of the conference agreement.

#### **Extend Brownfields Cleanup**

Title VII of the Senate-passed version of S. 2012 reauthorizes the U.S. Environmental Protection Agency's (EPA) Brownfields Program through 2018. The Brownfields Program helps local communities redevelop and repurpose contaminated sites nationwide. Since its creation, the EPA Brownfields Program has provided crucial assistance to local governments for the reuse of hazardous, polluted and underutilized properties. To date, there have been over 24,000 brownfields assessments and 1,200 brownfields cleanups nationally, which has led to over 113,000 jobs. Each of the \$22 billion federal dollars that has been invested since the program was established in 2002 has leveraged approximately \$18 in other investments, close to \$400 billion in total. While many communities have benefited from brownfields redevelopment efforts under this program, the GAO's estimates there are between 400,000 and 600,000 remaining brownfields sites throughout the United States. Reauthorization of the program will allow local governments and communities to undertake more brownfields cleanup programs nationally.

America's counties stand ready to work with you as the conference committee continues its work. If we can be of assistance on these or any other issues before the conference committee, please do not hesitate to contact NACo Associate Legislative Director Chris Marklund at [cmarklund@naco.org](mailto:cmarklund@naco.org) or 202.942.4207. To further discuss the Brownfields Program, please contact NACo Associate Legislative Director Julie Ufner at [jufner@naco.org](mailto:jufner@naco.org) or 202.942.4269.

Sincerely,



Matthew D. Chase  
Executive Director