FOREST RECREATION

Evolution of Forest Recreation

Protection from Liability

Tips for a Managed Recreation Program

Side Benefits of Recreation Access

Planning and Implementing a Trail System

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Woodland Owners of the West

This magazine is a benefit of membership in your family forestry association. Contact the officers listed on page 5 for membership details.
IS THERE A PLACE FOR RECREATION ON NONINDUSTRIAL FORESTS?
Interest in forest recreation on public and private land has increased steadily over the past 75 years. How has the pressure from users altered the efforts of family forestland owners in the Northwest?
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FREE TO RIDE? RECREATIONAL IMMUNITY’S LEGAL BENEFIT TO LANDOWNERS
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MANAGING RECREATION ON WORKING FORESTS
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HAPPY TRAILS FOR HABITAT, RECREATION AND VIEWS
An unmanaged forest in northwest Montana attracted a family that could see the potential for their dream. With helpful training in a forest stewardship workshop, advice from local experts and experienced forestland owners, a clear plan, income from a commercial harvest and plenty of determination, the foundation was laid for a system of recreational trails and habitat improvements.
BY LORNA AND JIM RITTENBURG
Forest recreation: for me, those two words are synonyms. A few of my favorite things that come to mind when I think of forest recreation are photography, gathering and hiking/walking.

The forest is one big photo session just waiting for someone to come and capture this or that image. Gathering includes berry picking, mushroom hunting and collecting rocks or interesting natural wood sculptures. The hike to get to your destination in the forest, wherever that may be, is always one of fascination. The peacefulness of the forest is background for relaxation unless you have a pesky squirrel nearby.

After hiking to our destination, we like to camp. Spending the night in the forest surrounded by nature is blissful. In the evening, after our hike in, it is time for cooking dinner on the campfire. Food always tastes better after a day of trekking through the woods. If you are cooking the fish you caught fresh today, that is a special treat. Fresh trout over a campfire is better fare than most five-star restaurants offer. If you are a hunter, then the backstrap of deer or elk is delicious for dinner or the next day’s breakfast. We can add fresh berries or mushrooms to the menu if it is the right time of year. On the other hand, it could be as simple as MREs or freeze-dried meals—just heat the water and add to the packets. It all fills the hollow spot in your middle.

Of course, hiking/walking is just one way of seeing the forest. There are many ways to get to your recreational spots in the forest. Riding a horse through the forest on a summer day is a memory I will have with me forever. You can also ride mountain bikes down the trails. Riding a dirt bike down a forest road is an exhilarating experience.

In the late winter, and into early spring, one can always look for sheds from elk, deer and moose. This is a peaceful time of the year to be in the forest. In the winter, the forest really is a wonderland. I enjoy cross-country skiing and snowshoeing. One of the best activities I can think of is skiing through the fresh snow, cutting your own trail on a chilly winter day. Another form of recreation is downhill skiing or snowboarding. Most downhill ski resorts are in the mountain forests. Many people take up snowmobiling to enjoy the forest in the wintertime. And don’t forget watching birds and wildlife or driving forest roads just to see where you end up. I really enjoy finding waterfalls in forested areas. My final suggestion is taking a nap under a tree on a warm, sunny, summer afternoon.
As small woodland owners, we work hard to manage our forests to keep them healthy and productive and to meet our individual goals. While we are out working to save a road during a cold torrent of rain, crawling through a thick patch of blackberries and poison oak to find a property corner, or fighting a particularly stubborn patch of whatever noxious weed we may have, we can all momentarily lose sight of why we do what we do. I know I have been there more than once as my tired, aching body is telling me to quit but I know I need to finish the job. However, I believe we all have one thing in common: we have a deep appreciation and love for nature and just being out in the woods.

There is a profound sense of satisfaction when you finish a tough project and look back and see the improvement you have made. If you pause for a moment, you will experience a sense of serenity in the smell of fresh air, watching a deer or rabbit wandering through the trees or enjoying all the many sounds of the forest: a creek running, birds chirping or a light wind blowing through the trees. Taking the time to stop and appreciate the magnificent and dynamics of your forest can be very therapeutic.

When our family and friends arrive on the tree farm, it becomes crystal clear why I work so hard. As a family, we have always enjoyed the outdoors. We love to camp, so through the years we have continually worked to build a campground all can enjoy. I will admit, primarily due to my wife, this is not in any sense of the word a “roughing it” campground. We have built a camp where everyone can be comfortable. It sits next to a pond that is stocked with trout. Life jackets are ready for kids on the dock; fishing gear and several types of inflatable boats are waiting for the fun to begin. We are always prepared for a good hike, skeet-shooting or target practice, swimming, fishing, games, four-wheeling, kid’s building projects in the barn, watching a sunset, stargazing, eating great food or just sitting around and visiting.

When our granddaughters jump out of the car, we know the game’s on and there will be little rest during their visit. While the primary goal for our tree farm is management and economic benefit, especially for retirement, we recognize that the true intrinsic value is in stopping to smell the roses and appreciating the property for family enjoyment.
Forest recreation is special and different than other types of recreation. One might think of recreation as boating, fishing, hunting or hiking. But for forest owners, just spending time in our forests is recreation at its best. Our forest activities can be secondary to the feeling that can easily overwhelm us.

Do you recall a person saying he hates pulling fuels from the forest? I hear him speaking proudly of his deep satisfaction of his accomplishments. It doesn’t get any better than to feel joy when simply describing one’s past efforts in the forest. There is something therapeutic, and downright enjoyable, about tackling those weeds in our place of beauty. We spend an hour pulling a few weeds and occasionally think of stopping, but somehow the thought drifts away. We should know better than to pull that first weed when there are others in the vicinity, lest we be hooked.

Hearing the sound and feeling the vibration of a chain saw reminds us of enjoyable but strenuous forest work, whoever is running the saw. How can it not be recreating when we are working away, lost in our own thoughts, only to glance up and see that moose staring at us in amazement? At that magic moment, who is the most amazed: us seeing a moose or the moose wondering why we do not just relax and do some browsing? You might revert to your best line of defense against the one wishing to move nearby, telling him that, “Montana is nine months of winter and three months of company.”

Berries, letting our minds wander, wondering about anything and everything, and slow to a snail’s pace. Remember the experience of watching those ominous clouds and hearing the first rumbling of thunder? Should we stop for the day? Or is there another half-hour left for work? Or maybe we should remain in the forest and wait out the rain. Yes, there is the question of lightning but, somehow, we do not think of that with all the excitement that a storm brings.

One might be cautious when explaining this to our friends in the city. They just might consider getting you committed before you do something dangerous, like meeting a forest animal, such as a moose or a mountain lion. Worse yet, your friends might understand your point all too well and decide to move in with you while they look for their own place of paradise. You might revert to your best line of defense against the one wishing to move nearby, telling him that, “Montana is nine months of winter and three months of company.”

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Forests Are for Recreation Too

Many people enjoy spending time recreating in the forests of the Northwest. I may not have become a forester had I not spent many enjoyable hours as a kid with my grandfather hunting and fishing in the forests along the upper Toutle River, many years before Mount St. Helens ruined it all.

About 50 percent of the small forestland owners in Washington bought their property with the idea of enjoying all the amenities the forest has to offer, other than managing for timber production. Forest recreation is a very popular and growing activity, no matter what type of amenity folks wish to derive from their forest experience.

Many of the industrial forest owners in Washington offer hunting or fishing permits/leases to the public. Over the years, I have appraised many larger private forest ownerships in Oregon and Washington with an alternative income of selling annual permits and/or leases to individuals and organizations for hunting, fishing and other recreational activities. East of the Cascades, particularly in eastern Oregon where there are many small private ownerships, it is very common for forest owners to lease out hunting rights on their land. In fact, the demand is outstripping the supply of properties available for lease. This has led to a small forestland market driven by a growing desire to own a piece of paradise—for the opportunity to have a personal forest to recreate in.

On a recent appraisal assignment, I gathered sales of every small tract of timberland, 320 acres or less in size, that sold from 2011 through 2017 over a five-county area. It was interesting to discover that, even though many of the properties had valuable merchantable timber on them, only about 20 percent were bought for timber production. The remaining 80 percent were bought strictly for recreation.

Given all this information, I firmly believe that small forestland owners in the Northwest have an excellent opportunity to generate added income from their properties by leasing or renting recreation rights to the use of their property.

Allowing people to hunt on your property can sometimes turn out to be a beneficial management tool. On my timberland I have a problem with elk, which proves to be challenging when reforesting my harvest areas. Accordingly, I allow a small group of hunters to come on the property every year to help control the population. I have found these people to be very respectful of the conditions on my property and, as a result, it has become a win-win situation, where they have been successful in bagging at least one elk in most years and I have reduced the browsing of my seedlings.
AUGUST

✓ In stands susceptible to engraver beetles, schedule cutting of trees over three inches in diameter after August 1 and before January 1 to prevent population buildup in fresh slash.

✓ Look into options to promote recreation on your property using ideas in this issue.

✓ Maintain your fire prevention diligence until fire season is over in your area. Do you know what your fire danger rating is?

✓ While water levels are low, complete your instream repairs and improvements. Consider installing a guzzler or cistern for wildlife. Clear out and reestablish overgrown springs.

✓ If you’re planning a selection harvest, take the time to paint either the leave trees or the take trees. Or, with a reliable logger, develop clear logger-select guidelines and monitor the work as you go.

SEPTEMBER

✓ Invite a logger, forester or firefighter to survey and assess your roads for access, repair and maintenance needs. Look at the entire haul route(s) and assure that you have road use permits in place.

✓ Cruise the timber you plan to harvest or have a professional forester do it. Having a good estimate of volume and value helps you market the logs.

✓ While you’re cruising, take some core samples to see how your trees are growing. Do a few calculations to assure yourself that your efforts are paying off with accumulated growth, improved vigor and overall good forest health.

✓ Students are back in school and it’s a valuable time to host or participate in a forest tour. Help our future forestland owners learn about natural resources on site. It will be memorable!

✓ Check your management plan for next year. Discuss upcoming project opportunities with a consultant or agency representative.

OCTOBER

✓ Begin your road maintenance and improvement projects after some moisture has reduced the potential for dust and the road surface is workable.

✓ The end of fire season is often an appropriate time for burning slash or prescribed burning. Use of fire requires planning and usually a permit or notification. The burn “window” is sometimes small, so be well-prepared to begin when conditions are right.

✓ Develop your tree planting contract or agreement and hire an experienced contractor. Get it done right the first time!

✓ Find out when and where to apply for cost-share incentives for next year’s projects.

✓ When you’re pleased with your project results, give your forester, logger, agency representative or hired hand kudos for a job well done.

FOR MORE INFORMATION...
check out these favorite websites and publications:

• oregon.gov/ODF/ForestBenefits/Pages/ForestHealth.aspx (I&D fact sheets)
• www.dnr.wa.gov/publications/rp_fire_ifpl2.pdf (Fire danger rating system)
• oregon.gov/ODF/Fire/Pages/FirePrevention.aspx (Oregon fire prevention requirements)
• dnr.wa.gov/ifpl (Washington fire prevention requirements)
• idl.idaho.gov/fire (Idaho fire prevention requirements)
• dnrc.mt.gov/divisions/forestry/fire-and-aviation/fire-prevention-and-preparedness (Montana fire prevention requirements)
• nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs144p2_042076.pdf (wildlife watering)
• catalog.extension.oregonstate.edu/ec1137 (forest road design)
• knowyourforest.org/sites/default/files/documents/Measuring_timber_products.pdf
• extension.iastate.edu/forestry/publications/PDF_files/PM2088A.pdf (developing a prescribed fire burn plan)
• knowyourforest.org/sites/default/files/documents/ec1192.pdf (sample contracts)
• www.file.dnr.wa.gov/publications/frc_webster_planting_forestseedlings.pdf

Down on the Tree Farm is a compilation of all of the excellent tips contributed to this column by experienced volunteers over the last 16 years. Suggestions are always welcome and may be sent to the editor at: annewithnw@gmail.com.
Forest recreation has long been a popular activity for both residents and visitors of the Pacific Northwest. The opportunities to enjoy the beauty of the national forests, national parks and other public lands attracted many people to the states of Oregon, Washington, Idaho and Montana during the early years of the 1900s. Once here, these new residents found an enjoyable pastime exploring and viewing the rugged mountains, great scenery and wildlife. The establishment of the Civilian Conservation Corps in 1933 led to more recreational developments on public forests and attracted even more visitors. A national depression and World War II slowed the development of these forests for a few years, but it soon picked up again.

Managers of most public lands joined the growth of forest recreation and the region became well known for what it offered to both residents and visitors. For years, most private owners of forestland focused on harvesting and processing timber for a growing economy. Nonindustrial forestland owners were interested only in harvesting their timber for others to process; they were not tempted to invest in forest recreation management. Instead, they focused on keeping their lands productive and maintaining the success of their families who had come before them and those who would follow. They looked at forests in two ways. Some saw trees growing on potential farm land that needed to be cleared to create more productive agricultural and grazing lands. Others thought that, once mature trees were harvested, a new crop needed to be planted and then there was a long wait before the next crop of trees was ready to be marketed.

A few major forest companies experimented by allowing some forest recreation on their lands. However, most remained focused on timber harvesting. In the meantime, more and more visitors were attracted by all forms of recreation being developed on public lands, leading to overcrowding in many areas.

Robert Marshall said, in The Forest for Recreation (1933): “As society becomes more and more mechanized it will be increasingly difficult for many people to stand the nervous strain, the high pressure and the drabness of their lives. To escape these abominations, increasing numbers will seek the primitive for the finest features of life.” Perhaps it was this prediction that spurred the Coleman Company to become a symbol of forest recreation during most of the 20th century.
For the first six years of my life, I lived in Iowa. During visits to my grandparents’ farm, I was impressed by the hard work of my grandfather in managing his farm and the pride he had when talking about this work to other family members. He had a few acres of trees growing in a far corner of his farm. To him, this was a source of firewood to heat his home, rough lumber for his fences and corrals, and some wildlife. There was no talk about recreation in this forest except for his personal hunting and fishing in the pond. For that matter, there was little interest in forest recreation even on public lands in Iowa.

After my family moved to southern Oregon, I spent much of my free time hunting, fishing, camping, snowshoeing and enjoying the outdoors, primarily on public lands. My first contacts with developed forest recreation came one summer at a youth camp and five summers working for the U.S. Forest Service at Lake of the Woods, a major forest recreation area in the Winema National Forest. My first summer with the Forest Service was on a fire crew and I spent the next four summers as a recreation guard. The recreation job showed me how well a public agency could develop and maintain forest campgrounds, picnic areas, resorts, forest trails and other improvements to attract visitors and provide a great outdoor experience.

After graduating from Oregon State University in forestry, I worked primarily in fire control for the Oregon Department of Forestry near Medford in southern Oregon. Another one of my duties, as time allowed, was advising private forestland owners on how to manage their forestland. My contacts were with nonindustrial forest owners: those who harvested timber on their lands, but who did not process the timber themselves. I cannot recall any private forest owner who had any form of forest recreation on their lands, except for the enjoyment of their family and friends.

These Oregon forestland owners had similar attitudes toward their land and forests as my grandfather had back in Iowa. Like my grandfather, Oregon landowners had given little or no thought to the potential for forest recreation development on their lands. This land was intended to grow crops or livestock, not to have fun. Much of the land in the area had been settled years before and then passed on from generation to generation. Recreation was not a familiar word in this country. Landowners knew that their families enjoyed living in a rural, forested location, managing their timber and viewing wildlife, but that was the extent of it.

I spent a year working at the Oregon Forest Research Center, a

—Continued on next page—
state-operated facility located in Corvallis. Staff conducted research on forest management and forest products, with a benefit of being able to take one graduate level college course per term at college staff rates. I chose to take a forest recreation course taught by a retired federal forest recreation planner. His class covered the development of forest recreation on public lands and showed how recreation on private forests might increase as the nation’s economy improved and outdoor recreation became more popular. Eventually, nonindustrial forest owners began testing some forms of forest recreation on their land. Their main goal was to make additional income by using only forms of recreation that would not impact their forest management or farming.

One of the first recreational activities that private landowners offered was hunting for a fee. Local hunting clubs, usually with members known to the landowners, would purchase hunting rights on private land for their members. Other nonindustrial forestland owners experimented with charging visitors a fee to fish in their streams and man-made lakes. However, there was little interest in developing improved recreation sites like those found on public lands.

One other factor that slowed development of forest recreation on private forests was the fact that many of the first families to offer recreation of any kind on their forestlands did so primarily for use by their own family and friends, not as a profit-making business. This was especially true for properties purchased by families in scenic areas with streams and lakes. We had four young children living at home. After a search in central Oregon, we found a favorable 10-acre site on marginal forestland where our family could camp in a travel trailer, enjoy the solitude and travel only a short distance to enjoy the nearby public lands.

Buying scenic real estate close to home was a growing market in many areas. With demand high, a few nonindustrial forest owners began creating recreational facilities for short-term overnight use. Another option was to sell or lease parcels of land for a private vacation home. However, some private owners were reluctant to sell any of their private family forest. At the same time, several major forest industry landowners moved ahead on this approach in a big way. Some developments were located on marginal forest and grazing lands, while others were established in commercial forests. Our family eventually purchased property in one of several areas being developed by a major timber company. This became our vacation home for 23 years and then our full-time retirement home.

Over time, some forward-thinking private landowners began to realize that they might duplicate the success of public land managers by adding recreation to their forests. One advantage was the fact that most of their private forests were closer to population centers than most public lands. In addition, many private landowners either lived on their forests or close by so they could monitor how their visitors treated the land.

Another advantage for the private forestland owner was that most visitors first coming to a private forest for recreation did not expect major improvements. If it was a pleasant and clean location, most visitors would be satisfied. In addition, no major financial investment was required by the landowner. Improvements did come as business increased but, most of the time, these improvements did not come close to what visitors could find on public forestlands.

Some nonindustrial landowners found ways to successfully use portions of their forestland for recreational use. While some were testing ways to make their land available for
family recreation, others were attracting bigger markets. They began renting picnic sites to families, clubs and other groups. Some owners arranged gatherings to be both recreational and educational, especially if they had unique crops on their land. Visitors to these combined events would return home informed about how landowners operated and the products they provided in their area.

A few nonindustrial forest owners soon found that hosting local events on their lands for a fee could be a way to earn more income and also provide a service to their neighbors. Community members looking for a location to hold an event could find an attractive setting on a neighbor’s forest. Sometimes these gatherings were organized by residents to host visitors from other countries, providing a cultural experience and recreation at the same time.

Besides a lot of hard work and some financial investment, landowners have faced several challenges related to increased recreation. They have learned that it is essential to carry liability insurance when inviting guests onto their land; health officials can inspect food preparation and service; land use officials are interested in changes from the original land use of farming or forestry; and, in a few isolated cases, crowd control could become necessary. Having solutions to potential problems before activities begin is far better than trying to correct them after they happen.

All these events create added work for the landowner. As the number of visitors present at any one time increases, there is a corresponding need for more personnel to guide them on their visit and to monitor their conduct. Some landowners easily adjust to the workload that these events create. A few find out that the added responsibility of managing recreational activities on their land is more than they want to experience. With awareness of the challenges and opportunities, nonindustrial forestland owners may find ways to increase their income by developing some form of forest recreation.

In the following articles in this issue of Northwest Woodlands, writers familiar with nonindustrial forestlands in the Pacific Northwest provide an update on how some owners view forest recreation as a growing part of their management plan and forecast how these forestlands might be managed in the future. Most interesting are their thoughts on how family forestland owners can become active in forest recreation, while still being in the business of growing timber for harvest.

**Jim Fisher** spent five summers with the U.S. Forest Service as a firefighter and recreation guard before graduating from Oregon State University School of Forestry in 1956. He worked for Oregon Department of Forestry as a forester in fire control and service forestry, personnel director and public affairs director before retiring in 1990. Jim also worked as an associate editor at the Oregon Forest Research Center. He is manager of the Sisters Chamber of Commerce and has written books on Starker Forests, Gilchrist Timber Company and a centennial history of ODF. Jim can be reached at 541-549-5441 or jfwriter@bendbroadband.com.
Outdoor recreation has proliferated in the last twenty years in the Pacific Northwest. Young workers demand easy access to outdoor recreation as part of the millennial lifestyle. This trend clashes with traditional notions of property rights and liabilities. It also creates conflict between rural communities and transient urbanites. As a result, legislatures in Northwest states have tried to strike a balance, through compromise, between promoting safe recreational activities and protecting private property owners. This article explores one such compromise—recreational immunity.

Recreational immunity encourages landowners to open their private property to the public for recreational use. It protects the landowner if a recreational user seeks damages after an injury. The immunity in Washington, Oregon, Idaho and Montana generally applies regardless of whether the user is invited by the landowner. Depending on the state, the landowner’s obligations before the incident are nominal, such as posting signs or charging small fees. However, because the landowner’s responsibilities vary by state, this article summarizes the significant aspects of each state’s laws.

This article does not provide legal advice. The facts and law of any specific incident must be analyzed before relying on the contents of this article.

Legal basis for recreational immunity

Traditionally, a landowner’s responsibility to a user of his property depended on whether the person was invited, was licensed or trespassed. States have chosen, to varying degrees, to modify this responsibility (to keep the premises in a reasonably safe condition, including a duty to inspect the premises and discover dangerous conditions) to encourage landowners to open their lands to the public for recreational use.

Similarities among states. First, while all four states provide recreational immunity, the immunity is removed when the landowner charges a fee. However, as discussed below, the
states have carved out varying exceptions to the definition of "fee" or set dollar limits that eliminate the immunity.

Second, although the specific legal standard varies, in all the states but Idaho, deliberate action by the landowner removes the immunity. Creating a hidden danger, such as laying a trip wire across a trail, would be a deliberate action. Incidental injury arising from an intentional activity is not deliberate.8 Idaho is silent on this provision in the immunity law.

Third, the definition of "landowners" also varies by state, although it is broadly defined to include nearly all types of property interest, such as tenants and easement holders.

**Differences among states.** The states’ approaches to what constitutes a fee that removes immunity varies. For example, in Washington, a landowner may charge up to $25 for firewood and still be covered by the immunity, while in Oregon, she may not.
charge $75 for a cord and $15 to park and still have immunity. If the Washington landowner charged $26 or the Oregon landowner charged $76, they would lose their immunity. However, the Oregon landowner would only lose it for the firewood cutting; she would maintain it for any other recreational activity by the user on her property.

Another difference between the states depends on whether the user requests permission for the use. Oregon removes immunity if a user requests permission from the landowner and it is granted. The traditional common law of assumption of risk applies, where recreational immunity is absent. Montana and Idaho’s immunity exists with or without permission of the landowner, and Washington’s rules do not discuss permission since all recreational users are treated equally.

Obligations to post signs also vary by state. In Washington, a landowner must post a sign warning of known dangerous conditions, while in Oregon, signs must be posted to exclude the public. The Oregon laws contain recommended language and other requirements for the signs in ORS §105.700(2) at: oregonlaws.org/ors/105.700.

Montana is silent on signs, while Idaho states that a landowner has no obligation to put up signs or maintain them.

Notably, in Idaho, the user is liable if she damages the property, livestock, or crops while recreating on the property, and in Oregon, the user may have to pay liquidated damages if she ignores a sign that specifies the property is closed to the public.

Further, what constitutes “recreational activity” varies by state. Each state’s laws define a non-exclusive list of activities. All the states include hiking, biking, scenic viewing and other relatively low-impact activities. Washington also includes many types of airborne activities and rock climbing, while Montana’s list reflects its more rural nature including dude ranching and target shooting. In Idaho, any type of animal riding is covered, while in Oregon activities covered also include volunteer work and hunting.

**Hypothetical applications of immunity**

No legal overview is complete without a hypothetical. To demonstrate the difference of the application in the states’ laws, we will consider a hypothetical scenario where Nelly Neighbor wants to come onto Larry Landowner’s property to cut some firewood.

Beginning with Washington, if Larry Landowner allows Nelly Neighbor to cut firewood, and charges her $20, Larry Landowner has recreational immunity. If Larry instead charges Nelly $30, he loses his immunity. If Nelly trips over a root and breaks her leg on her way to cut firewood, Larry (when he charged only $20) has immunity. If Nelly does not place a conspicuous warning sign for future firewood cutters, he loses his immunity if another neighbor trips over that same root and breaks her leg also.

In Oregon, if a member of the public comes onto Larry Landowner’s land, trips over a root and breaks her leg, Larry has immunity. However, if Larry invites Nelly Neighbor to cut some firewood, and Nelly trips over a root and breaks her leg, Larry does not have immunity. If Larry charges $80 to cut a cord of firewood, he loses his immunity for any injury caused by cutting firewood. If, however, Nelly paid $75 to cut a cord of firewood but, once she got onto the property, tripped over the root while chasing an owl to see if it was spotted or barred, Larry still has immunity. If Nelly ran past Larry’s sign that said “Closed to Entry” in hot pursuit of the owl, she may have to pay up to $1,000 in liquidated damages to Larry.

In Montana, firewood cutting is not defined as a recreational activity. Like our unfortunate Washington and Oregon cutters, Nelly Neighbor trips and breaks her leg, but here, the recreational immunity law doesn’t apply. Presumably, the law of assumption of risk would continue to apply. If, however, Nelly brings her sled and headlamp onto Larry Landowner’s property, intending to get downslope, do some spelunking, and as an afterthought, grab some firewood to warm up with that night, Larry has immunity for the broken leg Nelly gets when her sled careens out of control into the cave entrance.
Like Montana, Idaho does not include firewood cutting in its definition of recreational purposes. Nelly Neighbor rides her mule onto Larry Landowner’s property and notices a sign in the bushes that says “Watch Out for...” but the rest of the sign is illegible. Nelly’s mule spooks at a rustling in the bushes, and Nelly falls off and breaks her leg. In addition, her mule races through Larry’s potato field, destroying part of the crop. Larry is not liable for Nelly’s broken leg whether or not the sign is legible, but Nelly is liable to Larry for the damages to his potato field caused by her runaway mule.

**Recent update to Washington law**

The Washington Supreme Court recently affirmed the expansive breadth of Washington’s recreational immunity statute in *Lockner v. Pierce County*. Ms. Lockner was riding a bicycle with her niece on a popular recreational and commuter bicycle pathway owned by the county in the Orting Valley. At the time, a county employee was mowing grass adjacent to the pathway. As Ms. Lockner passed the lawnmower, it ejected a puff of dust or smoke, causing Ms. Lockner to lose control of her bicycle and resulting in injuries.

A prior decision suggested that the property cannot be used for any purpose but recreation to obtain immunity. The Court in *Lockner* clarified that the statute is not so limited. The Court stated that the land may be used for any number of private or public purposes, including recreational uses (mountain biking and off-road vehicles) because many other recreational opportunities exist for hikers, bird watchers and horseback riders on federal and local government lands.

Recreational immunity provides a nearly insurmountable hurdle for an injured user to obtain damages from the landowner—provided that the landowner does not charge a fee. Recreational groups recognize this benefit to the landowner, so they seek out collaborative relationships with willing private landowners that allow the users to develop their preferred uses on private land, such as mountain biking trails.

Much like hunters will self-policing poaching, a well-organized and funded recreational group can provide benefits to the landowner. First, a user group polices the area, so the landowner can expend less effort enforcing his private property rights. Many recreational groups also reduce other trespassers, such as those engaged in illegal dumping, by their presence. Second, groups with resources not only design usable trails, they maintain those trails, reducing erosion and impacts from unmonitored illegal trails.

If you decide to allow recreational users on your property, remain vigilant in monitoring the laws in your state to ensure you do not inadvertently waive the enormous legal benefit given to private landowners through recreational immunity laws. Consult with an experienced attorney for information about application of your state’s laws to your situation.

**Ryen Godwin** is a shareholder at Schwabe, Williamson & Wyatt. He practices environmental law for clients in the natural resources industry, including timber and forest products companies. Ryen can be reached at rgodwin@schwabe.com.

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1. This article was originally authored by Martha Wehling and published in 2013. Ms. Wehling graciously offered the undersigned the opportunity to update her article to reflect changes since last publication. Ms. Wehling deserves credit for the foundation on which this current version substantially relies. I also want to thank Kyler Danielson of Schwabe, Williamson, & Wyatt for her time, energy, and dedication to researching the specific statutes referenced herein.

2. *Lockner v. Pierce County*, 415 P.3d 246, slip op. 94643-4 (April 19, 2018). In *Lockner*, a bicyclist was injured when a puff of dust or smoke was discharged by a lawnmower. The employee was intentionally mowing the grass but did not intentionally cause the puff or dust or smoke to injure the bicyclist.
Managing Recreation on Working Forests

By JENNIFER BEATHE

As some large industrial forestland owners in the Pacific Northwest move to fee-based recreation systems, many smaller landowners are feeling the pressure to open their lands to the public. Whether your private land allows hiking, mountain biking, disc golf or a more traditional activity such as hunting, offering recreation on working forests can be rewarding for the landowner and beneficial to the forest industry. It will put a smile on your face when a visitor tells you that they have been hunting on your forestland since they were a kid and now they are hunting with their grandchildren.

Today, over 80 percent of Oregonians live in an urban setting. (US Census Bureau, 2010 Census) Those residents are unlikely to have been raised in a rural environment where they would have ties to the land. They might not think about where the wood products that they use every day come from and they might not be aware of the jobs that working forests bring to rural communities. I like to ask visitors if they notice how much cardboard is in every Costco! One thing that we do know about urbanites, especially millennials, is that natural resource sustainability is a principal issue. Forestland owners can establish trust with the public when we invite them onto our lands to see for themselves what we do and how we do it. A straightforward way to do this is by forest recreation permits.

Fortunately, two out of three Oregonians believe that families and individuals are “good” or “very good” forest managers. (Oregon Forest Resources Institute, 2015 Forest Values and Beliefs Survey) This gives us a good place to start. When an urbanite formulates their opinion about forest management from a highway drive-by on their way to a weekend at the beach, most foresters would say that they are missing the full story. We know they see the clearcut, and they probably think that it is ugly, but they are missing the 400 seedlings per acre that they can’t see yet, or the beautiful view of three volcanos along the crest of the Cascades that was previously blocked by trees. They missed the deer and the elk feeding at dusk and pollinators buzzing amongst the spring flowers. Inviting the public onto your forestland is the best way to connect people to nature and our forests, to show our work and shape opinions about forest management.

In Dr. Qing Li’s new book, “Forest Bathing,” he shows how forests can reduce stress levels and blood pressure, strengthen immune and cardiovascular systems and boost energy, mood and concentration. Who wouldn’t like a dose of that? As a private forestland owner, you can actively manage your forest for timber production and, concurrently, provide generous health benefits to recreationists.

**Setting up the system**

Once landowners decide to open

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<th>BUYING:</th>
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<td>Sawlog alder, maple, ash, oak</td>
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<td>Land and timber</td>
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<td>Timber deeds</td>
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PHOTO COURTESY: JENNIFER BEATHE
their lands for recreation and iron out the details about risk and liability, the landowner should decide who they will invite on their lands, how many visitors and when to invite the public on their lands. The landowner should consider whether there could be a capacity issue with their recreational users. There is nothing worse than quietly hiking up to your beloved hilltop in hopes of seeing a herd of elk, but instead meeting up with four other hunters who had the same idea.

Do you want a free or fee-based permit system? At our company, Starker Forests, Inc., in western Oregon, we offer free entry permits to most of our tree farms for recreation. This tradition has been passed down for three generations. We do charge $15 for firewood permits when they are available, and we match a $5 fee for Christmas trees in December to make a donation to a local charity. We have developed a computer-based permit system that collects information about each permittee and is not shared outside of the company. A particularly helpful piece of information is an email address. With email, we can easily update permittees on forest operations, fire danger or other prominent issues on our lands. We do occasionally close our lands to recreation when the fire danger is extreme.

Each person can select up to four tree farms to access at any one time. Permits are issued for the calendar year and expire on December 31st. Our tree farms range in size from a few hundred acres to over 9,000 acres. We require that permittees come to our office for a permit. Today, everyone wants to do things online—myself included. But at Starker Forests, we believe that there is value in the permittee meeting us face-to-face to ask permission to go on our private property. As we build relationships with our permittees over the years, they become advocates for how we actively manage our lands and they are another set of eyes in the woods. It is common for a permittee to call and let us know if they see something that seems wrong, out of place or illegal.

We have noticed over the past few years an increase in the number of recreation permittees. This appears to be from a combination of factors. First, recreational users who historically have been recreating on large industrial lands, where a fee has been instituted, are looking for new places for free recreation. Not everyone has the budget or desire to pay for recreation, especially if it is only for a short hunting season of just a weekend or two. The second reason for the increase is social media. Since we have been promoting our free recreation access for several years on Facebook, we have garnered more

—Continued on next page—
interactions with non-traditional users from both our local area and larger metro areas.

**Motorized versus non-motorized**

There is good reason to advocate for both motorized and non-motorized access. Motorized access makes sense in some places during hunting season if fire danger is low. However, for much of the year, non-motorized access is an appropriate choice. Many users seek solitude and enjoy getting away from the noise and worry of vehicles in the roadway. For motorized access, some users are inclined to use dirt roads when they are wet, creating rutting and water quality problems. These can be expensive to repair. In the summer, fire danger is high, and it is too risky to have visitors park in grassy road turnouts. At Starker Forests, we have had success with opening gates after fire season ends, typically during October until the end of deer or elk season, then keeping the gates closed and allowing walk-in access the rest of the year. In the past few years, we have been asked to allow electric bicycles and have so far declined the request. This policy is in alignment with other forestland owners. Sometimes it works well to keep rules consistent with neighboring landowners.  

**Reasonable solutions to challenges related to welcoming the public**

Recreational users get confused if they don’t know where they are in the woods, or if they aren’t aware of the rules. Rules for use should be clearly stated on the recreation permit. While it is each person’s responsibility to know where they are, maps with road names are also helpful. Finally, signage in the woods will help recreation users get their bearing. At Starker Forests, most of our gates are painted red, white and blue. Next to the gate is a sign that states the name of the gate and the name of the tree farm. An additional sign promotes that we are members of the American Tree Farm System. The final sign lists the regulations for recreation on our property. It includes information such as no camping, no fires, no smoking and no mushroom picking.  

Depending on how close your lands are to an urban area, you may find yourself dealing with the construction of illegal trails. It is important to quickly find and deal with this problem, because once a trail is established it is very difficult to get people to stop using it. Landowners can place signs at the access points or drag limbs and branches across the trail to discourage use.  

Accumulation of trash or garbage can be a problem, particularly at gate locations. Keeping trash cleaned up is an effective way to avoid an invitation for others to dump trash. It can also be helpful to use social media or trail cameras to show that you are paying attention to the people on your land.  

A final note on challenges to welcoming the public is to develop a relationship with your local law enforcement.
Our forest deputies are great partners when we encounter a problem that is beyond our control.

**Outreach and education**

While recreationists are out enjoying your forest, consider some simple techniques to share your knowledge of modern forestry. Gone are the days of skidding logs down streams. Today we have riparian buffers. Gone are the days of ignoring wildlife needs. Today our forests protect wildlife and offer abundant habitat. Landowners need not invest in fancy, interpretive signs. Laminated signs produced on your own computer that describe local tree species, when a stand was planted or how a riparian buffer was established will help users learn more about your forest. If you do want a high-quality sign, there are many online companies (with coupon codes!) that make reasonably priced signs.

When taking a visitor out to the forest, it is rewarding to hear them say, “I had no idea.” They had no idea how many wood products they use; they had no idea how complex the decision-making process is for foresters; they had no idea that we are required by law to replant; they had no idea that we are required to leave riparian buffers; and the list goes on and on. Inviting recreational users onto our lands gives foresters and forestland owners the chance to share their love and passion for healthy, actively managed forests and wood products that they grow. It is very rewarding.

**Jennifer Beathe** has worked as a forester for 20 years at Starker Forests, Inc. She has a B.S. in forest engineering from Oregon State University. During her time at Starker Forests her responsibilities have included the management of culvert and bridge construction projects, logging supervision, easements and rights-of-way, forest road layout and maintenance, culvert monitoring and public outreach, recreation and education. Jennifer is a dirt forester at heart, happiest in the woods with her dog. Jennifer can be reached at jennifer@starkerforests.com.

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<tr>
<td>Larry Putnam</td>
<td>Ben Johnson</td>
<td>Aaron Henson</td>
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<tr>
<td>Cell: (425) 239-4157</td>
<td>Cell: (541) 729-2099</td>
<td>Cell: (280) 830-4584</td>
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<td>Office: (360) 403-8007</td>
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Can Recreation Access Benefit Me?

By SHELLEY TSCHIDA

ost forest property owners understand the basic concept of pay-to-play recreation access programs. If I want to recreate on your land, I will pay you a fee to do so. While cash in hand is the direct result of these programs, there are other benefits that can be achieved from managing recreational access to your property.

Notably, there is a general appreciation found throughout surrounding communities when private forestland owners provide access for recreation. Unlike locked gate programs, which wall off the ability for caring sportsmen to see and report any adverse activity by trespassers, managed access programs create a desire in visitors to help owners protect their property and the recreational values they are seeking. Trespass is often associated with equipment vandalism, tree theft, party activities, unattended campfires, mud-boggling and road damages. All these issues can cost a property owner both time and money. The reduction that will occur from the presence of caring recreational users will have a positive impact on your bottom line.

In commenting about the ancillary benefits Inland Empire Paper Company has gained from their recreation access program, Paul Buckland, Forest Resource Manager, stated, “This is hard to quantify, but I can tell you that we generally have less deeply rutted roads from full-sized vehicle use during the wet season, less mud-bog pits, less garbage dumping and much less logging equipment vandalism.” Now in the 17th year of their public access program, Mr. Buckland commented that, “Shutting the public out is also deleterious to the social license that working forests need for long-term sustainability.” The value of goodwill should not be overlooked when considering the benefits of initiating a public access program.

As the cost of participation in managed pay-to-play recreation programs on large privately owned timberlands increases, there is a growing interest, especially among hunters, in finding quality access to smaller tracts of land. This is opening the door for small-acreage owners to implement their own limited access programs and allows for the flexibility of imposing owner-customized access strategies. Management components may include the time of year access will be allowed, what specific...
recreational uses will be welcomed, if access will be motorized or non-motorized, and if the access is granted to a select few users or open to the general public.

Access programs should incorporate elements of stewardship education as part of the overall strategy. Visitors should clearly understand how their access plays a part in your forest management plan. This may include nothing more than acknowledging how the control of wildlife populations through hunting can minimize negative impacts on forest management. It might include identification and reporting of the location of noxious weed species or require the removal of litter from the landscape. In all cases, implement the concepts of treading lightly while recreating.

If developing a recreational access program sounds like more work than you have time for, you might consider reaching out to agencies in your state for help. Most states now have some form of access program assistance for private landowners. Some of these programs may eventually receive the benefit of additional federal funding from proposed Senate Bill S2243, the Voluntary Public Access Act of 2017 and House Bill HR5022, the Voluntary Public Access Improvement Act of 2018. Both bills acknowledge the importance of private property owner participation in providing public recreational access.

State access management programs

The Idaho Access Yes! program is a voluntary incentive program where landowners receive compensation for providing sportsmen access to or through their land. Landowners get to specify access parameters that meet their land management needs. Compensation can come in the form of two annual monetary payments, habitat improvement projects, access development projects or other forms of landowner assistance. Properties in the program are identified with a unique sign provided by the Idaho Department of Fish and Game. The sign lists the landowner’s conditions of access. Landowners must complete a bid application form by February 15. A committee reviews all applications and makes awards based

Landowners have flexibility under their managed access program to choose whether access will be granted to the general public or specific individuals or groups and whether motorized uses will be permitted.

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on the amount of access, diversity of sporting opportunities, cost, availability of wildlife, pass-through to public lands, regional access needs, species management, habitat improvement projects and past experience with the landowner.

The Oregon Access and Habitat (A&H) program involves landowners in wildlife habitat improvement projects on their property while increasing hunting opportunities for the public. The program provides grants to private landowners, resource management agencies and sporting groups that help to enhance forage, develop water sources, protect sensitive habitats, provide seed and fertilizer to offset forage consumed by wildlife, create hunting lease programs that provide public access and promote hunter education and law enforcement activities on private lands to help maintain public access. Through 2017, the A&H Program had funded 114 projects for $1.7 million. The program has opened a little over two million acres of private ranch, farm and forest lands to public hunting access. To qualify, a project must improve wildlife habitat, increase public hunting access to private land or solve a wildlife damage issue. Factors in a proposed project review include the potential benefits to wildlife, habitat and improvement of public hunting access. The review board particularly likes projects that reduce economic loss to landowners and involve funding commitments from other organizations and agencies. Providing in-kind contributions of labor, equipment and materials are also positive aspects of selected projects.

The state of Washington has determined that the future of hunting depends on the availability of developing access to private lands. Because over half of the state’s land is held in private ownership, the Washington Department of Fish and Wildlife (WDFW) has increased their Private Lands Access and Habitat Enhancement program. There are four types of access programs available. Participation is based on the type of access that a landowner is willing to allow.

- Feel Free to Hunt program—has no requirements from hunters gaining access to appropriately posted property.
- Register to Hunt program—requires hunters to park in designated areas and fill out a registration form on site before entering the property.
- Written Permission program—requires hunters to make contact with the owner in advance of the hunting season and obtain a written permission slip that must be carried while hunting on the property.
- Landowner Hunting Permit program—offers hunters an opportunity to apply for a special permit through a drawing held by WDFW or the landowner.

In return for participation, property owners receive technical assistance with habitat improvement and the appropriate signs for their property. There are additional WDFW penalties imposed for those caught harvesting big game animals without the appropriate permission.

The Block Management Access program in Montana is a cooperative program between private landowners and Fish, Wildlife and Parks (FWP). Block management programs only allow access during fall hunting season. Contracts are negotiated annually. After enrollment is completed, FWP publishes a Hunter Access

State access programs, designed to encourage landowners to allow public recreational use of their private property, can assist with design and installation of new trails and signs, as well as other improvements.

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Guide which lists all opportunities available to sportsmen. Generally, parcels in these programs range from 50 to 100,000 acres. Most offer diverse habitat, varied hunting opportunities or targeted species reduction for control purposes. Some also provide access through private lands to large tracks of public land. Landowners receive complimentary sportsman’s licenses, signs, maps and in some cases patrols to assist hunters and monitor land use.

Generally, state-approved programs provide the added benefit of liability protection from unintentional injuries that might occur from the public’s use of your property. The down side is that they may also restrict some of your ability to customize access to your property to meet specific management needs.

Perpetual preservation

If you are an altruistic landowner who is looking to preserve the recreational value of your property for future generations, a conservation easement may be right for you. Conservation easements are voluntary legal agreements between a landowner and a qualified organization, usually a conservancy. Stimson Lumber Company, one of the oldest family-owned integrated wood products companies in the United States, has embraced the value of conservation easements. With conservation easements in Idaho and Montana that allow conditional public access, Bill Pittman, Stimson’s Regeneration Manager said, “Conservation easements allow the sustainable management of healthy forests into perpetuity, without the threat of being developed.”

An easement may be applied to a portion of your ownership and may or may not allow for public access. They can generate cash or create a tax advantage to the owner by gifting property rights at the time of implementation. They can also be incorporated into your estate planning. The difference in the fair market value of

recreational use of your forestlands? Only you can make that determination. If trespass control, reduction of resource damage, wildlife management, removal of litter, reduction in vandalism and increased goodwill are things that you want for your land, then managing the recreational assets inherent to your property will get you there. The financial gain experienced today could become a part of your legacy.

Shelley Tschida is the CEO of Quality Services, Inc., a recreation access management company providing access program development and support services to large and small timberland owners for the past 18 years. With headquarters in the Inland Northwest, QSI presently oversees access management on over a million acres of private and state-owned forestland. Shelley can be reached at 208-623-2539 or qsist@frontier.com.

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After spending 35 years raising our kids in Pennsylvania, we decided it was time for a change. We sold our house, loaded the U-Haul and headed to northwest Montana to take on a new adventure. We bought property with a house on 142 acres of forest, nestled on the edge of Glacier National Park. Little did we know what was in store as we drove the final 40 miles of dirt road.

We had seen old photos of the property from 25 years ago that showed dramatic views into Glacier National Park to the east and across the Whitefish Mountains to the west. Old photos showed elk grazing near a pond on the property and people riding their horses on trails. We heard stories of the past when pioneers homesteaded the property, growing hay and raising cattle.

It was early summer of 2017, in what was to become one of the worst wildfire seasons in Montana’s recent history. The property had evolved. There were no open vistas or noticeable wildlife to be found on the property. The mountain views were crowded out by densely stocked stands of primarily lodgepole pine. Initial hikes of the property involved scrambling, and sometimes crawling, through thick trees, ducking under tree limbs and swatting massive mosquitoes, all while admiring colorful but invasive noxious weeds.

Northwest Montana was experiencing hotter than average temperatures, lower than average rainfall, dry vegetation and blustery winds. The dense and uniform forest was at high risk. Forest fires began popping up in the area and we knew we had to take immediate action to manage the land.

Fortunately, Montana State University Extension in collaboration with Stoltze Lumber Company of Columbia Falls has designed the perfect solution for new landowners like us. They coordinate a low-cost, annual Forest Stewardship workshop. We registered as soon as we heard about the opportunity. The weeklong workshop is designed to educate owners of family forests and assist them in developing achievable forest management plans for their property. During the course, participants prioritize goals and develop a long-term strategic plan to identify sustainable ways to meet goals, both ecologically and financially. Potential grants and resources to help with costs of implementing the plan are identified. As a part of the Forest Stewardship course, we listened and interacted with foresters, wildlife biologists, forest financial experts and other landowners who provided a wealth of knowledge in the different aspects of forest management. They helped us develop a strategy to implement our goals.

We had a long-term goal that the forest should have some commercial value to cover the costs of maintaining a healthy forest for future generations. Our plan took into consideration the existing forest conditions, topography, rainfall patterns, aspect, soil types and the value of commercial and precommercial timber on the property. The primary goal was to establish and use trails as the backbone for implementing and maintaining the secondary goals of the plan, which enhanced the property not just for recreation, but also for thriving habitat.
habitats, healthy forests and soils, and a sustainable income mechanism to cover the long-term costs of family forest stewardship.

The property is bordered by several million acres of National Forest. An abundant variety of wildlife uses the Forest as part of their large, regional range. To encourage wildlife onto the property, we needed to provide forage for herbivores and the predators would follow. Dense forests provide plenty of hiding and thermal cover. We envisioned a trail system that meandered through a diverse network of meadows, islands of dense cover and “parked-out” areas of larger trees and native grasses. This would provide a wide variety of habitats for wildlife, including deer, elk, moose, snowshoe hares, lynx, wolves and bears. By letting the mosaic of habitats guide the trail plan, we could enhance the viewshed and aesthetic value of the property by opening “windows” into Glacier National Park. We would provide recreational opportunities for hiking, wildlife viewing, snowshoeing, cross-country skiing and snowmobiling, and help cover the management costs by selling associated timber from thinning.

In late summer of 2017, we consulted with Mark Boardman of Stoltze Lumber Company who surveyed the property and evaluated the existing timber. We designed a carefully balanced plan of cutting commercial timber for saw logs and poles to offset the cost of precommercial thinning, clearing trails and meadows, and planting new trees. Consideration was given to future stand diversity and productivity, avoiding impact to riparian areas, control of noxious weeds and planting palatable, native grasses to encourage ungulates. In the strategy, we also carefully considered the reduction of fuel and treatment of slash piles.

The skid roads that were used to remove the timber were also intentionally designed and placed to become the basis of the trail system. Extending about 1.75 miles, the skid roads provided a perimeter trail around the property. This placement of the skid roads and location of the landing sites for timber processing had the secondary advantage of clearing views of the mountains. Our trail system would connect to National Forest roads, hundreds of miles of old skid trails and existing hiking trails that wind through pristine wilderness.

To establish the skid roads as the primary trails, we first cleared all stumps and fallen logs, sprayed for noxious weeds and planted with grass mix that would sprout early in the spring before the noxious weeds could take hold. Being skid road width, the primary trails allow snowmobiles and ATVs to access the area for ongoing management and maintenance. The skid roads wind through a wonderfully diverse mosaic of habitats, leading to the slash piles that will become both permanent and temporary meadows after burning. They pass through reserve islands of dense lodgepole that provide cover for small game and birds. The islands are interspersed with small meadows and parked-out forest where healthy Douglas-fir, larch, cottonwood, spruce and aspen were favored and lodgepole pine were largely removed.

The trails pass by small piles of cut timber which provide a habitat for a variety of small mammals and birds. Dead trees were left as snags for birds of prey and woodpeckers. There were a number of small aspen stands in the forest. To allow the aspen groves to flourish and enhance habitat, all trees within 20 feet of the existing stands were removed. The trails meander through aspen stands that will provide beautiful seasonal colors in the fall and help lighten up the forest in the summer and winter with their white bark. To encourage --Continued on next page--
birds, nesting boxes were hung along the trails and logs and brush were piled as habitat to provide thermal cover for snowshoe hares. To monitor the progress towards our healthy habitat goal, we placed a few game cameras along the trails to observe new visitors.

In the fall of 2017, the snow came early; the lumber company finished their work with the skid roads and initial thinning by early December. Peace was restored to the forest. We spent a wonderful first winter snowmobiling, snowshoeing and cross-country skiing on our new trails and admiring the dark night skies and views into Glacier National Park and the Whitefish Mountains in the Flathead National Forest.

From the new trail system, we are already observing significantly more wildlife. During winter, the tracks in the snow are monitored to evaluate progress. The results are both rewarding and informative. Small rodents love the dense areas of cover. The elk, deer, moose, bobcat, wolves and foxes appear to enter through National Forest land, using the new trails to roam throughout the property. Elk are frequent visitors to the newly thinned areas around both the house and pond. We even had a moose and calf wander by the house, and on one occasion caught an elk on video licking the game camera. With the arrival of spring and new grasses appearing in meadow areas, more animals will frequent the property and become a regular part of the new trail environment.

Sustainably managing the trail system and forest will be an ongoing process. Plans for 2018 include connecting the wider skid roads with narrower winding paths that are cut by hand and maintained with a weed wacker. The skid roads and meadow areas will be maintained using a brush hog attachment on the Bobcat. Spraying of meadows, trails and roads to prevent spread of noxious weeds, followed by seeding with succulent grasses, will be an ongoing part of the trail maintenance program.

The Natural Resources Conservation Service (NRCS) provides technical and financial assistance through their Environmental Quality Incentive Program (EQIP). We have submitted an application and are currently working with the NRCS to develop a multiyear plan, which will include additional precommercial thinning and tree planting to enhance forest health and diversity.

In summary, using the trail system to define forest management zones and the location of skid roads allowed us to establish a path toward a healthier forest with recreational and aesthetic value, and diverse habitats—all within six months of moving to the property. As new family forestland owners, the process of developing a forest management plan and building a trail system has connected us deeply with the property—the habitat that it provides and the

---Continued on page 31---
Making Your Property Fire Resistant and Wildlife-Friendly

Adapted from the Woodland Fish and Wildlife publication: “Wildlife-Friendly Fuels Reduction in Dry Forests of the Pacific Northwest” by Nicole Strong and Ken Bevis. You’ll find the full publication at woodlandfishandwildlife.com/category/publications. knowyourforest.org/learning-library/creating-a-home-for-wild-animals or catalog.extension.oregonstate.edu/pnw618

Many forestland owners are making their forest more resistant to fire. Unfortunately, sometimes we get so good at cleaning up the forest that we remove valuable wildlife habitat. You don’t have to eradicate all fuels to make a forest fire-resilient; instead, focus on breaking up the continuity of fuels to limit fire spreading into tree crowns and throughout your property.

Snags and Down Logs
Some of the most important habitat features in any forest are dead wood: snags and down logs. Insects reside in dead wood and birds, such as woodpeckers, nuthatches and chickadees, feed on these insects. Leave as many large snags and down logs on the landscape as possible where they aren’t a hazard: the bigger the better!

Shrubs
Clumps of shrubs provide excellent fruit, insects, hiding cover and forage for wildlife. Almost any shrub with “berry” in the name should be encouraged! The key here is location: you don’t want tall shrubs underneath trees with low-hanging branches. Consider leaving shrub clumps out in openings.

Openings (Gaps)
Openings, where all or nearly all the overstory trees are removed, allow for the development of native plants for wildlife, as well as regeneration of shade-intolerant tree species. Openings in long sinuous shapes (no more than 50-110 feet across) will make wildlife feel safer than big circles or squares.

Patches (Clumps)
Dense pockets of trees provide quality habitat for many species, from songbirds to big game. Patch retention in thinning units can provide this habitat but needs forethought. Aim for 10-15 percent unthinned patches (and 10-15 percent in openings) per stand or unit.

Slash Piles
Piles can be left as habitat and surrogates for down wood. Pile 3-5 layers of logs crisscrossed or in triangles. Cover the top with about 2-3 feet of fine branches. Habitat piles can be used as a slash treatment option. If they catch fire, they will burn hot only in that spot. Place them away from overhanging trees to prevent a ladder to the crown.

Pruning
Pruning trees reduces ladder fuels. Some people like the way it makes the forest look: neat and tidy with great visibility. Unfortunately, all that visibility reduces cover for wildlife. Fledging birds and small mammals rely on low-hanging branches to get off the ground or hide. If you have an old tree with large branches your strategy might be to remove all the vegetation around the tree or make a small clump. You might also only prune trees in areas where you have ladder fuel concerns.

These recommendations can help improve resilience, wildlife habitat and aesthetics. Evaluate your risk and create a management plan to meet your goals based on your resources and the scale of your property.

Thinking About a Forest Management Plan?

A forest management plan helps communicate a vision for your forest and guides the business of managing your land. Management plans demonstrate your commitment to the resource and are a gateway to cost-share programs and sustainable forest management certification.
I can’t say how many times over the years I’ve heard it mentioned that someone wants to merge the concept of a vacation property and a working tree farm. What a wonderful thing, right? Having a beautiful retreat with great property taxes and generating annual tax deductions with some occasional income—why not? Well, because it probably won’t work out in practice the way you hoped it would.

So, you ask, “Why can’t I just do what I want on my own land?” The answer is, you can do what you want on your own land; just be ready for some undesirable consequences. For example, don’t expect to necessarily continue qualifying for the very favorable property tax rates enjoyed by tree farms; that will also include the uncomfortable surprise that you must catch up the many past years of additional property tax assessments. Also, the IRS is not likely to be as accepting of certain tax deductions. Your travel expenses are a lot easier to defend if your trip to maintain the farm doesn’t also include ten days of fishing and camping on the farm with thirty-seven of your extended family members.

OK, that makes sense. Then where are the bright lines that I need to follow? Unfortunately, there aren’t many bright lines on this one—as usual—but there are some things that clearly help. For example, the safest thing you can do if you want to have a vacation home and a tree farm that are on the same property is to just separate them. In other words, carve out five acres, officially change its designation in the tax rolls and build your cabin there. There’s no reason you and yours can’t go for a hike or do some fishing on the remaining 155-acre tree farm while vacationing on your five acres.

While that strategy takes care of some issues, it’s still not going to allow you to deduct other costs that were incurred primarily for your vacation, like the travel costs mentioned above. I would also suggest shying away from more significant expenditures that serve both parcels of land, such as certain maintenance equipment. This is getting into the grey area again, so your best bet is to just do as much as you can to not confuse the two concepts. From time-to-time, when you do have something that might have a dual benefit, it is far easier to claim those isolated items than if the dual-purpose expenses were ubiquitous.

There is a second, and very different, topic I would like to fit into this piece when it comes to recreational activities on your tree farm. This topic has much more to do with tax
planning—namely, passive income and some opportunities to improve on your overall tax strategies. Before I get to the detailed point, let me just make sure we are all thinking about the same things. There are distinct types of income when it comes to tax—ordinary income (e.g., wages or routine business income), capital gains (both short- and long-term) and passive income, like income from a rental. Those different forms of income sometimes add up together, and other times not. Sometimes they have certain restrictions that other types don’t.

For the passive category, suffice it to say that, in any one year, your ability to deduct losses can be significantly limited, which means you end up having passive losses that get suspended until some passive income comes along to neatly offset the historic losses—if ever. That means a lot of people are looking for passive income generators (PIGs). The most common situation I see is someone with a group of rental houses. Those investments normally throw off tax losses for the first several years because of depreciation, even though they may have a neutral, or even positive, cash flow. But the investor doesn’t enjoy the tax benefit of the passive losses unless they can also bring in a PIG.

So why am I talking about PIGs? Because there are a lot of potential recreational activities on a tree farm that can involve renting things to people, like a land lease and/or hunting right. This is a much bigger part of the economic model for farms in the Southeast, but still relevant for the Pacific Northwest. Rents are, by black-letter definition, passive income.

And these kinds of rental activities are not likely to generate a tax loss. They will almost always be a PIG.

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**Send in Your Tax Question**

Do you have a question that relates to accounting, business, or tax planning? If so, send it to tax expert John Johnston (jjohnston@bbjsllp.com) and he will answer it in the next scheduled column.

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**Disclaimer:** To ensure compliance with requirements imposed by the IRS, any tax advice contained in this communication was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties that may be imposed on the taxpayer under the Internal Revenue Code or applicable state or local tax law, or (ii) promoting, marketing or recommending to another party any tax-related matter(s) addressed herein.
DEAR TREEMAN, I live in the Willamette Valley and always look forward to seeing the bald eagles come up from the Klamath area during the winter. Then, in the spring, they leave and the buzzards show up. Do these birds not get along with each other? When one arrives the other leaves. —Bird Watcher

DEAR EAGLE EYE, Your observations are correct, but a bit incipient on the inferences. Yes, the bald eagle does arrive in your neck-of-the-woods during the winter months, but their travelogue reveals a southern route to arrive versus a northern one. Eagle people do not characterize the bird as a migratory one, rather their flight patterns to and from their breeding grounds as seasonal movements. The reason being, almost all bald eagles move away from their nesting areas only as far as they must to survive: to find food. The Willamette Valley is on the cusp of winter versus summer habitat, so it is entirely possible some of the eagles near your latitude have taken up permanent residency.

Buzzards, or turkey vultures to be more accurate, are a bit more migratory. In the United States, when you say buzzard it connotes a turkey vulture of the genus Cathartes. Outside the U.S. a buzzard belongs to the genus Buteo, or a bird of prey, predatory bird or raptor. We prefer the U.S. interpretation, because a buzzard does not kill its prey to eat, but feasts after someone/something has killed the upcoming entree.

Again, residing near the 45th parallel, you may find your local buzzard to be a migratory one or a local yokel. Some of our area’s vultures migrate only to California, but others may travel all the way to Central and South America for the winter. They are among the first migrants to return to western Oregon, often arriving in late February or March. Their arrival is in proximity to the time the eagles exit for breeding grounds to the north, not because the two species aren’t birds-of-a-feather and may flock together, especially when it comes to dinner time.

As stated, buzzards do not kill to eat, but eat what’s already been killed. Typically, people associate bald eagles as “cleaner” birds because they kill to eat, fish being the preferred entree. But perception does not necessarily beget reality. “Cathartes” is Greek for one who purifies or cleans. Buzzards are nature’s clean-up committee: the sanitary engineers of the bird world. The bald eagle’s menu is not so cut-and-dried. True, the bald eagle is a raptor, or bird of prey, but they aren’t above accepting a reservation at the cow cadaver cantina or the bloated beaver bistro. Some jealously call the bald eagle the buzzard of the raptors, and it may have a negative connotation, but is true nonetheless.

Appearances can be deceiving. It is not a stretch to say the buzzard likely will not win a beauty contest, considering that wrinkled, red, featherless head. But when you’re first on the scene to cleaning up a roadkill, it’s nice to not concern yourself with getting blood and guts and the like all over your feathery face. Our bald eagle is not so fortunate, particularly if they arrive ahead of the rest of the scavengers. Which begs the question, “Who is best-fitted to seek out all this death and destruction?”

If you have “eyes like an eagle” you can see eight times better than the average human, detecting a mouse two miles away or an ant from a 10-story building. Eyes like a buzzard is roughly equivalent, though rather lugubrious in terms of linguistics. In terms of the olfactory, buzzards have it over eagles in spades. Eagles have a relatively undereveloped “nose” while buzzards are known to be able to smell dinner from over a mile away. And one may “soar like an eagle,” but again, the reality is buzzards are equal to the task in terms of aeronautics.

The tendency is to see vultures together, called a committee, venue or volt, while a group of eagles is called a convocation. And when buzzards are feeding together the group is called a wake, much different than any wake we humans might attend. Whew! About your question regarding whether they get along, you can witness both birds at the same dinner table. The pecking order being eagles, buzzards, then crows. But after they leave the restaurant, they typically go their separate ways.

Finally, buzzards prefer fresh food—not leftovers—thus the nefarious term of something so offensive to our olfactory senses as to “drive a buzzard off a gut wagon,” is inaccurate. Just serve up a fresh kill and our buzzard will be more than glad to relinquish that wagon of leftovers to the bald eagles. Our poor ol’ buzzard, getting the short end of the image stick every time. Not only is life unfair amongst us humans, but our fellow creatures must endure the same emotional hardships. C’est la vie, mon Cathartes. —Treeman
wildlife that relies on it—making it quickly feel like our home and habitat too, despite being recent transplants. It’s a dream-come-true to bring in the New Year with all of the family on the trail, enjoy the views of the park and the wildlife tracks, and ski cross-country to bed.

LORNA AND JIM RITTENBURG received post-graduate degrees from the University of Maine in Animal and Veterinary Sciences and Microbiology, respectively. They both love nature and the outdoors, and in 2017 bought a 142-acre forested property in northwest Montana near Glacier National Park. After completing a forest stewardship program, they developed a multiyear forest management plan for the property, and completed the first phase including trail development, timber harvest, precommercial thinning, habitat enhancement and fire mitigation. Lorna can be reached at 267-992-0881 or LornaRitt@aol.com; Jim can be reached at 215-796-1592 or Jim.Rittenburg@icoptix.com.

Happy Trails for Habitat, Recreation and Views
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Taking a refreshment break along the ski trail that runs along the west edge of the property where it borders the Flathead National Forest. The trail design allows virtually unlimited travel on old logging trails and roads.
Got questions? Get answers.

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