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FS/BLM 2015 Budgets

President Obama has released his 2015 budget request, and there is both good news and bad news for agencies tasked with managing our federal forests. One of the big issues that had to be dealt with was the ever-increasing cost of wildfire funding and the borrowing that has taken place from other programs to cover those costs.

Forest Service

The most significant policy issue included in the Forest Service's budget request was the inclusion of a bipartisan legislative proposal to cap wildfire suppression spending at 70 percent of the ten-year average and treat additional expenditures as emergency spending, similar to how FEMA funds other natural disasters. This would end the seemingly annual practice of "fire borrowing" from other Forest Service accounts to cover wildfire suppression activities. The legislation has been introduced in the Senate by Ron Wyden (D-OR) and Mike Crapo (R-ID) and in the House by Kurt Schrader (D-OR) and Mike Simpson (R-ID). Overall, the Wildland Fire Management budget was raised to \$2.265 billion from \$2.163 billion for an increase of \$102 million from the 2014 level, and a \$396 million increase from the 2013 program as the cost of wildfire suppression continues to increase.

The overall proposed Forest Service budget for 2015 is \$4.77 billion up from \$4.58 billion in 2014. With this increase the agency plans to harvest 3.1 billion board feet (bbf) from national forest lands, up from the 2013 level of 2.6 bbf. However, tracking which line items got increases in the National Forest System becomes difficult because five programs; Wildlife and Fish Habitat Management, Forest Products, Vegetation and Watershed Management, Legacy Roads and Trails, and Hazardous Fuels (non-WUI) have again been proposed for merger into a single Integrated Resource Restoration (IRR) budget line item. Funding for the FY15 IRR line item is \$820 million, up from approximately \$776 million in 2014. In recent years IRR was applied to only Regions 1, 3 and 4 as pilots. The results from those regions have not been stellar with timber targets not being met, and a high percentage of firewood making up the sold volume.

Funding for the Collaborative Forest Landscape Restoration Act (CFLRA) was up 50 percent from \$40 million to \$60 million. CFLRA requires a 50/50 matching requirement from other agency appropriations. While CFLRA enjoys a great deal of support, the projects have been hit and miss and also have some of the highest unit costs for the amount of timber produced. Meanwhile, it is believed that the CFLRA's match requirement is drawing appropriations away from forests that haven't been selected to receive a project, which can create winners and losers.

The Capital Improvements and Maintenance (CIM) roads line item, which deals with forest roads, was reduced by \$12 million. This is problematic because it follows significant cuts in recent years which have only added to the maintenance backlog for roads on our national forests. Land acquisition

accounts are up by \$7.5 million, which is bothersome considering the fact that the agency can't maintain the land they currently own and bringing more land under their management only exacerbates the issue.

The Hazardous Fuels (HF) line item was increased by \$52 million to \$358.6 million. This increase in funding is very helpful, since much of the planning in interior forests is done with HF dollars, and those projects go to reduce fuel loading before catastrophic fires start. The HF dollars will be split between the Wildland Urban Interface (WUI) areas and the general forested areas. It appears that \$76.6 million will be allocated to non-WUI areas as described in the IRR section of the budget. The remaining \$282 million is designated for work in the WUI areas.

BLM O&C Lands

Unfortunately, the Administration is proposing to cut the O&C budget by over \$10.5 million in FY15. This comes at a time when the BLM is currently under court order to significantly increase timber sale levels in the Medford and Roseburg Districts, and they are also working on Resource Management Plans (RMPs) for all six BLM districts in Western Oregon.

It is difficult to see how a \$10.5 million cut will allow the agency to both increase its timber sale levels and complete new RMPs. Budget description documents indicated that the FY15 timber sale program would be similar to the FY13 program, which is approximately 30 mmbf less than what is being planned in FY14 in response to the DC District Court decision. AFRC will be working with the Appropriations Committees to restore the needed funding levels to the BLM to complete their ongoing work. Budget hearings will be held in the next few months. */Tom Partin*

Lawsuit Compliance with O&C Act

On March 7, AFRC filed a new [lawsuit](#) in Washington, DC Federal District Court to compel the BLM to comply with the [Oregon and California Lands Act](#). The Carpenters Industrial Council and AFRC members Douglas Timber Operators, C & D Lumber, Freres Lumber, Seneca Sawmill Company, Starfire Lumber and Swanson Group Mfg. are also plaintiffs in the case.

Since the Western Oregon Plan Revisions were withdrawn in 2009, the BLM has been operating under Resource Management Plans adopted in 1995. Those plans fail to require the management of the O&C lands for permanent sustained yield forest production and fail to require the annual offering of timber sales equal to the annual productive capacity of the lands, as required by the O&C Act. The lawsuit asks that the 1995 plans be declared in violation of the O&C Act.

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](#).)

As noted elsewhere in this newsletter, the BLM is currently working on a new set of Resource Management Plans. Unfortunately, those plans may prove just as insufficient to meet statutory requirements. Hopefully, the agency will heed warnings and not continue the mistakes of the past. */Ann Forest Burns*

Governors to Designate Unhealthy Watersheds

On February 7, President Obama signed the Agricultural Act of 2014. This law contains a provision to help the Forest Service more rapidly treat forests currently being impacted by insect and disease outbreaks.

Section 8204 of the Act adds a provision to the Healthy Forests Restoration Act that calls for the designation of landscape-scale treatment areas, and the Secretary of Agriculture is charged with making those designations. The time frame for him to do so on his own initiative is open-ended; however, there is a specific provision allowing a Governor to request that the Secretary make this designation and requiring the Secretary to act on that request. This mandate is limited to the 60 days immediately following enactment and ends on April 8, therefore time is of the essence to get these watersheds identified.

To maximize the advantage of the Farm Bill, it is vital that each Governor make this request as soon as practical to provide time for the Secretary to act within the 60 days. Further, the Farm Bill establishes requirements for the designation of the landscape-scale treatment areas. The treatment area shall be:

- Experiencing declining forest health, based on annual forest health surveys conducted by the Secretary.
- At risk of experiencing substantially increased tree mortality over the next 15 years due to insect or disease infestation, based on the most recent National Insect and Disease Risk Map published by the Forest Service.
- In an areas in which the risk of hazard trees poses an imminent risk to public infrastructure, health, or safety.

Although the language of the statute refers to designations on “at least 1 national forest in each State,” there is no limitation on the number of national forests in a state for which a request for designation may be made.

Governors or interested parties need to review annual forest health surveys and the National Insect and Disease Risk Map at www.fs.fed.us/foresthealth/technology/nidrm.shtml for a list of encumbered watersheds. AFRC strongly recommends those designations be made to expedite forest health treatments in those areas. / *Ann Forest Burns*

No Federal Permits for Forest Roads

Congress has resolved the issue of whether Clean Water Act National Pollutant Discharge Elimination System (NPDES) permits are required for forest roads through a provision in [Agricultural Act of 2014](#) (popularly known as the Farm Bill).

Section 12312 of the Act contains the language of the Silviculture Regulatory Consistency Act bills, [S. 971](#) and [H.R. 2026](#), whose prime sponsors were Senators Ron Wyden, Mike Crapo, Representatives Kurt Schrader and Jamie Herrera Beutler (R-WA). It amends [Section 402\(1\)](#) the Federal Water Pollution Control Act (33 USC 1342(1)) by adding a new subsection (3) to clearly state that NPDES permits shall not be required for specified silvicultural activities (nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road constructions and maintenance) when “conducted in accordance

with standard industry practice.” The statute thus enshrines in law the long-standing Best Management Practices for control of silvicultural non-point pollution.

The quoted list of exempt practices mimics that of [40 CFR 122.27\(b\)](#) which in turn defines silvicultural point source pollution to include “rock crushing, gravel washing, log sorting, or log storage facilities.”

Following the Supreme Court’s March, 2013 decision in [Decker v. NEDC](#), the Ninth Circuit Court of Appeals sent the underlying case back to the Oregon District Court “for proceeding consistent with the Supreme Court’s opinion.” Currently, a motion to dismiss by the original defendants remains pending. The plaintiffs’ theory of the case seems to be that its original complaint encompasses some of the activities listed in 40 CFR 122.27(b) as point sources. The defendants’ reply brief was filed March 11, 2014. Plaintiffs have requested permission to file a sur-reply. AFRC hopes that Judge Brown will decline the plaintiffs’ invitation to prolong this matter further. It is high time for this game of judicial ping pong to end. Congress has spoken. */Ann Forest Burns*

Study Shows FS Prevails in Majority of Lawsuits

A recent study titled “Twenty Years of Forest Service Land Management Litigation” published by the Society of American Foresters shows that the Forest Service is more likely than not to prevail in lawsuits challenging its land management decisions. The study, however, also shows that in the last six years the agency was more likely to settle or lose cases, than in the previous 14 years.

The study analyzed Forest Service litigation from across the country between 1989 and 2008. It concluded that 1,125 cases challenging land management decisions were filed in the study period. Of those cases, the agency was victorious 53.8 percent of the time, lost 23.3 percent of the time, and settled the remaining 22.9 percent. When deciding cases on the merits, as opposed to procedural issues, the agency did even better, winning about 64 percent of the time.

Despite the agency’s positive outlook nationally, the study reveals some less encouraging trends. First, the authors concluded that the Forest Service is increasingly settling cases, and that the agency was most likely to settle cases involving logging or other forms of vegetation treatment. The study also reiterated what many in the West already know; the majority of the successful lawsuits filed against the Forest Service are initiated in states in the Ninth Circuit. Almost 66 percent of lawsuits against the Forest Service were filed in the western states comprising the Ninth Circuit, and the Forest Service won only 48.5 percent of those cases, compared to a 63.9 percent success rate in the in non-Ninth Circuit cases. Only the Second and the Eleventh Circuits fared as poorly, but the Second Circuit only decided seven cases in the same timeframe, and the Eleventh decided a similarly low number of cases. In the Ninth Circuit, the study concluded that Region 6 remained the most litigious.

The study concluded that while the number of cases filed between 1989 and 2000 generally increased, since then the amount of cases filed in a given year has varied widely. The authors concluded that the “legal environment continues to be an important factor in deciding how these forests are managed.” To those of us that work with the agency on a day-to-day basis, this is already an all-too-familiar reality.

/Rob Molinelli

Blue Mountains Forest Plan

On March 14, the long awaited Blue Mountains Forest Plan Revision was published in the Federal Register. The plan was officially “rolled out” on March 17 in John Day, Oregon during a public meeting at the Malheur National Forest Supervisor’s Office. Consisting of over 1,300 pages and weighing in at eight pounds it is indeed an ambitious document.

The plan provides revised land management plans for the Malheur, Wallowa-Whitman, and Umatilla National Forests. Designed to be strategic in nature and to be in effect for 10 to 15 years, the plan does not include site specific activities. Site specific decisions will be made later after more detailed analysis and public involvement. Each forest will have a separate Record of Decisions.

The plan consists of goals and desired conditions, standards, guidelines, objectives, special areas, management areas, suitable uses and activities, and monitoring and evaluation. The overall impetus of vegetation management in the plan is toward restoration of “dry forests.” Of special interest is elimination of the controversial “21 inch rule” that was implemented with the interim eastside screens. The 21 inch rule required a forest plan amendment to harvest trees equal to or greater than 21 inches at diameter breast height. The plan generally requires leaving “old” trees which are defined to be all trees greater than 150 years. The method of identifying “old” trees will be through visible characteristics of each tree such as “platy” or “deeply furrowed” bark. Identifying old trees are based on the guidelines developed by Robert Van Pelt for the DNR in eastern Washington. The total annual allowable sale quantity (ASQ) for the three forests is 152 mmbf with individual levels of production at 55 mmbf on the Malheur, 51 mmbf on the Umatilla, and 46 mmbf on the Wallowa-Whitman.

The Forest Service will host a series of public meetings to be held in various locations. For information on meeting locations, times and dates and other information on the Blue Mountains Forest Plan Revision refer to the website:

<http://www.fs.usda.gov/goto/BlueMtnsPlanRevision> or call 541-523-1246/1302.

Comments on the draft plan must be postmarked or received electronically no later than 90 days from when the Notice of Availability was published. AFRC will provide more information as it unfolds during the comment period. *Irene Jerome*

BLM Planning Update

The BLM is currently working on revising their western Oregon Resource Management Plans (RMP’s). This is the second revision they have done in the last ten years. The last revision, which was completed in 2008 after five years of intense analysis, was undertaken as a result of a lawsuit brought against the BLM for violating the O&C Act by adopting the Northwest Forest Plan in 1995. The 2008 revision was withdrawn by the Obama Administration a few months after it was adopted. The current plan revision is being undertaken in a recognition that the BLM is unable to implement the Northwest Forest Plan based 1995 RMP’s, which they are currently working under, due to legal constraints and lack of support from the current Administration.

The BLM has completed a number of [documents](#) which lay the foundation for the development of alternative management strategies. These include the Purpose and Need Statement, the Analysis of the Management Situation, and most recently the Planning Criteria. The latter was the subject of eight public meetings held this month throughout western Oregon. According to the BLM, “*The Planning*

Criteria provides an in-depth look at guidance, policy, analytical methodology and preliminary alternatives. This document is a look at how the BLM will be analyzing alternatives and moving towards land management plans for western Oregon.” A 30 day comment period ends March 31. Comments can be made on-line by following this [link](#).

The Planning Criteria gives a good indication about the priorities of the Obama Administration and how they are misinterpreting the O&C Act. While they appear to recognize the O&C Act was established for the primary purpose of supplying a sustainable flow of timber to support jobs and produce revenues to support local governments, the way they are framing the analysis shows a very different picture.

The Analytical Methodology comprises 208 pages of the 234 page document. It identifies 20 resource uses and 85 individual issues. Of these, only 2 resource uses and 11 individual issues address timber supply and economic support to local governments. In contrast, there are 21 issues devoted to just one resource use, wildlife. This imbalance is carried forward into the development of the four alternatives, which the BLM has already decided to analyze.

It appears that with this approach, the BLM has made major decisions that will severely limit the range of alternatives, which is in clear violation of the National Environmental Policy Act and will lead to the adoption of an alternative that will most certainly violate the O&C Act. There are two major decisions that have the biggest impact on narrowing the range of alternatives. First, they have decided that they will provide a large block network of spotted owl habitat even though providing such habitat has not been shown to slow the decline of the spotted owl population which is being driven down by the invasion of the barred owl. They have also decided that all “older and structurally complex forests” need to be reserved. These two decisions will remove hundreds of thousands of acres from the manageable land base and result in a major reduction in the sustainable harvest level with no evidence that these efforts will reverse the current decline in spotted owls. */Ross Mickey*

DNR Timber Sale Program

As we approach the fourth quarter of Washington DNR’s Fiscal Year 2014 and the end of the first decade of the current Sustainable Harvest Calculation, here is a status update of the sale program. To date through the February Timber Sale Auction, DNR has sold a total of 265 mmbf. Of this total volume, 237 mmbf was sold in the westside regions with the remaining of 28 mmbf sold in the two eastside regions. The week of March 24 will see the last of the third quarter sales coming to market. Anticipated volume to finish out this quarter is expected to be 48 mmbf.

With an anticipated target of 539 mmbf to finish out FY14, there is significant volume to be offered in fourth quarter. We expect approximately 16 mmbf to be offered on the eastside, mostly in the NE Region. The remainder is to come from the westside regions, amounting to about 209 mmbf.

June 30 will bring the first decade of the Sustainable Harvest Calculation to a close. DNR will be working to identify exactly what the arrearage number (the amount of volume to be sold in the decade minus the amount actually sold) will be. The Board of Natural Resources will then need to decide how it will deal with the arrearage number and the new Sustainable Harvest Calculation moving forward into the next decade. Stay tuned. */Matt Comisky*

Committees Taking Shape

With the musical chairs taking place in the Senate due to the retirement of Finance Committee Chairman Max Baucus (D-MT) who is now the Ambassador to China, the Senate Energy and Natural Resources Committee once chaired by Ron Wyden is now chaired by Mary Landrieu (D-LA) while Wyden takes the helm at Finance.

The changes in chairmanships has also resulted in changes to the staffs of both committees. Landrieu recently appointed Elizabeth Craddock as the Energy and Natural Resources staff director. Craddock has worked for Landrieu since 2006 as counsel and most recently as Legislative Director. Landrieu also has retained three other key Committee staffers, Sam Fowler, Daniel Adamson and David Brooks. In addition she has appointed Caroline Bruckner and David Gillers from her staff to serve as senior staffers on the committee. While no additional staffing announcements have been made, other public lands staff, including Meghan Conklin and Bryan Petit, will remain on the Committee staff.

While Wyden focused the Committee on forestry legislation, Landrieu's interests will undoubtedly be on gas and oil energy issues and what she can gain for Louisiana in the next few months since she is in a tough election battle in November. It will be interesting to see if Chairman Landrieu will seek to mark-up for key forestry legislation such as Wyden's O&C Act of 2013 and Senator John Barrasso's (R-WY) National Forest Management and Jobs Act of 2014. */Tom Partin*

New Director of Forest Management

Bryan Rice has accepted the position as Director of Forest Management for the Forest Service effective March 23. Bryan is currently the Deputy Bureau Director, Trust Services at Bureau of Indian Affairs (BIA). He has held that position since 2011 following serving as the Assistant Director for Resource Protection for the BIA, Division of Forestry and Wildland fire Management in Washington D.C.

Bryan holds a B.S. in Forestry from the University of Illinois and a Master's degree in business Administration from the University of Alaska, Southeast. He has worked in several jobs for a variety of agencies and began work with the Forest Service as a member of the Helena Interagency Hotshot Crew. Welcome Bryan! */Tom Partin*

Carl Newport

Dr. Carl Newport, longtime partner of the forestry consulting firm of Mason, Bruce and Girard passed away in Bend, Oregon on March 5, just short of his 90th birthday, following a long battle with Alzheimer's disease.

Carl was born on March 9, 1924 in Logansport, Indiana and was the youngest of seven children. Following high school he joined the U.S. Army Air Force. After his military service, he received a B.S. in forestry from the University of Michigan, a M.S. in Forest Management from Oregon State, and a Ph.D. in Forest Economics from New York State College. He had several jobs including teaching Forest Economics at Colorado State University, working for the Forest Service and finally joining Mason, Bruce and Girard where he worked from 1966-1994.

Carl was an avid outdoorsman, and his forestry accolades and achievements were very numerous. He is survived by his wife Gwen, sons Chuck and Jim, six grandchildren and three great-grandchildren. */Tom Partin*

2014 Annual Meeting

AFRC's Annual Meeting will be held April 22-24 at Skamania Lodge in Stevenson, Washington. 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.

Tuesday, April 22

11:30 am **Golf Tournament**

6:30 pm **Welcoming Reception**

Wednesday, April 23

7:30 am **Continental Breakfast** – Political Strategy: Heath Heikkila

8:30 am **General Session**
Rep. Greg Walden (confirmed)
Rep. Steve Daines (confirmed)
Rocky Goodnow, Forest Economic Advisors (confirmed)
Federal Land Management Impact to Counties (Panel)

12:00 noon **Luncheon**
Dr. Peter Goldmark, WA Commissioner of Public Lands (confirmed)

1:30 pm **General Session**
Jim Pena, U.S. Forest Service (confirmed)
Jerry Perez, BLM (confirmed)

3:00 pm **Public Forest Managers' Breakouts**
Darin Cramer & Paul Bialkowsky, Washington DNR (invited)
Tom Martin & Christine Dawe, US Forest Service Region 1 (confirmed)
Chris Iverson, US Forest Service Region 4 (confirmed)
Randy Moore, US Forest Service Region 5 (invited)
Kent Connaughton, US Forest Service Region 6 (invited)
Jerry Perez, BLM (confirmed)

6:00 pm. **Social Hour/Banquet**

Thursday, April 24

7:30 am **Continental Breakfast** – Canadian Softwood Lumber Coalition

8:30 am **General Session**
Rep. Peter DeFazio (confirmed)
Media Relations and Public Perspectives and Forest Management (Panel)

11:00 am **Board of Directors Meeting**