



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!



December 2018

Washington, D.C. Update

Appropriations. Prior to the midterm elections, Congress had passed five of the annual appropriations bills that fund the federal government. However, some federal agencies – including the U.S. Forest Service and Department of the Interior (DOI) – have been operating under a series of Continuing Resolutions (CR), the latest of which expired on December 21. These agencies are now impacted by a partial government shutdown.

The White House and Congressional leaders spent most of early December trying to reach agreement on an Omnibus Appropriations bill to fund these agencies for the remainder of Fiscal Year 2019 (FY19). But talks broke down over President Trump’s demands for border wall funding. The impasse had Washington, D.C. again playing the political blame game following another partial government shutdown – this one during the holidays.

On December 19, the Senate passed a CR to avert a shutdown and fund these agencies at current levels through February 8, 2019. The House was expected to follow suit and pass the bill on

December 20, but House conservatives succeeded in convincing President Trump to oppose the legislation due to the lack of border wall funding. The House then proceeded to pass an alternative CR that included \$5 billion for a border wall, but that bill lacked support in the U.S. Senate. With no path to address the standoff between the House, the Senate, and the President, lawmakers adjourned for the year.

IN THIS ISSUE

- DC Update
- Pine Marten
Comments Submitted
- Seiad-Horse Project
- Idaho Shared
Stewardship
Agreement
- MM LCTS Comments
Submitted
- BLM Timber Update
- DNR Timber Update
- Region 1 Staff Update
- Waters of the United
States Rule Change
- AOL/OFRI Workforce
Seminars
- Ross Mickey Retires
- Member Profile

According to press reports, there has been little progress between Congressional leaders and President Trump over the holidays to resolve the partial government shutdown. Both sides appear to be dug in on their respective positions. In the meantime, our industry has been in frequent contact with federal agencies with the goal of avoiding any impacts to ongoing timber sales. AFRC hopes an agreement on a long-term funding package can be reached soon to avoid disruptions to the FY19 Federal timber sale programs.

AFRC will also continue advocating for the inclusion of supplemental appropriations to reimburse the Forest Service for over \$700 million it “borrowed” to pay for wildfire suppression

last summer when it exhausted, yet again, Congressionally appropriated funds. The fire borrowing “fix” the Congress adopted earlier this year does not take effect until 2020. Budget accounts tapped for fire borrowing included the K-V and salvage trust funds, which the agency uses to support timber sales. AFRC expects these accounts to be repaid when Congress reaches a funding agreement. However, fire borrowing continues to create serious uncertainty for the Forest Service as it plans its FY19 program.

Executive Order on Wildfire Management. On Friday, December 21 President Trump signed a long-anticipated [Executive Order \(EO\)](#) "promoting the active management of America's forests, rangelands, and other federal lands to improve conditions and reduce wildfire risks." The EO sets acreage targets for forest management treatments; promotes greater coordination with states, tribes, and other landowners; encourages the agencies to take advantage of all available authorities - including Categorical Exclusions - to streamline forest management activities; and to review ESA consultation procedures, land management designations and other policies that limit forest management activities. The EO also recognizes the importance of the forest products industry and markets for forest management projects. Finally, and importantly, the EO sets a national timber harvest target of 600 mmbf for the Department of the Interior (DOI) and 3.8 bbf for the Forest Service.

AFRC will work with Administration officials at DOI and the Forest Service on agency *actions* to implement the goals outlined in the EO, including the NEPA and ESA regulation changes already being developed by the agencies.

LWCF and Omnibus Public Lands Bill. Committee leaders in the House and Senate also spent the last month negotiating a proposal to permanently reauthorize the Land and Water Conservation Fund (LWCF) to be included in a massive public lands bill. On December 19, Senators Lisa Murkowski (R-AK) and other proponents of the [680-page package](#) frantically tried to attach it to the CR or secure a stand-alone vote on the measure. Their efforts were stymied by objections from a handful of Senators, including Sen. Mike Lee (R-UT).

One bill included in the package was Oregon Rep. Greg Walden’s proposal to modify a Wilderness Study Area boundary near Crooked River Ranch (H.R. 2075) to better protect the ranch and its 5,000 residents from wildfire. Oregon Senator Ron Wyden also pushed inclusion of legislation impacting hundreds of thousands of acres in Western Oregon, including: Devils Staircase Wilderness, expansion of the Rogue Wilderness, new and expanded Wild & Scenic designations on hundreds of miles of feeder streams of the Rogue River, and National Recreation Area overlays of the Molalla and Rogue Rivers.

On [December 3](#) and again on [December 10](#) the Bend Bulletin penned editorials in response to reports out of Washington, D.C. that Senator Wyden was leveraging Rep. Walden’s Crooked River Ranch legislation to secure passage of his public land set-asides. That same day AFRC issued a [press release](#) expressing alarm with the political gamesmanship threatening the residents of Crooked River Ranch and noting the consequences of setting aside more lands from sustainable forest management after a devastating year of fire, smoke, and evacuations for local residents:

“Before the Delegation moves forward with hundreds of thousands of acres of additional wilderness and conservation measures in Western Oregon – where families, communities, and businesses were devastated by months of fire and smoke – we encourage them to take these measures directly to rural communities and offer some explanation. The communities deserve to know why making fire prevention and public access more difficult; why increasing the risk of wildfire and damage to public and private property; and why exposing at-risk populations to more black carbon and toxic smoke – which is what the Oregon Wildlands Act will do – are the right solutions for Oregon families and communities still suffering from the trauma and chaos of this year’s fires.”

Eventually, consideration of the public lands package was abandoned and postponed until the 116th Congress. With the Democrats set to take control of the U.S. House next month, the LWCF reauthorization and public lands omnibus will likely be up again in early 2019.

Secure Rural Schools. Senator Ron Wyden is working with Senator Mike Crapo (R-ID) to develop a long-term legislative proposal to reauthorize and reshape the Secure Rural Schools county payments program. AFRC and Idaho Forest Group (IFG) provided feedback to both offices on the proposal, which would establish and provide a one-time estimated \$7 billion capitalization of an endowment fund to provide permanent payments to timber counties. Three separate funds would be created for payments associated with Forest Service, Bureau of Land Management (BLM) O&C, and wildlife refuge lands. The proposal would also direct a portion of the payments to an expanded category of qualifying uses under Title III of Secure Rural Schools.

The endowment would be managed by a board to provide payments to counties, although the Treasury would ultimately be on the hook for guaranteeing a minimum payment level if investment returns fell short. The original proposal also called for directing the county share of all future timber receipts (25% for Forest Service, 50% for BLM O&C) into the trust fund to maintain and grow future payments to all eligible counties within those three separate funds. In the case of Forest Service counties, this would effectively spread timber revenues generated from one forest in one county across over 700 eligible Forest Service counties nationwide. This aspect of the proposal was particularly concerning to AFRC as it would sever the direct connection between Forest Service timber harvests and revenues that flow to local communities. AFRC was also concerned about the effect this could have on the use of traditional timber sale contracts, stewardship contracts, and Good Neighbor Authority (GNA) projects and receipts.

AFRC provided substantial input on the proposal to both Senate offices and substantial changes were made. Importantly, the latest version of the legislation would provide counties with both guaranteed payments *and* timber receipts once a certain level of national endowment payments is achieved (expected in 15-20 years in the future).

On December 13, Senators Wyden and Crapo introduced the Forest Management for Rural Stability Act ([S. 3753](#)). While AFRC has not taken an official position on the legislation, we do appreciate the willingness of both offices to make changes to the proposal, which will likely undergo additional review in the months ahead. AFRC President Travis Joseph also provided the following quote, which was included in the Senators’ [press release](#):

“We are passionate about and committed to the health and safety of the rural communities in which we live and work. We share the goal of Senators Wyden and Crapo to generate permanent, reliable financial support to forested counties in order to provide essential services to all community members - a goal the forest products industry contributes to every day. We appreciate the opportunity to continue working on the bipartisan concept - an endangered species in the Congress - while preserving the critical link between sustainable forest management, jobs, timber volume, and robust local economies.”/Heath Heikkila

AFRC Submits Comments on U.S. Fish and Wildlife’s Proposal to List the Coastal Marten as Threatened Under the Endangered Species Act

On December 10, AFRC submitted [comments](#) on the U.S. Fish and Wildlife’s (FWS) proposal to list the Coastal Distinct Population Segment of the Pacific marten (coastal marten) as a “threatened” species under the Endangered Species Act (ESA). This proposal comes after a long legal battle with environmental groups Center for Biological Diversity and Environmental Protection Information Center, who challenged the FWS’s previous “not-warranted” 12-month finding for the species in federal district court. AFRC intervened in that litigation as a defendant. The district court remanded the “not-warranted” decision to FWS and ordered the agency to reconsider its finding by October 2018.

On October 9, 2018, the FWS issued a positive 12-month finding and proposed rule, along with a Species Status Assessment, which cited two primary threats to the coastal marten: (1) a decrease in connectivity among populations; and (2) habitat conversion from that suitable for Pacific martens to that suitable for generalist predators and competitors of the Pacific marten. AFRC’s legal and technical comments addressed the following:

- Failure to examine existing regulatory mechanisms that adequately protect the species, such that the need for ESA listing is unnecessary.
- Forest management activities exempted by the proposed 4(d) rule should also be exempt from consultation.
- The data does not suggest that the marten is likely to become endangered in the foreseeable future.

If finalized, a threatened species listing would mean that the coastal marten would be protected against any form of “take” under the ESA. However, FWS exempted certain forest management activities under the proposed section 4(d) rule, recognizing the need for active forest management to reduce the risks of catastrophic wildfire and that fire (not timber harvest) is the chief source of disturbance in the coastal marten’s range.

A final decision should occur within the year. AFRC appreciates the work of the National Council on Air & Stream Improvement (NCASI), who also submitted comments on the proposal. /Sara Ghafouri

AFRC Lends Legal Support to Important Post-Fire Project on Klamath National Forest

On December 5, 2018, Judge Troy L. Nunley of the Eastern District of California granted AFRC’s motion to intervene in a challenge to the [Seiad-Horse Risk Reduction Project](#) on the Klamath National Forest. The project includes hazard tree removal along 39 miles of National

Forest System roads and salvage harvest of 1,269 acres of fire-killed and dying trees, mostly in late successional reserves (LSR). The project was developed after 5,000 acres of LSR burned in the 2017 Abney Fire and was designed to enable reforestation, protect public safety from hazard trees, and reduce the risk of future catastrophic fire.

In granting the motion to intervene, the court recognized that “implementation or cessation of the Project will affect the timber supply available” to AFRC’s members and that “a significant portion of [AFRC]’s members have an interest in the pending litigation as it may affect their timber supply and the timber related jobs associated with the Project.” An AFRC member has purchased one sale to implement the project and most, if not all, of the timber from the project is expected to be processed at AFRC member mills.

The legal challenge has three grounds. First, plaintiffs allege that the project will increase sediment delivery to streams in a manner inconsistent with the Aquatic Conservation Strategy and its objectives. Second, plaintiffs allege that by authorizing the removal of large snags, the project is inconsistent with the relevant LSR objectives and therefore violates the Forest Plan. Lastly, plaintiffs claim that the project requires an Environmental Impact Study because it involves harvest in several allegedly “sensitive” areas.

Although much smaller, the Seiad-Horse Project is like the Westside Project which also raised the issue of appropriate level of snag retention in post-fire work in an LSR ([AFRC March 2018 Newsletter](#)). In Westside, both the district court and [Ninth Circuit](#) approved the project’s compliance with the Northwest Forest Plan’s direction for post-fire harvest in LSRs. Although the Karuk Tribe participated in the Westside litigation, it did not join the suit against Seiad-Horse. The Forest Service engaged the Tribe in planning Seiad-Horse and considered an alternative proposed by the Tribe.

The plaintiffs in the Seiad-Horse case filed a motion for Temporary Restraining Order and a hearing is scheduled for January 10, 2019 in Sacramento. Most project activities are scheduled to halt for the season at the end of January due to limited operating periods for owl conservation. */Lawson Fite*

Idaho Signs “Shared Stewardship” Agreement

On Tuesday December 18, 2018, Idaho Governor C.L. “Butch” Otter, Governor-elect Brad Little, and U.S. Department of Agriculture Undersecretary Jim Hubbard signed a Shared Stewardship Agreement to treat thousands of acres of Forest Service lands in Idaho that are in poor health and susceptible to catastrophic wildfire. Twenty million acres are managed by the Forest Service in Idaho. At the request of the Governor, 6.1 million of these acres have been designated by the Secretary of Agriculture as high priority landscapes in need active management.

The agreement commits the Forest Service and the State of Idaho, through the Idaho Department of Lands (IDL), to grow the already effective partnership established under the Good Neighbor Authority (GNA) in order to accelerate the pace and scale of forest restoration. Using the GNA tool, IDL employees have been able to assist on timber sales and other restoration work on National Forests in Idaho. Planned and implemented GNA projects in Idaho cover nearly 3,500

acres, though this is a small percentage of the millions of acres in Idaho in need of forest health treatment.

The Forest Service and IDL will continue to jointly identify a list of initial projects, with a target of two projects, one in northern Idaho and one in Southern Idaho, by April 2019. The two projects will be planned at the landscape-scale and will focus on areas where the Forest Service and IDL have active GNA relationships and agreements underway. By 2025, the goal is to double the annual acres treated on National Forests and promote cross-boundary work on other lands within priority landscapes that reduce fuels and wildfire risk to communities, produce additional fiber, create and sustain jobs, and improve forest health and resiliency. AFRC will be following this Shared Stewardship Agreement closely. / *Tom Partin*

AFRC Submits Comments on Washington DNR Marbled Murrelet Long Term Conservation Strategy

On December 6, 2018, AFRC submitted [comments](#) to the Washington State Department of Natural Resources (DNR) and the United States Fish and Wildlife Service (USFWS) expressing serious concerns over the development of the Marbled Murrelet Long Term Conservation Strategy (MMLTCS).

The DNR and USFWS recently released a revised Draft Environmental Impact Statement (RDEIS) with a preferred alternative (Alternative H) that would set aside at least 43,000 additional acres of state trust lands – a large amount of which is not suitable marbled murrelet habitat and will not grow into marbled murrelet habitat by the end of the HCP in 2067. This is in addition to the 567,000 acres (42% of trust lands in western Washington) already set aside for species conservation under the 1997 State Trust Land Habitat Conservation Plan (HCP).

State trust land beneficiaries, state legislators, federal elected officials, and local communities have all expressed concerns about the amount of acreage being proposed for additional set asides under the MMLTCS, the lack of public information about the fiscal and economic impacts of the plan, and DNR's rejection of an alternative tailored to meet the state's legal obligations under the Endangered Species Act and protects forest stands actually used and occupied by the murrelet (Alternative B).

AFRC's comments addressed the key flaws of the RDEIS, including:

- Failure to address impacts on essential public services and utilities, such as: police, schools, parks, recreational facilities, maintenance, and other government services as required by law.
- The RDEIS does not adequately recognize the growth of marbled murrelet habitat that will occur over time from the 567,000 acres of trust land that DNR has already set aside in its HCP.
- The RDEIS uses “p-stage” analysis to identify “habitat” without recognizing the best available science demonstrating the marbled murrelet only uses habitat containing very specific components: old-growth trees with large horizontal branches or platforms high off the ground, trees with a significant crown above the branch or platform and stands with a broken canopy allowing high-speed landings and take-offs. If a forest stand does not include *all* these characteristics, it is not used by the murrelet.

- The RDEIS fails to adequately recognize all “occupied stands” are protected under *all* alternatives.
- The RDEIS proposes alternatives that would unnecessarily remove tens of thousands of acres of trust land from commercial production, even though these acres will not become marbled murrelet habitat in this century.
- The climate analysis in the RDEIS is inadequate, as it fails to account for substitution effects whereby the use of wood products displaces carbon emission from alternative, more carbon intensive products like concrete and steel. As a result of this oversight, the RDEIS exaggerates the carbon benefits of harvest reductions.

DNR reports it will summarize received comments at the Board of Natural Resources meeting rescheduled for January 18th and provide more detailed analysis at the February 5th meeting. DNR is planning to respond to comments and publish a Final EIS with final documentation from the FWS related to the HCP amendment in July 2019. The Board could vote on adoption of a final Alternative and HCP amendment as early as August or September of 2019. */Matt Comisky and Lawson Fite*

Medford BLM Outlook: Salvage Wood, Green Wood, and Out-Year Planning

AFRC and the Southern Oregon Timber Industries Association (SOTIA) submitted a [letter](#) to the Medford Bureau of Land Management (BLM) District on November 27, 2018 stating the industry’s concern about the apparent accelerated rates of deterioration of fire-damaged timber resources from the 2018 fires impacting the Rogue Valley. The deterioration rates are already evident from timber salvaged from private forest lands and seem to be due to unusually heavy wood boring insect activity. AFRC and SOTIA advised the District to act quickly to offer economic salvage sales from this summer’s fires. A key concern is the importance of the expected level of salvage volume needed by the Medford District to meeting its FY19 target.

Following up on the letter, AFRC and SOTIA organized a meeting with the BLM on December 6, 2018. At the meeting, AFRC learned the Medford District FY19 timber target of 42 mmbf is expected to include 13 mmbf of salvage (see table below). At the time of writing, there does not appear to be a contingency plan to supplement any salvage volume deferrals with green volume. While AFRC appreciates the District’s effort to prioritize salvage sales offered in January and February, only 10% of what burned in the harvest land base (HLB) will be proposed for salvage and hazard tree removal.

Fire	Ownership			Draft Sale Information			
	BLM Acres	Other	Grand Total	Timber Sale	Vol (mmbf)	Sale Acres	Planned Sale Date
Grave Creek	3,567	4,233	7,800	Big Graves	3.9	250	1/24/2019
Miles	8,931	30,124	39,055	Miles Salvage	3	270	6/27/2019
Ramsey Canyon	940	1,011	1,952	Ramsey Salvage	0.5	56	3/21/2019
Snow Shoe	526	3,290	3,816	Roadside	?	4	?
Spencer Creek	232	0	232	Spencer Hazard	0.6	28	1/24/2019
Taylor Creek	11,620	41,316	52,936	Taylor Hazard (Taylor Decks for 49	2	100	2/14/2019
(Taylor Creek)	Non-discretionary sale from Taylor Creek Fire			Ziggy	2.45	90	Negotiated
Grand Total	25,816	79,974	105,791		12.7	798	
Not included: Pleasant Decks/Roadside (.5 mmbf) and Flounce Squared (1.5 mmbf)							

AFRC will continue working with the local Field Offices to provide feedback on the economic feasibility of salvage projects regarding logging systems, minimum removal specifications, and timing restrictions to ensure projects are as economically viable as possible.

The District is working with AFRC and industry partners to solicit feedback on proposed tools to increase its level of efficiency, including: programmatic EAs, consultation, increased production per acre, condition-based restrictions, and increased all-season haul. A five-year planning effort is likely to be finalized in the coming weeks.

For a more detailed report of the Medford BLM’s fire activity from FY18 or the FY19 timber sale schedule, please contact Amanda Astor at aastor@amforest.org. /Amanda Astor

DNR Timber Sale Program

Six months into FY2019, Washington DNR has brought 49 sales to market as of the [December auction](#). This equates to 204.2 mmbf offered for sale. Year to date, there were a total of six “No Bid” sales totaling 27.2 mmbf, or approximately 13% of the offered volume. It is anticipated that much of this volume will be re-appraised and offered in upcoming auctions. DNR has budgeted for a total state-wide harvest volume of 528.1 mmbf.

By region, eastern Washington Volume is expected to be 51.4 mmbf with 47.2 mmbf in the northeast Region. Western Washington volume is planned at 476.7 mmbf, with all Regions producing over 100 mmbf each. Because a new western Washington Sustainable Harvest volume level has not yet been set, the target should be based on the FY05 – FY14 planning decade of 550 mmbf per year. This volume target has only been attained twice since FY05.

Currently, bidder interest has averaged 1.92 bidders per sale. This average peaked at 2.14 in July and had a low of 1.33 in September. A few sales (8 out of 49), including a few specific sorts (7 out of 61) saw three or four bidders but most were at two or less per sale.

DNR is expecting to sell approximately 13.4% of the 528.1 mmbf through use of the Contract Harvest program. This program consists of DNR hiring logging contractors to build roads, harvest the timber, and haul the logs to purchasers. The harvest expense, along with the management fee, is deducted from the gross sale revenue prior to distribution to the beneficiaries. The volume to be offered via this method varies by Region. The remainder of the volume will be offered with traditional timber sales on a mix of lump sum and scale sales.

DNR's sold timber sale value year to date is \$66,320,915.50. A portion of the sold bid price is collected on auction day and the remainder is collected as timber is harvested. As revenue is collected, a portion is deducted for management fees prior to distribution to the various beneficiaries. Management fees for the Federal Trust lands (lands granted at statehood) is currently set at 31% of revenue while County Trust Lands is at 25%. Revenue is distributed to a variety of trust beneficiaries including the Common School Construction Account, various school districts, counties, library districts, fire districts and hospital districts, among others. */Matt Comisky*

Region 1 Personnel Update

The Forest Service Region 1 has recently experienced significant personnel changes. Here is an update.

The Deputy Regional Forester Position is currently vacant. David Schmid was recently appointed to the Regional Forester position in Region 10 - Alaska.

The Director of Natural Resources position, recently held by Christine Dawe, has been split into two jobs. Carol McKenzie (formerly Deputy Natural Resource Director) will now be the Director of Forest Management. Chris Savage, previously the Forest Supervisor on the Kootenai, will be the Director of Range and Other Resources.

Other moves in the Region include Tim Garcia (past Lolo Supervisor) moving to the position of Director of Region 1-4 State and Private Lands. Julie King (past Bitterroot Forest Supervisor) is moving to the Regional Office. Melany Glossa (past Beaverhead-Deerlodge Forest Supervisor) was promoted to Deputy Regional Forester in Region 9.

To fill these vacancies, three new Forest Supervisors have been named for the Bitterroot, Lolo, and Beaverhead-Deerlodge National Forests. There are also two other acting supervisors named in order to fill vacancies in the Region. The Kootenai Forest currently has an acting supervisor. The new Forest Supervisors include:

- **Matt Anderson** as the new Bitterroot Forest Supervisor. Matt has been the District Ranger for the Craig and Thorne Bay Districts on Prince of Wales Island, Alaska for six years. He also served in detail as the Forest Supervisor on the Manti-La Sal National Forest and Deputy Forest Supervisor on the Tongass National Forest
- **Cheri Ford** is the new Beaverhead-Deerlodge Forest Supervisor. Cheri was the Deputy Forest Supervisor of the Salmon-Challis National Forest for the last several years. She has served a variety of roles in her career, including Wildlife Biologist, District Staff Officer, Regional Wildlife Program Manager, Tribal Government Liaison and Capitol

City Coordinator prior to her assignment as the Salmon-Challis National Forest Deputy Forest Supervisor in 2015.

- **Carolyn Upton** is the new Lolo Forest Supervisor. Carolyn has been working for the Forest Service for 29 years and brings a wide range of experience spanning many regions and levels of the agency. She entered the Forest Service as a cooperative education student at Colorado State University. In her career, she worked on many forests and grasslands and was most recently the Deputy Forest Supervisor for the Medicine Bow-Routt National Forests and Thunder Basin National Grasslands. Before this appointment, she also served as District Ranger for the Walker Ranger District on the Chippewa National Forest.
- **Cheryl Probert**, Forest Supervisor on the Nez Perce-Clearwater National Forest, has agreed to serve as Acting Forest Supervisor on the Kootenai. Cheryl will start in January and will serve until a new Forest Supervisor is named.
- **Kurt Steele** will serve as Acting Forest Supervisor on the Nez Perce-Clearwater National Forest behind Cheryl.

The Region plans to have a new Kootenai National Forest Supervisor in place shortly with the position being advertised in mid-January. AFRC looks forward to working with these new supervisors with the goal of continuing to increase the pace and scale of management in Region 1. /Tom Partin

“Waters of the United States” Rule Change Proposed

The core regulatory mechanism of the Clean Water Act (CWA) [forbids](#) “discharge of a pollutant” without a permit. Discharge, in turn, is [defined](#) in the Act to be addition of a pollutant to “navigable waters,” which are “the Waters of the United States.”

After the Army Corps and the EPA first issued a regulation defining the scope of “Waters of the United States” (also called “WOTUS”), litigation arose to define the appropriate reach of the CWA into areas where waters were not obviously navigable. Like many environmental laws, Congressional authority to enact the CWA is based on the [Interstate Commerce Clause](#) of the Constitution, so there is a limit as to how far the Act can reach. In the 1985 case [United States v. Riverside Bayview Homes](#), the Supreme Court rejected a lower court’s decision that wetlands adjacent to a navigable waterway could not be regulated. In 2001’s [Solid Waste Association of Cook County](#) case, the Court struck down the application of the Corps’ migratory bird rule to “isolated wetlands” because there otherwise would be questions about the constitutionality of the CWA. Then, in [Rapanos v. United States](#) (2006), the Court ruled in favor of a landowner seeking to develop wetlands located 11-20 miles away from the nearest water body. This did little to clear up the definition, since there was no single majority opinion and Justice Kennedy’s narrow [opinion](#) indicated only that to be regulated a “water or wetland must possess a ‘significant nexus’ to waters that are or were navigable in fact or that could reasonably be so made...”

After eight years of review and analysis, the agencies proposed a new definition in 2014 and issued a [final rule](#) in 2015. This rule expanded the CWA’s applicability to tributary/adjacent waters, and according to the [American Farm Bureau Foundation](#), would allow regulation of “any low spot where rainwater collects, including common farm ditches, ephemeral drainages,

agricultural ponds and isolated wetlands found in and near farms and ranches across the nation.” Not surprisingly, the 2015 rule faced substantial litigation and was initially blocked from implementation. This stay was lifted after the Supreme Court ruled in [*National Association of Manufacturers v. Department of Defense*](#) (2018) that any rule challenges must be brought in district courts, not Courts of Appeals. While the agencies have proposed reverting to the pre-2015 rules as an interim step, the 2015 rule is [currently in effect](#) in 22 states, including Washington, Oregon, and California, and in the District of Columbia.

The new [proposal](#) makes several changes to clarify and narrow the scope of CWA regulation, as well as providing more predictability for landowners. These include excluding groundwater, all ephemeral features, ditches, and most artificial lakes and ponds constructed in upland (including water storage reservoirs, farm and stock watering ponds, and log cleaning ponds). Adjacent wetlands must have “direct hydrologic surface connection” to otherwise covered waters. EPA and the Corps will be taking 60 days of public comment on this new rule, after publication in the Federal Register in the coming days. Once transition from the 2015 rule to the new rule is completed, EPA [estimates](#) cost savings to the regulated community of up to \$430 million annually. Further litigation is anticipated. */Lawson Fite*

AOL and OFRI Come Together to Address Workforce Challenges

The forest products industry has changed considerably over the last 20 years and small businesses often struggle to adapt. The cost of equipment, mechanization, changes to the workforce demographic, and the decline in timber harvest on public land have drastically changed the way the dynamic forest products industry operates.

To better understand these dynamics, the Associated Oregon Loggers (AOL) recently surveyed its forest contracting members to gauge the top three challenges, which include:

- 97% said “workforce recruiting and retention”
- 48% said “insufficient contract margins”
- 24% said “steady work”

In response, AOL and the Oregon Forest Resources Institute (OFRI) will convene members of the Oregon and Washington forest products industry in a series of webinar events from January to April 2019. The series of events, titled [Planning the 2020 Workforce](#), will provide a forum to discuss challenges in more depth and identify possible solutions. The goal is to increase the flow of qualified workers to the industry, compete with urban wages, and identify actionable improvements to address forest contracting workforce/capacity challenges. The webinars will include forest sector business managers, employers from other industries, millennial age and entry level workers, and educator and workforce agencies.

AOL and OFRI are also seeking to expand industry-wide understanding of the forest contractor’s workforce obstacles. Four, two-hour webinars will focus on:

- Adaptations in vocational/trade preparation and education
- Enhance agency programs connecting workers to contractors

- Developing career promotions and recruiting connections
- New generation work designs and career pathways
- Workforce practice innovations by forest contractors
- Influence a paradigm change by contractors and purchasers

Purchasers of contract services (forest landowners and mills), forest contractors, agency managers, workforce developers, and others who support a sustainable forest sector workforce are strongly encouraged to participate.

In order to increase attendance and reduce costs, the conferring agencies will host live, interactive webinars. A single registration includes three log-in credentials, while company registration for the entire series is \$200. The events will be held from 3:00 – 5:00 PM January 24th, February 13th, March 13th and April 10th, and participants will receive eight Pro Logger credits. AFRC is proud to support this exciting series of events.

Register here: <https://bit.ly/2S12vlu> /Asha Aiello

Ross Mickey Retires from AFRC

After more than three decades in Federal forest and wildlife policy, Ross Mickey retired from the American Forest Resource Council at the end of the year. Mickey's extraordinary career and contributions to the forest products industry were recognized and celebrated at AFRC's Annual Meeting in April 2018. Over the last six months Ross has been training AFRC's next generation of foresters and sharing his encyclopedic knowledge of the industry, forest policy and regulations, science and wildlife, and data analysis.

“Ross has been a huge part of our association's success,” said AFRC President Travis Joseph. “He earned a reputation in this industry for his intellect, hard work, passion, and tenacity – not to mention his deep personal conviction about the importance of sound forestry to solve environmental, economic, and social problems. That's how he approached this job. For colleagues who have been lucky enough to work with and beside him, Ross consistently inspired and motivated us with actions of loyalty, honesty, selflessness, and being committed to something bigger than oneself. I'm honored to know Ross and proud to call him my friend.”

“In a sense, Ross is irreplaceable within our association,” said AFRC Federal Timber Program Director and Mickey's successor, Andy Geissler. “I've spent much of my eight years with AFRC trying to learn everything I could from Ross, knowing that eventually he would be turning over his program to the next generation of leaders. Of the many lessons I learned, the most meaningful was the critical role that professional foresters must play in this bizarre arena of public forest management. And that role is one of honesty, rational thought, and professionalism. It's not easy to be a voice of reason in a forum so often dominated by zealots, but Ross taught me the larger value in representing our industry and our profession with integrity.”

Mickey graduated from the University of California, Berkley before becoming a professional forester for the U.S. Forest Service. During his 10 years with that agency he gained a wide breadth of experience from sale preparation to operations research developing FORPLAN

models for the forest plan. He also held positions of responsibility for wildlife, archeology, recreation and range management activities. It was during this that he first began working on the spotted owl issue – an issue that dominated public forest policy in the Pacific Northwest for more than three decades. Before joining AFRC, Ross was Vice President of Forest Policy for the North West Timber Association.

As AFRC's Federal Forest Manager, Ross worked with federal, state, local government, and elected officials on forest policy issues. He managed AFRC's field foresters and consultant foresters in five Western states. He also managed a large portfolio including the Wildlife Program, Federal Timber Program, and was Chair of the National FTFC Contract Subcommittee. He worked extensively with wildlife biologists and ecologists with the goal of incorporating forest management with wildlife protection and conservation.

In retirement, Ross will remain in Eugene close to family and friends. /*Travis Joseph*

Member Profile: Lincoln County, Montana

Lincoln County, Montana is home to clear and fish-filled accessible waters, big horn sheep casually crossing the highways, and the expansive Kootenai National Forest – which makes up 74% of the county's land base. In the 1970s and 80s, the wood supply from the Kootenai helped support multiple sawmills that created hundreds of jobs and contributed to a bustling, vibrant local economy. However, today, no sawmill remains in Lincoln County.

The loss of logging and manufacturing jobs has had a dramatic effect on the county. While the population has been steadily increasing, the median income for a household during the 2010 census remained at \$30,000. About 13.7% of Lincoln County families and 18.6% of the total population lived below the [poverty line](#). Against a landscape of difficulty, Lincoln County is again beginning to thrive by merging traditional work and industries with innovative new ideas.

Mark Peck, native Montanan and Lincoln County Commissioner, says, “When I left in 1978, the county was a vibrant and can-do place. When I returned in 2010, the county was demoralized.”

Peck continued, adding “Now, things are on the upswing again. It is an exciting time to be involved in forestry. More exciting than ever, I think. The county is investing in not only the management process of the land but driving the local impact on that management.”

According to Peck, this excitement is largely being driven by collaboration and adaptation. The county commissioners and community believe the foundation to a healthy, vibrant county is by still supporting manufacturing capability, milling, and logging. But Lincoln County also believes it must do more to attract and recruit young entrepreneurs, to enhance quality of life and balanced recreational tourism.

“It's all about adapting,” says Peck. He highlights the move towards collaboration on national forest land, and how it has helped drive projects forward. That is more important than ever with the increasing severity of wildfires. The geographic location of the county

and the elevation contribute to significantly higher levels of smoke pollution settling in the area from surrounding states.

The Kootenai Forest Stakeholders Coalition are a sign of that adaptation. With a variety of stakeholder members from Backcountry Hunters and Anglers to AFRC member Idaho Forest Group to outfitters, ranchers and feed stores, the collaborative is a great example of how Lincoln County is moving forward at the intersection of economics and forest management. The collaborative has been instrumental in providing input on forest projects that work for not only the economy, but for all participating stakeholders.

Another example of collaboration and adaption is the Montana Department of Natural Resources and the Forest Service ramping up their partnership on the Good Neighbor Authority (GNA). The county itself, Peck says, has invested in a GNA forester to ensure management objectives are met on the 74% federal land base of the county. Two sales have already been executed and the state is considering hiring 6-7 more GNA foresters to help facilitate management on the vast federal lands in the state.

Peck considers the commission's greatest achievement in recent years as a willingness to stand up and invest in solutions – from partnering on the collaborative to exercising their authority to drive a healthy, sustainable economy for the residents of the county. This includes being willing to engage in litigation and partnering with AFRC on the East Reservoir Project. “It’s part of responsible resource management,” says Peck. “We were able to exercise the authority granted to us by the citizens to drive the best results, economically and ecologically. We see it as taking charge of our destiny.” /*Asha Aiello*