Allegheny Forest Alliance

Winter 2006 Newsletter

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ANNUAL MEMBERSHIP MEETING HELD

The annual membership meeting of the AFA was held on January 10 at the Kane Area High School. Featured speakers for the evening were Congressman John Peterson and ANF Supervisor Kathleen Morse. Over 60 members and guests attended and were appreciative of the comments by both speakers.

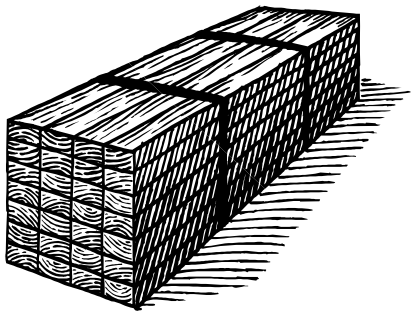
Executive Director Jack Hedlund opened the meeting with a review of 2005 activities, which included a recap of the successful conclusion to the East Side Project and Categorical Exclusions lawsuits brought by the ADP. You may recall the AFA intervened in both suits because they threatened the very core of forest management and its use to address health issues across the landscape.

Hedlund also gave an overview of issues facing reauthorization of **PL 106-393** commonly referred to as the safety-net legislation. The law is scheduled to sunset this year and must be reauthorized or school districts and townships will be faced with returning to the 25% payment structure.

Congressman Peterson offered a more positive view of reauthorization during his comments stating his opinion on the fact that reauthorization has some "heavy hitter" backing it and that considering the entire picture, funding reauthorization amounts to "small potatoes." Peterson also commented on the energy situation and contends this may be somewhat of a silver lining. Fuel expenses may bring industry to the black cherry capital of the world because it is becoming too expensive to ship the valued product to distant processors. He also spoke glowingly of the new ANF Supervisor calling her a "breath of fresh air." Indeed, those present agreed.

Supervisor Morse commented on the state of the new forest planning process and said the public can expect a draft environmental impact statement (DEIS) in early May followed by a 90 day comment period. The new plan should be ready by the end of this year. She expressed frustration with the delays in the planning process at all levels. Far too much time and energy is being spent to make every plan "bullet proof" because of the constant threat of litigation. She believes enough is enough and "we must move on."

Morse talked about 2006 timber sales and was pleased to announce they are ahead of schedule and should have over half of the inventory for 2006 offered by late spring. She recognized the volume is still well below expectations, but stressed the need to ramp up over time. Morse expressed a commitment to making the ANF "a classic success story" under her watch and firmly asserts, "If you can have it all, why settle for less" when describing her view of the multiple-use mandate for ANF management.



COMPROMISING TO OBLIVION

There is an overriding emphasis on collaboration with intent to compromise in all facets of government planning and in particular with forest planning. Whether at the project level or forest plan level, there is a prevailing attitude among the organizational leaders that compromise is the desired outcome because everyone gets some of what they want. Perhaps they are right, but for sure the rules of the game skew the parameters. They simply consider what is left of the whole, never the entire thing. Let me explain using a paragraph from the "Preface" of the current forest plan.

"By the mid-1960's, the Forest Service was caught in a dilemma. Conflicting demands for forest resources were increasing rapidly, and the renewable resource base was perceived as shrinking with the implementation of the Wilderness Act." (National Land Management Plan)

Perceived or not, the land available for active management was reduced by over 9,000 acres when wilderness was added to the ANF in 1984. In addition, the 1986 Forest Plan provided for additional acreage to be set aside as "national recreation areas," carrying with it minimal management prerogatives. All total, a new benchmark was created.

When discussion about additional wilderness occurs in the new planning process and compromise is encouraged, there is no consideration of parameters ranging from no wilderness to some new desired amount. Compromise is limited to some figure between the current benchmark and the various new proposals. I like to compare it to the "half-the-distance" penalty in football. It is always half of what remains. The one team will never get to the end zone, but the other team is definitely the loser.

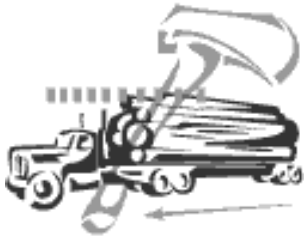
Using the football analogy again, it is a matter of the goalpost being established with the affirmation of 9,000 acres of wilderness in 1986 and now having it moved further onto the playing field through repeated negotiation.

Make no mistake about it, with every new plan the "renewable resource base" gets progressively smaller because of compromise. It is how the game is played.

A GREAT IDEA!

In a recent federal court case in Missoula, Montana, District Judge Donald Molloy took a bold step to address critics who believe much of the suits brought by plaintiffs are designed to do nothing more than create a delaying tactic. In a case initiated by The Native Ecosystems Council, Alliance for the Wild Rockies and The Ecology Center against the Forest Service, the Judge decided to require a $100,000 bond while the groups appealed an unfavorable decision.

The situation involves a salvage timber sale near Butte, Montana, resulting from dead and dying trees due to insect infestation. Such inventory has a salvage value that diminishes rapidly and plaintiffs often take advantage of that fact. By filing suit, they stand to win in either of two ways; by the merits of their argument or by keeping the suit alive while the clock runs out on the value of the timber. Certainly we empathize with the situation having had similar situations prevail on the Allegheny.



Having heard the Forest Service argue they would lose up to $600,000 if logging was delayed and that a threat to public health and safety due to increase potential for wildfire was a factor, the Judge felt it was appropriate for plaintiffs to bear part of the loss.

The concept of "willingness to pay" is not new. Economists use it as a true measure of how much people actually value what they want. Not only does it measure what they want, but the amount they are willing to pay is a testimony to how badly they want it.

Perhaps this tool would not be appropriate in all cases brought before the court, but in cases like East Side, in which we were an intervener, "willingness to pay" would probably have had a marked effect on the plaintiff's motion.

INTERESTING DEVELOPMENT

The FY'05 receipt figures were released recently for the ANF. Interestingly, the total for the year exceeded the amount the USDA released through **PL 106-393**, commonly referred to as the "Secure Rural Schools" money or safety-net payments.

A quick recap. Two years ago the remaining three counties in the ANF opted into the safety-net payment along with Forest County, which had done so two years prior. The safety-net payments were a substitute for the 25% payments authorized by the **1908 Act** to assist school districts and townships with maintenance expenses. As the 25% payments (a quarter of all receipts generated in a year by the Forest Service) dropped precipitously throughout the last decade, **PL 106-393** was passed, which gave schools and townships the option to either continue with the traditional payment or take a guaranteed amount directly from the U.S. Treasury over a six year period (2000-2006).

For five years the guaranteed payment under **PL 106-393** was the greater amount and therefore the better option. For FY'05, however, the traditional 25% payment is greater by more than $33,000 making it the better option. Unfortunately, under **PL 106-393**, once you opt in, you are in until the law sunsets at the end of FY'06.

Title III of **PL 106-393** adds to the dilemma as well. Under the law, the total amount of money distributed to the counties no longer goes totally to the schools and townships. Title III requires at least 15% of the money to be retained by the counties for categorical expenditures leaving 85% for townships and schools. Under the traditional 25% payments formula, the entire allotment is divided among the schools and townships. None is retained by the counties because they manage neither roads nor schools.

The Warren County School District receipts illustrate the situation. The safety-net payment yielded approximately $848,000 while the traditional 25% payment method would have yielded approximately $1,004,000. Forest County School District's number jumps from approximately $653,000 to $775,000. Township amounts reflect a similar situation. Take for example Highland Township, the largest recipient of Forest Service receipts. Their number would have increased approximately $43,000.

In the final analysis, given current market values and low currency rate, any amount of receipts from the Forest Service that exceed $21M will yield more money for townships and school districts than the current safety-net payment.

COMMENTS REQUESTED

On December 21, a Task Force assembled by Congressman Pombo's (R-CA) House Committee on Resources issued draft findings and recommendations for amending the ***National Environmental Policy Act of 1970*** commonly known as NEPA. This effort has been long overdue and is commendable.

Following much testimony at a series of hearings over seven months, the Task Force chaired by Congresswoman Cathy McMorris (R-WA) issued their findings, which are grouped into nine categories. Each category has two to four recommendations for making the law stronger and more relevant to existing circumstances.

I strongly urge all members to review this report and to write a comment letter if you have not already done so. It can be accessed via the Web by searching NEPA Task Force Report. In addition, I have generated "talking points" that can be used as a template for comment if you wish to contact me.

As you know, NEPA and the Endangered Species Act (ESA), which is also being reviewed by Pombo's Committee, are the two most frequently used laws to curtail forest management activities. Both have morphed into something far beyond their original intent and are in desperate need of revision. Please do not let this opportunity slip away without input. Comments can be made as follows:

mail: NEPA Draft Report Comments
c/o NEPA Task Force
Committee on Resources
1324 Longworth House Office Building
Washington, D.C. 20515

Email: nepataskforce@mail.house.gov

Fax: (202) 225-5929

The deadline for accepting comments is February 6, 2006.

LATEST WEAPON IN PRESERVATION INSURGENCY

A couple articles came across the wire recently that shed light on the latest tactic used by preservationists to monkey-wrench forest management. It is called "cumulative effects analysis." Although not really new, this tactic is receiving greater attention from liberal-minded judges across the country.

A district judge in Milwaukee not long ago issued a ruling that requires the Forest Service to consider the cumulative effects of six timber sales

approved over several years rather than assessing the effects of each sale separately as has been the custom. In affect, the Forest Service must consider not only the impact of the project under analysis, but must now tie that analysis to projects done elsewhere within no particular timeframe. Think about the consequences: a project being planned for the southern portion of the Marienville District must be analyzed in conjunction with a project or two already completed in the Bradford District. Talk about "paralysis by analysis!"

Mike Leahy of *Defenders of Wildlife* was quoted as saying, "It's an issue that groups have always raised in timber sales because the Forest Service takes as small a look at cumulative effects as possible. But we're starting to get some traction on this in court."

Joe Carbone, a NEPA specialist for the USFS was quick to point out the Council on Environmental Quality (CEQ), which is responsible for guidance on this issue, leaves the extent of cumulative effects analysis open-ended thereby setting up the Forest Service to be challenged. Carbone concludes it is the "Straw that breaks the camel's back." Indeed it is.

Don't be surprised to see the cumulative effects argument launched in all subsequent suits brought in this region in hopes of gaining some traction here as well.

Reminder: Keep your membership current. Payment helps to ensure that your voice is represented in advocating multiple use of the Allegheny National Forest and other public lands. Thank you!

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Allegheny Forest Alliance
Sustainable Forestry
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