



FLORIDA FORESTRY ASSOCIATION

PINES AND NEEDLES

March - April 2013 Volume 68, Issue 2



Forest Roads Victory

In a stunning victory for the forest industry, the U.S. Supreme Court has reversed the Ninth Circuit decision in Northwest Environmental Defense Center v. Brown (NEDC v. Brown) – the case in which the Ninth Circuit held that Clean Water Act point source permits were required for stormwater runoff from forest logging roads.

Reversing the Ninth Circuit's ruling, the Supreme Court held that the Environmental Protection Agency's (EPA's) 35-year regulation exempting channeled logging road stormwater runoff from permitting requirements was a reasonable interpretation of the Clean Water Act.

Just before oral arguments in the Supreme Court, the U.S. Environmental Protection Agency (EPA) issued a new rule in an effort to respond to the Ninth Circuit decision. The new rule clarified that stormwater runoff from forest logging roads is not runoff associated with industry activity and therefore does not require permitting. The Supreme Court decision does not address the new rule directly as it was not at issue in the case.

NEDC is challenging the new rule in the Ninth Circuit; however, the Supreme Court's decision should make it clear to the Ninth Circuit that EPA has authority to issue the new rule as well.

FWC Imperiled Species Action Plans

Florida's Fish and Wildlife Conservation Commission (FWC) has released draft species action plans for wildlife species in Florida. Each of the plans contains biological background; conservation history; and the goal, objectives and specific actions proposed for conserving that particular species.

According to FWC, "Species action plans will identify needed conservation actions, how to accomplish these actions and who will be involved. Following development of the species action plans, staff will look across all of the plans for common elements in order to develop more comprehensive conservation strategies. This step will help us identify priority needs and beneficial management for multiple species and habitats.

The species plans will then be combined with the conservation strategies to create a comprehensive imperiled species management plan for these 60 species on Florida's Endangered and Threatened Species List. This final plan will describe the overall approach for management, will include individual and multi-species strategies and actions, and will describe the coordination and partnership that is needed for achieving successful conservation for these species and many others."

To see the list of species and provide comments, please visit the FWC website (www.MyFWC.com). The action plans can be found under the Wildlife & Habitats tab.

Austin Cary Memorial Learning Center

On Saturday, April 6, members of the forestry community gathered to celebrate the groundbreaking for the Austin Cary Memorial Learning Center. The construction of the facility begins almost two years after the original building was destroyed by fire. The new design features technological upgrades and more meeting space, as well as other improvements.

The Florida Forestry Association is proud to be part of the team raising funds for this important effort. Anyone interested in donating to the cause can call the Association office for information (850) 222-5646.

Water Quality

The U.S. Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection (DEP) have reached an agreement to protect Florida's waterways from excess nitrogen and phosphorus pollution. This agreement is considered by many to be a significant step forward in protecting and restoring water quality across the state.

This agreement is contingent upon the passage of bills currently before the Florida legislature which would allow DEP to implement Florida's state-adopted numeric nutrient criteria standards (SB 1808 and HB 7115).

This thoughtful and responsible approach to addressing the state's water quality needs is supported by Florida's agricultural and business communities.

Guestworker Program Ruling

The United States Court of Appeals for the Eleventh Circuit recently affirmed the decision of the United States District Court of the Northern District of Florida that the U.S. Department of Labor (DOL) lacks the authority to issue regulations governing the H-2B guestworker program. This decision upholds the lower court's preliminary injunction (in Bayou Lawn and Landscape Services v. Solis).

The decision affects DOL's 2011 "Program Rule," which would impose unworkable stipulations on employees using temporary guestworkers under the H-2B Visa program. The ruling is important to the contractors that forestland owners depend on for reforestation.

While DOL has not exhausted its legal options in this case, this recent ruling bodes well for continued efforts to return the H-2B guestworker program to a reasonable structure.

Rattlesnake Survey

The U.S. Fish & Wildlife Service (FWS) has been petitioned to list the eastern diamond rattlesnake as a threatened or endangered species. A key argument offered in the petition to list the snake is that it is a habitat specialist and its numbers are decreasing due to the loss of longleaf/wire-grass habitat.

The National Council for Air and Stream Improvement (NCASI) has developed a survey designed to gather information to better inform FWS about the range of habitat conditions in which the eastern diamondback rattlesnake is found.

NCASI will be collecting survey information through December 31, 2013. Following that date, data collection will cease and NCASI will compile results from surveys; remove any information that would identify individual respondents and/or landowners; and forward a summary of the results to the FWS.

There is also an online survey instrument where users can describe observations of eastern diamondbacks using their internet browser. The online survey is also compatible with many handheld devices.

Links to the surveys can be found on the Federal Issues page on the Association's website, www.FloridaForest.org.

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Wildlife Best Management Practices

When the Florida Fish and Wildlife Conservation Commission (FWC) concluded its most recent effort to revise the way it protects "imperiled species", the resulting agency rule it adopted in late 2010 included a section directing FWC to cooperate with the Florida Department of Agriculture & Consumer Services (DACS) on the development of Best Management Practices (BMPs) to protect certain state imperiled species during forestry and agricultural activities.

These wildlife BMPs were envisioned as voluntary measures that could be taken to relieve a landowner of the need for obtaining a state "incidental take" permit, if he or she believed certain imperiled species would likely be harmed as the result of forestry/agriculture operations on a site. The term "imperiled species" is simply new terminology for what we used to call "endangered, threatened or species of special concern".

Following careful consideration, the Florida Forestry Association's Executive Committee, recognizing that this effort was indeed moving forward, recently agreed on a set of desired outcomes for any wildlife BMPs applying to forestry activities that may be developed:

- The BMP development process for forestry practices should be directed entirely to the DACS Forestry BMP Technical Advisory Committee (TAC).
- The final product should be a set of practical, easily understood and applied wildlife BMPs.
- The sole purpose for the development of wildlife BMPs should be to serve as an alternative to the need to obtain an incidental take permit for a specified set of imperiled species.
- The new BMPs should exist as a completely separate document from the current silviculture BMP manual.
- Any future revisions to these new wildlife BMPs for forestry should be developed through the DACS Forestry BMP TAC.
- Wildlife BMPs should only be used as voluntary measures, to be used at a landowner's discretion.
- The FWC should be the adopting agency for any wildlife BMP's developed through the DACS Forestry BMP TAC. (The concern here had to do with avoiding mandatory implementation by local governments, given the way Florida's "Right to Farm Act" is written and implemented.)

Currently, the process is proceeding in line with these "desired outcomes" for wildlife BMP development with one exception: rather than final adoption of the BMPs by the Florida Fish and Wildlife Conservation Commission, it now appears that the Florida Department of Agriculture and Consumer Services will be the adopting agency.

In an effort to ensure that voluntary wildlife BMPs for forestry *remain voluntary*, new protective legislation has been drafted and is now being considered for adoption by the 2013 legislature. This legislative proposal establishes that wildlife BMPs cannot be *required* for landowner implementation by local governments or other governmental entities.

The proposal also spells out the other aspects of the wildlife BMP development critical to the program's successful implementation.

The Florida Forestry Association remains closely involved with this matter to ensure the resulting wildlife BMPs will be both a voluntary and useful tool for landowners, where and when needed.

Florida Forestry Teachers' Tour

The Florida Forestry Teachers' Tour brings 45 teachers from across the state to Fernandina Beach each June to see firsthand how forestry works in Florida. This four-day event demonstrates to educators that sustainability is the key to responsible forestry.

Participating teachers experience all aspects of forestry practices from the planting and growing processes to the mills and end products. In short, they see first-hand the industry's many efforts to maximize the effective and efficient use of resources.

Sponsors are still needed for this important event. The tour lasts four days, but the benefits of reaching educators with forestry's positive messages last a lifetime. Each sponsorship costs \$500, but donations of any size are welcome!

Many thanks to our current sponsors: Packaging Corporation of America; Friends of Florida State Forests, Inc.; Usher Land & Timber, Inc.; T.W. Byrd's Sons, Inc; Florida Forest Service's Bureaus of Stew-

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Environmental Law Manuals

The FFA Environmental Law Manual, a comprehensive compilation of federal, state and regional regulations affecting forest management practices, has been recently reprinted and is available for \$225, tax included. The manual is an invaluable aid to landowners and managers who need up to date knowledge of the regulations they must comply with on a daily basis.

To place an order, contact Vickie Allen at (850) 222-5646 or Vickie@ForestFla.org.

Nominations for Environmental Awards

The Department of Agriculture and Consumer Services is seeking nominations for this year's Ag-Environmental Leadership Award. The program spotlights the environmentally innovative farming practices of the state's growers and ranchers.

Nominees for the awards come from different parts of Florida's agricultural industry, but they all share a commitment to protect and preserve Florida's resources while continuing to provide agricultural products for society.

For more information, please visit the Department's website (Fresh-FromFlorida.com) or call Angela Weeks-Samanie at (850) 617-7900. Nominations must be submitted by May 1, 2013.

www.FloridaForest.org

The FFA website has recently undergone a complete transformation. Featuring news feeds, photo galleries, and information on all of the Association's programs, events and activities, www.floridaforest.org is sure to become your new favorite bookmark!

One reviewer calls it a "...stunning site. Great visuals and clever organization of content. Really good stuff!"

FFA is now also on Facebook (www.Facebook.com/FloridaForestryAssociation) and on Twitter (@FIForestryAssoc).



FFA 2013 Annual Meeting
GROWING THROUGH CHANGE
 September 3-5
 Sawgrass Marriott • Ponte Vedra Beach



Our meeting theme, Growing Through Change, encompasses the entire forestry community: timber growers; landowners; wood producers and manufacturers; loggers; and all the other related businesses, groups and individuals that have a vested interest in forestry in Florida. Mark your calendar to attend September 3-5 (during Labor Day week). We will soon begin emailing our Annual Meeting preview publication, covering speaker topics, sponsor updates, Trade Show exhibitors, attendee details and more. Look for your registration information soon, or visit our web site (www.floridaforest.org) for more details!

Annual Awards

Farm Credit will again be the proud sponsor for the Awards Breakfast. Plan to join us on September 5th as we recognize the 2013 "Best of the Best" winners: Tree Farmer of the Year; Logger of the Year; Silvicultural Contractor of the Year; and Legislators of the Year.



Timber Toppers Golf Classic



All Association members and/or guests of our meeting registrants are invited to participate in the Timber Topper Golf Classic. Suwannee Lumber Company, the tournament's sponsor, is hosting a morning of golf, offering trophies, group photos, complimentary golf balls and other prizes. As a grand finale to a grand event, Bump Faircloth and the Suwannee Lumber

family will provide a barbeque lunch to all golfers, no matter their score! The tournament will start at 8:00 am on Wednesday, September 4th.

Speakers

This year we are featuring a full slate of informative speakers on a wide range of topics. On Wednesday, September 4, Herschel Vinyard, Secretary of the Department of Environmental Protection, will address the future of Florida's working forests. Florida Forest Service's Jim Karrels will discuss the FFS Forest Inventory Analysis. On Thursday, September 5, a panel of Water Management District executive directors will talk about their missions and goals. Scott Sanders of the Florida Fish and Wildlife Commission will team up with Jim Karelis of FFS for a discourse on wildlife best management practices. Al Morales will bring the group up to date on what is happening with the Gainesville Renewable Energy Center.

Forestry Trade Show

Top forestry businesses will be on hand at the Florida Forestry Association Trade Show. Both exhibitors and attendees benefit from this prime opportunity where vendors meet the important key decision-makers and day-to-day users of forestry products and services. Exhibitor registration forms are available on our web site. Be sure to register early and take advantage of every promotional opportunity!

Silent Auction

It's not too early to start thinking about donating to the auction this year! Donation forms will be mailed soon to all the prior contributors. We hope those who've never donated to this fun event will plan to do so this year! Anything goes...you can craft your donation or purchase items to donate. Not sure what to do? Call the Association office and we will help you figure it out!

WOW! Annual Meeting sponsors

There's no other way to say how important sponsors are to the Florida Forestry Association Annual Meeting. We are proud of the first-class meeting held each year for our members...and it is only through the generous support of sponsors that we are able to continue this tradition. Please join our team of sponsors this year! We've had an overwhelming show of support from returning sponsors, but we are now looking for NEW sponsors! Contact Debbie Bryant at (850) 222-5646 or Debbie@ForestFla.org for details. Information about sponsoring is also available on our web site.

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