

September 30, 2014

Judges Give Green Light to Salvage

In the last month, judges have rejected arguments that intensively burned forests are good spotted owl habitat. In four separate cases, motions for preliminary injunctions or temporary restraining orders were denied in which plaintiffs argued that intensively burned dead forests resulting from the 2013 fires are essential owl habitat and salvage must be halted to protect the spotted owl. These cases involve the Rim Fire on the Stanislaus National Forest, the Aspen Fire on the Sierra National Forest, the American Fire on the Tahoe National Forest, and the Douglas Complex Fire on the BLM Roseburg District. Salvage is proceeding on all of these projects although one large sale on the Rim Fire received no bids.

In each case, plaintiffs argued that the fires created habitat for spotted owls by burning the cover off the trees and provided ideal places for spotted owls to forage. In two of the cases involving the Aspen and American Fires, the judges did not address the underlying merits of the legal claims. Instead a preliminary injunction was denied on the grounds that the balance of harm and public interest supported proceeding with the salvage. The judges held that plaintiffs had not shown the spotted owl would be harmed by removing dead trees that could not be used for nesting and provided no protective cover. The judges emphasized the benefits of capturing the value of rapidly deteriorating trees using a commercial sale of timber to continue the restoration effort, providing safety for forest workers and planting crews, and that the loss of timber supply will hurt mill employment and the local community.

The Rim Fire motion for temporary restraining order was denied on the grounds that plaintiffs were not likely to succeed on the merits of their legal claims. The judge held that the Forest Service did not have to supplement the EIS because it adequately considered the 2014 spotted owl survey information that indicated spotted owls were widely present in the area following the wildfire. The judge also concluded the Forest Service adequately considered studies indicating that spotted owls may use an area following a fire. The agency also adequately considered the direct and indirect effects of salvage on the spotted owl to determine how well project alternatives complied with the Forest Plan direction and species conservation strategies.

An injunction of the Douglas Complex Fire salvage was also denied on the grounds that plaintiffs were not likely to succeed on the merits of their legal claims. The judge rejected the Endangered Species Act claims holding that the Fish and Wildlife Service considered the best available science about how spotted owls might change their use pattern following a fire and adequately consider the impacts of salvage on the spotted owl.

The next step in these cases is likely to be an appeal to the Ninth Circuit Court with a motion for injunction pending appeal to stop the salvage while the appeal is being decided. An appeal and a motion for injunction pending appeal has already been filed in the Douglas Complex Fire case. /*Scott Horngren*

Congress Stalls and Goes on Recess

Congress left Washington, D.C. on September 18 after only being in session for eight days following a five-week August recess. They will not reconvene until after the November election. Before adjourning the House voted again on H.R. 1526, the Restoring Healthy Forests for Healthy Communities Act, as part of a large package of jobs bills. It was nearly a year ago that the House first passed the bill.

Meanwhile, a planned markup in the Senate Energy and Natural Resources (E&NR) Committee did not occur, and the Senate exited without passing or advancing any forestry legislation to expedite forest management treatments to reduce fuel buildups and curb the number of catastrophic wildfires that we have seen burning in recent years. Prior to the Senate's adjournment, Senator Ron Wyden (D-OR) announced that the E&NR Committee will vote on his O&C bill on November 13, once Congress reconvenes. It is unclear if S.1966, sponsored by Senator John Barrasso (R-WY), which would require 7.5 million acres of Forest Service lands be mechanically treated over a 15 year timeframe, will also be taken up by the Committee on November 13.

Congress did manage to pass a short-term Continuing Resolution (CR) that will fund the government until December 11. Under a CR, agencies like the Forest Service and BLM lack final budget numbers for the fiscal year from which to plan their programs. This uncertainty is felt in the timber sale programs for both agencies.

Legislation to address fire borrowing also failed to proceed in the House or Senate prior to adjournment. The relatively light fire year and the fact that the Forest Service actually avoided fire borrowing this year likely played into the lack of progress on the legislation. However, as we have seen with two recent large California fires (the King Fire at 82,000 acres and the Happy Camp Complex at 131,400 acres) the threat of fire borrowing remains a reality. There does seem to be consensus that fire borrowing needs to be addressed, but disagreement remains around the details. / *Tom Partin*

SRS/PILT/LWCF

Senator Ron Wyden announced in early September his intention to introduce two bills that would provide both a long-term and short-term reauthorization for the funding of ongoing county payments and federal/state land acquisition programs. These include Secure Rural Schools (SRS), Payments In Lieu of Taxes (PILT), and the Land and Water Conservation Fund (LWCF). In addition, his long-term approach would also authorize new payment sharing and coastal mitigation programs for counties that are home to domestic onshore and offshore energy production. It is believed that he will seek to pass one of the bills during the lame duck session.

The long-term bill would authorize mandatory payments of nearly \$3 billion annually and includes staggering funding levels for these old and new programs. According to a section-by-section analysis from the Wyden office, the bill would fund SRS at the 2011 level plus an additional 50% to account for all future adjustments and total \$564.75 million, which is significantly higher than the past three years. It would also permanently reauthorize the PILT program plus 50% to account for all future adjustments totaling \$600 million per year, and LWCF would be funded at a whopping \$900 million annually (nearly triple today's appropriated amount) for the government to purchase lands and provide funds to states for parks.

Meanwhile, a new \$425 million Domestic Energy Fund and a \$125 million Offshore Domestic Energy Fund would be established whereby counties would receive payments equal to their county's share of the total energy produced domestically. By pegging a county's share to its portion of the total energy produced nationwide and not payments based on the actual production, the Wyden proposal is viewed as an effort to begin disconnecting county revenue sharing from oil and gas production. This is similar to what SRS did for timber harvests on federal lands. Finally, the bill would permanently authorize a new Federal Waters Impact Fund to provide payments to coastal counties of \$300 million annually.

Wyden's proposed short-term bill would reauthorize for one-year SRS at the 2011 level or \$376 million, PILT at \$400 million, and LWCF at \$900 million for a total of \$1.676 billion.

One key question left unanswered in the Wyden proposals is how these large mandatory payment programs would be funded. Since all new legislation has to remain revenue neutral under Congressional budget rules, new sources of revenue or reductions in mandatory spending elsewhere must be tapped to pay for these massive outlays. While it is not clear what Senator Wyden has in mind, it is likely that it will rely in large part on the Congressional Budget Office scoring of the changes being proposed to coal, oil, and gas revenue sharing programs. It certainly appears as though the proposal is predicated on the production of NON-RENEWABLE resources such as coal, gas, and oil to generate the necessary revenue to provide payments to counties in the form of SRS payments to disincentivize the harvest of their RENEWABLE forests. We have all witnessed the resulting disastrous economic, social, and ecological results from the lack of management on our federal forests over the past two decades. Hopefully Congress will take action on meaningful forest reform legislation to restore the health of these forests and communities! / *Tom Partin*

2015 BLM Timber Targets

Preliminary volume targets for Fiscal Year 2015 have been declared by the five western Oregon BLM Districts. Although official budgets have yet to be confirmed, each district has set tentative targets. The table below outlines the upcoming year's volume target breakdown by district as compared with the previous year and the Northwest Forest Plan Allowable Sale Quantity (ASQ).

Volumes above ASQ levels represent thinning on land outside of the land base which the ASQ volume is calculated such as Late-Successional Reserves, riparian areas and Adaptive Management Areas. ASQ volume is only calculated for lands designated as matrix in the Northwest Forest Plan. / *Andy Geissler*

District	NWFP ASQ	FY14 Target	FY15 Target
Salem	35	54	49
Eugene	33	52	40
Coos Bay	27	38	32
Roseburg	45	36	36
Medford	57	46	46
Lakeview	6	6	6
Total	203	232	209

Wyden Input on O&C Plans

On September 10, Senator Ron Wyden sent a letter to Interior Secretary Sally Jewell stating that while he is pursuing a legislative approach for the management on O&C lands, he also recognizes that the BLM is developing new Resource Management Plans for many of the same lands covered under his legislation. In the letter Wyden urged the BLM “to do as much as possible in advance of his legislation becoming law” to seek many of the same objectives while in the planning process. Some of those objectives include:

1. Provide increased and predictable timber harvests
2. Use ecological forestry principles
3. Protect water and aquatic resources
4. Protect old growth and structurally complex forests
5. Provide recreational opportunities
6. Contribute to the recovery of threatened and endangered species
7. Protect treasured landscapes
8. Recognize different forest types and their unique restoration needs

Interestingly, the letter made no mention of generating timber revenue for counties, which remains the primary purpose of these lands under existing law. Many of the other objectives, including ecological forestry requirements and the protection of structurally complex forests, are likely illegal under the O&C Act. The BLM is currently developing alternatives for their Draft Plan which they hope to release in 2015. The agency expects to have the final plan completed and implemented in 2016. /Tom Partin

Fire Statistics

The Forest Service will not have to transfer funds from other accounts to pay for the cost of fighting fires this year, even though the agency has needed to transfer funds from other accounts to pay for the cost of fighting fires seven of the last 12 years. Below is a table with the total number of wildfires and acreage burned as of September 30.

Currently, the national fire preparedness level has dropped to level 1 and significant moisture has finally hit the western states where the largest fires have been burning. While the number of acres burned is just over 3 million compared to an average of over 6 million for the past 10-year period, the Forest Service came close to triggering fire borrowing. There is approximately \$70 million left in the account. In discussing this issue with Undersecretary of Agriculture Robert Bonnie, he reported that the cost of aircraft has climbed quickly. The latest generation of retardant planes and helicopters acceptable to do the work are more expensive and have been getting more use, both of which ramp up the price of fighting large wildfires. / Tom Partin

Year-to-date statistics		
2014 (1/1/14 - 9/30/14)	Fires: 41,165	Acres: 3,095,240
2013 (1/1/13 - 9/30/13)	Fires: 38,859	Acres: 4,093,643
2012 (1/1/12 - 9/30/12)	Fires: 48,192	Acres: 8,800,744
2011 (1/1/11 - 9/30/11)	Fires: 60,422	Acres: 7,721,459

2010 (1/1/10 - 9/30/10)	Fires: 56,526	Acres: 2,961,422
2009 (1/1/09 - 9/30/09)	Fires: 70,217	Acres: 5,616,706
2008 (1/1/08 - 9/30/08)	Fires: 67,665	Acres: 4,729,864
2007 (1/1/07 - 9/30/07)	Fires: 73,118	Acres: 8,228,387
2006 (1/1/06 - 9/30/06)	Fires: 83,860	Acres: 9,085,395
2005 (1/1/05 - 9/30/05)	Fires: 53,300	Acres: 8,165,985
2004 (1/1/04 - 9/30/04)	Fires: 61,102	Acres: 7,729,023
Annual average prior 10 years		
2004-2013	Fires: 61,326	Acres: 6,713,263

Klamath Fires Continue Burning

The Klamath National Forest has been battling four large wildfires that have consumed a large amount of acreage within the forest boundary. A total of 219,400 acres have burned at a cost of over \$179 million. The four fires include the Little Deer (5,500 acres), the Beaver (32,500 acres), the July Complex (50,000 acres), and the Happy Camp Complex (131,400 acres). The Happy Camp Complex is the only remaining active fire.

Hopefully, the forests are doing advance scouting for salvage and restoration opportunities. Imagine how much responsible forest management work could have been accomplished with the dollars spent on suppressing these fires. Active management has been proven to be an effective tool in limiting acreage and adverse resource effects from wildfires. */Rick Svilich*

Shasta Trinity Project Challenges Continue

Environmentally responsible and much needed projects proposed on the Shasta Trinity National Forest continue to be challenged by various groups. The latest is the Harris LSR project which has been objected by Conservation Congress, Klamath Siskiyou Wildland Center (KSWILD), and Dick Hartley.

Conservation Congress, located in Montana, has filed appeals, objections and/or litigated almost every vegetation project on the Shasta Trinity for the last several years. Their objection covers numerous subjects and contains 26 pages of objection points. KSWILD, located in Ashland, Oregon, recently objected to the Porcupine Project and objected to the Harris project as well. Their objection also contains many topics but takes real exception to mechanical piling, thinning overstocked stands, creating small openings, and temporary road construction. Mr. Hartley, located in Idaho, believes there are numerous infractions of NEPA. The interesting point in his letter states “American People do not want their National Forests logged...” and his closing quote states he is a retired Forest Service planner and a person who believes the availability of undeveloped public land for his grandchildren is more important than short term corporate profit. Apparently Mr. Hartley doesn’t know the land within the project area has been responsibly managed since the early 1900’s.

The National Forests in California have been devastated by wildfires in recent years and this year over 500,000 acres have been lost. Thousands of acres of old growth, spotted owl habitat, nesting areas, and large trees have been completely destroyed by these fires. It is hard to imagine groups and individuals who reside hundreds of miles away believe it is necessary to stop projects that are trying to alleviate catastrophic wildfires. No local individuals within Siskiyou County have raised any issues with this project.

It will be interesting to see how the Regional resolution meeting goes for this project. Previous resolution meetings with these organizations have not proved very fruitful. */Rick Svilich*

Forest Service Groundwater Proposal

On September 3, AFRC and 23 other organizations that support private property rights and the sustainable and productive use of national forest system lands sent [comments](#) to the Forest Service urging that proposed groundwater resource management directives published in the Federal Register on May 6 be withdrawn. (See, [AFRC newsletter May 19, 2014](#).)

The comments point out that the Forest Service lacks legal authority to regulate groundwater. Although the Multiple-Use Sustained-Yield Act of 1960 makes watershed protection one of five co-equal purposes for which the national forest system is established (outdoor recreation, range, timber, watershed, and fish and wildlife), it does not grant the Forest Service the authority to regulate groundwater. The comments also express concern about the directives' intrusion into state authority over groundwater and other issues raised in this attempt by the Forest Service to regulate in an area where they lack statutory authority and direction from Congress.

The proposed directives were the subject of a [September 10 hearing](#) before the House Natural Resources Committee Subcommittee on Conservation, Energy, and Forestry. Members of the subcommittee expressed great reservations about the proposed directives. The Western Governors' Association has also been [critical of the proposal](#).

AFRC continues to hope that the Forest Service will withdraw the directives. */Ann Forest Burns*

Washington Forest Collaborative Summit

On September 8 and 9, a summit was held to bring together representatives from most of the forest collaboratives in Washington State. Those in attendance included the Chumstick Wildfire Stewardship Coalition, North Central Washington Forest Health Collaborative, Northeast Washington Forestry Coalition, Olympic Peninsula Collaborative, Pinchot Partners, South Gifford Pinchot Collaborative, and the Tapash Sustainable Forest Collaborative. Jim Pena, Region 6 Regional Forester stopped in to introduce himself to the group and answer questions. Aaron Everett, the State Forester, also participated the first day.

The idea for the summit was developed based on conversations at the Regional CFLR conference last April. Brad Ack, from DNR mentioned the need for input to the Forest Health Report which DNR must submit to the Legislature on October 1. There were additional ideas on increasing capacity which helped lead to the concept of holding the summit. Patrick Shannon with Sustainable NW took the lead in coordinating and facilitating it along with Maia Enzer with the Forest Service. The summit was supported by a grant from Ron Saranich's Rural Community Assistance group at the Forest Service.

The goals of the summit were to learn about each collaborative, their challenges and successes, and to find common areas where the groups can engage to increase the capacity of work and restoration. It was also an opportunity to provide input to DNR for their report on forest health needs in Washington State. Based on the collected feedback a letter was sent to DNR from the collaboratives outlining ideas for increasing future capacity including western Washington needs in the future.

The collaborative group plans to continue its engagement on common issues across the state but is also evaluating the best way to accomplish this with the limited time and capacity of all the groups involved.
/Matt Comisky

Forestry Leaders Pass On

AFRC is saddened by the passing of three giants of the Northwest timber industry.

Wally Stevenson

Columbia Gorge community leader and entrepreneur, Wally Stevenson, co-founder of SDS Lumber Company, passed away August 29 at his home in White Salmon, Washington, at the age of 96. His wife of 73 years, Priscilla, passed away on August 28.

Wally, his brother Bruce, and Frank Daubenspeck bought a bankrupt sawmill in Bingen, Washington in 1949 after Wally and Bruce returned from active duty in World War II. Wally was awarded the Bronze Star for bravery for his service in the War. Wally and Bruce's father, Donald M. Stevenson, became a half-owner in Broughton Lumber Company in 1920.

SDS survives today because of Wally's insights and innovations through the challenges of the listing of the northern spotted owl and the creation of the Columbia Gorge Scenic Area. His leadership will live on in the work of those he mentored. A memorial service has been held.

Bill Hagenstein

Renowned forestry advocate Bill Hagenstein passed away September 4. March 8, 2015 would have been his 100th birthday. An association forester beginning with his work for the West Coast Lumberman's Association in 1941, Bill served as manager and executive vice president of AFRC's predecessor, the Industrial Forestry Association (IFA) from its founding in 1949 until his retirement in 1980. He took great pride in having been present at the birth of the Tree Farm system in 1942 and in the founding of the IFA nursery system which continues to produce seedlings for private landowners. His autobiography, [*Corks and Suspenders*](#), was published in 2010.

One of the most colorful characters in American forestry, noted for his profanity and his phenomenal ability to remember every detail and name from events decades in the past, Bill testified before legislatures and Congressional committees hundreds of times during his career. He continued to be a tireless advocate of what is currently called "active forest management" throughout his life.

An Irish wake in Bill's honor will be held on November 2 at 2:30 p.m. at the World Forestry Center, 4033 SW Canyon Road, Portland.

Aaron Jones

Innovative lumber mill operator, forestry leader, and philanthropist Aaron Jones, 92, passed away peacefully at home on September 22. After serving in World War II, Aaron returned to Eugene where he founded Seneca Sawmill Company, which employed 25 people and manufactured 18 million board feet of dimension lumber in 1953. The Seneca Family of Companies now includes Seneca Jones Timber Company, Seneca Sustainable Energy and Seneca Noti. It is one of the largest-producing, single-location timber and sawmill companies in the United States, employing over 400 people, managing more than 165,000 acres of Oregon forestland, and producing 485 million board feet of lumber per year. Aaron held over 25 patents in sawmill technologies.

Aaron is survived by his wife Marie, his daughters Rebecca Jones, Kathleen Jones-McCann and Jody Jones, who are the current co-owners of the company and serve on its Board of Directors, his step-daughter Suzanne Penegor, six grandchildren and five great grandchildren.

A memorial service will be held at on October 1 at 11:00 a.m. at Matthew Knight Arena, Eugene.

The wisdom and drive of men like Wally, Bill, and Aaron will be greatly missed by our industry. We send our best wishes to their families. */Tom Partin*

Oregon Board of Forestry

On September 17, the Oregon Senate affirmed Governor Kitzhaber's reappointment of Sybil Ackerman-Munson of Damascus and Gary Springer of Corvallis to the Oregon Board of Forestry. Each will serve second terms on the board ending in 2018.

Springer is a staff forester with Starker Forests, Inc. and also handles policy and public outreach duties for the family-owned company. Ackerman-Munson runs Ackerman-Munson Strategies, LLC and serves as the Executive Director of the Lazar Foundation. */Ann Forest Burns*

Forest Service Personnel Changes

The following personnel placements in the Washington Office Timber Management shop were announced on September 19.

John Crockett has accepted the position of assistant director for Forest Management, Integrated Vegetation Management. He is currently a national restoration and planning group leader. Kara Chadwick previously held this position.

Dick Fitzgerald has accepted the position of senior advisor for Forest Management. He is currently an assistant director for Forest Products. This position was previously held by Doug MacCleery.

Christopher French has accepted the position of deputy director for Forest Management. He is currently an assistant director for the Ecosystem Management Coordination staff. This position was previously held by Bill Timko.

Joseph Reddan has accepted the position of assistant director for Forest Management, Forest Products. He is currently a legislative affairs specialist with the Office of the Chief. This position was previously held by Dick Fitzgerald.

Our thanks to Bill Imbergamo and FFRC for passing this information along. It is good to see these key positions being filled as the Director of the National Forest System, Bryan Rice begins to fill out his team. / *Tom Partin*

James L. Huffman Lecture Series

Lewis & Clark Law School is holding the James L. Huffman Lecture Series in Honor of the Western Resources Legal Center on November 6. This year's featured speaker is former Secretary of Interior Gale Norton. The event begins at 6:00 p.m. and is free to the public. For more information and to register, please visit their [website](#).