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## ESA Breakthrough: Supreme Court Ruling Requires Critical Habitat to Be “Habitat”

On November 27, in a unanimous 8-0 [opinion](#) authored by Chief Justice Roberts, the Supreme Court reversed a decision upholding the designation of timberland in Louisiana as unoccupied “critical habitat” for the dusky gopher frog. The economic impact of the designation was substantial, limiting the development options in a rapidly growing area of Louisiana and lowering the land value by over \$30 million. AFRC and the National Association of Home Builders (NAHB) partnered together to file *amicus* briefs with the Court at both the [petition](#) and [merits](#) stages. See [October Newsletter](#).

The landowners and Weyerhaeuser Company, which holds a long-term timber lease on the property, brought suit. Both the district court and the Fifth Circuit ruled in favor of the U.S. Fish & Wildlife Service (FWS). The Supreme Court granted Weyerhaeuser’s petition for *certiorari*, agreeing to address two questions: (1) whether “critical habitat” under the Endangered Species

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Act (ESA) must also be “habitat”; and (2) whether a federal court may review FWS’s decision not to exclude areas from critical habitat designation because of significant economic impacts. The landowners filed a separate [petition](#) raising Constitutional issues but the Supreme Court declined to address them.

On the first question, the Supreme Court determined that an area is eligible for designation as critical habitat only if it is habitat for the species. Justice Roberts explained that “[a]ccording to the ordinary understanding of how adjectives work, ‘critical habitat’ must also be ‘habitat.’ Adjectives modify nouns — they pick out a subset of a category that possesses a certain quality. It follows that ‘critical habitat’ is the subset of ‘habitat’ that is ‘critical’ to the conservation of an endangered species.” The court also looked to the statutory structure and context for support. Section 4 of the ESA requires that FWS, when listing a species, to also

“designate any *habitat of such species* which is then considered to be critical habitat.”

The Supreme Court did not decide whether the Louisiana timberlands are in fact habitat, as the lower courts had not addressed the issue and there is no explicit statutory definition. FWS claims this unoccupied area is “habitat” within the meaning of the ESA, and the Court recognized habitat includes areas that are currently unoccupied. Thus, the Court remanded the case to the Fifth Circuit to consider whether this area is “habitat.”

The Supreme Court also ruled positively on the second issue, holding that courts may review a decision not to exclude areas from a critical habitat designation despite economic impacts. Under the ESA, the Secretary is required to “tak[e] into consideration the economic impact of specifying any particular area as critical habitat” and may “exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat.” The AFRC/NAHB *amicus* briefs highlighted the FWS’ dismissal of economic impacts of vast critical habitat designations, such as the 9.5 million acres designated for northern spotted owl which include over 1.2 million *unoccupied* acres in Matrix lands.

The Fifth Circuit held that a decision not to exclude a certain area from critical habitat is unreviewable, following the Ninth Circuit and several recent district court decisions. On that issue, the Supreme Court highlighted that there is a strong presumption favoring judicial review of administrative actions. Chief Justice Roberts explained that “Section 4(b)(2) requires the Secretary to consider economic impacts and relative benefits before deciding whether to exclude an area from critical habitat or to proceed with designation. The statute is, therefore, not ‘drawn so that a court would have no meaningful standard against which to judge the [Secretary’s] exercise of [his] discretion’ not to exclude.” The Court also relied on a statement in a 1997 decision, [Bennett v. Spear](#), relating to Klamath suckerfish, which said exclusion decisions were reviewable for “abuse of discretion.” The issue of whether FWS’s decision not to exclude areas from critical habitat designation was arbitrary and capricious has also been remanded to the Fifth Circuit for further consideration.

This landmark decision will likely allow further challenges of critical habitat designations, particularly where the designation is in unoccupied area or would cause significant economic harm. AFRC appreciates the work of the NAHB to partner on the *amicus* briefs in this case.  
/AFRC Legal Team

## **Marbled Murrelet LTCS Update**

In late October, the Washington Department of Natural Resources (DNR) and FWS granted a 30-day extension for the comment period on the Marbled Murrelet Long Term Conservation Strategy (LTCS). AFRC, beneficiaries, and state legislators requested an extension to the original 60-day comment period, which was set to close on November 6. The comment period now ends at 5:00 p.m. on December 6.

DNR recently released an updated [Draft Financial Analysis](#) for the Sustainable Harvest Calculation and a [Losses and Gains Analysis](#) prepared in response to House Bill 2285, which formalized Commissioner Franz’s “Solutions Table” effort. AFRC has concerns with both documents, including the lack of information provided about local impacts to jobs and revenues

to beneficiaries. Both analyses also paint an overly rosy picture by limiting harvest and revenue projections to the first decade, even though DNR concedes that there will be reductions in future decades.

Neither document addresses concerns that the Revised Draft Environmental Impact Statement (RDEIS) does not disclose information about how the proposed murrelet set asides will affect trust revenues to junior taxing districts that support local essential services – considerations specifically referenced in State Environmental Policy Act regulations. There are also similar requirements for FWS under the National Environmental Policy Act (NEPA). Thus far, DNR has not responded to requests to provide this type of localized economic and fiscal impact information.

On November 27, AFRC staff and Rod Fleck, Staff Attorney for the City of Forks, hosted a webinar on the LTCS, which highlighted an analysis of areas proposed for set aside under DNR's preferred alternative (Alternative H), the implications for the beneficiaries, and the type of information beneficiaries may want to include in their comments. A recording of the webinar can be viewed [HERE](#).

AFRC staff prepared a [one-page overview](#) of the concerns with the LTCS and a [key issue summary](#) for beneficiaries and others to include in their comments. AFRC members are strongly encouraged to submit comments on the plan – either through DNR's public comment [portal](#), or through a [comment campaign](#) by Healthy Forests, Healthy Communities. Again, the deadline to comments is December 6. /Heath Heikkila

## **Washington, DC and Election Updates**

Congress recently returned to Washington following the mid-term elections where Democrats have seized control of the U.S. House, with a pickup of up to 40 seats, while Republicans have extended their Senate majority to 53 with a net gain of two seats. The new Congress will not convene until January, but members of this Congress must confront unfinished legislative business during a lame duck session and select leaders of party caucuses and legislative committees for the next Congress.

Lame Duck Session Congress is facing pressing deadlines on key legislative business, including averting a potential partial government shutdown and reauthorizing the Farm Bill, the National Flood Insurance Program, and the Land and Water Conservation Fund. Congress previously passed five of the annual appropriations bills that fund the federal government, but many federal agencies – including the U.S. Forest Service and Department of the Interior – are currently operating under a Continuing Resolution (CR) that runs through December 6.

There are concerns about a potential government shutdown due to renewed demands by President Trump that Congress include significant funding for a border wall. The March Omnibus Bill included \$1.3 billion for enhanced border barriers, but the President is pressing for an additional \$5 billion in funding. The current situation at the U.S.-Mexico border makes the negotiations more volatile. Congress will likely pass a two-week CR to give itself additional time and set the stage for a massive end-of-the-year omnibus bill if an agreement can be reached between Congressional Republicans, Democrats, and the President.

Farm Bill and California Wildfires The recent tragic wildfires in California have increased the attention on forest management issues and efforts to include additional federal forest management reforms in the Farm Bill. On November 20, the White House issued a [press statement](#) urging Congressional action to improve forest management and to help prevent wildfires through the Farm Bill. Interior Secretary Ryan Zinke and Agriculture Secretary Sonny Perdue have also taken an active role advocating for key provisions from the House Farm Bill, including those dealing with salvage and litigation relief.

Party leaders in both chambers are now engaged in negotiations over forest management provisions, which was one of the final sticking points facing Farm Bill negotiators. Democratic negotiators, including Sen. Debbie Stabenow (MI), the Ranking Member of the Senate Agriculture Committee, have been opposed to including any additional, meaningful forest management reforms in the Farm Bill. Sen. Stabenow recently suggested that Republicans' demands for forest management provisions could "kill" the entire bill. Democrats from the Western states affected by recent wildfires have largely avoided the debate.

On November 29, Farm Bill negotiators announced that they had reached agreement, but the bill will not be released until it is scored by the Congressional Budget Office. Although we have not seen the final agreement, we do not expect it to include significant new forest management provisions.

Election results In the Northwest, only one House seat will flip – Washington's 8<sup>th</sup> Congressional District. This district includes the eastern Seattle area suburbs, extends across the Cascades to include Wenatchee and Chelan, and has been in Republican hands since it was created in 1990. The seat was won by Democrat Kim Schrier, who defeated Republican Dino Rossi in an open seat race. Schrier was a Pediatrician prior to running for Congress.

Republicans held onto their other three seats in Washington, including the hotly contested Spokane-based 5<sup>th</sup> District held by Rep. Cathy McMorris Rodgers and the Vancouver-based 3<sup>rd</sup> District held by Jaime Herrera Beutler. Both have been strong supporters of active forest management.

Republicans did not lose seats in Northern California but did experience significant losses in Southern California. In fact, Democrats picked up four seats in Orange County alone, which now will not have any Republicans in Congress.

All of Oregon's incumbent House members were reelected. Idaho elected Republican Candidate Russ Fulcher over Democratic candidate McNeil to fill Idaho's 1<sup>st</sup> Congressional District. Congressman Mike Simpson easily won reelection to represent Idaho's 2<sup>nd</sup> Congressional District.

U.S. Senate Sen. Jon Tester (D-MT) survived another election challenge in a state that has leaned Republican in recent federal elections. Sen. Maria Cantwell (D-WA) was reelected and will have to choose between her current ranking member position on the Energy and Natural Resources Committee and the same position on the Commerce, Science and Transportation Committee due to the loss of Sen. Bill Nelson in Florida.

Committee Leadership Rep. Peter DeFazio (D-OR) will assume the chairmanship of the House Transportation and Infrastructure Committee. Rep. Greg Walden (R-OR) will transition from Chair of the powerful House Energy and Commerce Committee to its Ranking Member. Rep. Adam Smith (D-WA) will assume the chairmanship of the House Armed Services Committee. Sen. Ron Wyden (D-OR) will continue serving as Ranking Member of the Senate Finance Committee. Sen. Mike Crapo (R-ID) was on a path to assume the Chairmanship of the Finance Committee but will likely stay on as Chairman of the Senate Banking Committee if Sen. Chuck Grassley (R-IA) chooses to swap his chairmanship of the Senate Judiciary Committee for the Senate Finance Committee.

If Sen. Cantwell chooses to be the top Democrat on the Commerce Committee, it will create an interesting dilemma for party leaders, as Sen. Joe Manchin (D-WV) may be able to assume the top spot on the Energy and Natural Resources Committee. There are reports that party leaders are urging Sen. Stabenow to give up her ranking member position on the Agriculture Committee and take the top spot on the Energy and Natural Resources Committee instead of Sen. Manchin.

There will also be shifts to committee assignments as committee ratios change and Democratic members accept positions on more coveted committees, while some Republicans may lose their seats on those same committees.

Washington The carbon tax initiative (I-1631) was roundly defeated. The initiative would have directed 15% of the carbon revenue into a “Clean Water and Healthy Forests” fund overseen by an unelected board. We expect carbon legislation to receive significant attention in the 2019 legislative session. While recounts are taking place in several close races, Democrats are likely to gain three seats in the Senate and about double that number in the House.

Oregon Governor Kate Brown defeated Republican challenger Knute Buehler. Oregon Democrats will also have supermajorities in both chambers of the legislature, which will have implications for tax and environmental policies. */Heath Heikkila*

## **Moose Creek Project Upheld in Big Farm Bill Win**

On November 19, Judge Molloy of the United States District Court, District of Montana, issued a strong decision upholding the Moose Creek Vegetation Management Project (Moose Creek Project) on the Helena-Lewis and Clark National Forest. This is the fourth significant win in a case involving the Farm Bill in the last year.

The [Moose Creek Project](#) is designed to maintain and restore the functions of about 2,200 acres northeast of White Sulphur Springs, Montana, which has been adversely affected by a number of insect and disease effects. The project area is in need of treatment because it suffers from severe infestations of spruce budworm and mountain pine beetle. The project will improve the health and vigor of live trees, recover value of dead and dying trees, and contribute to local timber supply. It will also reduce fire risk in areas adjacent to the project and improve watershed conditions. The project treats part of the wildland-urban interface identified in Meagher County’s Community Wildfire Protection Plan as an important area to treat for fire resilience and public safety.

The project is part of a Farm Bill landscape [designated](#) by the Chief of the Forest Service at the [request](#) of Montana Governor Steve Bullock. The Governor's request included nearly 5 million acres across Montana's National Forests, making the claims against the landscape designation highly important to the future of forest restoration across the state. Recognizing these implications, AFRC intervened in the case on behalf of Montana Logging Association, Meagher County, and the Montana Wood Products Association. The State of Montana also filed an *amicus* brief in support of the project.

Judge Molloy rejected all the claims brought against the Moose Creek Project and the landscape designated under the Farm Bill. First, relying on a previous decision, he determined that designation of the landscape does not require a separate NEPA analysis. Second, he rejected the assertion that cumulative effects preclude the use of a CE. Significantly, Judge Molloy followed the decision in the [Lostine case](#) in ruling that the Farm Bill Categorical Exclusion (CE) does not require the Forest Service to apply its regulatory test for "extraordinary circumstances" when using the CE. This increases the likelihood that the Farm Bill can be used to expedite needed treatments throughout the country.

The court also denied plaintiffs' claims that the Forest Service did not use the best scientific information concerning fire ecology and restoring connectivity of wildlife habitat and did not demonstrate that it designed treatments in a way to maximize the retention of old growth and/or large trees. The latter decision follows the [statutory language](#) in the Farm Bill, which directs implementation of projects in a manner that "maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease." This is similar to the flexible language on old growth in [section 102 of the Healthy Forests Restoration Act](#). Plaintiffs claimed here that the project violated the Farm Bill because there is treatment in stands that contain some older trees. Those stands however, are significantly impacted by insects and disease. The court ruled "[u]ltimately, Plaintiffs' insistence that no old growth can be removed under HFRA is not consistent with the statute and their old-growth challenge on fails."

This decision is an important step forward in implementing the Farm Bill, though it is likely the Ninth Circuit will weigh in soon, beginning with the Sunny South appeal, which will be argued on December 18.

AFRC appreciates the support of our partners in this case, including many levels of government, and the assistance of local counsel Trent Baker of MacDonald, Datsopolous, and Lind. */Lawson Fite*

## **Ninth Circuit Affirms Denial of Preliminary Injunction for Pioneer Projects**

Last year, Chief Judge B. Lynn Winmill, United States District Court Judge, District of Idaho, denied environmental groups' attempt to halt two post-fire management projects on the 2016 Pioneer Fire, Pioneer North and Pioneer South, located on the Boise National Forest. The Pioneer Fire burned nearly 190,000 acres after igniting north of Idaho City on July 18, 2016, affecting over 20 drainages within the Idaho City, Lowman, and Emmett Ranger Districts on the national forest. See [November 2017 newsletter](#). AFRC represented Boise County and the Boise

Forest Coalition as intervenors in the case. The Boise Forest Coalition is a broad-based group of stakeholders that came together to seek common ground toward forest management, and includes representatives of conservation groups, industry, local governments, and others concerned with responsible forest management.

Plaintiffs appealed the decision to the Ninth Circuit. On November 7, the Ninth Circuit held oral argument on their appeal. The Ninth Circuit panel included Judge Michelle Friedland, Judge Margaret McKeown, and Judge Susan Bolton. Judge Bolton is a District Judge in Phoenix and who was sitting on the panel “by designation,” since the Ninth Circuit is short on Circuit judges.

On November 29, only a few weeks after oral argument, the Ninth Circuit issued an unpublished Memorandum Decision affirming the district court’s denial of the motion for a preliminary injunction, allowing operations to continue. In its 6-page opinion, the Ninth Circuit found that environmental groups have not shown a “likelihood of success or serious questions” related to their NEPA claim – i.e., the Forest Service’s decision to forego an EIS was arbitrary and capricious. The Ninth Circuit noted that “although Plaintiffs cite scientific evidence suggesting that post-fire salvage logging may impact the environment, Plaintiffs have not established – nor have they raised a substantial question as to whether – the Forest Service’s non-significance determination for these specific Projects, considered in the overall context of the fire area and in light of mitigations measures used, was arbitrary and capricious.” In addition, the Ninth Circuit concluded that environmental groups have not raised substantial questions as to their ESA claims related to bull trout and bull trout critical habitat. “Defendants considered the location of impacts from Project activities in establishing the size and location of Riparian Conservation Areas and, therefore, contrary to Plaintiffs’ contentions, did not ignore the impacts from Project activities outside those areas in any relevant sense.” Finally, environmental groups also asserted that the issuance of the ESDs violated section 7(d) of the ESA, which prohibits “irreversible or irretrievable” commitments of resources during consultation. The Ninth Circuit determined that although plaintiffs provided adequate notice with respect to their ESA section 7(d) claim, their claim fails because the Forest Service in consultation with FWS already determined that the projects were not likely to adversely affect bull trout or bull trout critical habitat. Therefore, section 7(d) did not preclude the projects from continuing.

AFRC will continue represent Boise County and the Boise Forest Coalition as this case heads back to the district court to address plaintiffs’ claims on the merits. /Sara Ghafouri

## **Federal Timber Purchasers Committee Meeting**

The Federal Timber Purchasers Committee (FTPC) met last month in Rapid City, South Dakota with Forest Service and Bureau of Land Management (BLM) national leadership. The committee meets with agency personnel twice a year to discuss issues pertinent to the timber sale program. The meeting covered topics such as Forest Products Modernization (FPM), NEPA streamlining, and agency priorities.

The Forest Service highlighted the agency’s commitment to active forest management. Both timber volume sold and acres treated to reduce hazardous fuels will serve as the two primary metrics for meeting this commitment. By this measure the Forest Service had a successful year in Fiscal Year (FY)18 as they sold 3.2 billion board feet (bbf) of their 3.4 bbf target. This

achievement represents a level that the agency has not attained in over 20 years and is noteworthy considering that the agency was selling less than 2 bbf as recently as 2003. The trend of increased outputs is projected to continue with a likely nationwide target of 3.7 bbf for FY19, and 4 bbf for FY20.

The majority of the meeting was spent discussing ideas for achieving this increased level of management with uncertain funding levels. Ongoing efforts such as the Environmental Analysis and Decision Making (EADM) and FPM, both aimed at increasing the agency's ability to deliver a program of increased active management in an efficient manner, were discussed as tools to help the agency achieve these goals. Through EADM, the agency ultimately aims to decrease costs and increase their efficiencies to achieve more on-the-ground accomplishments. A component of this effort will be a regulatory reform package to be published in the Federal Register by March 2019. The FPM effort is focused on streamlining the agency's business practices for delivering forest products, and the agency hopes to have a comprehensive strategy in place by April 2019.

The concept of "shared stewardship" was also recognized to meet the increasing management expectations on federally managed land. This includes utilization of the Good Neighbor Authority to leverage state resources to increase capacity. AFRC hopes to work with the Forest Service on getting the most out of these tools as well as accurately accounting for the agency's associated outputs to track effectiveness.

BLM reported that it accomplished its FY18 timber target in western Oregon by offering 217 million board feet (mmbf) of its 216 mmbf target. However, only 175 mmbf of these offerings successfully sold. The green timber component of the volume not sold will likely be reoffered in FY19, while the salvage component will likely remain untreated. The target for western Oregon is expected to be 242 mmbf in FY19. This rise is the beginning of a "ramp-up" that BLM hopes will culminate with the full implementation of its 2016 RMPs, which was calculated by BLM to be approximately 278 mmbf. BLM anticipates this elevated target to be successfully accomplished through sustained-yield forestry practices that include a mixture of regeneration harvest and commercial thinning. The agency also anticipates the issuance of new CEs to help meet these elevated targets. */Andy Geissler*

## **AFRC Intervenes in North Hebgen Project Litigation**

On October 30, Judge Christensen of the United States District Court, District of Montana, granted AFRC's motion to intervene on behalf of AFRC member Sun Mountain, Inc. in the North Hebgen Project litigation.

The North Hebgen Project is located on the Gallatin portion of the Custer-Gallatin National Forest and abuts the western edge of Yellowstone National Park. The project allows for 5,670 acres of commercial and non-commercial harvest and has three sales associated with the project: Teepee Stewardship, Whits Red, and Hebgen Flats. Sun Mountain is the purchaser of the Whits Red timber sale.

Plaintiffs raise four arguments in their challenge to the North Hebgen Project. First, plaintiffs allege that the project violates the Forest Plan's hiding cover standard for elk and, alternatively,

assert that the Forest Plan's hiding cover standard is arbitrary and capricious. Second, plaintiffs contend that the Forest Service violated NEPA by not preparing a full EIS for the project. Third, plaintiffs assert that the project's EA did not take a hard look at the cumulative effects and the adjacent Lonesome Wood 2 Project on old growth forests, lynx habitat, Bear Management Subunits, and Elk Analysis Units. Last, plaintiffs claim that the agencies' lack of consultation on lynx and lynx critical habitat for Amendment 51 of the Gallatin Forest Plan violates the ESA.

On June 27, the court granted plaintiffs' request for a temporary restraining order. Although the order expired on July 20, the court granted plaintiffs a preliminary injunction on August 13. The court found that plaintiffs had a fair chance of success on the merits regarding their claim that the Forest Service failed to comply with the consultation directives of the ESA.

AFRC will file its opposition to plaintiffs' motion for summary judgment in mid-December.  
*/Sara Ghafouri*

### **AFRC Intervenes in Crystal Clear Project Litigation**

On November 15, Judge Mosman, of the United States District Court, District of Oregon, granted AFRC's motion to intervene on behalf of AFRC member High Cascade, Inc., in the Crystal Clear Restoration Project (CCR Project) litigation. High Cascade is the purchaser of the Ahoy Stewardship Contract, the first sale from the CCR Project.

The CCR Project is located on the Barlow and Hood River Ranger Districts of the Mt. Hood National Forest. The project's purpose and need is to provide a sustainable supply of forest products, as directed by the Northwest Forest Plan, and address concerns related to high-intensity wildfires, specifically in the dry mixed-conifer ecosystem next to the Juniper Flats Wildland Urban Interface.

The project received multiple objections. After the objection resolution meeting, even though no resolution was reached, the Forest Service volunteered to remove 327 acres of treatment and drop 2.2 miles of temporary roads. With those modifications, the project will thin approximately 11,742 acres within the project area, and all thinning activities would apply variable-density thinning. Treatment would occur in either dry or moist mixed-conifer forest type and place a greater emphasis in areas that were identified as needed for strategic fuel treatment in the Mt. Hood Strategic Fuel Treatment Placement Plan.

Plaintiffs Bark, Cascadia Wildlands, Oregon Wild, and Wildearth Guardians did not believe that the modifications proposed by the Forest Service in response to their objections were sufficient and, elected to file suit. Plaintiffs raise three claims for relief. First, they allege that the CCR Project violates NEPA because the preparation of an EIS instead of an EA is necessary due to "significant" impacts to the environment. Plaintiffs' NEPA claim also asserts that the Forest Service failed to consider an adequate range of reasonable alternatives, failed to disclose environmental impacts, and failed to take a hard look at environmental impacts. Second, plaintiffs allege that the CCR Project violates the National Forest Management Act because the project is not in compliance with the forest-wide standards for snag density and failed to follow management guidelines for Late Successional Reserves. Third, plaintiffs claim that the CCR Project violates the Travel Management Rule because the Forest Service failed to consider or

explain how the identified road system is consistent with the Forest Plan, minimizes adverse impacts, or meets the long-term funding expectations of the Mt. Hood National Forest.

AFRC will file its opposition to plaintiffs' motion for summary judgment in early February.  
*/Sara Ghafouri*

## **AFRC Objects to Colville Forest Plan**

On November 6, AFRC submitted an objection to the Colville Revised Forest Plan and Record of Decision. The objection was based on six critical factors that could impact management on the Colville for the life of the plan. The issues included were:

1. The Forest has self-imposed a maximum diameter at breast height (dbh) limit for harvest of trees exceeding 20”.
2. Recommended road densities are arbitrary and not achievable.
3. The Revised Plan does not sufficiently address the needs of the Forest for immediate restoration.
4. The Forest should analyze the unconstrained harvest calculation and departure from even-flow to more quickly get to Long Term Sustained Yield.
5. The Revised Plan does not provide an adequate timber volume to support the local timber industry infrastructure and ensure community stability.
6. The Revised Plan improperly limits management due to budget considerations.

In total, 20 objections were received. Common themes were future timber harvest levels, the pace and scale of restoration, amount of wilderness added, and grazing issues.

The Colville's timber sale level exceeded 100 mmbf in FY18 – the highest in Region 6. One concern is that language in the Revised Plan will limit the Forest's ability to do the needed management on the landscape, especially when the Probable Wood Sale Quantity is listed at 61.8 mmbf and the Forest is currently exceeding that with its current budget. The Revised Plan should not be tied to existing budgets. Road densities are also a big concern. The Forest cannot be managed effectively if areas cannot be accessed due to road density constraints.

Resolution meetings with eligible objectors will begin in early 2019. AFRC requested to be recognized as an interested person to participate in resolution meetings relating to forest productivity, forest health, acres available for treatment, management direction regarding vegetation and wildlife, wildfire resiliency, and related issues. */Tom Partin*

## **Region 1 Salvage Success**

AFRC recently held its fall Region 1 monitoring meetings. Topics covered included updates from the Regional Office regarding direction from the Washington Office, budgets, long-term timber targets, staffing, and litigation. In FY18, the Region's timber target was 390 mmbf. The Region sold 355 mmbf or 91% of its target, the shortfall was due to some sales being sold in FY18 but could not be recorded until FY19. The FY19 target is 420 mmbf, and the Region will ramp up yearly until it hits a long-term goal of 500 mmbf. The Region currently has 246 mmbf tied up in litigation.

The forests are attempting to ramp up their timber sale programs from FY18. The Kootenai and Lolo sold larger volumes of salvage timber in FY18 and will ramp up from where they were in recent years. Current FY19-FY21 targets for each Forest include:

	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
Kootenai	71 mmbf	69 mmbf	67 mmbf
Lolo	39 mmbf	45 mmbf	51 mmbf
Idaho Panhandle	59 mmbf	86 mmbf	86 mmbf
B-D	38 mmbf	43mmbf	41 mmbf
Custer-Gallatin	23 mmbf	22 mmbf	21 mmbf
Helena-Lewis and Clark	40 mmbf	48 mmbf	55 mmbf

Following the meetings on the Kootenai and Lolo, AFRC staff and members visited salvage operations on the West Fork fire on the Kootenai, and the Sunrise Fire on the Lolo.



The picture on the left is a moderate burn on the West Fork project. The picture on the right is a logging unit at a high elevation (5,000 ft.) from the Sunrise Fire on the Lolo that was a high intensity burn.

AFRC would like to extend a special thank you to the Kootenai and Lolo for selling over 120 mmbf of salvage in FY18 that burned during the severe 2017 wildfire season. AFRC would also like to thank Forest Service Chief Vicki Christiansen for issuing Emergency Situation Determinations for the major salvage projects which allowed the sales to move forward in an expedited manner. / Tom Partin

### **History, Fire and Forestry in the Panhandle**

The [Timber Crater 6](#) fire began as a lightning strike in Crater Lake National Park on July 15. Prevailing southwest winds in this area often create a situation that moves a fire out of the park and onto the Chemult District of the Fremont-Winema National Forest. With suppression

resources already stretched, firefighters were extremely nervous that the fire would accelerate quickly.

The Chemult District, known as the “Panhandle,” is no stranger to fire or human activity. Early settlers described large ponderosa pine trees sometimes spaced as wide as 100 feet apart.

The 1988 Prophecy Fire burned in the park under a wildfire prescription and grew quickly in size burning 2,500 acres. After this incident, forward-thinking Forest Service personnel recognized the need to begin fuel reduction treatments along the park boundary to reduce the impact of prescribed wildfires leaving the park and burning onto the District. A variety of fuel reduction treatments, timber harvests, commercial thinnings and salvage activities to mitigate the impacts of the mountain pine beetle attack were implemented from the 1980s through the 1990s.



The park, Forest Service, fire managers and line officers were able to take advantage of the various treatments to manage the Timber Crater 6 fire and meet management objectives with reduced suppression costs and reduced resource damage. Focused forest management in conjunction with fuels reduction paid off. The photo at the left shows the burn severity on the park, where extremely heavy stands and dead and down fuel loads existed.

Fire managers were able to utilize effective backburns to help control the fire, which also served as effective underburns. The managed timber stand in the photo to the right was backburned during the Timber Crater 6 fire.



Timber harvest activity began in the Panhandle early in the 20<sup>th</sup> Century with extensive railroad logging transitioning to trucks in the 1940s. An estimated 600 mmbf was removed from area.



Today these stands, which grew back naturally and thrived from the management techniques applied during the latter part of the 20th century, now look like old growth. Timber stands, such as the one in the photo on the left, display variable spacing and the “clumps” and “gaps” required by many silviculture prescriptions east of the Cascades today. *Irene Jerome*

## **Member Profile: Mountain Western Log Scaling and Grading Bureau**

Mountain Western Log Scaling and Grading Bureau (Mountain Western), based in Roseburg, Oregon was formed in May 1950 as Southern Oregon Log Scaling and Grading Bureau. In 2013, the company consolidated with a sister organization and became Mountain Western. Rates and general policy are set by a Board of Directors representing log buyers and sellers, with non-voting members who are liaisons to the three log selling government agencies in Oregon. Mountain Western is proud to be truly owned by the industry – mills, landowners, and loggers.

Log scaling is, at the basic level, determining the volume and quality of logs. Scalers measure the volume of a log before it is cut into lumber or other products. Scalers also grade logs for quality. Both processes use a very specific set of rules that are uniform from location to location. These processes are done in log form at sorting yards, millpond, log deck, or similar locations. Scalers also inspect logs for defects or measure logs to determine volume. This practice is essential to timber owners, foresters, loggers, and sawmills because log volume measurements are used to help determine harvested timber volumes for their valuation. In addition, these numbers are critical in determining subscribers' inventories. Scaling professionals must have a diverse array of knowledge and understanding of timber, logging, and the physical characteristics and defects of the logs themselves.

Due to the extensive knowledge and experience that is required for log scaling, along with the commitment to professionalism and the highest quality of service, Mountain Western developed a year-long apprenticeship program. Participants range from high school graduates with extensive prior experience in the industry to professional foresters.

General Manager and CEO Paul Beck stated “We found that it’s best to start from scratch – to learn the company and our values. So, we instituted a year-long apprenticeship program. You don’t have to have specific skill sets – the two things that will make a person successful are, can you learn what we’re teaching, and do you want to?”

Paul has a long history with Mountain Western, beginning as an apprentice in Klamath Falls in 1978. In 1988, he took a log buyer position with a company in Washington and eventually became the Resource Manager for the Herbert family in Riddle, Oregon, where he spent 20 years. As part of his duties there, he became an active board member of Mountain Western and served as its board chairman from 1999 through 2001.

Although the Herbert family became very much a part of his own family, when the opportunity came to return to Mountain Western, he took it. Six years ago, Paul became the General Manager/CEO and says the company’s greatest achievement to date is that it has completely changed its culture and the way it provides services. The relationship with its union workers is built on honesty and respect. Paul believes the key to consistency for Mountain Western is its commitment and culture of professionalism, which has been rewarded as in the past six years it has doubled in size.

One of Paul's favorite projects is working with Douglas Timber Operators (DTO) every year on the Umpqua Fisheries Enhancement Derby (the Derby). The timber industry has been instrumental in sponsoring and promoting the derby event. Paul and Mountain Western, along with DTO, helped create the Derby 25 years ago as a funding mechanism for stream enhancement projects on the Umpqua River. Over the past 25 years, the Derby has raised \$2.5 million to improve aquatic habitat. The Derby is proud to be a conservation group that does not litigate but rather identifies and executes projects that work. Paul is the Chairman of the Board and also chairs the committee that runs the Derby event. Paul also serves on AFRC's Board of Directors.

When asked what the one thing he would like people to know about the industry, Paul responded, "We are the environmental stewards of this land we all love. We dearly want to protect it. Protection can no longer be defined as drawing lines on maps and saying 'Thou Shalt Not.' Protection needs to be defined as actively doing things that maintain and enhance these places that we all hold dear." After a forty-year career in the forest products industry, he says the biggest lesson he has learned is that there is no such thing as forever. Forests are dynamic, and forestry needs to reflect that. /*Asha Aiello*