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113th Congress

With President Barack Obama winning a second term, the Democrats slightly strengthening their control of the Senate (55-45), and Republicans maintaining control of the House (234-195) our attention now turns to the make-up of key Committees that control policy and funding for the management of our federal forests. It is also important to note that a number of Western members of Congress are not only maintaining leadership roles on these Committees, but some are gaining new leadership roles within their respective chambers.

Senate Energy and Natural Resources Committee - with the retirement of Jeff Bingaman (D-NM) Senator Ron Wyden (D-OR) is in line to serve as the Chairman. Senator Lisa Murkowski (R-AK) is expected to continue on as the Ranking Member. It is unclear what the Committee's strategy will be to find a long-term solution to county payments while restoring active, sustainable forest management to our federal forests. These issues are likely to continue receiving significant attention as our rural communities suffer funding shortfalls and a lack of jobs for local residents. The Committee also has jurisdiction over wilderness designations, national energy policy and other public lands bills. It has been widely reported that Senators Wyden and Murkowski have established a positive working relationship and have made joint visits to Oregon and Alaska in recent years.

House Natural Resources Committee - Congressman Doc Hastings (R-WA) will remain as the Chairman. There was a possibility that he might take the Chairmanship of the Rules Committee; however that will now go to Congressman Pete Sessions (R-TX). Hastings' Committee will most likely take up several forest health/county payments bills that were introduced or offered up in the 112th Congress. There is a strong momentum building from many committee members from rural, forested communities that something needs to be done regarding management of our federal forests, which continue to be plagued by deteriorating forest health and increased catastrophic wildfires. Hastings has also shown a strong desire to address other factors slowing down needed forest health treatments, including the Endangered Species Act. Congressman Rob Bishop (R-UT) currently chairs the Public Lands and Forests Subcommittee, although it is not clear if he will retain that position in the 113th Congress.

House Appropriations Subcommittee on Interior, Environment and Related Agencies – Congressman Mike Simpson (R-ID) is likely to retain the Chairmanship of this important subcommittee which determines funding levels for the Forest Service and BLM. Under Simpson's leadership, funding for forest management programs have been maintained while other agencies have faced large reductions in their programs. This Committee has also worked to include important policy provisions in its appropriations bills, including extending a pre-decisional objection process to all forest management projects (similar to the Healthy Forests Restoration Act objection process). The unfinished FY13 bill includes the following important provisions:

- New authority for Designation by Prescription - “Designation, including marking when necessary, or designation by description or by prescription.”
- Continues the moratorium on requiring permits for forest road stormwater runoff.
- An exemption from Administrative Appeals for projects covered by CE’s.
- Expansion of Good Neighbor Authority to all 16 Western states.

Unfortunately these provisions have not been implemented since Congress did not pass a FY13 budget, but rather is working under a Continuing Resolution through March 27, 2013 which funds the government at FY12 levels. Congressman Jim Moran (D-VA) currently serves as the Ranking Member of the Committee, but with the retirement of Congressman Norm Dicks (D-WA) it is unclear who will serve in that position and changes in other subcommittees.

House Agriculture Committee/Farm Bill - During the 112th Congress the House Agriculture Committee stepped up its oversight of the Forest Service. A key player in those efforts was Congressman Kurt Schrader (D-OR), who is likely to serve as the Ranking Member of the Conservation, Energy and Forestry Subcommittee.

The House Agriculture Committee passed their version of the Farm Bill earlier this year, but Congress failed to take action and reauthorize it. Congress will likely need to pass some sort of Farm Bill reauthorization, whether that is a one-year extension or long-term legislation. The House version included two important provisions to federal forest management; a 10-year reauthorization of the stewardship authority for federal forests, and a significant 10,000 acre Categorical Exclusion to treat insect infested federal forests. That latter provision was pushed by Congresswoman Kristi Noem (R-SD).

Walden/McMorris Rogers - Two Northwest Republican members of Congress have gained new prominence within their party for their work, dedication and longevity in Congress. Greg Walden (R-OR) will succeed Pete Sessions (R-TX) as chairman of the National Republican Congressional Committee, which is the campaign arm of House Republicans. Cathy McMorris Rodgers (R-WA) will serve as the House Republican Conference Chairman, beating out Congressman Tom Price (R-GA) for the number four ranked House Republican post. Walden and McMorris Rodgers join Majority Whip Kevin McCarthy (R-CA) as key leadership members from Western states with large amounts of federal forests. /Tom Partin

Congressionals Want Forest Health Help

Members of Congress who are experiencing the devastation of federal forests in their states are crying out for help, and demanding that Congress either change or expedite rules relating to federal forest management.

Washington State

On November 2, Congresswoman Jaime Herrera Beutler (R-WA) joined Congressman Doc Hastings in signing a letter to Forest Service Chief Tom Tidwell calling for better management of National Forests. The letter highlighted recent wildfires that have destroyed more than half a million acres of forestland in Washington.

Calling for quick action, both members have requested the Forest Service to implement better management policies stating “As a result of the Forest Service's hands-off policy, harvesting about two percent of Washington's nine million acres of forests, we have created unnatural and unhistorical conditions within our forests that have not only failed to protect the Northern Spotted Owl (NSO), but have put other wildlife and our communities at peril. These fires are not the seasonal, regenerative fires that occur in healthy forests; since the listing of the NSO we have seen an explosive fuel load build up in Washington's forests, and unless we bring about rational forest management we stand to suffer even more needless destruction by uncontrollable wildfire.”

Washington State has over nine million acres of national forest lands and millions of those acres are located in the two districts represented by Herrera Beutler and Hastings. The letter requests the Forest Service prioritize a management plan for the three million acres of forest land that are most at-risk.

Rocky Mountain Region

On November 8, a bipartisan group of Senators from the Rocky Mountain Region sent a letter to Agriculture Secretary Tom Vilsack asking for his agency's support in promoting proactive forest management and maintaining the existing timber industry in their states. Senators endorsing this request included Mark Udall (D-CO), John Barrasso (R-WY), Michael Bennet (D-CO), Mike Enzi (R-WY), Tim Johnson (D-SD), and John Thune (R-SD).

The Senators stated, “We write to express our support for treating more acres in our states—particularly in the wildland-urban interface (WUI), and backcountry areas with critical infrastructure. Specifically, we ask you to consider expanding the timber management program, and prioritize timber sales. This capacity is critical to support local economies, safeguard our drinking water supplies, and protect communities. The re-emerging forest products industry in Colorado, Wyoming, and South Dakota gives us the opportunity to demonstrate an integrated forest management infrastructure that includes both traditional wood products and biomass energy.”

South Dakota

In March, two South Dakota Republicans, Senator John Thune and Congresswoman Kristi Noem introduced S.2277 and H.R.4331 that would authorize "emergency circumstances" under the Healthy Forests Restoration Act to allow the Forest Service to expedite the harvesting of insect infested trees. The Black Hills National Forest has been under attack from pine beetles for the last decade and now the epidemic covers most of the forest.

In addition to these requests for help, no less than seven individual bills from members of Congress were introduced earlier in this session of Congress that sought to expedite forest health treatments on our federal forests. /*Tom Partin*

NSO Critical Habitat Delayed

The day after President Obama's re-election, the U.S. Fish and Wildlife Service (FWS) informed AFRC's attorney that it would not meet the November 15 deadline to publish the final Northern Spotted Owl Critical Habitat rule. Instead, the rule is now scheduled to be published November 21, the day before Thanksgiving.

AFRC continues to hope that the final rule will avoid the fatal legal flaws contained in the [draft rule](#). In its July 6 [comments](#), AFRC pointed out that the process used to determine critical habitat would not result in limiting critical habitat to areas that contain the physical and biological features essential to the conservation of the species, as required by the Endangered Species Act.

AFRC is also concerned that the economic analysis prepared for FWS, which was not published until May 29, does not accurately reflect the true economic cost of the designation to local communities.

The new rule replaces a critical habitat designation published in August, 2008, in response to a lawsuit brought by the Carpenters Industrial Council, AFRC and others. Once we have had an opportunity to study the final designation to determine whether it continues to violate the ESA, AFRC will decide a course of action going forward. */Ann Forest Burns*

Forest Service Acres Harvested

In a November 14 [report](#), the Forest Service disclosed that the total acres of timber harvest on its lands in FY12 was 208,639 acres. Keep in mind the Forest Service manages over 191 million acres; thus, they harvested timber on only .1% of their lands.

The most used harvest scheme was thinning (113,719 acres) followed by sanitation harvest (30,538 acres) and selection cut (16,283 acres). Harvest by Regions from largest to smallest were: Region 9 - 42,847 acres; Region 8 - 42,084 acres; Region 6 - 39,117 acres; Region 2 - 28,433 acres; Region 5 - 21,860 acres; Region 1 - 12,662 acres; Region 3 - 11,014 acres; Region 4 - 9,560 acres and Region 10 - 1,063 acres.

According to the Forest Service's Forest Restoration Strategy ([Increasing the Pace of Restoration and Job Creation on Our National Forests – February 2012](#)), there are between 65 and 82 million acres of National Forest System lands in need of restoration. Of those acres, approximately 12.5 million require mechanical treatment. If we stay on this current pace of harvest and restoration, it would take over 60 years to get those acres treated, not counting new acres that become in need of restoration.

Thanks to Bill Imbergamo and the Federal Forest Resource Coalition for sharing this data. */Tom Partin*

N. California Target Accomplishments

The FY12 accomplishments for the northern California forests; the Klamath, Six Rivers, Shasta Trinity and Mendocino followed the trend of past years; they failed again to meet their assigned Province target.

The target for the Northern Province was 110.9 mmbf, and final accomplishments were approximately 87 mmbf (78% of the assigned target). The Klamath was the only forest to exceed its assigned target, accomplishing 113% followed by the Shasta Trinity at 75%, the Mendocino at 59% and the Six Rivers at 22%. Sawlog volume accounted for 62%, biomass 20%, and firewood 18% of the total target accomplishment. The Shasta Trinity continued its streak of not meeting targets. This was the 18th year out of the last 19 that targets have not been met on that forest. */Rick Svilich*

Court Denies Cottonwood Injunction

On October 9, the plaintiff's motion for an injunction of the Cottonwood sale on the Medford BLM District was denied in *Soda Mountain Wilderness Council v. BLM*. The Cottonwood sale is in Matrix land and their suit raised claims under NEPA and the Federal Land Policy and Management Act (FLPMA).

The court concluded that plaintiffs were not likely to succeed on the NEPA claims. The court said that including a no action alternative and one action alternative was a sufficient range of alternatives and that the project adequately considered cumulative effects. The court held that plaintiffs would also not likely succeed on their claim that BLM failed to take a hard look at the consequences of logging mistletoe infected trees, which plaintiffs claim needed to be retained to provide habitat for spotted owls and raptors. Finally, plaintiffs argued that the BLM violated FLPMA by harvesting in Pacific fisher habitat because the resource management plan requires BLM to modify, relocate, or abandon proposed actions that would contribute to the need to list a federal candidate species and the plan requires that BLM actions not contribute to the need to list a species. The court held plaintiffs were not likely to succeed on this claim because BLM will leave trees and coarse wood that fishers use for dens. Only 17% of the fisher habitat will be directly affected, and the short-term effects of the sale will be outweighed by the long-term benefit to the fisher from healthier forests.

Plaintiffs have appealed the denial to the Ninth Circuit which will be fully briefed by the end of December. Plaintiffs have also filed a motion for summary judgment in the district court that should also be fully briefed by the end of December. /*Scott Horngren*

Mendocino Challenges Continue

Conservation Congress continues to challenge projects on the Mendocino National Forest. The latest includes lawsuits filed on four very small projects; three were done with CE's, and the fourth was done with an EA.

The Tatham Biomass project contained only 200 mbf of biomass material and the entire project did not cut a tree over 12 inches in diameter. The other two CE projects, M9 and Log Springs were done as separate CE's but combined into one sale offering due to the close proximity of the two project areas. The Log Springs project involved thinning 70 acres of a 60 year old plantation. The M9 project dealt with 250 acres of bark beetle mortality. The fourth project, Lakeview, was done as an HFRA project containing approximately 1.3 mmbf. The purpose of this project was to reduce stand densities in natural stands and plantations adjacent to private inholdings and homes while protecting them from a catastrophic event. A secondary benefit of the project was to provide a fire break for the communities along Clear Lake. None of these projects had any threatened or endangered species issues and almost all the land base was designated as Matrix.

It makes one wonder what the true motivation for these challenges on soundly developed projects really is; forest issues or securing payment from the Equal Access to Justice Act. /*Rick Svilich*

SOPI Issued

Forest Service Chief Tom Tidwell has determined there is a Substantial Overriding Public Interest (SOPI) in extending for up to one year certain National Forest System FS-2400-6/6T and FS-2400-13/13T contracts that terminate on or before December 31, 2013 and meet one or more of the following conditions; (1) require removal of biomass material, (2) require removal of balsam fir, (3) have been appraised to a processing facility that has permanently closed, or (4) have been appraised to a processing facility that has not operated for at least 6 months prior to requesting an extension under this authority.

The intended effects of the SOPI finding and contract extensions are to minimize contract defaults, mill closures, and company bankruptcies while the Forest Service assesses markets to determine if other relief measures are needed. The government benefits if defaulted timber sale contracts, mill closures, and bankruptcies can be avoided by granting extensions.

To receive an extension and periodic payment deferral, purchasers must make a written request to the appropriate Contracting Officer prior to November 30, 2013. Purchasers must also agree to release the Forest Service from all claims and liability if a contract is suspended, modified, or terminated after a contract is extended pursuant to this SOPI. */Tom Partin*

China Illegally Dumping Plywood

On November 9, the United States International Trade Commission (USITC) determined that there is a reasonable indication that a U.S. industry is materially injured by reason of imports of hardwood plywood from China that are allegedly subsidized and sold in the United States at less than fair value. All six Commissioners of the USITC voted in the affirmative.

As a result, the U.S. Department of Commerce will continue to conduct its investigations on imports of these products, with its preliminary countervailing duty determination due on December 21, and its preliminary antidumping duty determination due on March 6, 2013.

The subject products in question hardwood and decorative plywood, is a wood panel product made from gluing two or more layers of wood veneer to a core which may itself be composed of veneers or other type of wood material such as medium density fiberboard, particleboard, lumber, or oriented strand board. It is typically made using hardwood species (e.g., oak, birch, maple, and poplar), but may also be made from softwood species or bamboo.

Specifically excluded is structural plywood, plywood made with cork faces or backs, multilayered wood flooring manufactured subject to a CVD/AD order, and plywood further worked beyond basic finishing.

Petitioners in the dumping case are members of the Coalition for Fair Trade of Hardwood Plywood and some of its individual members including AFRC members Columbia Forest Products, Murphy Plywood, and Roseburg Forest Products. */Tom Partin*