

## General Talking Points

### **Private working forests provide jobs and economic benefits.**

- Private, working forests support 2.5 million jobs, \$235 billion in annual sales, \$87 billion in payroll, \$4.4 billion in state income and severance taxes, and \$102 billion to the GDP.

### **In the U.S., private forests clean our air and water and protect and restore wildlife habitat and biodiversity.**

- 57% of U.S. forests are privately owned and for over 70 years have consistently grown more trees than are harvested. Each day, U.S. forest owners plant 3.5 million trees.
- Studies show that BMPs are both widely used and substantially reduce water quality impacts (e.g., sediment, temperature, dissolved oxygen, herbicides), providing substantial protection to water quality and fish habitat.
- Forests and forest products in the U.S. sequester 800 million tons of carbon annually, enough to offset about 15% of U.S. emissions from fossil fuels. Carbon stored in U.S. forests has increased 50% in the past 50 years.
- 20% of U.S. forestland is under some type of conservation program, which is almost twice the world average of 11%.
- 90% of commercial forestland is certified by a third-party as sustainable.
- Private forests are conserved as forests by keeping them economically viable.
- Forestry is a long term investment. Forest owners plant trees today that benefit future generations.
- Reasonable assurance of an economic return is necessary to conserve private forests by making them affordable to manage and economically competitive with other land uses.
- Assurance comes from viable markets for forest products, voluntary conservation agreements, a flexible and stable regulatory environment, etc.
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## Talking Points: Treatment of Forest Practices under the Clean Water Act

**ASK 1:** Support legislation to codify the EPA's regulations that treat forestry as a nonpoint source under the Clean Water Act.

**ASK 2:** Urge EPA to support its own regulations in any judicial actions, including a review by the Supreme Court, and to not apply the 9<sup>th</sup> Circuit decision nationwide.

**Shortly after enactment of the Clean Water Act (CWA) in 1972, the EPA recognized forest management activities as nonpoint sources of water pollution most effectively regulated under state-developed best management practices.**

- When Congress enacting the CWA, it recognized that many activities are best regulated as nonpoint sources – outside of permitting programs but within scientifically based guidelines.
- Water quality is protected during forest management through the use of best management practices (BMPs) developed by each state and funded by EPA. Recent studies have shown that throughout the country these BMPs are both effective and followed.
- After 35 years, the agency still ranks forestry as a "minor contributor" to water pollution, a conclusion based on the agency's own data.

**Recent judicial and regulatory actions threaten the nonpoint status of forestry activities, threatening forest conservation.**

- The 9<sup>th</sup> Circuit Court of Appeals has issued a decision declaring, for the first time in 35 years, that stormwater management systems (e.g., ditches, culverts, etc.) on forest roads are "point sources" requiring federal permits contrary to EPA's policy recognizing roads as nonpoint sources.
- This runs counter to a decision in the 8<sup>th</sup> Circuit that upheld the application of EPA's regulation of forestry as a nonpoint source in response to the plaintiff's allegation that forestry activities, including forest roads, required NPDES permits.
- Eliminating the nonpoint source status jeopardizes the sustainability of private forests by imposing significant new paperwork and monitoring costs on forest owners and states and exposing forest owners to citizen lawsuits for the first time.
- Citizen lawsuits under the CWA invite a costly, ongoing cycle of litigation adding considerable uncertainty and cost to forest management.
- New and significant costs and legal uncertainty will force the conversion of private forests to non-forest uses, an outcome that runs counter to the goal of preserving farms and forests across large rural landscapes.

**New costs and legal uncertainties will result in further market decline and lost jobs in already depressed rural communities.**

- Nationwide, on average, every 1,000 acres of private forests support 6 well-paying jobs – 2.5 million jobs in total.
- The U.S. new housing market, a key source of forestry-related jobs and investment, has declined by 75% in recent years, the worst in U.S. history.
- Federal permits will result in additional paperwork and compliance requirements, project delays and an ongoing threat of special interest lawsuits, all of which significantly increase costs, drive down markets, and increase job loss during a time when economic recovery and job growth is most needed.
- The costly requirements of federal permits will not improve existing environmental protections, will make forest management unaffordable, and will push private forests toward conversion to more economically competitive land uses.

**Legislation and the support of EPA is needed to restore EPA's 35-year-old regulation of forestry under the Clean Water Act.**

- The 9<sup>th</sup> Circuit has refused to stay its decision pending the Supreme Court's decision on whether to review the case. This exposes forest owners to citizen suits immediately even before the Supreme Court determines whether to review the case.
- EPA appears willing to apply the 9<sup>th</sup> Circuit's decision nationally and eliminate the long-standing regulatory interpretation that forest management activities are nonpoint sources best regulated under state-specific BMPs.
- A general permit undermines the success of more flexible BMPs. BMPs work because they are adaptable to local circumstances, whereas a permit sets general standards that will not consider local conditions. Permit amendments addressing site-specific needs are likely to be slow and costly to obtain.
- EPA must be urged to maintain its historic position that forestry is best regulated as a nonpoint source.
- Legislation will be necessary to correct the 9<sup>th</sup> Circuit decision and ensure it is not followed nationwide.
- Legislation must affirm the nonpoint status of all forestry activities, including roads. Past litigation has focused on all forestry activities, and now is the best time to affirm forestry's nonpoint status.

## Washington State Talking Points

- Washington's Forest Practice Rules have been amended and strengthened thirteen times since they were established in 1975, last amended in 1999, and are arguably the most stringent set of regulations for forest land in the country.
- The Forests & Fish Agreement signed into law in 1999 now protects fish habitat and water quality on more than nine million acres of state and private forest land in Washington State. Thanks to this ground breaking law cool, clean water in our streams will be maintained by significantly wider forested buffers along streams, and improved road construction and maintenance standards, as well as additional changes in forest management practices.
- Washington State's economy depends on forests and forest industries. The state produces 13% of the softwood timber produced in the United States and the supports about 15% of the manufacturing jobs in Washington State.
- Washington State forest management laws already require most private forest landowners to prepare and submit a Road Maintenance and Abandonment Plan (RMAP). An RMAP is a forest road inventory and schedule for any repair work that is needed to bring roads up to state standards. An RMAP is prepared by the landowner and approved by DNR.
- A 2009 study by Martin Engineering in Seattle concluded that road improvements implemented with improved Best Management Practices and introduction of the Washington State Road Maintenance and Abandonment Plans rules have significantly reduced road runoff and the potential delivery of fine sediment to streams from private forest lands. Would an additional NPDES Permitting Requirement under the Clean Water Act be necessary with an adaptive state managed road improvement plan already paying dividends?