



American Forest Resource Council
 5100 S.W. Macadam Avenue, Suite 350
 Portland, Oregon 97239
 Phone: (503) 222-9505
 Fax: (503) 222-3255
 E-mail: info@amforest.org
www.amforest.org



Find us on Facebook!

July 2018

AFRC Completes Second Habitat for Humanity Home Near Olympia

The Ahmed and Townes Family (pictured page 2), joined by representatives from the local forest products industry, South Puget Sound Habitat for Humanity, volunteers, and community leaders were handed the keys to their new Habitat home in the [Deyoe Vista](#) neighborhood in Lacey, Washington on Saturday, June 30.

AFRC members and staff contributed locally-manufactured lumber and wood products, generous financial contributions and volunteer hours to build a home for the Ahmed and Townes Family.

“This project embodies what the forest products industry is all about,” said Travis Joseph, president of AFRC. “We work in the woods, help care for our public lands and forests, and make local, renewable wood products every Washingtonian depends on every day – including the lumber for our homes. Our members – the family business owners, engineers, loggers, foresters, and millworkers – are passionate about the health and vitality of the communities in which they live, work, and play. This project is another example of that commitment. It’s a perfect fit. We are ecstatic to be using our members’ local products and expertise – and tapping into their passion for and commitment to rural communities – to build a home for Sharaf, Kayleigh, and their three kids, including a newborn!”

- | |
|--|
| <p>IN THIS ISSUE</p> <ul style="list-style-type: none"> ➤ Habitat Home Dedicated ➤ The West is on Fire ➤ DC Update ➤ Bull Run Victory ➤ Collaborative Project Moves Forward ➤ ESA Reforms ➤ Carbon Storage ➤ AFRC Letter to BNR ➤ Virginia Ridge Field Trip ➤ Region 1 Meetings ➤ NWFP Synthesis ➤ Kennedy Retires ➤ Kavanaugh Nominated |
|--|

In partnership with SPS Habitat, the Ahmed and Townes Family completed over 400 hours of volunteer “sweat equity” including helping with the construction of other Habitat homes at Deyoe Vista, homeowner education courses, and building their own home. Now that the requirements have been completed, the Ahmed and Townes Family will purchase their home with an affordable Habitat mortgage that sets the monthly mortgage payment at no more than 30% of their combined income at the time of sale.

The South Puget Sound Habitat for Humanity is dedicated to the principle that everyone in the community deserves a safe, decent, and affordable place to live. “South Puget Sound Habitat for Humanity can be summed up by the statement ‘We Build,’ but what we build is so much more than housing. We build strength, stability and self-reliance through our affordable homeownership program. But we can’t do it alone and we truly believe that SPS Habitat is an



expression of our community’s generosity, compassion and commitment to positive change, an expression best exemplified by organizations like American Forest Resource Council,” said Shawna Dutton, SPS Habitat’s Marketing, Development and Communications Manager.

The Habitat for Humanity Dedication event included five family home dedications, presentation of volunteer awards, blessings of the homes, and home tours. AFRC was honored with the Community Builder Award from SPS Habitat for Humanity. The Ahmed and Townes home is AFRC’s second Habitat for Humanity home in two years. The first home was completed in Springfield, Oregon. The entire process – from forest management to manufacturing to construction – was documented in the short video “[Build a House. Frame a Future.](#)” /Asha Aiello

The West is On Fire

Massive wildfires are ripping through more than a dozen Western states, threatening lives, thousands of homes and structures, forest resources, wildlife habitat, drinking water, and public health by severely degrading air quality. According to the National Interagency Fire Center, 90 fires in 14 states have burned more than 1,000,000 acres of land.

Here’s just a sample of what’s happening on the ground:

California’s [Carr Fire](#) near Redding has become of the top 10 most destructive fires in California history. In fact, 7 of the 12 most destructive fires in the state’s history have happened since 2015. The fire is approaching 100,000 acres and is only 20% contained. At the time of writing, the Carr Fire has destroyed 966 structures and claimed the lives of at least six people, with seven still reported missing. Beyond the devastation of structures and lives lost, the behavior of the Carr Fire has been difficult to predict and extremely dangerous for fire professionals. The strength of the fire has created its own [weather system and the smoke can be seen from space.](#)

The Ferguson Fire has burned 54,000 acres and forced evacuations at one of the most iconic national parks in the U.S., Yosemite National Park, at the height of the tourist season. While the park is expected to reopen to visitors on August 3rd, with the smoke still clogging the air recreational opportunities will be hampered.

According to Mike Muller, Deputy Director with Cal Fire, the 2018 fire season in California has already been very busy. “We’re well over 400 more additional woodland fires than at the same time last year. We’ve already increased the amount of responses.” In addition to the Carr and

Ferguson fires, there are still more than a dozen other large wildfires burning throughout California stretching emergency response and firefighting resources thin.

In Idaho, the [Keithly Fire](#) is burning on the Boise National Forest and has torched 17,600 acres. While the fire is now 84% contained, more than 250 personnel are still on the fire.

In Oregon, the [Substation Fire](#), now 90% contained, claimed 79,121 acres of wheat and grassland, the life of a wheat farmer cutting a fireline, while devastating the local economy.

The [Taylor Creek Fire](#) on the Rogue-River Siskiyou National Forest has burned 16,500 acres and is currently moving through the area of Merlin and surrounding communities. According to Inciweb, “Over 2,600 firefighters and support personnel are working to contain the fire and protect structures in the area.”

The nearby [Klondike Fire](#), which is burning primarily in the Kalmiopsis Wilderness area also within the Rogue-River Siskiyou National Forest, has grown to 14,000 acres and is only 5% contained. Evacuation orders are in place, impacting at least a dozen residences.

The [Klamathon Fire](#), which burned on the Rogue-River Siskiyou and Klamath National Forests, temporarily shut down I-5 and caused a fatality as well as burning well into the Cascade-Siskiyou National [Monument](#). The cost of the Klamathon Fire alone was almost \$25 million.

The smoke in Southern Oregon, and the resulting impacts on public health, prompted the DEQ to extend an air quality alert for Jackson, Josephine and Klamath Counties, going so far as to strongly recommend that pregnant women and small children [leave the area](#). For a period of almost two weeks, Southern Oregon and areas of Northern California had the worst air quality in the entire United States.

These facts don't account for what will happen next, however. Particulate matter from smoke hasn't been extensively studied for long-term health effects. Communities and economies are already suffering from the smoke effects on tourism – to say nothing of the extraordinary losses of forest resources and timber. For example, the Oregon Shakespeare Festival and others have had to move and cancel shows and events due to the health risks involved of simply being outdoors. The Oregon and Northern California school districts are discussing moving high school and youth sports seasons to accommodate for the wildfire seasons and smoke. And, unfortunately, this is just the beginning of the fire season.

AFRC extends its thanks and appreciation to all the hard-working women and men who are putting their lives at risk to protect families, communities, and forest resources from these devastating wildfires. We extend our thoughts and prayers to the thousands of Americans who have been impacted by, or remain in harm's way of, these deadly and out-of-control wildfires. Consistent with its mission, AFRC will continue to strongly advocate for proactive management of our public forests to help reduce the serious risks, costs, and impacts of mega fires on public lands. /Travis Joseph

Washington, D.C. Update

Administration Nominees. On July 24, the Senate Agriculture Committee held a hearing on the nomination of James Hubbard as the Undersecretary of Natural Resources and Environment at USDA, the primary political appointee overseeing the U.S. Forest Service. Hubbard's nomination was announced by the White House in April, but consideration was delayed as the Agriculture Committee shifted its focus to the Farm Bill reauthorization effort over the past three months.

In his testimony before the Committee, Hubbard spoke about the need for active, sustainable management of the national forests, greater focus within the Forest Service, and the importance of making the agency a workplace free of harassment. As a former Colorado state forester, Hubbard also shared examples of successes when state and agencies work together, including the Good Neighbor Authority (GNA) that was pioneered in Colorado.

Senator Steve Daines (R-MT) questioned Mr. Hubbard about his position on proposals to cut red tape and fringe litigation through legislative reforms like pilot binding arbitration, a full fix to the *Cottonwood* decision, and additional streamlined planning authorities, all which Hubbard expressed support for. Senators John Thune (R-SD) and Amy Klobuchar (D-MN) also expressed support for active management of federal forests in questioning Mr. Hubbard.

With the Senate is set to work through August on the Kavanaugh nomination, it is possible that the Hubbard nomination could advance to the Senate floor next month. Either way, Hubbard should be in place by September – over 19 months into the Trump Administration.

Meanwhile, on July 18, members of the Senate Western Caucus wrote a [letter](#) to Majority Leader Mitch McConnell (R-KY) and Minority Leader Charles Schumer (D-NY) to urge Senate action on the pending nominations of Susan Combs for Assistant Secretary of Policy, Management and Budget at the Department of the Interior and Jeff Clark as Assistant Secretary for the Environment and Natural Resources Division at the Department of Justice. These are two critical positions in the Administration for land management in the West.

Senator Daines spearheaded the letter, which also spoke to the importance of the nominations of James Hubbard and Ryan Nelson, an Idaho native, to be United States Circuit Judge for the Ninth Circuit.

Farm Bill. As reported in the [June AFRC News](#), both the House and Senate have been making progress on their respective Farm Bill reauthorizations. The House bill includes a robust forestry title providing additional Categorical Exclusions for timber projects, expedited National Environmental Policy Act (NEPA) reviews for salvage projects, and streamlined Endangered Species Act (ESA) consultation procedures. However, proposed cuts to the Food Stamp program likely make the legislation dead on arrival in the Senate.

On June 28, the Senate passed its five-year Farm Bill reauthorization by an 86-11 vote – an indication of the bipartisan approach the Senate is taking on the Farm Bill and the absence of controversial provisions. Unfortunately, the Senate Farm Bill proposal lacks meaningful forest management reforms. Senator Daines and a handful of other senators sought to amend the

legislation with strategic forest reforms in the Agriculture Committee and again on the Senate floor. The only Daines amendment adopted in committee would allow the Forest Service to enter into a GNA agreement with the counties (the underlying bill would also authorize GNA for tribes). The Senate bill also reauthorizes and increases allowable funding levels under the Collaborative Forest Landscape Restoration Act (CFLRA).

The House appointed 47 members to a conference committee charged with hashing out the stark differences between the two chambers' proposals. The Senate is expected to vote to go to conference and appoint conferees soon. AFRC worked with the Federal Forest Resource Coalition (FFRC) and other allies in writing a [letter](#) to the conference committee urging the inclusion of several critical forest management reforms in any final Farm Bill.

Appropriations. Compared to past years, the House and Senate are both making progress on the annual Appropriations process. In fact, the House passed its version of the Interior Appropriations bill the week of July 16 and the Senate is poised to take quick action. The House FY 2019 Interior bill would boost the Forest Products budget line item by \$15 million and Hazardous Fuels reduction funding by \$63 million – both significant increases. Under the Senate proposal, the Forest Service would see a \$5 million increase in Hazardous Fuels reduction funding and a \$2 million increase for the Forest Products program. As reported in the [June AFRC News](#), the Senate bill also includes promising report language for both the Forest Service and BLM Western Oregon timber programs.

Both the House and Senate FY 2019 Interior Appropriations bills would provide over \$106 million for the management of BLM's Oregon and California (O&C) grant lands in Western Oregon. The Trump Administration's FY 2019 budget request proposed cutting the program by over \$16 million, so maintaining level funding represents a significant victory.

AFRC staff recently met with the BLM and Appropriations staff to discuss the need to provide accountability for achieving addition timber harvests with this increased funding. AFRC is also focusing on previous report language requiring the BLM to report its timber sale accomplishments in volume awarded, rather than volume sold. /*Heath Heikkila*

Another Victory: AFRC Secures Win on Bull Run Project

On July 9, in a win for public safety and forest health, the U.S. District Court for the Eastern District of California approved a roadside hazard tree removal project on the Sequoia National Forest.

The Forest Service developed the Bull Run Roadside Hazard Tree Removal Project in response to the lightning-induced Cedar Fire that burned approximately 29,322 acres in the summer of 2016. The Bull Run Project will remove dead or dying trees along 50.2 miles of road (3,500 acres) that create dangerous conditions for the public, firefighters, and those looking to safely access public lands. The project will also generate economic benefit to local communities by providing raw materials to manufacture local, renewable wood products.

Environmental groups opposed the public safety project and attempted to delay implementation through a lawsuit challenging the Forest Service's use of the road repair and maintenance categorical exclusion (road maintenance CE), 36 C.F.R. § 220.6(d)(4), to authorize the removal of dead or dying hazard trees. AFRC intervened on behalf of its member Sierra Forest Products, which holds the contract to implement some of the project.

In his ruling, Judge O'Neill shut down the plaintiffs' claims and delay tactics. First, the court relied on other district court opinions that have upheld the use of the road maintenance CE in similar circumstances and that removing hazard trees that may fall on a road fits within the general scope of the CE. The court also rejected plaintiffs' claim that the commercial component of the project brings it outside of the scope of ordinary road maintenance. The court determined that the road maintenance CE contains no such limitation that felled trees be left in place and such an interpretation would result in practical difficulties. Finally, the court upheld the Forest Service's explanation why the effects on the Pacific fisher and California spotted owl were insignificant.

On July 19, plaintiffs appealed the district court's denial of their motion for summary judgment to the Ninth Circuit. In a parallel case, involving the Spear Creek Project, the parties have elected to stay briefing on summary judgment pending a decision on the Bull Run Project appeal. As more intense and severe wildfires destroy forest resources and create unsafe conditions, it is crucial that the Forest Service be able to take appropriate action to protect public and firefighter safety. Stay tuned. /Sara Ghafouri

After A Two-Year Delay, Ninth Circuit Allows Collaborative East Reservoir Project to Move Forward

The Ninth Circuit issued a [decision](#) on July 26 regarding the East Reservoir Project on the Kootenai National Forest. The most important words of the ruling appear on the last page: "The injunction previously issued by this court is vacated." This means that some timber sales to implement the project may finally proceed after three years of litigation and nearly two years under an injunction. In September 2016, the Ninth Circuit issued an injunction pending appeal and "expedited" the appeal. ([September 2016 AFRC News](#)). The decision was finally issued nearly two years later and almost 18 months after the case was fully briefed and argued.

The East Reservoir project involves a planning area of about 90,000 acres and commercial treatment of over 8,500 acres and is the product of over four years of efforts by one of the pioneer collaborative groups. The Kootenai Forest Stakeholders Coalition and Lincoln County, represented by AFRC attorneys, intervened on the side of the Forest Service. The Kootenai Tribe of Idaho and the Montana Attorney General's Office filed supporting amicus briefs.

The case dealt with two claims. First, plaintiff argued the project had to be put on hold under the [Cottonwood decision](#) while a full Forest Plan-level ESA consultation was conducted on the lynx. Second, they argued the Forest Service incorrectly treated so-called "undetermined" roads as part of the existing landscape to get credit for decommissioning those roads under a road plan for grizzly bears called the Access Amendments.

On July 19, 2016, Judge Christensen, U.S. District Court Judge for Montana, ruled in favor of the project and found the project-specific analysis of lynx critical habitat was adequate and no plan-level consultation was required. The opinion also deferred to the Forest Service on the grizzly bear road issue. ([July 2016 AFRC News](#)).

The appeal dragged on so long that the Forest Service was able to complete the Forest Plan-level consultation while it was pending. Therefore, the Forest Service asked the Ninth Circuit to dismiss the related claim as moot (plaintiff did not oppose). The Ninth Circuit opinion, however, also vacated (erased) the district court's ruling that the project-specific consultation was adequate. This may be an indication of the Ninth Circuit's desire to keep pushing the breadth of *Cottonwood*. Since consultation issues were apparently the basis of the pre-existing injunction, the court vacated the injunction.

On the grizzly bear issues, the Ninth Circuit first refused to hold plaintiff responsible for failing to raise the issue in its comments or objection. The Ninth Circuit excused the oversight because, it said, the "failure to object at an earlier time resulted from the Forest Service's failure to disclose this aspect of the Project in the Draft Environmental Impact Statement." On the merits of the claim, the court rejected what it called "circumstantial evidence" from the record and found the Forest Service "committed clear error in its analysis by failing to *specify* that the existing undetermined roads were included in the Access Amendments baseline calculation." (emphasis added).

Although the Ninth Circuit's failure to review "the whole record" is arguably inconsistent with the [Administrative Procedure Act](#), the practical effects are limited. The area covered by the Access Amendments is only about 20% of the project area and a failure of "explanation" like happened here is usually one that an agency can fix quickly. Thus, implementation of the project (or at least 80%) can begin immediately, a point lost in some media reports.

The case is an unfortunate example of how the courts are hamstringing efforts of stakeholders from across the spectrum to address urgent forest health needs. Although NEPA supposedly [favors](#) "excellent action" over "excellent paperwork," that view is apparently not universal.
/Lawson Fite

Endangered Species Act Reform

Republicans in the House and Senate recently rolled out ESA reform legislation. On July 2, Senator John Barrasso (R-WY) released [draft legislation](#) to expand states' authority in setting recovery goals, objectives for habitat, and delisting/downlisting objectives for listed species. The Barrasso legislation would also prevent lawsuits challenging decisions to delist a species for five years, after a monitoring period for a delisted species. "We must do more than just keep listed species on life support — we need to see them recovered," Barrasso said in a statement. "This draft legislation will increase state and local input and improve transparency in the listing process."

The 36-page bill, entitled the "Endangered Species Act Amendments" act, received a hearing in the Environment and Public Works Committee on July 17. The hearing was largely cordial, although Committee Democrats raised several concerns with the legislation. During the hearing

Barrasso commented “even the U.S. Constitution has been amended more recently than the Endangered Species Act” and that is was “time to act.”

On July 12, members of the Congressional (House) Western Caucus released a [nine-bill package](#) of ESA reforms during a quasi-hearing with witnesses from energy, ranching, farming, home building, and other industries represented. Collectively, the bills would alter the delisting process, tighten the listing petition process, cap attorneys’ fees at \$125 per hour for ESA lawsuits, increase the role of state and local governments, and make ESA-related scientific data readily available to the public.

A group of Western Caucus members cosponsored the legislation and were joined by one Democrat, Oregon Congressman Kurt Schrader. In a press conference following the caucus hearing, Congressman Bruce Westerman (R-AR) commented that the ESA was “an eight-track law in a Spotify world.” Other notable quotes from the event included:

“The Endangered Species Act is the most inept program in the federal government,” House Natural Resources Committee Chairman Rob Bishop (R-UT).

“As the one person in Congress, the only one, that voted for the Endangered Species Act, please beat me with a whip,” Congressman Don Young (R-AK).

Meanwhile, the Trump Administration released proposed changes to its ESA regulations issued by the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NOAA Fisheries). See next article for details. Since ESA legislation faces tough odds in Congress, the Administration’s proposed rulemaking likely represents the only opportunity to make modest changes to the ESA. /Heath Heikkila

Public Input Sought on ESA Reforms

On July 19, the FWS and NOAA Fisheries proposed revisions to certain ESA regulations to ensure clarity and consistency. There have been no comprehensive amendments to the ESA since 1982, and no comprehensive revisions to the implementing regulations since 1986. The proposed changes are designed, in part, to bring consistency to the implementation of the Act across the two agencies and provide more clarity to ESA implementation, which has been viewed as confusing to navigate. Section 4 of the ESA deals with listing determinations, recovery, and the designation of critical habitat. Several proposed changes relate to this section.

Listings & Critical Habitat

- The ESA defines a threatened species as “any species which is likely to become an endangered species within the *foreseeable future* throughout all or a significant portion of its range.” 16 U.S. C.§ 1532(20) (emphasis added). The proposed regulations will define “foreseeable future” to mean that it extends only as far as the agencies can reasonably determine that both the future threats and the species’ response to those threats are probable.
- The proposed regulations clarify that the determination of whether a species is threatened or endangered use the same standards regardless of whether a species is or is not listed at

the time of that determination. The standard for a decision to delist a species is the same as the standard for a decision not to list it in the first instance, which is consistent with the ESA.

- The proposed regulations clarify the designation of occupied versus unoccupied habitat. The agency will first evaluate areas currently occupied by the species before considering unoccupied areas. The proposed regulations will also provide clarity as to when the agency can designate unoccupied habitat.

Protective Regulations

- FWS is rescinding its blanket 4(d) rule, which has allowed threatened species to receive all the protections that endangered species automatically get through section 9 of the ESA. This regulatory change allows FWS's threatened species protection to be in line with NOAA Fisheries, which has not employed a blanket 4(d) rule. If adopted, FWS will provide species-specific 4(d) rules for each threatened species that are necessary and advisable for the conservation of the species. This proposed change would only impact future listings or downlistings and does not apply to species that are already listed as threatened – like the northern spotted owl. According to FWS Principal Deputy Director Greg Sheehan, “By creating a clearer regulatory distinction between threatened and endangered species, we are also encouraging partners to invest in conservation that has the potential to improve a species’ status, helping us work towards our ultimate goal: recovery.”

Section 7 of the ESA requires Federal agencies, in consultation with the Secretaries of the Interior and Commerce, to ensure that any action authorized, funded, or carried out by such agencies is not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. There are several proposed changes that relate to this section, below are the most notable:

- The proposed regulation amends the process for reinitiation of consultation in § 402.16 to clarify that an agency's continued implementation of a land management plan is not an “action” subject to consultation. This effectively overrules the Ninth Circuit's disastrous *Cottonwood* decision, which has already been fixed in part by legislation.
- The proposed regulations also provide some sideboards to the consultation process. They would amend § 402.13 to add a presumptive 60-day deadline for informal consultation, which is the process that concludes with a “not likely to adversely affect” determination. This could streamline the process for actions that have little effect on species.
- The agencies propose to amend § 402.14(c) to clarify what is necessary to initiate formal consultation. Because there is a presumptive 135-day deadline for completing formal consultation and issuing a biological opinion, agencies have become engaged in disputes about whether an adequate initiation or adequate biological assessment has been submitted. This change attempts to reduce initiation disputes.
- The proposed regulatory changes redefine “destruction or adverse modification.” In 2016, the regulatory definition of “destruction or adverse modification” was promulgated

as follows: “Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.” (81 FR 7214, February 11, 2016). In this proposed rule, FWS and NOAA seek to streamline and simplify the definition of “destruction or adverse modification” by removing the second sentence because it is unnecessary and has caused confusion.

- The proposed regulations add a definition of “programmatic consultation.” This term is included in revised § 402.14(c)(4) to codify an optional consultation technique that is being used with increasing frequency and to promote the use of programmatic consultations as effective tools that can improve both process efficiency and conservation in consultations. According to the proposed regulations: “Programmatic consultations can be completed under informal and formal consultation processes. They can be used to evaluate the effects of multiple actions anticipated within a specific geographic area; or to evaluate Federal agency programs that guide implementation of the agency’s future actions by establishing standards, guidelines, or governing criteria to which future actions will adhere. By consulting on the program, plan, policy, regulation, series, or suites of activities, the Services can reduce the number of single, project-by-project consultations, streamline the consultation process, and increase predictability and consistency for action agencies.”

The Proposed Regulations are found [here](#). Public comments must be received by September 24.
/Sara Ghafouri

Oregon Forests Capture Half of Our State’s Human-Caused Carbon Emissions

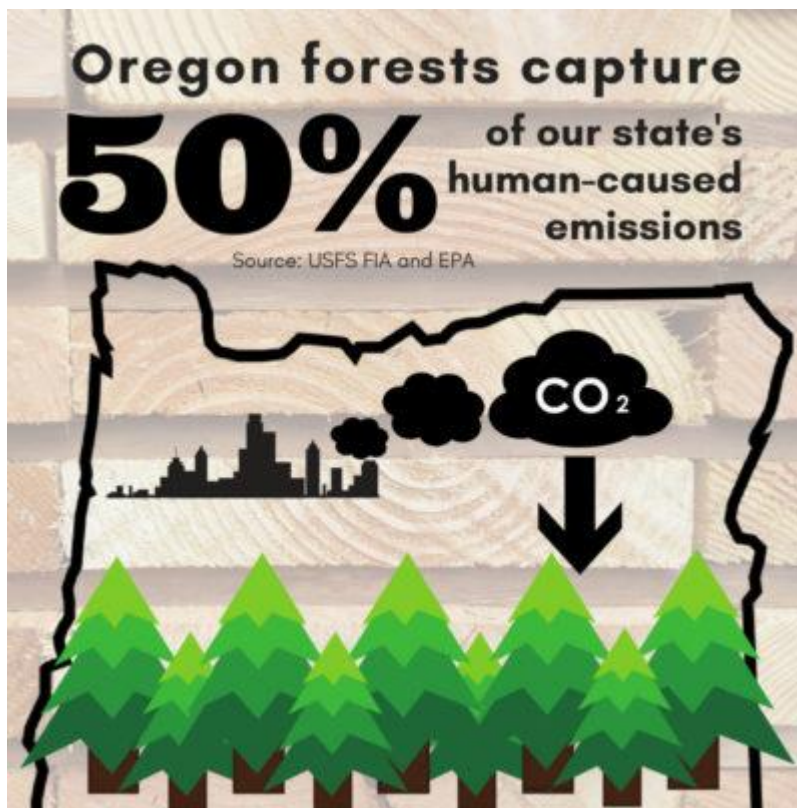
**The following is a guest contribution from Sara Duncan, Public Affairs Manager for Oregon Forest and Industries Council.*

Imagine you’re a university professor who just finished writing a research paper claiming timber harvest is the leading source of carbon emission in Oregon. You print off your final *paper* copy, seal up the *paper* journal submission envelope, and put the envelope in the mail so it can make its way to the publisher in a truck that burns fossil fuels as it trundles across the country to its destination. You’re about to climb into your 2011 Prius to take a much-needed vacation to Yellowstone National Park, but before you shut down your computer (that runs on electricity produced by burning fossil fuels) you decide to calculate your trip’s carbon footprint. It turns out that even in your fuel-efficient vehicle, driving the 3,316 round-trip miles to Yellowstone produces 0.61 tons of carbon dioxide! The good news, though, is that you only need to plant five trees before you leave because in five years those trees will have offset all the carbon emissions from your trip. When those five trees have reached age 40, they will have sequestered approximately 5 tons of carbon dioxide. If those were five Douglas-fir trees, they will have sequestered 69.5 tons of carbon dioxide by age 100! As you climb into your car, you have a nagging sensation in the back of your mind about the paper you just submitted. You feel like you forgot something in your calculations, but you just can’t seem to put your finger on it...

In January 2018, Oregon State University College of Forestry professor Dr. Beverly E. Law and others (Law et al. 2018) published an article in the Proceedings of the National Academy of Sciences (PNAS) claiming timber harvest is the leading source of carbon emission in Oregon. Though the underlying data are not wrong, the researchers manipulate those data in a manner clearly designed to produce a contrived outcome. Because the assumptions are entirely untethered from reality, the paper is unusable in carbon policy conversations in Oregon.

There are a host of problems with the paper ([click here](#) for the top five mistakes) but the paper has one error so enormous you could drive a carbon-packed log truck through it: they completely ignored the fact that the forest sector replants after harvest. That's like trying to convince Oregonians we're using up all the water in the reservoir and ignoring the fact that it rains.

According to the most recent USFS Forest Inventory and Analysis data, Oregon's forests are growing twice as much wood annually than is harvested – in fact, since 1953, the entire U.S.



annual net growth has exceeded annual harvest and the total volume of growing stock on U.S. timberlands has increased by 60% (Oswalt et al 2018). More than 40 million tree seedlings are hand-planted in Oregon every year. Not only is reforestation the right thing to do and the only way to guarantee a sustainable, reliable source of timber, but it is also the law in Oregon. Reforestation is one of the many things required by the Oregon Forest Practices Act (FPA). The FPA is first-in-the-nation legislation to regulate forest management and to formalize a way to incorporate best practices and evolving science into an adaptive regulatory framework. It was landmark legislation in

1971 and remains current today, with nearly 40 revisions since then. The FPA incorporates more than 45 years of science to safeguard water, fish and wildlife habitat, soil and air. Not only does the FPA require reforestation following harvest, it also requires that within six years those new seedlings (more than 200 per acre) are thriving and outgrowing competing grass and brush on their own.

Forest carbon stock and flux data sourced from USFS FIA data (2001-2010) and emissions data sourced from Inventory of US Greenhouse Gas Emissions and Sinks (2015).

Roughly 50 percent of the dry weight of wood is carbon, and that carbon remains locked in wood products produced from Oregon's forests for the entire life of those products, long after those reforested acres grow into healthy, lush forests. In fact, because one cubic meter of wood stores nearly a metric ton of carbon dioxide, a new eight-story condominium building currently being constructed in Portland (called Carbon12) with extensive use of mass timber products, will offset 577 metric tons of carbon dioxide emissions from going into the atmosphere. That's equivalent to keeping 169 cars off the road for a year — with one building. The newly completed Oregon headquarters of First Tech Credit Union in Hillsboro is the largest known U.S. building to date that uses cross-laminated timber, or CLT, for flooring, and glulam posts and beams. It is five stories high and has 156,000 square feet of office space. U.S. and Canada's forests can grow this much wood in 2 minutes! The building stores 530 metric tons of carbon dioxide and avoids 1,130 metric tons of carbon dioxide. This is equivalent to taking 317 cars off the road for a year and saves enough energy to operate 141 homes for a year! Find out the carbon benefits of your wood home based on square footage or board feet associated with construction using this carbon calculator.

Wood is the ultimate green building material because it is the only major building material that stores carbon. It's renewable, recyclable, and in Oregon, it's sustainably and locally produced. Wood produced from Oregon forestland regulated by the state's forest protection law qualifies as responsibly sourced under the internationally recognized American Society of Testing Materials standard, and therefore can count toward the Leadership in Energy & Environmental Design (LEED) credit for wood use in sustainable building projects. New houses are built every day in Oregon and across the United States. If we were to reduce the state's wood production, we only ensure that developers turn to wood from other jurisdictions with more lenient environmental protections than we have in Oregon. Or worse, that we might turn to less climate-friendly alternatives to wood.

Setting aside the fact that not replanting is illegal in Oregon and therefore the Law et al. 2018 scientific model is unrealistic at best, the researchers also cast aside the permanent benefits of using wood over alternative building products, citing a news article (not a peer-reviewed scientific article) that claims modern wood buildings only last a few decades. Continuing in the "alternate universe" theme, the researchers further claim that carbon emissions from wildfire were lower than carbon emissions from timber production. In order to arrive at that conclusion, the publication used outdated fire data and omitted the Biscuit Fire as an outlier, despite more recent publications concluding that fires of that magnitude will be increasingly common in the future due to climate change (Jain, Wang & Flannigan 2017).

Understandably, the publication elicited a lot of head shaking, which enticed Dave Atkins, retired USFS forest ecologist and president of the online news outlet Treesource to take a deep dive into the details of the author's assumptions. Atkins interviewed better experts than evidently participated in the PNAS peer-review process and wrote an extensive rebuttal piece that sheds light on the significant flaws in the publication.

Wood products come from trees. And there's no better place in the world to grow (and re-grow) trees than Oregon. A healthy wood products market generated by local, sustainable forest management practices incentivizes good forest practices, maintains the value of forestland, and keeps forests as forests in Oregon. Considering its positive contribution to climate change, OFIC

looks forward to working with state lawmakers on finding ways to encourage the use of more Oregon wood, not less. /Sara Duncan

AFRC Letter: Marbled Murrelet Plan Alternative F ‘Not Reasonable’

In a June letter to Washington Commissioner of Public Lands Hilary Franz and members of the Board of Natural Resources (BNR), AFRC formally requested that “Alternative F” for the Marbled Murrelet Long-Term Conservation Strategy (LTCS) in Washington State be dropped from further consideration. AFRC first raised this with the BNR in testimony at the April 16 meeting. If dropped, tens of thousands of acres of DNR Trust lands would be immediately available for sustainable management and timber production.

In May, Commissioner Franz and BNR members received a letter from the Washington Forest Law Center (WFLC) claiming the Washington Department of Natural Resources (DNR) is prohibited from commencing “any timber sale on any lands that could be included within any of the LTCS alternatives that DNR is currently considering...” WFLC argues this includes lands within Alternative F, the extreme outlier of the available alternatives before the Board.

There are currently eight alternatives under consideration for the LTCS. The acres of murrelet specific conservation in Alternatives A through E range between 10,000 and 57,000 acres, a difference of 47,000 acres. Alternative F goes way beyond that, adding 94,000 additional acres of “murrelet specific conservation” (for a total of 151,000 acres). In other words, Alternative F sets aside three times the acres of even the most restrictive other alternative, confirming its position as an extreme outlier.

In the letter, AFRC points out that the law only restricts action on acres included within “reasonable” alternatives; Alternative F would require DNR to violate its fiduciary and legal obligations and thus by definition is not reasonable; and should be immediately dropped from consideration. You can read the full letter [here](#). AFRC is hopeful the Board will take swift action to drop Alternative F, focus limited agency resources on the most likely alternatives, and release thousands of acres for management that will produce revenue and jobs. /Travis Joseph

Commissioner Franz Hosts Virginia Ridge Field Trip

On July 16, Washington Commissioner of Public Lands Hilary Franz and DNR staff hosted a field trip to the proposed Virginia Ridge forest improvement treatment (FIT) timber sale outside of Winthrop, Washington. The field trip followed a May 21 community meeting in Winthrop hosted by DNR and a recent decision by Commissioner Franz to modify the proposed 735-acre Virginia Ridge timber sale in response to some concerns expressed by the public. Tour participants included AFRC staff, Russ Pfeiffer-Hoyt, Washington State School Directors Association, Okanogan County Commissioner Andy Hover, the manager of Sun Mountain Lodge, and representatives from local and statewide environmental organizations.

The original Virginia Ridge timber sale sought to leave between 21-30 trees per acre to restore the area to a more natural condition, reduce the risk of wildfire, and generate revenue for forest health treatments and the beneficiaries. The project was met with some local opposition,

including the Washington Forest Law Center's Peter Goldman, who owns a second home in the valley and also attended the field trip.

The field trip included visits to a recent forest health project on a wildlife area managed by the Washington Department of Fish and Wildlife, an adjacent Forest Service timber sale on the Okanogan-Wenatchee National Forest, and interior and exterior views of the Virginia Ridge project area. While consensus exists on the need for treating these overstocked stands, Mr. Goldman and others expressed concerns about the likely aesthetics of the area post logging.

DNR staff did a good job focusing on the need for the project, their ability to carefully implement logging treatments, the economics of the sale and managing trust lands. AFRC staff and the beneficiary representatives reminded other participants about DNR's fiduciary mandate and the economics of the forest products industry.

DNR is currently considering modifying the thinning project to leave an average of 40 trees per acre, which may still be met with opposition from a small, but vocal minority. However, there is a heightened awareness about the risk wildfires pose and the need to reduce fuel loads in the area following the record 2014 and 2015 fire years in central Washington among the public.

AFRC appreciated the opportunity to participate in the tour and will continue to advocate for the most effective project to reduce fuel loads and generate revenue for the beneficiaries, which can be accomplished in a manner that maintains the unique character of the area. The project has also been supported by Healthy Forests, Healthy Communities, which organized individual letters of support ahead of Commissioner Franz's decision to temporarily pull back the project.
/Heath Heikkila

AFRC Meets With Region 1 Forests

Last month, AFRC staff and members met with four National Forests in Region 1 to review timber sale programs for the remainder of Fiscal Year 2018 and the next five years. Discussion points included staffing, budgets, use of the Good Neighbor Authority and Farm Bill categorical exclusion tools, litigation status on each Forest and increasing the pace and scale.

The Beaverhead-Deerlodge National Forest meeting took place on June 20 and was the first meeting with this Forest and Supervisor Melany Glossa. New AFRC member Sun Mountain Lumber depends on this Forest and its long-term productivity. As the Forest has struggled with the long-term effects of a mountain pine beetle infestation, most of the projects have focused on removing dead and dying lodge pole pine. The Forest is currently working on the Little Hogback-Meyers, a large fire salvage project. This year's timber target is 26 million board feet (mmbf), but in coming years will ramp up to 34 mmbf.

The Idaho Panhandle National Forest meeting on June 27 examined the results of implemented projects and provided a forum to discuss strategies to improve results. The group visited the Red Beauty and Fern Hardy projects. Discussion topics included silvicultural prescriptions, logging systems, slash prescriptions and results, soil and water issues, and the value of having collaboratives participate in project decisions. This year's timber target is 59 mmbf, but the Forest intends to steadily ramp up each year to produce 95 mmbf by 2022.

The Kootenai National Forest meeting on June 28 looked at two developing projects. The first project, the Forest-wide Young Growth project, will cover 400,000 acres. The Forest intends to go back to all previously treated areas that are now in plantations and do a thinning over the course of many years, which could be put into a long-term stewardship contract lasting 10-20 years. This is a very creative way to both increase pace and scale of management on the Forest and get the needed thinning done to improve forest health. The second stop was the West Fork burn, where the Forest is doing a good job of examining the harvest of dead and dying trees. There are two planned timber sales from this burned area, West Pipe and Pipe Bull, totaling about 28 mmbf.

The Lolo National Forest meeting on June 29 toured two projects - the Red Bull project and the Sunrise fire salvage area. The Red Bull planning area covers nearly 90,000 acres and has the potential to generate as much as 200 mmbf or more of timber. The group discussed silvicultural needs of the planning area and how many acres could be mechanically treated, roads issues, and endangered species needs including Bull Trout, Lynx, and Grizzly Bear. AFRC and our members are asking the Forest to put as many acres as possible into the planning area for treatment and not limit restoration and management opportunities.

The second stop was the Sunrise fire salvage. There will be two salvage sales from this burned area totaling 26 mmbf. The Forest has done well prioritizing units in areas where the fire burned the hottest and standing volumes were the heaviest. AFRC thanks Idaho Forest Group for leading the discussion, coordinating transportation and providing lunch.

In addition to these meetings, the Regional Office sent out this [chart](#) updating the status of the fire salvage efforts throughout the Region. AFRC would like to thank the Region and the individual Forests for their hard work in bringing these salvage sales to the market. */Tom Partin*

Northwest Forest Plan Science Synthesis

On June 26, The U.S Forest Service Pacific Northwest and Pacific Southwest Research Stations published a [science synthesis](#) aimed at providing a scientific foundation for land management of the Northwest Forest Plan (NWFP) area. The NWFP covers 24 million acres spreading over 17 national forests. The report focused on relevant scientific information published since the inception of the NWFP and considered more than 2,000 peer-reviewed publications. In June, the agency facilitated a forum to share the key findings of the synthesis with interested members of the public.

The 2012 Planning Rule requires the use of the best available science to inform decisions. The synthesis was prepared as the first step to meeting this requirement and considered topics such as aquatic ecosystem management, wildlife management, and socio-economic well-being. These topics and the synthesis were based on questions submitted by Forest Service land managers. The questions were pared down to 73 priority issues after review by the Science Synthesis team. Most questions revolved around the biological sciences with a few focused on the socio-economic realm. Disappointingly, none inquired about the relevant literature on sustainable timber management. Regardless, there were portions of the 1,022-page synthesis document that touched upon the science surrounding sustainable timber management.

Below are a few of the relevant scientific conclusions regarding this topic taken from Chapter 12, titled: *Integrating Ecological and Social Science to Inform Land Management in the Area of the Northwest Forest Plan*.

“Timber as a byproduct of thinning in plantations and restoration in dry older forests is compatible with several conservation goals. However, such thinning cannot be sustained, because in 10 to 20 years most of the plantations will have been thinned once, and most of them in the moist provinces will become too old to be treated again.”

“Likewise, the thinning and restoration of resilience in fire-prone older forests may not produce a sustainable supply of wood as restoration eventually shifts from mechanical removal of understory trees to using wildfire and prescribed fire to maintain resilience.”

“There is no new science that specifically indicates that timber management using retention silviculture in forests over 80 years old in the matrix is inconsistent with the original goals of the NWFP.”

The realities about how sustainable timber management are of importance in the context of certain societal needs are outlined in Chapter 8, titled: *Socioeconomic Well-Being and Forest Management in Northwest Forest Plan-Area Communities*. The synthesis concludes that ***“consumption of wood products in the United States has risen in recent decades. U.S. lumber production is projected to increase through 2040.”*** With the obvious growing demand for timber products in the United States now and for the next several decades, how the Forest Service considers the science behind sustainable timber management during the plan revisions for the 17 national forests in the NWFP area will be critical to meeting this demand. /*Andy Geissler*

Justice Kennedy Waves Goodbye

In somewhat of a surprise, Supreme Court Justice Anthony Kennedy [announced](#) his retirement on June 27, the last day of the Supreme Court’s Term. In his [retirement letter](#) to the president, Justice Kennedy stated that “[f]or a member of the legal profession it is the highest of honors to serve on this Court.” He expressed gratitude for “having had the privilege to seek in each case how best to know, interpret, and defend the Constitution and the laws that must always conform to its mandates and promises.” The Supreme Court released [statements](#) from the other Justices regarding Justice Kennedy’s retirement.

Kennedy is most known for decisions on Constitutional issues, including joining the plurality opinion in [Planned Parenthood v. Casey](#) (1991) which upheld [Roe v. Wade](#) (1973), as well as writing opinions in four cases ([Romer v. Evans](#) (1996), [Lawrence v. Texas](#) (2003), [United States v. Windsor](#) (2013), and [Obergefell v. Hodges](#) (2015) which recognized and expanded LGBT rights. Since Kennedy often joined with more-liberal justices on many of these cases, much of the [news coverage](#) has focused on how his departure will affect the Court on these issues.

Kennedy has been [described](#) as “probably the most misunderstood member of the court. He’s frequently described as a swing vote, but it is probably more accurate to say he is heterodox.” That is, “Kennedy has divergent views that tend to be strongly held.” On environmental and

administrative law issues, Kennedy did not write many well-known opinions, but his votes tended to be more in line with the more-conservative members of the Court. He joined with these justices in a number of leading cases, including [National Association of Home Builders v. Defenders of Wildlife](#) (2007) (ESA doesn't apply where there is no discretion); [Winter v. NRDC](#) (2008) (no injunction without likely irreparable harm); [Summers v. Earth Island Institute](#) (2009) (standing must be shown at the project level); and [Monsanto Co. v. Geertson Seed Farms](#) (2010) (no automatic injunction for NEPA violations).

Kennedy joined the four more-liberal justices in [Massachusetts v. EPA](#) which held that carbon dioxide is a "pollutant" that must be regulated under the Clean Air Act, and he attempted to find a middle ground on Waters of the United States in the 2006 [Rapanos](#) case, authoring a [solo opinion](#) that ended up being controlling.

Kennedy was nominated by President Reagan in 1987 and was the last Reagan appointee on the Court (the others were Scalia, O'Connor, and Rehnquist). The Justice next in seniority is Clarence Thomas, appointed by President George H.W. Bush in 1991. */Lawson Fite*

Kavanaugh Is Called Up

President Trump has nominated D.C. Circuit Judge [Brett Kavanaugh](#) to fill the vacancy created by Justice Kennedy. Kavanaugh was nominated to the D.C. Circuit in 2003 by President George W. Bush. In his time on the Circuit, Judge Kavanaugh has had the opportunity to rule on several cases of interest. He wrote the D.C. Circuit opinion in AFRC's northern spotted owl critical habitat case, [Carpenters Industrial Council v. Zinke](#), reversing the district court's conclusion that AFRC lacked standing to challenge designation of 9.5 million acres of federal and state lands as critical habitat. ([April 2017 AFRC News](#)). He also wrote the opinion in a 2011 [case](#) vacating the critical habitat designation for San Diego fairy shrimp. Notably, the opinion reminds the government that "Deference is not abdication." *Politico* published a comprehensive [summary](#) of Kavanaugh's rulings and statements.

From 2003-2006, Kavanaugh was Assistant to the President and Staff Secretary to the President under George W. Bush. He previously served as Associate Counsel and then Senior Associate Counsel to the President. From 1994 to 1997 and for a period in 1998, Judge Kavanaugh was Associate Counsel in the Office of Independent Counsel Kenneth W. Starr and was one of the authors of the Starr Report.

The Supreme Court's 2018 Term begins October 1, with argument on the [gopher frog critical habitat case](#). It is not yet clear whether Kavanaugh, if confirmed, will be approved in time to hear that case. */Lawson Fite*