



Washington, DC Update

Following the acquittal of former President Donald Trump in an unprecedented second Senate impeachment trial, Congressional Democrats have turned their attention to the confirmation of President Joe Biden’s nominees and moving their legislative agenda.

On the legislative front, the House of Representatives passed a large Omnibus public lands package on February 26. The package would add 1.5 million acres of new Wilderness in California, Colorado, and Washington State and designate hundreds of miles of river as Wild & Scenic. The package also includes a ban on uranium mining across a wide swath of Arizona. Many of these Wilderness proposals passed the House twice in the last Congress but stalled in the Senate, including the Wild Olympics Wilderness and Wild & Scenic Rivers Act sponsored by Rep. Derek Kilmer (D-WA) and Northern California Wilderness legislation sponsored by Rep. Jared Huffman (D-CA). AFRC previously offered [suggested changes](#) to the Wild Olympics legislation, which were largely rejected by the sponsors.

Over [70 amendments](#) were submitted to the Rules Committee with Republicans aiming to limit or alter the designations and Democrats attempting to attach their own public lands bills, including [legislation](#) by Rep. Peter DeFazio (D-OR) to withdraw several rivers in southwest Oregon from mineral development. Among the Republican amendments were proposals to block wilderness designations in areas at high or extreme risk of wildfire or experiencing an active insect infestation or mortality event. Democrats on the Rules Committee blocked these amendments from being offered on the floor.

This was the first public lands measure brought to the House floor since Rep. Bruce Westerman (R-AR) took over as Ranking Member of the House Natural Resources Committee. In his [floor speech](#), Westerman, a trained forester and professional engineer who worked with the forest products sector, highlighted the folly of permanently banning any forest management and thinning at time when millions of acres of federal lands burn annually. The legislation now heads to the Senate, which has its own backlog of largely Democratic Wilderness and Wild & Scenic bills that they will be eager to move this Congress.

Massive Wyden Wild & Scenic bill. Senators Ron Wyden (D-OR) and Jeff Merkley (D-OR) recently introduced the “River Democracy Act” to “protect” 4,700 miles of Oregon rivers under the Wild & Scenic River Act based on nominations of 2,500 Oregonians -- .06 percent of Oregon’s 4.2 million population. There’s little doubt that a majority of the .06 percenters live in Portland – far from the areas being proposed for designation. 4,700 miles of new Wild & Scenic designations would place new restrictions on *at least* 1.5 million acres of lands predominantly managed by the Forest Service and BLM.

Since 1968, Congress has designated about 1,916 miles of Oregon rivers as Wild & Scenic. The Wyden proposal would nearly quadruple this figure. AFRC has requested detailed GIS maps from the Wyden office to do a detailed analysis of the proposal. The Wyden office could not provide the information as it is waiting for official maps to be developed by the federal land management agencies, since the [map](#) provided by the Wyden office was likely produced by an environmental group.

Over 1 million acres of forests burned in Oregon last year with the majority located in “wet” western Oregon. It is difficult to square how placing additional restrictions on the management of at least 1.5 million acres makes sense at a time when many Oregonians are still reeling from last year’s disastrous fire season. In the weeks ahead we hope to show how Wild & Scenic and other restrictive land designations only increase the likelihood of catastrophic wildfire and highlight the impacts of the disastrous 2020 fire season. Mason, Bruce, and Girard as produced a [powerful tool](#) showing before and after satellite images of the western Oregon’s largest wildfires.

Vilsack easily confirmed, Haaland struggles in hearing. In a 92-7 vote of the U.S. Senate, Tom Vilsack was easily confirmed as the Secretary of Agriculture – a post he held for all eight years of the Obama Administration. As a former Governor of Iowa, Vilsack is considered a moderate Democrat and enjoys strong relationships with agriculture groups. Consistent with the Biden Administration’s priorities, Vilsack has committed to focus his department on addressing equity issues and climate change.

Republican opposition to Rep. Deb Haaland (D-NM), Biden’s pick for Secretary of the Interior, has hardened following a two-day confirmation hearing. Haaland, who if confirmed would be the first Native American to serve as Interior Secretary, struggled to distance herself from her past positions in strong opposition to fossil fuels, including supporting a ban on fracking, ending oil and gas development on federal lands, and blocking oil and gas pipelines. In the face of pointed questions from Republicans, Haaland continually responded that she would follow the views of President Biden, rather than her own.

Senator Steve Daines (R-MT) asked Haaland about her support for active forest management and the impact of ant-forestry litigation, including Cottonwood lawsuits that have disrupted critical forest health projects. Daines also asked the nominee on her sponsorship of House legislation to extend permanent Endangered Species Act protection to the Yellowstone area population of Grizzly bears, despite populations that exceed the recovery goals and could reach the carrying capacity if no management of the population were allowed. When pressed by Daines for why she supported a policy that seemingly conflicts with science and the law, Haaland responded “I guess it was because I care about the bears.” Daines has already announced that he will work to defeat the Haaland nomination.

Despite the opposition from Senate Republicans, it appears that Haaland will likely be confirmed as she has earned the support of Senator Joe Manchin (D-WV), who chairs the Senate Energy and Natural Resources Committee and represents a state that has long relied on fossil fuels. The same can’t be said for Biden’s nominee to head the White House Office of Management and Budget, Neera Tanden, who is be opposed by Manchin and Republicans for hyper-partisan attacks and Tweets leveled at Republicans and some Democrats. /Heath Heikkila

President Biden’s Ambitious 30 by 30 Executive Order Seeks to Conserve 30 Percent of U.S. Lands and Ocean Waters by 2030

On January 27, President Biden signed an [Executive Order](#) directing the Department of the Interior to outline steps to conserve at least 30 percent of U.S. lands and waters by 2030 in an effort to safeguard biodiversity and bolster resilience to climate change.

The “30 by 30” plan directs the Secretary of the Interior, in consultation with the Secretary of Agriculture, Secretary of Commerce, and Chair of the Council on Environmental Quality, to submit a report to the National Climate Task Force within 90 days, recommending “steps that the United States should take, working with State, local, Tribal, and territorial governments, agricultural and forest landowners, fishermen, and other key stakeholders, to achieve the goal of conserving at least 30 percent of our lands and waters by 2030.” But with 30 days already passed and the Secretary of the Interior yet to be confirmed, it seems speculative that the substantive and meaningful report will be submitted within that ambitious timeframe.

The Department of the Interior’s [Fact Sheet](#) about the 30 by 30 plan explains that 23 percent of America’s oceans are currently protected but only 12 percent of lands are “permanently protected.” This equates to 293 million acres of lands that the Biden Administration believes is consistent with the goals of the 30 by 30 plan. To conserve 18 percent more lands within this decade equates to “protecting” a land base twice the size of Texas.

And while the plan’s catchy phrase is simple, its execution is not. There are many questions that need to be addressed such as what “conservation” means. Currently, the federal government owns 617 million acres, much of which is already set aside as national parks, national monuments, national recreation areas, national wildlife refuges, roadless areas, and other conservation-focused designations. On National Forest System lands, active management is restricted on most of the land base, with less than a third available for sustainable forest management activities. Meeting the 30 percent target will also require addressing conservation on private lands, where most of the country’s biodiversity and potential to store carbon is located.

If “conservation” is defined by no timber harvest ever, as some environmental groups and politicians are promoting, the consequences would be catastrophic to the forest products industry, rural communities, and efforts to respond to the current forest health crisis. Over 80 million acres of federal public forestlands are at imminent risk, and in 2020 alone, over 4.9 million acres burned on Forest Service lands. Stopping science-based forest management on millions of forested acres will only exacerbate our forest and climate crises.

It’s unclear how the Biden Administration will move forward with conserving these lands. The President could elect to set aside lands and oceans unilaterally, and without Congressional approval, by designating new monuments using the Antiquities Act, which could ban drilling, mining, and timber harvest activities. The plan could also be used as a platform for designating Wilderness areas and other set-asides. But any top-down approach without engagement with state, local and tribal governments and the private sector risks alienating rural communities and will likely end in prolonged political and legal battles.

AFRC is closely monitoring the 30 by 30 effort and will engage with the Administration and Congress on how it can implement effective climate-focused policies on these lands. Our priority will be focused on ensuring Federal lands in the west will be properly “counted” towards achieving the 30 by 30 goal. /Sara Ghafouri

Biden Team Starts Process for Rollbacks of Regulatory Changes

Upon his swearing-in as the 46th President, Joe Biden took charge of what many have termed the “Fourth Branch” of government, the massive [administrative state](#) including many federal departments and agencies. Because climate change was one of Biden’s four main campaign themes, many speculated that the new administration would attempt to rollback regulatory initiatives of the prior administration. The Biden Administration’s first month has seen initial steps that could, but are not certain to, lead to such rollbacks.



On Inauguration Day, January 20, the President signed [Executive Order 13990](#) on “Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis.” This order stated that “[o]ur Nation has an abiding commitment to empower our workers and

communities; promote and protect our public health and the environment; and conserve our national treasures and monuments, places that secure our national memory.” The order established policies to “to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water ... ; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; ... and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.” It also directed a comprehensive regulatory review “as appropriate and consistent with applicable law.” The White House subsequently published a [list of 104 actions](#) to be reviewed. The order also revoked the permit for the Keystone XL Pipeline.

Public actions have been made on a number of issues relevant to forest management.

CEQ Regulations. The new NEPA [regulations](#) were issued in July 2020 and became effective on September 14 after a judge in Virginia denied a request for a preliminary injunction. There are five lawsuits in four courts pending against the regulations, and AFRC has intervened in all five. The government requested a 60-day stay in all the cases so the Administration can review its options. Four suits have been stayed; however, the judge in Virginia refused to stay the case there, which is already in the middle of briefing.

ESA Regulations. New comprehensive [ESA regulations](#) were issued in 2019 and are the subject of three suits in the Northern District of California. AFRC intervened in the three suits. Additionally, new regulations were issued in December 2020 regarding the definition of “habitat” and procedures for excluding habitat under ESA section 4(b)(2). The latter regulations have been challenged in two suits in Hawaii and one in California. All the ESA suits have been stayed for 60 days for further consideration.

Migratory Bird Rule. On January 7, the Fish & Wildlife Service published a rule clarifying that the [Migratory Bird Treaty Act](#) “take” prohibition does not cover incidental take of migratory birds. The rule provides that the prohibitions “apply only to actions directed at migratory birds, their nests, or their eggs.” AFRC supported the rule as it would eliminate uncertainty about the sweep of MBTA liability. On January 19, a number of environmental groups [filed a lawsuit](#) in federal court in New York, with another one filed by twelve states. The rule was supposed to go into effect on February 8. However, the Service published a [notice](#) delaying the effective date by 30 days, to March 8, and is taking additional public comment through March 1. The delay was based on the requirement in the Congressional Review Act that “major” rules shall not take effect for at least 60 days after publication.

Northern Spotted Owl Critical Habitat. On January 15, the new critical habitat designation for northern spotted owl was published in the Federal Register, with an effective date of March 16. Biden’s Interior Department announced on February 26 it was delaying the effective date by 30 days. News reports have also included strident statements that are at odds with the process for designating, evaluating and excluding critical habitat under the ESA. Senator Ron Wyden (D-OR) also released a [supportive statement](#) which personally criticized Secretary Bernhardt.

Gray Wolf. The Service issued a nationwide de-listing rule for gray wolf in November, which became effective January 4. This ends the anomaly that wolves crossing from Idaho/Eastern Oregon into the Cascades suddenly became ESA-listed. Three lawsuits have been filed and preliminary indications are that the Service will defend the rule. AFRC and partners are reviewing our options. /Lawson Fite

Western Oregon Wildfire Data Published

Federal forest managers have been assessing the damage to an array of resources caused by last summer’s devastating wildfires in western Oregon. Various remote sensing tools supplemented by field verification allowed the Forest Service (USFS) and Bureau of Land Management (BLM) to assess and measure the fire’s impacts to forest cover, sensitive wildlife habitat, road infrastructure, and a host of other resources.

These assessments, some of which are included in [reports available here](#), are designed primarily to assist the USFS and BLM in grappling with the extent of damage and to inform appropriate post-fire recovery actions. The synthesized data also serves as a useful way for the public to understand the magnitude of damage and the proper context in which to consider any future recovery actions proposed.

The tables below were compiled by organizing and synthesizing the data in these reports that cover the large fires* on the Mt Hood, Willamette, Umpqua, and Rogue River-Siskiyou National Forests, and the Roseburg and NW BLM Districts.

<u>National Forest</u>	<u>Acres Burnt</u>	<u>BLM District</u>	<u>Acres Burnt</u>
Mt Hood	103,433	Roseburg	40,616
Willamette	167,679	Northwest-Salem	51,209
Umpqua	37,206	Northwest-Eugene	18,545
Rogue River-Siskiyou	68,707	Total	110,370
Total	377,025		

**Riverside, Beachie, Lionshead, Holiday Farm, Archie Creek, Thielson, Slater, Devil*

The reports also contain detailed information collected with satellite imagery on burn severity, which is a measure of vegetation loss from fire and is generally used to classify forest mortality. For example, burn severity of 50% indicates that half of the forest vegetation was burnt across a given area. Forest cover loss expressed as burn severity should serve as a foundation for the public to grasp the extent of damage and to properly contextualize post-fire recovery actions, including timber salvage, which typically receives a heightened level of scrutiny.

Burn Severity	Total Federal Acres Burnt
Low (0-50%)*	202,025
Moderate (50-75%)	149,785
High (75-100%)	132,792
Total	484,602**

* Low severity also includes unburned acres within the fire perimeters.

**The difference in acreage between this number and the sum of the totals in the above charts is due to minor data gaps in the satellite imagery.

Key Takeaways:

- Nearly half a million acres of federally managed forest land burnt in western Oregon in 2020.
- Approximately 280,000 acres burnt at moderate and high severity.
- The Holiday Farm, Beachie, and Lionshead fires caused the loss of 73,820 acres of northern spotted owl (NSO) habitat.
 - For comparison, the Northwest Forest Plan 20-year monitoring report indicated that 5,805 acres of NSO habitat was lost annually across the entire range of the species due to timber harvest. This means that more owl habitat was lost due to wildfire on a single National Forest in a single year than over the course of 12 years of timber management on 17 National Forests.
- As of February 22, aside from public safety hazard tree removal, the USFS and BLM have proposed timber salvage on **1.5%** of the total acres burnt (7,566 acres). This represents **less than 3%** of lands burnt at a moderate to high severity.

It is likely both the USFS and BLM will propose additional acres for timber salvage in areas burnt at moderate and high severity. However, these supplemental proposals will not likely increase the proportion of salvage on burnt forests much higher than 5-7% of moderate and high severity burn areas.

Despite these data points, a consortium of special interest groups recently sent a letter to Oregon’s delegation warning them of “massive post-fire logging proposals” that have placed “more than 10,000 acres of fire burned forest on the chopping block.” AFRC hopes to work with the delegation to inform them of the inaccuracies in this letter and to direct them instead to the federal reports that accurately describe the scale and magnitude of the wildfires and the current proposals to recover less than 2% of the damaged timber resources.



This image, from the Archie Creek Fire on the Umpqua National Forest, represents a stand burnt at 100% severity.

We also look forward to working with our federal land management partners to develop a viable timber salvage strategy that will provide useful timber products to the local milling infrastructure while assisting in the reforestation of those burnt forests that are salvaged. Unfortunately, over 100,00 acres of public

forestland will likely resemble the photograph above for many years to come, as effective reforestation is complicated by standing snags and safety concerns. /*Andy Geissler*

Ninth Circuit Upholds Denial of Injunction Against Brebner Flat Project on Idaho Panhandle National Forest

On February 22, in a unanimous unpublished decision, the U.S. Court of Appeals for the Ninth Circuit [refused to halt](#) the Brebner Flat Project on the Idaho Panhandle National Forest. The ruling affirms a U.S. District Court's [previous denial](#) of a preliminary injunction against this project, which seeks to improve forest health on federal lands in the Wildland Urban Interface near Avery, Idaho.

The Brebner Flat Project includes logging treatments to reduce the risks of severe fire and provide timber to support local communities. The project will implement forest health treatments within an area that's identified as high risk for wildfire in Avery's Community Wildfire Protection Plan. Logging and prescribed burning are planned to occur on approximately 1,700 acres, or 14 percent of the 12,000-acre project area. With support from AFRC and Julie Weis of Haglund Kelley LLP, AFRC member Stimson Lumber intervened in the litigation in support of the Forest Service. Stimson has purchased timber associated with the project.

Last year, Friends of the Clearwater and Alliance for the Wild Rockies filed a lawsuit seeking to halt the project. Among several claims, they argued the Forest Service violated the Endangered Species Act (ESA) and claimed logging would impact a Wild & Scenic river corridor. Judge B. Lynn Winmill of the U.S. District Court for the District of Idaho denied the plaintiffs' request for a preliminary injunction, while noting the benefits of the project to reduce fire risks and support the local economy, finding the "public interest and balance of equities tips in favor" of implementing the project.

Plaintiffs appealed the district court's denial of the preliminary injunction to the Ninth Circuit. The appeal focused on the groups' continued claims of grizzly bear presence in the area despite lacking evidence. The Ninth Circuit panel comprised of Judges Graber, McKeown, and Paez—all appointed by President Clinton—elected not to hold oral argument and the case was submitted on the briefs. In a short decision, the Ninth Circuit concluded that the district court did not err in its assessment of the plaintiff-appellants' likelihood of success on the merits of their claims and irreparable harm on their ESA claim, affirming the denial of the preliminary injunction.

The case is now remanded back to Judge Winmill for merits proceedings, but the parties have not set a briefing schedule. Stimson began operations in 2020 and hopes to continue operations in 2021. /*Sara Ghafouri*

South Plateau Project Deserves Public Support

The South Plateau Project currently being planned on the Custer-Gallatin National Forest deserves public support for the Forests' effort to reduce the threat of wildfire, while protecting the beauty of the landscape and wildlife found there.

The 39,000-acre South Plateau Project area is located south and west of West Yellowstone, Montana, and includes the Lower, Middle, and Upper South Fork Madison River watersheds. The project area is bordered by the Continental Divide National Scenic Trail on the west and Yellowstone National Park on

the east. This area receives hundreds of thousands of visitors each year and they deserve a safe visit, free from wildfire and forests with dead and dying trees.

The Forest is proposing to implement a series of activities to reduce the risk or extent of catastrophic wildfire and increase the resiliency to insect and disease infestation while providing wood products to local mills. Catastrophic wildfires have been prevalent in recent years across the Custer-Gallatin National Forest and adjoining Yellowstone National Park. The Ashland District, for example, has seen over 60% of its forests' destroyed by wildfire in the past decade.

The Project area is also included in the Gallatin County Community Wildfire Protection Plan which was developed in 2006 and updated in 2019 through a cooperative process and integrates the National Fire Plan, the Healthy Forests Restoration Act, and FEMA requirements for a wildfire plan. The overall mission of the Gallatin County CWPP is to protect against loss of life, property, and natural resources as the result of wildland fire. A recent survey of the Fire Regime classes in this area indicates most of the acres are in Fire Regime 5, which is the highest rating and under which the CWPP requirement calls for as many acres to be treated as possible.

The fire risk is exacerbated in the South Plateau area where there is currently a 93% probability of a high severity of mountain pine beetle outbreak during the next period of beneficial climate (usually a long-term drought period). Additionally, lodgepole pine dwarf mistletoe is widespread throughout the project area. Virtually all stands of mature lodgepole pine that were surveyed or observed have some level of mistletoe. As you may recall it was the beetle infected stands of dead lodgepole pine in Yellowstone National Park that were devastated by wildfire in the late 1980's and are still recovering.

Unfortunately, not all members of the public want to see the area treated for fuels reduction, forest health, and improvements to wildlife habitat. Anti-forestry groups have publicly denounced the Project, stating it could be detrimental to the populations of grizzly bear and Canada lynx. The public is often the silent majority when it comes to speaking up for good sound projects like South Plateau and this is one project where we cannot stand idly by while others try to stop it. AFRC and our members will strive to get the facts out about this Project, and we hope others will do the same. / *Tom Partin*

Washington State DNR Timber Sale Update

Despite the challenges presented by reactions to the COVID-19 Pandemic, the Department of Natural Resources timber sale program has continued to offer needed supply into the marketplace.

Results for the February auction were not available at the time of publication. For FY 2021, western Washington sales target under the Sustainable Harvest Calculation is roughly 465 MMBF. The eastside target is roughly 50 MMBF, however, DNR has recently undertaken preparations to update eastern Washington's Sustainable Harvest Calculation. The previous SHC for eastern Washington was last conducted in the late 1990's. Since then, forest health needs have been one of the primary driving factors in volume targets on the eastside.

The numbers presented will reflect the first seven months of DNR's Fiscal Year 2021, which runs from July 1 through June 30. DNR offered 71 timber sales for auction, amounting to 330,015 MBF and sold 66 sales for a total sold volume of 305,809 MBF. There were five sales for a total of 24,206 MBF that did not receive bids. Bidder interest remains mixed for DNR sales in this fiscal year. Through the January

auction, the average number of bids received per sale was 2.55. When looking at the individual sales data, bids for non-sort sales ranged from 1 to 4 bidders per sale. Bidder interest was more varied on the individual sorts that DNR offered in some of its Contract Harvest sales. The number of bidders on sold sorts ranged from 1 to 7 bidders depending on the sort.

These sales have generated over \$126.2 million dollars in revenue. After the management fee is deducted, this revenue will be distributed to the various beneficiaries of the DNR-managed trust lands. Currently DNR retains 31% of gross sales revenue on Federally Granted trust lands and 25% of gross sales revenue on State Forest Transfer Lands (“County” trust lands). The net revenue distributed to the beneficiaries supports K-12 school construction, maintenance of the State Capitol, local school districts, fire, EMS, libraries, and many other public services. The management fee retained by DNR, along with a per MBF fee paid by the timber purchaser for road maintenance needs, is used by DNR to fund the management operations of the trust lands.

This last year we’ve seen an increase in opposition to timber sales that DNR brings to market. This opposition ranges from those seeking additional set-asides for the marbled murrelet to those who want to stop logging in the state of Washington. The former being those who were not satisfied with the increase in trust assets removed from management under the HCP amendment for the marbled murrelet adopted by the Board of Natural Resources. There have also been a number of “NIMBYs” who, while professing support for some forestry, have been opposed to DNR selling timber sales in their local areas. And finally, there are the few calling for an end of logging on DNR trust lands. DNR and the Board of Natural Resources have made efforts to work with and allow opportunities for these groups to seek solutions on preventing harm to the beneficiaries. To date, short of the legislature funding more “buy-outs” of the trust assets, these groups have not brought forward practical solutions to their concerns.

With five months left in the fiscal year, DNR appears on pace to offer their annual target for auction. Market conditions and ongoing opposition to trust land management will impact DNR’s ability to meet their sold volume target. The total end of decade sold volume compared to the decadal SHC target will be used to calculate any arrearage that would need to be made up in the next planning decade. The current SHC planning decade ends on June 30, 2024. DNR timber sale auction results can be found [here](#). The results for GNA sales on Forest Service lands and administered by the DNR Federal Lands Program can also be found on the auction results pages referenced. */Matt Comisky*