



COVID-19: ARFC's Service to Members Continues, Annual Meeting Rescheduled

AFRC is responding to the public health and economic concerns associated with COVID-19. First and foremost, our team is working to assist and inform our members during these challenging and dynamic times. Every day we are actively engaging with our partners and relevant public agencies. Together our industry will emerge stronger as the nation recovers from the global pandemic.

AFRC has established and continues to update our [COVID-19 Resources page](#) with the latest news and updates for you to use. For your convenience and easy access, we are compiling all COVID-19 related information and relevant AFRC activities in this location.

We continue to follow all applicable federal, state and local guidelines, though we continue to manage and operate multiple programs to serve and advocate for our members. While social and business visits to each of our offices have been suspended until further notice, AFRC team members will be available and responsive during regular business hours by phone and email. In the short term, as public information and government directives change daily impacting association business, the best way to reach AFRC is to call or email Cindi Kaneshige (503-222-9505/ckaneshige@amforest.org). Messages will be delivered to and returned by appropriate staff as soon as possible.

Annual Meeting Rescheduled to September 16-18, 2020



We have rescheduled our 20th Annual Meeting at Skamania Lodge (Stevenson, Washington) from April 14 – 16 to **September 16 – 18**. Please save the new dates on your calendar. If you already registered, your **event registration will automatically roll forward to the new dates**. We will continue to take registrations for the Annual Meeting and provide updates on our [website](#) as appropriate, including room reservation information. In the event you wish to cancel your event registration, please contact Cindi Kaneshige (ckaneshige@amforest.org/ 503-222-9505) in AFRC's Portland Office for a refund.

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We look forward to hosting an exciting, engaging, and informative 20th Annual Meeting at Skamania Lodge this September. /Nick Smith

Washington, D.C. Update

On March 18, AFRC joined the Federal Forest Resource Coalition (FFRC), the American Loggers Council and 34 other forestry organizations in [a letter](#) to Agriculture Secretary Sonny Perdue requesting that he take prompt action to provide additional flexibility and relief to the purchasers of Forest Service timber sales, including providing contract extensions under the significant overriding public interest (SOPI) provisions of the National Forest Act. We understand the Forest Service will publish the SOPI extension in the Federal Register in early April allowing purchasers to request an extension of up to 2 years. This will likely be far more expansive than prior SOPI findings, reflecting the efforts of our industry and the value the Forest Service places on maintaining the industry. We appreciate the quick action and support from Secretary Perdue, Chief Vicki Christiansen, and other agency leaders.

AFRC and FFRC sent [another letter](#) on March 18 to the Department of Homeland Security urging it to include the forest products industry as Essential Critical Infrastructure Workforce to avoid supply chain disruptions and protect forest products industry workers and businesses in the case of national, regional, or state-specific shelter-in-place orders. On March 19, DHS recognized the need to protect the forest products infrastructure, [specifically identifying](#) “Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products.” On March 28, DHS issued an [updated guidance](#) identifying wood products as a “critical manufacturing” sector and recognizing the importance of the entire supply chain of building materials.

AFRC has also been engaging with Forest Service and BLM officials in the Washington, regional, and local offices urging the agencies to ensure current federal timber sale operations continue while also highlighting the importance of bringing new timber sales to market, which can help provide additional timber supplies that better reflect current market conditions. We have been encouraged by agency efforts to sustain current harvest operations and are hopeful that both agencies will minimize the impact to timber sale planning activities. On March 30, Senator Steve Daines (R-MT) [sent a letter](#) to Secretary Perdue reinforcing the importance of agency timber sale operations to sustaining the industry.

Fourth COVID-19 stimulus bill? AFRC is also engaging with Congress as it considers additional stimulus proposals following last week’s passage of the \$2.2 trillion Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to help mitigate the economic impacts of the COVID-19 disaster. Congress is widely expected to take up a fourth stimulus bill in April, which we view as a potential vehicle to secure additional funding to boost the Forest Service and BLM timber sale programs to create jobs in hard-hit rural communities.



On March 31, AFRC and FFRC were joined by 27 other organizations on a [letter to Congressional leaders](#) outlining specific funding requests for Forest Service and BLM accounts most likely to result in additional commercial timber sales and address staggering road maintenance backlogs on federal forests.

It's unclear how quickly Congress will turn to the next COVID response bill (House leaders have indicated a far quicker timeline than Senate leaders). However, with the President extending the CDC social distancing guidelines through the end of April and many Governors extending stay at home orders well beyond that, it seems likely that there will be at least one more bill focused on economic recovery. Because the Congress is expected to be out until at least April 20, we have a window of time to communicate on these issues with our respective Congressional delegations.

AFRC encourages anyone who supports these investments to contact their House Representative, Senators, and President and ask them to support investments in these key programs, which are focused on active forest management. [HFHC has established a pre-drafted action alert here](#). It only takes a few clicks, and your help will make a difference in these efforts. You can personalize the email to let the offices know the issue is important to you.

CARES Act resources for employers. Many AFRC members are consulting with their legal and accounting advisors to determine how the relief offered by the CARES Act may be helpful to their operations. AFRC has developed a one-pager [highlighting CARES Act programs for small and mid-sized businesses](#). Law firms [Holland & Knight](#) and [Steptoe](#) have also developed summaries of key provisions of the massive legislation. /Heath Heikkila

Washington State Policy Updates

Carbon legislation. On March 25, Washington Governor Jay Inslee signed legislation ([E2SHB 2528](#)) recognizing the carbon sequestration benefits of Washington's forest products industry, including forest management, logging, and wood products manufacturers. The legislation had previously passed both chambers of the legislature with unanimous or near-unanimous support.

AFRC partnered with the Washington Forest Protection Association (WFPA) in advocating for this proactive legislation in the session that adjourned on March 12. The legislation ensures state policies recognize the role the entire industry plays in achieving these carbon benefits, rather than promoting policies that might benefit one segment of the industry while harming other segments and ultimately threatening the industry's economic viability and carbon sequestration benefits.

The effort greatly benefitted from the leadership of Representative Bill Ramos (D-Issaquah) and Senator Kevin Van De Wege (D-Sequim). The legislation was also backed by a published University of Washington study finding that in 2015, between the carbon stored in wood products and net growth on private forestlands, the state's forestry sector offset about 12% of the state's annual carbon emissions that year. The following article in this newsletter offers an overview of this study.

AFRC joined WFPA on a joint [press release](#) celebrating the milestone and thanking the Governor for his approval of the legislation, which will go into effect on June 11. During the signing ceremony, Governor Inslee highlighted the carbon sequestration and economic benefits of actively managed forests – a clip of the Governor's comments is available at [TVW.org](#).

DNR sustainable harvest calculation. As reported in the [February Newsletter](#), there has been growing legislative interest in DNR's recent 465 million board feet (MMBF) annual Sustainable Harvest Calculation (SHC) decision for FY 2015-2024. The decision represents a 15 percent reduction (85 MMBF annually) from the previous 550 MMBF SHC and corresponds to an annual loss of about \$30 million in timber revenues to trust land beneficiaries and DNR management costs. This level of reduction corresponds to the loss of more than 1,500 direct, high-paying jobs in the forestry sector. DNR is also

forecasting a further reduction to a 419 MMBF annual sale level under the 2025-2034 SHC, which will be here in just over four years.

Section 103(5) of the Senate-passed supplemental operating budget ([ESSB 6168](#)) included a provision for Washington's [Joint Legislative Audit and Review Committee](#) to oversee a third-party review of the SHC, including DNR's inventory, data, assumptions, and harvest and yield data. AFRC and many beneficiaries believe an independent, third-party review is needed to fully understand the reasons for the harvest reductions in the SHC and potential solutions – a critical need with DNR set to begin work on the development of 2025-2034 SHC in the next couple of years.

After initially expressing openness to a third-party review and then proposing that the review be limited to its inventory, DNR came out in strong opposition to any third-party review of any aspect of SHC, citing the litigation currently challenging SHC. AFRC [sent a letter](#) to the legislature outlining the need for the review and its independence from the litigation, but the provision was left out of the final budget due to the lack of agreement.

AFRC will continue advocating for greater transparency into the SHC and the primary causes of the continued declines in harvest levels on DNR trust lands in western Washington, which grow approximately 1.2 billion board feet of timber annually. While the third-party review wasn't included, we appreciate the efforts of Senators Kevin Van De Wege, Christine Rolfes (D-Bainbridge Island), and other legislators to bring attention to this important issue. */Heath Heikkila*

Study on Mitigating Role Washington's Private Forests Play on Climate Change

The Pacific Northwest is known for its fast-growing forests and vibrant forest products industry, with 1.5 billion cubic feet in net annual growth in softwood and 0.8 billion cubic feet in net harvest. Washington is the second largest producer of wood products in the United States, including lumber and plywood. **But what impact does wood products play on climate change?**

We have all heard about the 2018 study from Beverly Law et al. entitled, "[Land use strategies to mitigate climate change in carbon dense temperate forests](#)," which claims that Oregon's forest product industry is the state's largest emitter of carbon. But like with standing trees, wood products play an important role in enhancing the global sequestered carbon pool by retaining carbon for the duration of the products' functional life. Recently, Ganguly et al., published an article entitled, "[Global Warming Mitigating Role of Wood Products from Washington State's Private Forests](#)," which evaluates the impacts of wood products from Washington's private forests on climate change, including carbon storage and the life cycle of greenhouse gas production and extraction emissions. This study conducts a comprehensive analysis of Washington's private forestlands, taking into account the current growth and harvesting practices, the wood products distribution mix, and the emissions associated with harvesting and manufacturing wood products.

The study determined that:

- Temporal carbon storage leads to a global warming mitigation benefit equivalent to 4.3 million tCO₂eq.
- After factoring in the greenhouse gas emissions associated with harvest operations and wood products manufacturing processes, there is a net beneficial impact of about 1.7 million tCO₂eq on an annual basis.

- Washington’s annual biomass growth in its private forests exceeds its annual harvest and the net annual accumulation of biomass in private forests leads to additional global warming mitigation benefits equivalent to 7.4 million tCO₂eq.

The study concludes that Washington’s private forest industry provides a net global warming mitigator for the State, which is the equivalent of 12 % of the State’s greenhouse gas emissions in 2015. A two-page summary of the study’s findings can be [found here](#). /Sara Ghafouri

Washington State DNR Timber Sale Updates

The Department of Natural Resources is three-quarters of the way through the FY 2020 timber sale program. With the wrap up of the March auction, there are just three auctions left in the fiscal year. Due to the State of Washington’s “Stay at Home” order related to the COVID-19 situation, DNR transitioned to online viewing of the bid openings in March.

Using Skype video technology, interested purchasers were able to connect to the various Region auctions to view the bid openings. Bid delivery procedures remained relatively unchanged and maintained the 10:00 a.m. deadline of bid submittal. This process seemed to work with few glitches and generally seemed well received by the purchasing community. We are hopeful the need for this new way of doing business may lead to processes that improve efficiency for both DNR and the purchasers.

As of the February auction, DNR sold 76 of the 84 offered timber sales for a sold volume of 327,620 MBF or 92% of the total offered volume of 358,826 MBF has sold. The sold volume as of February represents \$102,694,225.98 in gross revenue to DNR excluding ARRF fees paid by the purchasers. DNR deducts its management fee from this gross revenue. Currently, that fee is 25% for State Forest Transfer lands whose beneficiaries are the counties and Junior Taxing Districts and 31% for “Federal Trusts” (Common School, Capitol Building, universities, etc.).

The March auction had an additional 61,201 MBF of volume offered for sale. Auction results are currently pending however, this brings the total statewide offered volume to 420,027 MBF. We had hoped to report on the complete March auction but due to an unforeseen circumstance, the North West Region auction was delayed. That auction was conducted by South Puget Region staff on April 1. This brings the year to date sold volume to 391,435 MBF statewide with 11,696 MBF pending with the delayed March NW Region auction.

The current average annual target for western Washington is set at 465,400 MBF per year, down from the 550,000 MBF last decade. (See [November 2019 Newsletter](#)). Eastern Washington sale volume is expected to be about 55,000 MBF for a total statewide sale program of about 520,400 MBF. DNR has offered approximately 80 percent of the statewide anticipated volume as of the March auction. Excluding the NW Region, March auction results show DNR having sold about 75 percent of the statewide volume target as of this writing.

It is unclear if DNR, in the last three auctions of the fiscal year, will be able to offer its entire anticipated westside timber volume for Fiscal Year 2020. At least two sales (Moulton Falls and Middle May) have generated opposition from non-motorized recreation groups. The Middle May timber sale was to be included in the April Board of Natural Resources sale approval packet for the May auction but has been pulled from consideration by DNR. The Middle May sale was intended to be the replacement sale for the Singletary sale that was litigated and overturned in 2017. See [May](#), [July](#), and [September](#) 2017 newsletters.

After the Singletary sale was overturned, DNR undertook extensive outreach with stakeholders in the Reiter Foothills area. This included members of the beneficiary, purchasing, motorized, and non-motorized recreation communities. DNR staff developed some conceptual alternatives for a timber sale in this area and even worked with some of the litigants on the development of potential management options. The final product, Middle May, incorporates aspects of both DNR's and the litigant's proposals. Unfortunately, this has not been satisfactory for opponents of the Middle May timber sale, some of whom are now parties to the lawsuit filed by members of the environmental community against DNR's Sustainable Harvest Calculation and Marbled Murrelet Long-Term Conservation Strategy.

At this time, it is unclear when or if the Board will approve the sale. Three members of the Board have asked to visit the sale before it is brought to the Board for approval. Further delay of the Middle May timber sale, not only impacts the volume offered for sale into the market place, but continues to mean hundreds of thousands of dollars that would have gone to support Junior Taxing Districts, such as the Sultan School District, remain unavailable for use in their operations. /*Matt Comisky*

Judge Rejects Attempt to Halt Miller West Fisher Project

The litigation involving the Miller West Fisher Project located on the Kootenai National Forest is over a decade old. AFRC member Idaho Forest Group was awarded the timber sale contract in 2009 and Judge Molloy initially enjoined the project in 2010, determining the agencies had (1) violated section 9 of the Endangered Species Act (ESA) because the project would result in a "take" of grizzly bears beyond what was permitted by the incidental take statement; and (2) had violated section 7 of the ESA by concluding that unpermitted take was not likely to adversely affect the grizzly bear.

While the project was enjoined, the Forest Service adopted the 2011 Access Amendments to govern motorized vehicle access to grizzly bear habitat and to set limits on roads for the purpose of grizzly bear conservation. The Forest Service later incorporated the 2011 Access Amendments into its Revised Kootenai National Forest Plan. Several years later, in 2017, the Forest Service issued a Final Supplemental Environmental Impact Statement for the Miller West Fisher Project and the agencies moved to dissolve the injunction. In 2018, the district court dissolved the injunction because the supplemental analysis brought the agencies in compliance with the ESA. Alliance for the Wild Rockies then appealed the decision to dissolve the injunction to the Ninth Circuit.

Prior to the agencies moving to dissolve the injunction in Miller West Fisher, Alliance challenged the Pilgrim Project on the Kootenai National Forest. In this case, known as the "Probert" decision, Alliance argued the Forest Service needed to reinitiate ESA consultation on the 2011 Access Amendments for the grizzly bear due to a *Cottonwood* "new information" claim. Judge Molloy overturned the Pilgrim Project and found that data over the past eight years demonstrated ineffective road closures that contributed to increases in linear road miles in Bears Outside of Recovery Zone (BORZ) areas, potentially impacting grizzly bears in ways that were not considered in the 2011 Access Amendments biological opinion. In AFRC's [October 2019 Newsletter](#), we discussed how Judge Molloy's ruling may threaten timber sale projects across Region 1.

With respect to Alliance's appeal of the Miller West Fisher Project, the Ninth Circuit took judicial notice of the *Probert* decision and determined that:

[b]ecause the district court's 2018 order dissolving the permanent injunction was based in part on the Miller Project's compliance with the Access Amendments' incidental take

statement in the Cabinet Face BORZ, *Probert's* conclusion that the Forest Service is not complying with that incidental take statement in the BORZ area potentially undermines the district court's ruling

On January 2, Alliance moved for reconsideration based on the Ninth Circuit's remand order and requested that Judge Molly enjoin portions of the Miller West Fisher Project in the Cabinet Face BORZ until the Forest Service's reconsultation with the U.S. Fish and Wildlife Service (FWS) on the Access Amendments is complete. In light of the *Probert* decision, the Forest Service had already reinitiated consultation on the 2011 Access Amendments.

AFRC submitted an *amicus curiae* brief urging the district court to deny Alliance's motion to reinstate the injunction because Alliance could not show irreparable harm while the reinitiated consultation is underway and failed to show a violation of ESA section 7(d) because timber sales are not *per se* "irretrievable or irreversible commitments of resources."

On March 13, Judge Molloy [denied](#) Alliance's request to reinstate the injunction. Judge Molloy determined that "Alliance is attempting to litigate a new ESA claim that was not and could not have been brought previously, given this case pre-dates the Access Amendments." Judge Molloy concluded that "[i]f ESA compliance becomes an issue going forward, Alliance may file a new action." AFRC's Legal Team continues to closely monitor litigation that implicates the *Probert* decision and the 2011 Access Amendments. /Sara Ghafouri

Judge Issues Mixed Ruling on North Hebgen Project

On March 26, U.S. District Court Judge Christensen [ruled](#) the Forest Service's analysis of the North Hebgen Project failed to properly analyze the impacts on the wolverine (a species proposed for listing under the ESA), by failing to prepare a Biological Assessment and obtain a concurrence from the FWS, and failed to properly calculate the elk hiding cover in a manner consistent with its Forest Plan.



The North Hebgen Project is 5,670-acre project located on the Gallatin portion of the Custer-Gallatin National Forest and abuts the western edge of Yellowstone National Park. Eighty percent of the project is in a designated Wildland Urban Interface (WUI) area and there is 6.5 miles of critical infrastructure, including powerlines, and approximately 500 structures that are distributed throughout the area on the flats and near the north shore of Hebgen Lake. The project primarily seeks to reduce wildland fuel conditions in WUI areas, create low intensity fuel conditions that would help fire managers contain wildfires, provide the public safe ingress and egress along the roads, and create a more resilient forest. The project is also designed to enhance aspen and whitebark pine stands and thin stands around Rainbow Point Campground, one of the busiest in the Northern Region, to reduce human-grizzly bear interactions. The project activities would take about 8 to 12 years to implement. AFRC intervened on behalf

of AFRC member Sun Mountain Lumber, who had purchased two of the three sales.

Judge Christensen first determined that the Forest Service failed to prepare a Biological Assessment for the wolverine and obtain a concurrence from the FWS and, therefore, violated the ESA. The threshold issue was whether the preparation of a Biological Assessment is required for "any agency action" or only for "major construction activities," which the North Hebgen is not. A majority of district courts that have

addressed this exact issue have all endorsed the agency’s regulation, 50 C.F.R. § 402.12, that limits the preparation of a Biological Assessment to “major construction activities.” However, Judge Christensen declined to give deference to the agency’s regulation interpreting section 7 of the ESA--a regulation of that has been in place since 1986--because it concluded that it was inconsistent with the plain language of the statute. Under Judge Christensen’s decision, the preparation of a Biological Assessment is now required for “any agency action.”

The Forest Service prepared a Programmatic Biological Assessment for the wolverine which looked at timber harvest activity impacts and also analyzed impacts on the wolverine in its Environmental Assessment and Wildlife Report for the North Hebgen Project. The Ninth Circuit, in an [unpublished decision](#) involving the Glacier Loon Project, determined that NEPA documentation can fulfill the purpose of the ESA’s biological assessment requirement and that the FWS’s subsequent concurrence in the Programmatic Biological Assessment was sufficient to satisfy any concurrence requirements under the ESA for the wolverine. Here, Judge Christensen found that the North Hebgen Project fell outside the scope of the Programmatic Biological Assessment for the wolverine because the entire project area was located in suitable dispersal habitat for the species.

Judge Christensen next took issue with the Forest Service’s calculation of elk hiding cover. In its calculation, the Forest Service analyzed elk hiding cover within Elk Analysis Units only on Gallatin National Forest System lands. The district court found that the agency’s calculation was inconsistent with the Forest Plan Standard because the agency failed to analyze elk hiding cover on other National Forest System lands that were also located within the relevant Elk Analysis Units.

However, Judge Christensen determined that the preparation of an Environmental Impact Statement was not required because the project’s impacts on old growth and cumulative impacts were not significant. The court also acknowledged that although the Forest Service failed to fulfill its obligations by preparing a site-specific Biological Assessment for the wolverine, “it is not necessary to require the agency to prepare a full [Environmental Impact Statement] in order to adequately safeguard the species.”

The court requested the parties submit remedy briefs to determine whether the Project should be remanded back to the agency to correct the errors in its analysis or vacated. /Sara Ghafouri

BLM Timber Program Update

Despite the uncertainties surrounding the COVID-19 pandemic, purchasers in western Oregon recently showed their continued interest for timber sales on O&C Lands. During the week of March 23, the BLM offered and sold eight timber sales across the Salem, Eugene, Coos Bay, and Klamath Falls Units for a total of 48.7 MMBF at a value of \$13.8 million. These results are a reflection of both the current demand for timber products in Oregon and the expectation that public demand for Oregon-made wood products will remain high in the future.



A summary of BLM’s FY20 timber sale program status is below. It is typical for the agency’s accomplishments midway through the fiscal year to be below 50%. However, this is not a typical year, and the analysis, preparation, and auction of the remaining 176 MMBF could be a challenge given the escalating public health concerns. AFRC hopes to be a partner with the BLM in exploring creative solutions for safely delivering their routine timber sale program through alternative auction methods,

digital signatures, and remote communications during active timber sale administration. The positive sale results in March are an encouraging sign that some of these methods are worth pursuing. /*Andy Geissler*

BLM				
FY-20 Target (MMBF)	260			
District	Assigned Target	Volume Offered	Volume Sold	% Target Sold
Salem	71	35.0	35.0	49%
Eugene	68	29.2	29.2	43%
Roseburg	40	5.8	5.8	15%
Coos bay	30	14.2	14.2	47%
Medford	47	0.0	0.0	0%
Lakeview	4	0.4	0.4	10%
Total	260	84.6	84.6	33%

Willamette National Forest Monitoring Report

The Willamette National Forest recently published its Biennial Monitoring Report for fiscal years 2016-2017. The report, which can be found [here](#), assesses the trends and current conditions of a variety of forests resources, including threatened and endangered wildlife species, recreation, timber, and terrestrial ecosystems. The findings in the report are also used to help the responsible official determine whether any changes in the current management plan direction are warranted.

The report analyzes how actual timber production compares to outputs estimated in the Forest Plan. The Willamette Land and Resource Management Plan (LRMP) as amended by the Northwest Forest Plan calculated a sustainable level of timber outputs (PSQ) of 116 MMBF annually through a combination of thinning and regeneration harvest treatments. In 2016 and 2017 the Forest sold 71% and 68% of its PSQ respectively. The majority of this volume was generated through intermediate thinning harvests. The report also considers timber volume removed through processes other than timber harvest as well as new growth.

Some analysis highlights from 2017 include:

- The Forest sold 77.2 MMBF of timber and lost 341.6 MMBF to mortality
- The Forest grew 1,319 MMBF of timber
- The Forest’s net growth was 900 MMBF

Additional data-points computed from these facts show that in 2017:

- Approximately 6% of the Forest’s growth was harvested for wood products
- Approximately 26% of the Forest’s growth was lost to wildfire or natural mortality
- 18% of the live tree volume reduction on the Forest was due to timber harvest and wood products production
- 82% of the live tree volume reduction was due to either wildfire or natural mortality.

The report also recognizes the recent increase in the Forest's timber outputs in 2019 to 100 MMBF and notes that this increase will still contribute a net increase of new forest growth of 731 MMBF.

Among other wildlife resources, the report reviewed the condition of the Northern Spotted Owl (NSO) and indicated that populations for the species showed continued decline. These trends on the Willamette are similar to the observed range-wide decline with an annual observed decline of 3.5% year. The report notes that a main factor in that decline is the increase in barred owls. A recent study that found that NSOs have drastically declined since the barred owl invasion in a landscape dominated by old-growth forests where timber harvest and recent fire has not occurred (Mt Rainer National Park) suggests that habitat management (e.g., preserving old forests) may not alleviate competition between the two *Strix* owl species (Mangan et al. 2019).

Feedback from the public on ways to improve the substance of the monitoring program is welcomed by the Forest. /*Andy Geissler*

AFRC Weighs in on NEPA and MBTA Regulatory Reforms

In March, AFRC submitted comments on two regulatory efforts by federal agencies.

CEQ regulations implementing NEPA. AFRC submitted [comments](#) on March 10 regarding the Council on Environmental Quality's (CEQ) [proposal](#) to amend the overall regulations under NEPA. This is the first significant CEQ rulemaking since the current regulations were issued in 1978, under President Jimmy Carter. CEQ's proposal is [aimed](#) at clarifying and modernizing NEPA regulations because the old regulations have "slowed and impeded" important projects across the country. The proposal would establish time limits of two years for an Environmental Impact Statement (EIS) and one year for an Environmental Assessment (EA), and includes presumptive page limits, where a written waiver is required to exceed (300 pages of text for an EIS and 150 text pages for an EA). It also encourages agencies to establish and use categorical exclusions. Revised provisions also require specificity in public comment and establish criteria for determining whether a commenter exhausted its administrative remedies.

Potentially the most significant change, and apparently the most controversial, is to redefine and narrow "effects" under the regulations. The new regulation would provide that a "'but for' causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. Effects should not be considered significant if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include effects that the agency has no ability to prevent due to its limited statutory authority or would occur regardless of the proposed action." It concludes, "Analysis of cumulative effects is not required." (Proposed 40 CFR 1508.1(g)(2), amending [40 CFR 1508.8](#)). Finally, the proposal would eliminate the 10-factor test ([40 CFR 1508.27](#)) for whether an EIS is required, replacing it with a straightforward significance inquiry. This is a positive step as the so-called "ten factors of death" are one of the most fertile grounds for NEPA litigation.

Nearly 600,000 comments were received on the proposed regulations. AFRC's comments offered strong support for the changes, detailing the effects of NEPA and litigation delays on public timber supply and forest health. We also urged CEQ to prioritize helping the Forest Service get to the finish line on its own NEPA rulemaking. AFRC believes the proposed changes will streamline the NEPA process and facilitate more efficient and effective NEPA reviews by agencies.

Migratory Bird Treaty Act Rulemaking. On March 19, AFRC submitted [comments](#) on FWS's [proposed regulation](#), which would clarify the "take" prohibition in the [Migratory Bird Treaty Act](#) (MBTA) does not

apply to incidental take that is not the purpose of an activity. Although the MBTA gives a long descriptive list of actions that constitute take, all are terms that relate to reducing an animal to human control, the traditional definition of the word and much narrower than the ESA definition.

The majority of courts have held that habitat modification doesn't constitute MBTA take, but a rulemaking to establish a national uniform standard is most welcome. While we don't often encounter the MBTA these days, current regulations provide for no effective permitting process and the statute imposes strict liability. FWS attempted to issue permits for the Hawaii longline fishery in 2012, but the Ninth Circuit struck the permit scheme down in 2017's [Turtle Island Restoration Network v. Department of Commerce](#). The Ninth Circuit decision came four days after Interior issued Solicitor's opinion [M-37050](#), which interpreted the MBTA as not prohibiting incidental take. The regulation would firm up the approach of the Solicitor's opinion. M-37050 superseded an earlier opinion issued in the last days of the Obama Administration which found that the MBTA *did* prohibit incidental take. The earlier opinion was, however, backstopped by the special purpose permit approach that the Ninth Circuit later invalidated.

The Service's proposed rule would rationalize the reach of the MBTA, better align it with the Endangered Species Act, and is the most sensible interpretation of the statutory language. It avoids the situation under current law where any activity that might potentially affect birds is a source of potentially severe liability, while at the same time courts have proven unwilling to endorse the FWS's attempt to administer a permitting process under the existing framework. /*Lawson Fite*

Region 1 'POD' Concept Working to Increase Pace, Scale of Restoration

In 2017, Forest Service Region 1 implemented a new plan for increasing the pace and scale of restoration. This new approach grouped targets for timber outputs, fuels management, and other resource needs across several Forests located in the same geographical area, rather than just relying solely on individual Forests to attain their targets. This approach was intended to address the ups and downs of individual Forest outputs due to planning, litigation, and other issues, and instead, develop targets that a "Pod" of Forests must achieve.

The Region has three "Pods," the North Idaho Pod (Nez Perce-Clearwater and Idaho Panhandle National Forests), the western Montana Pod (Bitterroot, Lolo, Kootenai, and Flathead National Forests), and the Eastern Montana Pod (Helena-Lewis and Clark, B-D, Custer Gallatin, and North Dakota Grasslands National Forests). Timber targets for each are: Northern Idaho Pod-140 MMBF; Western Montana Pod-175 MMBF; and Eastern Montana Pod-105 MMBF for a total Fiscal Year 2020 program of 420 MMBF.

This year we have witnessed how this grouping of Forests has been successful, especially in the Western Montana Pod. A lawsuit filed last year by the Alliance for the Wild Rockies on the 2011 Access Amendment s forced the Kootenai into reconsultation on several planned projects with the FWS. As a result of reconsultation, the Kootenai had to set back five timber sales totaling about 25 MMBF for FY 2020.

At a recent AFRC forest monitoring meeting with the Western Pod Forests, we learned that each of the other three Forests in the Pod will sell an additional timber sale to make up the shortfall from the Kootenai. The Region will redirect needed resources to ensure these makeup projects will get to the bidding table before the end of the fiscal year in September, so the Western Pod can achieve their 175 MMBF timber target. The volume set back on the Kootenai will be available in FY 2021 along with their regular program of work to make up the volume they borrowed from other Forests.

When the Pod concept was first introduced, AFRC and our members had reservations as to how effectively resources could be shifted from Forest to Forest to really make a difference, and how it might take accountability away from individual Forests. The Kootenai example shows that changes within a Pod can happen quickly, and that all Forests must be ready and willing to step up when called upon. The Pod concept and other creative ideas coming out of Region 1 is why the Region is on a trajectory from selling 420 MMBF in FY 2020 to up to 500 MMBF by FY 2023.

AFRC also learned that the Region had a substantial reduction of over \$10 million in their budget so far this fiscal year. Even with the reduction, the Region assured the purchasers that they will still hit their timber targets, because increasing the pace and scale of restoration and getting wood to the marketplace remain their highest priorities. AFRC and our members would like to thank the Region 1 staff for their commitment to managing their Forests, and for providing the timber our industry desperately needs. / *Tom Partin*

AFRC Participates in MLA Spring Meeting

The Montana Logging Association (MLA) held their spring meeting on March 13-14 at Fairmont Hot Springs near Butte, Montana. The meeting was very well attended by nearly 100 members and guests. The program started with an MLA Board meeting on Friday afternoon followed by a reception that allowed MLA members to mingle with sawmill representatives and other guests.



The Saturday program began with presentations from AFRC's Nick Smith and Tom Partin. Nick spoke about the work AFRC does at the national, regional and forest level including working on legislation, budgets and closely tracking the national timber sale program. Nick also spoke about his work with Healthy Forests, Healthy Communities making sure the voices of our rural communities are heard when it comes to the management of our public forests. Tom spoke about his work with each National Forest including commenting on individual projects, meeting with each National Forest 2-3 times per year, and conducting field trips to upcoming projects. He also gave an overview of each

National Forests' 5-year timber sale program and how the Region hopes to increase the volume being sold.

One of the traditions of the MLA meeting is for Montana sawmill representatives to give their outlook for the coming year and the work they are doing to enhance their operations. Even though we are entering into some uncertain times, industry members continue to be optimistic about the future. Everyone mentioned the need for more Forest Service timber.

AFRC was pleased to be a part of MLA's spring program and we look forward to continuing our partnership with MLA to increase the pace and scale of management on our National Forests. / *Tom Partin, Nick Smith*

AFRC Works to Improve Medford BLM Timber Program

The Medford BLM District has been under extreme pressure from the environmental community for decades. Many projects and timber sales are tied up in tedious administrative processes and/or litigation

which creates a high risk environment to complete critical work on the ground. To help communicate these impacts to community leaders, AFRC and Murphy Company recently met with the Medford Mail Tribune and the Chamber of Medford & Jackson County.

The Medford Mail Tribune meeting provided an opportunity to educate the editor on what products are made locally in Southern Oregon and the impact of a healthy timber infrastructure in the Rogue Valley. AFRC was able to work off of this relationship to publish an [op-ed in the paper](#) related to the Ashland Field Office's Bear Grub Project. This op-ed was in response to an environmental community campaign of three misleading letters to the editor about the project. AFRC will continue to be more involved in the community by using the media to inform the public about much needed management of its federal lands. We will continue to make the case that when forest management occurs and local infrastructure is vibrant, economies and the lives of people living in the community improve.

During the meeting with the Chamber, we spoke about the risk to federal timber purchasers and the local economy when timber sale operations are delayed due to untimely responses by the BLM during the protest process and the lengthy protests submitted by the environmental community. Most manufacturing companies are not completely vertically integrated, so a delay could mean contractors are not available when the contract can finally be executed, or the allowable operating season is not conducive to getting the necessary work done. Our discussions with the Chamber provided them with a new perspective on the importance of the federal timber program to local businesses as well as the obstacles that obstruct public land managers from reliably delivering that supply. We hope that these discussions will enable the Chamber to become more actively involved with the management of the public forest land in their counties. /Amanda Astor

How Will the Coronavirus Affect the Economy and Forest Products Markets? -A Housing Boom Could Be Delayed Rather Than Denied



The COVID-19 pandemic has already caused significant economic dislocation, with unemployment claims toward the end of March at [3.2 million](#), or more than four times the previous high set during the 1982 recession. The suddenness of the impact makes the pandemic more like a natural disaster than a business-cycle recession; one [study](#) found the spike in jobless claims in Louisiana almost perfectly matched the spike seen after Hurricane Katrina. Claims in Oregon, however, were only slightly above previous peaks in 2008 and 2010, when the state was hit particularly hard by the great recession.

What are the likely economic outcomes once the pandemic is contained? Of course, predictions are only that, but some data points indicate a housing market and overall economy that can snap back quickly once the virus is contained. AFRC staff have been monitoring information as available and recently attended a presentation on some of these topics by [Forest Economic Advisors](#).

The underlying data shows a nascent housing boom with strong fundamentals, including:

- Residential housing has been dramatically under-built since 2008, with strong pent-up demand and a housing shortage (NAHB reports that housing prices were [accelerating](#) in January and pending home sales had [reached](#) a 3-year high)
- The nation's housing stock has aged significantly since 2008

- The peak of the millennial cohort (the largest age group in the country) is hitting age 29-30, which is the most common age for first home purchase
- Although lumber prices have dropped sharply, they remain above cost in all US regions

From here, much depends on how quickly the virus can be stopped and markets and businesses reopened. FEA noted that plywood demand continues as it is needed for boarding up, with lumber hit harder and OSB even further. As stay-at-home orders are relaxed, the home improvement market will first heat up, followed by commercial markets. Thus, we could see prices spiking up toward the end of the third quarter (August/September).

On March 28, the American Enterprise Institute published a [report](#) entitled National Coronavirus Response: A Road Map to Reopening. The lead [author](#) was appointed by President Trump as FDA Commissioner in 2017 and served in that capacity until 2019. The report recommends that individual states can start to relax some measures “when they are able to safely diagnose, treat, and isolate COVID-19 cases and their contacts,” though some distancing measures would still be in place, particularly for those over 60. This would allow most businesses and schools to reopen. Once a vaccine or effective treatments are established, the AEI report recommends lifting all restrictions.

What might a quick bounce-back look like? One example is 1957-58, when a [bird flu pandemic](#) struck. Late 1957 and early 1958 were disastrous, but followed by extremely robust growth for over a year. So it is possible a housing boom will still happen a year late. /*Lawson Fite*

	Quarter	GDP Growth (%)
The 1957-58 Recession and Recovery	1957 Q4	(4.1)
	1958 Q1	(10.0)
	1958 Q2	2.7
	1958 Q3	9.6
	1958 Q4	9.7
	1959 Q1	7.9
	1959 Q2	9.3