

Initial Analysis of CFLRP impacts on NEPA scale, timeframes, and litigation  
 April 12, 2018

USDA Forest Service Washington Officer staff (Forest Management Range Management and Vegetation Ecology and Ecosystem Management Coordination) completed an initial analysis exploring the impacts of CFLRP on the scale of acres proposed for treatment, planning timelines, and litigation, in order to better understand CFLRP influences. We expect analysis to be ongoing, therefore, the data below represents a snapshot of trends identified at this point in time.

**Data and Key Caveats**

- PALS database was used for acres proposed for treatment, and time elapsed. Litigation data came from PALS and data tracked by EMC Litigation Specialists. Data available in PALS database is incomplete
- CFLRP data list self-reported by request from Regional and Project CFLRP Coordinators.
- Per the authorizing legislation, CFLRP funding can be spent only on project proposal implementation and monitoring – not planning. Many of the projects came in to CFLRP with “shelf stock” NEPA, and may have had little or no additional subsequent planning efforts within the CFLRP area.
- **The CFLRP sample size of projects is small. A simple statistical test for significance shows that the results, therefore, are not statistically significant.**
- Because trends vary considerably by Region, national averages may be skewed and should be used with caution.

**Key Results - NEPA Scale and Timeframes:** The table to the right summarizes the scale of CFLRP projects and their timeframes for completion by the level of NEPA analysis.

- Trends vary by Region, in some cases dramatically. For example, in Region 2, EA’s were 27% faster for CFLRP projects than the regional average, whereas in Region 3, the average was 17% faster.

Type of Document	Scale (Acres Proposed for Treatment)	Timeframe (Time Elapsed from Proposed Action to Decision Signature)
Environmental Impact Statement (EIS)	CFLRP projects are 175% (or three times) larger, on average, than national average for vegetation management projects. <i>The national average is 33,555 acres and the CFLRP average is 92,392.</i>	CFLRP projects are 10% faster than the national average for all types of decisions and 2% slower than average for vegetation management decisions. <i>The national average is 1,006 days and the CFLRP average is 1,026 days.</i>
Environmental Assessment (EA)	CFLRP projects are 7% larger, on average, than the national average for vegetation management projects. <i>The national average is 10,846 acres and the CFLRP average is 11,608.</i>	CFLRP projects are 15% slower than the national average for all types of decisions and 18% slower than average for vegetation management decisions. <i>The national average is 578 days and the CFLRP average is 682 days.</i>
Categorical Exclusion (CE)	<i>National data not available.</i> CFLRP projects average 1,311 acres proposed for treatments under CE's.	CFLRP projects are 25% slower than the national average for all types of decisions and 19% slower than average for vegetation management decisions. <i>The national average is 189 days and the CFLRP average is 224 days.</i>

**Key Results – Litigation**

- **Approximately 4% of all CFLRP decisions were challenged in Federal Court** from FY2010 to FY2017. All decisions were either EIS’s or EA’s, and most were vegetative management projects.
  - **Nationally, 2% of all decisions were challenged** over the same time period, including CEs, EAs and EISs
  - **Nationally, 7% of vegetation management projects analyzed through an EIS or EA were challenged** over the same time period.
- Plaintiffs in CFLRP lawsuits are **generally environmental groups (78%), slightly higher** than litigation filed



against the Agency as a whole (75%) and **somewhat less** for vegetative management projects (85%). Plaintiffs challenging CFLRP decisions are more focused on violations of NFMA and ESA.

### **CFLRP Participant Perspectives on Litigation and Decision-Making**

- A 2017 study completed by a team of third party researchers showed that **75% of CFLRP participants surveyed said they had seen decreased conflict** and **61% said they had decreased litigation**<sup>1</sup>.
- According to a survey administered by the National Forest Foundation in 2014, nearly **75% of CFLRP participants surveyed agreed that the collaborative group's participation improves the Forest Service's decision-making process**<sup>2</sup>.

### **Conclusions**

- While not statistically significant, the trends identified through analysis of PALS and related litigation data, paired with qualitative, third-party studies of participant experiences and perceptions, indicate that CFLRP has **influenced the overall environment for environmental analysis and decision-making**.
- Moreover, this influence results in ripple effects beyond the CFLRP project boundaries, changing the social dynamics, building trust, and shifting how these units are approaching NEPA.

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<sup>1</sup> [https://ewp.uoregon.edu/sites/ewp.uoregon.edu/files/WP\\_81.pdf](https://ewp.uoregon.edu/sites/ewp.uoregon.edu/files/WP_81.pdf)

<sup>2</sup> <https://www.fs.fed.us/restoration/documents/cflrp/CoalitionReports/CollaborationIndicatorSurveyResults2014.pdf>

