

November 13, 2012

Resource Committee

Attending: Paul McKenzie, Gordy Sanders, Steve Flynn, Gary Marks, Chuck Roady, Keith Olson, Rick Franke, Joel Nelson, Scott Kuehn, Rich Lane, Julia Altemus

Guests: Renate Bush, Bruce Sims, Tom Martin, Tom Maffei, Meredith Webster – USFS Region One, Sonya Germann, Bob Harrington, Sarah Lyngholm, Julie Kies – DNRC Forestry and Forest Management Divisions.

Anti-Trust Statement

State Issues

HCP Implementation and Lawsuit Status – Sonya Germann informed the group that Earth Justice filed a notice of intent to sue the Fish and Wildlife Service. If so, the Forest Management Bureau will file as an intervener on their behalf. Lynx is not in the notice of intent to sue. Washington State’s HCP also is under litigation by the same group. Other topics: At least one new land board member, maybe two. Don’t see any changes with the Land Board or adverse impacts on DNRC program. Five sales for the November Land Board. DNRC is finalizing phase two of the Plum Creek land acquisition which are roughly 14,000 acres. The next Sustained Yield calculation will determine the increase in harvest from the lands acquired. The scheduled calculation is in nine years from now because of the HCP; however the legislature could fund another calculation. Beaver land sale was completed recently. It was a land banking sale. There is a high bidder that must be approved by the Land Board. This sale helps fund a purchase in the Whitefish area. Spencer timber sale is a sale in the Kalispell unit. Tried to bring to the Land Board two years ago and was stopped. They are hoping to bring the South Spencer sale to the Land Board in December.

DNRC 2013 Legislative Issues – Bob Harrington looks like a fairly light legislative year. The water compacts will need to be closed out. Trust Lands may have one or two minor bills and Forest Management on Trust Lands doesn’t have anything. Forestry Assistance probably won’t have any except possibly a bill that came out of the Ryan Gulch fire (Weaver case) that was detrimental to the State. The Department may go forward with a bill that gives them and the state immunity in the future when fighting fire. The Department did appeal the decision to the MT Supreme Court but won’t likely have a decision before the legislative session is over. Another one pertains to landowner responsibility and the SMZ law which involves trespass. Since the law doesn’t address trespass by another party, the state has to go after redress against the landowner. There have been 20 violations in the past five years (mostly minor), only one involves trespass. May just be as simple as giving the Department the authority to go after the landowner or the logging contractor or change the language that automatically give the jurisdiction to the logger. The state doesn’t have the ability to forgo or defer a penalty against the landowner in the case of trespass but, may have options with MT. trespass law. There may be a non-legislative fix by going through rule making. Moonlight Fire SPI Settlement, SPI agreed to pay \$55 million in damages in addition to giving 22,000 acres to the federal government. They filed under

California state statute and federal statute. The judge agreed under state and non-federal statute. Decision based on “timber trespass”. MT has similar language and operators would likely be exposed and be liable for the fire suppression costs and negligence. State and private landowners cannot sue the federal government, but the federal government can sue state and private landowners. Probably won't be a Department bill but we need to work together to find a solution. Not sure if there is a statute of limitations. Do not plan to increase the assessment. Fire suppression will come out of the general fund. Revolving Loan Fund, should we use some of the general fund surplus to bolster the RLF.

Purchaser's Meeting – Sarah Lyngholm DNRC is planning to host another DNRC purchaser's meeting. Hope to get more DNRC Foresters and also hear from the purchasers regarding their issues. Not defined yet, no date set yet. Gordy will pull together a list of topics among industry representatives and Sarah will do the same with state staff. Maybe incorporate a session on accounting and contract language. Consider coordinating with a MLA quarterly meeting where they can get ALP credits. It really needs to be during breakup or during a set training schedule.

Forest Products Retention Office – Julie Kies said the 2012 BMP field audit results are at the printers and starting to approach updating the BMP book. Mo Bookwalter was hired as a part-time staffer as of November 15th to develop a forest products marketing campaign in conjunction with the Local Wood is Good project and will likely work with the Forest Products Retention Roundtable and the Forest Products Industry Week. The biomass program just advertised two new grant proposals.

Federal Issues

Soils Analysis – Meredith Webster said they were sued a couple years ago based on soils and lost. So they came up with a Standard that is in the Manual, but it is not in the Forest Plan. No more than 15% of the area can be detrimentally disturbed (compaction, rutting, displacement, erosion and severe burning). They want to protect soil productivity. Tiers back to NFMA language. They had to come up with a methodology in order to assess soils on the landscape before a timber sale, etc. They are implementing the National protocol. Go out before each timber sale to assess the soil compaction and also 1 to 3 years after the sale is closed. Don't go to each unit, but do a sampling. Disturbance must be less than 15% of the timber sale boundary (does not include system roads or landings), temporary roads count. Soils in Montana are pretty resilient. In areas where soils are known to have issues, work is done up front to make sure issues won't occur after the sale is closed. Monitoring is now occurring on the Kootenai, B-D, Bitterroot, and Custer. Minimum of 30 points per unit are tested to satisfy confidence intervals. If you have several units that have similar soils, history, etc, you can lump them together and check 6 points instead of 30 points. All Forests have to do the pre-treatment 30 points. Have to go 20 centimeters down. After the sale they don't have to go back to the same 30 points. Region 1 has had several appeals on soils, but no lawsuits. The appeals are challenging the protocol itself not necessarily the treatment in the sale and how it might affect soil productivity. Region 2 was sued and lost.

Forest Inventory Analysis – Renate Bush PP presentation.

2012 Accomplishment and A Three-Year Plan – Tom Martin said R1 target is 275mmbf (Director's Target) ended up at 207mmbf about 74% because of 8 new complaints in the region affecting 108mmbf

of timber and 15,500 acres of treatment. Decided to not go ahead with these sales this time because of the nature of the issues tied to MIS or ESA complaints. Want to get a full briefing in front of the court so they can argue the merits of the case instead of getting a PI. Two cases in the Flathead moving along in the briefings. Other sales moving along as well. Last year had a 7% increase in target over 2012. That means 290mmbf Chief's target. Planning to move the delayed sales out which will get them to 350mmbf. All the RF and Directors are meeting tomorrow to talk about the Accelerated Restoration program and will this be the tool to reach the 3bbf target by 2014/2015. Increase in target is in the saw log and non-saw log volume and not in fuel wood.

Sale Administration and Contracting Officer Workforce – Tom Maffei is in the process of putting together a succession planning strategy before the RF. 2002 – 46 sale administrators and 11 trainees and 450mmbf under contract, 2012 – 27 sale administrators and 10 trainees 580mmbf under contract. Takes 2 to 3 years to train someone to be completely certified. They have been working putting together strike teams and training people that they can then move into other positions on the sale prep side. A little more difficult to do on the sale administrator side. Started the sale administration trainee wing under the strike team model. Funding 50% of the salary at the RO level and the Forest has to take on the rest. Three Forests are in a trainee mode (Flathead, B-D and Clearwater/Nez Perce). Some Forests are recruiting and training on their own to fill vacancies, not all are using the strike team model to train SAs. 44% of the eligible sale work force is eligible to retire in the next two years. Have 6 full-time contracting officers in the region. Forests share COs. There is eight other COs in the Region with limited authority based on timber volume in the sale.

National BMPs Status – Bruce Sims relayed the reason the effort started was to keep the Clean Water Act front and center driven by BMPs but not pulling out of the statewide audit process. Nationally have almost 3,000 water bodies listed on NFS land. The results have been increasing regulatory control, new storm water regulations, TMDLs, etc. Want to put their effort in BMPs. Montana's biennial audit process has been presented to the WO and they are aware. PP presentation.

IPNF Five-Year Plan – Tom Martin shared that the Forest struggled with litigation over the years so they decided to develop a strategic plan. Very collaborative process i.e. timber industry, Kootenai Tribes, Lands Council, county commissioners and planning staff and other FS staff and developed a tiered five-year plan based on funding. Priorities were scored. The R1 Director may go out to the Forests and ask them to go through the same exercise and develop a collaborative and detailed five-year plan based on scoring priorities and funding levels.

Adjourn