

October 30, 2015

Hearing on Wildfire, Forest Management

On October 8, the House Agriculture Subcommittee on Conservation and Forestry convened a hearing to review the devastating 2015 fire season and long-term trends. Over nine million acres burned nationwide and \$1.7 billion was spent by the Forest Service fighting fires this year, including \$700 million that was “borrowed” from other programs once the agency exhausted its appropriated suppression funding.

Witnesses included Forest Service Chief Tom Tidwell, Chris Topik of the Nature Conservancy, a representative of the International Association of Fire Chiefs, a representative from the air tanker industry, and a rancher from Okanogan County, Washington.

Chief Tidwell’s testimony primarily focused on the budgetary impacts of the growing cost of wildfire suppression to the Forest Service. In addition to ending fire borrowing, the Chief also highlighted the growing portion of the agency’s budget being consumed by wildfire suppression. Earlier this year the Forest Service released a report indicating that the cost of wildfire suppression has grown from 16% of the agency’s budget to 52% of the agency’s budget – the first time in history wildfire suppression costs have exceeded more than half of the Forest Service’s budget.

In his opening statement, Chairman Peterson noted that the issue is larger than solely addressing fire funding:

“To many, the solution seems simple – Congress should allot more funding for fire suppression. However, that is not necessarily the only solution. While the budget and fire suppression funding are issues that must be addressed, we must also look at the culture of how we have been managing our National Forests.

Healthy forests require active management – in the form of mechanical thinning, prescribed fires, and other activities – to ensure they do not become overgrown tinderboxes...Our national forests are facing an epidemic of declining health, which is in direct correlation to policies that have led to a dramatic decrease in managed acres. The Forest Service has drastically reduced timber harvest from almost 13 billion board feet in the late 1980’s to only 3 billion board feet of timber in recent years. It is no wonder that the number of acres affected by catastrophic wildfire has doubled.”

There is growing recognition in Congress that additional management reforms are needed. Chief Tidwell signaled his support and appreciation for the new tools Congress provided in the 2014 Farm Bill, including a 3,000 acre Categorical Exclusion for at-risk areas and an expanded Good Neighbor Authority. In July, the House passed H.R. 2647, the Resilient Federal Forests Act, which would provide

the Forest Service and BLM additional policy and legal tools to increase active forest management and restoration. That legislation has not been considered by the U.S. Senate.

But, the Senate Agriculture Committee, the committee where the House-passed H.R. 2647 is now pending, will have a hearing on November 5 to discuss wildfire and forest management issues. /*Heath Heikkila*

FTPC Meets in Whitefish, Montana

Members of the Federal Timber Purchasers Committee (FTPC) met with key Forest Service and BLM personnel in Whitefish, Montana October 20-22. The purpose of these meetings is to bring regional and national issues impacting forest management and forest operations to the table for discussion and resolution. A total of 55 people attended including Forest Service personnel from every Region, Forest Service leadership from Washington D.C., and a BLM representative from the Washington D.C. Office.

In what has become the traditional format for these meetings, timber purchasers and key agency personnel met separately on October 20 to discuss respective issues impacting timber sale programs and operations. A joint reception was held that evening to discuss national, regional, and district issues impacting both the agency and industry members. On the second day, Forest Service and BLM leadership presented 2015 achievements and 2016 targets. In the afternoon, regional breakout sessions were held to give purchasers and agency staff the opportunity to discuss pertinent local issues. The three day meeting concluded with FTPC Chairman Paul McKenzie hosting a tour of F.H. Stoltz Land and Lumber Company's mill and co-generation facility, followed by a field trip to the woods to look at management and logging on both private and Forest Service lands.

During the industry only portion of the meeting members discussed the "Top 5" issues that were developed at last year's fall meeting. The Top 5 issues included:

- Bring timber program outputs in line with the needs of the forests, rural communities, and forest products companies;
- Ensure that contracts are clear, implementable, and balance liabilities;
- Identify and implement timber program efficiencies, including NEPA, in order to increase the "pace and scale" of management;
- Promptly implement the 2014 Farm bill; and
- Use appropriate contracts in appropriate circumstances.

Pertinent discussion topics that developed during this year's meeting included:

- The importance of federal timber during low markets periods our industry is currently facing - there is a demand for public timber;
- The fire borrowing issue and how quickly these funds will be returned to the Regions and Forests;
- The development of a salvage strategy for the wildfires that occurred in Regions 1, 5 and 6 this year. Timely salvage will be utilized by the industry if it gets to the market before the next summer season;
- The use of the Good Neighbor Authority in several states and effectiveness;

- The Forest Service’s goal to increase pace and scale to attain a 3.2 billion board feet (bbf) timber sale program in 2016.

Timber Sale Results for 2015

As part of the meeting, both the Forest Service and BLM reported on timber sale results nationally and by Region. Nationally, the Forest Service had a goal of producing 2.9 billion board feet (bbf) in 2015 and sold 2.79 bbf, or 91% of the agency’s target. Results by Region for FY15 include:

| <u>Region</u> | <u>Target (mmbf)</u> | <u>Accomp. (mmbf)</u> | <u>Accomp. %</u> |
|---------------|----------------------|-----------------------|------------------|
| 1 | 290 | 307.8 | 106.7 |
| 2 | 242.3 | 265.5 | 110.2 |
| 3 | 160 | 210.5 | 128 |
| 4 | 126.4 | 89.2 | 67 |
| 5 | 350 | 303.4 | 83.3 |
| 6 | 615.4 | 579.5 | 90.1 |
| 8 | 562.5 | 554.9 | 95.1 |
| 9 | 446 | 453 | 102.6 |
| 10 | <u>72.5</u> | <u>23.3</u> | <u>34</u> |
| Nationally | 2.9 bbf | 2.79 bbf | 91.1 |

Results for the BLM program nationally included a target for Public Domain lands of 26.980 million board feet (mmbf) and an accomplishment of 29.936 mmbf or 111% of the agency’s target. The target for the O&C Lands in western Oregon was 215 mmbf and an accomplishment of 221 mmbf, or 103% of the agency’s target.

AFRC and our membership greatly appreciates the work of the FTPC and agency staff who take time to meet twice per year to work on issues critical to the management of our federal forests. The FTPC meeting provides a productive forum to discuss successful strategies, tools, and relationships to do what is right for our public lands. The tentative meeting place for the spring 2016 meeting is Florida. Chairman McKenzie and staff Tom Troxel will be working on the meeting details in the coming months.
/Tom Partin

Washington DNR MM LTCS

On October 15, the Washington State Board of Natural Resources held a special meeting concerning DNR’s work on their Marbled Murrelet Long Term Conservation Strategy (MMLTCS). The intent of the meeting was for DNR and the U.S. Fish and Wildlife Service to present their [proposed Alternatives](#) for the MMLTCS based on their [“Analytical Framework.”](#) The two agencies co-presented the “Key Questions” used in development of the proposed alternatives and then summarized the five proposed alternatives. ([The presentation can be viewed here](#)).

All of the alternatives and the land set aside for habitat protections are based on what DNR is calling areas of Long Term Forest Cover (LTFC). These areas of LTFC include Natural Areas, Riparian Areas, Conservation Commitments, and high quality existing Northern Spotted Owl habitat. Each of the alternatives, including the “No Action” alternative (Alternative A) has a list of allowed activities inside and outside of the LTFC areas. Three of the alternatives (C, D, and E) all have some form of either

marbled murrelet enhancement areas or special emphasis areas. Various activities for habitat enhancement will be allowed or limited within these areas. [Maps](#) showing the location of the areas of LTFC, proposed marbled murrelet enhancements areas, and proposed special emphasis areas have been prepared on a project area scale.

DNR contracted with Dr. Zach Peery to model the effects of the alternatives using a population viability analysis. Dr. Peery modeled and explored the potential trends in population based on two different analysis, Risk and Enhancement. The “risk” analysis was intended to ask the question; “How do the alternatives differ in their *effects on risk* to regional (WA) and local (DNR) murrelet populations?” The enhancement analysis was used to try and answer the question: “How do the alternatives differ in *ability to enhance* regional (WA) and local (DNR) murrelet populations?” Each analysis used a variety of variables in the model to develop population trends. For the alternatives modeled, all appear to show the same outcome for the population trends looking forward 50 years into the future.

Next steps in the process include completing the modeling of Alternatives C and D under Dr. Peery’s process and then presenting all of the alternatives to the Board. The Board will then select alternatives to be further analyzed in a Draft EIS. AFRC commented May 21, 2012 on [phase 1](#) scoping of the purpose and need for the EIS and on July 1, 2013 on [phase 2](#) scoping.

Modeling data and presentation to the Board was predicted by DNR staff to possibly occur in December or January of 2016. AFRC will provide additional updates as this process moves forward. /*Matt Comisky*

Proposed New Murrelet Protection

In recent years, purchasers of federal timber sales along the Oregon coast have mitigated potential effects to marbled murrelets through habitat protection measures and timing restrictions when operating in the vicinity of suitable murrelet habitat. These timing restrictions are designed to minimize noise disturbance during the murrelet’s critical nesting season (April 1-September 15) within 100 yards of any forest stands identified as containing suitable habitat. A recent field trip hosted by the Siuslaw National Forest along with the U.S. Fish and Wildlife Service (the Service) had implications that these current habitat protections measures and timing restrictions may not be enough to protect the murrelet.

The issue of corvid predation on murrelet nests has led the Service to pose the recommendation that in addition to noise disturbance buffers, the action agencies also apply “no-cut” buffers adjacent to all suitable habitat. The Service’s rationale is that any forest management activity, including restoration thinning, creates an edge effect that attracts corvids and makes potential murrelet nests near that edge susceptible to increased predation. Although the Service did not provide any research specific to how forest management such as thinning increases corvid predation on murrelets, the Service believes that literature related to general concepts of predation could be applied.

If implemented, such protection measures – such as “no cut” buffers - could have significant effects on the amount of forest acres available to be treated within the range of the marbled murrelet. The trade-off that the action agencies will be faced with is the cost of deferring established forest management treatments, typically designed to improve murrelet habitat, versus the potential risk of creating a condition that may attract a predator. /*Andy Geissler*

Secretary Vilsack Visits Aberdeen

On October 14, Secretary of Agriculture Tom Vilsack, along with Congressman Derek Kilmer (D-WA), visited Grays Harbor County and met with members of the Olympic Peninsula Collaborative. The Secretary's visit began with a tour of Sierra Pacific Industries sawmill in Aberdeen, Washington. After the mill tour, Secretary Vilsack and Congressman Kilmer sat down with members of the Olympic Peninsula Collaborative to learn more about the group, its work and challenges.

The Olympic Peninsula Collaborative was officially launched in the spring of 2015. It was the result of a 2013 effort, led by Kilmer, to bring members of the conservation community and industry together around increasing sustainable timber harvest levels on the Olympic National Forest. During the discussion with collaborative members, Secretary Vilsack heard of the importance of building trust, working to find common ground, and even the basic logistical challenges of running a small new organization.

The visit concluded with a press conference where both Kilmer and Vilsack spoke to the importance of collaboration as a tool to help move the ball forward on both rural economics and forest health issues. Kilmer highlighted this in his comment to the Daily World, "The fact is, driving rural economic development matters. That's why we've put together this collaborative in the first place, to try to embrace both the value of our forests for job creation, but also in terms of maintaining that forest health." Vilsack spoke about the role collaboratives can play in both forest health and economic improvement. Additionally the Secretary emphasized the need to provide a budget fix for the Forest Service. One of the key fixes often cited is ending the practice of "fire borrowing" that impacts the work the Forest Service can do on the ground, when money is transferred from operational accounts to fighting fires.

AFRC thanks Secretary Vilsack for taking time out of his very busy schedule to learn more about the issues affecting rural communities and the forest products industry in Western Washington. /*Matt Comisky*

Pinchot Partners Field Tour

On October 14, the Pinchot Partners collaborative hosted members and staff of the Washington State House Agriculture and Natural Resources Committee and congressional staff to tour sites on the Gifford Pinchot National Forest. The tour was a follow up to a presentation by the Partners last spring to the Natural Resources Committee, and was designed to showcase the benefits of collaboration for both ecological goals and economic enhancement for local communities.

Local community leaders, county officials, Cowlitz tribal staff, labor representatives, Forest Service personnel, conservation organizations, and timber industry representatives made presentations and led discussions at tour stops. Tour stops included a thinning project, active logging on a project designed to restore traditional huckleberry harvests, and a legacy road project. The group of approximately 40 people also discussed some of the problems surrounding financial and volunteer support for the collaborative process.

The Pinchot Partners began as a local group in 2003, as a means to try and find solutions to the dire economic conditions the communities in the east end of Lewis County found themselves in after the adoption of the Northwest Forest Plan. It is one of two collaboratives now working on the Gifford

Pinchot. AFRC values the opportunity to participate in on the ground conversations about active management of our federal forests. /*Ann Forest Burns*

Housing Starts and Lumber Markets

The good news is that the rate of new home starts is increasing. The bad news is that price and demand for U.S. produced lumber is lagging. Statistics show that U.S. housing starts for September rose 6.5% to the seasonally adjusted annual rate of 1.21 million homes with the highest jump occurring in multifamily home starts. Construction rose in all regions of the U.S. except the Midwest. These numbers are far higher than the 500,000 housing starts number during the 2008-2010 recession.

Unfortunately, domestic lumber prices have languished in the last few months. The Framing Lumber Composite Price as printed by Random Lengths currently sits at \$297/mbf of lumber. Last year's price was \$385/mbf. Factors contributing to low prices appear to be weak offshore lumber markets in Japan, China and Korea - countries that traditionally buy Canadian and European lumber products. The combination of a strong domestic demand for lumber and a strong U.S. dollar has enticed foreign producers to sell more products into the U.S. market thus curbing demand for domestic lumber.

With no sign of our domestic markets rebounding in the short-term, especially since the U.S.-Canadian softwood lumber agreement expired on October 12, it will be very important that U.S. producers find timber stumpage priced to reflect current market levels. Since private timber is more scarce in a low market, U.S. manufacturing plants are even more reliant on public timber. During these times it is crucial that public timber is available and is priced based on current lumber indexes. /*Tom Partin*

Montana East Reservoir Litigation

On October 13, Judge Dana Christensen of the U.S. District Court in Montana granted the Kootenai Forest Stakeholders Coalition and Lincoln County's motion to intervene in *Alliance for the Wild Rockies v. Savage*. This is one of the first cases in which a stakeholder coalition or collaborative has been granted intervenor status to defend a project it helped develop. The case is a NEPA, NFMA, and ESA challenge to the East Reservoir Project on the Kootenai National Forest, a multifaceted management action including timber harvest, fuels reduction, reforestation, watershed rehabilitation, and recreational improvements.

The Stakeholders are a forest collaborative whose members cross the spectrum of concerned local organizations: Yaak Valley Forest Council, Lincoln County, The Lands Council, Troy Snowmobile Club, Cabinet Resource Group, F.H. Stoltze Land and Lumber Company, the Montana Wilderness Association, Idaho Forest Group, and the Troy School District. The Stakeholders worked closely with the Forest Service to ensure that the project met the concerns of everyone at the table. The Stakeholders were able to reach consensus and endorse the project, which will improve forest health. The timber from the project will support economic activity in Lincoln County and provide revenue for county schools and roads.

The Stakeholders and Lincoln County, who are represented by AFRC, sought to intervene in order to defend the project. Alliance for the Wild Rockies objected, arguing that the proposed intervenors' interests were too generalized and that the intervenors were adequately represented by the Forest Service. The Court granted AFRC's motion and found that "given the extensive public process and

input characterizing the project at issue in this case, it is appropriate to provide Stakeholders and Lincoln County a continued seat at the table.”

Briefing will occur over the next few months and a hearing is likely to be held in Missoula in early 2016. */Lawson Fite*

Court of Appeals Stays WOTUS Rule

Since the EPA and Army Corps jointly issued a new regulatory definition of “Waters of the United States” under the Clean Water Act, litigation has sprouted across the country. This rule is of interest to the forest products industry as it explicitly includes intermittent tributaries, and explicitly excludes certain ditches and log ponds from waters that are subject to the requirements of the Clean Water Act.

Courts of Appeals are sometimes the appropriate venue for a regulatory challenge, and 18 states filed petitions in these courts attacking the rule. The petitions have been consolidated and are being considered by the Sixth Circuit in Cincinnati. On October 8, the Sixth Circuit issued an [order](#) staying the new rule temporarily while the court figures out whether it should decide the cases or whether the trial courts should do so. EPA and the Corps have indicated they will continue to operate under the old rule for the time being (<http://www2.epa.gov/cleanwaterrule/clean-water-rule-litigation-statement>).

At the same time, 14 lawsuits have been filed across the country in district courts, by states, industry, and environmental groups. The government attempted, and failed, to consolidate these cases in the D.C. district court. These cases are on hold while the Sixth Circuit decides whether to hear the case. In either event, it appears likely that the new rule “Waters of the United States” will remain stayed while the lawsuits work their way through the courts. AFRC will continue to monitor the proceedings. */Lawson Fite*

Ninth Circuit Holds Intervenors Cannot Appeal

Because the Forest Service refused to appeal Judge Marco Hernandez’ December 2014 decision invalidating the Snow Basin Project on the Wallowa-Whitman National Forest (see, [AFRC newsletter December 19, 2014](#)), the Ninth Circuit issued a one line order on October 20 holding that the intervenor timber purchasers, adjoining landowners, and counties cannot appeal the district court decision.

The Snow Basin Project was a comprehensive landscape-scale project involving fuel treatment and timber harvest representing one to two years of the Wallowa-Whitman’s timber sale program. The intervenors’ appeal argued that the Forest Service could use a site-specific forest plan amendment to permit removal of primarily white fir ladder fuels greater than 21 inches in diameter and that a supplemental EIS could be used to correct the NEPA deficiencies without having to prepare an entirely new EIS. The district court’s final order remanded the case back to the Forest Service, but the Forest Service refused to appeal.

The League of Wilderness Defenders moved to dismiss the intervenors’ appeal on the grounds that the Ninth Circuit had no jurisdiction since the Forest Service itself did not appeal. The Ninth Circuit agreed, and without reaching the merits of intervenors’ appeal, held that there was no jurisdiction to hear the intervenors’ appeal when the Forest Service decides not to appeal following an adverse ruling from the district court that remands the case back to the agency.

This decision cuts both ways since environmental groups also would be precluded from an appeal in a case where they want to defend an agency action that the agency chooses not to appeal.

Finally, although the Forest Service did not appeal the Snow Basin decision they also have not begun to correct the flaws found by the district court. AFRC encourages the Forest Service to get to work on correcting the environmental analysis for the worthwhile Snow Basin Project. /*Scott Horngren*

Injunction Avoided in French Fire Litigation

The French Fire Project on the Sierra National Forest involves approximately 2,500 acres of salvage and roadside salvage. The Center for Biological Diversity (CBD) and Earth Island Institute sued to stop the project and filed a motion for a preliminary injunction. AFRC, representing member/purchaser Sierra Forest Products, negotiated an agreement with CBD and the Forest Service that modified Sierra’s workplan to accommodate some of CBD’s objections. The agreement is win-win-win, allowing Sierra to begin harvest, while addressing some of CBD’s concerns, and avoiding preliminary injunction proceedings. The parties are currently briefing cross-motions for summary judgment and a hearing is set for November 30 in Sacramento. /*Lawson Fite*

Impacts of Litigation in Region 1

The impacts of litigation to the Region 1 timber sale program are significant. Recent data provided by Region 1 officials indicate that over one and a half years of their timber sale program is currently in limbo (not able to be operated) or threatened due to projects being in the objections process or tied up in the court system. The data outlines several stages of projects being impacted:

| | | |
|---|---------------------|-------------------|
| Volume not under contract - complaint filed, not enjoined | 4,911 acres | 37.4 mmbf |
| Volume not under contract - NEPA decision enjoined | 4,850 acres | 38.0 mmbf |
| Volume under contract - NEPA enjoined, sale suspended | 2,318 acres | 27.4 mmbf |
| Volume under contract - litigated, but not suspended | 12,364 acres | 88.5 mmbf |
| Notice of Intent to Sue under ESA - not filed yet | 2,852 acres | 30.0 mmbf |
| Objections with Timber Components - FY14-15 | <u>21,977 acres</u> | <u>219.3 mmbf</u> |
| Total | 49,272 acres | 440.6 mmbf |

Litigation presents a major challenge to the Region, directs scant resources away from important healthy forest projects, and presents hardships for the local milling infrastructure that desperately needs the timber to keep their workers employed. Future federal forest management reform should address these very real challenges. /*Tom Partin*

FWS Decides Not to List Three Plants

On October 8, the U.S. Fish and Wildlife Service (the Service) issued “not warranted” findings for 19 species that had been petitioned for listing under the ESA. As a result, the species have been removed from the candidate list. Of note are three California/Oregon plants, the Ramshaw meadows sand-verbena, Siskiyou mariposa lily, and Tahoe yellow cress.

The Ramshaw meadows sand-verbena lives entirely within the Inyo National Forest. Potential threats to the species include lodgepole pine encroachment, climate change, recreation, and cattle trailing. The Service found that past actions taken by the Forest Service ameliorated most of these stressors.

Additionally, a conservation agreement between Inyo and the Service addresses future management needs.

Siskiyou mariposa lilies are found between 4,300 and 6,000 feet in the Klamath-Siskiyou range, and are present in the Klamath National Forest and the BLM Ashland Resource Area. The chief threat to the lily is the invasive plant known as dyer's woad. The Service found that Forest Service and BLM conservation measures had a successful track record and would likely continue to maintain viable populations of the lily.

As suggested by its name, the Tahoe yellow cress lives off the shores of Lake Tahoe. Twenty-seven percent of the cress' habitat is within the Forest Service's Lake Tahoe Basin Management Unit. The Service identified recreation, particularly beach raking, as the chief threat to the cress and found that a broad spectrum of conservation agreements was effective in avoiding population-level risk to the species. */Lawson Fite*

Assistant Resource Directors

AFRC would like to welcome two new Assistant Directors for Renewable Resource Management to Region 1 and Region 6. Carol McKenzie, the current vegetation staff officer on the Panhandle National Forest will replace Tom Martin, who is retiring at the end of the year.

Carol Boyd will be joining the Region 6 team at the end of November. Boyd comes from Region 3 where she has worked in the same position for six years. Boyd replaces Tracy Beck who took the Forest Supervisor position on the Willamette National Forest earlier this year.

AFRC welcomes both Carol McKenzie and Carol Boyd to their new positions and looks forward to working closely with them in their new roles. */Tom Partin*