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Interim Directive on Roadless Areas

On May 28, Secretary of Agriculture Tom Vilsack signed an interim directive giving his office the decision-making authority over road building and timber harvesting in inventoried roadless areas. In prior administrations this authority was delegated to the Undersecretary of Agriculture for Natural Resources and Environment or the Chief of the Forest Service. National forest lands in Idaho are exempt because those lands are covered by a state petition roadless rule developed under the Administrative Procedures Act.

In announcing the interim directive, the Secretary pointed to the confusion created by conflicting federal court decisions. This is in reference to decisions by Judge LaPorte in the Northern District of California (Ninth Circuit) enjoining implementation of the 2004 Bush roadless rule and by Judge Brimmer in the Wyoming District Court (Tenth Circuit) enjoining implementation of the 2001 Clinton roadless rule. Judge LaPorte's decision is currently on appeal to the Ninth Circuit Court of Appeals. A hearing was held on June 2 before Judge Brimmer on a request by the government to stay his decision pending appeal.

Although the directive was lauded by environmental groups as reinstating the 2001 roadless rule, it is, in fact, purely procedural. It does not signal any specific direction on the part of the Obama Administration as to how inventoried roadless areas will be managed, nor does it call for a moratorium on activities in inventoried roadless areas.

This action by the Secretary signals that he is aware of the issue and is willing to take a leadership role in resolving the issue at the administrative level. */Ann Forest Burns*

Appropriations Update

Both the House and Senate Interior Appropriations Subcommittees convened hearings during the week of May 18 to review President Obama's FY10 budget request for the Forest Service. The administration and Congress have promised to pass all 12 spending bills, including the Interior measure, before the start of the 2010 fiscal year which begins on October 1. The government was funded under a continuing resolution for a good portion of FY09 and there seems to be a strong interest to avoid that this year.

On May 12, when the House Interior Appropriations Subcommittee took up the \$5.2 billion budget, Chairman Norm Dicks (D-WA) noted the proposal includes a nine percent increase over last year and was better than recent budgets. Dicks did question proposed cuts to hazardous fuels reduction and wildfire preparedness spending.

Programs receiving significant increases include \$556.9 million for capital improvements and maintenance an \$80 million increase, and \$306 million for state and private forestry, a \$40 million increase. The budget also calls for \$2.238 billion for wildland fire management, which represents a \$134 million increase, with \$1.129 billion dedicated for firefighting. A \$282 million dollar discretionary reserve for firefighting would be established to be used only if the dedicated amounts are depleted. Ranking minority member, Mike Simpson (R-ID), agreed that action must be taken to ensure firefighting costs don't harm other programs within the Forest Service. Simpson was critical, however, of the large funding increases for capital improvements and maintenance since the agency just recently received over \$600 million for the same purpose from the American Recovery and Reinvestment Act.

On May 20, the Senate Interior Appropriations Subcommittee took up the Forest Service budget and also seemed pleased with the President's proposal. However, Chairwoman Dianne Feinstein (D-CA) noted that while the agency is fully funding wildfire suppression, wildfire management and prevention programs remain flat or decreased; pointing to a reduction of \$13 million in hazardous fuels.

President's Priorities

According to the administration, the budget reflects a shift from production forestry to restoration forestry. Program funds will place additional emphasis upon ecological restoration of the National Forest System, the repair of its ecosystems, and their ability to adapt to and potentially mitigate the effects of climate change. They believe restoration efforts require the fuller and more systematic use of the latest science to develop new, more complex approaches to silviculture and landscape management. The budget also includes \$50 million for the enhancement of the operational components of the National Forest System focusing on improving facilities such as roads and trails; travel management plans with an emphasis on decommissioning roads not needed in the plans; and finally urgent health and safety needs.

Supplemental Spending Approval

Both the House and Senate have approved supplemental spending bills for the wars in Iraq and Afghanistan and to enhance specific needs for the 2009 budget. Included in those supplemental appropriations is a \$250 million contingency account for wildfire suppression and emergency rehabilitation of burned areas for the Interior Department and the Forest Service. Of those dollars \$200 million is targeted for the Forest Service while \$50 million will be directed to Interior including the BLM. The money would be available only if other funds will be "exhausted imminently" and the House and Senate Appropriations committees are notified in writing. Of the Forest Service total, \$50 million can be transferred to Interior for similar activities; likewise, Interior may transfer all of its money to the Forest Service. / *Tom Partin*

Climate/Cap and Trade

On May 21, by a vote of 33-25, the House Energy and Commerce Committee become the first Congressional Committee to approve a bill that endorses a mandatory cap on Carbon Dioxide, which many in the scientific community have linked to global warming. The 946 page Waxman-Markey bill would require emissions reductions of three percent from 2005 levels by 2012, and an overall 17 percent reduction by 2020.

In addition to emission reductions, the bill would require a new Renewable Electricity Standard (RES) whereby electric suppliers (utilities that supply more than four million megawatt hours of electricity) would have to meet a certain percentage of their load with electricity generated from renewable resources and electricity conservation savings. The combined renewable electricity and electricity savings requirement begins at 6 percent in 2012 and gradually rises up to 20 percent by 2020.

One provision of the bill of particular interest to the forestry sector is how the statute defines what sources of biomass can be used to meet the RES. The current definition includes language similar to the 2004 Farm Bill definition of biomass, but excludes any biomass from “mature” and “old growth” forests. Representative Greg Walden (R-OR) introduced an amendment that failed 32-26, which would have adopted a more workable definition of renewable biomass from federal forests similar to the language found in the Healthy Forest Restoration Act. Walden pointed out that his plan did not waive environmental laws since materials could be only harvested sustainably while reducing wildfire risks and improving forest health.

Meanwhile, Senators Jeff Bingaman (D-NM), Blanche Lincoln (D-AR) and Debbie Stabenow (D-MI) introduced a definition that allows more flexibility for removal of biomass from federal lands and allows for material coming from harvests in older and mature forests under limited circumstances.

At the end of the day, it is difficult to know how many Congressional committees may take up this important issue. Eight other committees could have jurisdiction over pieces of the bill on the House side alone including Ways and Means, Agriculture, Science, and Natural Resources. Several committees could be involved on the Senate side as well. */Tom Partin*

DNR Timber Sales Update

The Washington Department of Natural Resources (DNR) fiscal year ends on June 30. Below is a recap of DNR’s timber program.

Sales Offered:	101
Sales Sold:	84
Sales Pending	2
Sales No-bid	15

Volume Offered	474 mmbf
Volume Sold	398
Volume No-bid	76

% Volume Sold	84%
Avg Price/M	\$199
Overbid Ratio	22%
Avg bidders	2.6

In May two sales went no bid and three were withdrawn or market related reasons. DNR sees whitewood (hemlock) at especially low values and is removing many of these sales until the market improves.

On June 2, the Board of Natural Resources adopted a resolution that no-bid sales can be reappraised and resold immediately without going through the Board, saving a substantial amount of time to bring these sales back to auction. A long discussion concluded that defaults were not good but there was little discussion on how DNR might avoid them.

In a related note, DNR's timber program is a cash-flow business and depends on two timber sale funds to operate. Both funds are at historic lows and the program has already taken inordinate staff and budget cuts compared to the general fund side of the organization. */Bob Dick*

Owl Critical Habitat Case Delayed

The US Fish and Wildlife Service (FWS) has been granted additional time to decide whether it will seek to voluntarily remand its August 13, 2008 critical habitat designation for the northern spotted owl and the recovery plan on which that designation is based. In a motion granted on May 26, DC District Court Judge Emmet Sullivan extended the deadline to July 30 for the government to reach agreement on the remand with all parties challenging the critical habitat designation. If no agreement can be reached, the government will need to either move forward with its defense of the designation or ask the court to order the remand.

AFRC, Carpenters Industrial Council, Swanson Group, Rough and Ready Lumber, Perpetua Forests and Seneca Jones Timber Company filed a lawsuit against the critical habitat designation. A coalition of environmental groups, represented by EarthJustice, was granted intervenor status. In late March, the Department of Interior announced its intention to seek a remand of the spotted owl recovery plan and revised critical habitat designation based on an Inspector General's report expressing concerns over the way the decision was reached.

Pending the issuance of a new recovery plan and a new rule designating critical habitat for the owl, the current critical habitat designation remains in effect. */Ann Forest Burns*

QLG Hearing

On May 21, the House Natural Resources Subcommittee on National Parks, Forests and Public Lands held an oversight hearing on "The Future of the Forest Economy." The hearing highlighted the problems that have plagued the Herger-Feinstein Quincy Library Group Forest Recovery Act approved by Congress in 1998. The bill's sponsors Representative Wally Herger (R-CA) and Senator Dianne Feinstein initiated the Act as a five-year pilot project, aimed to find compromise on managing national forests; however, even after being reauthorized twice, it has still not fulfilled its goals.

Witnesses at the hearing included Representative Herger; Randy Moore, Southwest Regional Forester; Keith Balter, Senior Economist; Glenn Zane, Renewable Energy Providers Inc.; Steve Wilensky, Calaveras County District 2 Supervisor; Mark Pawlicki, Sierra Pacific Industries; Craig Thomas, Sierra Forest Legacy; Mike Wood, United Brotherhood of Carpenters and Joiners of America; and Frank Stewart, local forester.

Much of the debate and discussion focused on a breakdown in the collaborative process, and the amount of litigation that has been filed by the environmental community. Taking center stage in the litigation is an argument over which Sierra Nevada Framework Plan to use - the 2001 plan which allows harvesting of trees up to 20 inches in diameter, or the 2004 plan that allows harvesting of trees up to 30 inches in diameter trees.

Herger called for new legislation to streamline the litigation and appeals of the program. He also said the Forest Service had been lacking the will to move projects forward aggressively. / *Tom Partin*

R- 5 Forest Plan Revisions

On July 1, the Forest Service will begin revising the forest plans for all 14 national forests in California. The region is currently putting a team together to provide consistency in this monumental effort. The California Forestry Association is setting up a coalition of rural counties in the Sierra's and Klamath Province to get directly involved in the planning efforts.

In addition to public involvement it is important that new information, research and support from academia sources are included in the record. Studies by Norm Johnson and Jerry Franklin that focus on management in southwestern Oregon forests suggest the need for more thinning, creating very open stands. In addition, Dr. JoAnn Fites Kaufmann of the Forest Service has made numerous presentations before Congressional and State Legislative panels pointing out the need for more intense thinnings; suggesting that canopy cover should be reduced down to as low as 30 percent including harvesting larger tree components.

With new technologies occurring in mechanical harvesting equipment it would be prudent to revisit harvesting on slopes over 35 percent using this ground based equipment. Furthermore, a higher percentage of the region's forest lands needing vegetative treatments are located on slopes over 35 percent, and this new equipment and techniques could help make thinning and fuels management projects more economical on slopes up to 45 percent.

Industry must have a voice in the development of these new forest plans to help incorporate new ideas and technologies that will provide for long-term forest and community health, as well as maintaining a healthy forest infrastructure. / *Bill Wickman*

Lynx Suit Includes Climate Change

On May 26, the Alliance for the Wild Rockies and three other environmental organizations filed suit in Montana District Court challenging the critical habitat designation for the Canada lynx. The FWS revised the critical habitat designation on February 25. It includes approximately 39,000 square miles of critical habitat in Maine, Minnesota, Montana, Wyoming, Idaho, and Washington.

The complaint alleges that essential connectivity and habitat corridors between areas in Montana and between the Northern and Southern Rockies were excluded, including habitat in the Lolo, Bitterroot, Flathead, Helena, Lewis & Clark, Beaverhead-Deerlodge, Gallatin, Targhee, Clearwater, and Idaho Panhandle National Forests, as well as habitat in Colorado occupied by a

re-introduced population of lynx, and habitat in northeastern Washington essential for the conservation of the Canada lynx.

A key issue in the case is whether the government should have based the designation on evidence of climate change and its effect on the lynx.

The suit seeks to keep the current designation in place while it is remanded to the agency to add additional habitat. A copy of the complaint can be found at

<http://www.wildrockiesalliance.org/news/2009/052609lynxCOM.pdf>. /*Ann Forest Burns*

David Hayes Confirmed

On May 20, David Hayes was confirmed by the Senate as the Interior Deputy Secretary. Senators Robert Bennett (R-UT) and Lisa Murkowski (R-AK) had blocked the nomination of Hayes, making him the first Obama pick to be turned back in a floor vote. Bennett and Murkowski were unhappy that Interior Secretary Ken Salazar canceled oil and gas leases in Utah. Before the last confirmation vote, Salazar said that Hayes would review those leases once in office.

This will be Hayes' second time holding the Deputy Secretary position, having worked there at the end of the Clinton Administration. During his first nomination process Hayes was confirmed by a unanimous Senate vote.

Recently, Hayes oversaw the energy and natural resources transition for President Obama. He has also been partner and global chair of the Environment, Land and Resources Department at Latham & Watkins. In addition, he served as chairman of the board of the Environmental Law Institute and as a senior fellow at the World Wildlife Fund and the Progressive Policy Institute.

Hayes graduated summa cum laude from the University of Notre Dame in 1975, received his law degree from Stanford University in 1978 and was an editor of the *Stanford Law Review*. /*Tom Partin*