



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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Chain Saw Raffle

Our Stihl chain saw raffle will end on April 21, 2017. This is the date of the Forest Landowner Conference in Helena, Montana. To secure more information about attending the conference, go to mtlandowners.com/. MFOA is holding the Stihl MS271 chain saw raffle at the conclusion of the above Landowner Conference. This is the second year that MFOA has held a raffle. Dave Atkins of Missoula was the winner in 2016. You can see his huge grin on our website.

Northwest Woodlands Magazine Commentary

The winter issue of Northwest Woodlands Magazine (provided with your MFOA membership) included a President's piece from MFOA. Hereafter, expect a piece in each publication. We hope you enjoy it. If you wish to contribute to a future President's Message, please let us know. Future themes are Interpretation and Application of Science, Top 10 Lessons for Forestland Owners, Integrated Pest Management, and Logging 1.0.

2017 Montana Legislative Session

The 2017 Montana Legislative Session is winding down. MFOA was busy monitoring bills on an almost daily basis and asserting your rights when a bill was introduced that we viewed not to be in the best interest of private forest landowners. MFOA's sole purpose is to support private forest landowners. Our efforts with the legislature have been with this sole purpose. MFOA worked with other forestry organizations and provided testimony and other input for several bills.

We welcome your input regarding any existing bill, or a bill which you wish would be introduced in the 2019 legislative session. We are only a click away.

Following are details on a few of the more pertinent bills. We predict the 2019 legislative session will include similar issues and bills.

Prescribed burning

Presently, anyone who undertakes burning in Montana (prescribed or otherwise) which gets out of hand and harms property of others, is liable for the loss to others. This means that the party who lights the match is liable for any and all harm caused from the resulting fire. A bill was introduced attempting to create a sea change in liability. See HB587.

HB587 – a bill allowing for release of liability (except for negligence) from a person performing a prescribed burn if that person used a prescribed burn plan, prescribed fire burn boss, and prescribed fire manager (yet undefined) approved by the Department of Natural Resources and Conservation (DNRC). MFOA testified against this bill because the bill failed to describe in sufficient detail the steps a lighter of the match would have to take to enjoy this reduced liability. MFOA told the legislative committee that MFOA supported prescribed burning as a forest management tool; however, the bill needed considerable more thought and detail on what one must undertake to achieve reduced liability. The bill was tabled in the House Natural Resources committee and will not proceed.

Property taxation

The Montana Code Annotated specifies different classes of property for assessment purposes. Land under residential, commercial and industrial buildings is class four. Agricultural land is class three. Forest land is class ten. The Department of Revenue is responsible for classifying each parcel of land. Forest lands enjoy low taxation in relation to other lands. Class four property is assessed at market value. For decades the Department of Revenue has extracted one acre of forest land that has a residence, and changed its classification from class ten to class four property, leaving the remaining property as class ten (so long as there remained 15 acres). The Department of Revenue has also extracted forest land under commercial and industrial buildings and reclassified the real estate from class ten to class four property. This land reclassification resulted in higher property taxes for the extracted land under the residential, commercial or industrial buildings. This has been the practice of the Department of Revenue for decades, but last December the Montana Tax Appeal Board ruled that the Department of Revenue had no legal authority to reclassify one acre under residential property, and the acreage extracted under commercial and industrial properties. See HB583.

HB583 – a bill allowing for change of class of assessment if designated forest lands are being used as other than forest lands. If the lands contain a residence, one acre is to be allocated as class four (market value) for the residence. Other uses are to be allocated on the actual acreage used (such as ¼ acre under a commercial building). MFOA testified that the “one acre” size under a residence was arbitrary, and that the actual acreage should be determined by the footprint of the residence. MFOA also suggested excluding reclassification of forest lands that were being used “for associated forest land management practices.” The Senate Taxation committee did not accept MFOA’s request to not use an arbitrary “one acre” under a residence. However, the Senate Taxation committee did amend the bill to not reclassify property being used for “associated forest land management.” (Such land might include a shed for a tractor and winch, weed spray equipment, or tools for forest land management.) The bill passed the second Senate reading and is scheduled for the third reading on April 10. Then the amended bill must go to the House.

Access

Access across private property to reach public or private properties remains contentious and probably will intensify with the ever-changing landownership. There is a push-and-pull between those who think they have legal access, and the property owners who disagree. Today, if someone has a dispute and he cannot resolve it, he may file a suit to determine whether he has a prescriptive easement, or whether the road is actually public. A bill was introduced in the Senate in an attempt to have these issues resolved by the board of county commissioners. See SB262.

SB262 – a bill prohibiting the restriction of public access on certain roads. This bill restricts a person from installing a fence, other barrier, or sign intended to prevent vehicular travel by the public on a road or right-of-way that has no proven legal status, that is used for normal vehicular travel by the public, and that appears to meet the conditions necessary to qualify for a prescriptive easement or other public road designation, unless the person first applies to and receives permission from the board of county commissioners. MFOA testified against this bill as an infringement of property rights. Further, MFOA contended that any such disagreement would ultimately end up in court, and that getting the county involved was not beneficial. This bill was tabled in the Senate Highways and Transportation committee and will not proceed.

Rural improvement districts

Montana Code Annotated 7-12-2102 allows for the creation of a rural improvement district if all landowners in such district-to-be petition to create such district. Once a district is created, the costs are assessed to all landowners in that district. Rural roads are otherwise maintained by the owners or homeowner associations. See SB79.

SB79 – a bill allowing for the creation of a rural improvement district solely for road maintenance upon petition of the owners of more than 60% of the area in the proposed district. During the legislative proceedings, the 60% requirement was changed to 85%. MFOA advised and warned its members of a possible legislative maneuver to take action on the House floor to change the 85% back to 60%. The bill passed at 85%. Further, the bill was

restricted to residential subdivisions. MFOA is working to keep additional taxes from being charged to its forestland members who may not agree with the creation of a rural improvement district.. Hopefully, such a district, if created, will indeed be desired by all the landowners.

Fire Assessments

Montana Code Annotated 76-13-201 provides for the collection of a fire fighting assessment on the real estate tax bill for “an owner of land classified as forest land that is within a wildland fire protection district or that is otherwise under contract for fire protection by a recognized agency...” This is not a tax, but instead a fee for fire protection. If your property is in a Fire Protection District you may see an assessment such as “State Forester” or “Fire Assessment” on your real estate tax bill. Different counties list the assessment under different names. See SB72.

SB72 – a bill creating a fund for firefighters’ disease benefits. Version 2 of this bill included \$125,000 of funding from the wildland fire protection districts. This could have resulted in increased assessments to forest land owners. MFOA started watching this bill after the bill was amended to use funding from wildland fire protection districts. MFOA supports a fund for fire fighters but it opposes the potential assessments to forest land owners. MFOA was prepared to testify against this bill; however, a committee amended the bill to use other funds. Later, the bill was tabled in the House Business and Labor committee and will not proceed.

Website

When we Google “MFOA,” the Montana Forest Owners Association shows on the second page. We are hoping to get MFOA onto page one. We have also experienced non-members contacting us through the website to seek assistance in the forestry world. We give special thanks to Jay Pocius, chair of the MFOA website committee. She uses her specialized web design skills and application knowledge to keep the website current.

Do you want a special topic on the website? Go ahead and ask.

Oldest chain saw contest

Please tell us about your old chain saw and how it is performing for you. Tell us an interesting story. When and where did you acquire your saw? We will give credit to the MFOA member with the oldest operating chain saw (independent of the owner’s age) and include a photo of you and your saw in our next NIPF-ty Notes.

Spotlight

Do you have a story to share? We wish to offer an opportunity for you to share with our members an interesting story. We forest owners thrive on the experiences of others, so please step up.

I will start this spotlight with my experience of controlling Black Knot disease (*Apiosporina morbosa*) on chokecherry bushes and fruit trees. The most distinguishing symptom of black knot is the characteristic black, tar-like swellings that develop on braches of the infected plants. Per Ohioline of the Ohio State University Extension “The fungus overwinters in knots on twigs and branches or in the infected wood immediately surrounding them. In the spring, the fungus produces sports (ascospores) in sacs (asci) contained within tiny fruiting bodies on the surface of the knots. These ascospores are ejected into the air during rainy periods and are blown for moderate distances by wind currents. Only succulent green twigs of the current season’s growth are susceptible to infection. Ascospores that land on them may germinate and cause infection if the twigs remain wet for a sufficient length of time. Normal growth is disrupted in the infected regions, and a knot is formed as the fungus causes the plant to produce tumorlike growths. Knots may become visible by the late summer of the year of infection but often are not noticed until the following spring, when they begin to enlarge rapidly. New ascospores capable of spreading the disease may be formed in the young knots the year following infection but often are not formed until the second spring.

The fungus continues to grow in infected wood during the spring and fall months, causing the knots to elongate several inches each year and eventually girdle affected twigs and branches.”

I seemed to be making positive inroads on eradicating this disease by cutting off (and removing) infected branches six inches below the black knot. I had this disease controlled to specific areas of the property. Then, one year, I suddenly found black knot all over the property, and it has taken a number of years to get it back under control. Is there anyone else with this issue? (Note: black knot spreads during warm, wet weather, and it can spread hundreds of feet, so it is best to get your neighbors to join your campaign!)