

**Talking Points, OSB Environmental and Natural Resources Section
Year in Review- “Changes in Law Under Trump Administration” Panel
McMenamins Edgefield Manor
October 13, 2018**

I. Introduction

Today, I want talk about forest policy changes that will be driven by the Trump Administration, but also about changes that will not be driven by the Trump Administration. Both are important to understand.

II. I’ll start with changes that *will* be driven by the Trump Administration?

A. Agency Culture/Leadership

- a. Like every administration, the Trump Team will have the opportunity to shape the **leadership** of each department and agency through political appointments. And, with leadership changes come changes to agency **priorities**.

What does that mean?

- b. The Forest Service is a multi-use agency. It has a lot of responsibilities on a massive landscape. It doesn’t have the resources or personnel to be everything to everybody.
- c. For this Administration, on public forests, the **priority will be active management: more logs to mills, more revenues to counties and the Federal government, more acres treated**

So, how do you do that?

- d. **Money and people.** Example: O&C Lands in Western Oregon. The Interior Budget includes well over \$100 million/year to administer the O&C Act. But, less than 60 percent of the budget goes to the timber program. *It doesn’t take a change in law to repurpose your staff and budget to achieve a specific priority.*

B. Regulatory Changes

- a. **NEPA.** Right now, the Forest Service spends an estimated \$350 million per year satisfying environmental and paper work requirements. The Forest Service and BLM are responsible for 1/3 of all EISs for the entire federal government. I anticipate regulatory changes by the Trump Administration to “right size” NEPA documents.

*Without some legislative cover, I think internal attempts to make NEPA more efficient while still “bullet proofing” these documents will be extremely challenging.

- b. **Objection/Protest.** The “public input” process is being abused. Giving the public the opportunity to weigh in on public land management decisions is critical. But that’s not what’s happening. What’s happening is that special interests use the process to delay or stop work on public lands on ideological grounds. That was never the intent of the law.

- i. Example: Medford BLM Protest (250 pages, 125 protest points); then IBLA; then lawsuit; then appeal...

This isn’t sustainable. There’s going to be a backlash. I anticipate a regulatory change to restructure the protest and objection process.

- c. **Antiquities Act.** In addition to the recent review of more than 20 national monuments, this Administration will play a major role in the future of the Antiquities Act. Monument boundary changes or reductions are likely, but the legal challenges that will follow those Executive decisions will continue to fuel a very important debate about who manages America’s public lands: the President, or Congress? And what are the limits of Executive power when it comes to national monument designations?

III. What are the changes in Forest Policy that *will not* be driven by the Trump Administration?

A. Legislation

- a. Unlike proactive administrations like **Clinton and Obama**, I don’t see this White House getting into the weeds on legislative language. The process will continue to be driven by Congress and key Western members.
- b. This year’s fire season is providing further motivation and cause for **bipartisan reforms to forest management** – but because those “reforms” will have to be bipartisan in nature to have a chance at passage, they won’t be wholesale rewrites of NFMA and FLPMA. The focus will be on four or five issues:
 - i. **Fire Borrowing:** how are we going to treat costs above 10-year average?
 - ii. **Salvage:** what do we do after a fire?
 - iii. **Collaboratives:** how do we incentivize collaboration and “insulate” decisions from frivolous lawsuits?
 - iv. **NEPA:** Categorical Exclusions for legislatively defined projects
 - v. **Cottonwood**
 - vi. **EAJA:** there’s a chance EAJA fees will be reduced or eliminated for forest management projects.

B. Appropriations/Budget

- a. I don’t see this administration advocating for major increases to federal agency budgets. The Forest Service and BLM will continue to operate with flat or even reduced appropriations. And, with flat or reduced funding levels, the Trump Administration will have to rely on Agency Culture, leadership, and regulatory changes to drive its agenda.