

QFRs from 7/13 hearing – House Natural Resources Committee

Rep. Rosendale

1. How many proposed timber sales are currently tied up in litigation?
2. How many total acres of proposed timber sales are currently tied up in litigation?
3. What is the approximate total value of the timber tied up in litigation?
4. What is the estimated total cost of this litigation to the U.S. Forest Service, including any anticipated settlement costs and legal expenses to be paid to plaintiffs?

Response to questions #1-4:

The Forest Service tracks lawsuits filed against Agency land management actions but does not have a mechanism to track individual timber sales affected by litigation in the Agency's national databases. Litigation within the Forest Service is often focused on project-level decisions, many of which include multiple activities and, in many cases, multiple individual timber sales. Sale of timber may be part of litigation but unless the proposed project activities are enjoined, individual sales may continue to be offered while litigation is under consideration by the courts.

Similarly, the Agency does not track individual employee time spent in responding to litigation and settlement expenses. These activities are difficult to project accurately; however, defense of a lawsuit typically requires the time of some employees from the agency, resulting in the diversion of resources needed to help the agency achieve its land management goals. The Forest Service does provide data regarding fees paid under the Equal Access to Justice Act (EAJA) to the Administrative Conference of the United States, who reported to Congress the Forest Service paid \$443,100 in Fiscal Year (FY) 2019 and \$725,720 in FY 2020, in EAJA fees. These fees pertained to litigation against land management decisions. Once litigation is filed, it usually takes more than one year before a case is resolved. Projects under litigation may be delayed and sometimes not accomplished at all. Court decisions may even have a greater impact on the Agency by establishing precedent or requiring additional analysis.