



RETHINKING FORESTRY REGULATIONS

*An international workshop co-organized by the Montana
Department of Natural Resources & Conservation and the
Rights & Resources Initiative*



Agenda

Lubrecht Experimental Forest
Missoula, Montana
October 17-22, 2010

Sunday, October 17, 2010	
All Day	Arrive in Missoula, Transport to Lubrecht Forest, Check-in and Dinner
Monday, October 18, 2010	
7:30 am to 8:30 am	Breakfast in the Dining Hall
8:30 am to 10:00 am	Opening Session Welcome to Montana and Introductions – Bob Harrington Welcome to Lubrecht Forest – Jim Burchfield U.S. Forest Governance History – Leslie Weldon Rethinking Forest Regulation: Why Montana? Overview of the Session – Sally Collins
10:00 am to 10:30 am	Break
10:30 am to 12:00 pm	Status and Challenge of Regulating Forests in Mexico and Brazil - Presentations by country delegates Expectations and desired outcomes - Facilitated by Sally Collins and Luke Bailey
12:00 pm to 1:00 pm	Lunch
1:00 pm to 2:00 pm	Tour: Lubrecht Experimental Forest/Harvesting Operation – Frank Maus
2:00 pm to 3:30 pm	Overview of Montana's Forest Practices Program – Bob Harrington
3:30 pm to 4:30 pm	Group Discussion / Share thoughts/ideas
4:30 pm to 6:00 pm	Free time to hike and explore Lubrecht Experimental Forest
6:00 pm to 8:00 pm	Barbecue/Evening Session (Synthesis)
Tuesday, October 19, 2010	
7:30 am to 8:30 am	Breakfast in the Dining Hall – Prepare a sack lunch for the field trip.
8:30 am to 9:30 am	Regulation of State and Private Forests in Montana – Bob Harrington
9:30 am to 10:15 am	Forest Landowner and Logger Education – Angela Mallon & Jason Todhunter
10:15 am to 11:00 am	BMP Consultation and Field Review Process – Roger Ziesak and Gordy Sanders
11:00 am to 3:00 pm	Field trip to audit site/conduct mock BMP Field Review

Wednesday, October 20, 2010

7:30 am to 8:30 am	Breakfast in the Dining Hall
8:30 am to 9:00 am	Travel to Ovando
9:00 am to 10:00 am	Blackfoot Challenge Overview – Local Community Forest Governance/Regulation – Gary Burnett Ovando Fire Station
10:00 am to 1:30 pm	Field Trip to Blackfoot Community Conservation Area Lunch @ Restaurant in Ovando Travel to DNRC Clearwater Unit
2:00 pm to 3:00 pm	State Trust Land Management Overview, Dave Poukish, Clearwater Unit Manager Return to Lubrecht Forest
3:30 pm to 4:30 pm	Thinking about restoration forestry from a local, regional and global perspective.
4:30 pm to 6:00 pm	Discussion of role of Central Government in State or Local Forest Regulation
6:00 pm to 7:00 pm	Dinner in the Dining Hall
7:00 pm to 9:00 pm	Synthesis and Further Discussion Pack up & prepare to load luggage in the morning.

Thursday, October 21, 2010

7:30 am to 8:30 am	Breakfast in the Dining Hall – Prepare a sack lunch for the field trip.
8:30 am to 10:00 am	Travel to Pablo, Montana
10:00 am to 2:00 pm	Presentation on tribal history, culture, and forest governance of indigenous peoples with Confederated Salish & Kootenai Tribal representatives
2:00 pm	Visit wildlife crossing culverts and stream restoration projects on Flathead Reservation
3:30	Return to Missoula, check into rooms at the Doubletree Hotel
5:30 pm to 6:30pm	Free time
6:00pm to 8:30pm	Group Dinner at a Missoula Restaurant – Discussion, Next Steps, Conclusion of Session



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Participants' Contact List

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Synopsis

Lubrecht Experimental Forest
Missoula, Montana
October 17-22, 2010



Participants visit the "champion larch" at Girard Grove, Lolo National Forest

Summary:

On Oct 17-22 2010, the Montana Department of Natural Resources and Conservation hosted a study tour in Missoula, MT with six forest service officials from Brazil and Mexico, facilitated by Rights and Resources Initiative. The week-long event sought to teach the participants about the state's best management practices (BMP) system and mandatory streamside management zone laws, and explain the widespread improvements in forest management on Montana's private and public lands.

Through extensive site visits and discussions with a broad range of stakeholders involved in forest management in Montana, participants came to understand the broader narrative and institutional changes that lead to successful innovations in forest regulation, as well as the technical elements of forest management audits. Throughout the trip, the group reflected on the regulatory challenges they face in their own countries, and how elements of the Montana experience could help their respective agencies be more efficient and effective at forest management.

Key lessons learned:

- Partnerships across institutions and populations can achieve multiple management goals without increasing regulatory burden.
- A "credible threat" of top-down regulation helps catalyze action, and strong relationships between insightful leaders in different sectors are instrumental to the reform process, but it still takes time.
- Developing industrial and political support for these changes can be a major barrier, but can be achieved by focusing on clearly delineated goals, and involve land owners and industry in the development of new regulatory a system.
- State level institutions play an important role as interface between federal authorities and local actors, especially when these two groups distrust each other. Extension and education provided by the state agency (though sometimes funded through federal support) helps improve compliance with regulations.

Detailed Proceedings:

Day 1: Monday Oct. 18

Presentations and discussions

- *Jim Burchfield, Dean, College of Forestry and Conservation, University of Montana*
- *Leslie Weldon, Regional Forester, USDA Forest Service Northern Region*
- *Sally Collins, RRI Fellow*
- *Léon Jorge Castaños*
- *Carlos Cardoso, General Coordinator for Sustainable Use of Forest and Wildlife, Brazilian Institute of Environment and Renewable Natural Resources*

On the first day, participants were welcomed to Western Montana by **Jim Burchfield**, Dean of Forestry and Conservation at the University of Montana and **Leslie Weldon** of the U.S. Forest Service, head forester for the Northern Region, an area covering over 10 million hectares and spanning five states. Weldon gave the international guests a valuable introduction to federal forest management in the U.S., where the central government cannot dictate how private landowners manage their forests—the management of private forests is the responsibility of the state. Her talk outlined the main challenges of fire management and maintaining road systems, and explaining USFS' current emphasis on restoring forests for watershed health, building climate-resilient landscapes, and creating employment.

Sally Collins, RRI Fellow and former USFS Associate Chief, gave an orientation on RRI's analysis of forest practice regulations across the globe. This research has found that while the forestry sector globally tends to be more heavily regulated than other sectors of economy, the track record of compliance with these rules is generally disappointing. Forest agencies in many countries and provinces spend more time trying to enforce unrealistic or even unjust policies. With forest governance challenges on the rise, agencies become primarily a policing force, rather than a service provider working with communities to improve management capacity. A key reason for bringing participants to Montana, Collins explained, is that this state has developed a new regulatory model that relies on collaboration rather than coercion to reach management goals.

Representatives of Mexico and Brazil also gave an introduction to the institutions and legal systems that govern their forests. **Léon Jorge Castaños**, former chief of Mexico's forest service, described the evolution of these administrative structures and forestry's move towards greater autonomy from the Ministry of Environment. He particularly highlighted one regulatory success of the National Forestry Commission (CONAFOR), as it came to be called, was a watershed restoration program that compensated communities for reducing deforestation on their lands. **Carlos Cardoso** of IBAMA, the Brazilian agency responsible for forest law enforcement and timber harvesting regulations, detailed the multi-agency structure of forest management in Brazil, which includes IBAMA, the Ministry of the Environment, the Brazilian Forest Service (in charge of public forestland), ICMBio (regulates traditional communities, conservation and research areas, and extractive reserves in public and private lands) and FUNAI (has jurisdiction on indigenous peoples' reserves). Coordinating efforts to regulate forests across these varied agencies, and extending the reach of the Brazilian Forest Service represent a major challenge that Brazil is tackling.

Field trip: Lubrecht Experimental Forest and Harvesting Operations

Lubrecht Forest Manager **Frank Maus** lead the group on a tour of Lubrecht State Forest, a forest owned by the University of Montana and managed for both research and commercial goals where participants were lodged. Much of the surrounding was hit substantially by the mountain pine beetle, a pervasive pest in the region, although stands that had been thinned out in the past years showed much less damage. The group also visited different stages of timber harvest, and discussed solutions to deal with leftover slash (a potential fuels hazard), differences of machinery used in temperate and tropical logging and machinery impacts on soil.

Presentations and discussions

- *Bob Harrington, State Forester, Montana Department of Natural Resources and Conservation (DNRC)*
- *Angela Mallon, Private Forestry Specialist, Forestry Assistance Bureau, DNRC*
- *Jason Todhunter, Safety Officer, Montana Logging Association*
- *Roger Ziesak, Forest Practices Specialist, DNRC*
- *Gordy Sanders, Resource Manager, Pyramid Mountain Lumber, Inc.*
- *Norm Fortunate, Clearwater Service Forestry Specialist, DNRC*

Day Two featured an in-depth explanation of Montana's voluntary Best Management Practices (BMP) and mandatory Streamside Management Zones (SMZ) regulations from different perspectives— state forestry officials from the Department of Natural Resources and Conservation (DNRC), loggers and sawmill operators.

Bob Harrington outlined the context of forest land ownership and forestry regulation in the state, and discussed the impetus for reforming the way forest regulation was done in Montana. The western Montana landscape is a patchwork of private individual land, timber company land, federal forest reserves and wilderness areas, in addition to Montana state lands. These include forests on state trust lands (scattered small plots of land administered by DNRC whose annual revenues of ~\$100 million are dedicated to funding public schools) and seven Native American Reservations (which in turn may encompass private lands.) A system of voluntary guidelines for all forests, plus and mandatory regulations on water quality in riparian areas, was established in 1990.

Harrington, **Roger Ziesak**, **Gordy Sanders** and **Norm Fortunate** related the context leading up to the passage of these laws, stressing several key factors that motivated the reform and lead to its success. In the 1980s, clear-cutting and poor road construction practices were leading to severe sedimentation of Montana's rivers and streams, and the U.S. central government was threatening to intervene and impose an additional layer of mandatory, federal rules for landowners. Many in Montana were wary of this imminent threat of additional regulation of private lands, seeing the prescriptive new rules that were put in place in Oregon, Washington and California, which many saw as overly burdensome and strict. Stakeholders wanted to find a state-grown solution to the problems of soil erosion in forests and pasture lands, to convince the federal government not to intervene.

The key to their success lay in devising alternative state legislation that matched the prevailing culture in Montana, and allowed proponents to cultivate a broad base of political support for the reform, including industrial actors and politicians with vested interests in forestry. The speakers emphasized that Montanans were in general averse to over-regulation— especially by the central government. Sanders explained that it was crucial to convince prominent forest industry leaders who were resistant to federal regulation of the need to develop a viable alternative.

Furthermore, the inclusion of industry actors and landowners in the discussions instilled a great sense of ownership over the process, and lead to greater willingness to comply. Harrington stressed the importance of having clearly delineated goals – in this case, the focus was strategically placed on stopping erosion and preserving water quality, which had broad public support due to the rivers' use for fishing and other recreation activities, and assuaged fears that the proposed reforms would grow too far-reaching.

What resulted from this policy process is a set of voluntary BMPs, mandatory rules for SMZs, and a comprehensive audit system lead by DNRC that rates compliance with both SMZ rules and the BMPs and, if necessary, penalizes operators for disrespecting SMZ requirements. Audits are required of state and federal forest lands; many private forests are also included on a voluntary basis. The audit teams are multidisciplinary, composed of state, federal, and private persons representing a range of disciplines: fisheries, forestry, hydrology, engineering, conservation, soils, and logging. The results are compiled, made public, and presented to state legislators every two years. Crucially, this audit has been formulated as

an opportunity to learn and improve practices, rather than a punitive measure, which has contributed to its success. The 2008 audit found that 97-98% of operators were effectively compliant.

Angela Mallon and **Jason Todhunter** described two creative programs targeting private sector actors that have contributed to improved forest management. Montana. Mallon introduced participants to the Forestry Assistance Bureau at DNRC, which provides educational, technical and financial assistance to private landowners with small forests (about 1.5 Mha of Montana's 9.3 Mha total forest area.) The DNRC partners with Montana State University Extension Forestry to offer stewardship planning classes that help landowners plan for and meet their forest management objectives, and has been particularly useful in lowering the fire hazard on private forest land. Todhunter represented the Montana Logging Association, and described the important role that its Accredited Logging Professional program has had in improving forest management. Going through the training to receive this accreditation gives a logger a way to demonstrate the quality of his work and distinguish himself from others competitors. While often portrayed as "the bad guys," Todhunter explained that Montana's loggers were seriously involved in developing the BMP rules, and that the audit results provide a way to measure their success. This has led to a collective interest among loggers in self-regulating, and helped institutionalize the professional pride of loggers.

In the ensuing discussion, Brazilian and Portuguese participants highlighted the great differences between the situation in their countries and that of Montana, but noted some relevant lessons for their countries. In Mexico's case, it was recognized that there is a great deal of regulation of silviculture and wood processing, but little attention paid to harvesting. Jaime Bocanegra Gallegos found that, for the state of Durango, there is a need to develop voluntary BMPs to replace onerous regulations on harvesting in community lands (*ejidos*) that would give community forest enterprises more flexibility to harvest timber and improve returns.

In Brazil, the combination of insufficient human and financial capital (particularly in state-level institutions), the vast scale of illegal deforestation, and the pernicious socio-economic issues driving unsustainable forest use made it difficult for Brazilian delegates to imagine developing a regulatory model similar to Montana. It was noted that until recently Montana suffered from low forest management ability, and the DNRC received a great deal of capacity building from the USFS to develop into the agency that it is today. Despite the challenges in Brazil, delegates still felt that significant improvements could be made by streamlining and "rationalizing" the regulatory system, concentrating on what is feasible to accomplish, and training forest regulators in extension forestry—not only to educate, but also to raise trust levels between local populations and forestry authorities.

Field trip: Mock BMP Field Review

Participants visited a private landowner's forest lead by DNRC officers and audit team members to conduct a mock audit, learning first-hand how the BMP/SMZ regulations are implemented.

Day 3: Wednesday Oct. 20

Presentations and discussions

- *Gary Burnett, Executive Director, Blackfoot Challenge*
- *Jim Stone, Chairman, Blackfoot Challenge*
- *Erin Zwiener, Program Coordinator*
- *Tony Liane, Area Manager for Southwest Land Office, Trust Land Management Division, DNRC*
- *Dave Poukish, Clearwater Unit Manager, DNRC*
- *Loren Rose, Controller, Pyramid Mountain Lumber*
- *Tim Love, District Ranger, Lolo National Forest, Seeley Ranger District*

The group met with two leaders of The Blackfoot Challenge, a non-profit institution created to restore and protect the Blackfoot River watershed, an area covering some 600,000 ha along what was once one of the ten most threatened rivers in the U.S. **Gary Burnett** and **Jim Stone** related the story that led to the development of this initiative, a process that began almost 40 years ago with informal conversations between land owners and local government officials. Again facing a “credible threat” of increased regulation, a diverse group of landowners (ranchers, residents, conservationists, federal and state regulators, timber companies) developed a management plan that took into account their interests and managed the watershed sustainably. This accomplishment relied on identifying decision-makers across public institutions and the private sector who were willing to listen to others and hone in on common goals— the “spark plugs” that catalyzed the program. Burnett and Stone emphasized that this process took many years, even with the benefit of some early successes that improved the willingness of landowners to participate.

At a stopover at a local DNRC unit, **Dave Poukish** gave an overview of state trust land management. In 1889 when Montana was initially formed, the federal government lacked the funds to pay for its public schools, and instead granted the state a patchwork of small plots of “trust land” – state-managed lands whose purpose was to generate income for the school system. Initially distributed in a checkerboard pattern across the state, these parcels have been sold and traded and agglomerated to increase returns, and currently finance about a tenth of the school budget, although in recent years the damage caused by the mountain pine beetle has affected nearly every forest area.

Field trip: The Blackfoot Community Conservation Area

Erin Zwiener and **Tony Liane** led participants on a tour of an area actively managed through an agreement brokered by the Blackfoot Challenge, showing a range of community forest governance goals. Logging and firewood collection were allowed in some areas. In others, landscape protection tempered public recreation desires, like hunting paths blocked against motor vehicles. A field currently leased for cattle grazing was also subject to prescribed burns to thin out understory growth and promote a healthy pasture. Finding complementary solutions (e.g. restricting vehicle access to attract game to the area, or burning to discourage weeds and promote native grass species well-adapted to fire) was crucial to developing arrangements that benefit the local populace and restore the ecosystem.

Field trip: Pyramid Mountain Lumber and the Champion Larch at Girard Grove, Seeley Lake

Loren Rose gave a tour of this large-scale, modern mill that is the largest employer in the town of Seeley Lake. The company sources at majority of its timber supply from private landowners, and works in partnership with them to ensure an adequate supply. The family-owned operation has been able to grow and stay competitive by efficiently providing a wide range of high-value products used in home renovations, as opposed to other mills in the area that only produce a handful of types of lumber and studs for housing construction. Rose noted that the company has been able to find a market for “blue stain” wood—timber discolored by mountain pine beetle attacks. Down the road at an old-growth larch grove, **Tim Love** presented stewardship contracting, a collaborative forest landscape management model that was pioneered on the Seeley Lake Ranger District. Stewardship contracting is an approach which achieves restoration activities on National Forest lands while meeting local and rural community needs. It focuses on total ecosystem benefits and outcomes, rather than commodities removed from the land. Stewardship contracting is a unique approach to federal land management in that it allows agencies to: 1) allow agencies trade goods for services, 2) retain receipts from forest products removed to meet restoration objectives and apply receipts to service work within the service area, 3) regain receipts and transfer them to other stewardship projects, 4) use multi-year contracts and agreements up to 10 years in length, 5) collaborate before and throughout project development with government agencies, tribes, communities, non-governmental organizations, and unaffiliated stakeholders, and 6) use “best value” contracting to evaluate contractors’ proposals.

Discussion amongst participants attempted to draw these experiences together and draw some lessons that pertain to their home. Mexican delegates were struck by the collaborative spirit of land owners and management agencies here, which they found contrasted with Mexico. Castaños noted that the “spark plugs” cannot succeed in isolation and need to have willing counterparts in other sectors to move institutional reform forward. Inspired by what he saw, Castaños proposed a

workshop on forest regulations to pull catalytic decision-makers together and draw support for the development of BMPs for forest harvesting and road construction, as burdensome regulations is a common complaint in many areas in Mexico. **Karla Oliveira** made a crucial point that participants should not look for readymade “solutions” that can be transported to their home country, but rather identify suggestions and ideas of where and how to intervene. For Oliveira, community empowerment is at the core of the interventions studied at the workshop. She pointed out that Brazil already has some good examples of multi-stakeholder collaboration in protected areas such as Tapajós National Forest or the Ituxi Extractive. Cardoso added that technological innovations like satellite monitoring systems can greatly assist with titling forest areas for to strengthen local ownership rights.

Day 4: Thursday Oct. 21

Presentations and discussions

- *Jim Durglo, Head, Forestry Department, Confederated Salish & Kootenai Tribes*
- *Antoine Incashola, Salish-Pend d’Oreille Culture Committee*
- *Vernon Finley, Kootenai Culture Committee*
- *Tony Harwood, Fire Management Officer, Forestry Department, Confederated Salish & Kootenai Tribes*
- *Whisper Camel, Wildlife Biologist, Forestry Department, Confederated Salish & Kootenai Tribes*

On the final day of the workshop, participants visited the Flathead Indian Reservation and met with Confederated Salish & Kootenai Tribal representatives and natural resource management staff. **Tony Harwood** provided the group with the geographic and ecological background of the valley where the Reservation is situated, emphasizing that the surrounding forests are for the most part fire-adapted ecosystems. **Antoine Incashola** and **Vernon Finley**, of the Salish-Pend d’Oreille and Kootenai Culture Committees respectively, outlined a little of the history of the reservation and its tribes. They highlighted the loss of Native language speakers as major challenge tackled by the Committees. Since 1975, language programs have tried to grow the number of Salish and Kootenai speakers—especially Kootenai, which is only spoken fluently by a dozen or so persons in the world, of whom half live on the Flathead Reservation. The Committees’ function is to give power to traditional customs, and consulting with tribal elders often the first step in implementing forestry or other natural resource management programs.

Touring around the reservation, **Whisper Camel** showed participants several wildlife culverts and crossings that facilitate movement of animals across a large federally-owned highway (U.S. Rte. 93). The tribe was able to leverage the U.S. Department of Transportation to provide funding for these measures to protect biodiversity and increase road safety, since the road lay on tribal lands. The Tribes are also developing a stream restoration project, consolidating land through purchases and easements along two waterways, reworking natural meanders into the previously channeled river, and restoring native plant cover to bring down water temperatures and spur growth of fish populations.

Jim Durglo, who leads the Tribes’ forestry program, explained the Reservation’s unique land use management context and the diversity of land tenure arrangements. Much of the land is in fact privately owned by non-tribals, though there are also large amounts of land communally owned by the tribe, or by individual tribe members. In addition, there are state trust lands, and federal lands managed by either the U.S. Bureau of Land Management or the Fish and Wildlife Service. Land uses must also comply with federal requirements for sustainable management, in addition to the tribal government’s ordinances that apply across the Reservation (regardless of owner.) Overall management goals are defined through a community consultation process, and Durglo’s forestry department (63 permanent employees and 140 seasonal workers) is funded by revenue from timber sales, which also finance non-forestry programs in education and health.