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WOPR Withdrawal Challenged

On September 8, a legal challenge to the Obama Administration's decision not to implement the BLM's Western Oregon Plan Revisions (WOPR) was filed by the Douglas Timber Operators, the Carpenters Industrial Council and AFRC members, C&D Lumber, Seneca Jones Timber, and Swanson Group Manufacturing, in federal district court in Washington, D.C. The action challenges Secretary of Interior Ken Salazar's July 16 decision to "withdraw" the WOPR.

The WOPR, which took five years to complete, went through full public review and comment under the requirements of the Forest Land Policy and Management Act, the National Environmental Policy Act and the Administrative Procedures Act. The lawsuit is based on the fact that there is no authority in any of these laws for the officials of a new Administration to simply "withdraw" plans. AFRC has recently taken a similar position in litigation related to the 2008 spotted owl recovery plan and critical habitat designation.

The lawsuit is yet another chapter in efforts to enforce the purpose of the O&C Act which mandates sustained yield timber production on 2.1 million acres of land, benefitting 18 Oregon counties and countless timber dependent communities and workers. AFRC was among the plaintiffs in a 1994 lawsuit which resulted in a settlement agreement in 2003 by which the BLM agreed to undertake the plan revisions and to complete them by December 31, 2008.

Prior to completing the WOPR, the BLM held over 170 public meetings and received 29,500 public comments. Five federal agencies and 10 state agencies were formally involved in the process. The WOPR calls for an annual timber harvest of 502 million board feet of the 1.2 billion board feet grown annually on the 2.6 million acres on the Salem, Eugene, Roseburg, Medford, and Coos Bay Districts and the Klamath Falls Resource Area of the Lakeview District. With full implementation, the plan would support 9,036 jobs. */Ann Forest Burns*

QLG Update

Following a decade of frustration, and little management occurring on these national forest lands, there has finally been some positive movement in the courts that affect both fire salvage and the regular timber sale program within the Quincy Library Group (QLG) forests. The QLG area was designated under the Herger-Feinstein Quincy Library Group Act of 1999 on the Lassen National Forest, Plumas National Forest and Sierraville District of the Tahoe National Forest.

The most positive action has been a court decision to allow the logging of the Moonlight and Antelope Complex fires, which burned in 2007. In 2008, a subsequent roadside hazard sale was appealed. The Plumas Forest Supervisor withdrew her decision and incorporated the roadside hazard salvage portion into a larger EIS that covered the tractor, skyline and helicopter units to

be treated. A new decision was released this July which included an Emergency Situation Determination supported by the Washington Office that allowed the immediate advertisement and selling of sales within 7 days of the signing of the decision. This decision was immediately appealed and a preliminary injunction requested.

Five separate salvage sales had been advertised, but only two sold within the shortened advertisement timeframe. One sale was pulled the day of bid because of an error and two other sales had no bids. Due to the injunction request and the court acknowledging it, the first two sales were not immediately awarded. One sale was reworked and re-advertised, and the two sales with no bids were also reworked and re-advertised. All three re-advertised sales sold on the second auction.

On August 20, Judge Damrell of the Eastern District Court of California, ruled in favor of the Forest Service and awarded the sales. Judge Damrell relied heavily on the Winters Decision in denying all the complaints made by the plaintiffs, Earth Island Institute. However, they immediately requested another stay which was also denied by Judge Damrell. This action has released approximately 120 million board feet (mmbf) of fire salvage in the five sales. It is still doubtful that all of it will be removed because of the timeframe since the fire and the amount of deterioration in the timber.

In a second case, the Champs project on the Lassen was also litigated and the plaintiffs were upheld on their complaint. However, there have been positive steps taken by the Lassen to reverse that decision. The Forest Supervisor made an immediate request to the court through a Motion to Amend the Judgment, which clarified for the court where the agency felt the court had made an error in its interpretation relative to the Stand Density Index used in the EIS. If the court accepts the motion and reviews the clarifying declaration, the Champs project could be released and the two sales that were scheduled to sell this fiscal year and one sale for FY10 could be re-advertised.

The last and possibly most important ruling for the QLG involves a decision out of the Ninth Circuit Court of Appeals. In that opinion, the court finally addressed their earlier ruling relative to the Sierra Nevada Framework 1 vs. 2. They provided another opinion and turned it back to Judge England and the District Court. Judge England had tentatively set a September 10 hearing date but has since moved it to October 1. The Regional Office had requested several forests to release sales that had been on an informal "hold" list under the threat of litigation by Sierra Forest Legacy (SFL). However, SFL did file a motion for preliminary injunction to stop all those projects once the court date was set back to October 1. As a result, those projects were again put on hold. It is hopeful that Judge England will provide a favorable decision in this case and millions of board feet of timber and biomass will be put back into the program. */Bill Wickman*

Appropriations Timeline Ticking

As Congress gets back to work following the August recess, only three weeks remain to pass the annual appropriations bills before the start of FY10 on October 1. While the House passed all twelve of the annual spending bills before the August recess, the Senate has yet to act on eight of the spending bills. Clearly the biggest issue facing Congress and the Senate is the health care

debate. Just how much time will be taken up on this issue and what time will remain to consider the appropriations bills remains unclear.

One of the spending bills not completed is the Interior Appropriations bill which funds the Forest Service and Department of Interior. The House version maintained the President's request of \$357 million for the wildfire contingency fund, which would only be tapped if federal agencies exhausted regularly budgeted money for wildfire suppression. Other House approved line items included \$2.37 billion for wildland fire management, \$132 million more than the Administration requested and \$378 million for hazardous fuels reduction which is \$63 million over the Administration's request. The bill would also give the Forest Service a \$154 million boost in non-fire funding line items including the legacy road and trail program which will receive \$100 million and a modest \$4 million increase in the forest products line item bringing it to \$336.7 million.

On June 23, the Senate Appropriations Subcommittee marked up its version of the 2010 Interior Bill. On the whole, the subcommittee was less generous than their House counterparts by setting Interior and Environment account spending at \$200 million less than the House version, although the subcommittee recommended increases to several key line items. The Senate version recommended \$338 million for national forest timber management, which represents a \$5 million increase over current funding levels. It also provided \$350 million for hazardous fuels reduction activities, an increase of \$22 million, and \$1.86 billion for suppression activities, which fully funds the ten-year average and provides the reserve account requested by the Administration.

The bill must next be approved by the Senate Appropriations Committee and then voted on by the full Senate, followed by conferencing with the House to negotiate a final bill. Should this not happen by October 1, there have been discussions of a mini-Omnibus bill or a short-term Continuing Resolution, however, both of those options are fairly unpopular. / *Tom Partin*

Forest Planning

As reported in AFRC's July 24 newsletter, the Forest Service's 2008 forest planning rule was invalidated by Northern District Court of California Judge Claudia Wilken. The agency then had 60 days to decide whether to appeal or not. In his August 14 speech in Seattle, Agriculture Secretary Tom Vilsack announced the agency would not be appealing the decision and he had instructed the Chief of the Forest Service to begin preparing a new planning rule.

In the meantime the question is what the forests do in light of the court's decision. In a July 15 memo to the Regional Foresters, Deputy Chief Joel Holtrop stated that the agency has determined that the 2000 planning rule is now in effect, including the transition provisions and interpretive rules promulgated between 2001 and 2004. These provisions and interpretive rules allow the forests to use the procedures of the 1982 planning rule for forest plan amendments and revisions. Region 6 alone has six on-going forest plan revisions and no clear path has been identified for their completion. The rules are available at http://www.fs.fed.us/emc/nfma/2000_planning_rule.html. / *Chuck Burley*

Baird Meets with GPNF

On August 31, Representative Brian Baird (D-WA) held a meeting with Regional Forester Mary Wagner, Gifford Pinchot National Forest Supervisor Janine Clayton, agency staff, AFRC members, and AFRC staff. The focus of the meeting was to discuss the importance of milling infrastructure to the health and sustainability of the forest. Topics of discussion included use of the American Recovery and Reinvestment Act funding and long-range forest goals, annual and sustainable harvest levels, stewardship contracting, and use of existing legislative authorities to improve the health and fire resiliency of the forest. AFRC appreciates the Congressman's active interest in the work of the Gifford Pinchot National Forest. */Ann Forest Burns*

Wildcat Timber Sale Canceled

On September 2, the Umatilla National Forest canceled the auction of the Wildcat Timber Sale due to a lawsuit filed by the League of Wilderness Defenders, Blue Mountains Biodiversity Project, and the Sierra Club. The Wildcat sale was a Small Business Administration set-aside sale of about 6.5 mmbf. By pulling the sale the forest will not meet their FY09 target of 32.8 mmbf.

In their complaint for declaratory and injunctive relief, the plaintiffs allege the Wildcat environmental assessment (EA) violates NEPA and APA and that a full environmental impact statement should have been prepared for the project. In addition, they claim the EA fails to sufficiently analyze and disclose logging in "Uninventoried Roadless Areas"; sufficiently disclose the environmental impacts to "other roadless areas including Wilderness Protection Areas, Inventoried Roadless Areas, and vast Contiguous Roadless Expanses"; disclose scientific controversy; and satisfy the purpose and need for the project.

Aside from the agency deciding to cancel the auction, its unclear what their next move is or when the sale will be readvertised. */Chuck Burley*

Klamath Cancels Panther Sale

On August 27, the Klamath National Forest announced that it would not award the Panther Fire Salvage Timber Sale, which sold the day before. The announcement was made without notice to the apparent high bidder, AFRC member Rough and Ready Lumber Company. The Forest Service apparently acted on advice of counsel in the face of a complaint filed against the Environmental Assessment and Emergency Situation Determination by a local environmental group. According to the prospectus, the sale contained nearly 7 mmbf. It is unclear how the Forest Service will proceed now to fulfill the forest restoration objectives of the project and to get the much needed salvage wood into the marketplace. */Ann Forest Burns*

Farley Project Appealed

On September 9, AFRC filed an administrative appeal of the Farley Vegetation Management Project on the North Fork John Day District of the Umatilla National Forest. The Record of Decision was signed on June 24. At issue is the fact that when the project was first scoped, the Proposed Action was to treat over 17,000 acres of a nearly 70,000 acre analysis area. When the draft EIS was released, it stated "the action as initially proposed was rejected." The draft EIS rationale for rejecting the Proposed Action was as "a result of preliminary analysis by the IDT and Responsible Official, and comments received during the public scoping notice..."

Our appeal claims the Forest Service violated both the Council on Environmental Quality and NEPA regulations by rejecting the Proposed Action, rather than considering incremental changes to it. A thorough review of the project analysis file found it contains no documentation of the Interdisciplinary Team discussing incremental changes or rejecting the Proposed Action during NEPA analysis.

In a time when many, including Congress, are pushing for more landscape scale projects, it is important to discover why this concept was abandoned on the Farley Project. AFRC hopes the Regional Forester will direct the forest to redo the project under its original concept. To simply drop a landscape proposal without sufficient documentation is not helping in this respect. /*Chuck Burley*

BNR Activity

Last week, the Washington Board of Natural Resources approved the exchange of 14,400 acres of land between DNR and the Washington Department of Fish and Wildlife (WDFW). DNR will receive mostly forested lands which will be managed to produce revenue for the Common School (K-12) trust. WDFW will receive shrub-steppe lands managed for wildlife habitat.

The Board also approved the purchase of 2,300 acres of forestland from Rayonier, Inc. in Lewis County. The lands were purchased under a legislative mandate that DNR purchase “at risk” timberlands to protect their use for timber production purposes. The lands were zoned for 80 acre home sites in close proximity to Interstate 5 and will be managed to produce revenue for the Common School trust.

In other action, the Board was briefed on FY10 timber sales sold since July 1, which total 117 mmbf. Two sales have gone “no-bid” and the average sale price was \$181 per thousand board feet, a slight increase over previous months. DNR timber continues to be in demand with an average of four bidders on each sale and an overbid ratio of 54 percent. DNR expects to bring over 740 mmbf of timber to the market during FY10. /*Bob Dick*

Endangered Species Backlog

Because of a lawsuit filed by the Center for Biological Diversity, the Obama Administration is moving to accelerate Endangered Species Act (ESA) listing decisions for hundreds of plants and animals. At issue is about 250 “candidate species” that have been on the waiting list for review, some as long as 25 years.

Department of Interior officials are working on an accelerated listing process by attacking the backlog on two fronts. The first step will be to implement an ecosystem-based listing process that would evaluate many species at one time. Second, more money will be put into the endangered species program to speed up the evaluations.

Because of a string of court losses in the 1990’s, FWS efforts have been focused on establishing critical habitat for dozens of species and have had little time or budget for addressing the backlog of new species petitions. Only time will tell if additional funds and a new listing process will actually shorten the time to analyze potential ESA candidate species and curb current and future lawsuits. /*Tom Partin*

Oregon Land Use Conversion

On August 19, the Oregon Department of Forestry (ODF) announced that the conversion of non-federal forest, farm, and rangeland to more developed uses in Oregon has continued to decline. However many tracts are experiencing significant increases in structures and population despite the decline in actual conversion of land use.

The study “Forests, Farms, & People: Land Use Change on Non-Federal Land in Oregon, 1974-2005” is a joint publication between ODF and the Forest Service Pacific Northwest Research Station. The study found large industrial and public forest land ownership remained relatively stable between 2000 and 2005. But the small private forest landowners saw an overall six percent decline in the same period. This decline was seven percent in western Oregon and three percent in eastern Oregon. For a copy of the study go to http://www.oregon.gov/odf/resource_planning/docs/low_res_forest_farms_8_9_09.pdf. /Chuck Burley

Harris Sherman Nominated

On September 10, President Obama announced the nomination of Harris Sherman as Under Secretary for Natural Resources and Environment. This position has oversight of the Forest Service and Natural Resources Conservation Service. Sherman would round out Secretary Tom Vilsack’s team in Agriculture joining Jay Jensen, Deputy Undersecretary and Robert Bonnie, special assistant to the Secretary.

Sherman is currently the Executive Director of the Colorado Department of Natural Resources where he oversees the energy, water, wildlife, parks, forestry, and state lands program. He also serves as the Chairman of the Colorado Oil and Gas Conservation Commission and Co-chair of Colorado Governor Ritter’s Forest Health Advisory Council.

Sherman has previously served on a wide variety of public and private agencies and organizations. He has been Chairman of the Colorado Water Quality Control Commission, Chair of the Colorado Mined Land Reclamation Board, and Chair of the Denver Regional Air Quality Council.

This position requires confirmation from the Senate. However, with Sherman’s strong natural resource background he appears to be a good candidate for the job. /Tom Partin

FWS Appoints Deputies

Rowan Gould and Dan Ashe have been appointed to serve as deputy directors for the U.S. Fish and Wildlife Service (FWS). Gould was serving as the acting director until Sam Hamilton was confirmed in August. He will be the deputy director for operations, overseeing regional directors, application of all resource management policies and day-to-day service operations. Ashe was the science adviser to the director and will be the deputy director for policy. He will oversee assistant directors in the Washington D.C. office, and development of policy and guidance for the agency.

Gould is an Oregon native and received his bachelors and masters degrees and doctorate in fish health and fish biology from Oregon State University. Other positions that he has held include

director of the Alaska Region, deputy assistant director for fisheries in Washington DC and deputy director for the Pacific Region.

Ashe graduated from Florida State University and earned a master's degree in marine affairs from the University of Washington. Since joining the service in 1995, he has served as assistant director for both external affairs and for refuges and wildlife. He was also chief of the National Wildlife Refuge System. Before joining FWS, Ashe worked for 13 years on the professional staff of the former House Committee on Merchant Marine and Fisheries. / *Tom Partin*

Weldon New RF in Region 1

On September 9, Forest Service Chief Tom Tidwell announced the appointment of Leslie Weldon as Regional Forester for the Northern Region. Weldon will oversee 15 national forests and four national grasslands within the states of Montana, Idaho and North Dakota. She will replace Tom Tidwell, who was appointed Forest Service Chief on June 17. Weldon is currently the External Affairs Officer in Washington DC.

Weldon began her career as a summer hire on the Mt. Baker-Snoqualmie National Forest fighting fires and surveying wildlife. She has also held biologist positions in the DC office and in the Northern Regional Office. She served as the Stevensville District Ranger on the Bitterroot National Forest and as the Forest Supervisor on the Deschutes National Forest. She will start in her new position later this fall.

Brazell Also Headed to Region 1

On September 4, Acting Clearwater and Nez Perce Forest Supervisor Ralph Rau announced that Colville National Forest Supervisor Rick Brazell will be the new Forest Supervisor for the Clearwater and Nez Perce National Forests beginning October 12. Brazell has served as Forest Supervisor on the Colville since 2003.

Brazell started his career as Forest Biologist on the Ashley National Forest in Vernal, Utah and has worked as a District Ranger at the LBJ and Caddo Grasslands in Decatur, Texas. Before taking the Colville position he was the Renewable Resources Staff Officer for Region 2. He is best known for his interest in the collaborative process and bringing interested parties to the table. From these efforts, the Colville has not had an appeal or lawsuit in six years on their timber sale program. The Colville was also chosen as one of three "Proof of Concept" forests under his leadership. / *Tom Partin*

New Willamette Forest Supervisor

Regional Forester Mary Wagner announced that Meg Mitchell will be the new Willamette National Forest Supervisor following the retirement of Dallas Emch earlier this year. Mitchell comes to the Willamette with 20 years of service in the agency, most recently as Forest Supervisor on the Green Mountain and Finger Lakes National Forests in Vermont. She also worked in Washington, DC for three years and Alaska for nine years. She has a degree in Landscape Architecture from Colorado State University and a Masters in Forestry from the University of Idaho.

Kim Titus will be the acting Forest Supervisor until Mitchell arrives in mid-October. Titus is currently the Branch Director in Planning, Science and Resource Information for BLM's Oregon State Office. A Deputy Forest Supervisor has yet to be announced. Doris Tai is currently acting in this position.

Dallas Emch led the Willamette through many tough years and had a strong commitment to meeting and exceeding timber targets at a cost below the regional average. In many years, Region 6 looked to the Willamette to pick up shortfalls from other forests in order to meet regional targets. We look forward to working with Meg Mitchell to keep the Willamette in this leadership role. /Ross Mickey

UW Launches New College

The University of Washington will hold a celebration for its new College of the Environment on September 16. The new College is founded on the skeleton of the old College of Forest Resources which now is a "School of Forest Resources." This follows two years of chaos for the century old College of Forest Resources, which was essentially forced to join the new College of the Environment by Provost Phyllis Wise. The UW's move mimics actions by other higher ed institutions, which made similar moves over the past decade, with decidedly mixed results. It remains to be seen if the new College of the Environment will live up to its expectations. /Bob Dick

Canadians Hurting Too

Forest & Marine Group, a finance firm in Nanaimo, BC recently went into receivership forcing loan calls and liquidations for area logging firms. The firm, ironically formed during the early 1980's financial meltdown, now has a court appointed receiver which will manage it during the shutdown period. The firm has loans to 35 contractors who employ 800 people. They sought assistance from the federal government, but were turned down when the government refused to guarantee the loan. Sounds familiar. /Bob Dick