



# CLEARWATER DEFENDER

## NEWS OF THE BIG WILD

A PUBLICATION OF  
FRIENDS OF THE CLEARWATER

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### **The Ghost of “No Tree Left Behind” Future** **Katie Bilodeau**

The Forest Service has proposed many logging projects this year. At least ten have been proposed under the Healthy Forest Restoration Act (HFRA); the Forest Service is proposing eight of these ten projects under the 2014 Farm Bill Amendment to HFRA. What is HFRA, the 2014 Farm Bill Amendment, and how does this statute impact Forest Service obligations for environmental analysis under the National Environmental Policy Act and the public’s involvement? This article sets out to answer these questions.

The Bush Administration proposed the Healthy Forest Restoration Act (also referred to as the “Healthy Forests Initiative”), and Congress passed it in 2003. The law purportedly strove to reduce wildfire risk by thinning forests that HFRA’s proponents considered overstocked and reducing what proponents considered “hazardous fuels” arising from the Forest Service’s history of suppression. HFRA projects are called “authorized hazardous fuel reduction projects.” At that time, HFRA proponents cited its purpose to address wildfire; opponents (who called it the “No Tree Left Behind Act”) declared it was an open invitation for more logging.

Fifteen years later, we have sound science that attributes increasing wildfires to global warming (i.e., longer, hotter fire seasons that dry the forest out). Science within the past five years has also found that, counterintuitively, logging (or “vegetation management” in Forest Service parlance) has actually increased fire risk because reducing vegetation in an area ultimately dries out the remaining landscape. Science within the past five years has also found that areas that have been unmanaged, such as roadless areas, actually burn less severely than areas where the Forest Service has conducted vegetation management activities.

Although HFRA’s basic presumptions about wildfire risk are not supported by the latest science, this statute reduces public input in these projects and the extent to which the agency must analyze environmental effects. For example, under the National Environmental Policy Act (NEPA), if the Forest Service releases an environmental assessment on a project, the public is guaranteed at least 45 days to object. On the contrary, projects proposed under the authority of HFRA allow only 30 days to object. Under NEPA, an agency conducting an environmental impact statement must consider a reasonable range of alternatives to accomplish the purpose



**We have joined a coalition of local homeowners in litigating the flawed Windy-Shingle Timber Sale.**

FOC File Photo

of the project. Under HFRA, the Forest Service need not analyze more than its own alternative unless the public had the foresight to propose an alternative early in the project development. In 2014 Congress reduced public participation for some HFRA projects even more.

President Obama signed the 2014 Farm Bill into law. This gigantic bill contained a couple of provisions that amended the Healthy Forest Restoration Act. The Farm Bill invited governors to nominate areas of “declining forest health” or those at risk of “substantially increased tree mortality...due to insect or disease infestation.” The Farm Bill then created a categorical exclusion for these projects if the Forest Service could keep “treatments” (Forest Service parlance for “logging and burning”) to under 3,000 acres per project and avoid building permanent roads. Categorical exclusions (CEs) are a class of actions considered not to have individual or cumulatively significant effects on the environment, easing any need to conduct a thorough environmental analysis; it is unclear how Congress thought 3,000 acres of logging could not possibly produce any kind of environmental impact. Governor Otter initially nominated 1.8-million acres statewide, noting 70 percent of the 8.84 million acres of national forests in Idaho “suitable” for vegetation management were at a “high risk of mortality and fire.” Three months later, the Chief of the Forest Service approved 1.1 million acres *on just the Nez Perce and Clearwater National Forests*. As a reader might glean from the size of these tracts of lands, many areas are far from communities. Region 1’s nomination claimed that 4.2 million acres are threatened by insects and disease. So, a very significant chunk of the Nez Perce and Clearwater National Forests is now designated under the Farm Bill as

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## FRIENDS OF THE CLEARWATER

THE CLEARWATER DEFENDER  
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FOC File Photo

**Congratulations to Pat Finnegan (speaking) for receiving the 2018 Activist of the Year Award for his suction dredge monitoring work on the S. Fork Clearwater.**



FOC File Photo

**A very big thank you to our former Board President and long-time supporter Jeanne McHale for playing and singing at our end-of-the-year party.**

*Printed on 100% post-consumer, recycled paper made without harmful chlorine bleaching agents. Please recycle this newsletter!*



Friends of the Clearwater, a recognized non-profit organization since 1987, defends the Clearwater Bioregion's wildlands and biodiversity through a Forest Watch program, litigation, grassroots public involvement, and education. The Wild Clearwater Country, the northern half of central Idaho's *Big Wild*, contains many unprotected roadless areas and wild rivers and provides crucial habitat for countless rare plant and animal species. Friends of the Clearwater strives to protect these areas, restore degraded habitats, preserve viable populations of native species, recognize national and international wildlife corridors, and bring an end to industrialization on public lands.

Friends of the Clearwater is a 501(c)(3) non-profit organization. All contributions to Friends of the Clearwater are tax-deductible.

The *Clearwater Defender* welcomes artwork and articles pertaining to the protection of the *Big Wild*. Articles in the *Clearwater Defender* do not necessarily reflect the views of Friends of the Clearwater.

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## **Around the Clearwater**

### **Gary Macfarlane**

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Recently, the Forest Service released four timber sales at about the same time for public input. FOC met the challenge, sent out alerts electronically (there was not time to send out paper summaries of the projects), and provided detailed input. Additionally, we have a steelhead update.

Clear Creek, the biggest of the sales, is the pilot project of the Clearwater Basin Collaborative intended to “significantly increase logging.” The Nez Perce Tribe litigated the initial proposal in 2016 and the Forest Service, not wanting to have what would have almost certainly been a court loss, dropped the decision. Now it’s back. Clear Creek drains into the Wild & Scenic Middle Fork Clearwater and includes rare species like fisher and steelhead.

Tinker Bugs would almost entirely occur within the former Middle Fork Roadless Area. About 2,200 acres would be logged, including land within the wild and scenic river corridor. In the adjacent Johnson Bar Timber Sale, the Regional Office required the local Forest Service to drop roadless logging in this area.

The Smith Ridge timber sale is adjacent to the Mallard-Larkins Pioneer Area and along the road from Isabella Landing to Smith Ridge. Damaging logging took place in the past on these steep slopes.

The White Pine Timber Sale is proposed in the last undeveloped area of any size on the Palouse Ranger District. It’s near the popular Palouse Divide ski area. Old-growth set aside in a past timber sale would now be logged in violation of the Forest Plan.

As Linwood Laughy reported in our last newsletter, Clearwater wild B-run steelhead (those are the really big fish) are in serious trouble. On October 9th, FOC joined a coalition of groups led by The Conservation Angler and sent a sixty-day notice of their intent to sue officials of the Idaho Department of Fish & Game (IDFG) and Idaho Fish & Game Commission (Commission) under the Endangered Species Act (ESA) for allowing sport fisheries that harm and prevent the recovery of wild Snake River Basin steelhead, including the iconic but critically low wild B-run steelhead. The ESA prohibits entities or individuals to “take” a listed fish, such as steelhead, unless the National Marine Fisheries Service grants a permit for incidental take. The ESA defines “take” as injure, harass, or kill, and incidental take of wild steelhead will happen during fishing for hatchery steelhead. The State of Idaho did not have a current permit or plan to take wild steelhead, and has been operating without a permit since 2010. While only hatchery fish can be kept (the adipose fins of hatchery are clipped), wild steelhead are also caught and can suffer delayed mortality from being caught and released. At the same time, leaving all hatchery fish in the river could cause a loss of genetic fitness for wild fish if they interbreed with the hatchery fish.

In response to our notice-of-intent letter, the commission announced in November that it would close the steelhead season on December 7th and the federal government released a hastily drawn up draft plan for public comment that ended on December 13th. Not long after the commission’s announcement, the Idaho River Community Alliance approached the conservation groups about a resolution to reopen the season with certain voluntary measures and closures of portions of the Salmon River and South Fork Clearwater River to protect wild fish winter-sheltering areas. Because of that action and the notice to sue was legally limited to the current season, the groups decided to work with a fishing community willing to self-impose and promote interim fishing practices that science suggests will reduce incidental take. This will allow Friends of the Clearwater and its allies to refocus on the broader conversation and longer-term issues. These broader and long-term issues include fishery management plans, hatcheries, and the lower four Snake River dams, which all contribute to the steelhead’s conservation crisis in varying ways.

In this agreement, the groups who had sent the notice of intent to sue deferred a lawsuit until March 15, 2019, or until the National Marine Fisheries Service releases a final fish-management plan. “In this instance, the ESA’s 60-day notice provision achieved its purpose – the parties ultimately were able to agree on measures that significantly reduce the effects of the unpermitted take of wild fish and avoid litigation – while creating an opening for all parties to begin an important and enduring conversation about wild fish and rivers,” said Dave Becker, an attorney representing the conservation organizations. “Idaho River Community Alliance has committed to meaningful voluntary actions that are consistent with measures the conservation organizations proposed to the Idaho Fish and Game Commission in October to limit effects on wild fish, and my clients look forward to dialogue with Idaho River Community Alliance and the State of Idaho with the joint goal of ensuring the survival and recovery of wild Snake River Basin steelhead.”

The serious threat to wild steelhead caused us to act. In spite of incendiary scapegoating by some newspaper editors, we responded to a call for dialogue from an official representative from some angling interests. With the short-term protections in place, our focus now shifts to the long-term.

Nonetheless, there is a strong take home message. My friend, Scott Silver, spent the better part of three decades warning the conservation community about the dangers of commercialization, commodification, and marketization of nature, specifically the recreation industry (he called it “wreckreation”). Unfortunately, his message went largely unheeded, but it is even more relevant today as it was when he first called attention to the corporate takeover of nature. Or as John Muir said, “Nothing dollarable is safe, however guarded.”

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## HFRA page 1

areas in need of “treatment.” This includes some inventoried roadless areas. The consequence of these designations may have something to do with the explosion of projects in 2018.

Projects under the Farm Bill CE severely limit public review. For projects proposed under NEPA, the public has a chance to comment in scoping, a chance to comment on the draft environmental analysis, and a chance to comment on the final environmental analysis. For projects proposed under HFRA, the public has a chance to comment in scoping and an abbreviated chance to comment on a draft of the Forest Service’s environmental analysis. Under the Farm Bill amendment, the public has one chance to comment, and that is in scoping. When the Forest Service scopes a project, it has not yet conducted an environmental analysis; scoping is where the Forest Service introduces its project to the public and asks for advice on what to consider. Sometimes the parameters of the project at the scoping phase can still be unclear. For projects developed under the Farm Bill’s categorical exclusion, once the Forest Service releases its environmental analysis and concurrent decision (well after the scoping period), if the public notes that the Forest Service has failed to use the best science or misused the science the public submitted, the public has no recourse. There are no more comment periods to outline and support why the Forest Service erred in its analysis. And because Congress has said in a statute that 3,000 acre projects—including 3,000 acres of logging—cannot possibly have an environmental impact, the public cannot legally challenge that conclusion with science that says otherwise. The Farm Bill has thus limited the kinds of legal challenges the aggrieved public can mount for a damaging project.

Worth noting is, there is no requirement to do projects under the Farm Bill. The Forest Service could propose and analyze these projects under normal NEPA processes. While the agency can get funding for treating acreage under the Farm Bill, nothing prohibits the agency from including the public as much as it would in a standard environmental review. The Forest Service is choosing to limit public review for these projects.

The table in this article contains a list of the projects proposed, analyzed, approved, or logged in 2018 under HFRA. The projects with an asterisk next to the name indicate a project where the Forest Service has approved or is considering the project under the Farm Bill’s categorical exclusion.

Many of these projects include logging that will create openings on the landscape bigger than 40 acres. Some of these projects are considering (or in the case of Lowell Wild Urban Interface, has approved) logging or burning in roadless areas.

The Healthy Forest Restoration Act limits the acreage that the Forest Service or the Bureau of Land Management (the two agencies that can exercise authority under HFRA)

can treat: a total of 20 million acres nationwide. When Friends of the Clearwater came across a combined Forest Service and Department of Interior spreadsheet titled, “Hazardous Fuels Reduction and Landscape Restoration Accomplishments” that amounted to about 68 million acres completed (approximately 43 million acres by the Forest Service), FOC sent two Freedom of Information Act requests to Washington D.C., one to the Bureau of Land Management (BLM) and one to the Forest Service. Despite the spreadsheet, FOC found the BLM reported completing 434,941 acres of projects and the Forest Service reported completing 2,426,902 million acres of projects under HFRA. If these numbers are correct, there are many projects that

still could be done before meeting this 20-million-acre limit. However upon initial review, the Forest Service may not have disclosed accurate numbers. FOC is aware of a project on an Idaho national forest where the 2014 NEPA analysis approved 38,000 acres of treatment for one project. Yet the Forest Service’s Washington Office disclosed about 25,000 acres treated for the whole forest.

The Farm Bill imposes a few checks on logging projects under these CEs. As mentioned earlier, these CEs cannot include permanent roads and cannot exceed 3,000 acres of logging and burning. While these limitations ignore the potential environmental impacts that could occur from 3,000-acre projects and temporary roads, the Farm Bill importantly requires CEs to comply with the forest plan. The Nez Perce Forest Plan and the Clearwater Forest Plan are likely keeping some of these projects in check because each forest plan has some concrete quantitative standards, including requirements for water quality, fish habitat, and

<b>Project name</b>	<b>Forest (NF)</b>
<b>Center Johnson</b>	<b>Nez Perce NF</b>
<b>Crane Point*</b>	<b>Clearwater NF</b>
<b>Lowell Wild-Urban Interface*</b>	<b>Clearwater NF</b>
<b>End of the World</b>	<b>Nez Perce NF</b>
<b>Parachute Fuels*</b>	<b>Clearwater NF</b>
<b>Red Moose Divide Salvage*</b>	<b>Nez Perce NF</b>
<b>Smith Ridge*</b>	<b>Clearwater NF</b>
<b>Tinker Bugs*</b>	<b>Clearwater NF</b>
<b>White Pine*</b>	<b>Clearwater NF</b>
<b>Windy Shingle*</b>	<b>Nez Perce NF</b>

old-growth trees with which logging projects must comply. Violating forest plans are the legal challenges still available to the aggrieved public for problematic CE projects.

While all is not yet lost, public vigilance is crucial these next few years. There are three concrete measures available to those concerned about this uptick in HFRA and Farm Bill projects. The first is participating to the maximum extent these projects allow, voicing opinions, reminding the Forest Service of forest plan requirements, and providing the best available science for decisions. When the Forest Service asks for feedback, even outside of its official public comment period, give it—that feedback may pressure the Forest Service

or introduce important consideration points nonetheless. The second is participating in the forest plan revision. While the Nez Perce and Clearwater forest plans are holding these projects to quantitative standards for fish habitat and old-growth, the Forest Service is in the process of revising both plans and combining them into

for meaningful public review to ensure projects, forest plans, and laws are supported by sound science.

<b>Approximate acres of logging proposed</b>	<b>Where the project is in the Forest Service pipeline</b>
<b>3,044 acres</b>	<b>Under analysis, objection period ended 11/19/18</b>
<b>940</b>	<b>Under analysis</b>
<b>166 acres</b>	<b>Approved and half cut, according to FOC monitoring</b>
<b>18,819 acres (not a typo)</b>	<b>Under analysis</b>
<b>90 acres</b>	<b>Under analysis, twenty-one-day scoping period ended 11/30/18</b>
<b>2,250 acres</b>	<b>Under analysis</b>
<b>498 acres</b>	<b>Under analysis</b>
<b>1,192 acres</b>	<b>Under analysis</b>
<b>2,800 acres</b>	<b>Under analysis</b>
<b>2,510</b>	<b>Approved, in litigation</b>

a single plan, so it would be an opportune time to develop a new forest plan that lacks quantitative standards that projects are required to meet. But, unlike Farm Bill CEs, a forest plan must go through the full NEPA process where the public has several chances to participate and the Forest Service is held to unabridged NEPA obligations—so this is the public's chance to advocate for a revised forest plan with objective, quantitative standards as opposed to subjective, qualitative standards. A draft of this plan is expected in spring of 2019. Finally, for laws based on faulty scientific presumptions, the public can contact Congress and ask for a repeal or change in the law that reflects what the science supports. Protecting the Wild Clearwater can perhaps best be ensured by advocating



### **We greatly appreciate the support of the following foundations:**

Latah County Community Foundation  
 The Horn Family Foundation  
 The Oregon Community Foundation  
 Community Foundation of New Jersey -  
 Robert L. Crowell Charitable Fund  
 Charlotte Martin Foundation  
 New-Land Foundation  
 LUSH Charity Pot  
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 Clif Bar Family Foundation  
 The Tom Mayson Fund  
 Western Organization of Resource Councils  
 Education Project  
 The William H. and Mattie Wattis Harris Foundation  
 Maki Foundation  
 Fund for Wild Nature  
 Franklin Philanthropic Foundation  
 Mary and Charles Sethness Charitable Foundation  
 Other anonymous foundations  
 including a generous anonymous donor  
 match grant



## Interning at Friends of the Clearwater

### Sonja Lierman

My name is Sonja Lierman, and I am a recreation major at the University of Idaho. I have been interning with Friends of the Clearwater since September. Through my time with this organization I have come to learn and grow much more than I thought I would.

As a student with an internship requirement for graduation, it can be very tempting to find the highest paying internship to make up for the cost of the credits, and I admit I struggled with that temptation. Luckily, my heart was telling me it was more important to do something I believed in rather than doing a job for a paycheck, and it is the best decision I could have made for myself. While Friends of the Clearwater internships do not pay cash, they do pay in much more profound ways. With every task I complete, I feel a sense of pride from my work because I know it is benefiting a wonderful community and some of the most beautiful wildlands left in the United States.



FOC File Photo

I began this internship by helping set up a gallery celebrating the 50th Anniversary of the Wild & Scenic Rivers Act. For two weeks I tabled at the gallery and fielded questions to the best of my ability, while simultaneously compiling a list of questions to ask Brett when I got back to the office. Tabling gave me the opportunity to become comfortable communicating with the public, and also helped me gain a stronger understanding of FOC's mission area.

The best way to really understand why this organization exists is to visit the Clearwater Country in person, and this internship gave me the perfect opportunity to do so.

FOC is working on producing a series of short videos concerning different aspects of the Clearwater Country. To complete this task, they hired a wonderful two-person film crew for a multi-day trip to get the required footage.

I was fortunate enough to tag along on this trip and see that part of the country for the first time. I was able to see the North Fork of the Clearwater, the Selway, and the Lochsa. I was even able to view Cayuse Creek and fall in love with it so much I plan on getting married there!

This internship has prepared me for life after the college classroom. It gave me real-life working experience and the confidence to go out into the world ready to succeed. I also learned that the cliché, "If you love what you do, you won't work a day in your life" is actually true. I plan on using this knowledge in any future job I take. I also plan to continue to work with FOC as a volunteer so don't be surprised if you see me at future events.

As my internship winds down, my advice to any student interested in doing any internship or volunteer work with FOC would be to visit their office. The staff is amazing and works hard to give volunteers the most beneficial experience based on the individual's goals.

Lastly I would like to thank Brett, Ashley, and Gary for spending the last few months allowing me to learn from them and for giving me an internship I can be proud of.

**Editor's Note:** Our staff wishes to thank Sonja for her excellent work this semester. She has come to the office every day with a great attitude and willingness to take on various projects. She assisted with outreach, membership and development, as well as research and policy analysis. We hope this experience serves as a springboard for her future pursuits!

FOC received a grant this year from LUSH Charity Pot to produce a series of videos that speak to the values of the federal public wildlands in the Clearwater. We are very fortunate to be working with Jace Wrigley and Martin McGreevy (pictured below) of the Moscow-based Arthur Ullrich production company. We hope to produce a number of short videos by Spring 2019. Stay tuned!



FOC File Photo

## Honoring Arlene Montgomery Brett Haverstick

Bull Trout, a member of the North American salmon family, were listed as “threatened” under the Endangered Species Act (ESA) in 1999. If it were not for the tireless efforts of Arlene Montgomery and Friends of the Wild Swan, the species may never have received protection. Yes, other groups and individuals worked hard to get Bull Trout listed under the ESA, too, but Arlene and her group have been, and continue to be, true leaders on the issue.

Following listing under the ESA, Arlene (and others) worked relentlessly for over a decade to get “critical habitat” designated for Bull Trout. Such habitat is crucial because it identifies geographical areas essential to the recovery of a species, while placing extra regulatory protection and considerations. The U. S. Fish & Wildlife Service designated critical habitat for Bull Trout in 2010. It extends throughout Montana, Washington, Oregon, and Idaho, including the Clearwater Basin, as well as a small area in Nevada.



Arlene speaking to the audience  
at our Annual Meeting & Gathering

A “recovery plan” is also required under the ESA. These government plans are supposed to offer objective and measurable criteria, such as connectivity between populations, which when met, enable a species to be removed from the ESA. Friends of the Wild Swan and Alliance for the Wild Rockies are currently in litigation to secure a recovery plan for Bull Trout.

Friends of the Clearwater is grateful for the work of Arlene and Friends of the Wild Swan over the decades. Arlene is the latest in a long line of recipients of the *Macfarlane Plank Award*, which honors those individuals that have modestly dedicated their career to keeping the Northern Rockies wild.

**Editor’s Note:** Friends of the Wild Swan is a non-profit dedicated to protecting and restoring water quality and fish and wildlife habitat in the wild Rockies of Northwest Montana. The group does important work to protect other native species as well, including Canada lynx, wolverines, grizzly bears and fisher.

## A heartfelt thanks to the local businesses and individuals that donated to our silent auction!

Roger & Janice Inghram  
Joshua Yeidel & Sharon Cousins  
Sioux Westervelt  
Erika Greenwell  
Kelly Kingsland  
Jo Bohna  
Laurene Sorensen  
John & Sara Holup  
Jen Bobier  
Harriet & David Aiken  
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Hunga Dunga Brewing Co.



FOC File Photo

Thank you to everyone that attended this year's Annual Meeting & Gathering. We also greatly appreciate the generosity of all the individuals and local businesses for supporting us through the silent auction. The community potluck was delicious as usual, too.

The large turnout is reflective of the caring and committed community that has been fostered over the decades. Together, we are bringing stronger protections to the public lands of the Clearwater Basin in North Central Idaho.

Thank you also to the staff at the 1912 Center in Moscow for hosting us every year, and making sure things are just right at our end-of-the-year party. It was another wonderful evening.

## FRIENDS OF THE CLEARWATER CALENDAR OF EVENTS

WINTER OUTING W/PALOUSE - SIERRA CLUB

**Saturday January 12**

@PALOUSE DIVIDE LODGE, CALL FOC FOR OUTING DETAILS

FOC CABIN FEVER WINTER BENEFIT CONCERT

W/HENRY C. & THE WILLARDS & FRIENDS

**Saturday February 9**

7:00 PM @ONE WORLD CAFE, 533 S. MAIN, MOSCOW

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