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AFRC Annual Meeting Near

There is still time to register for AFRC's Annual Meeting which is being held April 10-12 at Skamania Lodge in Stevenson, Washington. You can register on our website www.amforest.org.

We have put together an excellent agenda that features key Northwest Congressional members, representatives from the largest suppliers of public timber in the west, a candidate for Washington Governor, and topics that will touch not only on resource supply, but also a look at the future economic picture for the west.

Our meeting is a good place for members of the forest products industry to meet with agency representatives and legislators to discuss the timeliest issues impacting our industry. Since we have such a high profile lineup of speakers we hope that you and or others in your organization can attend.

/Tom Partin

FWS Obscures Habitat Issues

On February 28, the U.S. Fish and Wildlife Service (FWS) made a major public relations push aimed at obscuring the effects of the Obama Administration's efforts to shift the focus of its mission under the Endangered Species Act from species preservation to control over habitat on both public and private land. In a [press conference](#), Secretary of Interior Ken Salazar and other Administration officials sought to downplay the impact of a new Northern Spotted Owl critical habitat proposal on rural Northwest economies by touting the promise of "ecological forestry" management, a follow-up to Salazar's visit the prior week to Medford, Oregon. (See [AFRC newsletter, February 23, 2012](#).) The agency's [press release](#), announcing both spotted owl critical habitat and barred owl control, was timed to comply with a federal court order requiring it to release the draft critical habitat designation that day. (See [AFRC newsletter January 18, 2012](#).) A [Presidential Memorandum](#) issued the same day was also aimed at hiding the severe impacts of the critical habitat proposal on forest health.

Spotted Owl Critical Habitat Proposal

In the [proposed Northern Spotted Owl Critical Habitat rule](#), FWS identifies 13,962,449 acres in Washington, Oregon and California it claims to "meet the definition" of critical habitat. This is a 263% percent increase over the 2008 designation of 5,312,300 acres.

Moreover, only 4,149,678 acres of the currently designated 5,312,300 acres are included in this latest proposal. This means FWS has identified 9,802,771 new acres it claims are "essential for the conservation of the species" that it somehow missed in 2008 and that the agency was wrong on 23% of the acres designated only three short years ago. What has changed since the last critical habitat designation (other than the obvious change in Administrations)?

FWS answers this question by stating that the modeling process used in this proposal is “fundamentally” different from the prior designations. Prior designations relied on “*a priori* rule sets derived from best expert judgment” and the current proposal uses “a series of spatially explicit modeling processes.” [A priori knowledge](#) is defined as that which is independent of all particular experiences, as opposed to [a posteriori knowledge](#), which derives from experience. In layman’s terms, this means prior designations were based on what FWS believed to be true without having the experience to know what was really true and it now is letting computer models determine reality. To compound matters, FWS did not use *one* computer model but *four* models to come up with the current proposal. Error propagation between these models makes the outcome questionable at best. A more detailed [discussion](#) is available on our website.

Each of the individual models has an associated undisclosed error which is then carried into the next model making the error associated with that model even greater. The FWS has apparently made no attempt to quantify this error. Unfortunately, that information is essential to any effective review and critique of the results displayed in the proposed rule.

Those interested in experiencing first hand the lunacy of this high tech, ivory tower game of smoke and mirrors can do so by using your computer to look at the aerial images of the 13,962,449 acres these models have determined are “essential for the conservation of the species.” To do this, download [Google Earth](#) and the KML file for use with Google Earth ([Proposed Revised Critical Habitat - Map](#)). Change the opacity shading of the critical habitat from 100% to 25%. This will allow you to see the aerial image of the land inside the critical habitat boundaries. Zoom into your area of interest and see how much of the “essential” habitat is comprised of plantations, openings and young stands.

Comments on the proposal are due June 6. Details are in the [March 8 Federal Register](#).

Barred Owl Removal

Further attempting to obscure the impacts on public and private landowners of the proposed Critical Habitat designation, Interior’s February 28 press release also focused on the issue of controlling the barred owl which is admitted to be one of the true limiting factors in spotted owl recovery.

A [March 8 Federal Register article](#) announced the availability of a [Draft Environmental Impact Statement](#) (DEIS) for Experimental Removal of Barred Owls to Benefit Threatened Northern Spotted Owls. The DEIS discloses the environmental effects of eight alternatives (including a no-action alternative) for an experimental design aimed at determining “if removal of barred owls will benefit northern spotted owl populations and to inform decisions on whether to move forward with future management of barred owls.” The range of alternatives includes treating 51,000 to 1,176,000 acres at a cost of \$3.5 million to \$17.0 million, and removing 2,119 to 11,943 barred owls. Most of the studies would run between 7-10 years. Barred owl populations would return to pre-treatment level within three years. The results of this work would be available 12 years after project implementation, which is at least three years away.

Not surprisingly, press coverage of the February 28 FWS announcements focused heavily on the issue of killing one species to benefit another.

FWS expects to hold at least two public hearings on the barred owl removal proposal in locations yet to be announced. Public comments on the DEIS will be accepted through June 6.

Presidential Memorandum

The third document released February 28 was a [Presidential Memorandum](#), “Proposed Revised Habitat for the Spotted Owl: Minimizing Regulatory Burdens,” addressed to the Secretary of Interior. The memorandum refers to [Executive Order 13563 of January 18, 2011](#) (Improving Regulation and Regulatory Review), noting the need for regulations to “[promote] economic growth, innovation, competitiveness, and job creation” as well as protection of the environment.

The memorandum describes the proposed rule as “recommend[ing] . . . that areas identified as critical habitat should be subject to active management, including logging, in order to produce the variety of stands of trees required for healthy forests” and says that “on-going logging activity may be needed to enhance forest resilience.”

The memorandum requires Interior to publish an economic impact analysis of the proposal for public review by April 28. FWS has contracted with [Industrial Economics, Incorporated](#) to prepare an economic impact statement for the proposal. AFRC staff and several of our members have been interviewed for the study. Unfortunately, the scope of the interviews and information requested from the Forest Service and the BLM is very narrow. The contractor has not been instructed to gather data on the economic impacts of the changes in how federal land managing agencies would conduct business under the proposed rule or the impact to the timber industry and local economies that would result from the agencies’ refusal to propose projects in expanded critical habitat in order to avoid the necessity of consultation with FWS. It is doubtful that the resulting economic impact analysis will accurately reflect the potential impact on forest health, rural communities and the industry of the proposal.

The memorandum also directs Interior to consider making “the maximum exclusion from the final revised critical habitat, consistent with applicable law and science” and “to adopt the least burdensome means” of assuring compliance with the ESA. AFRC’s comments to the proposed rule will support this approach. */Ross Mickey and Ann Forest Burns*

BLM Plans Again

On March 9, the BLM announced yet another round of land use planning for its six western Oregon districts.

When completed, these plans will replace the 2008 Western Oregon Plan Revisions (WOPR). In July, 2009, Interior Secretary Salazar attempted to “withdraw” the WOPR and return management to the Northwest Forest Plan (NWFP). In March, 2011, the Federal District Court in Washington, D.C. ruled that the “withdrawal” was illegal. The agency is currently planning projects to be in compliance with both the WOPR and the NWFP, which substantially reduces the management flexibility of the agency. It is AFRC’s position that BLM management under the NWFP is a violation of the O&C Act.

It is unclear what BLM intends to accomplish by reinitiating planning without ever implementing the WOPR. The [agency’s press release](#) refers to “new scientific information related to forest health and resiliency such as the FWS’s recovery plan and proposed critical habitat designations for the Northern Spotted Owl.” When Secretary Salazar visited Medford last month to tout the virtues of the Pilot Joe

project (see [AFRC newsletter February 23, 2012](#)), he signaled that the “ecological forestry principles” behind the [Secretarial pilot projects](#) will figure prominently in the new plans. It is doubtful that plans based on those principles will meet the requirements of the O&C Act, making it likely that this latest round of planning will be followed by another round of litigation.

No public meetings or hearings on the new planning process have been announced. Online comments are being accepted at <http://www.blm.gov/or/plans/rmpswesternoregon/comments.php>. A 90-day public comment period ends June 7. */Ann Forest Burns*

BLM Ignores Process

On February 15, the BLM Medford District issued a [Scoping Notice for the Jumping Bean Project](#), which is located in matrix and general forest land. According to the Scoping Notice, “The project’s objective is to meet dry forest restoration management which would retain legacy trees, oaks, and other hardwoods while producing wood for mills and reducing wildfire danger.” In summary, this objective is not in line with the land management plan covering this area.

Because the lands covered by the project are classified as matrix and general forest under the WOPR, the primary objective for treatment *should* be to contribute to the economic stability of the counties these lands are in, taking into account all of ecological constraints placed on them. This is clearly not congruent with the proposed objective of the Jumping Bean Project.

Billions of dollars are spent developing land management plans for our federal lands. The reason many of these are litigated is that the plan is supposed to govern how an agency manages the land. The objectives of each land allocation are clearly articulated and are the legal foundation for the agency’s management activities. Under the NWFP, activities in Late Successional Reserves must contribute to these forests’ developing into old growth habitat, primarily for the spotted owl. Lands in the Matrix are to be managed for long term timber production while meeting a myriad of other “multiple uses.”

With the publication of the Jumping Bean Project scoping notice, the Medford BLM has decided to ignore this process and the millions of dollars spent developing existing land management plans to implement the Secretary’s new vision which is in clear violation of the O&C Act, WOPR, and NWFP. */Ross Mickey*

Senate Votes to Reauthorize County Payments

On March 8, the Senate voted 82-16 to add a one-year extension of the Secure Rural Schools (SRS) and Payment in Lieu of Taxes (PILT) programs as an amendment to legislation reauthorizing federal surface transportation programs for highways, highway safety and public transit. Under the amendment, one additional year of SRS payments would be provided to counties to compensate them for the loss of timber revenues caused by reduced harvests on federal timberlands. The amendments were offered by Senator Max Baucus (D-MT). The 1,676-page transportation bill, including Secure Rural Schools and other non-transportation related amendments, eventually passed out of the full Senate on March 14 by a vote of 74-22.

The Secure Rural Schools Act was initially passed in 2000 and was supposed to be a short-term (six-year) solution for payments back to counties until sustainable forest management could be restored. It has been reauthorized twice and prior to its adoption counties in the Pacific Northwest received similar Spotted Owl Guarantee payments dating back to the mid-1990's.

The proposed Senate reauthorization would set county payment levels at 95 percent of the 2011 levels, which already represented more than a 50% reduction when compared to the payments many counties received under the original formula. Counties in the Pacific Northwest that have seen the sharpest reductions in county payment levels have coined the phrase "permanent poverty" to describe the effect of the payment levels.

In order to "offset" the cost of the county payments reauthorization Senator Baucus, who Chairs the tax-writing Finance Committee, relied on three unrelated changes in tax law. The tax provisions included: 1) changes to the federal retirement system that would allow federal agencies new authority to offer phased out retirement in which eligible employees continue to work part time while collecting a percentage of their pension; 2) Instituting new taxes on certain life insurance transactions commonly referred to as "reverse life insurance" and 3) new taxes on manufacturers of roll-your-own-cigarette machines.

The Senate's proposed one-year reauthorization runs counter to two pieces of legislation that have either been introduced or released in the House of Representatives in recent months. H.R. 4019, the "National Forest County Revenue, Schools, and Jobs Act of 2011" would establish a trust mandate requiring the Forest Service to manage its forests to generate a minimum level of revenue to benefit rural counties through timber management and other revenue generating projects. The legislation, introduced by House Natural Resources Committee Chairman Doc Hastings (R-WA), would also increase the counties' share of these revenues. H.R. 4019 was passed by the House Natural Resources Committee last month and may soon come before the full House for a vote.

Meanwhile, the "O&C Trust, Conservation, and Jobs Act" discussion draft sponsored by Representatives Peter DeFazio (D-OR), Greg Walden (R-OR) and Kurt Schrader (D-OR) would place a portion of the 2.5 million acres of BLM O&C Grant Lands in Oregon under the management of a board of trustees to be managed consistent with a trust mandate and sustainable yield principles. Forest stands over 125 years old would be transferred to the Forest Service and managed for conservation objectives. The "O&C Trust, Conservation, and Jobs Act" would restore timber management to much of the O&C lands and generate the revenue needed to fund local government services.

Members of the House have generally been far more vocal about the need to transition back to active forest management, while the Senate has focused on reauthorizing government programs that make payments to counties in lieu of actual timber management.

Surface transportation programs expire on March 31, therefore Congress is expected to either pass a reauthorization or short-term extension before then. It is unclear if the Senate transportation bill has enough support to pass the House, which has been unable to move its own transportation proposal over the past month. The fate of the Senate's one-year county payments reauthorization is likely to hinge on how negotiations between the House and Senate over the transportation bill unfold. It is also unclear

whether the House will take up H.R. 4019 or the DeFazio, Walden and Schrader bill as an alternative to a one-year extension.

Regardless of what happens next it is hard to believe that the Senate continues to avoid confronting the need to restore sustainable forest management to benefit our rural communities and forests and is instead relying on new taxes on insurance policies and roll-your-own cigarettes to fund the continued dependency of rural timber country on federal handouts. / *Tom Partin*

DNR Marbled Murrelet Strategy

At its March 16 meeting, the Washington State Board of Natural Resources (BNR) approved a draft Need, Purpose and Objectives statement (NPO) for its marbled murrelet long term habitat conservation strategy (MM LTCS). The statement will now go out for public scoping prior to adoption of a final NPO. A second public scoping process will help identify alternatives to be examined in a draft Environmental Impact Statement.

Ann Forest Burns, AFRC Vice President; Dave Ivanoff, Hampton Tree Farms President; and Tom Nelson, Sierra Pacific Industries Washington Timberlands Manager testified before the Board. They expressed concern about the ways in which the draft NPO departs from the State's obligations under the HCP. After hearing from DNR staff and FWS Washington State Director Ken Berg, BNR members made substantial revisions to the proposed draft. Berg told the Board he is willing to go out for public comment on the draft as revised by the Board. The BNR then adopted the revised draft.

The NPO is a joint proposal of the BNR and the FWS. The two agencies will prepare joint environmental review documents for the MM LTCS under the Washington State Environmental Policy Act and the National Environmental Policy Act. FWS will publish a Federal Register notice announcing the public comment period for the NPO. DNR's SEPA Center will also make an announcement.

When the State Trust Lands HCP was adopted in 1997, the DNR agreed to develop a MM LTCS that will minimize and mitigate for any incidental take of the species after additional information and research were done. DNR currently operates under an interim conservation strategy. Once completed, the LTCS would be implemented through an amendment to the Trust Lands HCP. / *Ann Forest Burns*

Stay in NPDES Case

Following the Ninth Circuit Court's decision in the Clean Water Act forest road case (*NEDC v. Decker*), the case was sent back to the District Court for a trial on the underlying facts alleged by the plaintiffs. On March 12, the court agreed to stay further proceedings pending a decision by the U.S. Supreme Court on whether it will agree to review the Circuit Court's decision.

Last October, AFRC filed an amicus brief in support of review by the Supreme Court. (See [AFRC newsletter October 21, 2011](#)) In early December, the Supreme Court asked the Solicitor General to provide his views on the case. The Court will again consider whether to grant certiorari in early summer, 2012. / *Ann Forest Burns*

Court Complicates Water Regulatory Review

On February 28, Magistrate Judge Acosta ruled in favor of plaintiffs in *Northwest Environmental Advocates v. EPA* that the nonpoint best management practices (BMPs) for ranching, farming, and forestry are so intertwined with water quality standards that they must be reviewed and approved by EPA under the rigid water quality standard approval process.

EPA argued it had no authority to regulate nonpoint source pollution and that BMPs were not water quality standards. However, the Magistrate Judge held that the BMPs were essentially “so bound up” with water quality standards and “the nonpoint source provisions . . . are part and parcel of Oregon's water quality standards” that EPA had to review and approve the nonpoint BMPs.

The Magistrate Judge stated the ruling did not mean that EPA could dictate the BMPs that Oregon must adopt. Rather, EPA would decide whether the BMPs did or did not meet water quality standards, and if they did not meet the standards, then Oregon was free to develop whatever BMPs that Oregon believes would achieve the standards and would send the BMPs back for EPA review until finally approved. (The process outlined by the court sounds as if EPA as a practical matter will in fact dictate Oregon’s BMPs).

This federal court decision applies only in Oregon. However, the case has implications for farming, forest management, and ranching on both private and federal lands. The Northwest Pulp and Paper Association and the State of Oregon were intervenors in the case and are evaluating their options to move for reconsideration in the District Court or to pursue an appeal to the Ninth Circuit Court of Appeals. /*Scott Horngren*

DNR Biomass Study

On March 13, Commissioner of Public Lands Peter Goldmark announced the completion of the [Washington Forest Biomass Supply Assessment](#). The study began in 2009 and was worked on jointly by the University of Washington College of Environmental and Forestry Sciences and TSS Consultants with financial support from the Forest Service. The study examines the sustainable volume of residual forest biomass that can be collected from Washington’s working forests.

Based on estimates of the volume of residual forest biomass that reaches the market, the study’s authors concluded that “with slightly higher market prices, the amount of market biomass supplied could double without requiring increased production in the field. Potential market biomass was available to meet at least a doubling of demand, maintaining the volume of biomass left behind unchanged.”

DNR is expected to use the results of the study to begin seeking ways to market biomass from state trust lands under long-term contracts. /*Jacob Groves*

DNR Timber Program Report

Below is DNR’s FY12 timber sale program through the month of February.

Sales offered	85
Sales sold	80
Sales no-bid	5

Volume offered	327.0 mmbf
Volume sold	311.1
Volume no-bid	15.9
% Volume sold	95%

Sold sale value	\$101 million
Price/MBF	\$324
Overbid ratio	22%
Average bidders per sale	2.66

DNR expects to sell approximately 652 mmbf in FY12, of which approximately 578 mmbf will come from the westside and 74 mmbf from the eastside. DNR has made up their volume arrearage from the decades' early years and harvest should be at the sustained yield through the rest of the harvest decade which ends in FY14. */Jacob Groves*

DNR Annual Report

On March 15, the Washington Department of Natural Resources [announced](#) the availability of its first-ever all-digital annual report. The [2011 Annual Report](#) describes DNR's management of 5.6 million acres of state lands (including forested, agriculture and other trust lands, aquatic lands, and natural areas). The report includes extensive statistics on 2011 timber harvest volumes, acres and revenues. */Jacob Groves*

Ponderosa Pine Utilization Standards and Indexing

Because of depressed markets, in 2009 Region 6 suspended the use of the index for adjusting rates of ponderosa pine in existing contracts. Since markets have slightly improved, Region 6 has proposed resuming index adjustment of ponderosa pine rates using the Rocky Mountain Pine Index. Purchasers have expressed concern that the ponderosa pine lumber index should not be applied for eastside national forests because of the 21 inch diameter limit in the eastside screens. The pine lumber index reflects lumber produced from all sizes of trees but the higher value products are manufactured from the larger trees which can't be cut from eastside national forests. Region 6 has indicated that future contracts will not have index adjustments for ponderosa pine rates and ponderosa pine will be sold at flat rates.

Meanwhile, in January the Fremont-Winema National Forest notified purchasers that it planned to significantly reduce its ponderosa pine sawtimber minimum tree specifications from the current specs of a tree with at least a diameter of 9 inches DBH, and a sawlog of at least 16 feet with a small end diameter of 6 inches. The forest proposed to change the minimum specifications to a diameter of 7 inches DBH, and a sawlog of at least 8 feet with a small end diameter of 5 inches. Timber purchasers objected to the change citing that the small ponderosa pine logs create logistical and marketing difficulties for timber purchasers. Based on their input, the Fremont-Winema dropped the proposed changes and will retain the current sawtimber specs. */Scott Horngren*

Idaho Environmental Forum

On February 20, Forest Service Chief Tom Tidwell and Senator Mike Crapo (R-ID) spoke to the Idaho Environmental Forum and responded to comments made the prior week by three Republican presidential candidates who, while in Boise, proposed selling public land or transferring management to the states. Chief Tidwell and Senator Crapo talked about how the process of collaboration is changing national forest management and cited the success of groups like the Clearwater Basin Collaborative (CBC) which consists of a broad group of timber industry representatives, local officials, environmentalists, sportsman and recreationists. Tidwell and Crapo feel that collaboration is the solution to managing Idaho's 20 million acres of federal forests. The CBC was recently approved for another \$3.5 million through the Forest Service's Collaborative Landscape Restoration Program to implement thinning, stream restoration and road decommissioning which advocates say restores watersheds and creates jobs. Chief Tidwell also went on to promote the new Planning Rule which he says will save time and money and make it easier for people to work together. */Irene Jerome*

IFA Executive Norm Bjorklund

[Norm Bjorklund](#), long-time Executive Vice President of the Industrial Forestry Association, passed away January 13, at the age of 89. Norm earned a bachelor's degree in forestry from Oregon State University following his service in World War II. Norm began working for IFA as an assistant forester and retired nearly 40 years later in 1986. In 1987, IFA and Northwest Pine Association merged to form Northwest Forestry Association which later became AFRC in 2001. A memorial service was held March 17 at the World Forestry Center, which Norm helped to create. */Ann Forest Burns*