



Save the Date: AFRC Annual Meeting Set for August 2-4



For the last two decades, AFRC has hosted its annual meeting at beautiful Skamania Lodge in Washington state during the spring. After pausing in 2020 due to the global pandemic, AFRC is optimistic about returning to Skamania Lodge this summer!

Mark your calendars for August 2–4. We will be celebrating over 20 years of resiliency and successful advocacy under the theme: Stronger Together. AFRC’s annual meeting will once again include dynamic speakers and presentations on timely

forest management issues; opportunities to hear from industry leaders and influential elected officials; and ample time for networking and enjoying the incredible amenities and views at Skamania Lodge. More information, an agenda, and registration details will be available on [AFRC’s website](#) in the coming months. /Travis Joseph

Washington DC Update

2020 election concludes. The 2020 election culminated in the January 5 runoff election for two Georgia Senate seats, where Democrats prevailed to capture control of the U.S. Senate through a 50-50 split and the tie-breaking vote of Vice President-elect Kamala Harris. The implications of the Georgia vote were quickly overshadowed by the saddening events that unfolded in Washington, D.C. on January 6 when supporters of President Trump violently stormed and shutdown the U.S. Capitol. Much will be written in the days and weeks to come as our nation grapples with the rhetoric and actions that led to this point.

For the first time in over a decade, Democrats will now control the White House, Senate, and U.S. House, albeit with narrow majorities in both chambers. Congressional Democrats and the incoming Biden Administration will be in a much stronger position to advance their legislative agenda and secure confirmation of political and judicial nominees. It also opens the door for Democrats to use the Congressional Review Act to repeal regulations adopted in the final months of the Trump Administration through a simple majority vote. For more, see the following article.

COVID relief and spending bills approved. On December 21, Congress passed a nearly 5,600-page bill that includes a \$900 billion COVID relief package, a \$1.4 trillion Omnibus Appropriations measure to fund the federal government through the remainder of Fiscal Year 2021, and other legislative provisions. After threatening to veto the legislation, President Trump relented and signed it into law on December 27. Democrats have indicated that they plan to approve additional COVID spending, including increased \$2,000 checks for qualifying Americans, after they assume full control of the Congress and White House on January 20.

The COVID relief package includes \$200 million in payments to timber harvesting and hauling operations impacted by the pandemic. Assistance is available to any timber harvesting/hauling business that experienced a loss of gross revenue of 10% from January 1-December 1, 2020 as compared to the same period for 2019. In previous relief legislation, many logging operations did not qualify for PPP funds. The American Loggers Council had advocated for a “Logger Relief Package” (HR 7690/S. 4233) since this summer and AFRC joined a national industry coalition supporting the package.

The Fiscal Year 2021 Omnibus Appropriations bill includes \$114.7 million for the management of Bureau of Land Management (BLM) O&C lands in western Oregon, which is slightly higher than the Fiscal Year 2020 funding level of \$111 million. This should ensure the BLM has the funding it needs to continue increasing its timber sale outputs. While recent changes to the Forest Service’s budget structure make it difficult to compare this year’s appropriations to previous years, it appears that the Forest Products line item is largely level funded while the Hazardous Fuels Reduction line item will receive another large increase. Again, the agency should have the resources it needs for the timber sale program.

Committee leadership changes on Capitol Hill. The results of the election, retirements, and term limits on committee chairmanships will result in changes to the leadership of key committees. Many pro-forestry and Northwest delegation members have ascended to influential positions. Key changes to relevant committees include:

House Natural Resources Committee

Rep. Raul Grijalva (D-AZ) remains Chairman. Forestry champion Rep. Bruce Westerman (R-AR) replaces retiring Rep. Rob Bishop (R-UT) as Ranking Member.

House Agriculture Committee

Rep. David Scott (D-GA) will replace defeated Rep. Colin Peterson (D-MN) as next Chairman. Pro-forestry Rep. G.T. Thompson (R-PA) replaces retiring Rep. Michael Conaway (R-TX) as Ranking Member.

House Energy and Commerce Committee

Rep. Cathy McMorris Rodgers (R-WA) replaces Rep. Greg Walden (R-OR) as Ranking Member.

House Transportation and Infrastructure Committee

Rep. Peter DeFazio (D-OR) continues as Chairman.

Senate Natural Resources Committee

Sen. Joe Manchin (D-WV) will ascend to the Chairmanship. Sen. John Barrasso (R-WY) replaces Sen. Lisa Murkowski (R-AK) as the top Republican.

Senate Agriculture Committee

Sen. Debbie Stabenow (D-MI) will again serve as Chairman. Sen. John Boozman (R-AR) replaces retiring Sen. Pat Roberts (R-KS) as the top Republican.

Senate Finance Committee

Sen. Ron Wyden (D-OR) will assume the Chairmanship of this powerful committee.

Senate Interior Appropriations Subcommittee

Sen. Jeff Merkley (D-OR) and Sen. Jon Tester (D-MT) will likely vie to replace retiring Sen. Tom Udall (D-NM) to chair the Subcommittee. Sen. Lisa Murkowski (R-AK) remains the top Republican.

Regulatory reforms. AFRC has worked closely with officials at the Forest Service and BLM to finalize several important reforms. In the [November Newsletter](#) we reported on the Forest Service’s NEPA regulations, which included modest, reasonable reforms to streamline the environmental review process. In December, the BLM finalized a new rule expediting post-fire recovery and reforestation efforts. Specifically, the rule creates a new 3,000-acre categorical exclusion (CE) under the National Environmental Policy Act to help expedite the removal and sale of dead and dying trees on BLM land, including O&C lands in western Oregon hard hit by this summer’s horrendous wildfires. AFRC issued a [press release](#) in support of the new regulations.

On December 18, the BLM finalized new, major [timber sale regulations](#) that have been a top priority and focus of AFRC and its members. A brief overview of key provisions in the final regulations [can be found here](#). The regulations improve BLM contracting and eliminate the broken administrative protest process that has been used by anti-forestry groups to delay or stop active management. The new rules go into effect January 19 and should apply to any forest management decisions issued on or after that date on BLM-managed lands (O&C and BLM public domain lands throughout the West). AFRC also issued a [press release](#) supporting the announcement.

AFRC has also urged the Administration to finalize a fix to the “Cottonwood” decision, which remains a potent and effective litigation tool for anti-forestry groups to block critical projects on federal forests -- despite Congress’ passage of a partial, legislative fix in 2018.

We expect officials at USDA/Forest Service, USDOJ/USFWS, and Commerce/NOAA to propose a regulatory fix that likely mirrors the partial, legislative fix from 2018. We hope to see that proposed regulation reach the Federal Register for public comment, although it would need to be finalized by the Biden Administration. /Heath Heikkila

How the Biden Administration Could Influence Federal Forest Policy

As the Biden Administration takes office on January 20, the new Executive Branch could change a number of policies that affect federal forests. Depending on the stage of the previous policy, the procedural requirements vary in scope.

Legislation. Any laws passed during the previous Administration and signed by the then-President remain law unless amended or repealed through the legislative process. The legislative route may see more activity with Democrats winning both Senate seats in Georgia. Once sworn in as Vice President, Kamala Harris will be the tie-breaking vote in favor of Democratic control. She will likely resign her current Senate seat prior to the 20th so that her appointed replacement, [California Secretary of State Alex Padilla](#), can be sworn in. Padilla is the first Hispanic Senator and only the [Eleventh](#) in U.S. history.



Some laws have expiration dates; for example, the 2014 Farm Bill authorities initially were scheduled to expire in 2018 but were extended to 2023 by the 2018 Farm Bill.

Executive Orders. Any relevant Executive Orders can be revoked or reinstated by President Biden with the stroke of a pen. This includes amending prior proclamations such as those under the Antiquities Act.

Secretarial Orders are subject to similar revision or revocation, though the process may be slower depending on Cabinet confirmations.

Agency Handbooks or Guidance. The situation varies. Some agency guidance must involve public notice and comment (such as under the Endangered Species Act), so revisions to previous guidance would likely also require notice and comment.

Regulations. Any regulation that has been published in the Federal Register prior to 12:00 noon (EST) on January 20 will remain in effect. The Biden transition has indicated it will [freeze](#) any regulations in progress. If regulations are published but the effective date has not yet arrived, agencies have limited ability to postpone effectiveness pending a new rulemaking or judicial review. However, if a rule is only in *proposed* status, the Administration has a lot of discretion about what to do next.

In general, if a final rule has been issued, it can only be changed or withdrawn via notice-and-comment rulemaking. This was a legal principle that AFRC enforced after Interior Secretary Ken Salazar purported to unilaterally withdraw the Western Oregon Plan Revision in 2009. Judge Bates of the D.C. District Court [found](#) “the Secretary lacked inherent authority to withdraw the 2008 ROD without following the procedures required under the FLPMA, and his decision to do so violated the APA.” This follows a D.C. Circuit precedent that EPA had to use notice-and-comment to correct a *word processing error* resulting from “an erroneous use of the Word Perfect find/replace command in the drafting of the regulation.”

Additionally, if an agency changes a rule through rulemaking, it has to follow guidelines known as the [“Fox” factors](#) requiring it 1) display awareness that it is changing position, (2) show that the new policy is permissible under the statute, (3) believe the new policy is better, and (4) provide good reasons for the new policy. In a case regarding the Roadless Rule in the Tongass, the *en banc* Ninth Circuit applied these principles to strike down the 2003 Roadless Exemption. “Elections have policy consequences,” the court [ruled](#), but “even when reversing a policy after an election, an agency may not simply discard prior factual findings without a reasoned explanation.”

Congressional Review Act. Democratic Senate control brings with it possible use of the [Congressional Review Act](#). The CRA allows Congress to rescind any rule by passing a simple Joint Resolution of Disapproval, which is not subject to filibuster. This power to revoke applies to any regulation (whether “major” or not) issued within the last 60 legislative days of the previous Congressional session. Current estimates are that any regulatory action finalized on or after August 21, 2020, would be subject to the revocation process. These Joint Resolutions are subject to presidential veto, but not subject to judicial review.

While using the CRA may be attractive to some stakeholders, there are limits on its utility to the incoming Administration since a revoked rule may not be reissued in substantially the same form. Thus, where the Administration believes rules should be reformed or revised, the CRA may be too blunt an instrument.

What About Litigation? In some circumstances, litigation may enable agencies to change regulations, particularly if there is a valid concern about the legal soundness of the prior action. Courts are generally permissive with agencies that want to take another look at rules in light of litigation. Whether the rule remains in place during reconsideration depends on the court’s view of the effects on the public. Where AFRC or other stakeholders have intervened to defend regulatory actions (such as with the new NEPA and ESA rules), we have the ability to object to any remand or settlement. A court will not automatically approve any settlement, but will review to make sure it is “fair, equitable, and reasonable.” Intervenors can also take up defense if the government decides not to oppose plaintiff groups. Still, the government’s

change of position often carries great weight with a court, as we saw with WOPR being thrown out in a suit in Oregon.

AFRC looks forward to working with our members and partners to ensure important regulatory reforms are kept. /*Lawson Fite*

Scientific Rebuttal on Spotted Owls and Wildfire Published

A new study published last month in *Ecosphere* rebuts the conclusions from a systematic review and meta-analysis regarding the impacts of severe wildfire on Northern Spotted Owls (NSO). The review in question [was published in 2018 by Derek Lee](#), a professor at Penn State, and concluded, among other things, that “forest fire does not appear to be a serious threat to owl populations.” This conclusion was not based on any new research completed by Professor Lee, but instead was a result of his review and analysis of existing research completed by others.

Last month’s [rebuttal of these conclusions](#) was written in part by the authors of the very research that Professor Lee reviewed in his meta-analysis.

According to the current Recovery Plan for the NSO published by the U.S. Fish & Wildlife Service in 2011, “spotted owls generally rely on mature and old-growth forests. Maintaining and restoring sufficient habitat is important to address the threats the spotted owl faces from a loss of habitat due to harvest or loss or alteration of habitat from stand replacing fire.”

Professor Lee’s analysis from 2018 essentially challenges this notion and instead suggests that mature and old-growth habitat loss from fire is not a threat. He states that “no significant negative relationships between amount of high severity fire and Spotted Owl parameters demonstrates that large high-severity fire patches, including territories that burn 100% at high severity, do not have unequivocally negative outcomes for Spotted Owls.” The counterintuitive notion that owl territories burnt at “100% high severity” have no “negative outcomes for spotted owls” was the primary component of Professor Lee’s analysis rebutted by a group of spotted owl researchers.

The rebuttal by 25 individuals stated that “as a group representing authors from many of the spotted owl studies included in the Lee (2018) meta-analysis, as well as forest and fire scientists with extensive research experience in western forest ecosystems, we disagree with its central conclusions that high-severity (or stand-replacing) fire does not affect or threaten spotted owls.”

The authors’ disagreement seems to stem from the flawed nature of how the meta-analysis generalized the diversity of scientific findings related to owls and severe wildfire. They state that “our interpretation of the scientific research to date is that the way spotted owls respond to fire is highly variable and context specific. To distill this variability down to a conclusion of “no effect” vastly oversimplifies the complex demographic responses of the species (and potentially varied responses by each subspecies) to habitat disturbance.”

Ultimately, the rebuttal concluded that “The conclusions drawn are faulty and should not be taken to replace or supersede the existing body of literature demonstrating the highly variable ways in which spotted owls respond to different types of fire. Owls can respond negatively to larger patches of high-severity fire. Thus, management actions that can demonstrably reduce the extent of severe fire within spotted owl habitat in a changing climate may contribute to owl conservation.”

Following publication of the rebuttal, [Professor Lee spoke with E&E News](#) on December 22 and, in response to its findings, stated that wildfire is used by federal land management agencies as a “boogie man to scare people.” This type of response to a scientific rebuttal seemed uncharacteristic for a research scientist, particularly given the loss of life and property following the wildfires in western Oregon this summer. /*Andy Geissler*

Mission Restoration Project on the Okanogan-Wenatchee Gets the Greenlight

On December 1, U.S. District Court Judge Mendoza, Jr. [upheld the Mission Restoration Project](#). This is a landscape-scale restoration project on the Okanogan-Wenatchee National Forest located near Twisp, Washington, with a focus on restoring forest and aquatic conditions. The 50,200-acre planning area has densely stocked stands that are susceptible to uncharacteristic outbreaks of insects, disease, and severe wildfire behavior. The project involves 8,367 acres of noncommercial thinning, prescribed fire on 10,219 acres, commercial thinning on 1,853 acres centered on dry forest restoration, 34.3 miles of road decommissioning, replacement of 23 culverts, enhancement of eight potential beaver habitat sites, and one bridge replacement.

Alliance for the Wild Rockies, challenged the project on three grounds, asserting: (1) the project is inconsistent with the Okanogan National Forest Land and Resource Management Plan in violation of the National Forest Management Act; (2) the Forest Service failed to prepare an Environment Impact State in violation of the National Environmental Policy Act; and (3) the new information related to the grizzly bear triggered the re-initiation of consultation requirement under the Endangered Species Act.

The North Central WA Forest Health Collaborative (NCWFHC) has been involved with the Mission Restoration Project since 2014, providing significant investment in landscape analysis and field reconnaissance. NCWFHC members have engaged in every step of the Mission Project including hiring a scientist to conduct landscape evaluation and identify specific areas needing restoration, hosting community meetings in Twisp, organizing volunteers to collect road survey data, completing a scientific watershed assessment, and raising funds to implement several restoration projects.

When the Alliance for the Wild Rockies sought to enjoin the project, NCWFHC members worked together to defend the project. Four complementary *amicus curiae* (“friend of the court”) briefs were filed by Chelan County, the Yakama Nation, three environmental organizations, and other NCWFHC members, supporting the science-based project with a balanced mix of forest and watershed restoration and timber harvesting. AFRC represented a group of diverse NCWFHC members, including Okanogan County who provided a declaration by Commissioner Chris Branch as part of the NCWFHC members’ *amicus curiae* brief.

In a 54-page opinion, Judge Mendoza Jr. rejected all of plaintiff’s claims. The Mission Project is a capstone of significant investments made by NCWFHC members and will benefit forest health, wildlife, fisheries, and the local economy— a “win-win-win” for affected stakeholders. /*Sara Ghafouri*

Kootenai Wildland Urban Interface Shared Stewardship

Lincoln County Montana, in conjunction with the Forest Service, Montana DNRC, the Natural Resources and Conservation Service (NRCS), and private timberland owners are proposing to designate the county’s Wildland Urban Interface (WUI), including the [Libby Superfund site](#), as a separate planning unit within the Kootenai National Forest (KNF) under the direction of the KNF Supervisor and staff.

Lincoln County is one of the heaviest forested counties in the west with nearly 80% of county lands being timber based. Statistics show that Lincoln County has the largest total WUI area encompassing 394 square miles or nearly a quarter of a million acres. The county also has the largest percentage of homes built inside the WUI (50.7%) and the highest number of second homes inside the WUI (24.1%). Those conditions point to a significant threat of wildfire to people and private property in Lincoln County. The project's goal is to increase the pace and scale of WUI treatment through joint planning, resource sharing, and cross boundary, large landscape community protection.

To analyze the areas in most need of treatment, the county is currently developing a new Community Wildfire Protection Plan (CWPP). The core team of the CWPP is responsible for the framework, fire risk analysis and content of the CWPP with assistance from the Lincoln County FireSafe Council. The role of the Council is to review, verify and validate the core team's findings, making additions or changes to the data findings and recommendations. The FireSafe Council will be responsible for prioritizing treatment areas within the WUI and making those recommendations to the Forest Supervisor. Upon approval of the 5-year plan by the Forest Supervisor, cross-boundary planning, funding and implementation will be coordinated through the FireSafe Council.

The DNRC, through Good Neighbor Authority (GNA), will coordinate and support project planning, NEPA/MEPA, layout, implementation and administration of projects on federal and state lands, and will comply with Kootenai National Forest Plan direction. DNRC will also treat state-managed lands within the WUI, and NRCS, in conjunction with Lincoln County, will provide planning and project management on the private lands. While the initial plan may only have a 5-year horizon, Lincoln County hopes this could be extended to a 10- to 15-year timeframe, with several timber sales being sold on Forest Service lands using GNA authority.

The county is looking at several outside funding sources to help jump-start this stewardship project. Two of those include a request of \$2 million of Joint Chiefs funding from the Forest Service's Washington Office and a \$500,000 request from the recently adopted Montana Forest Action Plan, which has \$5.5 million of seed money provided by the Montana Legislature for projects. It is hoped that once projects are sold from the stewardship project through GNA, there will be enough receipts to plan and implement additional projects.

AFRC applauds this unique approach to Shared Stewardship by all the partners involved in this effort by recognizing the problems facing the WUI in Lincoln County and outlining a solid action plan going forward. */Tom Partin*

Collaboratives Creating Momentum for Management on the Caribou-Targhee

Although the Caribou-Targhee (C-T) National Forest is not a major producer of raw materials for the forest products industry, the timber offered each year remains critical to local communities and manufacturers. A spokesperson for the C-T shared that the Forest is increasingly confident that they will be offering a stable amount of volume each year for at least the next five years.

Much of the credit for the recent building of NEPA ready "shelf stock" is attributed to the efforts of the Caribou Forest Initiative (CFI) and the Targhee Forest Initiative (TFI) collaborative groups. Both of these



fledgling groups were formed within the last five years and have been working with the various Ranger Districts on the C-T by providing input and feedback on various planning areas.

The Lanes Creek Forest Management project on the Soda Spring district is a good example of the value added by the CFI group. In the spring of 2020 a proposal was put forward to the CFI suggesting a vegetation management project on a small parcel of Forest Service lands that had no road access.

Logging activity is currently taking place on the adjacent private lands providing an ideal opportunity to introduce some much-needed vegetation management on Forest Service lands. The federal lands would not be economically viable to treat at a later date as a standalone project. A wide variety of wildlife utilizes this diverse landscape as emphasized by this moose

which was visible from a forested area on a field trip stop in the proposed Lanes Creek project area. Adjacent landowners are supportive of removing federal logs over their properties.

After reviewing the proposal in depth, the Forest Service agreed that this was an ideal opportunity and moved forward with the project. The scoping document on Lanes Creek will be out within the next few weeks. Without the CFI this project would not have been proposed, the forest would have continued to decline due to overstocking, and the raw materials would not be available to local industry. *Irene Jerome*

AFRC is Hiring – Southwest Oregon Field Forester

Are you looking for a challenging – but rewarding – job that is different every day? Are you passionate about the local forest products industry and its contributions to economic and environmental sustainability in the Pacific Northwest? Do you want to work for a team-oriented organization that is making a difference in public land management?

AFRC is now accepting applications for the position of Southwest Oregon Field Forester. This position is responsible for providing professional and technical input into the planning, development, and implementation of Forest Service and BLM vegetation management projects in Southwest Oregon to make these projects more economically and operationally viable. [See the full job description here.](#)

The ideal candidate would be a curious, assertive, self-motivated individual who works well with limited supervision, and is capable of developing an ongoing program of project monitoring on several National Forests and BLM Districts. This person must also be a good team player able to take input from other staff members or associations to identify successful strategies for this program. Applicants should have a combination of education and work experience in forest management that demonstrates the experience and skills to perform the duties of this position.

This is a remote position with no designated office space and an expectation that a majority of the time will be spent in the field reviewing projects. Due to the nature of the job, the employee must reside within Southwest Oregon, possess the necessary field skills, and be comfortable working alone in remote BLM and Forest Service forests. The Southwest Oregon Field Forester will be supervised by the Federal Timber Program Director through AFRC's Eugene, Oregon office. There will be an initial training period that could require the employee to report regularly to the Eugene office.

Interested individuals should send a cover letter and resume to info@amforest.org by January 31 to ensure application materials are considered. The cover letter should demonstrate an understanding of AFRC's mission, highlight relevant professional experience as it applies to the job, and describe the candidate's interest and motivation to work for AFRC and its members. */Travis Joseph*