



American Forest Resource Council
5100 S.W. Macadam Avenue, Suite 350
Portland, Oregon 97239
Phone: (503) 222-9505
Fax: (503) 222-3255
E-mail: info@amforest.org
www.amforest.org

February 21, 2014

Hearing on O&C, Barrasso Bills

On February 6, the Senate Energy and Natural Resources Committee held a hearing on S. 1784, the Oregon and California Land Grant Act of 2013 sponsored by Senator Ron Wyden (D-OR) and S. 1966, the National Forest Jobs and Management Act of 2014 sponsored by Senator John Barrasso (R-WY). The hearing was the last chaired by Senator Wyden before he took the gavel of the Senate Finance Committee last week however, Wyden will remain on the Senate Energy and Natural Resources Committee.

The hearing provided various perspectives and opinions on the future management of over 2 million acres of BLM O&C lands in Oregon under Senator Wyden's bill and a portion of the 45 million acres of the National Forest System designated suitable for timber production nationwide under Senator Barrasso's bill. Witnesses and links to their written testimony are below:

Witness Panel 1

Representative Peter DeFazio (D-OR)

Witness Panel 2

[Tom Tidwell](#), Chief, U.S. Forest Service

[Steve Ellis](#), Acting Deputy Director for Operations, BLM

Witness Panel 3

[Jerry Franklin](#), Professor of Ecosystem Analysis, University of Washington

[Mike Matz](#), Director, U.S. Public Lands, The Pew Charitable Trusts

[Sid Leiken](#), Lane County Commissioner, Eugene, OR

[Dale Riddle](#), Senior Vice President Legal Affairs, Seneca Sawmill, Eugene, OR

[Andrew Miller](#), President and CEO, Stimson Lumber, Portland, OR

[Doug Robertson](#), Douglas County Commissioner, Roseburg, OR

[Sean Stevens](#), Executive Director, Oregon Wild, Portland, OR

Witness Panel 4

[Clint Georg](#), Partner, Saratoga Forest Management, Saratoga, WY

[Mike Dombeck](#), Professor of Global Conservation, University of Wisconsin Stevens Point, WI

Testimony on Senator Barrasso's bill followed familiar themes with the Administration opposing meaningful reforms and instead offered an endorsement of its current approach to managing the National Forest System. Chief Tidwell did express optimism in regards to the new Forest Service authorities included in the Farm Bill. Meanwhile, Clint Georg expressed support for the Barrasso legislation and noted that its 15 year harvest requirement would apply treatments to only 4 percent of the

National Forest System. Mr. Georg also testified that active timber management is entirely consistent with maintaining quality recreational opportunities, hunting, and other multiple uses. Predictably former Clinton-era Forest Service Chief Mike Dombeck came to an opposite conclusion and warned that the bill would undermine multiple-use management of the National Forests. It is unclear what the path forward is for Forest Service reform legislation in the Senate, but it is clear that the number of legislators opposed to the status quo approach to managing these forests continues to grow.

Kicking off the testimony on Senator Wyden's O&C legislation, Congressman DeFazio referenced the Senator's stated opposition to the trust concept that provides the necessary certainty for timber harvests and county revenues under the House proposal. DeFazio went on to signal his willingness to work with Wyden to find an effective, compromise approach to provide the legal certainty, level of timber harvests, and county revenues similar to those in the House bill. Dale Riddle, Andrew Miller, and Commissioner Doug Robertson all expressed concerns about the Wyden bill, including a lack of certainty, potential impacts to private land management, significant uncertainties surrounding the likely short-term and long-term harvest levels, and the lack of consideration given to revenues for the counties. The BLM raised concerns about aspects of the bill, including the 10-year Environmental Impact Statement and associated procedural deadlines.

For his part Senator Wyden sought to characterize his legislation as a compromise with supporters and opponents on both sides of the ideological spectrum, although seven of the nine witnesses outlined varying levels of concern with it. Perhaps the most consistent theme to emerge from stakeholders has been the extreme uncertainty related to the implementation of the Wyden legislation, regarding likely harvest and revenue levels.

Senator Wyden frequently cites an analysis that Oregon State University Professor Norm Johnson performed with the assistance of BLM staff to claim that his legislation would double current harvest levels on the 2.1 million acres of BLM O&C lands creating an annual sale quantity of 300-350 mmbf. It is entirely unclear how much revenue his proposal may generate for the O&C counties and the legislation provides only for a minimum of \$10 million annually. There is considerable uncertainty with all these figures in the Wyden bill, unlike the House-passed O&C Conservation, Jobs and Trust Act sponsored by Oregon Congressmen Peter DeFazio, Greg Walden (R), and Kurt Schrader (D). Oregon Governor John Kitzhaber's O&C Task Force modeled a nearly identical proposal of the House bill that showed a long-term sustained-yield annual harvest of over 500 mmbf and generated over \$100 million for the O&C counties. The modeling also outlined the geographic distribution of these harvests and other metrics for the bill, including spotted owl habitat, riparian protections, and other land management considerations.

Ever since the release of the Wyden bill, AFRC, the O&C Counties, the House delegation, and others have been requesting this type of information from the Wyden office with no success. On December 19, 2013 Congressmen DeFazio, Walden, and Schrader wrote Governor Kitzhaber requesting that he convene his O&C Task Force to model the Wyden bill as well as the final House-passed bill to provide a side-by-side comparison. The Governor's Task Force was preparing to conduct this analysis, but it now appears that the effort has been halted. It is believed that Senator Wyden's office was opposed to the modeling and concerned about what it would show.

Thus far, the only substantive information that has become available has resulted from a Freedom of Information Act (FOIA) request filed by AFRC of the BLM, which assisted Dr. Johnson in analyzing the legislation. Dale Riddle included a number of AFRC's findings in his testimony, including:

- Rather than developing a long-term sustained yield calculation for the Wyden bill, Dr. Johnson relied on front-loaded harvests in the first two decades of his analysis to arrive at the 300-350 mmbf volume estimate. It appears that harvest levels would fall to 150 mmbf or less after 10 to 20 years under S. 1784.
- Short-term harvest levels in the drier forests of southwest Oregon are likely to be approximately 55 mmbf, which is less than the Northwest Forest Plan targets and what the BLM is currently required to offer for sale under a federal court order. Long-term harvest levels may be even less.
- When the ecological forestry prescriptions, land allocations, restrictions, and critical habitat acres are taken into account the Wyden bill provides for a long-term sustained yield land base of approximately 252,000 acres, or just 12 percent of the total O&C land base.

Despite these very serious concerns with S. 1784 and the uncertainty recently created by Wyden's move to chair the Finance Committee, there is real hope that Congressman DeFazio's discussions with Senator Wyden will yield progress towards developing an effective, permanent solution that can gain the support of the delegation, Governor Kitzhaber, and the local counties and communities. Stay tuned. /Tom Partin

Barrasso Bill Introduced

On January 28, Senator John Barrasso introduced S. 1966, the "National Forest Jobs and Management Act." This bill is similar in many ways to H.R. 1526 which passed the House in September, 2013, and calls for treating more Forest Service acreage.

Barrasso, Ranking Member of the Senate Energy and Natural Resource Subcommittee on Public Lands and Forests, has witnessed firsthand the destruction of public forests in Wyoming from insects and disease and wildland fire, and authored the bill to expedite management on Forest Service lands nationwide. Key provisions in the bill include:

- Allows the Forest Service to expedite timber harvest on 7.5 million acres (in Forest Management Emphasis Areas) over 15 years. This represents only 16% of the suitable land base and 3.8% of total Forest Service lands.
- Approximately 500,000 acres would receive commercial mechanical treatments each year which is double what is being treated annually now. Harvest volumes would increase from today's level of 2.7 bbf to approximately 5.5-6 bbf.
- An additional 25% of generated revenues from the projects would go to counties.
- Project planning would only require an Environmental Analysis of 100 pages or less and would only need to study two alternatives and describe current conditions to analyze cumulative effects.
- ESA determinations could be conducted by Forest Service professionals.
- There would be a streamlined objection process, then if parties disagree, an arbitrator would make a final, binding decision regarding how the project would move forward.

Both S. 1966 and H.R. 1526 would double the annual amount of acres treated by the Forest Service using expedited planning and streamlined judicial review. It is apparent that Congress has identified the problems the Forest Service is now having with trying to get more acres treated, NEPA planning is

taking 70% of the agency's timber management money and that percentage has to change to get more work done on the ground, as well as providing more legal certainty for projects to move forward. /*Tom Partin*

Farm Bill Signed

On February 7, President Obama signed a compromised Farm Bill which contained a number of important forestry provisions. AFRC would like to thank key members of both the Senate and House Agriculture Committees for getting those provisions included. Key forestry elements in the bill include:

- Reaffirms that projects conducted under Categorical Exclusion (CE's) should not be subject to Administrative Appeals;
- Designation by prescription (D X P) and designation by description (D X D) are authorized for all Forest Service timber sale contracts;
- A limited 3,000 CE for use in collaborative forest management projects treating insect and disease infestations;
- Permanent reauthorization of stewardship contracting authority;
- Fire liability provisions in stewardship contracts will now be the same as timber sale contracts;
- EPA barred from requiring Clean Water Act permits for forest roads;
- Good Neighbor Authority expanded nationwide to allow states to enter into agreements to perform work on federal forest lands;
- Expands Healthy Forest Restoration Act authorities to streamline projects in "critical areas" that have been identified as facing forest health threats;
- Gives Governors greater authority in the identification of critical areas and use of insect and disease CE's on national forest lands. The Secretary of Agriculture has until April 8 (60 days from February 7 enactment) to designate areas "experiencing an insect or disease epidemic" requested by a Governor as "treatment areas." These areas will then be eligible for all of the "streamlining" associated with HFRA authorities.

While these Farm Bill provisions fall short of comprehensive federal forest reforms, they are positive steps and we will continue to advocate for a broader reform bill in the coming months. / *Tom Partin*

Court Issues New Order on Survey & Manage

Last year the Ninth Circuit ruled in favor of D.R. Johnson Lumber Company and reversed the district court's approval of a sweetheart settlement between the agencies and environmental groups that changed the Northwest Forest Plan survey and manage program without public comment and a plan amendment. The Ninth Circuit remanded the case back to the district court given that the district court found in 2009 that the 2007 EIS eliminating the survey and manage program violated NEPA. Without the settlement agreement the district court now needed to evaluate the scope of an injunction.

On February 18, the district court responded to the Ninth Circuit remand and issued its form of an injunction. The good news is that the district court adopted the position of all the parties that essentially allows projects in preparation to proceed and there is no need to conduct new surveys for projects that were in preparation at the time the Ninth Circuit invalidated the settlement agreement. It also was no surprise the district court's order vacates the 2007 Records of Decision that eliminated survey and manage, which the judge found in 2009 violated NEPA. It is also helpful that the order declines

plaintiffs' invitation to invalidate any annual species reviews (ASRs) that have occurred since the ASR process was adopted in the 2001 ROD.

The order concludes that the plaintiffs did not challenge the ASR's and therefore the ruling will have no bearing on whether particular ASR's remain valid or invalid. The ASR adjustment for the red tree vole was held invalid in another case but the other ASR adjustments for other species were never challenged by plaintiffs so the helpful changes made through those ASR's will still be effective. Going forward, survey and manage will still be a burden on new sales particularly for red tree vole restrictions and other species requirements such as two year surveys for great gray owls.

Finally, the Judge punts on the issue of whether the O & C Act precludes application of survey and manage on O & C timberland. D.R. Johnson argued that the O & C Act precluded creating survey and manage species reserves on O & C timberland. Referring to the O & C Act as a "complex issue" the district court declined to rule on whether or not survey and manage should apply to O & C lands and maintains that the order "is not the place for the complicated assessment, particularly where the NEPA violations that this court described in its Order did not relate to the O & C Act." Parties have 60 days to decide whether to appeal any or all of the order. /*Scott Horngren*

Lawsuit Seeks Additional Volume

On February 13, AFRC joined Swanson Group Mfg. LLC, Seneca Sawmill Company, Freres Lumber, Hull-Oakes Lumber Company, and Douglas Timber Operators in a lawsuit filed in the D.C. District Court aimed at forcing the BLM to sell the Allowable Sale Quantity (ASQ) from its Coos Bay, Eugene, Lakeview, and Salem Districts. Although the districts have generally met their annual target in recent years, they have done so with thinnings from Late Successional Reserves (LSR), rather than sales from matrix lands as required by the Northwest Forest Plan. Harvests from LSR's are supposed to be supplemental to, and not a substitute for management of the matrix lands.

The case has been assigned to Judge Richard Leon who, last June, ordered the Medford and Roseburg Districts to sell their ASQ in all future years. (See [AFRC July 22, 2013 newsletter](#).) /*Ann Forest Burns*

Kelsey Peak Objection

Challenges to projects on the Six Rivers National Forest continue. The latest is on the Kelsey Peak Project, filed by Conservation Congress and Environmental Protection Information Center. The 39-page objection raises issues on the northern spotted owl, the Clean Water Act, off-road vehicles, grazing, and Goshawk. This is a very important project for the local industry infrastructure.

For the past several years Conservation Congress has appealed, objected and/or litigated over 90% of the projects, including non-timber projects, on the Six Rivers, Mendocino, and Shasta Trinity National Forests. All of the proposed projects are attempting to protect and improve important habitats and communities, while emphasizing forest restoration and the reduction of fuels to prevent catastrophic wildfire events. Another primary objective highlights the need to provide commodity products.

It will be interesting to see how the Regional resolution meeting goes. The entire project is located on matrix land, but does contain spotted owl critical habitat. Previous resolution meetings with these organizations have not proved to be very fruitful. /*Rick Svilich*

Bonnie Announces Partnership Projects

On February 6, Robert Bonnie, Agriculture Undersecretary for Natural Resources and Environment, announced that the Forest Service and the Natural Resource Conservation Service have entered into a multi-year partnership to improve the health and resiliency of adjacent public and private forestlands across the nation.

The project called the “Chiefs Joint Landscape Restoration Partnership” will invest \$30 million in 13 projects nationally this year to help reduce wildfire risks, help protect key watersheds, and improve habitat for key wildlife species. Projects in the west include:

Montana - Red Mountain Flume/Chessman Reservoir
California - San Bernardino and Riverside County Fuels Reduction Project
California - Mid-Klamath Communities Project
New Mexico - Isleta Project
Oregon - East Face of the Elkhorn Mountains

The projects will build on existing efforts with local partnerships. We are hopeful the additional dollars will treat more acres and put more timber volume into the marketplace. */Tom Partin*

Stewardship Contract Seminar

On February 19, the Forest Service hosted a daylong [seminar](#) on Integrated Resource Timber Contracts (IRTC's) in conjunction with the Oregon Logging Conference, in Eugene, Oregon. AFRC provided a grant for the seminar since the use of stewardship contracts is of great interest to our members. Mike Daugherty, Region 6 Stewardship specialist, led the session with the help of Gavin Smith and Marianne Klingler. Daugherty has provided exceptional leadership for the program in Region 6 and is making great strides in creating uniformity between forests and simplifying the process to make it easier for purchasers to understand. That being said, there are inherent complexities in the use of the stewardship authority as the requirement to use “best value” contracting principles bring it under the complicated procurement regulations applicable government wide.

The seminar was similar to one he gave the previous week to representatives of every forest in Region 6. One of his messages was that they *must* use the procedures he developed and documented in the [Region 6 Stewardship Contracting User Guide](#). Any deviation from this *must* be approved by Daugherty. Specifically, every forest must use the R6 Technical Proposal Template to define and advertise IRTC's.

The day included questions, comments and suggestions from both the participants and leaders. AFRC and its members have been providing Daugherty with suggestions and will continue to do so. One of the most contentious issues that is still very much a work in progress is how the forests evaluate “utilization of the local workforce.” The main questions centered on how the “local area” is defined and the criteria used to evaluate how the proposals will fulfill this requirement. AFRC looks forward to continuing our partnership with the Forest Service in improving stewardship contracting. */Ross Mickey*

Forest Management a Priority

A poll conducted in November, 2013, rates forest management to reduce high-severity wildfire risk as the top priority of citizens in Deschutes County, Oregon. Coming in a close second was improvement of forest health through forest restoration. Also placing high on the priority list were access to recreational

opportunities, protection of older and larger trees, and growing timber and other forest products for commercial use.

The poll was conducted by [DHM Research](#) for the [Oregon Forest Resources Institute](#) (OFRI) which designed the survey with the help of the [Deschutes Collaborative Forest Project](#), a Bend-based community group.

According to an OFRI press release, those polled were also asked to rate their preference for various forest management methods. The top three, all of which received about 90 percent support, were thinning dense forests to increase fire resilience; using prescribed fire to remove underbrush and small trees; and using controlled burns to reduce the risk of high-severity wildfire.

At AFRC's annual meeting in April, a panel will present findings from a number of public opinion polls which inform our industry's approach to enlisting public support for our work. */Ann Forest Burns*

Hastings to Retire

On February 13, Representative Doc Hastings (R-WA) announced that he will not be seeking re-election. The 73 year old, 10-term Congressman from Pasco said that it is time to spend more time with his family following 20 years in Congress and 8 years in the Washington State Legislature.

Hastings, who chairs the House Natural Resources Committee, has been a leader in promoting better federal forest management and sponsored H.R. 1526, the "Restoring Healthy Forests for Healthy Communities Act" that passed the full House last September. Besides being an advocate for improved forest management, Hastings and his Committee have focused on the need for updating and improving the Endangered Species Act. Hastings has also been a champion in the cleanup of the Hanford Nuclear Reservation, which is in his district.

Hastings follows former Washington Democratic Congressman Norm Dicks in retirement (Dicks retired in January 2013), and their combined loss in House seniority is a loss for both Washington and the Pacific Northwest. AFRC wishes Congressman Hastings the best in his retirement. He has been a great champion in the cause of better federal forest management. */Tom Partin*

Milt Herbert Honored

On February 8, Milt Herbert was presented the Legacy Award in Roseburg, Oregon at a ceremony at the Douglas County Museum. The presentation was also in conjunction with Milt turning 87 on February 11. The event honored his commitment to the community where he has operated sawmills and began a banking career.

Milt began his sawmill career shortly after World War II in Eugene. He later moved his milling operation to the Canyonville area, and finally settled on the Riddle location in 1962 where they are today. In 1953, Herbert established Canyonville's first bank (South Umpqua State Bank) because he wanted to make sure sawmill paychecks were taken home and not just cashed in bars. Banks often didn't cash sawmill checks because they didn't trust them. Herbert did well in banking as he did in lumber manufacturing and South Umpqua State Bank is now Umpqua Bank, one of the largest in the region.

For those of you that know Milt, recognize how soft-spoken, quiet and unassuming he is, which is what makes this honor so special! Congratulations Milt and the entire Herbert family. /Tom Partin

2014 Annual Meeting

AFRC's Annual Meeting will be held April 22-24 at Skamania Lodge in Stevenson, Washington. Our program will consist of remarks from several influential members of Congress; a forecast on future log export and lumber issues; a review and discussion of the western Forest Service, BLM and Washington DNR timber sale programs; and other interesting topics.

The meeting will begin on April 22 with our golf tournament followed by the opening reception. April 23 will feature a full slate of meetings, social hour, and dinner. The meeting will conclude on April 24 with a half day of meetings and Board of Directors meeting and luncheon.

Registration and hotel information is available on our website at www.amforest.org.

Eco-Terrorist Sentenced

Environmental Activist Rebecca Rubin was sentenced last month by Oregon federal judge Ann Aiken to five years in prison. Rubin who was a member of the radical group The Family, also known as the Earth Liberation Front, took part in burning down a ski resort, setting fires to Swanson Group and other government offices, and freeing horses and burning a barn in California, as well as torching a condominium project in San Diego. She was also ordered to repay \$13 million in damages, and to read two novels, one by Malcom Gladwell titled *David and Goliath* and *Natures Trust* by Mary Wood, an environmental law professor at University of Oregon with the stated hope of steering Rubin toward legal, non-violent methods of advocating for the environment.

The five-year sentence was the minimum that could have been given by Aiken. Prosecutors had asked for seven and a half years because Rubin refused to provide information on her co-conspirators Joseph Mahmoud Dibee and Josephine Sunshine Overaker. The Family's alleged leader William "Avalon" Rodgers committed suicide in 2005 while in custody in Arizona.

Many in the forest products industry feel the sentence given to Rubin was too light considering the nearly \$40 million in damages she and The Family inflicted on innocent people and businesses from 1997-2003. / Tom Partin