

**May 28, 2015**

## **BLM Plan Falls Short**

Three years ago, the BLM started a new planning effort after the Obama Administration found the results of the previous five year effort, which ended in 2008, to be unacceptable. That plan allocated slightly more than half of BLM's western Oregon lands to multiple use management and produced less than one half of the 1.2 billion board foot harvest potential. With new direction from the Administration, the BLM is now proposing an alternative that only allocates 24% of the land to multiple use management and will only yield 235 million board feet per year, 20% of the lands potential.

This and many more fascinating tidbits about the [Draft Resource Management Plan](#) can be found in a [summary](#) prepared for the Association of O&C Counties by Chris Cadwell. All of the alternatives prepared by the BLM set-a-side massive amounts of land for the northern spotted owl whose main threat to its existence is the barred owl not lack of habitat. The alternatives range between 68%-86% in setting land aside for reserves. Harvest levels range from 176 mmbf to 486 mmbf with the higher volume alternatives relying on very short rotation ages that would never be acceptable to the public.

The Preferred Alternative would be especially devastating to southern Oregon as it shifts timber harvest from this area to the northern districts. Revenues to the counties generated from the sale of timber would also plunge from historic levels. Species that rely on recently established and young stands of timber would suffer as the age class distribution would become more skewed towards the older age classes. If the Preferred Alternative was implemented for 100 years, only 10% of the land base would be less than 70 years old and stands over 120 years old would represent 86% of the landscape.

The only hope for this new planning effort is for the BLM to develop additional alternatives that present a more balanced approach to managing these unique lands that were established by Congress for maximum timber production and to provide revenues to the counties in lieu of taxes. */Ross Mickey*

## **Litigation Impacts to Federal Forest Management**

### *House Subcommittee Hearing*

On May 14, the House Natural Resources Subcommittee on Federal Lands held an oversight hearing on the impact of litigation on forest management, the Forest Service's response to the growing challenge of litigation, and related impacts upon forest health. Subcommittee Chairman Tom McClintock (R-CA) began the hearing by outlining the fact that "Between 1989 and 2008, 1,125 lawsuits were filed against the Forest Service. A quarter century of extremist litigation has placed our forests in extreme distress. Forest Service employees are demoralized and have little incentive to plan meaningful projects."

Further, the Committee found in a 1999 report by the National Academy of Public Administration that planning consumed an estimated 40% of the work load at the local level. Today, Forest Service personnel estimate that the amount has grown to 60% of field level employees' time spent solely on planning, which includes environmental analysis and other procedural requirements. Timelines for analysis have also increased from several months to several years for a typical forest management project. Correspondingly, the expense of preparation has also increased dramatically. Line officers who were involved in forest management projects in the 1980's recall 3-6 month timeframes to complete NEPA environmental analyses. Agency data indicates that over the past ten years, timeframes to complete environmental assessments for modest sized forest management projects have increased from 14.7 months to 20.1 months.

Witnesses at the hearing included Dale Bosworth, former Chief of the Forest Service; Robert W. Malsheimer, PhD, professor of forest policy and law SUNY College of Environmental Science and Forestry; David Schultz, Commissioner Madison County, Montana; Randy Hanvelt Supervisor District 2, Tuolumne County, CA; and Chris Topik, Director North America Forest Restoration Priority Project, The Nature Conservancy. The witnesses expanded on the impacts of litigation, costs of longer planning, and impacts to our federal forests from these costs and delays.

#### *Journal of Forestry Report*

Amanda M.A. Miner, Robert W. Malsheimer, and Denise M. Keele published a study in the January 2015 edition of the *Journal of Forestry*, "Twenty Years of Forest Service Land Management Litigation" which provided a comprehensive analysis of Forest Service litigation from 1989 to 2008 (that was highlighted above). Findings from the report show that the Forest Service won 53.8% of the cases, lost 23.3%, and settled 22.9%. The agency won 64% of the 669 cases decided by a judge based on the cases' merits. The agency was more likely to lose and settle cases during the last six years; the number of cases initiated during this time varied greatly. The Pacific Northwest region along with the Ninth Circuit Court of Appeals had the most frequent occurrence of cases. Litigants generally challenged vegetative management (e.g., logging) projects, most often by alleging violations of the National Environmental Policy Act and the National Forest Management Act. The results document the continued influence of the legal system on national forest management and describe the complexity of this litigation.

#### *Litigation Cost to Communities*

A [study](#) recently completed by the University of Montana's Bureau of Business and Economic Research (BBER) examined the costs and impacts associated with litigation of Forest Service timber sales in the Northern Region (Region 1). The study found that economic impacts to communities in the form of lost jobs, labor income, and federal, state, and local taxes are the largest potential outcomes from litigation, not revenues lost to the federal government.

BBER used the Spotted Bear River project as a case study for the report. The report found that even though the project was allowed to proceed and plaintiff attorney fees were not awarded, the economic impacts could have exceeded \$10 million and a loss of 130 jobs for the state's forest-products industry and local communities. Direct costs to the Forest Service were about \$95,000 and about \$4,500 for the FWS, not including the costs of the Department of Justice and Office of General Council attorneys defending the Forest Service and FWS.

The report also found that when a project is litigated it often times impacts other projects within close proximity or with similar issues and can take years to settle, thus costing so much to the local community and businesses even when the agency prevails in court and the timber sales eventually go forward.

Litigation continues to play a big role in the management (or lack thereof) on our federal forests. If the agencies that manage these forests are ever going to get ahead of the catastrophic fuel loading and unhealthy stands across the landscape, a solution to the rampant litigation must be found. Perhaps new comprehensive forestry legislation that is being developed in both the House and Senate will address this major hurdle to sustainable forest management. */Tom Partin*

## **New Section 7 Consultation Regulations**

On May 11, the US Fish and Wildlife Service and National Marine Fisheries Service (Services) issued [new regulations](#) pertaining to Incidental Take Statements (ITSs). The final rule clarifies the current policy of the Services regarding the use of “surrogates,” and addresses recent court decisions related to ITSs for “programmatic” federal actions.

The ESA directs all federal agencies to conserve endangered and threatened species. Under section 7 of the ESA, federal agencies must consult with the Services to ensure their actions, including those they fund or authorize, and are not likely to jeopardize the existence of any listed species.

ITSs accompany biological opinions that are produced as part of the consultation process. They express the amount or extent of anticipated “take” (e.g. death, injury, harm, or harassment) of listed species caused by the proposed action and provide an exemption from the ESA section 9 prohibitions on such take.

The biology of a listed species or the nature of the proposed action can make it impractical to detect or monitor take of individual animals. In these cases, evaluating impacts to a “surrogate” (e.g., habitat, ecological conditions, or similarly affected species) may be the most reasonable and meaningful way to describe the amount or extent of anticipated take of listed species.

Therefore, the Services are codifying the use of surrogates, in appropriate circumstances, to express the anticipated amount or extent of incidental take. The changes will also allow for flexibility in how the Services prepare ITSs in situations where assessing and monitoring take of endangered or threatened species may be extremely difficult.

While the [Proposed Rule issued in 2013](#) used the northern spotted owl as an example for the use of surrogates, the Final Rule uses the vernal pool fairy shrimp as an example, most likely due to political pressure.

In addition, the Services are utilizing their authority to determine when it is appropriate to issue an ITS for certain federal actions that do not immediately result in take of listed species, but provide a framework under which future take may occur. Such “framework programmatic actions” establish a structure for the development of a future activity but do not directly authorize those activities. As a result of this final rule, an ITS will be provided at the point when future activities that result in a take are authorized and subsequent consultation for those activities occurs. */Ross Mickey*

## **New DxP Direction Released**

Last year's Farm Bill authorized the use of Designation by Prescription (DxP) as an acceptable method for the Forest Service to specify how forest stands may be treated in timber sales. This method has been used successfully for a decade with timber sales using Stewardship Contracts. Initial direction on the use of the Farm Bill authority severely limited the scope of how DxP could be used.

On May 20, a new [direction](#) was issued that reflects Congress' intent to only restrict its use in tree measurement sales. We applaud the Forest Service for this new direction and it will certainly be a good tool to help increase the pace and scale of projects. */Ross Mickey*

## **Carlton Complex Harvest Moves Forward**

Our [last newsletter](#) reported on an administrative appeal that was filed on a Washington Department of Natural Resources' Forest Improvement Treatment timber sale on a portion of the Carlton Complex fire. The appeal was scheduled for a week-long hearing before the Pollution Control Hearings Board, however on May 12 DNR made minor modifications to the timber sale plan of operation which made the hearing unnecessary. Harvesting and log deliveries will continue with no reduction in volume to the purchasers.

AFRC staff visited the site on May 6 and again on May 18, and noted that DNR was taking advantage of unusually good weather to do needed road improvements to minimize erosion resulting from the fire. Those improvements and reforestation will be funded through proceeds from log sales to AFRC members. Had the appellants been successful in their request for a stay, this work would not have been done, increasing the environmental damage from the wildfire.

AFRC applauds DNR's work in resolving this matter. Both the environment and the economy benefit from the timely completion of this sale. */Matt Comisky*

## **National Forests Failing Wildlife**

On May 8, the Ruffed Grouse Society [filed a petition](#) for rulemaking aimed at compelling the National Forests in Regions 8 and 9 to increase management activities that will produce early seral habitat. Ruffed grouse and other game and nongame wildlife species depend on young forest habitat for survival. Populations of these birds are declining in eastern forests.

The petition notes that National Forest Management rules require providing habitat to these species, yet the Forest Service has failed to meet even its own minimum goals for the habitat type.

[Ruffed grouse](#) are the most widely distributed resident game bird in North America. Its [range](#) also includes much of Forest Service Regions 1, 5 and 6.

AFRC views with interest this attempt to enforce the Forest Service's obligation to provide habitat for early seral dependent wildlife. */Ann Forest Burns*

## **ODF Budgets Aid to Federal Forests**

The Oregon Department of Forestry has proposed in its 2015-17 budget to establish a *Federal Forest Health Program* aimed at investing \$6.05 million for expanding initial restoration work statewide, supporting local collaborative groups that demonstrate results and readiness, and acting on the Good

Neighbor Authority granted in the 2014 Farm Bill. This provision allows the Forest Service and BLM to authorize state foresters to implement forest management activities on federal forestlands.

This 2015-17 investment by the state would:

- Use the Good Neighbor Agreement Plan to increase projects
- Boost collaboration statewide
- Ensure success by funds going directly to the field
- Set results-focused targets for 2015-17

The 2013 legislature made Oregon the first state in the nation to invest in national forest management with a \$2.88 million allocation. This earlier investment has garnered national attention and made Oregon a leader at confronting federal forest management problem and increasing the pace and scale of restoration. Final funding dollars for this program will be decided in the next few weeks as the legislature wraps up their work and prepares the state’s final budget. / *Tom Partin*

### **Busy 4<sup>th</sup> Quarter in SW Oregon**

National Forests and BLM Districts in southwest Oregon will be offering the vast majority of their FY15 timber sale volume in the fourth quarter (July-September). The breakdown for the Umpqua and Rogue-Siskiyou National Forests and the Medford District BLM is below.

	4th Qtr volume (MMBF)	Total fiscal year volume (MMBF)
Rogue-Siskiyou NF	31	40
Umpqua NF	34	38
Medford BLM	36	46

Fortunately, the Coos Bay & Roseburg BLM Districts have combined to offer over 70% of their fiscal year volume in the first three quarters.

While this imbalance is surely a stress on Forest Service & BLM staff and layout crews, it is also a stress on federal timber purchasers who will likely be faced with a wall of timber sales to assess in a short period of time for their out year programs. The best way for these agencies to receive a fair price for their timber is to attract as many purchasers to the bidding table as possible. With the likelihood of over 100 mmbf of timber being advertised in a single region over the course of only three months, some purchasers may actually be forced to pick & choose which sales to focus on and which to defer due to time and personnel constraints. / *Andy Geissler*

### **NWFP Forum**

On June 9, the Forest Service and federal agency partners will be hosting a public forum to share key findings of the Northwest Forest Plan (NWFP) 20-year monitoring reports. These reports provide an analysis of monitoring data gathered since 1994, with a focus on the last five years.

The day-long public forum will include a series of presentations on the reports’ key findings, followed by a panel session of report authors for question-and-answers. This is an opportunity to learn about

recent findings from monitoring data collected under the NWFP. The public forum will be broadcast live via Webinar to allow for remote participation. New information, including how to participate remotely via Webinar, will be posted online at [www.reo.gov/save-the-date/](http://www.reo.gov/save-the-date/).

The Forum will take place from 8:30 a.m. to 4:00 p.m. at the Pearson Air Hangar, Fort Vancouver National Historic Site, Vancouver, Washington.

### Agenda

- |                        |   |
|------------------------|---|
| 8:30 – 8:45 a.m.       | Welcome and Overview  |
| 8:45 - 9:15 a.m.       | History of the Northwest Forest Plan and Monitoring - <i>Michael Tehan, NOAA</i>  |
| 9:15 – 10:15 a.m.      | Key Findings from the 20-Year Monitoring Status and Trend Reports (1994-2013) <ul style="list-style-type: none"><li>• Late- successional and old-growth forest trends – <i>Tom Spies; Forest Service, PNW Research Station</i></li><li>• Watershed condition trends – <i>Stephanie Miller, Forest Service Region 6</i></li></ul>                                    |
| 10:15 – 10:30 a.m.     | Break   |
| 10:30 – 11:45 a.m.     | Key Findings from the 20-Year Monitoring Reports (continued) <ul style="list-style-type: none"><li>• Northern spotted owl population and habitat trends – <i>Katie Dugger, U.S. Geological Survey and Ray Davis, Forest Service Region 6</i></li><li>• Marbled murrelet population and habitat trends – <i>Gary Falxa, U.S. Fish and Wildlife Service</i></li></ul> |
| 11:45 a.m. – 1:00 p.m. | Lunch (On your own; please bring a lunch, as no food is available nearby)   |
| 1:00 – 2:00 p.m.       | Key Findings from the 20-Year Monitoring Status and Trend Reports (1994-2013) <ul style="list-style-type: none"><li>• Socio-economic trends– <i>Lis Grinspoon, Forest Service Region 6</i></li><li>• Effectiveness of Tribal-Federal relationship - <i>Kirsten Vineyta and Kathy Lynn, University of Oregon</i></li></ul>   |
| 2:00 – 3:30 p.m.       | Panel Q&A with Presenters   |
| 3:30 – 4:00 p.m.       | Closing Remarks - <i>Jerome Perez, OR/WA Bureau of Land Management State Director and Jim Peña, Forest Service Region 6, RIEC Chair</i>   |

The information and findings presented will be of importance as each national forest within the NWFP undertakes forest plan revisions in the near future. */Tom Partin*

## **Marten Named to Head Region 1**

On May 22, Leanne Marten, a 20-year employee with the Forest Service was named the new Regional Forester for the Northern Region (Region 1). A University of Idaho graduate and former employee of the Kootenai National Forest, Marten replaces Faye Krueger, who retired in January.

“I’m very happy and excited to be returning,” Marten said. “I look forward to the opportunity to serve the wonderful people and employees in the region as we work together to care for and manage our natural resources.”

Marten began her career as a seasonal employee on the Clearwater National Forest. She received her bachelor's degree in environmental science from Washington State University and her master's degree in forest resources from the University of Idaho.

She has worked on the Canoe Gulch Ranger District of the Kootenai National Forest, as a planner and environmental coordinator for the Kootenai, and as district ranger on the Ottawa National Forest.

More recently, Marten served as the national director for Wilderness and Wild & Scenic Rivers in Washington, D.C. We look forward to working with Leanne. */Tom Partin*