For one of the first times in US legislative history, communities are given a statutory incentive to participate in the management of public forest resources. Since December 2003, US federal agencies (Forest Service and the Bureau of Land Management) were authorized to utilize new procedures for developing forest management projects to reduce the risk of catastrophic wildfires and protect communities from wildfire threats. The new authorities require a collaborative planning process that includes two key mechanisms to engage communities: community wildfire protection plans and multiparty monitoring. The Forest Service is hoping to increase the 2 million acres of forests they are currently thinning per year to 8 million acres. It is important for communities and practitioners to understand these provisions and to encourage the federal agencies (the Forest Service and BLM) to implement these provisions in ways that fully involve communities and provide useful information about the program and projects.

On December 3rd 2003, President Bush signed the final version of the Healthy Forests Restoration Act (H.R. 1904) after Congress worked on marathon negotiations and faced intense political pressure. After eight years of various Congressional attempts to enact legislation to address wildfire issues, Congress finally completed work on wildfire related legislation.

The bill was introduced in the House and passed through that chamber on May 20th 2003. The Senate worked on the bill for more than five months and passed their version of the bill on October 30th. The Senate version included twelve titles, six more than the House. Both the House and Senate made compromises to their versions of the legislation and agreed on a final bill on November 21st. The President signed it into law shortly thereafter.

The final act contains six titles. The purposes of each title are:

- **Title I (Hazardous Fuel Reduction on Federal Land):** to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects.
- **Title II (Biomass):** to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuel, and petroleum-based product substitutes, and for other commercial purposes.
- **Title III (Watershed Forestry Assistance):** to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape.
• Title IV (Insect Infestations and Related Diseases): to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health.
• Title V (Healthy Forests Reserve Program): to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests.
• Title VI (Miscellaneous): to protect, restore, and enhance forest ecosystem components.

Title I generated most of the controversy during debate over this legislation. This Title requires the U.S. Forest Service and the Bureau of Land Management (BLM) to spend half of the program’s authorized funding decreasing the fire risks in the defined wildland-urban interface (WUI), and limits treatments under these authorities to 20 million acres of federal land, despite the 190 million acres that the Forest Service claims to be at risk for catastrophic wildfires. The legislation directs the agencies to prioritize funds to communities that have adopted a community wildfire protection plan or have taken proactive measurements to encourage landowners to reduce the fire risk on private land.

Title I encourages meaningful public participation during the preparation of hazardous fuel reduction projects. It requires public participation in a manner consistent with the 10-year Implementation Plan. Community wildfire protection plans allow to identify and prioritize areas for hazardous fuel reduction treatments and to recommend the types and methods of treatment in order to protect communities at risk. Besides, the definition of wildland-urban interface includes that area recommended in the community wildfire protection plan. This is an incentive for communities to develop a community wildfire protection plan that addresses their local context and need for defining the WUI. Federal agencies shall consider those recommendations included in community wildfire protection plans of any community at-risk, including assistance to non-federal lands for fuel reduction projects. However, there are not specific allocations of funds for encouraging public participation.

The Title limits alternatives that can be studied under National Environmental Policy Act (NEPA) assessments. Currently under NEPA, agencies must consider all alternatives that meet the purpose and need for a particular project. This new law establishes a tiered system for the considering alternatives for hazardous fuels reduction projects. Outside of WUI, analysis must include the proposed action, the no-action alternative, and an additional action alternative if the alternative is proposed during scoping and meets purpose of the project. Within WUI, only the proposed action and one action alternative are required. Within 1½ miles of an at risk community, the agency is only required to analyze the proposed action if it is different than community wildfire protection plan. If

1 WUI: areas adjacent to an at-risk community identified in a community wildfire protection plan; or areas within ½ mile from the boundary of the at-risk community; or areas within 1½ mile from the boundary of the at-risk community, including any land that: a) has a steep slope that could create the potential for wildfire behavior, b) has a geographic feature that aids in creating an effective fire break, c) is in condition class 3; or areas that are adjacent to an evacuation route.
different, the community wildfire protection recommendations must be considered as an alternative.

Perhaps one of the more promising, but obscure, aspects of Title I are the monitoring requirements. Agencies must monitor the results of a representative sample of projects and issue a report every 5 years that evaluates progress towards project goals, and recommends changes for adaptive management. These authorities also require multiparty monitoring, with the participation of diverse stakeholders (including interested citizens and Indian tribes). However, it limits multiparty monitoring to those areas where “significant interest is expressed”. It is important for communities to work with the federal agencies to clarify how they will interpret this language so that communities can effectively encourage and engage in multiparty monitoring efforts. Funds for multiparty monitoring may be derived from operation funds for projects according to the language, but it does not ensure a secure source of funding. All monitoring data will be collected through cooperative agreements, contracts, or grants to small or micro-business, cooperatives, nonprofit organizations, Youth Conservation Corps work crews, or related State, local, and other non Federal conservation corps.

Significant controversy surrounded the section that alters the appeals process. Under the new law, administrative appeals are limited to those who file written comments that relate to the proposed action, during the planning stage in scoping or during the public comment period. However, in the case that critical information was lacking during the administrative process, citizens still have the right to go to court if they could not raise an issue during the administrative review process. Although some see this measure as a limiting factor of public participation, supporters claim it is necessary to limit last-minute appeals of those parties not engaged during the up-front collaborative process.

Additionally, where an issue does go to the courts, the new law mandates that judicial review can occur only in the district that has jurisdiction over the location of the project. The provisions encourage courts to reach a resolution as soon as possible, and direct them to balance both long term and short-term effects on the environment of implementing a project against those of not implementing an authorized project.

Title II, Biomass, amends the Food, Agriculture, Conservation, and Trade Act of 1990 by adding the “Rural Revitalization Through Forestry” program to accelerate adoption of biomass technologies and to create community-based enterprises through marketing activities and demonstration projects. Title II also amends the Biomass Research and Development Act of 2000 by authorizing biomass research on forestry issues to provide forest managers and community developers with the science, technology, tools, and training materials to assist them in evaluating forest treatments and production alternatives. Lastly, Title II authorizes the Biomass Commercial Utilization Grant Program, which grants persons that own or operate biomass facilities to offset the costs incurred to buy biomass. Congress authorizes up to $5 million per year for each of the three biomass programs. The final version of this title does not include the Value Added Grant Program, which could have granted projects that add value to biomass with preference to persons in preferred communities. This last program would have authorized
$25 million annually in both versions passed in the House and Senate. The program was not adopted during conference.

The act does not include Title VII of the Senate version of H.R. 1904. These authorities would have created a federal program to assist in the economic revitalization of rural resource-dependent communities through incentives to promote investment in private enterprise and community development.

Although Title I includes an authorization of $760 million annually, half of which must go toward WUI areas, and each of the three programs under Title II authorizes $5 million annually, this money is not mandatory spending, but discretionary spending. This means that the authorized budget will be subject to the Federal appropriation process each year. Congressional appropriations at appropriate levels are one of the next critical steps necessary to ensure that the provisions included in this act will actually occur on the ground.

Another significant opportunity to influence the impact that this new legislation has on the ground is to work with the federal agencies in drafting the regulations that will implement the specifics of the legislative mandates. One example of this would be to have a voice in the way the Forest Service and the BLM design the system for complying with the monitoring requirements in the new law.