



AFRC’s Annual Meeting, “Fired Up for Change”

There is still time to register for [AFRC’s 2019 Annual Meeting](#) at beautiful Skamania Lodge! Our [agenda](#) features exciting speakers, engaging presentations, and enough time to network with colleagues, elected officials, and agency leaders.

The meeting begins on Tuesday, April 23 with the AFRC Open golf tournament. It’s a scramble format (use the group’s best shot), so grab three of your buddies and sign up as a team. Or, if your buddies are not going to help you win the coveted trophy, sign up as an individual and we will place you on a team. Mulligans will be available for \$20 a shot with proceeds going to AFRC’s local Habitat for Humanity project near Vancouver.

On Wednesday, April 24, you will hear from Congressman Kurt Schrader (OR-05) who will speak about forest policy, catastrophic wildfire, and smoke in a divided Congress. You will also hear from: an inspiring panel of community leaders who responded to Southwest Oregon’s catastrophic fire and smoke crises with an impactful grassroots message and organization; innovative state department leads who will share successes and challenges of the Good Neighbor Authority in Idaho, Oregon, and Washington; and Forest Service leadership who will highlight ongoing national efforts to improve agency efficiencies and increase the pace and scale of national forest restoration

As usual, we will host the “Public Forest Managers’ Breakouts” for Forest Service Regions 1, 4,

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5, and 6, the Oregon Bureau of Land Management (BLM), and Washington Department of Natural Resources (DNR). These interactive sessions provide industry representatives with opportunities to engage directly with Forest Service Regional leadership and decision makers, learn more about current and future timber sale programs, and discuss both challenges and opportunities on national forests. On Wednesday night, AFRC will host its annual banquet. It’s a fun night of excellent food and drink in a beautiful location with great company.

On Thursday morning, April 25, participants will get an update on the activities of the U.S. Congress during the “The Bill and Heath Show” before hearing from AFRC’s Legal Team about forestry victories in the courtroom.

The morning program will conclude with Washington's Commissioner of Public Lands Hilary Franz, who manages one of the largest public timber programs in the United States. An abbreviated AFRC Board meeting for members, which will include the selection of new AFRC officers, will follow the Annual Meeting.

Please join us for this year's substantive, interesting, and timely "**Fired Up for Change**" AFRC Annual Meeting. If you have questions, please call Cindi Kaneshige at 503-222-9505.

Washington, D.C. Update

Bernhardt Confirmation Hearing. On March 28, Interior Deputy Secretary David Bernhardt, President Trump's nominee to serve as Secretary of the Interior, received a confirmation hearing in the Senate Energy & Natural Resources Committee. Bernhardt, who has been serving as the Acting Secretary since former Secretary Ryan Zinke left in early January, handled himself capably during the hearing and appears well-positioned to be confirmed to serve as the 53rd Secretary of the Interior.

Bernhardt has extensive private and public sector experience working on natural resource issues in Washington, D.C. Before his nomination as Interior Deputy Secretary, Bernhardt was in private practice in the Washington, D.C. office of the Colorado law firm Brownstein, Hyatt, Farber, Schreck. Bernhardt also served at the Department of the Interior during the George W. Bush Administration, including stints as the Interior Solicitor and the Director of Congressional and Legislative Affairs. Bernhardt, who grew up in rural Rifle, Colorado, also has Capitol Hill experience having served as an aide to former Congressman Scott McInnis (R-CO).

Environmental activists and some Democrats on Capitol Hill have leveled conflict of interest claims pointing to Bernhardt's time in the private sector representing energy companies, irrigation districts, and other clients. However, Bernhardt has been vigilant following all laws, best practices, and ethics requirements, including recusing himself from issues affecting former clients. Nonetheless, opponents have resorted to personal attacks labeling Bernhardt a "swamp monster" and have launched an opposition campaign to pressure moderate senators.

Bernhardt, who has a very strong command of policy and the law, ably responded to questions posed by committee members. Senator Lisa Murkowski (R-AK), who chairs the committee, signaled her strong support for his confirmation and indicated that she would press for a swift committee vote. The committee's ranking Democrat, Senator Joe Manchin (D-WV), called Bernhardt well qualified and experienced. Other Democrats, including Senator Ron Wyden (D-OR), made it clear they will oppose Bernhardt's nomination after accusing him of meddling with science, corruption and said the nominee was too conflicted to effectively serve as Secretary.

Despite the predictable partisan attacks and the antics of environmental activities, Bernhardt appears to have enough support for confirmation. It is unfortunate that qualified nominees like Bernhardt are subjected to personal attacks, which only serves to push people away from public service.

Fire Borrowing Repayment. Last summer the Forest Service was forced to borrow over \$700 million from non-fire accounts when it exhausted its appropriated wildfire suppression funds.

Almost half of the funds borrowed were from timber-related accounts, including the salvage and Knutson-Vandenberg trust funds. While Congress passed a fix to prevent future wildfire borrowing last March, that fix doesn't take effect until Fiscal Year 2020, and Congress failed to pass legislation to repay the borrowing amidst the political turmoil of the midterm elections and the record government shutdown. The Forest Service is planning another increase in timber outputs in Fiscal Year 2019, but the inability to access the borrowed funds poses a significant barrier to achieving higher harvest levels.

After months of delay, Congress is turning its attention to an emergency supplemental in response to recent natural disasters, including last summer's fire season. The Senate recently released a \$13.5 billion disaster plan that includes \$720 million in wildfire borrowing repayments and \$85 million for thinning and hurricane recovery activities on National Forest System lands. That legislation was debated in the Senate this week and could be brought up for a vote next week before being sent to the House. The House, which already passed a disaster supplemental, may ask for a conference committee to resolve differences between the two chambers – setting the stage for potential additional delay.

Trump Administration FY2020 Budget Request. On March 11, the Trump Administration released its Fiscal Year 2020 (FY20) budget request, which was largely dismissed on Capitol Hill as a political messaging bill. The \$4.7 trillion budget blueprint calls for extensive cuts to domestic discretionary spending and proposed increases of \$760 billion in defense spending and \$8.6 billion for barriers along the southern border.

For the Forest Service, the budget request proposes a \$20 million increase for hazardous fuels reduction, which would bring the program to \$450 million in FY20. The Forest Products budget would increase to \$375 million under the proposal, a \$9 million increase. Meanwhile, the Forest Service CI&M – Roads budget would be level funded under the President's proposal and the Collaborative Forest Landscape Restoration program, which is currently funded at \$40 million, would be zeroed out.

Meanwhile, on March 28, eight Democratic Senators, including Senators Maria Cantwell (D-WA), Ron Wyden (D-OR), and Jeff Merkley (D-OR) sent a [letter](#) to Agriculture Secretary Sonny Perdue and Acting Interior Secretary David Bernhardt complaining that the savings achieved through the fire borrowing fix didn't correspond to proposed increases for "forest restoration accounts."

Our industry is asking Congress for a \$17 million increase in the Forest Products line item in FY20 and a timber target goal of 4.0 billion board feet. We're also working to increase the Capital Infrastructure & Maintenance-Roads budget by \$20 million to start addressing the significant road maintenance backlog that exists on the Forest Service road system. /Heath Heikkila

Court Confirms the O&C Act Is "Dominant Use" Statute for Timber Production

On March 15, Eugene U.S. District Court Judge Michael McShane affirmed the "Findings and Recommendation" issued in October 2018 by Magistrate Judge Jolie Russo upholding the

BLM's 2016 Resource Management Plan (RMP) against claims by several environmental groups. This suit was first filed in August 2016. ([August 2016 Newsletter](#)).

The Roseburg Area Chamber of Commerce, Zuber & Sons Logging and Turner Logging intervened in the case and were represented by Julie Weis of Haglund Kelley LLP.

Significantly, the court rejected plaintiffs' claims that [the O&C Act](#) should be viewed as a "multiple use" statute. "Contrary to plaintiffs' assertion," Judge Russo stated, "the plain language of the statute, as well as its legislative history, clearly reflect that the O&C Act is not a 'multiple use mandate for public federal forestland management.' Rather, courts have repeatedly held the O&C Act is a 'primary' or 'dominant' use statute for sustained-yield timber production." The court relied on the 1990 Ninth Circuit decision of [Headwaters v. BLM](#). It also relied on other cases stating that the O&C Act provides "that the primary use of O&C lands is timber production" and that "[t]he O&C Act is not legislation designed to protect the environment."

The court also rejected claims that the O&C's references to watersheds and streams undermined the dominant use of sustained-yield timber production. "Accordingly, protection of watersheds, stream flow regulation, and contribution to the economic stability of local communities are not ends in themselves. ..." Moreover, "wildlife habitat conservation . . . is [not] a goal of the O&C Act at all." The court continued: "Stated differently, managing O&C lands pursuant to sustained-yield principles by definition protects watersheds, regulates stream flows, and contributes to the economic stability of surrounding communities." The court also found "plaintiffs' argument concerning economic stability" to be "logically flawed." Plaintiffs allege that increased timber harvest would violate the O&C Act and imperil local communities, but this reading is inconsistent with the O&C Act's purpose to promote 'timber production as a dominant use.'"

The court rejected plaintiffs' ahistorical and implausible attempt to rewrite the O&C Act, instead of following the law. It also declined to find that the reduction in riparian reserve width, from two tree height to one, was arbitrary, finding it "based on the best available science and is fully supported by the record." The court confirmed that the agency had the authority to modify reserves in comparison to the Northwest Forest Plan.

The ruling is subject to an appeal within 60 days, so more litigation is possible. */Lawson Fite*

Forest Service Pulls Blue Mountains Plans

In an unexpected move, on March 14, the Forest Service withdrew the proposed [Blue Mountain Forest Plans](#) and Final EIS, covering the Wallowa-Whitman, Umatilla, and Malheur National Forests. In a [letter](#) to Regional Forester Glen Casamassa, Acting Deputy Chief and Reviewing Official Chris French stated, "[m]any factors compounded to produce revised plans that would be difficult to implement. While my review did not identify any specific violations of law, regulation, or policy, significant changes occurred over the 15-year planning process." He also found the proposed Plans "did not fully account for the unique social and economic needs of local communities in the area."

AFRC filed an [objection](#) to the proposed Plans in August 2018. A total of [350 objections](#) were filed. AFRC's objection raised the extreme need for forest restoration in northeast Oregon as well as the tenuous state of the local industry infrastructure and the fact the plans would enable treatment of only one-third of what is needed. Even if fully implemented, the projected 197 million board feet (mmbf) of timber output would be at least 100 mmbf short of what the local milling infrastructure needs. Although a workable plan might have been assembled from pieces of previously-considered alternatives, the withdrawal will allow the Forest Service to restart its efforts and outreach. AFRC members and allies participated in the resolution meetings in November 2018, which were conducted throughout northeast Oregon over several days.

The Forest Service stated that it would “engage stakeholders to explore ways of working together to support a path forward on shared priorities including strengthening local economies, reducing wildfire risk, ensuring access, and supporting healthier watersheds.” AFRC and our partners will continue to monitor and participate in this process to ensure healthy communities, forests, and economies in and around northeast Oregon. */Lawson Fite*

East Reservoir Project May Proceed While Road Calculations Are Refined

On March 25, concluding five years of litigation, a Montana federal judge denied a motion to vacate the Record of Decision on the East Reservoir Project on the Kootenai National Forest. After the Ninth Circuit [found](#) the Forest had inadequately explained how it calculated road mileage in part of the project, an environmental group asked the district court to “vacate” the entire project and force the Forest Service to start over. The district court recognized the importance of the project, determining “the equities” favor the project, and noted the error “did not permeate” the project so that this is one of the “rare circumstances” where a remand without vacatur is appropriate.

The East Reservoir project involves a planning area of about 90,000 acres and commercial treatment of over 8,500 acres. There are five awarded timber sales plus three in planning, which will produce at least 35 mmbf. East Reservoir is the product of over four years of effort by one of the pioneer collaborative groups. The Kootenai Forest Stakeholders Coalition and Lincoln County, represented by AFRC attorneys, intervened on the side of the Forest Service and opposed the motion to vacate. The Kootenai Tribe of Idaho and the Montana Attorney General's Office filed amicus briefs opposing the motion.

In denying the motion to vacate, Judge Christensen addressed two issues: the seriousness of the error and the consequences of vacating. He found the error was limited in scope to only 20% of the project area, and only to activities relating to road construction and classification. He also found the error to be “a relatively simple failure of accounting and not a failure of understanding. If the Forest Service can verify that the total number of road miles will fall under the baseline, it may proceed with its road-related activities within the [affected area].”

The equities favor the project, the court found, because “vacatur is likely to cause immediate economic harm and would threaten the health of the forest ecosystem.” It also found “the Project will decrease the likelihood and severity of wildfire, which threatens local communities and the forest ecosystem.” Such fires could result in airborne asbestos dispersal due to the

presence of asbestos in northwest Montana. Finally, the court recognized, by considering input from the Kootenai Tribe, that “the Project area has been substantially degraded by ‘misguided’ historical forest management practices, and intervention is necessary ‘to reestablish forest conditions that are more resistant and resilient to disturbances.’” Most project activities can proceed under this order, with the exception that the Forest Service must verify Access Amendments compliance before constructing or classifying roads in the applicable area.

This decision is probably not appealable, thereby possibly ending litigation that has been underway since 2015. In July 2016, Judge Christensen first ruled in favor of the project. ([July 2016 Newsletter](#)). He rejected claims under *Cottonwood* that the project must be halted pending plan-level consultation on lynx and deferred to the Forest Service on the grizzly bear road issue. The district court also rejected a request for injunction pending appeal. But in September 2016, the Ninth Circuit issued an injunction pending appeal and “expedited” the appeal. ([September 2016 Newsletter](#)). The July 2018 Ninth Circuit [opinion](#), after two years of “expedited” consideration, dismissed the lynx claim but found the Forest Service had not adequately explained how it dealt with the Access Amendments for ESA compliance regarding grizzly bear. (July 2018 Newsletter).

AFRC appreciates the support of our partners in this effort, including Lincoln County, the Kootenai Forest Stakeholders Coalition, the Kootenai Tribe of Idaho, and the State of Montana.
/Lawson Fite

Severe Winter Weather Leads to Heavy Timber Damage and Access Issues

On February 23, a winter storm hit Lane and Douglas Counties accumulating up to 2-3 feet of wet, heavy snow. The snow, along with windy conditions, resulted in an unprecedented number of snow-downed trees across the southern Willamette Valley and Douglas County causing substantial damage on BLM and U.S. Forest Service managed lands.

The heaviest damage occurred on the Eugene BLM District, Roseburg BLM District, and Umpqua National Forest. Damage was also found on the Willamette National Forest, Coos Bay BLM District, and Rogue River-Siskiyou National Forest. The issue was brought up and discussed at the BLM purchasers meeting earlier this month. AFRC staff have also discussed the issue with the Forest Service.

The agencies’ main priority is to provide access for residences that are currently blocked due to downed timber. Other priorities include gaining access to sold BLM and Forest Service timber sales to assess the damage and working with purchasers to determine how to handle the downed wood. In some cases, damage to sold sales may complicate existing management prescriptions from being feasibly implemented and may require contract modification. Furthermore, many trees are tangled or “jack strawed” creating additional safety hazards. Ultimately, these safety hazards amount to increased timelines and more expensive logging operations, which the BLM and Forest Service need to be aware of when designing salvage sales.

The next step will be to assess the areas planned for future sales. In some locations, this is already occurring and will be an ongoing process. The Roseburg BLM District and Umpqua

National Forest worked together to arrange a flight over their management areas in mid-March, while the Eugene BLM District has created an incident management team to organize the assessment efforts and is working on getting remote imagery. The BLM believes the impacts are likely to affect not only Fiscal Year 2019 sales but those planned through 2021. The damage is widespread; however, there are areas with little or no damage. Additional difficulties include sale access for purchasers and sales being delayed because pre-sale and engineering teams have been snowed out of the areas.

Assessment questions include how much of the wood is merchantable, how volume estimations will occur, what NEPA analysis needs to be completed on areas outside of current planning areas, and how areas with large amounts of downed wood are handled that are within current planning areas. Fuel loading and potential insect infestation are also of concern. Both factors heavily impact future fire risk and overall forest health.

AFRC will continue to track changes in sale and project deadlines and stress the need for the agencies to use the tools available to them to get the sales prepared promptly and the wood to the marketplace. We hope these tools can also help produce “shelf stock,” projects that will be ready directly after this type of situation. /*Amanda Astor*

Supreme Court to Review Clean Water Act Case

In late February, the Supreme Court granted review of a Ninth Circuit decision that has the potential to expand the scope of liability under the Clean Water Act. The case, *County of Maui v. Hawai'i Wildlife Fund*, concerns Maui County's practice of injecting treated wastewater into the groundwater from its wells—a portion of which eventually seeps into the Pacific Ocean. This decision will likely have broader ramifications because it will dictate whether discharges into groundwater from point sources that wind up in surface waters are regulated by the Clean Water Act.

The Clean Water Act generally requires a permit under the National Pollutant Discharge Elimination System (NPDES) for the discharge of pollutants into navigable waters and other waters of the United States from a point source. The county claimed they were not liable under this standard because their discharges were not directly into navigable waters. The Ninth Circuit ruled against the county, finding that indirect discharges into navigable waters from point sources fall under the purview of the Clean Water Act and the NPDES program. Ultimately, the Ninth Circuit found the county liable because the pollutants in question: (1) came from point sources, (2) were fairly traceable to the county's point sources, and (3) meaningful levels of pollutants reached navigable waters.

Concerning forest management, the point source requirement is important. Many forestry activities are exempt from the NPDES program as nonpoint sources. Activities such as road construction, road use, and timber harvesting are all considered nonpoint sources. However, the NPDES permit requirement does apply to certain activities including rock crushing, gravel washing, log sorting, and log storage facilities. Therefore, the Supreme Court's decision may affect the liability associated with those activities under the Clean Water Act. The case will be argued before the Supreme Court in the fall. /*Greg Hibbard*

Swanson Group Closes Glendale Mill

After nearly 70 years in business, Swanson Group announced the closure of its sawmill in Glendale, Oregon. The mill, which turned approximately 120 mmbf of timber a year into dimensional lumber, employed 120 people and was the first mill built by the Swanson Group in the 1950s. The company has offered employees jobs in one or more of its other manufacturing facilities.

The loss of the Glendale facility is yet another blow to the southwest Oregon forest products infrastructure which is critical to local economies and forest health treatments. Less than three years ago, AFRC member Rough & Ready Lumber Company of Cave Junction permanently closed its doors. It's a sad day when any facility that manufactures renewable wood products and supports hundreds of family-wage jobs in hard-hit rural communities shuts down. Like Rough & Ready, Swanson's Glendale mill closure is particularly noteworthy due to its location in a region of the state where active forest management is urgently needed, and milling infrastructure is becoming alarmingly scarce.

Southwest Oregon has become “ground zero” for the forest health, fire, and smoke crises that are plaguing rural communities, local businesses, and public health. The U.S. Forest Service and BLM that manage millions of acres in southwest Oregon both seem to recognize the need for treatment and maintaining the skills, equipment, and milling infrastructure to tackle these serious challenges. The BLM's RMP requires Districts that manage dry forests in southwest Oregon to commercially thin 21,500 acres of reserve lands over the next ten years—that's over 2,000 acres a year. But with further losses to the infrastructure and skilled workforce – the question now is not whether the agency *should* commercially thin those acres but *who* is going to do that thinning and *where* are the thinned logs going to go? If you drew a 50-mile radius circle around the town of Medford, your circle would overlap thousands of acres of BLM land where forest thinning is needed and required. Sadly, that same circle would now only overlap two mills that manufacture raw timber material into wood products and are capable of realistically implementing the thinning treatment of those at-risk acres.

From AFRC's perspective, the Swanson mill closure is yet another gut-wrenching reminder that well-intentioned public policies to “protect” our federal forests are neither protecting our forests nor the rural communities and sustainable businesses that depend on these resources. In a recent speech before the Oregon Logging Conference, Swanson's Vice President of Resources Jim Dudley said it best: “We turn air pollution (carbon dioxide) into shelter by growing trees and cutting lumber. What's greener than that?” But being green in southwest Oregon has become even more difficult with catastrophic fires in overstocked forests, smoke clogging the air in rural communities, and an infrastructure trying to secure enough logs in a sea of federal timber.

/Andy Geissler

Region 1 Personnel Honored

On March 12, Secretary of Agriculture Sonny Perdue presented an award to Region 1 personnel for *Outstanding execution of the Good Neighbor Authority with the state of Idaho in improving forest conditions on National Forest System lands.*

Those receiving the award were:

- Maureen Bookwalter, Forest Service, Missoula, Montana
- Scott Godfrey, Forest Service, Kamiah, Idaho
- Matt Staudacher, Forest Service, Coeur d'Alene, Idaho
- Steve Kimball, Forest Service, McCall, Idaho
- Lynn Oliver, Forest Service, Boise, Idaho

AFRC would like to thank the Region 1 employees who have worked hard to implement the Good Neighbor Authority in both Idaho and Montana. This program has greatly enhanced the Forest Service's ability to increase the pace and scale of management on our National Forests.
/Tom Partin

Women in the Woods Profile: Amanda Astor

Amanda Astor didn't start out intending to be a forester. Though she is a proud forester now, it could also be argued that she doesn't fit the profile of your typical forest products industry employee— a profile that's quickly changing.

From work in the woods to the mills, and in the boardroom, women like Amanda are changing the game. Amanda represents a new, dynamic generation within the forest products industry with unique life and professional experiences, a deep passion for learning and problem-solving, and a commitment to thinking outside of the box – all of which she believes is key to the continued growth and diversity of the industry. She believes the forestry profession – and forest products –can help solve complex social, economic, and environmental challenges, such as climate change.



Growing up in Minnesota, Amanda loved the outdoors. From hiking to fishing, she knew she wanted to work outside when she started a career. Amanda has always been intrigued by science and the freedom it gives you to explore. She studied botany and other hard science disciplines but discovered these fields would likely place her in a laboratory instead of the woods. Her fascination and desire to be outdoors led to the discovery of forestry, a practice based in science - but where, she says, multiple needs and conflicts overlap. From Amanda's perspective, silviculture represents the *art* and *science* of forest management. Managing forests cannot be based on science alone, but must also include the social, economic, and political implications of management decisions. She's working to redefine the "zero-sum game" mentality of forest policy in the Pacific Northwest: recreational opportunities, healthy wildlife populations and habitat, clean drinking water, and a vibrant forest products industry are not mutually exclusive; they are co-dependent.

Amanda earned her degree at Colorado State University in forest management and forest biology. After being accepted for an internship with the U.S. Forest Service, she chose to pursue a graduate certificate in forest carbon science, policy, and management – a credential that has become even more relevant in her work for AFRC and today’s public discourse about climate change and risk to public lands

Amanda’s work is guided by a philosophy most in the forest products industry share: “We’re leaving a legacy on the land because trees grow for longer than most of our careers. That’s the key. We must think about how our actions, or miss-actions, will affect the next generation of foresters. I hope to leave behind a legacy in my job consisting of productive, sustainable, thriving, and efficient federal forestland and federal land management teams.”

/Asha Aiello