



Washington, DC Update

While much of Congress' recent attention has been consumed by the impeachment inquiry underway in the U.S. House of Representatives, the end of the fiscal year (September 30) came without threat of another government shutdown.

On September 26, the U.S. Senate passed a Continuing Resolution (CR) to fund the federal government through November 21. The legislation, which passed the House on September 19, also temporarily extends the National Flood Insurance Program and other expiring authorizations. President Trump signed the CR into law on September 27.

The Senate Appropriations Committee also recently passed its version of the Interior and Environment Appropriations bill, which sets specific funding levels for the U.S. Forest Service, Environmental Protection Agency, and agencies within the U.S. Department of the Interior. The bill adopts the Forest Service's budget proposal to fund salaries and other agency overhead costs in a single account, rather than tapping individual program accounts with agency "cost pools" charges.

While the budget changes make it difficult to make year-to-year comparisons, it appears that management accounts like the Forest Products line item are effectively level-funded or slightly up. The [May Newsletter](#) included funding details on the House version of the legislation, which proposes a modest increase for the Forest Products account and another increase in the Hazardous Fuels account.

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The Senate bill provides \$106.9 million for the Bureau of Land Management (BLM) Oregon & California Grant Lands account, which is level with the Fiscal Year 2019 funding. The House version includes \$117 million for the O&C account and report language directing the BLM to once again focus its efforts responding to timber sale protests and track its timber sale accomplishments in volume sold and awarded, rather than merely volume *offered*. With the help of Oregon Senator Jeff Merkley, the Senate report also included language expressing concern about recent efforts by the BLM to reduce the amount it contributes towards fire protection across state, private, and BLM lands in western Oregon:

“The Committee is concerned that a departure from the existing agreement with the Oregon Department of Forestry to provide fire protection services would neither be in the interest of lands managed by the Department in western Oregon nor the significant interspersed communities and other significant timberlands that are immediately adjacent to Federal lands and directs the Department to reevaluate its departure from the existing agreement to ensure there is seamless fire protection across Federal, State, Tribal, and private lands in western Oregon.”

Trump Appointments. President Trump continues his effort to reshape the federal courts through judicial appointments. The Senate recently confirmed his 150th judge. In addition to the President’s two Supreme Court appointments, Trump has placed 43 judges on the United States Courts of Appeals and 105 judges in U.S. District Courts. Eight more circuit court nominations are either pending before the Senate or have been announced, including three to the Ninth Circuit Court of Appeals. Two of the Ninth Circuit nominees have connections to the Pacific Northwest.

Danielle Hunsaker was born in Roseburg, Oregon and attended the University of Idaho before returning to Oregon, where she was an adjunct professor at Lewis and Clark Law School and currently presides as a Washington County (Ore.) Circuit Court Judge. President Trump also recently announced the nomination of Lawrence Van Dyke to the Ninth Circuit. Van Dyke graduated from Montana State University before receiving his law degree from Harvard Law School. He served stints as solicitor general of Montana and Nevada. He is currently a Deputy Assistant Attorney General in the Environment and Natural Resources Division of the U.S. Department of Justice.

President Trump’s Solicitor of the Interior appointee, Daniel Jorjani, was confirmed by the Senate on September 24 by a vote of 51-43. Jorjani has served as the acting Interior Solicitor since the early days of the Trump Administration and also served at the Department of the Interior during the George W. Bush Administration. Jorjani faced stiff opposition from Senate Democrats, including Oregon Senator Ron Wyden who tried to hold up the confirmation vote.

The nomination of Aurelia Skipwith, President Trump’s pick to lead the U.S. Fish and Wildlife Service (USFWS), was recently approved by the Senate Environment and Public Works Committee. Skipwith has served as a Deputy Assistant Secretary for Fish, Wildlife & Parks – which oversees the USFWS – since 2017. Skipwith, who holds an undergraduate degree in Biology and a law Degree, spent six years at Monsanto. If confirmed, she would become the first African American to serve as Director of the USFWS, a position that has been vacant since the beginning of the Trump Administration. AFRC joined several other forestry associations writing a letter in support of Skipwith’s nomination.

The Administration has yet to name a permanent Director of the BLM, which has been headed by a series of acting directors. The Deputy Interior Secretary position is also open following the appointment of Secretary David Bernhardt. /Heath Heikkila

Marbled Murrelet LTCS FEIS Released

On September 20, the Washington Department of Natural Resources (DNR) released its [Final Environmental Impact Statement](#) for the Marbled Murrelet Long Term Conservation Strategy (LTCS) and its draft amendment to the 1997 State Lands Habitat Conservation Plan. The draft amendment is now being evaluated by the U.S. Fish and Wildlife Service. AFRC, local elected officials, and state trust land beneficiaries continue raising concerns with the plan.

Under DNR's LTCS (Alternative H), 38,000 acres of state trust lands would be set aside from timber harvest activities at a significant cost to trust land beneficiaries, including counties, schools, hospitals, and local fire districts. DNR's proposed LTCS includes about 5,000 acres more than was set aside under the 1997 interim strategy and about 29,000 acres more than was proposed for set aside under Alternative B, which would have protected 9,000 acres of occupied marbled murrelet habitat.

Much of the debate on the LTCS surrounds the 29,000 acres of *unoccupied* habitat that is proposed for set aside – tens of thousands of these acres do not contain old-growth characteristics needed by the murrelet. As reported in the [August Newsletter](#), significant concerns remain regarding the misapplication of “p-stage” classifications to identify suitable murrelet habitat without on-the-ground verification. AFRC's field reviews and the report recently submitted to the Board of Natural Resources by Dr. Steven Wilson (more below) have shown large swaths of state trust lands being proposed for set asides that lack key murrelet habitat attributes and will not develop into murrelet habitat for many, many decades.

The Board of Natural Resources received another update on the LTCS from DNR staff at its October 1 regular meeting. In advance of the meeting, AFRC submitted several letters and reports to the Board, including:

- The [report](#) prepared by Dr. Steven Wilson reviewing murrelet habitat mapping and mitigation on state trust lands.
- A [letter](#) from Chris Wion, an attorney representing AFRC as outside counsel, focused on DNR's fiduciary obligations to the beneficiaries within the context of the LTCS.
- AFRC General Counsel Lawson Fite [wrote](#) to clarify DNR's obligations under the Endangered Species Act as dictated by the 1997 HCP, rather than the more restrictive approach DNR has taken.

AFRC Washington Manager Matt Comisky also [wrote](#) the Board urging them to address an alarming double standard in the way USFWS calculates “take” of narrow bands of p-stage murrelet habitat referred to as slivers and stringers. The August Newsletter also included a description of this latest concern. If uncorrected, this issue will reduce timber harvest and revenues for essential public services in Southwest Washington.

DNR expects to the USFWS to decide on the LTCS amendment sometime this fall, which could put approval of the plan back in front of the Board of Natural Resources as soon as December.

DNR is also anticipating a decision on the Sustainable Harvest Calculation, which guides DNR's long-term forest management obligations, in December. /*Heath Heikkila*

Judge Remands Thurston Hills Project to BLM For More Analysis

The Thurston Hills Non-Motorized Trails and Forest Management Project (Thurston Hills Project) is designed to contribute to sustained-yield timber production, in accordance with BLM's 2016 Resource Management Plan (RMP), through the 100-acre Pedal Power Timber Sale. The sale exists where BLM's RMP indicates that non-motorized recreation is an appropriate secondary use and also abuts an extensive trail system being developed by the Willamalane Park and Recreation Department, an area popular for local mountain bikers. For that reason, BLM innovatively coupled the Pedal Power Timber Sale with the construction of 8.5 miles of mountain bike trails. Because of this far-thinking approach, the timber sale and trails project had gained a wide array of public support, including recreational groups like the "Disciples of Dirt" mountain-bike group.

Two environmental groups challenged the Thurston Hills Project, suggesting that the construction of mountain bike trails could not be coupled with timber harvest, and asserting claims that the project violated governing management plans, failed to adequately consider a thinning alternative, and did not sufficiently analyze potential fire risk. AFRC intervened in the case on behalf of Seneca Sawmill Co., an AFRC member and the purchaser of the sale, and our attorneys argued the case in Eugene on September 5.

On September 18, Judge Michael McShane issued a mixed ruling. Judge McShane only granted some of Cascadia Wildlands and Oregon Wild's claims under the Federal Land Policy Management Act and the National Environmental Policy Act (NEPA) and issued a limited remand to BLM, requesting the agency to issue a new analysis that adequately discloses the impacts on fire hazard risks and designates a Recreational Management Zone.

Judge McShane determined that the project is consistent with BLM's RMP, acknowledging that the Harvest Land Base management direction focuses on sustained-yield timber production and BLM may provide for recreational opportunities "to the extent they can be managed consistent with other resources." The court also declined to make subjective findings on the logging's effects on visitor experiences and determined that BLM does not have a clear directive to preserve an area's natural setting characteristics, noting that there was no evidence in the record to support plaintiffs' contention that recreational visitors would be deprived of the "quality" experiences just because the trails would pass through areas of regeneration harvest.

However, the court found that BLM failed to designate a Recreation Management Zone for the mountain bike trails, which requires a buffer for all designated trails. The framework does not specify when BLM must establish the zone, but the court rejected BLM's proposal to "cut the trees first and zone the buffer later" because allowing the establishment of a Recreation Management Zone at some unspecified date would "defeat the Zone's very purpose."

The court also determined that BLM did not fully analyze and publicly disclose the project's effects on fire hazard risks to adjacent communities, as required by NEPA. Although the project's EA properly tiered to the 2016 RMP's analysis regarding fire hazard risk, the court

determined that the EA did not contain the necessary site-specific analysis. Specifically, the court held that BLM failed to include crucial information from the fuels specialist report in the EA and did not properly incorporate it by reference since BLM waited until after the public comment period had closed to disclose the fuels specialist's identity, making the document not reasonably available for inspection by the public.

Judge McShane rejected the other NEPA claims and held that BLM did take a hard look at the impacts from regeneration harvest on recreational experiences and adequately analyzed a reasonable range of alternatives by explaining why plaintiffs' preferred thinning alternative would not achieve the project's purpose and need.

Judge McShane provided some good rulings on the O&C Act and reasonable range alternatives analysis. The court's decision to remand the Thurston Hills Project back to BLM will hopefully lead to a set of fixes, and implementation of the project, in fairly short order. /Sara Ghafouri

AFRC Comments on Sierra and Sequoia Forest Plans

On September 26, AFRC submitted [comments](#) on the [Revised Draft Final Environmental Impact Statement \(RDEIS\) and Draft Forest Plans](#) for the Sierra and Sequoia National Forests. AFRC also joined the comments of the California Forestry Association, which were submitted in August.

The RDEIS comes about three years after the [initial draft EISes](#) were released. As the initial drafts were being prepared, the wave of tree mortality in California peaked. As part of AFRC's 2016 comments, we urged the Forest Service to re-examine the plan in light of this extraordinary event, leading to the RDEIS. Unfortunately, the preferred alternative for the Plans does not provide an adequate supply of sawlogs to provide an opportunity to maintain the existing industry infrastructure – despite the RDEIS's recognition of the importance of that infrastructure to meeting vegetation goals.

In our comments, AFRC highlighted the Plans' improper reliance on portions of the [2012 Planning Rule](#) which are inconsistent with the National Forest Management Act, the Forest Service Organic Act, and the Multiple-Use Sustained-Yield Act. These forests are “early adopters” of the 2012 Rule and one of the first efforts to implement its direction. The Rule improperly privileges so-called “ecosystem services” and vague concepts such as “ecological integrity.” Active management need not be inconsistent with these concepts, but the Forest Plan appears to make it so by restricting the suitable timber base and managing for single species.

Our comments also requested consideration of revisions to the 2012 Monument Plan for the [Giant Sequoia National Monument](#). The Monument occurs largely within the Sequoia National Forest, with a small portion in the Sierra. The Forest Service should consider revisions to the GSNM Plan because current conditions are placing a national treasure, the giant sequoia groves, at risk. More active management is needed outside the groves in order to protect sequoias from these risks. The 2017 Pier Fire [killed](#) many sequoias in the Monument that had stood for centuries. Sequoia researchers reported to the *San Francisco Chronicle* that “giant sequoias stand a much better chance of survival with better forest management.” Indeed, “[w]here forest

thinning has been done, losses of sequoias have been far fewer.” The 2012 Monument Plan adds unnecessary tree-specific steps that stand in the way of ensuring healthy sequoia groves.

Now that comments on the plans have been submitted, the Forest Service will get to work on its Final EIS and proposed Record of Decision, after which an objection process will kick off. Expect a busy 2020 in this part of California. */Lawson Fite*

Agencies Rework GNA Projects

AFRC would like to thank the Forest Service and Idaho Department of Lands (IDL) for quickly reworking four timber sales that initially went no-bid and getting them sold in FY19. The projects were the Hanna Flats sale on the Idaho Panhandle, the Windy Shingle South sale on the Nez Perce-Clearwater, and the Willow South and Bogus Basin sales on the Boise.

Following the no-bids in June, August, and early September, the Forest Service and IDL immediately reached out to potential purchasers asking why the sales did not receive bids on the initial offerings. Several key themes from the purchasers were lower current log markets, high road costs, equipment operational rates, cost of removal of non-saw and low value material, adding an additional year for operations for Windy Shingle, and breaking out the non-saw material from sawlogs and pricing differently.

Taking the new information into consideration, the agencies reworked the projects with the following results.

- Following two no-bid auctions, the Bogus Basin sale was divided into multiple small direct sales. The first was sold to a local contractor on August 5 and the second was sold on September 16. Although these sales were sold for a nominal amount, they will address forest health issues and remove hazard trees on more than 260 acres at the Bogus Basin Ski area. Additional small direct sales will follow in 2020 to complete the project.
- Willow South was initially offered on August 22 for \$115.80/mbf and sold on September 19 for \$58.22/mbf.
- Hanna Flats was initially offered on September 5 for \$165.96/mbf and sold on September 26 for \$114.00/mbf.
- Windy Shingle South was initially offered on September 13 for \$22.28/ton and sold on September 30 for \$10.57/ton.

These results point out the good working relationship between the Forest Service and IDL, a strong desire to build a successful Good Neighbor Authority (GNA) program, and the partnership that the agencies have with the public and its customers: the forest products industry.

The State of Idaho has led the way in the use of GNA. IDL, in partnership with the Forest Service Intermountain and Northern Regions, has utilized this important tool to help reduce fuel loads that threaten communities and watersheds from catastrophic wildfires, while also creating more private sector jobs and economic benefits in rural communities. Financial commitments from all partners have been required for successful GNA implementation during the first 3-5 years. The Forest Service is supporting GNA capacity and work in Idaho through a federal grant and direct appropriated funds. The Idaho forest products industry is contributing \$1 million over

3-5 years and the State of Idaho is contributing \$250,000 through its general fund. Revenues generated from the sales are being used to plan and implement additional restoration activities on federal lands in Idaho and help create a financially self-sustaining GNA program.

Again, AFRC would like to thank both agencies and the Idaho forest products industry for making this the premier GNA program. /Tom Partin

Western Oregon BLM FY19 Wrap-up

Fiscal Year 2019 marked the first time that the BLM strived to fully implement the timber harvest levels that the 2016 Resource Management Plan (RMP) directed. Specifically, the RMP anticipated approximately 278 million board feet (MMBF) of timber to be generated annually. This amount includes harvest from both the Harvest Land Base (HLB) and “reserves.”

Volume generated from the HLB contributes to the BLM’s obligations to the O&C Act and was calculated as an annual harvest level based on the principles of sustained-yield management (i.e. forest management that can be replicated indefinitely). Volume generated off lands designated as reserves represents a “by-product” of treatments designed to accelerate the attainment of certain wildlife habitat conditions. The FY19 results are below.

FY-19 Target (MMBF)	278					
District	Assigned Target	Target Volume Offered	Target Volume Offered Sold	Target No-bid Volume	% Target Offered	% Target Offered Sold
Salem	81	83.7	83.7	0.0	103%	103%
Eugene	72	70.5	65.9	4.6	98%	92%
Roseburg	46	40.7	40.7	0.0	88%	88%
Coos bay	31	30.1	25.3	4.8	97%	82%
Medford	42	35.5	26.2	9.3	85%	62%
Lakeview	6	5.9	5.9	0.0	98%	98%
Total	278	266.4	247.7	18.7	96%	89%

Although BLM offered 96 percent of what their RMP directs, they only *sold* 89 percent. Much of this shortfall was due to uneconomical fire-salvage sales offered earlier this year. Unusually high levels of wood boring insect activity in southwest Oregon, along with BLM timber sale planning timeframes, has made the prospect of harvesting fire-killed timber in this region dubious.

AFRC will continue to work proactively with all BLM Districts to help guide realistic salvage efforts, as well as accelerate the harvest of green timber in the face of active fire seasons. On a positive note, despite falling short of sold volume towards their FY19 target, the BLM was successful in re-offering and selling an additional 35 MMBF of timber that had gone no-bid in FY18. Hopefully, this can be replicated in 2020 for those unsold sales this year. /Andy Geissler

The Willamette Hits 100 MMBF

This year marks a significant milestone for the Willamette National Forest as they attained a 23-year high mark for timber volume sold of 100 MMBF.

The Willamette National Forest's Land and Resource Management Plan, as amended by the Northwest Forest Plan in 1994, established a Probable Sale Quantity of 116 MMBF. This quantity was in part developed and calculated to meet the Forest Service's obligation to comply with the Multiple-Use Sustained-Yield Act. Similar calculations were developed for each Forest impacted by the plan, yet few have come close to attaining these values over the past 25 years; including the Willamette, which has not done so since 1996.

The Forest's accomplishment is significant for more reasons than simply the number. First, the Willamette was requested and funded to attain a level of 88.2 MMBF. Despite this request, the Forest strived for more and achieved more. Second, the Forest overcame a year in which the Region has seen a spike in timber sales going no bid from the purchasing community. In fact, the Willamette had sales go no bid earlier this year, but they were able to communicate with their local purchasers, reevaluate their sale packages, make reasonable adjustments, and reoffer viable sales that ultimately attracted competitive bidding. The Forest's accomplishments are critical to forest health, helping sustain the existing forest products infrastructure, and generating benefits to local communities.

The next milestone for the Forest could be full attainment of what the Northwest Forest Plan promised 25 years ago. */Andy Geissler*

Save the Date! Join us at Skamania Lodge in April to Celebrate 20 Years of Advocacy

