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Federal Forest Legislation Passes House

On September 20, the House of Representatives approved [HR 1526](#), the “Restoring Healthy Forests for Healthy Communities Act” by a vote of 244 to 173, with 17 Democrats voting in favor and 16 members not voting. The bill is made up of five titles.

Title I, *Restoring Our Commitment to Rural Counties and Schools* will restore active timber management on National Forest lands. It requires the Forest Service to produce at least half of the annual yield each year from lands identified as suitable for timber harvest. Projects are required to complete National Environmental Policy Act (NEPA) and Endangered Species Act (ESA) reviews using a streamlined process. The bill would return 25% of the revenues received back to the counties where the respective forests are located. It is estimated these measures will create over 68,000 direct jobs and nearly 140,000 indirect jobs, strengthening local economies, promoting forest health, and reducing the risk of wildfires.

Title II, *Healthy Forest Management and Wildfire Prevention*, will help improve forest health and prevent catastrophic wildfires by allowing greater state and local involvement in wildfire prevention on federal lands. The Forest Service now spends over \$2 billion each year – half of its budget – fighting catastrophic wildfires. The bill directs the Secretary of Agriculture to implement hazardous fuels reduction and forest health projects on at-risk lands and high-risk areas designated by the Governor of a state and allows states to propose forest health projects for implementation by the Forest Service or BLM.

Title III is the bipartisan *O&C Trust, Conservation and Jobs*, authored by Representatives Peter DeFazio (D-OR), Greg Walden (R-OR), and Kurt Schrader (D-OR). It would establish a Board of Trustees to manage approximately 1.5 million acres of O&C lands and distribute revenues from timber harvest to the O&C counties. The remainder of the lands would be transferred to the Forest Service to be managed under the Northwest Forest Plan. While it falls short of harvesting the full sustained yield from the O&C lands, as required under federal law, the bill represents the best opportunity to provide certainty to rural communities, local governments, and environmental advocates.

Title IV, *Community Forest Management Demonstration*, is based on legislation by Representative Raul Labrador (R-ID) and will allow counties to actively manage portions of National Forest land through the creation of “Community Forest Demonstration Areas.” A total of 2 million acres of land nationwide would be managed by local advisory committees appointed by Governors.

Title V provides for reauthorization of some existing authorities, including the Good Neighbor Authority which allows states to perform work on federal lands and Forest Service stewardship contracting authority. It also provides \$375 million for a one year Secure Rural Schools payment in the second year after passage of the legislation.

Now that the House has passed a sustainable, long-term way to restore the health of our federal forests and rural communities, the focus turns to the Senate. As Chair of the Senate Energy and Natural Resource Committee, Senator Ron Wyden (D-OR) is in a key position to assure that legislation to fix the current broken system becomes reality. We look forward to seeing Senator Wyden's soon-to-be released proposal for the O&C lands and his plans for dealing with the gridlock on the nation's Forest Service lands. /Tom Partin

Administration Threatens 1526 Veto

On September 18, (two days before passage of H.R. 1526), the Obama Administration issued a [Statement of Administration Policy](#) (SAP) on the bill which states:

“While supportive of working with states and communities to restore National Forests and rangeland, the Administration strongly opposes H.R. 1526, which includes numerous harmful provisions that impair Federal management of federally-owned lands and undermines many important existing public land and environmental laws, rules, and processes. The bill would significantly harm sound long-term management of these Federal lands for continued productivity and economic benefit as well as for the long-term health of the wildlife and ecological values sustained by these holdings. H.R. 1526, which includes unreasonable restrictions on certain Federal agency actions, would negatively impact the effective U.S. stewardship of Federal lands and natural resources, undertaken on behalf of all Americans. The bill also would create conflicts with existing statutory requirements that could generate substantial and complex litigation.”

Unfortunately, from AFRC's perspective, this SAP only supports the status quo of burning millions of acres of federal timberlands while countless millions are lost to insects and disease. Meanwhile, our counties, rural communities and industry infrastructure are dying a slow death. H.R. 1526 is a responsible bill that would return sustainable management back to our federal forests and once again provide rural communities with a predictable revenue stream. It's very disappointing to see this Administration, which touts wanting to aid rural America and curb climate change, turn its back on our best hope for a balanced solution. /Tom Partin

Helium Reserves Rescue Counties

Both the Senate and House passed [HR 527](#) which extends the life of the federal helium reserve, while auctioning off the reserve over time. The bill now goes to the President for his signature.

The selling off of helium over the next 10 years will generate \$450 million. Of those dollars, \$263 million will fund Secure Rural Schools for one year, \$50 million for infrastructure improvements at national parks, \$50 million for the cleanup of abandoned oil and gas wells, \$56 million in restored abandoned mine funds in Wyoming, and \$51 million in deficit reduction. The \$263 million for SRS represents 95% of what the counties received last year. While the helium reserves sell-off will take place over a 10-year period, the royalties from the sale only applies for one year to fund SRS.

H.R. 1526 remains the only bill in Congress that would restore the ability of our federal forests to supply the funds needed by our counties and schools and supplies for the long-term, and this bill desperately needs to be passed in the Senate. / *Tom Partin*

Forest Service and the CR

On September 20, the House of Representatives approved a Continuing Resolution (CR) which would fund the entire government through December 15 and restore \$600 million that the Forest Service “borrowed” this year from other accounts to pay for firefighting, plus \$36 million to repay various accounts at the Department of Interior. The bill also includes a provision which would block funding for implementation of the Affordable Care Act (also known as Obamacare). The House vote was mostly along party lines, with two Democrats (Mike McIntyre (NC) and Jim Matheson (UT) voting in favor.

On September 26, the Senate passed their version of the CR that including funding for Obamacare – and the standoff remains. Current appropriations expire on September 30 at midnight. / *Tom Partin*

Debt Limit Letter

On September 25, Treasury Secretary Jacob Lew sent a [letter](#) to Speaker of the House John Boehner (R-OH) outlining the urgent need for Congress to extend the debt limit to allow the U.S. Treasury to finance government activities.

In the letter Lew outlined that the Treasury would be out of money by October 17, only having approximately \$30 billion on hand to meet the Country’s obligations which can be as high as \$60 billion per day.

This is just the latest example of the debt limit impasse that has taken place in Congress, the last being in 2011, which caused a downgrade to the U.S. credit rating and financial markets to take a big fall—stay tuned! / *Tom Partin*

Malheur 10-year Stewardship Awarded

On September 6, the Malheur National Forest announced the award of a 10-year stewardship contract to Iron Triangle, LLC. in John Day, Oregon.

According to the Forest Service, the Integrated Resource Service Contract (IRSC) will eventually treat between 180,000 and 500,000 acres on the Malheur and is worth up to \$69 million.

The IRSC includes various types of work such as pre-commercial thinning, mechanical fuels reduction, road maintenance, and timber product removal. The Forest Service estimates that approximately 500 mmbf could be harvested over 10 years; however annual harvest amounts are subject to negotiation.

Under an IRSC, the Forest Service is able to trade timber for services to be performed by the contractor aimed at achieving the agency’s restoration goals. / *Irene Jerome*

A to Z Awarded

The Colville National Forest has awarded the Mill Creek A to Z stewardship contract to Vaagen Brothers Lumber in Colville, Washington. This is a 10-year IRSC covering over 50,000 acres. This contract is unique in that it requires Vaagen Brothers to complete the necessary NEPA documents before work begins. This also includes work such as pre-commercial thinning, mechanical fuels reduction, road maintenance, and timber product removal. It is estimated that the project may produce 50 mmbf; however annual harvest amounts are subject to negotiation.

“The Colville National Forest is proud to be on the forefront of innovation in the agency and is looking forward to learning as much as we can from this project to help improve the pace and scale of restoration in the future” said Forest Supervisor Laura Jo West.

The IRSC was supported by the Northeast Washington Forestry Coalition, as well as Representative Cathy McMorris-Rodgers. /*Maurice Williamson*

Bybee Decision

The Rogue River/Siskiyou National Forest Supervisor has issued a decision document approving the Bybee Vegetation Management Project. The project garnered a high level of public interest earlier this year due to its proximity to Crater Lake National Park. This resulted in 11,400 comments being submitted during the 30-day comment period following publication of the Environmental Analysis. The decision will result in the commercial harvest of 27 mmbf on 2,021 acres. The original proposed action analyzed 45 mmbf on 3,622 acres.

It is perplexing why the forest downsized this project to the extent that it did, particularly at a time when all levels of the Forest Service are backing the notion of “treat more acres.” The type of light touch forestry that the Bybee Project is proposing (average volume/acre harvested = 13mmbf/acre) warrants treatment of the maximum amount of acres possible. Yet this decision will be deferring all commercial treatment in the 206 acres of Riparian Reserves, as well as all shelterwood harvest that would help to meet the stated need of “providing for a sustainable supply of timber.”

It also appears that the Forest Service deferred treatment units due to their location within a “proposed wilderness area” developed by several environmental organizations. This particular “proposed wilderness area” has been used by these organizations as a tactic to thwart timber sales in the past, and it appears to be continuing with Bybee.

The first timber sales will likely be advertised and sold next summer. /*Andy Geissler*

Forest Roads Case Resuscitated

On August 30, the Ninth Circuit Court of Appeals issued an order in the Clean Water Act forest roads case (*NEDC v. Decker* see [AFRC Newsletter April 26, 2013](#)) which sends the case back to the District Court for further proceedings. The order specifically sets aside the District Court’s 2008 ruling against the plaintiffs, which was based on long-standing Environmental Protection Agency (EPA) rules which regulate sediment from forest roads as a non-point source of pollution under Section 404 of the Act.

The Ninth Circuit reasoned that because the Supreme Court's decision did not specifically overrule the Ninth Circuit's 2010 ruling that stormwater runoff collected in ditches and discharged into streams and rivers is a point source, that holding remains intact.

The Court also noted that EPA amended its rules exempting logging activities from National Pollutant Discharge Elimination System (NPDES) requirements prior to the Supreme Court's ruling and that amendment was not addressed by the high court.

All of this is clear proof that Congress must pass the language contained in the Silviculture Regulatory Consistency Act of 2013 ([HR 2026](#) and [S 971](#)) to make clear its intention that stormwater runoff from forest roads is to be regulated as a nonpoint source using Best Management Practices (BMPs). Otherwise, this expensive and time consuming judicial game of ping-pong will go on for many years to come. */Ann Forest Burns*

Barred Owl Decision Signed

On September 10, the U.S. Fish and Wildlife Service (FWS) signed a [Record of Decision](#) on the experimental removal of barred owls to benefit spotted owls. The experiment will remove barred owls from parts of up to four study areas in the northern spotted owl's range using what are described as "lethal and non-lethal methods of removal."

If sufficient funding is made available, those four areas include the Cle Elum in Washington, half the combined Oregon Coast Ranges and Veneta in northern Oregon, the Union/Myrtle (Klamath) in southern Oregon, and the Hoopa (Willow Creek) in northwest California. The FWS estimates four years of barred owl removal will be needed to detect significant results. The FWS plans to begin some barred owl removal this fall. Monitoring of the effect on northern spotted owl trends will follow.

The barred owl removal experiment was subject to public scoping in late 2009. A [Final Environmental Impact Statement](#) was issued in July, 2013.

The barred owl, an invasive species which is larger, more aggressive and less choosy about its prey, is considered one of the two greatest threats to the survival of the spotted owl. Habitat loss from wildfire is the other. */Ann Forest Burns*

Logger Safety Initiative

With Washington State industrial insurance rates for non-mechanized (manual) logging operations climbing to \$19.61 per hour, the forest products industry believes it has become time to address the issue to see what can be done to lower those rates. A partnership consisting of the Washington Contract Loggers Association, Washington Forest Protection Association, Washington State Department of Natural Resources, Washington State Department of Labor & Industries, and a variety of private landowners and logging companies have begun the Logger Safety Initiative (LSI). The LSI was supported by the Legislature when it passed [ESSB 5744](#), and was signed on March 21 by Governor Jay Inslee.

Part of what has brought the industry to this point is the occurrence of significant injuries associated with costly claims, yet relatively few working hours being reported by employers in risk class 5001 (manual logging). The goals of the initiative, as outlined in the [Washington State Logger's Safety Accord](#), are:

- Promote a "safety first" culture for all logging-industry employers and workers.
- Reduce the frequency and severity of injuries and prevent deaths.
- Increase proper reporting of worker hours.
- Explore options to reduce costs in the industry.

In August, AFRC members were notified about the LSI and draft copies of letters to employers in that risk class were included. The [first letter](#) was to inform employers about the LSI program and the [second letter](#) was to inform them about audits that Labor & Industries (L&I) would be conducting. Additionally, L&I provided a series of employer workshops regarding safety and proper reporting methods.

With proposed 2014 rates for risk class 5001 rising to \$20.18 per hour, much is yet to be done. [ESSB 5744](#) included the proposal of a rate reduction for employers who participate and are certified through the program. Further development of the program, including some new safety/training manuals, is in the works. Based on our review of the draft manuals, this program looks like it has great potential for not only improving safety, but also for the basic training of new employees that fit the 5001 risk class. Manuals are being developed for Cutting Operations and Logging Operations. These will essentially be comprehensive Accident Prevention Programs that can be adopted by participating companies. Company specific information should be added to the document as needed. This will help to meet the Accident Prevention Plan requirement which is part of [WAC 295-54 Safety Standards for Logging Operations](#). Additional resources for both the LSI and other logging safety information can be found at the following links: [Logging Safety Initiative](#) and [Logging Safety Resources](#).

The LSI working group is required to report back to the Legislature in December on its progress. AFRC will continue to update its members on the status of this initiative. /*Matt Comisky*

Kootenai/Panhandle Management Plans

On September 20, the Forest Supervisors for the Kootenai and Panhandle National Forests (Paul Bradford and Mary Farnsworth) announced the completion of their Revised Land Management Plans. Alternative B Modified has been selected as the preferred alternative for the revised Forest Plans.

Comments must be submitted within 60 days following publication of the notice, which will take place by September 27 in most of the local newspapers. The day after the published notice is the first day of the objection process. The draft decision is subject to the new pre-decisional administrative review process (objection process) which was just recently implemented by the Forest Service.

The documents are posted at <http://www.fs.fed.us/kipz>. AFRC encourages all interested parties to review the hard work completed by these forests and provide comments to objections-chief@fs.fed.us for any changes you would like to see made as these plans move closer to becoming final. / *Tom Partin*

Molinelli Joins AFRC

Rob Molinelli, a 2013 graduate of Lewis & Clark Law School, has joined AFRC's staff. Rob, a post-graduate Legal Fellow, will serve as a full-time staff attorney for the next year working on litigation, appeals, objections, and other issues of concern to AFRC members.

Rob is a 2010 graduate of the University of Nebraska. Rob has done legal work for a variety of different organizations. While in law school Rob clerked at a law firm which specialized in energy law and represented large industrial users of energy. He also did legal work for the Portland District of the U.S. Army Corps of Engineers, and for the U.S. Army Judge Advocate General's Corps. Molinelli, the son of two Soldiers, grew up on or near Army bases across the U.S. In addition to his full time work with AFRC, Rob expects to receive a commission as a JAG Officer in the Army Reserve this fall.

I hope you will join me in welcoming Rob to AFRC. He is located in the Portland office and can be reached at rmolinelli@amforest.org. */Tom Partin*