



AFRC Wraps up 2022 Annual Meeting – “The Crossroads”

Last week (April 19-21), AFRC wrapped up its 2022 Annual Meeting at beautiful Skamania Lodge. Despite cool temperatures and steady rain, 11 teams competed in AFRC’s Golf Open at the Elk Ridge Golf Course before a fun evening with colleagues and new friends at the Welcome Reception.



Team Roseburg Forest Products stole the show with matching golf outfits to win the inaugural AFRC “Social License” award: social license to be your true self on the golf course.

The theme of this year’s Annual Meeting was “The Crossroads.” In his opening comments, AFRC President Travis Joseph explained how multiple, overlapping events in the West are creating a timber supply shortage that will impact the forest sector infrastructure and workforce, and ultimately the ability of Federal land managers to address the national wildfire crisis.

[Timber supply in the Pacific Northwest is expected to decline on most forest ownerships](#), including Oregon private industrial forestlands, Oregon Department of Forestry lands, and Washington State DNR trust lands – major sources of timber to the region’s existing milling infrastructure. Despite historic investments and new tools included in the Infrastructure Investment and Jobs Act for forest management, timber supply on Federal lands is *also* expected to remain flat or decline in the West.

The reduction in timber supply is happening as the nation grapples with a housing affordability crisis, a houselessness crisis in many major cities in the West, and rising inflation with growing demand for wood

products nationally and globally. At the same time, deep pocketed and politically connected anti-forestry activists are working to end commercial logging on public lands under the guise of climate change, while the Biden Administration is calling for *quadrupling* the number of federal acres at imminent risk of wildfire and mortality.

This is the “crossroads” – Federal decisions around forest health, the wildfire crisis, supporting the existing forest sector infrastructure, and the role of public forests in mitigating climate change – will drive management decisions and timber supply outcomes in the West for the foreseeable future. AFRC’s work in this space is more important than ever.

The Annual Meeting focused on these important connections. Attendees heard comments from both Democratic and Republican leaders on forest management, including the Dean of the Oregon House Delegation and Chairman of the powerful House Committee on Transportation and Infrastructure, Peter DeFazio (OR-4). DeFazio reflected on his nearly 40 years of public service in Congress representing one of the most heavily forested districts in the United States and called for a legislative compromise to the forest management problems in the West.



Members of Congress Cliff Bentz and Derek Kilmer discuss challenges and opportunities in federal forest management.

Congressman Cliff Bentz, Congressman Derek Kilmer, and Congresswoman Jaime Herrera Beutler shared their perspectives on both the challenges and opportunities in federal forest management. In a clear sign of bipartisanship, all three members confirmed their commitment and support for increasing active management on, and timber supply from, Federal lands. All three members talked about catastrophic wildfires and toxic smoke as major wakeup calls for the public, the press, and elected officials.

Dave Tenny, CEO of the National Association of Forest Owners, provided a highly informative and timely presentation on the role of working forests in climate change mitigation. Tenny succinctly captured what “climate smart forestry” looks like: trees + wood products = maximum climate mitigation.

Tenny noted how private working forests provide 90% of wood and fiber for forest products in the United States while also providing nearly 75% of the total gross forest carbon sequestration!

AFRC's Heath Heikkila and Federal Forest Resource Coalition's Bill Imbergamo shared their political outlook for the 2022 elections and the likely implications for which political party controls Congress, and what that means for forest management legislation, regulatory reforms, and oversight of the Infrastructure Investment and Jobs Act and the Biden Administration's 10-year wildfire strategy.

In the afternoon on Day 2, attendees were joined by leaders from the Idaho Department of Lands, Montana DNRC, and Oregon Department of Forestry to explain how states are partnering with the Forest Service to invest in and grow forest management activities on Federal lands. These presentations were followed by Regional breakout sessions covering Montana, Idaho, Washington, Oregon, and California – providing a space for agency leaders and their customers to discuss regional and local issues.

The third and final day featured a conversation with Washington Commissioner of Public Lands, Hilary Franz. Commissioner Franz discussed her controversial “carbon project” on DNR lands that would “lease” carbon in some older stands and sell the carbon to polluters; her efforts on the Keep Washington Evergreen legislative proposal that failed in the Washington Legislature due to opposition from anti-forestry groups; and expected timber reductions on DNR trust lands and what it means for the infrastructure and Washington's rural communities.

U.S. Forest Service Chief Randy Moore provided the morning keynote address on Day 3. He talked about the critical relationship between the Forest Service and the private sector, noting, “The bottom line is without industry, we're not going to be able to manage the forest. It should not even be debatable.”

The Forest Service will have to rely heavily on the forest sector infrastructure and workforce to tackle the wildfire crisis threatening tens of millions of acres of federal forests, while also providing a higher and more predictable level of timber supply to keep mills and private contractors in business.

AFRC's Nick Smith closed the meeting with a call to action to all meeting attendees and those that want to change the current trajectory of failed forest management. Smith shared the available communication and advocacy tools and needed *actions* to engage the public and press, inspire future advocates for the industry, and to hold elected officials and land managers accountable. 2022 is the year of the crossroads.



U.S. Forest Service Chief shares his vision for the nation's national forests.

AFRC thanks all the speakers, panelists, special guests, and attendees for making 2022 another fantastic conference. We look forward to seeing our regular – and new – meeting attendees again at Skamania Lodge in April 2023! /Travis Joseph

The AFRC Podcast



Can Forest Carbon Offsets and Forest Products Co-Exist?

Episode 8 Guest: Travis Joseph
AFRC President



The AFRC Podcast is a monthly discussion examining key issues and news relating to forestry, forest products and public lands management.

At all levels of government, policymakers are seeking ways to regulate carbon and greenhouse gas emissions to combat climate change. Several states have adopted cap-and-trade systems as a way to lower emissions. These systems have created markets for so-called “carbon offsets.” And thanks to the ability of our forests to sequester and store carbon, both public agencies and private interests are increasingly looking at buying and selling carbon offsets on public and private forestlands. What are carbon offsets? Are they effective? How do they impact the forest products industry? To help answer these questions, AFRC President Travis Joseph joins the AFRC Podcast.

[Click here to listen to Episode 8.](#) Our podcast is also available on Spotify!

Washington, DC Update

Biden Executive Order. On April 22, President Joe Biden traveled to Seattle to commemorate Earth Day and sign an [Executive Order](#) (EO) on “Strengthening the Nation’s Forests, Communities, and Local Economies” focused on protecting “mature and old-growth forests on Federal lands” to combat global climate change. Biden was joined at the signing by Washington Governor Jay Inslee, Seattle Mayor Bruce Harrell, and nearly every Democrat in the Washington Congressional Delegation. A fact sheet from the White House is available [here](#).

The EO followed months of pressure by anti-forestry groups through the “[Climate Forests Campaign](#)” that seeks to “protect mature and old-growth trees and forests from logging across America’s public lands as a cornerstone of U.S. climate policy.” However, instead of identifying logging as a threat to older trees on federal lands, the EO identifies “climate impacts, catastrophic wildfires, insect infestation, and disease” as the primary threats to all forests, including older forests.

While the EO does not attempt to prohibit the harvest of older trees on federal lands, it does direct the Forest Service and Department of the Interior to “define, identify, and complete an inventory of old-growth and mature forests on Federal lands, accounting for regional and ecological variations, as

appropriate.” The inventory must be completed within one-year and be made available to the public. Following the completion of the inventory, among other actions, the agencies are directed to:

- “analyze the threats to mature and old-growth forests on Federal lands, including from wildfires and climate change.”
- develop policies, with robust opportunity for public comment, to institutionalize climate-smart management and conservation strategies that address threats to mature and old-growth forests on Federal lands.”
- “develop a Federal goal that charges agencies to meet agency-specific reforestation targets by 2030, including an assessment of reforestation opportunities on Federal lands and through existing Federal programs and partnerships.”
- “develop...recommendations for community-led local and regional economic development opportunities to create and sustain jobs in the sustainable forest product sector, including innovative materials, and in outdoor recreation, while supporting healthy, sustainably managed forests in timber communities.”

The EO highlights the threat posed to forests abroad by deforestation and pledges that “(w)e can and must take action to conserve, restore, reforest, and manage our magnificent forests here at home and, working closely with international partners, throughout the world.” The EO also directs federal agencies to provide a report to the President outlining additional actions or legislation to combat illegal logging and stop trade in illegally sourced wood products pursuant to the Lacey Act, as amended, and to address the related importation of commodities sourced from recently deforested land.

Anti-forestry groups are undoubtedly looking to identify wide swaths of Federal forestland as “mature” and press the Biden Administration to adopt policies that prevent commercial harvests in these areas – even if this actually increases fire danger in these areas or conflicts with international scientific consensus about the carbon sequestration benefits of working forests. The Forest Service could also be pressured to adopt forest plan amendments, which would be a significant undertaking. It is not clear how the agencies will go about defining “mature” and “old-growth” across the nation’s diverse forest types and ecosystems or determine “climate-smart management” beyond efforts to reduce wildfire risk.

It is deeply concerning that the agencies are being directed to undertake a time-intensive inventory and planning process at the same time Congress has provided record investments to increase forest thinning treatments to address a growing forest health and wildfire crisis. The Forest Service has identified a need to treat an additional 20 million acres over the next 10 years – a task that is already proving very challenging given current staffing challenges and debates about commercial thinning on federal lands. This challenge will only be made more difficult by an Executive Order that is little more than a political initiative to please far-left environmental groups.

Congressional reactions to the announcement have varied. Senator Ron Wyden (D-OR) and Reps. Peter DeFazio (D-OR) and Earl Blumenauer (D-OR) issued a joint [press release](#) commending the action. Senator Steve Daines (R-MT) issued a [press release](#) pointing out that the order diverts resources away from actual conservation work and sets the stage for further restrictions and prohibitions on public lands. House Natural Resources Committee Ranking Member Bruce Westerman (R-AR) took the opportunity to highlight the general focus of the EO on reducing the risk of wildfires, [quipping](#): “*I’m pleased to see President Biden finally recognizing something congressional Republicans have promoted for years: that*

properly managed forests play a key role in reducing atmospheric carbon and also provide clean air, clean water, quality wildlife habitat, excellent recreational opportunities and beautiful vistas.”

No Timber from Tyrants Act. On April 7, Congressman Bruce Westerman introduced the “[No Timber from Tyrants Act](#)” (HR 7437), which would prohibit the import of wood products from Russia and Belarus while Russian President Vladimir Putin continues his violent and senseless invasion of Ukraine. The legislation directs the Forest Service and Department of the Interior to make up for the lost imports by harvesting more timber from our overgrown, fire-prone federal lands in a manner consistent with current forest plans. The Allowable Sale Quantity authorized annually in Forest Plans is approximately 6 billion board feet, but the agency is currently selling less than half this amount.

According to House Natural Resources Committee Republicans, the United States imported over half-a-billion dollars’ worth of wood products from Russia (\$459 million) and Belarus (\$52 million) in 2021. They also report that Russia is the world’s 4th largest exporter of wood and wood exports are a \$12 billion industry for Vladimir Putin.

The legislation enjoys the support of 80 members of Congress, including the Ranking Members of the House Agriculture Committee, GT Thompson (R-PA), and the House Energy and Commerce Committee, Cathy McMorris Rodgers (R-WA). It is also supported by 35 industry groups, including AFRC. More information on the legislation is available [here](#). /*Heath Heikkila*

AFRC in the News

- Travis Joseph is quoted in [The Washington Post](#) regarding President Biden’s Executive Order on Strengthening the Nation’s Forests, Communities, and Local Economies.
- Nick Smith published an oped in the [Everett Herald](#) explaining why the DNR’s carbon project will be counterproductive to addressing climate change.
- USFS Chief Randy Moore’s appearance at the AFRC annual meeting was featured in [Capital Press](#).

Washington DNR Carbon Project Met with Opposition, Skepticism

On April 6, Washington Commissioner of Public Lands Hilary Franz announced the creation of a “carbon project” on state trust lands. The project would lease carbon stored in some older forest stands and be sold to polluters in a voluntary carbon market.

Carbon offset projects are complex and often controversial, especially when those offsets include highly regulated and protected *public forestlands*. To date, DNR has not completed any public outreach or financial, legal, or environmental assessments of the proposal the Department claims will “generate tens of millions of dollars” and help address climate change.

Nearly half of DNR trust lands in western Washington are already set aside from sustainable timber management and 90 percent of forest stands over 120 years old are also protected. Further reductions to working forests will impact local communities, the forest products sector, and forest health during the wildfire crisis plaguing the West.

Leaders from across Washington state have raised serious concerns and questions about the carbon project. In an April 19 letter to Commissioner Franz, [Republican Senate and House leaders pointed out](#) how the decision “conflicts with previous commitments made by you and your staff” and expressed frustrations with the “lack of an open, transparent process for a proposal that will cost Washington jobs and revenue for schools and other trust land beneficiaries based on highly speculative carbon emission reductions.” The leaders requested the Commissioner respond to questions outlining more details before the Board of Natural Resources meets on May 3.

In an April 25 letter, [22 legislators from Eastern and Central Washington](#) asked for a meeting with the Commissioner of Public Lands “to learn more about [the carbon project] in greater detail and to understand the process going forward before taking any further actions to remove additional state trust lands from science-based timber management, including entering into any agreements to ‘lease’ state assets for carbon credits.” The elected officials highlighted how the current, projected “decline in the volume of timber from DNR’s statewide timber sale program equates to the volume needs of two sawmills...”

AFRC champions responsible forestry as a climate solution. The combination of trees (growing and replanting) and using wood products provides the greatest climate mitigation benefits. However, importing more wood from outside Washington and the U.S; using less carbon friendly materials such as concrete and steel to substitute for wood; and reducing Washington’s green workforce and infrastructure needed to respond to our forest health crisis – the real world consequences of this project – will undercut Washington’s ambitious climate change goals, not help achieve them. */Travis Joseph*

Forest Service Releases Infrastructure Funding for Selected Landscapes

The Forest Service has released the initial landscape investments outlined in their Wildfire Crisis Implementation Plan. This initial phase of funding from the Bipartisan Infrastructure Bill includes \$673 million for fiscal years 2022-2024 with \$131.3 million for use in FY22. Twenty-nine candidate landscape investments were proposed, of which 10 were selected across eight states that the agency determined represented the highest potential to reduce exposure of people, communities, and natural resources at risk of catastrophic wildfire. Among those 10 selections are two in California, and one each in Idaho, Montana, Washington, and Oregon. These six landscapes will receive \$303.4 million during the FY22-24 period, with \$78.7 million dedicated to FY22 alone.

In California, both the Stanislaus and Tahoe National Forests will receive funding to treat 13,000 acres in FY22 and an additional 36,400 acres through FY24. Both the Boise and Payette National Forests in Idaho will receive funding to treat a total 55,000 acres through FY24. Those Forests anticipate leveraging the state’s robust Good Neighbor Authority program to attain this target. The Kootenai National Forest in Montana is expected to leverage these funds to treat 7,200 acres in Lincoln County through their agreement with the Montana Department of Natural Resources and Conservation. The Central Washington Initiative, which is being funded at the highest level of the National Forests in the Pacific Northwest and California, aims to treat 124,000 acres through 2024 on the Okanogan-Wenatchee National Forest. Finally, the Deschutes National Forest in Oregon is focused on elevating treatments northwest of the city of Bend, which is experiencing the most extensive community growth in the state. A summary of these investments is below:

Landscape Name	State	National Forest	FY22 Funding (millions)	Total Funding (millions)
North Yuba	California	Tahoe	\$6.8	\$25.5
Stanislaus	California	Stanislaus	\$21.8	\$55.2
Kootenai Complex	Montana	Kootenai	\$3.6	\$19.3
Southwest Idaho	Idaho	Boise/Payette	\$17.4	\$59.5
Central Oregon	Oregon	Deschutes	\$4.5	\$41.3
Central Washington Initiative	Washington	Okanogan-Wenatchee	\$24.6	\$102.6

These investments come with an expectation for supplemental treatment of 285,600 acres through FY24. Additional information can be found [here](#). /Andy Geissler

AFRC Legal Updates

Environmental Groups Settle Their Challenge to FWS “Not Warranted” Finding for the Red Tree Vole. In March 2021, environmental groups filed a [challenge](#) to the U.S. Fish and Wildlife Service’s (FWS) determination that the North Oregon Coast Distinct Population Segment (DPS) of the red tree vole did not warrant listing as a threatened or endangered species under the Endangered Species Act (ESA). AFRC and OFIC moved to intervene as defendants, *see* [August 2021 Newsletter](#), but the district court denied the motion and allowed AFRC and OFIC to file an amicus curiae brief in support of the government during the merits phase of the litigation. However, in the middle of summary judgment briefing, the parties stayed the case to pursue settlement.

On April 15, 2022, the parties reached a settlement agreement where FWS has agreed to “submit to the Federal Register a new 12-month finding as to whether the listing of the north Oregon coast DPS of the red tree vole as threatened or endangered is (a) not warranted; (b) warranted; or (c) warranted but precluded by other pending proposals” by January 31, 2024.

As explained in our previous newsletter article, the Forest Service’s implementation of the Northwest Forest Plan (NWFP) Survey & Manage guidelines and the BLM’s implementation of its 2016 Resource Management Plans serve as the primary protection mechanisms for the red tree vole on federally managed land. The NWFP included a provision that directed the agency to conduct an annual review of new species information to determine when species should be assigned to different categories or added to or removed from the Survey and Manage guidelines. The first of these species reviews was initiated in 2019 with a request from the Regional Interagency Executive Committee for new information on Survey and Manage species from the field units, including the red tree vole. The status of this review is unknown at this time. AFRC had supported FWS’s “not warranted” finding given that our tracking of vegetation management projects on Forest Service and BLM lands within the DPS area indicate that this population is ubiquitous. AFRC thanks Crystal Chase and Kirk Maag for their representation of AFRC in this matter. /Sara Ghafouri

CEQ Finalizes Phase I NEPA Regulations: Reverting Key Provisions of the 2020 NEPA Regulations Back to the 1978 NEPA Regulations. On April 20, the Council on Environmental Quality (CEQ) published a [final rule](#) revising its National Environmental Policy Act (NEPA) regulation, reverting portions of the 2020 NEPA regulations back to the 1978 regulatory text with some additional “non-

substantive changes” to “accommodate the current structure of the CEQ regulations.” This final rule is Phase 1 in a two-phase comprehensive regulatory review process that was prompted by two Executive Orders ([E.O. 13990](#) and [E.O. 14008](#)) issued by President Biden in January 2021.

Phase 1’s final rule reverts three key provisions back to their pre-Trump era state, which become effective on May 20, 2022:

Purpose and Need Statement and Reasonable Range of Alternatives—CEQ revised 40 C.F.R. § 1502.13 regarding the requirement for a purpose and need statement in an environmental impact statement. The revision clarifies that agencies have “discretion to consider a variety of factors when assessing an application for an authorization,” removing the 2020 requirement that an agency base the purpose and need on the goals of an applicant and the agency’s statutory authority. The final rule explains that the factors agencies may consider in a purpose and need statement include “national, agency, or other policy objectives applicable to a proposed action,” “desired conditions on the landscape or other environmental outcomes,” and “local needs.” The final rule also makes a conforming revision to the definition of “reasonable alternatives” in 40 C.F.R. § 1508.1(z).

Ceiling Provisions—CEQ revised 40 C.F.R. § 1507.3 to remove language that could be interpreted as limiting the agencies’ ability to develop or revise procedures to implement NEPA-specific regulations that go beyond CEQ’s NEPA regulations. That means, under the final rule, CEQ’s NEPA regulations are the floor, not the ceiling. In addition, the 2020 NEPA regulations had required agencies within 12 months to develop or revise proposed procedures to implement CEQ’s NEPA regulations. Under the Biden Administration, however, CEQ issued an interim rule that extended that deadline by two years to September 14, 2023. CEQ’s final rule reaffirms that deadline.

Definition of Effects—Most notably, CEQ “restored” the definition of “effects” in 40 C.F.R. 1508.1(g) to include “direct,” “indirect,” and “cumulative” effects, which were removed by the 2020 NEPA regulations: “Effects or impacts means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and include [direct effects, indirect effects, and cumulative effects].” The 2020 NEPA regulations had required consideration of reasonably foreseeable effects that have a “reasonably close causal relationship” to the proposed agency action. In the final rule, CEQ explained it reconsidered its reasoning taken in the 2020 NEPA regulations and now does not deem it useful to include the “reasonably close causal relationship” and “but for” language drawn from drawn from the Supreme Court’s decision in *Department of Transportation v. Public Citizen*, 541 U.S. 752 (2004), “which dealt with a unique context in which an agency had no authority to direct or alter an outcome.”

Environmental groups have stated that they will proceed with their legal challenge to the 2020 NEPA regulations, which is currently pending before the Fourth Circuit. In June 2021, Judge Jones from the Western District of Virginia dismissed the environmental group’s challenge to the CEQ’s 2020 NEPA regulations on “standing” and “ripeness” grounds. *Wild Virginia v. Council on Env’t Quality*, 544 F. Supp. 3d 620 (W.D. Va. 2021). AFRC, along with an industry coalition, participated in the district court proceedings as defendant-intervenors. Although environmental groups have stated that the Biden

Administration's Phase 1 final rule is a positive step, they still plan to pursue their pending legal challenge in order to restore the original 1978 NEPA regulations.

While the Phase 1 changes to the NEPA regulations are significant, CEQ's Phase 2 revisions could be even more concerning because its scope is much broader. CEQ indicated that it is considering public comments submitted during Phase 1 in the development of its Phase 2's notice of proposed rulemaking, which will identify necessary revisions to meet the environmental, climate change, and environmental justice objectives of Executive Orders 13990 and 14008; ensure full and fair public involvement in the NEPA process; provide regulatory certainty to stakeholders; and promote better decision making consistent with NEPA's statutory requirements. AFRC will submit comments during CEQ's Phase 2 rulemaking process. /Sara Ghafouri

Unfavorable Court Ruling Regarding the Castle Mountains Project on the Helena-Lewis and Clark National Forest. On April 4, Judge Molloy from the U.S. District Court for the District of Montana issued a decision in a case challenging the Castle Mountains Restoration Project on the Helena-Lewis and Clark National Forest. *See Native Ecosystems Council et al. v. Lannon et al.*, No. 21-cv-22-M-DWM. The Castle Mountains Restoration Project authorizes treatment on approximately 22,000 acres, including 1,800 acres scheduled for thinning, 8,000 acres targeted for prescribed burns, and 45 miles of new road construction.

In his 37-page decision, Judge Molloy ruled that the Forest Service failed to meet standards set by the National Forest Management Act and NEPA and remanded the Project back to the agency for additional analysis. Judge Molloy ruled in favor of the plaintiffs, holding the Forest Service failed to properly inventory roads in its assessment and would therefore violate elk and goshawk protections, and ordered supplemental evaluation of elk habitat effectiveness and road density. The court did, however, rule in favor of the Forest Service on the plaintiffs' Roadless Rule claims, holding the proposed treatment did not violate the Rule's prohibition on the cutting, sale, or removal of trees from roadless areas because it fell under the exception under § 294.13(b)(1)(ii), which allows for treatment of small diameter timber that is intended to "maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects"

In recent past, we have seen several challenges against projects on the Helena-Lewis and Clark National Forest, raising similar issues. For example, in the challenge to the Elk Smith Project, Judge Morris recently rejected plaintiffs challenge to treatment in the inventoried roadless area, finding that the project activities fell within another exception under the Roadless Rule that allows for "the cutting, sale, or removal of timber is incidental to the implementation of a management activity" that are not prohibited like controlled burning. *See All. for the Wild Rockies v. Munoz*, No. CV-21-46-GF-BMM (D. Mont. Mar. 8, 2022). AFRC is participating in a challenge to the Horsefly Project, which includes two Good Neighbor Authority sales, where plaintiffs alleged that the Forest Service has failed to comply with the elk habitat effectiveness standards and goshawk monitoring requirements. The case is currently pending before Judge Molloy. /Sarah Melton

New Supreme Court Justice Ketanji Brown Jackson. On April 7, the Senate confirmed Judge Ketanji Brown Jackson as the first female African American Judge to sit on the United States Supreme Court, replacing Justice Stephen Breyer once he retires at the end of the Supreme Court's current term this summer. Three Republican Senators crossed party lines for this historic vote: Mitt Romney (R-UT),

Susan Collins (R-ME) and Lisa Murkowski (R-AK). Judge Jackson will also be the first former federal public defender to serve on the Supreme Court.

Judge Jackson was born in Washington, D.C., and attended Harvard Law School where she was a supervising editor for the Harvard Law Review. She clerked for the U.S. District Court for Massachusetts under Judge Patti Saria, the First Circuit Court of Appeals under Judge Bruce Selya, and for the Supreme Court under Justice Stephen Breyer—the very same Justice she replaces. Her private legal experience included positions with Goodwin Procter, Kenneth Feinberg, and Morrison & Foerster. In addition to serving as an Assistant Federal Public Defender in Washington, D.C., Justice Jackson is also a former judge for the United States District Court for the District of Columbia and for the U.S. Court of Appeals for the D.C. Circuit. Judge Jackson’s judicial opinions were thoroughly vetted during the lengthy nomination process. Based on that review, her earlier rulings compare to those of a liberal-leaning judge, such as retiring Justice Breyer, including opinions blocking actions from the previous Administration.

While serving on the U.S. District Court for the District of Columbia, Judge Jackson presided over several environmental cases. Most notably, Judge Jackson dismissed AFRC’s and industry coalition’s challenge to the Forest Service’s 2012 Planning Rule for lack of standing, granting cross-motions for summary judgment in favor of the Forest Service. Judge Jackson has ruled on several other complex environmental cases, including:

- *Community In-Power and Development Association v. Pruitt* (2018)—Judge Jackson found the “middle ground” in a Clean Air Act case granting the Environmental Protection Agency three years to update its rules for toxic air pollutants and come into compliance with the Act but denying the plaintiffs’ request for accelerated deadlines by which the agency had to achieve compliance.
- *Government of Guam v. United States* (2021)—Judge Jackson allowed Guam to move forward with litigation brought under the Comprehensive Environmental Response, Compensation, and Liability Act against the U.S. Navy, which had created and operated a landfill on the island contaminating nearby Lonfit River.
- *Otay Mesa Property v. Department of Interior* (2018)—Judge Jackson found the U.S. Fish and Wildlife Service violated the Administrative Procedure Act when it designated 56 acres of Otay Mesa’s land and a stock pond as critical habitat for the Riverside fairy shrimp under the Endangered Species Act, remanding that critical habitat designation back to the agency for further rulemaking.
- *Sierra Club v. U.S. Army Corps of Engineers* (2013)—Judge Jackson ruled in favor of the U.S. Army Corps of Engineers holding that, in this instance, that NEPA did not require the agency to prepare an environmental assessment or an environmental impact statement before constructing a domestic oil pipeline through several states because, in part, the plaintiffs were unlikely to succeed on the merits of their claims.

For the upcoming Supreme Court docket, there are no forestry or regulatory-related cases, so we’ll have to wait and see how the newly-sworn-in Justice Jackson will handle those types of cases. There is little concern her addition will alter the current Supreme Court’s conservative majority, nor change the significance of Chief Justice John Roberts’s position as the moderate, and often swing-vote, in rulings that are split down ideological lines. /Sarah Melton