



# The Long View

## Restoring Forest Health: Collaboration and Responsibility

By Susan Jane Brown and Mark Webb

It took no time at all after the presidential election for pundits to begin to pontificate on what the changes in Congress would mean for various stakeholders. In Oregon, *The Oregonian* surmised that Senator Ron Wyden (D-OR) – who will likely assume the Chairmanship of the Senate Energy and Natural Resources Committee – would use his increased influence to advance federal legislation addressing the ecological and socioeconomic “cliff” facing the forests and rural communities of eastern Oregon. The attention is long overdue.

Forestry and logging in Oregon (and the West generally) has a long history. The vast forests of our region, once considered endless and inexhaustible, were harvested in order to bring economic prosperity to the expanding western frontier. In eastern Oregon, harvest focused on the huge Ponderosa and larch trees while professional foresters of the time assured land managers that suppressing forest fires and aggressively replanting logged areas would give us healthier, faster growing forests. Timber harvest infrastructure – mills, loggers, roads, etc. – depended on reaping that bounty to generate benefits for the communities that grew near public forestlands.

Decades later, a new generation of professionals – foresters,

researchers, and yes, lawyers – contributed to the law of unintended consequences: prolonged harvest of a rich and seemingly boundless resource depleted the once abundant large trees, fire suppression contributed to



unnaturally high fuel loads, and the combination increasingly compromised the health of east side forests. The well-intended response was a series of environmental laws designed to prohibit the de-

*(Continued on page 2)*

Inside this issue:

**Restoring Forest Health: Collaboration and Responsibility..... 1**

**Report on Sustainable Future Section Annual Meeting ..... 3**

**Photos from the Section’s Sustainable Law Office Leadership Award Reception Honoring Stoel Rives ..... 3**

**Law Schools and the Sustainability Movement in Higher Education ..... 4**

**Diane Henkels Receives OSB President’s Sustainability Award ... 6**

**Consider This ..... 7**

## Calendar

**The 2013 State Legislature – Outlook for Sustainability Briefing by Senator Jackie Dingfelder and Representative Jules Bailey**

**January 30, 2013  
Noon to 1:15 pm  
Tonkon Torp LLP, 16th floor  
888 SW Fifth Avenue**

**No cost for SFS members  
\$10 at the door for others**

**Watch your email for details**

spoliation of forest resources such as water, wildlife habitat, and recreational opportunities. However, little consideration was given to how these new laws would further exacerbate declining forest health or affect the socioeconomic infrastructure that was on the front line of the changes taking place in forest management.

Oregonians are no strangers to what happened next: the forest wars of the 1980s and 1990s. “Owls versus jobs,” “clear cuts for kids,” “analysis paralysis,” and other one-dimensional tag lines papered over the real problem of declining forest health and rural self-sufficiency. Laws designed to help, such as the Secure Rural Schools and Community Self-Determination Act, delayed difficult public conversations about how best to utilize a common natural resource, and provided false hope that people thousands of miles away could better solve challenging natural resources problems than the men and women who actually faced them on a daily basis. The socioeconomic vitality of resource dependent counties continued to weaken as wood-processing infrastructure was crippled or lost. The result: community life and school enrollment declined, unemployment and poverty rates rose, and the need for mental health, substance abuse, and other public health and safety services increased.

Today, rural communities in eastern Oregon are embracing the view that adversity breeds innovation. Also, more stakeholders appreciate that east side forest health requires active manage-

ment. It sounds simple, by working together – environmentalists, loggers, local elected officials, land managers, and others – these communities are taking responsibility for their future in a manner that is good for the land. On the Malheur National Forest in Grant

***It sounds simple, but by working together – environmentalists, loggers, local elected officials, land managers, and others – these communities are taking responsibility for their future in a manner that is good for the land.***

County, the Blue Mountains Forest Partners – a collaborative group of diverse stakeholders – has worked together for more than six years to develop a common vision for how we can thread the needle and provide for economic, social, and ecological sustainability, despite declining federal investment in National Forests. Litigation has been eschewed in favor of working out disagreements in the forest and meeting room rather than in the courtroom.

Our conversations have been hard at times, and there is much more work ahead, but it is clear that all of the stakeholders involved care very deeply about the fate of the forest as well as the communities that depend on them for survival. Shared learning has led to the conviction that rather than “tools of destruction,” scientifically-informed timber harvest is necessary to restore forest health, and the only way to ac-

complish this goal is to sustain existing milling infrastructure. Without the socioeconomic infrastructure (people and facilities) in place, we cannot hope to restore ecological health to the landscape or provide quality hiking, camping, hunting, fishing, wildlife habitat, and other amenity values the public expects.

Our collaborative group has worked within the existing legal framework to improve the resilience and well-being of forests and communities in the Blue Mountains. That framework is complicated, frequently frustrating, and sometimes at odds with our science-based restoration

vision. In fact, new laws are more likely to hinder our efforts than help. Instead, by working together rather than in opposition, and by focusing on common ground – restoring the big pines along with complex forest structure in an economically sensible manner, reintroducing fire on a treated landscape, and enhancing functional aquatic habitat – we've reduced controversy, reoriented our approach to federal land management, and taken significant steps towards restoring more than a million acres of public lands.

Collaboration is not a panacea: restoring millions of acres of forest – a federal asset – will take substantial investment, something that is in short supply locally, regionally, and nationally. Challenges remain, and divisive issues can threaten nascent relationships. Still, collaboration empowers stakeholders to take responsibility for their communities and the forests that surround them – it is the best way forward. But it will prove successful, and move our east side forests towards a more healthy and resilient state, only if mills are a part of the effort. ■

*Susan Jane Brown is a staff attorney with the Western Environmental Law Center and lives in Portland.*

*Mark Webb is the former Grant County Judge and lives outside Mount Vernon. Both are founding members of the Blue Mountains Forest Partners.*

## Sustainable Future Section Annual Meeting Report

*By Michelle Slater*

The Section's 2012 Annual Business Meeting was held on November 6, 2012. At the meeting, Section Chair Michelle Slater summarized the Section's activities and accomplishments over the past year. In 2011, the Section successfully increased its visibility in the Bar, presenting six programs. The programs included a presentation by Professor Andreas Schmittner of OSU discussing a recent National Science Foundation study indicating that climate change will be less severe than predicted by the International Panel on Climate Change (IPCC). Also, focusing on the Pacific Northwest, noted economists Ed Whitelaw and Bryce Ward from ECONorthwest discussed the importance of economic growth, how natural capital contributes to economic growth, and what it means for an economy to grow sustainably. The Section also presented a debate about the proper scope of environmental review for five coal export terminals in Oregon.

The Section also increased its visibility on a national level. In January 2012, the Section participated in a program titled "Green With Envy? Your Bar Should Be" presented at the National Association of Bar Executives' mid-year meeting. The program was moderated by Rod Wegner, the Bar's Chief Financial Officer, and featured a panel that included Michelle Slater, Section Chair, Sylvia Stevens, Oregon State Bar Executive Director, and Jennifer Berg, a California attorney and project manager. The panel afforded the Section an opportunity to discuss before a national audience (i) the process utilized in Oregon to advance an interest in sustainability among lawyers and (ii) the respective activities of the Bar and the Section relating to sustainability. Also, in April 2012, the Section participated in a national webinar organized by the Law Firm Sustainability Network, which featured state bar sustainability efforts and programs in California, Massachusetts, Oregon, and Pennsylvania. This afforded the Section another opportunity to highlight this one-of-a-kind Section together with the advances being made in and around the Oregon State Bar.

*(Continued on page 4)*



***Stoel Rives receives the Sustainable Future Section's Sustainable Law Office Leadership Award.***

***Photo: (left to right) Tim McMahan and Mark Morford (current and past chair of firm's Sustainability Committee), Managing Partner Robert Van Brocklin, Phil Moran, Administrative Services & Sustainability Manager, and Michelle Slater, Section Chair.***

Congressman Earl Blumenauer at the Sustainable Future Section Sustainable Law Office Leadership Award reception honoring Stoel Rives.



(Continued from page 3)

In addition to its programs, the Section released four issues of *The Long View*, including this current issue, welcomed more than 20 law offices as Partners in the newly launched Oregon State Bar Partners in Sustainability Program, and awarded Stoel Rives with the Section's third annual Sustainable Law Office Leadership Award.

The Section is completing the year with a positive cash balance. The largest expenditures were for the OSB services assessment, gifts and awards and special projects. The special project for the Section this year was the launch of the Partners in Sustainability Program. The new program together with the announcements related to the Sustainable Law Office Leadership Award accounted for larger proportions of the expenses this year due primarily to the increasing costs of publishing advertisements in *The Bulletin* and the *Multnomah Lawyer*.

At the recommendation of the nominating committee, the Section elected the following slate of officers and executive committee members: Treasurer, Robin Seifried; Secretary, Jennifer Gates; members-at-large (two-year terms), Jim Kennedy and Dick Roy; and members-at-large (one-year terms), Janna Aginsky, Dallas DeLuca, Robert Mauger and Micah Steinhilb. Diane Henkels will continue on as a member-at-large with a term ending in December 2013, and Ann McQuesten was elected to fill a vacated member-at-large position that ends in December 2013. The office of Chair (Michelle Slater) was filled automatically. ■

Visit [www.osbsustainablefuture.org](http://www.osbsustainablefuture.org) for more Section information.

Michelle Slater is an attorney at Michelle Slater Law, LLC.



Join the Program.

Become a Partner in Sustainability.

<http://osbsustainablefuture.org/home/partnerships-in-sustainability/>

## Sustainability in the Legal Profession Law Schools and the Sustainability Movement in Higher Education

By Amy Bushaw

Interest in sustainability on college and university campuses has exploded in recent years. The growth of professional associations and conferences dedicated to sustainability in higher education is one indication of the attention sustainability is receiving of late. The first North American Conference on Sustainability in Higher Education was held in Portland, Oregon in 2004. The conference was sponsored by the Education for Sustain-

ability Western Network, an organization dedicated to supporting the sustainability efforts of colleges and universities in the Western United States and Canada. With increasing interest in its activities, the Education for Sustainability Western Network transitioned into a national organization and, in 2006, became the Association for the Advancement of Sustainability in Higher Education (AASHE). AASHE now boasts nearly 900 institutional members, and among other things annually hosts the largest campus

sustainability conference in North America, conducts workshops and seminars, and disseminates newsletters and other resources. AASHE has also developed STARS (The Sustainability Tracking, Assessment and Rating System) -- a rubric for colleges and universities to measure and report their sustainability performance.

Institutions of higher education have taken significant steps to "green" their own operations. Many

(Continued on page 5)



## Diane Henkels Receives OSB President's Sustainability Award

In November 2012, Diane Henkels received the Oregon State Bar President's Sustainability Award. The award was created in 2010 to recognize extraordinary leadership by an Oregon lawyer or law firm in promoting sustainability within the Oregon State Bar and legal profession. The Executive Committee of the Sustainable Future Section congratulates Diane on the Bar's recognition of her significant contributions to the goals of sustainability in the legal profession.

Since receiving her Master of Studies in Environmental Law from Vermont Law School in 1997, Diane has been deeply involved in environmental law and sustainability. Her practice in Portland and Newport since 2002 has focused on environmental law, sustainability and energy related matters, and tribal law. Sustainability is central to Diane's professional and personal life, as exemplified by her desire to bike everywhere, including to evening meetings.

Diane has promoted sustainability in the legal profession for many years. In 2008, she organized and presented a program on "Sustainability and Law" for the OSB Leadership College. She has written extensively on sustainability topics in numerous Bar publications. Diane served on the Steering Committee of the Oregon Lawyers for a Sustainable Future from its inception in 2006. In that capacity and through the Environmental and Natural Resources Section, she assisted in the formation by the Board of Governors of the OSB Sustainability Task Force, on which she served. As a result of the Task Force's recommendations, the Board of Governors in 2009 approved the formation of the Sustainable Future Section.



(Continued on page 7)

## Sustainability in the Legal Profession...

(Continued from page 5)

There may be room to introduce more complex questions relating to the allocation of business and legal risk and entrepreneurial opportunity throughout the supply chain and waste cycle, as well as non-contractual mechanisms to control or allocate those risks and opportunities. Beyond considering the specific technical knowledge that might be of use to a lawyer seeking to work in a sustainability-field, legal educators might benefit from considering the broader skills and attitudes that would best help lawyers contribute to a more sustainable future. Some of the thinking and writing in the broader higher education community might help to inform this enterprise. ■

<sup>1</sup>Arnim Wiek, Lauren Withycombe & Charles L. Redman, *Key Competencies in Sustainability: A Reference Framework for Academic Program Development*, SUSTAINABILITY SCIENCE, Volume 6, pp. 203-218 (July, 2011).

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Photo by J. Michael Mattingly

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## Consider This:

"Society is a partnership not only between those who are living, but between those who are dead, and those who are yet to be born."

- *Edmund Burke*

### Editor's Note:

Thank you for reading *The Long View*.  
Your feedback and suggestions are welcome.  
E-mail your comments to:  
[michelleslaterlaw@gmail.com](mailto:michelleslaterlaw@gmail.com)

## Diane Henkels Receives OSB President's Sustainability Award

Diane has been an active member of the Executive Committee of the Sustainable Future Section since its formation.

Diane's colleagues on the Executive Committee rely heavily on her breadth of knowledge and her creative responses to opportunities to promote sustainability within the legal profession. Among her many activities, she has worked extensively with the OSB staff in assessing the Bar's internal operations from a sustainability perspective.

From 2002 to 2010, Diane served on the Executive Committee of the Environmental and Natural Resources Section and as Chair in 2009. She was recognized for her work in promoting sustainability within the Section and led the successful effort to pass House of Delegates resolutions to increase recycled paper use and long-distance learning tools in Bar operations and services.

The Executive Committee of the Sustainable Future Section acknowledges Diane's tireless efforts to advance the societal goal of sustainability and create a dialogue on how the law relates to the interests of future generations. The President's Sustainability Award is well-deserved recognition of Diane's significant commitment, leadership, and volunteer ethic. ■