



# BIG SKY NIPF-ty NOTES



*Supporting non-industrial private forest owners (family forests)  
in their rightful and responsible use, management and  
enjoyment of their forested lands*

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## MFOA Board Members and 2018 Officers

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### Fire Rights Project

Please contact us if you suffered losses from forest fire. We seek information on your experience in dealing with fire personnel, good or bad. Our request arises from various landowners relating unfortunate experiences, resulting in extensive timber loss that arguably could have been saved. Since the purpose of MFOA is to support and protect private landowners, we are compelled to collect stories to determine what MFOA might do to further assist its members with respect to fire suppression. If you have such experience, please write to us at [MTpineforest@gmail.com](mailto:MTpineforest@gmail.com) or [info@montanaforestowners.org](mailto:info@montanaforestowners.org). We will not disclose your story without your prior approval. **See the more detailed discussion on fire suppression at the end of this NIPF-ty Notes.**

### Prescribed burns

In the 2017 Montana legislative session Rep. Ray Shaw (R-Sheridan) introduced HB587 in an effort to eliminate the liability of the “lighter of the match” for prescribed burns that get out-of-hand and damage nearby property. MFOA opposed HB587 because it did not contain sufficient protection for landowners who might suffer losses for out-of-hand fires. (By the way, MFOA was the only party to oppose the elimination of liability in this proposed legislation.)

The attempt to eliminate liability for certain prescribed burners is in the news again. The state Environmental Quality Council has HB587 language on its agenda for its March 22, 2018 meeting in Helena. We at MFOA have grave concerns that there may be a resuscitation of HB587 at the 2019 Montana legislative session. MFOA has provided input to the Council expressing concern for the property rights of the burner’s neighbors. MFOA does not oppose all prescribed burns. We merely want landowners to have the maximum protection, and the burners held responsible for damage to others.

### Federal Legislation

There are a number of bills pending in Congress which impact you. Many of them impact national forest land but they also impact adjacent landowners. We recommend you take a look at these. One source is the MFOA website <http://www.montanaforestowners.org/>.

### Federal Tax Losses

Those forest owners who suffered catastrophic timber losses from fire or other disaster have rarely been able to deduct the total amount of their economic losses. This is due to the tax law that limits the amount of deductible loss to one’s tax basis. The tax basis usually equals a) the amount paid by a landowner to purchase his or her property or b) the property value at the time of inheritance. Since it usually takes decades for a stand to reach

maturity, many owners have a basis less than the economic loss from fire or other catastrophe. The law needs to be changed to remove this basis limitation for timber losses.

There is potential for a change in the tax law, in part due to a bill introduced by Representative Buddy Carter (R-GA) who introduced H.R. 4962. The bill does not include all the provisions that we at MFOA would like to see enacted, but it is a good first step in recognizing the inequities suffered by forest landowners. We are exerting our best efforts to a) cause amendments to the bill to make it of more benefit to landowners and b) cause the introduction of an entirely new bill. Please contact us if you have incurred a loss but have been limited by this basis rule. We wish to cite your experience as a good example of the need for change.

### **Forestland fire protection assessments**

There is talk of the State of Montana redesigning its forestland assessment fees for fire protection. There is a discussion of expanding the assessment to the entire state (rather than primarily the west), and making the entire program funded by the assessment, as opposed to the current funding system of 1/3<sup>rd</sup> assessment, 1/3<sup>rd</sup> federal funds, and 1/3<sup>rd</sup> general funds. We are closely following these developments.

### **Membership Bonus**

MFOA is offering a free book to anyone who becomes a member at the March 24 Forestry Mini-College or the April 27 Helena Forest Landowner Conference. This Outlaw Weeds of the West book is a \$14 value, and written by MFOA member Karen Sackett. It is informative and also an enjoyable read.

### **Timber Prices**

We understand that timber prices have been rising, and that harvesting professionals are in demand as a result. If you are contemplating taking action on your stand(s), you might wish to act now due to the lead time you might encounter to accomplish your tasks. If you are looking for professionals to assist in your projects, resources are available. Your local extension office or the Department of Natural Resources & Conservation (DNRC) can help connect you with a local service forester. The Natural Resources Conservation Service (NRCS) is another possible source of assistance. If you are searching for a logger, you might contact the Montana Logging Association. The Montana Wood Products Association is also a reputable source for information and referrals.

### **Spring Tasks**

The NIPF-ty Notes often lists tasks that you might wish to consider taking. This edition covers a few tasks to help in your early spring 2018. These tasks largely include preparation, including-

- Preparing a “big picture” list of what you intend to accomplish in 2018.
- Conducting maintenance on machines and tools, to prepare them for ready use and avoid future down time. You might wish to look into a pre-mixed gas and oil product (typically at a 50:1 ratio). One advantage is the mix will not go stale as quickly as gasoline, and it is convenient for smaller jobs. Disadvantages are price and not being practical for larger jobs. Stihl calls this mix MotoMix<sup>®</sup>. Similar products are available from several manufacturers.
- Preparing for weed management, including determining what weeds will be tackled and developing a plan to combat each particular weed. Some weed districts have equipment to rent, plus all sorts of information and advice.
- Attending the Helena Forest Landowner Conference on April 27. While you are there, stop and say hello at the MFOA table and get some chain saw raffle tickets. This is MFOA’s third year to raffle a Stihl MS271 chain saw. We at MFOA enjoy this event because we get to see you when you stop by our table

- Viewing MSU Extension Forestry’s five-part series titled “Northern Rockies Forest Ecology and Management.” Go to <http://www.msuextension.org/forestry/videoresources.html>.
- Viewing MSU Extension Forestry’s two-part videos on “Chainsaw Safety Awareness.” Do this before starting your saw. Go to <http://www.msuextension.org/forestry/videoresources.html>.
- Attending a Forest Stewardship Workshop. Some of these workshops admittedly are after early spring but well worth your time. The 2018 workshops are listed below. For more information log into <http://www.msuextension.org/forestrynew/mfsp.html>.

Lubrecht Forest/Potomac	May 3, 4 and 11
Red Lodge	May 31, June 1 and 8
Bozeman	June 21, 22 and 29
Columbia Falls	July 19, 20, and 27
Helena	August 9, 10 and 17

- Reviewing available cost-share grants to determine what might be available for you. You might start by contacting the DNRC, NRCS, your local extension agent, or your service forester.
- Over-seeding bare spots in your forest, preferably before the snow melts. You might ask yourself, how can I locate the bare spots when they are covered by snow? Hopefully you made written or mental notes of their whereabouts.
- Constructing or purchasing a picnic bench for your forest.

### **Fire Suppression in the Wildland Urban Interface and elsewhere**

Suppression efforts of large wildfires typical fall under the jurisdiction of federal incident command protocols that are similar to responses to other natural disasters such as hurricanes and earthquakes. The reasoning behind this is that large landscape wildfires can affect all ownerships (public and private) as well as the lives and infrastructure of communities. During such events emergency responders have the right to cross all properties and conduct emergency mitigation practices where and when deemed critically important by the incident command team for the purposes of protecting lives and infrastructure. Forest wildfires, however, are inherently different than many other natural disasters since fuel modifications can have a profound effect on how wildfires burn across landscapes, the ability to control them, and the level of threat they present to communities. For this reason, private landowners who live on forested properties, especially those who live in areas designated as "wildland urban interfaces" (WUIs) adjacent to federal lands, have been encouraged to implement fuel reduction practices such as thinning and understory fuels and vegetation reduction practices.

Across Montana and many other western states such fuels reduction practices have been implemented over the past two decades by a significant number of forest landowners as part of developing forest management plans through the forest stewardship program, Tree Farm System, and county and conservation district efforts. Many of these forest landowners implement and maintain these practices through their own efforts and financial resources. It has also been shown that municipal and state fire suppression teams find such treated forests vital in their efforts to respond to and contain wildfire ignitions that occur either through lightning or human error and have been able to successfully stop 98% of fire ignitions from turning into landscape wildfires.

However, when wildfires start on federal lands and are managed as landscape project fires, previously treated private forest lands have been increasingly used differently. Large federal project fires that often ignite in untreated federal forests can be very difficult to initially control because of remote locations and dense forest fuel conditions. In addition, the new philosophy of many federal land management agencies is to let wildfires burn across federal lands under the mantra of "restoring the natural role of fire to the landscape." Control measures are only implemented when the fire starts to spread into lands that threaten human lives and infrastructure. At that point wildfires typically are thousands of acres in size, and almost impossible to contain

unless landscape "burnout" tactics are used. This typically involves developing containment lines where a fire can be controlled and using backburn techniques to contain the wildfire with intentionally-set back-fires or "burnouts" to create large burned landscapes that the wildfire cannot cross.

In recent years this often resulted in half of the burned landscape being burned by intentionally-set burnouts. Two problems arose from these tactics: first, thinned and fuel mitigated forests and lands were used to start controlled burnout operations, and second, since these lands were usually in the valley bottoms and along the foothills of mountainous terrain, the burnouts tended to burn uphill creating high intensity fire effects. These uphill fires resulted in potentially more severely impacted forested landscapes that, in following years, resulted in altered watersheds and greater downstream flooding and erosion.

Private landowners who live in the WUI have been, and are increasingly, impacted because their properties are used to anchor burnout operations without their consent and often without their knowledge. This has resulted in significant losses to their forests and often property infrastructure, including irrigation systems, outbuildings, farm equipment and forest resources. In many documented cases, log decks waiting to be trucked to sawmills, have been deliberately ignited by burnout operators and any equipment that happened to be in the area was also lost. Financial compensation for these losses is difficult to obtain and often takes years to process. To add to this impact, the severe effects of the combined burnout and wildfire impacts results in flooding and erosion damage in subsequent seasons.

U.S. Forest Service Burned Area Emergency Response (BAER) teams were specifically created and funded to mitigate post-fire flooding and erosion. BAER teams, however, have refused to work on private lands, leaving landowners whose properties are usually at the bottoms of slopes and bases of streams without help. As a result, these landowners suffer the cumulative impacts of the watersheds that have been impacted on federal lands. Although the financial losses to landowners and contractors working on these lands is significant, the emotional loss is even more devastating. Many forest landowners impacted by the wildfires on federal lands are multi-generation landowners who have lived and worked with their lands for decades, if not a century or longer. They have invested enormous labor, planning and willpower into managing their properties only to be told they have no rights, and then have their properties destroyed by federal employees, often from other states and with little regard or respect for the landowners. And the landowners have been specifically targeted because they have implemented wildfire risk reduction practices on their lands, where the adjoining federal lands have not.

MFOA is working to document such cases where fire-fighting teams have conducted backburns and other destructive practices on private lands without the consent or knowledge of the landowners, and/or without fair compensation to the landowners for their losses. If you have suffered verifiable damages please contact us with a summary of what happened to you at [MTpineforest@gmail.com](mailto:MTpineforest@gmail.com) or [info@montanaforestowners.org](mailto:info@montanaforestowners.org). This will not result in any legal action by us to gain you compensation for your losses. MFOA's effort is to help develop policy that in the future may provide you with property rights that require your permission and just compensation should fire suppression teams need to use your property to contain a wildfire. We support firefighting and control efforts; however, we believe very strongly that landowners should be treated as team members in such events, and not obstacles that need to be removed from fire containment efforts.

**What do you want MFOA to do for you?** We are not good at reading minds. Please contact us and we will do our best to assist you with your request or input.