

**June 27, 2014**

## **Judge Refuses to Enjoin Logging**

On June 13, Jefferson County (Washington) Superior Court Judge Keith Harper refused to grant an injunction against operations on the Department of Natural Resources' (DNR) Goodmint and Rainbow Rock timber sales on the Olympic Peninsula. The injunction was sought by the Olympic Forest Coalition, Seattle Audubon and Sierra Club, who were represented by the Washington Forest Law Center. (See, [AFRC Newsletter April 30, 2014](#).)

The environmental groups appealed the decision of DNR and the Board of Natural Resources to sell timber in 45-60 year old stands based on the grounds that an Environmental Impact Statement (EIS) should have been prepared under the State Environmental Policy Act (SEPA). Their stated position was that the environmental analysis done for DNR's State Trust Land Habitat Conservation Plan (HCP) could not be relied on for these sales, which are in an area delineated as a Marbled Murrelet Management Area (MMMA) under a 2008 study done for DNR by marbled murrelet biologists from several agencies. The timber to be harvested is neither occupied nor adjacent to occupied habitat.

DNR is currently negotiating a Marbled Murrelet Long Term Conservation Strategy (MM LTCS) with the U.S. Fish and Wildlife Service (FWS). (See [AFRC Newsletter, June 26, 2013](#).)

In his [oral ruling](#), Judge Harper agreed with DNR that state statutes and the Forest Practices Rules make the timber sales exempt from the EIS requirements of SEPA. He said that the sales are in compliance with DNR's HCP and the recommendations of the 2008 science team report. Because the appellants were unlikely to win if the lawsuit went to trial, which would not be until late 2014, he refused to issue the injunction.

The judge also noted that the request for an injunction had been delayed until the last minute. Attorneys and staff of WFLC were present when the Board approved the sale on March 4; when the auction date of April 23 was announced. The lawsuit was filed March 28 and suggested an injunction would be sought against the auction. The timber sale was awarded on May 30, allowing the purchaser to begin harvesting June 16. The request for an injunction was not filed until June 6, so that the hearing would take place only days before logging could begin.

This case is significant because it confirms that DNR can proceed with timber sales in MMMA's pending the adoption of the MM LTCS. */Ann Forest Burns*

## **Primary Election Results Send Mixed Messages**

There has been significant media coverage of recent primary election results. The most notable was House Majority Leader Eric Cantor's Republican primary loss in Virginia. College professor Dave Brat's victory set off dominos in the House leadership and had many pundits trying to read the tea leaves about what to expect in the November general election. Meanwhile, a number of more established Republicans survived recent high profile primary challenges from Tea Party candidates.

Following his primary election loss, Congressman Eric Cantor announced that he would step aside as House Majority leader on July 31. The House Republican caucus recently met and selected current House Majority Whip Kevin McCarthy (R-CA) as Cantor's successor and Congressman Steve Scalise (R-LA) to succeed McCarthy as Whip. Both McCarthy and Scalise faced challenges from more conservative members of the House Republican caucus, but in the end it is believed that most rank and file Republicans wanted to avoid any nasty leadership election fights before the November general election.

Eric Cantor's loss stands in contrast to several other recent primary election results where Tea Party challengers in Kentucky, Texas, South Carolina, Mississippi, and Idaho have gone down to defeat. On June 24, Senator Thad Cochran (R-MS) narrowly defeated his challenger in a Republican run-off election where he promoted the seniority and influence he has as a senior member of the Appropriations Committee. Idaho Congressman Mike Simpson also turned back a May primary challenger on similar grounds. Ultimately, Cantor's loss may just prove to be a case of a perceived lack of attention to his congressional district rather than the beginning of a new wave of Tea Party victories.

Republicans seemed poised to avoid some of the primary pitfalls that many believe cost them several Senate seats over the past two election cycles. The Republicans have assembled a strong slate of Senate candidates in Colorado, Montana, North Carolina, South Dakota and elsewhere that gives them a good chance at taking control of the upper chamber. The Montana, Colorado, and South Dakota races are likely to feature debates over the Administration's energy and public lands policies, including forest management.

Democrats have largely avoided divisive primary battles and seem to be over performing considering President Obama's current poll numbers and the strong headwinds they face. Endangered Southern Senate Democrats Mary Landrieu (LA), Mark Pryor (AR), and Kay Hagan (NC) are all polling within the margin of error and the Democrats are playing offense in Georgia and Kentucky. However, with an economic recovery that seems to be losing steam and controversial new regulatory rules being proposed by the Obama Administration it seems as though Democrats will face an uphill battle in most states.

*/Heath Heikkila*

## **Senators Request Wildfire/Forest Health Review**

On June 11, five western Senators John Barrasso (R-WY), Jeff Flake (R-AZ), Dean Heller (R-NV), Mike Lee (R-UT) and Jim Risch (R-ID) sent a letter to Senator Mary Landrieu (D-LA), Chair of the Senate Energy and Natural Resources Committee requesting that she "promptly schedule budget oversight hearings in that Committee to address, among other things, the threat of catastrophic wildland fire in the West." The Senators outlined how fire season is starting early with large fires already being reported in California, Arizona, and Nevada and the remaining summer is projected to be severe.

The letter further outlined that “One of the greatest challenges facing our western forests is the growing severity of the fire season. Extreme fire behavior has become the new normal due in no small part to the mismanagement or lack of management of our public lands. This mismanagement has resulted in the loss of property, natural resources, wildlife habitat as well as jobs and economic opportunities in rural communities.”

In addition to the fire severity caused in part by mismanagement in the forests, the Senators voiced concern about the increased cost of fire suppression and the need that has arisen in recent years to borrow from other forest accounts to pay for fire suppression. The letter stated that “Significant disruptions in proactive management work have impacted programs that directly supported improving forest health and reducing suppression costs: programs such as hazardous fuel reductions and community wildfire planning.”

The letter also noted the Committee’s oversight and legislative hearings this Congress have shown that the status quo management of our federal forests is unacceptable. The Senators called on Chairman Landrieu to move legislation to reform and increase the scale and pace of forest management activities.

The Senators reiterated that in May they had requested the Committee schedule a hearing on President Obama’s FY15 Budget and receive testimony from the Secretary of Interior, Chief of the Forest Service, and the Secretary of Energy to evaluate those agencies’ capacity to respond appropriately to wildfires, reduce fire risk to communities, and improve forest, watershed, and rangeland health.

Hearings on the wildfire season, federal forest health, or management legislation, have not yet been scheduled in the Senate Energy and Natural Resources Committee since Senator Landrieu assumed the chairmanship. Instead, the Committee seems to be focusing on oil and gas issues that are more germane to Senator Landrieu’s home state of Louisiana where she is up for reelection this November.

### *Fire Borrowing Impacts*

On June 9, the Forest Service Washington Office released a report showing the impacts that fire borrowing had on various proposed projects and programs that were setback due to wildfire suppression borrowing. The table provided in the [release](#) gives examples of impacts that limited funding had on forest management activities in nearly every state across the country. /Tom Partin

### **Senators Call for Wildfire Funding Reform Vote**

On June 26, fourteen Senators wrote a letter to Senate Majority Leader Harry Reid (D-NV) and Senate Minority Leader Mitch McConnell (R-KY) asking for support in bringing S. 1875, the “Wildfire Disaster Funding Act” to a full vote before the Senate and to include it in any upcoming appropriate legislative vehicle. Included in those signing were the bill’s lead sponsors Senators Ron Wyden (D-OR) and Mike Crapo (R-ID).

In the letter the Senators stated, “This bill would end the dysfunctional and destructive approach towards funding wildfire fighting. The current cycle of underfunding, and even raiding programs used for critical forest restoration and wildfire prevention work results in having to spend even greater amounts fighting ever larger and more severe wildfires.”

The Senators further outlined the tremendous support for the bill including bipartisan support in the Senate and House, the Administration, and the endorsement of over 200 organizations including the Western Governors' Association, the Nature Conservancy, the Federal Forest Resource Coalition, the National Rifle Association, and the National Association of State Foresters. AFRC has also endorsed the legislation.

Currently, wildfire funding is budgeted using a 10-year average of the costs of wildfires. The actual costs of wildfire suppression efforts have exceeded the appropriated dollars 8 out of the last 10 years and recently in FY12 and FY13 the Forest Service had to transfer \$440 million and \$505 million respectively from other accounts to pay for fire suppression. Over the last 12 years, a total of \$3.2 billion was shifted from other programs.

The bills co-sponsors include Senators Jeff Merkley (D-OR), Jim Risch (R-ID), Mark Udall (D-CO), Michael Bennett (D-CO), Tammy Baldwin (D-WI), Martin Heinrich (D-NM), Tom Udall (D-NM), Dianne Feinstein (D-CA), Tim Johnson (D-SD), Amy Klobuchar (D-MN), Debbie Stabenow (D-MI), and John Walsh (D-MT). Stay tuned as a vote on the bill could be coming sooner than later. */Tom Partin*

## **High and Dry**

Region 5 has left the northern California timber industry high and dry for FY14 timber sale volume. Due to salvage opportunities and expectations from the Rim, American and Aspen fires in the central and southern Sierras, the northern forests have had their historic target levels drastically reduced in FY14.

For the past few years the Klamath, Shasta Trinity, Mendocino, and Six Rivers combined targets have averaged selling around 110 mmbf. The Northwest Forest Plan ASQ for these four forests is 161 mmbf, but the target assigned for FY14 is 30 mmbf. Of this 30 mmbf only 15 mmbf is sawlog material. Three of the forests have a higher capability than what they have been targeted for this fiscal year. There are 12 mills that rely on sawlog material from these four forests. With log supply being short at many of the manufacturing facilities, this drastic reduction of federal sawlogs makes the situation very tenuous for the mills in northern California.

A better solution needs to be found to meet the industry's needs that combine both salvage and green sales. Salvage should be in addition to the existing green timber program in the Region. There is no way this pace and scale of land treatments can increase with this type of strategy. Unfortunately, it appears the agency will be doing nothing in the future except chasing salvage rather than preventing it. */Rick Svilich*

## **DNR Timber Program Update**

The fiscal year for DNR ends on June 30 and it is also the end of the current planning decade for the Sustainable Harvest Calculation (SHC). Along with the various major planning efforts DNR is currently undertaking, the end of the decade also brings into question the arrearage issue of volume not sold.

RCW [79.10.300](#) provides the definitions needed to understand arrearage. Simply defined arrearage can be viewed as the Decadal Sold Volume subtracted from the Decadal Sustainable Harvest Target. After reviewing the published Timber Sale Auction Reports from the DNR product sales website, we estimate

the arrearage at approximately 529 million board feet (mmbf). RCW [79.10.330](#) provides guidance to DNR and the Board of Natural Resources (BNR) on how to dispose of the arrearage “which provides the greatest return to the trusts based upon economic conditions then existing and forecast, as well as impacts on the environment of harvesting the additional timber.” DNR staff has provided two updates ([April](#) and [May](#)) to the BNR on the arrearage issue and will provide their analysis and proposals to the BNR at a future meeting.

For FY14 DNR will sell approximately 498.5 mmbf state wide with approximately 445.6 mmbf from the westside. This is in contrast to the Sustainable Harvest Target average of 550 mmbf/year for the westside harvest. The shortfall in FY14 and the arrearage from previous fiscal years will surely play into the ongoing planning for SHC for the next decade.

DNR is continuing its work on the Long Term Conservation Strategy for the marbled murrelet (LTCS) and the Olympic Experimental State Forest (OESF) plan. Currently the OESF planning effort is on hold due to staff being committed to the SHC planning process. The LTCS is moving forward with development of the basic portions of the draft EIS which do not require final specifics of the alternatives to be analyzed. Discussions of what form those alternatives will take are continuing with the FWS.

While it remains unknown what impact the LTCS and the OESF plan will have on the next decades Sustainable Harvest Calculation, we can assume there will be some. Completing all three of these planning efforts in a timely manner is critical in truly determining the volume target for the next decade of Sustainable Harvest. */Matt Comisky*

## **Sustainable Roads Process in Western Washington**

Picture if you will a stately large mansion on a vast farm estate. Built by craftsmen of the finest materials and architecture of the time, this 30 room structure served as a gathering place of family and friends for many years. As generations have passed the interest in farming the estate has waned and now the owners no longer have the funds to maintain the mansion in its once glorious form. The mansion is slowly deteriorating and tough decisions must now be made on what to maintain and how to deal with those portions the owners can no longer afford. In many ways this is where the Forest Service finds itself today when it comes to their road infrastructure.

The road system we have today was built for a variety of management needs but mostly for forest management and access. Yes, timber harvesting, paid for and built many of the roads on the forests in the west. However, today, much like the mansion on the farm, interest in management has waned and funds to maintain the road system are lacking. In the case of the three Washington westside forests these funds are enough to maintain about 25% of the existing road systems. As a result the Mt. Baker Snoqualmie, Gifford Pinchot, and Olympic National Forests are each working on Part A of the 2005 Travel Management Rule, to identify what each of their respective road systems will look like in the future. Each forest is at a different point in their work, but each is working towards meeting the September 30, 2015 deadline.

The Mt. Baker Snoqualmie (MBS) has been working on a public engagement process for roughly one year. Several public meetings will be held in July to report on the results of the public input and the analysis conducted. Additionally there are plans to provide field trips to look further at the road maintenance and management issues. The data gathered from the public will be integrated with other

road system information gathered by the MBS Interdisciplinary Team in the development of the Sustainable Roads Strategy. This strategy will be circulated for review and comment in 2015. More information and a report on the highlights of the research conducted by Portland State University as part of this process can be found at the [MBS Sustainable roads website](#).

On March 18, the Gifford Pinchot (GP) held a meeting to update the public on the status of their Travel Analysis Process. In 2012 they had conducted six public engagement meetings seeking input to the process including the use of a six question survey to gather data. The GP is continuing to gather public input as well as assessing benefits, risks, and opportunities in the management of their road system. To learn more about the GP Travel Analysis process you can visit their [website](#) and you can find a flowchart of the process [here](#). There is still time to provide input to the process. You can submit comment letters, phone in comments and answers to the [questionnaire on line](#).

The Olympic (ONF) has recently announced they will be hosting a series of public meetings to gather input on their Sustainable Roads Process. These meetings will be held in various communities around the forest this summer. Meetings have already been held in Port Angeles and Forks. [Additional meetings will be held in July and August](#). As with the other two forests the ONF is also providing an [online questionnaire](#) to provide input as well as an [online mapping utility](#). The ONF process is somewhat similar to the MBS primarily gathering data on what roads and areas the public is using on the forest. To learn more about the ONF process and to provide input, please visit their [Sustainable Roads website](#).

While these reports are not decision documents for specific road projects, they will help guide the forests on a strategy for road system management in future planning. This road infrastructure is an important asset to the forest and is key to the viability of forest management and restoration treatments on these landscapes. It is important for each of the forests to hear your input on these issues. If the format of the questionnaires does not fully capture your thoughts on the importance of access for management needs, please provide additional comments in the form of letters. */Matt Comisky*

## **Payette CFLRP Review**

On June 10 and 11, Forest Service officials from the Washington D.C. office visited the Payette National Forest to review the progress and accomplishments of the Weiser-Little Salmon Headwaters Collaborative Forest Landscape Restoration Project (WLSH). Several representatives from the Regional Office in Ogden were present, as well as members of the Payette Forest Coalition, Adams County, Congressional representatives, and AFRC. The WLSH encompasses 970,000 acres across three ranger districts with a combination of activities proposed including timber harvest, vegetation restoration, and recreation improvements designed to improve watershed conditions, promote development of ponderosa pine forests, provide wood products for regional facilities, and promote social and economic vitality in local communities. To date 23 mmbf has been produced, along with 72 miles of stream enhancement, hundreds of miles of road maintenance, and numerous beneficial restoration activities.

Much of the two days was spent in the field looking at work that has been accomplished on the ground. The Mill Creek Council Mountain project is currently in the implementation stages and the group had the opportunity to review areas that had been thinned to improve forest resilience to prevent uncharacteristically large wildfires while promoting early seral species. This project is designed to maintain and promote populations of the Northern Idaho Ground Squirrel and other ESA species, along

with a road decommissioning project designed to improve hydrology and increase bull trout populations. The forest utilized the Designation by Prescription (DxP) marking tool in some areas and has been enormously pleased with the results and opportunities that tool can provide to accelerate the number of acres treated on the ground.

The Lost Creek Boulder Creek project is an 80,000 acre landscape scale project with over 22,000 acres of vegetation treatments proposed. Key elements are recreation improvements in the vicinity of Lost Valley Reservoir and Boulder Creek, with an emphasis on providing sanitation facilities, improving dispersed recreation areas, and improving various types of trail opportunities. DxP marking will be used almost exclusively on this project to expedite implementation.

The group also toured Council High School's biomass heating facility. School officials showed the revitalized shop area that was made possible through hundreds of volunteer hours from members of the community and the economically feasible heating options provided by the biomass system. A system of greenhouses, made viable from the biomass heating system, provide opportunities for students to embark on numerous projects including growing plants native to the area.

The Washington Office officials met with Payette Forest Coalition members to discuss the collaborative process. Coalition members expressed pride in their accomplishments and voiced concern with declining involvement and commitment to coalition work from various stakeholder groups. The Lost Creek Boulder Creek FEIS received four objections and is currently in the resolution period. The objections are a major source of frustration to the coalition which spends hundreds of hours on collaboration to arrive at consensus only to have projects be objected. The coalition appealed to the Washington Office to find solutions to the process that allows external groups who have declined invitations to participate in the collaborative effort to object and litigate.

AFRC would like to thank the Payette National Forest and the Payette Forest Coalition for their successes on the WLSH and for their wonderful hospitality. *Irene Jerome*

## **Walden Forest Access Bill**

On June 10, the House Natural Resources Subcommittee on Public Lands and Environmental Regulation held a hearing on the "Forest Access in Rural Communities Act" H.R. 4272 sponsored by Congressman Greg Walden (R-OR). The bill is designed to make sure federal agencies consider and incorporate the input and needs of local communities in forest management and access decisions. It would also put an immediate halt to the implementation and enforcement of the Forest Service travel management rule. Walden also has the backing of six Western Republicans who have signed on to cosponsor the bill. "This legislation will help bring local control back to rural communities facing access restrictions on their National Forests," stated Walden.

The basis for the bill stems from the travel management planning efforts on the Wallowa-Whitman National Forest a few years back. In that forest's final plan the Forest Service largely ignored the data and comments by local forest users when the plan was released.

H.R. 4272 would prevent decisions being made in a vacuum by the Forest Service without considering public input by 1) requiring the Secretary of Agriculture to consult with each affected county for the purpose of incorporating the needs, uses and input of those affected counties, and 2) obtaining the



concurrence of each affected county for implementation of the travel management plan. Several forests are now in the process of updating their travel management plans and this bill will ensure county participation in the process. */Tom Partin*

## **Bill to Accelerate Land Exchanges**

A new bill that would expedite state-federal land exchanges has been introduced by ranking member of the House Natural Resources Committee Peter DeFazio (D-OR) and Rob Bishop (R-UT), chairman of the House Natural Resources Subcommittee on Public Lands and Environmental Regulation. The bill is likely to draw support from a large group of stakeholders including the environmental community, timber, gas, oil, and mineral interests as well as county governments and schools.

When western states achieved statehood, some sections of land in each township were set aside in state ownership with the requirement that these lands generate income for education and other government services. However, accessing the random sections of land proved to be difficult since some lands were within other public land designations including conservation areas, refuges, and wilderness areas.

The bill would allow a one year period for states to apply for land exchanges, and once those applications are submitted, the Secretary of Interior would have three years to approve or deny an exchange. The lands would have to be of equal value, but for parcels less than \$300 per acre, the Department of Interior could conduct an abbreviated appraisal. The agency already has the authority to conduct land swaps, but often these swaps take years and can become very controversial. This bill could be a real step forward to consolidating land ownership and helping generate revenues for cash strapped states and counties. */Tom Partin*

## **Additional Lynx Habitat Proposed**

The FWS has again revised the critical habitat for Canada lynx in complying with an order from U.S. District Judge Donald Molloy who recently required the FWS to set a schedule for completion of the lynx recovery plan. The final critical habitat designation includes most of the areas designated in 2009 and added lands in northern Maine, northeastern Minnesota, northwestern Montana, northeastern Idaho, north-central Washington, southwestern Montana, and northwestern Wyoming. According to the FWS all of the areas proposed as revised designated critical habitat were occupied by Canada lynx at the time of listing and currently support persistent Canada lynx populations.

The lack of a final habitat designation has opened several Forest Service projects to lawsuits because the Forest Service either did not consult with FWS on habitat or the consultation was based upon previous designation that were found to be insufficient by the courts. However, because all the new areas being proposed as revised designated critical habitat are occupied by Canada lynx, consultation under section 7 of the ESA is already required for projects in these areas that may affect Canada lynx.

Under this final critical habitat proposal, the FWS concludes that areas occupied by Canada lynx populations currently, and at the time lynx were listed, are sufficient to conserve the species, so the proposed designation does not include areas not currently occupied by the lynx populations.

On June 20, FWS [announced](#) the availability of a Draft Economic Analysis (DEA) and the reopening of the comment period. Comments will now be accepted until July 21. The DEA and other documents are available at <http://www.regulations.gov> by entering Docket No. FWS-R6-ES-2013-0101. */Tom Partin*



## **FWS Extends Comment Periods**

The FWS has recently announced the extension of a number of comment periods under the Endangered Species Act (ESA).

Critical Habitat proposals. On June 20, the FWS and National Marine Fisheries Service [announced](#) an extension of the comment period for three interrelated proposals related to designation of critical habitat designation under the ESA from July 11 to October 9. (See, [AFRC Newsletter May 19, 2014.](#)) The proposals have caused considerable concern among members of Congress who requested extensions.

Selkirk Caribou. Through a [June 10 Federal Register Notice](#), FWS announced the extension of the comment period on its May 8, 2014 twelve-month finding and proposed rule regarding the southern Selkirk Mountains population of woodland caribou to August 26. (See [AFRC Newsletter, December 21, 2012.](#))

Oregon Spotted Frog. In the [June 18 Federal Register](#), FWS announced the availability of a DEA and reopened the comment period. Comments will now be accepted until July 18. The proposed rule and DEA are available at <http://www.regulations.gov> by entering Docket No. FWS-R1-ES-2013-0088. */Ann Forest Burns*

## **105<sup>th</sup> Pacific Logging Conference**

The Pacific Logging Conference (PLC) will be celebrating their 105<sup>th</sup> conference September 25-27 on the Port Blakely Tree Farm near Molalla, Oregon. The show will host the latest in forest industry technology including active demonstrations of equipment.

The 2014 PLC President is Duane Evans, Vice President US Forest Operations for Port Blakely. The program will include Education Days on September 25 and 26 with more than 2,000 students and teachers from Salem, Portland, Vancouver and surrounding area schools in attendance. “This is a very important event,” President Evans said, “since PLC’s main focus is to educate our youth and the public.” The show will also feature education seminars for loggers, and a Family Succession seminar. Professional Logger Credits will be available to those attending the seminars and the In the Woods Shows. You can find more information and registration material at [www.pacificloggingcongress.com](http://www.pacificloggingcongress.com).

This is also a very special year for Port Blakely, who is celebrating 150 years in business. I am sure Duane and the entire crew will put on an excellent Conference. */Tom Partin*