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November 2016

Congress Returns for Post-Election Lane Duck

The 114th Congress recently returned to Washington, D.C. following the election results that caught most national political pundits by surprise. With less than two weeks remaining until Congress is expected to adjourn for the year, Members of Congress are largely focused on must-pass legislation, beginning to organize for the 115th Congress, and President-elect Trump's transition process.

In addition to recapturing the White House, Republicans held both chambers of Congress. While we will have to wait for the results of a final runoff election in Louisiana, Republicans appear set to hold a 52-48 majority in the Senate and a 241-194 edge in the House – losing only two seats in the Senate and six seats in the House during one of the most contentious political seasons in memory. This will mark the first time the White House and Congress have been under Republican control in over a decade.

With many Republicans content to wait for a Trump Administration to negotiate major legislative initiatives, the list of must-pass measures is short. Congressional leadership has already announced that Congress will pass a Continuing Resolution (CR) to fund the government at current funding levels until March – about six-months into Fiscal Year 2017. Unfortunately, the lack of certainty about final funding levels will be disruptive to the timber sale programs of the Forest Service and BLM. Congress is also expected to take up a handful of other measures, including water legislation with provisions to address the Flint water crisis. It is also possible that Congressional negotiators could come to an agreement on energy legislation, although the House and Senate have been far apart on some of the key issues. Any legislative fixes to fire borrowing and federal forest management would likely be included in an energy bill.

Looking ahead to the next Congress, the leadership of the key committees that impact federal forest policy is unlikely to see significant changes following the election. In the House, Congressman Rob Bishop (R-UT) is expected to maintain the gavel of the Natural Resources Committee and Congressman Raul Grijalva (D-AZ) will likely continue as the Ranking Member. Senator Lisa Murkowski (R-AK) is expected to continue chairing the Senate Energy & Natural Resources Committee and Senator Maria Cantwell (D-WA) remains as the Ranking Member. It also appears that the leadership of the Senate Interior Appropriations Subcommittee – including the chair of the Senate Subcommittee Lisa Murkowski – is also unlikely to see significant change.

The chairmanship of the powerful House Energy and Commerce Committee is up for grabs and Congressman Greg Walden (R-OR) is in a two-way race for the post. For the past two terms Congressman Walden has served as the Chair of the National Republican Congressional Committee, the campaign arm for House Republicans and a post that has allowed him to build relationships (and political capital) with House members across the country. In the Senate, Senator Patty Murray (D-WA) will assume the role of Assistant Democratic Leader – the number three position in Senate Democratic leadership. She will maintain her Ranking Member position on the Senate Education Committee and continue serving as a senior member on the Appropriations Committee. Senator Ron Wyden (D-OR) maintains the Ranking Member position on the powerful Senate Finance Committee as well as his status as the most senior Democrat on the Energy and Natural Resources Committee.

The attention of many Republicans on and off the Hill has shifted to the unfolding transition process of President-elect Trump. Some House Republicans, including Congresswoman Cathy McMorris Rodgers (R-WA), are reportedly being considered for Cabinet-level positions in a Trump Administration. Other Members of Congress will provide a critical link to the Trump Transition on potential personnel and policy initiatives. The transition team includes many former Republican Administration appointees as well as Congressional staff. The Department of the Interior transition is being led by David Bernhardt, a DC lawyer who served as the Interior Solicitor during the George W. Bush Administration. Transition efforts at the US Forest Service and Department of Agriculture are being led by Joel Leftwich, the Senate Agriculture Committee's Republican staff director. AFRC has been actively tracking the transition and is working with its members and allies to have input on the process. */Heath Heikkila*

WA Election Results

Two of the three statewide elected public officials serving on the Board of Natural Resources (BNR) will be new to office in 2017. Hilary Franz (D), an environmental attorney, will be the new Public Lands Commissioner and received 53% of the vote statewide. During her campaign, she promised to maintain or increase timber harvest levels from state lands while diversifying the income stream to fund public education.

At the end of a neck-and-neck election, former state legislator Chris Reykdal will become Superintendent of Public Instruction. Mr. Reykdal won by a 50.5 / 49.5 margin over Erin Jones. Reykdal has been a career public school administrator who understands how public timber revenues figure into funding public education. The Superintendent of Public Instruction is a nonpartisan position.

Governor Jay Inslee (D), the third statewide elected official serving on the BNR was elected to a second term over challenger Bill Bryant (R) with 54% of the vote.

In the Legislature, the differential between Democrats and Republicans is relatively unchanged. The significant news in the legislative races is the number of new members. The House will see 11 new members and four “new” former members. The Senate will have 10 freshmen this coming session.

Several counties with significant interests in public timber management, both state and federal, also elected new commissioners. Skamania and Okanogan Counties will both have two new members on their three-member Boards of Commissioners. Other counties with newly elected county commissioners include Clallam, Lewis, Pacific, and Wahkiakum.

Washington State's general election results were certified on November 29. Officials elected to fill out an unexpired term took office that day. Regularly elected county officials take office on January 1, 2017. Legislators elected to full terms take office on January 9. Statewide officials (e.g., Governor, Commissioner of Public Lands, Superintendent of Public Instruction) take office January 11. */Ann Forest Burns and Matt Comisky*

USFS R6 Science Synthesis

National forests are generally required to update their land management plans every ten years. However, in practice, most forest plans are in effect for 20 years or more before they are revised. The Northwest Forest Plan (NWFP) was adopted in 1995 and the land management plans for the Forests encompassed by this Plan were supposed to be revised by 2005. Now, 21 years after the adoption of the NWFP, these Forests are not even on [the official schedule](#) of upcoming Plan revisions. In an attempt to get ahead of the game, Region 5 and 6 Leadership formed a team to compile and synthesize all of the relevant science and information that pertains to key land management planning issues. The synthesis will then be used to help inform NWFP revisions when this effort gets underway. The website dedicated to this effort can be found [here](#).

The draft Northwest Forest Plan science synthesis is now available [online](#). A public forum will be held on December 6 from 8:30 a.m. - 1:00 p.m. at the Doubletree by Hilton in Portland, Oregon. Ross Mickey will attend on behalf of AFRC and its members. The forum will also be broadcast live as a webinar, so interested parties outside of the Portland area can participate. Additional information, along with a detailed agenda, is forthcoming and will be posted [online](#).

Written public comments are due by January 6, 2017 and can be uploaded [here](#). AFRC will complete its comments by the end of December and share its review with members before final submission. Peer reviewers will provide their assessments to the synthesis authors in the spring of 2017. The draft will be revised and published in late 2017. If you have any questions, please contact Becky Gravenmier at bgravenmier@fs.fed.us or (503) 808-2851. */Ross Mickey*

DNR Marbled Murrelet Long Term Conservation Plan

The Washington State Department of Natural Resources (DNR) has released its long-awaited Draft EIS (DEIS) for the Marbled Murrelet Long Term Conservation Strategy (LTCS). Originally scheduled for release on December 2, the agency notified interested parties of the release on November 18. The official commenting period still begins on December 2 and will run for 90 days. Comments are due on March 1, 2017 by 5:00 p.m. This SEPA process will also serve as the National Environmental Policy Act (NEPA) process for the U.S. Fish and Wildlife Service portion of the LTCS review. The DEIS is available electronically from the [DNR LTCS Website](#) or by requesting a CD from the agency.

DNR has scheduled four public meetings around western Washington and will also conduct a webinar to discuss the DEIS. The meetings locations, dates and times are below.

<p>January 10, 2017 - Sedro Woolley NW Region Office - NW Conference Center 919 N. Township Street 6:00 - 8:00 pm</p>	<p>January 17, 2017 - Port Angeles Port Angeles High School - Commons/Lunch Room 304 E. Park Avenue 6:00 - 8:00 pm</p>
<p>January 12, 2017 - Seattle Whitman Middle School - Auditorium 9201 15th Avenue NW 6:00 - 8:00 pm</p>	<p>January 19, 2017 - Cathlamet Julius A. Wendt Elementary School - Multipurpose Room 265 S. 3rd Street 6:00 - 8:00 pm</p>

The Marbled Murrelet Webinar will be held on January 24, 2017 from 2:00 - 3:00 p.m., the link will be available at: www.dnr.wa.gov/mmltcs. For more background information on the LTCS, AFRC has written about the previous stages of the process in its [September 2016](#), [June 2016](#), and [October 2015](#) newsletters. Additional information is also available on the [DNR LTCS website](#).

AFRC will review the DEIS and work with many of its partners to develop comments to be submitted to DNR and the US Fish and Wildlife Service. AFRC staff will attend the public meetings and provide information to our members during that time. AFRC still anticipates the Sustainable Harvest Calculation DEIS to be released on December 2, which will have a 90-day comment period. /Matt Comisky

Ninth Circuit Lets A to Z Work Continue

The North Fork Mill Creek A to Z Project passed its first step at the appellate level on November 4, when Ninth Circuit judges Canby and Tashima denied the Alliance for the Wild Rockies’ motion for injunction pending appeal. The project is a collaboratively-supported effort to treat areas of the Colville National Forest that are at high risk for insects, disease, and fire. The project has an unusually wide base of support, including the Northeast Washington Forestry Coalition (NEWFC), local governments, and members of Congress. NEWFC membership includes The Lands Council, The Nature Conservancy, Conservation Northwest, and Kettle Range Conservation Group, as well as Vaagen Bros. Lumber and Columbia Cedar. AFRC’s staff attorney is representing NEWFC, Pend Oreille County, and Stevens County as intervenors in the lawsuit.

As reported in the [October 2016 Newsletter](#), the district court denied a preliminary injunction after a two-hour hearing on October 14. Almost immediately, the Alliance filed an emergency motion for injunction pending appeal with the district court and the Ninth Circuit. The Ninth Circuit initially deferred its ruling until the district court acted. The district court denied the motion on November 1 in a strongly-worded order. In the order, District Judge Rosanna Malouf Petersen found against the Alliance on all relevant factors. She found the defendants had submitted “credible evidence” supporting a “reasoned and detailed analysis” of the project. The court also considered “the likelihood that dozens of employees earning family wages will be laid

off, and the Usk Mill, which had been sitting idle until recently, will be threatened, leaving even more jobs at risk.” Further, the district court found, an injunction “would force families out of work as winter approaches and would stop a collaborative environmental effort that took years to develop and likely will benefit the subject ecosystem.” She determined the balance of hardships and public interest weighed strongly against an injunction.

On November 4, the Ninth Circuit denied the emergency motion. Its one-paragraph order said that the appellate court decision was made for the reasons stated by the district court. Briefing is underway on the merits of the preliminary injunction. We expect the case to be argued in early 2017. AFRC appreciates the efforts of its partners in this case. */Lawson Fite*

AFRC Steps Up to Defend CE in Sunny South Litigation

On November 21, AFRC filed a motion to intervene in a case challenging the [Sunny South Insect Treatment Project](#) on the Tahoe National Forest. AFRC member Sierra Pacific Industries purchased the timber under the Sunny South project.

The project proposes to treat 2,700 acres to address bark beetle damage and prevent further spread of insect infestation. The project area is subject to a categorical exclusion (CE) from the National Environmental Policy Act as it is in a landscape designated for sanitation and disease treatments under the 2014 Farm Bill. The case is one of the first to challenge the use of a Farm Bill CE in court.

AFRC consistently advocates for tools that allow the Forest Service to get projects to decision more efficiently. We strongly support the use of such authorities, including the Farm Bill CE. By intervening in this case, AFRC aims to ensure the continued availability of this tool, which is one way to facilitate badly needed treatments across the landscape – particularly in California during the current tree mortality crisis.

Plaintiffs Center for Biological Diversity and Earth Island Institute allege that the designation of the landscape under the Farm Bill required an environmental impact statement (EIS), and that the Forest Service should have prepared an EIS on the project because of impacts on the California spotted owl. The case will be briefed through the spring of 2017.

Sierra Pacific is being represented by AFRC’s staff attorney, Lawson Fite, and Shelley Addison of Dun & Martinek of Eureka, CA. */Lawson Fite*

Legal Outlook for the New Administration

With a new Presidential Administration waiting in the wings, AFRC is keeping a close eye on developments affecting the legal arena. The only certainty at this point is uncertainty. At the time of writing no appointments have been made to key department posts at Interior, Agriculture, or Justice. Of those three departments, only the Justice Department has a proposed secretarial nominee. However, the DOJ “landing team” [includes](#) former [Assistant Attorney General](#), Environmental & Natural Resources Division, [Ron Tenpas](#). Tenpas’ acumen and integrity are widely respected.

Until secretarial posts, and those lower down, are filled, we will have little idea of the new Administration's approach. Once previous appointees leave, posts will be filled by career staff on an acting basis. To the extent there are pro-management policy changes, AFRC intends to work with the Trump Administration, and in the courts, to ensure such initiatives are legally sufficient.

We know a little more about the Supreme Court. The current nominee, Merrick Garland, is unlikely to be confirmed. The [list](#) of potential new nominees includes few from timber country, but also is likely to include potential justices more in favor of active management than Garland.
/Lawson Fite

Learn About AFRC's Legal Program

AFRC's staff attorney, Lawson Fite, will speak at two upcoming Douglas Timber Operators breakfasts. The title of the presentation is "How AFRC's Legal Program Grows the Wood Basket." Come to learn about how AFRC uses available legal tools to support growing timber volume from public forests. The breakfasts are January 12 in Roseburg and February 17 in Coos Bay. For more information, contact Richelle Bryant at DTO. */Lawson Fite*

Okanogan-Wenatchee Forest Update

The Okanogan-Wenatchee National Forest is one of the largest national forests in Region 6 covering more than 3.2 million acres. It stretches from the Yakima River basin on the south to the Canadian border in the north. While the Forest covers a large land base, the yearly timber sale program has been relatively small the past few years due to a number of factors. The Forest is under both the Northwest Forest Plan and Eastside Screens for land management opportunities, which has complicated the Forest in the past from developing a long-term forest management action plan. However, over the past year several efforts have been completed that should improve management on the Forest and lead to larger annual timber sale programs.

Forest Supervisor Mike Williams is in his second year on the Forest and under his leadership the Forest recently completed their first five-year management strategy that outlines what priority watersheds they will be working in each year and where their planning will focus. This will also allow the forest collaboratives, such as the North Central Washington Forest Health Collaborative and the Little Naches Working Group, to help focus their resources on projects they know will be moving forward rather than putting efforts into analyzing landscapes that never make it to the implementation phase (which has happened in the past). Mr. Williams is also putting together a new team on the Forest which includes Teri Tucker, the new Director of Natural Resources.

The Tapash Collaborative Forest Landscape Restoration Project is beginning to implement several projects that have been under analysis for several years. AFRC staff and member companies have been involved with the collaboratives working on the Tapash landscape and are pleased to finally see some landscape-scale projects coming to fruition. On November 17, Kelly Lawrence, District Ranger on the Naches Ranger District, held an open house to rollout the Little Crow Restoration Project that covers 56,927 acres. The first project from this planning area will be the Huck project which will yield about 30 million board feet (MMBF) of timber and is planned for sale in FY17. Also moving forward are the projects in the Swauk Creek planning

area which includes the Swauk Pine project (6 MMBF) that AFRC members visited on October 27. During the field trip, AFRC members provided input on how the project could be made more economically viable given the large amount of skyline logging.

While there are no AFRC members with facilities located within the bounds of the Okanogan-Wenatchee National Forest, wood from this Forest is very important to our members located both on the westside and on the eastside of the Cascades who have been transporting wood over 200 miles to their facilities for manufacturing. AFRC will continue to work with the Forest to increase the pace and scale of active management on the Forest which, over time, will build up the annual timber sale volume. */Tom Partin*

Forest Planning Rule Amendment Comments

AFRC joined 31 other associations and groups of natural resource users, including energy, timber, range and recreation users from across the United States, in filing [comments](#) on a proposal by the Forest Service to amend the Forest Planning Rules adopted in 2012. (See [October 2016 Newsletter](#).)

While recognizing the need to revise the 2012 rule to eliminate current constraints on amending existing plans, the joint comments express concern that the proposed amendments complicate plan amendments and undermine the adaptive management objectives of the 2012 rule. If adopted, the revision would likely lead to litigation over plan amendments.

AFRC is hopeful the Forest Service will substantially revise the proposed amendment to fulfill its stated objective while maintaining needed flexibility for the agency which has limited funds for planning efforts. */Ann Forest Burns*

Maximizing Treatment Acres Through NEPA Efficiencies

Before the US Forest Service conducts any vegetation management project on federally managed land, the agency must comply with the National Environmental Policy Act (NEPA). Compliance is typically met by conducting an environmental analysis (EA) that encompasses large landscape areas. In western Oregon, these areas often exceed 50,000 acres. Generally, there is agreement among the action agency and its stakeholders that this approach of “going big” is the most efficient way of complying with NEPA. AFRC is among those stakeholders who advocate for consideration of as many treatment acres as possible under each individual analysis document. However, even large landscape analyses will invariably result in outlying acres in need of treatment being neglected. This reality is recognized by several National Forest Districts, but currently is only being actively addressed by one.

Like most other Forest Service Districts, the McKenzie River District on the Willamette National Forest regularly conducts large landscape analyses as described above to drive the vegetation management program. Unlike most other Forest Service Districts, they supplement these analyses by utilizing Categorical Exclusions to comply with NEPA and treat additional acres. These Categorical Exclusions, as authorized by Congress in previous Farm Bills, are used to treat isolated forest stands beyond the boundaries set for their large landscape-scale projects that would otherwise go untreated. In most cases, the optimal time to treat these stands is now, and waiting to act until the next large landscape-scale project comes along would result in the

District “missing its window” on these stands. Environmental analyses for these isolated acres are conducted in tandem with the ongoing large landscape projects.

The McKenzie River District’s integrated approach has yielded a vegetation management program that maximizes the level of acres treated and timber volume offered. During Fiscal Years 2014 through 2016 the McKenzie River District used Categorical Exclusions to treat 497 acres of forest stands. That’s nearly 500 acres of stands in need of treatment that would have otherwise gone untreated in the absence of the District utilizing the tools at its disposal. These acres also yielded over seven million board feet of timber to the local industry. Using conservative estimates about employment impacts (11 direct jobs for every one million board feet harvested), the McKenzie’s proactive approach helped create 77 jobs. On a single District, for a single year, these numbers may seem minor or insignificant. But if these minor numbers were replicated across each District in Oregon, or each District in the Region, the results could be substantial. AFRC extends its thanks and appreciation to the Willamette National Forest and the staff of the McKenzie River District for using all available tools at its disposal. /*Andy Geissler*

Growing Stewardship Program on Medford BLM

The Medford BLM District solicited proposals for a stewardship sale called Wee Willy at the end of Fiscal Year 2016. This solicitation came following the BLM’s new direction pertaining to the implementation of the permanent stewardship authority contained in the Agricultural Act of 2014. Aptly named, Wee Willy contained a relatively small amount of timber volume of 300 thousand board feet. The purpose of using stewardship authority to implement the harvest of this volume was to generate “excess receipts” that could in turn be used to fund non-commercial service work on the District. Unfortunately, due to the design of the project and the value of the timber, expected “excess receipts” turned out to be excess costs. Nevertheless, the BLM plans to repackage Wee Willy in an attempt to reverse this economic outcome and resolicit proposals in Fiscal Year 2017.

As the Medford BLM’s draft timber sale plans for 2017 and 2018 indicate, the Wee Willy stewardship sale appears to be a mere bump in the road. The District’s Fiscal Year 2017 draft plan proposes three stewardship sales totaling 2.8 million board feet (MMBF) of timber (this is in addition to the Wee Willy re-offer). The Fiscal Year 2018 plan proposes three stewardship sales totaling 3.0 MMBF of timber. The expectation, once again, is that the value of the timber on these six sales will exceed the costs imbedded in the contract. /*Andy Geissler*