



Winter 1979

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Recommended Citation

Paul J. Culhane & H. P. Friesema, *Land Use Planning for the Public Lands*, 19 Nat. Resources J. 43 (1979).
Available at: <https://digitalrepository.unm.edu/nrj/vol19/iss1/4>

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LAND USE PLANNING FOR THE PUBLIC LANDS

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The most highly developed form of land use planning in the federal government—perhaps at any level of American government—is practiced by the public lands agencies. Planning by the U.S. Forest Service, the Bureau of Land Management (BLM), and the National Park Service is important because these agencies are the leading planners in many areas of the United States. Certain areas of the country have large blocks of federal lands, and communities adjacent to major public lands units are usually economically dependent upon the public lands. Moreover, the federal lands are the focus of increasing and conflicting management pressures: they are the sites of new resource development, particularly of energy minerals, but they are also the last remaining natural areas in the U.S. and thus the subject of the battle for wilderness preservation. Public lands agencies view planning as a means of resolving these management pressures.

Public lands planning also differs from typical governmental planning in that the public lands agencies have large areas of land under their jurisdiction, utilize land use plans, and have almost complete authority to implement their plans. The last characteristic distinguishes public lands agencies from most government planning agencies, which require approval by other units of government or acceptance by weakly regulated and politically strong private actors.

As other articles in this issue indicate, there has been an increasing interest during the 1970's in land use control at both the state and federal levels.¹ Planning for the federal lands has also received in-

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1. On state land use planning generally, see: F. BOSSELMAN and D. CALLIES, *THE QUIET REVOLUTION IN LAND USE CONTROL* (1971); R. HEALY, *LAND USE AND THE STATES* (1976). On the most well-developed state program, California's, see: M. MOGULOF, *SAVING THE COAST* (1975); Sabatier, *State Review of Local Land Use Decisions: The California Coastal Commissions*, 3 *Coastal Zone Management J.* 255-290 (1977); D. Mazmanian and P. Sabatier, *The Attitudes of an Administrative Elite: The Commissioners and Staffs of the California Coastal Commissions* (April 1976) (Western Political Science Association meeting paper, San Francisco).

The most commonly recognized land use statute at the federal level is the Coastal Zone Management Act of 1972, 16 U.S.C. §1451 (Supp. 1978). For discussion of the land use implications of other federal statutes, see *LAND USE CONTROLS IN THE UNITED STATES* (E. Moss ed., 1977).

creasing attention during the same period. The two major pieces of public lands legislation passed in 1976—the National Forest Management Act² and the Federal Land Policy and Management Act³—mandate comprehensive, long-range planning. In fact, planning, in one form or another, has become the predominant management activity of the public lands agencies. This article seeks to answer two questions. First, how much have recent changes, such as the 1976 Acts, affected the agencies' planning processes? Second, are public lands planning processes traditional, rational-comprehensive plans, like the standard urban/regional plans, or only very formalized policy/decision-making processes? Insofar as planning has become a major activity of public land managers, these questions involve an investigation of the management of the federal lands.

THE 1976 PLANNING STATUTES

Major public land legislation often differs significantly from the normal view of the legislative process as enactment of a statute that establishes an administrative program to alleviate an existing problem or respond to a public demand. For some of the most important public lands statutes, the normal ordering of legislative statute and administrative program has been reversed. The Forest Service's Multiple Use—Sustained Yield Act of 1960,⁴ for example, was an expression of the management philosophy that had guided the Service since the agency's founding in 1905. The operative sections of the Act were an elaboration—in the face of increased forest products industry pressure during the 1950's—of Gifford Pinchot's directive that the National Forests be managed “for the greatest good of the greatest number in the long run.”⁵ As we shall see, the two 1976 Acts, which are the statutory basis for planning by the multiple use agencies, were also basically statutory ratifications of existing administrative practices of the public lands agencies.

The BLM Act

The Federal Land Policy and Management Act (FLPMA) resolved a long-standing issue in public land management. Unlike the Forest Service, the BLM did not have an organic act (that is, a statutory

2. National Forest Management Act of 1976, 16 U.S.C. §1600 (1976) (hereinafter NMFA).

3. Federal Land Policy and Management Act of 1976, 43 U.S.C. §1701 (Supp. 1978) (hereinafter FLPMA).

4. Forest Service Multiple Use—Sustained Yield Act of 1960, 16 U.S.C. §528 (1976).

5. See e.g., H. STEEN, *THE U.S. FOREST SERVICE: A HISTORY*, ch. 11 (1976).

basis for its existence and mission). The Bureau desired such an act for two reasons. First, such acts give agencies statutory standing and permanence and contribute to their survival; careerists have an interest in agency survival because they identify with their agency's mission (as well as, of course, depending on the agency for their employment).⁶ Second, the BLM had gone through a difficult transition in the previous two decades. Established as a dominant use agency by the Taylor Grazing Act of 1934,⁷ the BLM (called the Grazing Service until 1946) came to be viewed as heavily influenced by its western livestock industry clientele.⁸ Its difficulties in carrying out good land management in the face of industry opposition were complicated by the fact that its main authority, the Taylor Act, was almost solely concerned with grazing. However, during the 1950's the BLM had become an increasingly professionalized agency, and professional land management is dominated by a multiple-use philosophy. Thus, BLM officers desired a multiple-use mandate similar to that of the Forest Service. Such a mandate would have the same advantages for the Bureau as it had for the Forest Service, allowing the agency to moderate conflicting demands of single-use, consumption-oriented clients. The Classification and Multiple Use Act of 1964⁹ granted the BLM a temporary multiple use mandate, but it expired in 1970 (even though the Bureau continued to act as if it were in force). Thus, a BLM organic act, with a multiple use mandate, was a persistent legislative agenda item during the 1970's.

A number of other issues, in addition to the desire for a multiple use organic act, structured the debate over the BLM 1976 Act. A significant controversy at the time of the Act's passage was the status of the BLM grazing program. As part of its general approach to NEPA, the Bureau had prepared a programmatic environmental impact statement (EIS) on the entire grazing program.¹⁰ The Natural Resources Defense Council sued the Bureau, alleging the programmatic EIS was inadequate. The court approved settlement in the case ordered preparation of an EIS for each of the BLM's allotment management plans.¹¹ While this settlement did not address the merits of

6. H. SIMON, *ADMINISTRATIVE BEHAVIOR*, ch. 6 (1957).

7. Taylor Grazing Act of 1934, 43 U.S.C. §315 (Supp. 1978).

8. See: P. FOSS, *POLITICS AND GRASS* (1960); W. CALEF, *PRIVATE GRAZING AND PUBLIC LANDS* (1960).

9. Classification and Multiple Use Act of 1964, 43 U.S.C. §1411 (Supp. 1978).

10. BUREAU OF LAND MANAGEMENT, *LIVESTOCK GRAZING MANAGEMENT ON NATIONAL RESOURCE LANDS, FINAL ENVIRONMENTAL STATEMENT* (December 1974).

11. *Natural Resources Defense Council v. Morton*, 337 F. Supp. 165 (D.D.C. 1974).

the BLM's grazing program or directly affect the 1976 Act, it did highlight the controversial nature of the BLM range program.

More directly relevant to the 1976 Act were two long-standing issues of range management—grazing fees and grazing advisory boards. The grazing fee issue had been important in BLM and Forest Service history since the 1940's when the Grazing Service (led by former Forest Service officials) began attempting to bring range fees up to a "fair market" level.¹² In 1969 the BLM and Forest Service began a phased increase in fees; the increase was moderately controversial, viewed by the livestock industry as unreasonable and by environmentalists as too gradual. While grazing fees were a very tangible policy, a more symbolic issue concerned grazing advisory boards. For many critics of the BLM, the old grazing advisory boards were the means of the supposed capture of the agency.¹³ However, by the 1970's the BLM had broken the stranglehold of the boards, was in the process of phasing the grazing boards out, and preferred to establish multiple-use advisory boards to better reflect its new mission and broader constituency.¹⁴ The livestock industry succeeded in having both the grazing fees increase and the phase-out of the advisory boards placed on the agenda along with the organic act.

The BLM has also been forced to place environmentalists' demands on its policy agenda in the 1970's. One set of demands focused on the problems of the California desert, a wild area subject to severe use pressure by off-road-vehicle enthusiasts from southern California urban centers. This issue received considerable national publicity. It also highlighted the police power issue; BLM managers, unlike Forest Service or Park Service rangers, did not have law enforcement authority. This lack of authority was generally believed to hamper control of abuses of lands under BLM jurisdiction.

The Federal Lands Policy and Management Act was the answer to the Bureau's quest for an organic act. The Act was a compromise between a balanced Senate bill and a House bill that was considered more responsive to livestock and mining interests.¹⁵ The Act gave the BLM statutory standing and made the BLM director's appointment subject to Senate confirmation. It gave the BLM its desired

12. See, e.g., FOSS, *supra* note 8, ch. 8.

13. *Id.* ch. 7.

14. P. Culhane, *Politics and the Public Lands* (1977) (Northwestern University PhD dissertation) at 255-258.

15. S. 507 and H.R. 13777, 94th Cong., 2d Sess. (1977) respectively. For a detailed comment on both Acts, see Major New Public Land Laws Provide Detailed Guidance for Activity of Forest Service and Bureau of Land Management, 6 ENVIR. L. REP. 10240-10245 (1976).

multiple-use mission,¹⁶ while placing a one-year moratorium on fee increases, and directing the BLM and Forest Service to restudy grazing fees, "[taking] into consideration the costs of production . . . and other such factors which may relate to the *reasonableness* of such fees."¹⁷ The Act also addressed the advisory board question, providing for grazing advisory boards in regular BLM grazing districts to advise district managers solely on "the development of allotment management plans and the utilization of range-betterment funds."¹⁸ This function was less than the effective power of the boards in the 1940's and 1950's and was congruent with the diminished level of board influence in the early 1970's. The statutory provision for grazing boards was balanced by an authorization for the BLM to establish multiple-use "advisory councils." Reflecting the BLM's multiple use mission, the advisory councils would have representatives of the diverse interests concerned with public land management, such as conservationists, local government officials, and recreationists, not just the stockmen who dominated the grazing advisory boards. The Act recodified many of the BLM responsibilities for land withdrawal, disposal, and classification, marking the final "closing of the public domain."¹⁹ One of the more controversial aspects of the Act, which led to opposition of the Ford administration to the bill, was the provision for a two-house congressional override of major sales, withdrawals, or classification decisions of the Secretary of the Interior.²⁰ Title 6 of the Act established a California Desert Conservation Area and mandated a BLM Wilderness Study.²¹

16. 43 U.S.C. §§ 1732(a), 1702(c); § 302(a), 103(c) Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1701 (Supp. 1978). The wording of the mandate is almost identical to the Forest Service's mandate in the Multiple Use-Sustained Yield Act of 1960, 16 U.S.C. §§ 528, 531(a) (1976).

17. Federal Land Policy and Management Act, § 401(a), 43 U.S.C. § 1751(a) (Supp. 1978) Emphasis Added.

18. Federal Land Policy and Management Act, § 403(b), 43 U.S.C. § 1753(b) (Supp. 1978).

19. The "closing of the public domain" is a major theme in U.S. public lands history, referring to the gradual ending of the land disposal policies of the 19th century and beginning of the land management policies of the 20th century. See, E. PEFFER, *THE CLOSING OF THE PUBLIC DOMAIN* (1951); M. CLAWSON, *THE BUREAU OF LAND MANAGEMENT*, ch. 1-2 (1971).

The main sections of the Act related to the land classification and withdrawal function are 43 U.S.C. §§ 1713, 1722, 1744, 1761, 1771 (Supp. 1978) and repealers §§ 161-164, 702-704, 706 (1974).

20. Federal Land Policy and Management Act, § 202(e), § 204(c), 43 U.S.C. §§ 1712, 1714 (Supp. 1978). Also see: Major Public Land Laws Provide Detailed Guidance Management, ENVIR. L. REP. at 10243.

21. Federal Land Policy and Management Act, § 603, 43 U.S.C. § 1782 (Supp. 1978). The wilderness study provisions are similar to those of the Wilderness Act of 1964, 16 U.S.C. §§ 1132(b), 1132(c), as applied to the Forest Service, National Park Service, and Fish and Wildlife Service.

Finally, and most important for this article, the 1976 Act provided that land use planning was to be the main vehicle for BLM management: "The Secretary [of the Interior] shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 202 of this Act. . . ."²² While Section 202 does not specify the exact processes of land use planning or provide policy guidelines beyond the multiple-use doctrine, it does mandate public participation, and planning procedures similar in part to the National Environmental Policy Act (NEPA) process.²³ The planning section's most controversial provision was that BLM was, "to the extent consistent with the laws governing . . . the public lands, [to] coordinate the land use inventory, planning, and management activities with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located."²⁴ Thus, despite the public debates over issues such as grazing fees, the section 202 mandate is the centerpiece of the Act because it specifies that the "land use plans . . . provide by tracts or areas for the *use of the public lands*,"²⁵ that is, that the plans be *the* BLM policy for a given area.

The Forest Service Act

The issue that led to the National Forest Management Act of 1976 (NFMA) was narrower than those that structured the BLM act. For several years, the practice of clearcutting (the harvesting of all trees on a tract of land as a part of an "even aged management" prescription) had been intensely controversial. The Service favored the practice because it contributed to thrifty silviculture; the forest products industry basically agreed and supported the practice on economic grounds, but most environmentalists adamantly opposed the practice on aesthetic and resource-damage grounds. The clearcutting controversy, which first gained national attention in 1970, was brought to a head by the decision in *West Virginia Division of the Izaak Walton*

22. Federal Land Policy and Management Act, §302(a), 43 U.S.C. §1732(a) (1960, Supp. 1978).

23. The public participation sections are §§202(a), §202(f), 43 U.S.C. §1712 (Supp. 1978). Although EIS's are not explicitly mentioned by the Act, §202(c)(2) and §202(c)(7), 43 U.S.C. 1712 (Supp. 1978), refer to the systematic interdisciplinary approach" and "long term versus short term" aspects of the NEPA process. On the importance of NEPA, see 16 NAT. RES. J. 243-362 (1976).

24. Federal Land Policy and Management Act, §202(c)(9), 43 U.S.C. §1712 (Supp. 1978).

25. Federal Land Policy and Management Act, §202(a), 43 U.S.C. §1712. Emphasis Added. (Supp. 1978).

League v. Butz (the Monongahela decision) in 1975. The U.S. Fourth Circuit Court of Appeals held that the plain meaning of the 1897 Organic Act,²⁶ which provided for logging only trees that were "dead, matured or large growth" and individually "marked and designated," prohibited clearcutting.²⁷ The decision disrupted the Service's harvest schedule in those states included in the Fourth Circuit and threatened the use of even-aged management. By implication the stability of the whole national sales program was threatened. The Service asked Congress for remedial legislation.

Among the four major bills introduced in Congress, debate revolved primarily around the bills of Senator Jennings Randolph (D., W. Va.), S. 2926, supported by environmentalists, and Senator Hubert Humphrey (D., Mn.), S. 3091, supported by the Service and the forest products industry.²⁸ Although aspects of Randolph's approach were added along with amendments in the House, the bill that passed was basically Senator Humphrey's. (Thus, the late Senator Humphrey, the 1956 sponsor of the bill that became the Multiple Use-Sustained Yield Act of 1960, made one last major contribution to public land law.) The Humphrey bill was written as an extensive amendment of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA),²⁹ which was to become critically important to an understanding of the long-term implications of the NFMA.

While the clearcutting issue precipitated Congressional deliberations, Congress never seriously considered a ban on the practice. The primary issue was the specificity of statutory standards to be imposed on clearcutting and even-aged management. When the Randolph forces lost a crucial committee mark-up vote, the issue was resolved in favor of Forest Service professional discretion. The rest of the process of passage was devoted to resolving differences on other forest management issues.

The bill, as passed, addressed a wide range of issues. The clearcutting issue was resolved by the repeal of those Organic Act sections that had led to the Monongahela decision, and by provision for

26. Act of June 4, 1897, 30 Stat. 34, as amended: 16 U.S.C. §475-482 (1976).

27. West Virginia Division of the Izaak Walton League v. Butz, 522 F.2d 945 (4th Cir., 1975). Also see *Zieski v. Butz*, 406 F. Supp. 258 (D. Alas., 1975), which, relying on the Fourth Circuit decision, enjoined clearcutting on the Tongass National Forest. The relevant Organic Act section was, before being repealed by the NFMA, 16 U.S.C. 476 (1974).

28. On the history of the NFMA generally see LeMaster and Popovich, *Development of the National Forest Management Act*, 74 J. FORESTRY 806-808 (1976).

29. Forest and Rangeland Renewable Resources Planning Act of 1974, 16 U.S.C. 1601 (1976), as amended by Act of Oct. 22, 1976, Pub. L. No. 94-588, 90 STAT 2949.

guidelines to be written by the Secretary of Agriculture regulating stand conversion, even-aged management, and clearcutting. Although providing for "interdisciplinary review" of cutting prescriptions, cuts in conformance with natural terrain, and "the protection of soil, watershed, fish, wildlife, recreation, and esthetic resources, and the regeneration of the timber resource," the Act left the Service with considerable flexibility. The Act upheld the Forest Service's policy on the "non-declining even flow" concept of sustained yield harvest, the subject of much debate in the forestry profession.³⁰ It prohibited logging of marginal lands "not suited for timber production."

On more peripheral issues, the Act provided for sealed bidding on timber sales to prevent collusion, the return of temporary forest roads to vegetation and road designs of only the minimum necessary standard, increased payments-in-lieu-of-taxes to local governments, increased authorization for reforestation backlog work, and permanent statutory designation of National Forest System units (which formerly had only the lower standing of presidential proclamation).

Finally, throughout the Act Congress reaffirmed that Forest Service management was to be guided by the multiple-use doctrine, especially with respect to timber management issues. The definition of multiple-use, it should be recalled in connection with criticisms of Service timber policy, states that the optimum policy is "not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output."

The centerpiece of the new Act, however,—as with the BLM's FLPMA—was its planning provisions. The 1974 RPA had required a Forest Service national resources planning process. The 1976 Act extended this statutory mandate to include comprehensive land use planning for all local administrative units of the National Forest system. These land use plans were to be primary policy documents for multiple-use management of the Forest system. In fact, many important substantive provisions of the NFMA, such as the even-aged management constraints, are technically provisions of the section 6 land use planning process.

Implications of the 1976 Acts

For the present, the FLPMA and the NFMA each resolved the issues that gave rise to them: BLM organic legislation, even-aged

30. NFMA §11, 16 U.S.C. 1611 (1976). The section, however, contained a provision for possible exceptions which has led to considerable debate over its implications and interpretations.

"Non-declining even flow," to be discussed below, sets an upper limit on the quantity of timber which can be cut "from such forest annually in perpetuity on a sustained yield basis."

silviculture, etc. In the future, however, these two statutes will be considered important as the first statutory mandates for comprehensive land use planning for the federal lands—a feature that was given little attention in the debates or interest group lobbying on the bills.

Unfortunately, the Acts' planning mandates contain an inherent ambiguity. On the one hand, comprehensive land use planning clearly implies a professional, rational decision-making process. In the case of the NFMA, the tie-in of planning to professional foresters on even-aged management was adopted and incorporated into the land use planning section. Both the FLPMA and the NFMA provisions imply professional planning since the guiding principles of both Acts are the same—the multiple-use standard, the central dogma of the natural resources management profession. Both Acts embody elements of the classic rational decision-making process, specifying, for example, the preparation of inventories to provide a data base for the planning process and the evaluation of alternatives and their consequences.³¹ Moreover, both require planning by “interdisciplinary” teams, a hallmark of the planning profession designed to insure the thorough, rational consideration of all possible alternatives and consequences.

On the other hand, both Acts restrict the exercise of professional judgment and limit that exercise in ways with strong political implications. First, both provide for coordination of the agencies' plans with other federal agencies (primarily each other) and with state and local governments; the BLM plans are to be “consistent with” the plans of other units, while Forest Service plans are only required to be “coordinated with” other units of government. While arguably seeking only to avoid confusion of policy, these provisions have led environmentalists to fear an inordinate influence of other units of government (local governments are generally regarded as very consumptive use-oriented, due to fiscal exigencies). Second, both Acts provide—twice in the BLM Act and three times in the NFMA—for public participation in the planning process. As has been noted previously by the authors³² and attested to by heavy environmentalist

31. NFMA, 16 U.S.C. §1604(g)(2) (Supp. 1978); FLPMA, 43 U.S.C. §1712, §202(c)(4) to 202(c)(7) (Supp. 1978).

The classic rational decision model includes four steps: (1) identification of goals; (2) identification of all possible alternative means to achieve the goals; (3) consideration of all relevant consequences of each alternative, and (4) selection of the alternative which maximizes one's goal-attainment in light of the alternative's consequences. See SIMON, *supra* note 6, at 67.

32. See CULHANE, *supra* note 14; Friesema & Culhane, *Social Impacts, Politics and the Environmental Impact Statement Process*, 16 NAT. RES. J. 339-356 (1976).

support for participation requirements, public participation is a primary mechanism of environmentalist influence in the public lands policy decision process. Thus, while envisioning rational-professional land use planning, the two acts require procedures that accommodate political influence by environmentalists and often politicized inter-agency and intergovernmental "coordination."

FOREST SERVICE LAND MANAGEMENT PLANNING

The central feature (§ 6) of the 1976 NFMA involves land use planning, and the Act's planning mandate is the first explicit authorization for Forest Service planning. The Act, however, did not create its planning mandate from whole cloth, requiring a new or revolutionary management activity of the Service. Both the general concept of planning and many of the procedural specifics were so well developed before 1976 that it is fair to say the Act legislatively ratified ongoing Forest Service practices. (As we shall see, the same can be said of the FLPMA's planning provisions.)

Pre-NFMA General Land Use Planning

The Forest Service has three general types of land planning.³³ "Land management planning" (as it is currently called) is a general and comprehensive planning process for all activities on a given area of land. "Functional plans" deal with a specific type of use (or "resource," in the Service's language) and usually describe how, when, and how much the resource will be used. The third type of plan, including "work plans" and budget-related plans, allocates the agency's personnel resources to specific managerial tasks.

The origins of the Service's planning process lie in the pre-1971 multiple-use plans. The multiple-use planning process was an administrative implementation of the Multiple Use Act of 1960; just as the Multiple Use Act was a response to increasingly difficult and divergent pressures on the Forest Service, so the multiple-use plans were an attempt to integrate and coordinate the divergent demands placed on uses of particular Forests. Each Forest Service region prepared a multiple-use guide that established the criteria for the multiple-use plans of the National Forests in the area; ranger districts then prepared their own multiple-use plans based on the plans for their

33. G. ROBINSON, *THE FOREST SERVICE: A STUDY IN PUBLIC LAND MANAGEMENT* (1975) (hereinafter ROBINSON) at 40-45, is a general source on pre-NFMA Service planning. See also, U.S. DEPT. OF AGRICULTURE *FOREST SERVICE MANUAL* § 8210-8229 (1975).

Forest. The Forest multiple-use plans were designed to be general frameworks within which management plans for specific resources would be coordinated. This objective, however, was as vague as the multiple-use mandate itself, and the planning documents tended to be vague. But while the multiple-use mandate is often criticized as vague, the objective is well understood by land managers: to optimize the provision of goods and services from the Forest (e.g., wood products, forage, wildlife habitat, recreation, etc.) by providing for uses while ensuring, by managerial restrictions on permitted uses, that one use does not diminish the land's ability to support other uses.^{3 4}

In 1971 the Forest Service changed its planning system. Under the new system, the two types of plans were "area guides," prepared by the regional foresters, and "unit plans," prepared on the Forests.

As in the multiple-use planning approach, the area guides consisted of broad planning criteria for geographic subdivisions (usually two to four) of each region. However, the production of area guides was given relatively low priority, and many regions had failed to produce final area guide documents by the time the NFMA changed the planning process.

The Forest-level unit plans received greater emphasis in the 1971-76 planning period. A major difference between the unit plans and the older multiple-use plans was the geographic definition of the planning unit. Under the older process, plans were produced for administrative units, the National Forests and the ranger districts. Under the new process, planning was based on ecologically defined land "units." Each National Forest contained an average of eight units, and in most cases the planning unit boundaries were not the same as those of the ranger district. As a formal matter, however, the major focus was on the unit plans; for example, each unit plan was accompanied by an EIS, signifying that the unit plan was a "major federal action."

The key attributes of the unit planning process were the use of interdisciplinary teams to prepare plans and extensive public involvement in the planning process. The interdisciplinary team requirement, based on NEPA § 102(a), was designed to eliminate the biases inherent in decision making dominated by single professions. Planning teams were to be composed of, at a minimum, a team leader,

34. The best descriptions of the multiple use managerial philosophy are: Hall, *The Myth and Reality of Multiple Use Forestry*, 3 Nat. Res. J. 279-290 (1963); and Martin, *Conflict Resolution Through the Multiple Use Concept in Forest Service Decision Making*, Nat. Res. J. 228-236 (1969).

the responsible Forest Service line officer, and specialists on soils, wildlife, hydrology, timber, recreation, engineering (i.e., roads), range management, and landscape architecture.

The Forest Service (along with the Corps of Engineers) has been the federal agency most committed to the second facet of planning, the use of public participation.³⁵ Public participation was, in the Service's stated logic, closely related to the interdisciplinary planning process. One function of participation was to make planners "aware of the feelings, opinions, and needs of the public for whom the National Forests are managed." In making alternative land use plan management decisions, responsible line officers were instructed to "consider the *priorities and preferences expressed by the public*, the capabilities of the lands, and contributions [of the alternatives selected] to meeting Regional and National targets for a broad array of benefits [emphasis added]."³⁶ Both the explicitness of this directive and the implicit ranking of decision factors are noteworthy.

The major steps to be taken by the interdisciplinary team show the intermingling of professionalized and politicized planning. The Forest Service unit planning process consisted of eight steps:

1. "Identify public involvement needs and begin public involvement" (usually steps 3, 4 and/or 5, and 8, below, were the more important participation steps, though there was some participation at each step);
2. "Recognize and document the planning objectives [i.e., goals, based on Forest, regional, and national policy] relevant to the Planning Unit";
3. Inventory and "evaluate land use potentials, current resources, and public needs";
4. "Formulate resource activity possibilities" (that is, the maximum feasible productivity of the land for individual uses, irrespective of constraints);
5. "Formulate alternative plans which resolve various activity conflicts and achieve varying levels of contribution to the planning objectives";
6. "Analyze the differences among alternative plans to show trade-offs among various planning objectives";
7. "Select a recommended proposal from among the alternatives based upon an evaluation of how well each alternative satisfies the various objectives for the unit and the Forest," and file a draft EIS;

35. Friesema & Culhane, *supra* note 32; CULHANE, *supra* note 14; Culhane, *Natural Resources Policy: Procedural Change & Substantive Environmentalism*, NATIONALIZING GOVERNMENT: PUBLIC POLICIES IN AMERICA 201-62 (1978).

36. U.S. DEPT. OF AGRICULTURE FOREST SERVICE MANUAL §§1811-1812 (1975).

8. Review comments on the draft EIS, evaluate the plan, write and release a final EIS, and "make and document the decision on implementing the appropriate Unit Plan alternative."³⁷

Many of these steps are almost identical to those established in classic rational decision-making processes, especially steps 2 (goals), 4 and 5 (alternatives), 6 (consequences), and 7 (optimum decision).³⁸ However, the entire Forest Service process was embedded in a political milieu, as indicated by the positioning of the public involvement strategy as the first step and the requirement that the participation strategy provide for influence at each step.

The policies contained in unit plans were usually fairly general "management directions." For any area of land within the unit, the plan would identify the uses (timber production, recreation, range, etc.) to be allowed, often specifying the approximate intensity of the use (e.g., "developed" versus "dispersed" recreation, the former connoting campgrounds, ski areas, etc., and the latter wilderness-like management). Two important management concepts introduced with the unit planning process were the "travel influence zones," areas near highways or other travel routes to be managed primarily for esthetic values, precluding, for example, clearcutting, and "water influence zones," areas contiguous to bodies of water with significant outdoor recreation use, to be managed with scenic, esthetic and water quality values in mind.

By the time the NFMA was passed, the unit planning process was well under way. By March 1977 the Service had identified 1029 planning units nationally. Final environmental statements had been filed for 189 unit plans (18.4 percent), draft environmental statements had been released on another 79 plans (7.7 percent), and 207 more plans (20.1 percent) had draft environmental statements under preparation. Thus, about half of all unit plans were in an advanced stage.

Functional Plans

The broad "management directions" of unit plans did not constitute specific recommended programs and courses of action for use of planning areas. That task was carried out by the functional or "resource" plans. The typical Forest's repertory of resource plans included plans for timber management, outdoor recreation, range use, wildlife, transportation (i.e., forest roads), fire protection, information and education, and landownership adjustment. The level of detail and the time frames varied from one plan to another, as well as

37. *Id.* at §8226.1; numbering in the original consolidated and renumbered.

38. *Supra* note 31.

from Forest to Forest. Although there was no formal linkage between functional and unit plans, both types of plans were part of the system of preformed decisions designed to structure individual administrative decisions.³⁹

By far the most highly developed functional plan was the timber management (TM) plan. This was to be expected since forest products were the Service's major commodity output and the Service's officers were predominantly professional foresters. Each Forest's TM plan began with an inventory of the types of forest land on the Forest and the estimated volume of timber, species composition, and age classes of the trees in the various "compartments" (the primary administrative and silvicultural land units of timber management). The inventory data were then analyzed in light of the Service's silvicultural criteria (e.g., "the non-declining even flow" policy), making professional assumptions about certain parameters (the "rotation age," or length of time it takes to produce a mature tree, being the most important). This analysis became relatively sophisticated, with most Forests using the linear programming model Timber Resources Allocation Method, or "Timber RAM." The products of the TM plan were (1) the "potential yield," the maximum harvest over the period of the TM plan consistent with the sustained yield criteria, and (2) the "programmed allowable harvest," the annual volume of timber to be cut. The programmed allowable harvest usually included a schedule of timber sales to be offered in the 10-year TM plan period.

The Service's TM planning policies are the subject of considerable criticism, to say the least. While NFMA may have resolved the clear-cutting litigation, it only intensified other timber management issues. Most controversial is the Service's rather strict "nondeclining even flow" policy, which limits the allowable harvest to the amount of timber that can be removed yearly at a *constant* rate over the long run (which, in silviculture, may extend to 110 years at a minimum). The forest products industry, supported by many non-industry forest economists, argues that Forest Service policy is inefficient because much higher long-term yields could be obtained from old-growth stands if the nondeclining rule were relaxed to permit higher cuts in the short run and lower cuts in the medium run, resulting in much higher sustained yield cuts in the long run. The Forest Service position is guided in part by concern for the effects of the drop-off in timber yields in the medium-range years. The nondeclining even flow policy directly affects TM planning because it is a central constraint

39. On the importance of plans as a part of the Forest Service's system of preformed decisions, see H. KAUFMAN, *THE FOREST RANGER*, 98-102 (1960).

in planning computations (e.g., in the Timber RAM program). Because § 13 of the NFMA, which is related to the timber management provisions of the NFMA § 6 land use planning process, seemed to give statutory approval to the nondeclining policy, the whole timber harvest issue has been interjected into the comprehensive land use planning process being developed under NFMA. Indeed, the harvest issue has dominated the deliberations of the Committee of Scientists, which is charged by NFMA with advising the Service on implementation of NFMA planning provisions.⁴⁰

Timber management plans are one example (although in the most highly developed form) of functional plans. Another critical type of "functional planning" is the wilderness review process. Unlike TM plans, wilderness reviews have been the formal responsibility of the Forest Service Washington office (though the Forests participate heavily in the review process). The wilderness issue is the political obverse of the timber issue, strongly supported by environmentalists, who criticize the Service timber program as excessive, and opposed by professional and industrial foresters, who see the timber program as too conservative.

The federal program of designated Wilderness areas began with designation in 1924 of the Gila Wilderness in New Mexico by the Forest Service, and its 1939 "U regulations" establishing a system of wilderness and wild areas.⁴¹ After a protracted debate between the Service and the Wilderness Society, Congress passed the Wilderness Act of 1964,⁴² which established the administratively defined "wilderness," "wild," and "canoe" areas as Wilderness (54 areas, 9.1 million acres) and mandated a review by the Service of "primitive" areas (34 areas, 5.5 million acres) for suitability as Wilderness. In

40. For recent examples of this raging controversy in the forestry profession, see 75 J. FORESTRY 699-723 (1977) U.S. DEPT. OF AGRICULTURE, COMMITTEE OF SCIENTISTS, MINUTES (May 24-26, June 19-21, July 27-28, Aug. 29-30, Sept. 21-23, and Oct. 27-28, 1977) (hereinafter COMMITTEE OF SCIENTISTS MINUTES). NFMA § 13, 16 U.S.C. § 1611(a) (Supp. 1978), allows departures from nondeclining even-flow provided "only such planned departures [from nondeclining even-flow] must be consistent with the multiple use management objectives of the land management plan." Recently released proposed regulations would grant vague discretion to the Forest-level planning teams to consider alternatives including departures from even-flow (with the Forest Supervisor having primary decision responsibility among alternatives); National Forest System Land and Resource Management Planning, 43 Fed. Reg. 39,055 (1978).

41. On the Service's wilderness program, see ROBINSON, *supra* note 33; ch. 6, U.S. DEPT. OF AGRICULTURE FOREST SERVICE, NEW WILDERNESS STUDY AREAS, CI #11 (1973); U.S. DEPT. OF AGRICULTURE FOREST SERVICE, ROADLESS AREA REVIEW AND EVALUATION (RAVE II), 42 Fed. Reg. 59687-59716 (1977).

42. 16 U.S.C. § 1131 (1964). For convenience, "Wilderness" (capital W) refers to congressionally-designated areas under the Wilderness Act. The Act also requires wilderness reviews by the National Park Service and the Fish and Wildlife Service.

1972-73 the Service expanded its planning to include all areas that might meet the Wilderness Act criteria. The resulting Roadless Area Review and Evaluation (RARE I), accompanied by a massive public participation effort that netted over 54,000 comments, identified 1449 such roadless areas (55.9 million acres). RARE I resulted in a list of "New Wilderness Study Areas" (274 areas, 12.3 million acres) to be protected from development pending further study. This further study was to take place during the unit planning process; by March 1977, approximately 15% of the roadless areas in the seven western regions had been completely reviewed.

RARE I and the reviews of New Study Areas in the unit planning process did not, however, prove completely satisfactory. Preservationist groups were particularly dissatisfied with Forest Service criteria, which excluded almost all areas east of the 100th meridian from Wilderness consideration, and with plans of the Service to include inventoried, but unselected, roadless areas in TM plans for programmed harvest. Since 1974, a number of bills have been passed by Congress that successfully chipped away at the Service's position, adding 39 areas (3.3 million acres) to the Forest Service Wilderness system (which now totals 106 areas, 14.7 million acres).^{4 3} Two sets of statutory additions, those dealing with eastern wilderness and with "endangered" (i.e., not on the New Study Areas list) wilderness, can be considered partial rejections of Forest Service wilderness criteria. Prompted by problems with RARE I and the unit planning review process, the Carter administration's new Assistant Secretary supervising the Forest Service, Dr. M. Rupert Cutler (a former Wilderness Society staffer), began a second round of wilderness reviews. RARE II attempted to address systematic omissions from the RARE I process, especially eastern and National Grassland wildernesses. The

43. Eastern Wilderness Areas Act, Pub. L. No. 93-622, 88 Stat. 2096 (1975); Omnibus Wilderness Act, Pub. L. No. 93-632, 88 Stat. 2153 (1975); Hells Canyon National Recreation Area Act, Pub. L. No. 94-199, 89 Stat. 1117 (1975); Eagle's Nest Wilderness, Pub. L. No. 94-352, 90 Stat. 870 (1976); Alpine Lakes Wilderness, Pub. L. No. 94-357, 90 Stat. 905 (1976); Omnibus Forest and Refuge Wildernesses, Pub. L. No. 94-429, 90 Stat. 1342, 90 Stat. 905 (1976); Endangered American Wilderness Act, Pub. L. No. 95-237, 92 Stat. 40 (1978).

An additional 25 areas, at about 9.1 million acres, have been endorsed by the Administration as Wilderness additions and are pending action in Congress. Forest Service, Roadless Area Review and Evaluation, Draft Environmental Statement (Washington, June 1978), at 6. As of April, 1978, the National Wilderness Preservation System, including National Park Service and Fish and Wildlife Service areas totaled 175 areas, 16.6 million acres (with 89 acres, endorsed and pending Congressional action).

A related issue involves the Boundary Waters Canoe Area in Minnesota. At issue, in H.R. 2820 and H.R. 5968, 95th Cong., 1st Sess., is whether the BWCA is to be redesignated a full-fledged Wilderness or administered according to the Service's split management plan.

recent RARE II draft EIS considers the allocation of 2,686 roadless areas (62 million acres). Completion of RARE II is expected late in 1978.

Land Management Planning Under NFMA

An understanding of the 1974 Forest and Rangeland Renewable Resources Planning Act (RPA)⁴⁴ is basic to an understanding of current Forest Service planning processes. RPA required the Service to prepare an Assessment and a recommended Program for its nationwide, long-range activities. At the time RPA was passed, the Service was in the midst of a three-year effort referred to as the Environmental Program for the Future that was renamed to become the RPA planning effort.⁴⁵

This effort was a fascinating exercise. The RPA Assessment involved an inventory of the uses of the National Forest system and a projection of likely future demands on Forest resources. The RPA Program documents then provided packages of alternative programs for analysis. Service activities were broken down into seven resource "systems": wilderness, outdoor recreation, wildlife and fish, range, timber, land and water, and human and community development.⁴⁶ Each resource system was then discussed in terms of three to five alternative "goal" levels, with each goal expressed as different levels of policy outputs (from one output measure for wilderness to eight measures for fish and wildlife). Output levels were increases above 1975 levels, with projections by decade from 1977 to 2020; for example, from a base of 6.7 million recreation-visitor-days in 1975, Wilderness goal A projected 15 million days in 2020, goal B, 24.6 million, and goal C, 35 million. Each goal level also projected cost estimates for the various goals. The RPA Program document, written as an 894-page EIS, then discussed the environmental, social, and economic consequences of each goal level. Different goal levels for the various resource systems were combined into "alternative programs" (i.e., each program was composed of a goal level from each of

44. Pub. L. No. 93-378, 88 Stat. 476 (1974) (current version 16 U.S.C. §1600 (1976)).

45. Key RPA-related documents are: U.S. DEPT. OF AGRICULTURE FOREST SERVICE ENVIRONMENTAL PROGRAM FOR THE FUTURE, DRAFT (1974); U.S. DEPT. OF AGRICULTURE FOREST SERVICE, THE NATION'S RENEWABLE RESOURCES—AN ASSESSMENT, 1975, FINAL (1976); U.S. DEPT. OF AGRICULTURE FOREST SERVICE, A RECOMMENDED RENEWABLE RESOURCES PROGRAM, FINAL ENVIRONMENTAL STATEMENT (2 vols. 1976).

46. "Human and community development" may appear to be an unusual Forest Service activity, but it refers to programs like the Job Corps and Youth Conservation Corps, manpower programs which are useful supplements to the Service's main resource programs, and programs that date back to the Civilian Conservation Corps during the New Deal.

the seven resource systems). For example, the program finally proposed recommended a medium increase in recreation, a medium increase in Wilderness, a high increase in wildlife and fish, a medium increase in land and water, and a high increase in human/community development. In short, RPA, billed by the Service as "management by objective," was an attempt at full-blown, comprehensive, long-term, rational decision making, with cost-utility analysis, for the entire National Forest system. The Service followed this exercise by submitting its FY 1977 budget request in a "program development and budget" (i.e., PPB) format!

The National Forest Management Act of 1976 was technically an amendment of RPA. As the development of Forest Service planning has proceeded, RPA has turned out to be much more than a convenient statutory peg on which to hang the NFMA §6 planning mandate. The new "land management planning" (LMP) process being developed under NFMA has not yet been completed. In large part, the regulations on the LMP process, which were due by January 1978 under NFMA, have not been forthcoming because the NFMA §6(h) Committee of Scientists has not fully concurred with Service proposed regulations. This difficulty is attributable to the requirement for including timber harvesting guidelines, which have taken up much of the committee's time, together with the LMP process regulations. Final regulations are not expected until late 1978.⁴⁷ Thus, the following paragraphs describe the current tentative state of the LMP process, rather than a final planning program.

The NFMA planning process will focus on each Forest as the primary planning unit (as had been the case in the pre-1972 "multiple-use" planning process). In an early effort at planning under the Act, the Service used the Beaverhead National Forest (Montana) plan as a prototype. The Beaverhead plan was prepared for the Forest as a whole, but the Forest was broken down into seven "planning units" (analogous to the planning units in the 1972-76 unit planning process). Each planning unit was subdivided into three to eleven "management units" (average of 7.4 per planning unit), which were further subdivided into "subunits" (average of 8.5 per management

47. Information on the evolution of the land management process comes from: COMMITTEE OF SCIENTISTS MINUTES, *supra* note 39; interviews and personal communications with R. Hartgraves and W. Snyder, Land Management Planning, Washington Office, Forest Service; and U.S. DEPT. OF AGRICULTURE FOREST SERVICE, LAND MANAGEMENT PLAN—BEAVERHEAD NATIONAL FOREST, FINAL EIS (1978). As this article was at press, draft planning regulations were released for public comment; National Forest System Land and Resource Management Planning, 43 Fed. Reg. 39,046-39,059 (1978). The draft regulations' planning process conforms to the description in the text.

unit) ranging in size from 2000 to 4000 acres. Two or three "management objectives" were then proposed, with one or two "management options," for each subunit. A management option, the primary policy output in the Beaverhead plan, is a particular level of intensity of management of one of the resource systems; there are ten resource systems (timber, recreation, grazing, watershed, big game, fisheries, endangered species, wilderness, archeological-historical, and research natural areas), with from one to five levels of intensity each, for 23 possible management options. Thus, the Beaverhead plan had elements of the prior multiple-use and unit planning processes (the Forest-level and ecological unit-level planning foci), as well as RPA-style planning (planning by management intensity for the various resource systems).

The older 1972-76 unit plans, as well as the Beaverhead experiment, produced plans the policies of which were analogous to zoning in the typical urban land use plan. For example, the Beaverhead plan "timber management level 1" management option is low-intensity, "selective systems of cutting" timber management. But the option does not specify a detailed plan of implementation, including, for example, sales schedules and harvest volumes. These management directions are similar to an urban zoning plan in which, for example, "R1" limits an area to "single-family residences," but does not specify construction schedules, housing unit square footage, costs, etc.

The NFMA planning process seems likely to evolve beyond the unit planning and Beaverhead models by incorporating specific functional resource plans into Forest land management plans. For example, the LMP's will probably include all the basic information contained in a timber management plan, a separate planning process in the 1972-76 unit planning period that includes the calculation of acreages of forest land classifications, rotation, potential timber yields, and programmed annual harvests. This sort of TM plan information involves specific targets for timber sales, usually including both the sales schedules and projected harvest sizes. As another example, the LMP will include some functional wilderness plans. RARE II should resolve many, but not all, roadless area studies; as was the case under the unit planning process, LMP's will be expected to finalize wilderness studies not completed by RARE II. But all relevant LMP's will develop wilderness management programs; for example, a program for a very heavily used Wilderness might include a permit system to limit or better distribute backpacking. The objective of current work on the LMP process is to include all functional plans (timber, range, recreation, etc.) into the LMP's to some degree.

The unresolved question is to what degree of specificity the LMPs' functional plans will be prepared.

Other elements of the LMP process will probably be roughly analogous to the unit planning process. The LMP process will be conducted by interdisciplinary teams, and will include inventory, alternative-identification and alternative-analysis stages. Public participation will be provided for, and land management plans will be prepared with an EIS as a decision document. Some observers of NFMA have been concerned that §6(a) requirement that LMP be "coordinated" with state and local government and other federal agencies might lead to control over federal lands by state and local governments. Such an abdication of federal authority is basically unacceptable to the Service on professional grounds. As the planning procedures have evolved, it seems "coordination" with state and local governments will involve only "consultation" similar to that in the past with these levels of government; that is, state and local government officials will not be much more than a separately named "public" that will participate like any other "public" in the LMP process.

In short, the new land management planning process is likely to become much more like the national RPA planning effort than the old unit planning process. Not only will areas of land be generally allocated to certain primary uses, but the combination of land allocation with functional plans will produce plans with much more detailed programs and target output levels than in the past. The combined land management planning process will also address a major deficiency of the old process. Under the old process, three types of plans were produced, land use plans, functional plans, and work plans. However, the land use plans were not formally integrated with the functional or with the work plans;⁴⁸ that is, there was no formal relationship between what a land use plan proposed and what Service field officers actually did (nor did there seem to be a strict practical relationship). The Service hopes that the new planning process may rectify this problem. The LMP's will produce a priority listing of potential future programs for each resource system for a given Forest. The Forest budget requests will be based on the LMP resource plans "shopping lists"; combined by region, these requests will contribute to the agency's overall budget request. After passage of the Congressional appropriation and allocation by the Washington office through the regions, the Forest budget breakdown by resource system will allow the Forest Supervisor to implement LMP programs

48. COMMITTEE OF SCIENTISTS MINUTES, *supra* note 39, appendix #2.

in roughly the priority sequence specified by the functional plans (e.g., as many recreation programs as recreation funding allowed, as many range programs as range funding allowed, etc.). This procedure, if adopted, will constitute an integrated sequence linking the land management and functional plans with the Service's program budget, and thereby to the administrative work plan. Such an objective is, of course, ambitious.

PLANNING BY THE BUREAU OF LAND MANAGEMENT

The Bureau of Land Management planning system developed later than that of the Forest Service, and it developed without any clear legislative mandate. The 1964 Multiple Use and Classification Act was, however, an unmistakable cue that the public lands should be managed for purposes beyond livestock grazing. The agency evolved a multiple use system that was concerned with seven more or less distinct programs: range, watershed, lands, minerals, wildlife, recreation, and forest products.

The primary land use planning document is designed to reconcile conflicting uses of public land, and is called a management framework plan (MFP). The first MFP's were prepared in 1969, and by the time of passage of the FLPMA, about 80% of the public lands outside Alaska were covered by some sort of management framework plan.

The MFP is the basic planning document, but it is only one part of a complex formal planning system. The basic land area for planning is called a planning unit, and is a subdivision of a BLM district. The district manager is responsible for preparing and implementing MFP's covering his district. An MFP may be prepared for one or more planning units. When a combination of planning units are covered by an MFP, the area is referred to as a planning area.

The formal planning process is divided into three stages: background, MFP, and implementation. In the first phase three separate documents are prepared: (1) a unit resource analysis, consisting of basic land use data and a base map, (2) a public participation plan, and (3) a planning area analysis, consisting of a detailed examination of the policy issues facing the BLM for the planning area.

In the next stage, preparation of the MFP, recommended programs are prepared by the district program specialists for each of the seven resource program areas, without reference to how such plans would interact or conflict with other resource uses in the planning area. In this second stage, conflicts in uses are then identified and reconciled in what is sometimes called an adversarial process. The reconciliation

of the program recommendations is recorded in the management framework plan.

The MFP is supposed to be a broad policy document, rather than a list of specific decisions. Specific decisions are prepared in the implementation stage. These detailed activity plans deal with the various programs or functional activities in the area, such as habitat management plans, allotment management plans, timber management plans, etc. The BLM has chosen to comply with the requirements of NEPA at this final stage by preparing environmental analysis reports (EAR's) or full-blown environmental impact statements, if necessary. Thus, the grazing environmental statements required by the N.R.D.C. settlement⁴⁹ apply to allotment management plans without a planning area, and are prepared as technical implementation plans in furtherance of the basic policy directions of the MFP.

Despite a seemingly elaborate planning structure, many MFP's are fairly rudimentary. Often the MFP's consist of or include very specific decisions, rather than broad coherent policy positions; for example, "The Bureau will consent to the legalization of the existing Grouse Creek dump, if the Box Elder County Commission initiates an application for a R-P.P. lease."⁵⁰ There has been little standardization or quality control of planning documents, and there has frequently been an abysmal lack of basic land use data upon which to base planning. BLM districts have not had the resources or professional staff necessary to do what was seemingly required by the planning system. MFP's have recently improved on virtually every criteria, partly because the districts have simply learned how to plan, but even more because the grazing management and coal leading plans imposed data and planning requirements on the agency. Much of the time and effort currently devoted to resource inventories are not necessary to comply with NEPA, but are necessary to provide the data base to make the planning decisions for the functional implementation plans.

For each MFP process, the district manager is responsible for developing a public participation program without much guidance. District managers have had no more understanding of what "public participation" should mean than have other resource managers, so the resulting efforts have been varied and diverse and have occurred at quite different stages in the planning process. But public participation has evolved into a program that characteristically involves

49. *Natural Resources Defense Council v. Morton*, 388 F. Supp. 829 (D.D.C. 1974).

50. BUREAU OF LAND MANAGEMENT, U.S. DEPT. OF THE INTERIOR, SALT LAKE CITY DISTRICT, GROUSE CREEK MFP SUMMARY AND HIGHLIGHT 9 (1974).

preparation and local distribution of an MFP *summary* of major decisions (rather than the MFP itself) on which comments are solicited, public meetings in communities within the planning area, and the creation of an informal advisory committee of different users of the public lands in the planning area.

The lack of formal policy guidance or linkage to national agency goals is notable in this planning system. At the stage in the MFP at which conflicts among potential resource uses are to be reconciled, district managers can refer to the *BLM Manual*, which may provide guidance. But this guidance is very abstract and can provide little specific help in reconciling conflicts among legitimate potential uses. While the BLM state director reviews MFP's, his primary responsibility seems to be to assure the quality of the planning document.

The decision to meet NEPA procedural requirements at the activity plan stage, not at the MFP stage, causes a fairly important problem that becomes obvious when the environmental statements prepared on grazing management are examined.

The problem is twofold. First, the agency must either reconsider virtually the same set of questions of potential competing uses that was presumably settled at the earlier MFP stage or not comply with the now uncontested requirements of NEPA.⁵¹ The basic question presumably to be answered by a grazing EIS concerns the degree to which grazing ought to be allowed and managed on the public lands, which was also the question in developing the MFP! This can be seen in the San Luis resource area allotment management plan EIS.

The Saguache and San Luis MFPs established the following grazing management objectives and constraints that were used in the preparation of Allotment Management Plans and other management prescriptions.

- (1) Consider chemical or mechanical vegetative manipulation as a last resort;
- (2) Combine allotments to maximum extent feasible in preparation of AMPs.
- (3) Implement intensive grazing systems (on several specific allotments) to improve watershed conditions
- (4) Impose constraints against certain seasons of use by domestic livestock on specific allotments in consideration of wildlife habitat values.
- (5) Maintain unallotted status on specific parcels in consideration of alternative and more efficient uses.

51. Agencies must consider all relevant alternatives, even alternatives that they are not authorized to implement. *Natural Resources Defense Council v. Morton*, 458 F.2d 827 (D.C. Cir., 1972).

- (6) Continue custodial grazing management on several specific allotments because no specific problems or opportunities exist that call for more intensive . . . management.
- (7) *Recognize the importance of domestic livestock grazing* on the national resource lands as a significant factor in the economic stability of the San Luis Resource Area.

General goals for grazing management that were developed in the MFPs for use in preparation of activity plans are as follows:

- (1) Maintain or improve existing wildlife habitat on 516,371 acres
- (2) Increase ground cover, plant composition and density, and reduce erosion . . . on 473,916 acres. . . .
- (3) Maintain or increase riparian habitat, particularly woody streambank vegetation, on 47 miles of permanent streams. . . .
- (4) Maintain or increase production [of] . . . 36,000 AUMs of domestic livestock forage. . . .

Specific objectives that are the basis for developing management prescriptions on each AMP are shown in [a table in the EIS]. *In the MFPs domestic livestock grazing was found to be an acceptable use of the national resource lands.*

For the most part, the grazing program proposed in this statement follows the recommendations of the MFP (emphasis added).⁵²

Thus, both the fundamental policy issue and many specific management alternatives are treated as settled *a priori*. In fact, the real function of the allotment management plan EIS's seems to be to justify intensive, rest-rotation grazing management, an issue quite different from the fundamental question which brought about the N.R.D.C. suit.

The problem is not confined to the grazing question. The MFP for the Onaqui-Oquirrh planning unit in Utah announced, for example, that, "because of conflicts with private landowners, ORV's, and mining, all wild horses will be removed from the Oquirrh Mountains."⁵³ Whether the announced removal is carried out subsequent to a formal habitat management plan or not, an EAR will be prepared that will either reopen the question of removal of statutorily-protected wild horses or not comply with NEPA.

52. BUREAU OF LAND MANAGEMENT, U.S. DEPT. OF THE INTERIOR, CANON CITY DISTRICT, DRAFT SAN LUIS RESOURCE AREA GRAZING MANAGEMENT ENVIRONMENTAL STATEMENT 5 (1977) (emphasis added).

53. BUREAU OF LAND MANAGEMENT, U.S. DEPT. OF THE INTERIOR, SALT LAKE CITY DISTRICT, MULTIPLE USE MANAGEMENT DECISION FOR THE ONAQUI-OQUIRRH PLANNING UNIT 14 (1977).

The second and more important part of the problem created by the decision to comply with NEPA procedures at the activity or implementation stage has to do with the highly politicized nature of BLM planning and the different publics to whom the agency must be responsive at different stages of the planning process. At the MFP stage, public participation involves primarily people in the immediate rural area of the plan and those economically dependent upon the BLM. Urban-based environmental groups have a difficult time directly affecting an MFP, even if they become aware of and interested in the process. Moreover, while the MFP is supposed to be informally coordinated with local government planning bodies as well as state and federal agencies, much interagency and state-local review occurs only at the activity plan and NEPA review stage. The U.S. Environmental Protection Agency and the Fish and Wildlife Service first review the plan at this stage, and this is when the A-95 review process brings the issue before the state fish and game department.⁵⁴ Of course, some coordination does occur at the MFP stage, even with EPA and the Fish and Wildlife Service, but the coordination applies only to limited aspects of the plan. At the MFP stage, no document is prepared for interagency review. In fact, unlike Forest Service and Park Service planning documents, the MFP itself is available for review only at the BLM office; copies are not distributed. The logical consequences of this organizational situation are that (1) groups and agencies first presented with a plan at the implementation stage feel BLM is presenting them with a *fait accompli*, (2) local groups and individuals dependent on BLM and involved in the MFP process feel the agency has betrayed agreements that were so painfully worked out when the agency reopens settled questions; and (3) the agency feels it has lost control. All these feelings are found in great abundance at the present time.

The FLPMA allows the Bureau to reconsider its planning structure. It does not mandate many significant changes in the BLM planning process, however. The agency could, if it so chose, interpret the planning section (§ 202) as legislative authorization for the present planning system. About the only new and unmistakable planning requirement of the FLPMA not already covered by BLM administrative procedures is that of treating wilderness as a resource program area.

54. A-95 review is a formal procedure for coordination of federal programs and projects with state and local government agencies. Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, Circular A-95 (revised), 41 Fed. Reg. 2052 (1976).

The BLM has not yet issued draft regulations for planning based on the FLPMA. While a discussion paper and an early draft of possible planning regulations have been prepared, the Department of the Interior has not approved their circulation for comment. Undoubtedly the renegotiation of the NRDC grazing suit settlement and energy litigation have delayed these regulations, as has the vacancy in the BLM directorship. But the rough discussion paper is available, and dozens of interim "Organic Act Directives" have been distributed to field offices, so it is possible to suggest directions the new planning regulations are likely to take.

1. The new planning structure will probably provide for much more explicit national level policy statements upon which land use plans for individual planning areas can be based.

2. A more standardized public participation program will probably develop, involving a somewhat broader base of participation in the land use planning process (through wider notice, more explicit solicitation of written comments, etc.).

3. The A-95 review process and other interagency and state-local coordination procedures will probably give other agencies review rights at the MFP land use planning stage.

4. It seems unlikely that the BLM will begin preparing environmental statements on its land use plans. Any possible change in EIS preparation is more likely to be the result of litigation than internal policy.

5. Certain categories of planning will be rearranged and renamed, but apart from these minor changes, the planning system that emerged in the absence of statutory authority will probably continue, with statutory approval.

Most of the above changes would probably have occurred anyway as the planning system matured. Having new statutory authority will not make the agency's problems in developing politically implementable plans much easier, nor will it make the different publics concerned with BLM planning much happier with the results. Of course, the Bureau may still significantly alter its planning system, as the draft regulations may also be buffeted about among the various publics with a stake in BLM plans.

PLANNING BY THE NATIONAL PARK SERVICE

The National Park Service (NPS) is the third major federal land management agency that conducts comprehensive land use planning.⁵⁵ The Park Service process, however, is not conducted under

55. The Fish and Wildlife Service (FWS), the smallest of the federal land management agencies in terms of personnel and land base in the lower 48 states, is generally subject to

an explicit statutory mandate such as those of the Forest Service NFMA and the BLM FLPMA. The NPS claims that its principal authority for comprehensive planning, in addition to its general management responsibilities conferred by the National Park Service Organic Act of 1916,⁵⁶ is NEPA.⁵⁷ Neither NEPA nor the Park Service Organic Act, however, require or authorize comprehensive planning. The real antecedant of the current NPS planning process is the "master planning" process which began as a significant program in 1956. Master plans, especially before 1970, were fairly vague documents, were usually quickly done at minimal expense, and established only rough "conceptual frameworks" for Park management.⁵⁸ In 1975 the Park Service expanded its efforts in a new "general management plan" (GMP) process.

A completed GMP has four parts. The basis of the plan is a "statement for management," a listing of goals based on a Park's specific statutory purposes, general agency policy, local demands or problems, etc. The second component of the plan, the "resources management plan," describes specific programs or actions to be taken to protect the unit's resources; this part of the plan includes a natural resources plan and/or a "cultural" (e.g., historic, for units like the National Military Parks) resources plan. An important part of the resources management plan for some units of the NPS system is a Wilderness study.⁵⁹ The third component is the "visitor use plan,"

less controversy than the other public lands agencies. The FWS's primary Refuge system planning includes a fairly straightforward process for setting quantified Refuge objectives, done by the Refuges and their regional offices, that contributes to a centralized planning-programming-budgeting (PPBE) process; Refuges annual objectives are set by regional offices based on Washington office allocations of congressional appropriations. The process is much less involved and detailed than the other agencies' efforts. The FWS is currently examining a number of options for revising its planning system. The revisions may add a long-term comprehensive process, tentatively called master planning, to the shorter-term PPBE and budgetary processes. The master planning process would make FWS planning more comparable to the other agencies' processes. FISH AND WILDLIFE SERVICE, U.S. DEPT. OF THE INTERIOR, NATIONAL WILDLIFE REFUGE HANDBOOK, WRH-4, Part 2 (1971); and personal communications, R. Richhorn, Chief, Planning Branch, FWS, Washington, with P. Culhane, November 21, 1977, December 9, 1977, and April 4, 1978.

56. Ch. 408, § 1, 39 Stat. 535 (current version 16 U.S.C. § 1 (1974)).

57. NATIONAL PARK SERVICE, U.S. DEPT. OF AGRICULTURE, GENERAL MANAGEMENT PLAN, PROGRAM DEVELOPMENT PROCEDURES, 1977, 4 (1977); NATIONAL PARK SERVICE, U.S. DEPT. OF AGRICULTURE, PLANNING PROCESS GUIDELINES, NPS-2, Appendix A 1-3 (1975).

58. GENERAL MANAGEMENT PLAN, PROGRAM DEVELOPMENT PROCEDURES, 1977, *supra* note 57, at 5.

59. In connection with the requirements of the Wilderness Act, 16 U.S.C. § 1131 (1964), as of September 1977, the Park Service had 17 designated Wilderness areas (1.12 million acres), 30 Wilderness recommendations in the lower 48 states (11.9 million acres) and another seven in Alaska (30.3 million acres) pending in Congress, and another 40 units (with gross acreage of 7.7 million acres) under study. Per untitled NATIONAL PARK SERVICE, U.S. DEPT. OF AGRICULTURE, summaries.

which specifies Park carrying capacities (limits on the numbers of visitors allowable by type of use) and interpretive, informational, recreational, and safety services. The last part is the GMP "general development plan," which specifies the facilities needed to meet the goals of the resources and visitor use components, such as transportation systems, campgrounds, concessions, and visitor centers. Often the transportation (e.g., roads) studies are the most controversial parts of the overall plan. Thus, the GMP is a broad, comprehensive plan combined with the major functional plans relevant to NPS operations. (The resources and visitor plan components correspond to the two NPS functions, Park preservation and recreation.) Site-specific project plans (e.g., for a particular building proposed in the general development plan) may be required after the GMP is completed, but these are technically appendices to the GMP.

The GMP planning process⁶⁰ has some unusual features. The very first step is the development of the statement for management. This statement is supposed to be fairly simple, and all Parks are required to produce such a statement, regardless of whether or not they pursue the rest of the GMP process. The second and third steps, the "outline of planning requirements" and "task directive," are used by the NPS regional and national offices to develop a priority list, and then direct the Parks to proceed with the rest of the GMP process. The remainder of the process is similar to other agencies' planning: step 4, the inventory to develop an "information base"; step 5, "development, analysis, and selection of alternative strategies," including an environmental analysis and determination of the need for an EIS; step 6, preparation and circulation of the draft plan, plus a draft EIS (if required); and step 7, evaluation of comments on the draft documents and preparation of the final plan and final EIS. Since the Park Service sees its planning as a NEPA responsibility, the plan is prepared by the *de rigueur* interdisciplinary team. These planning teams are often led by, or at least receive considerable assistance from, planning specialists from the NPS Denver Service Center. Public participation is also provided throughout the process, especially at the first, fifth, and sixth steps. The Park Service is well along with its GMP planning. By December 1976 (the most recent date for which figures were available to the authors), 40 percent of the 293 units of the Park system were at some advanced GMP stage: completed plans (during 1976, the year following the institution of the GMP process), 34 (11.6 percent); final environmental statements 1 (0.3 percent), or final plans, 8 (2.7 percent); draft environmental statements, 36 (12.3

60. PLANNING PROCESS GUIDELINES, *supra* note 57, *passim*.

percent), or draft plans, 22 (7.5 percent); assessment-of-alternatives, 15 (5.1 percent).⁶¹

Thus Park Service planning is structurally very similar to the multiple-use agencies' processes. The contents of the GMP, like the Forest Service proposed LMP process, integrates comprehensive and functional planning. And the process has the same general pattern of rational decision making (interdisciplinary goal-identification, analysis of alternatives, etc.) combined with public participation. In fact, the evolution of Park Service planning preceded the other agencies' programs; the Master Plan process began in 1956 and the NPS integrated its comprehensive and functional planning in 1975, several years before the Forest Service and BLM.

THE IMPLICATIONS OF PUBLIC LANDS PLANNING

The land use planning activities of the public lands agencies are clearly significant management activities. But the exact importance and the actual functions of planning by these agencies are anything but clear. Despite some common terminology and even some surface similarity in presentation (map overlays, etc.), the series of processes called land use planning in the land management agencies are fundamentally different from the more familiar processes of planning by urban and regional political units.

The planning processes in the public land managing agencies have traits in common that distinguish them from other planning efforts. First, the planning processes have become central to the missions of the agencies. They have become institutionalized mechanisms for handling the complicated and compelling demands placed upon the agencies. This is true in the Forest Service, where such issues as timber harvesting and Wilderness designation become integral to the allocation of resources among competing potential uses in land use plans. It is also true in the BLM with regard to the grazing issue and the leasing of coal, and it is true of the Park Service, which must choose among various incompatible options favoring recreational development or preservation. These are central issues before the agencies.

The fact that the planning processes are central to the missions of the agencies distinguishes them from other land use planning efforts. Moreover, the land management agencies can carry out the plans they make to a degree not found in other land use planning efforts.

61. GENERAL MANAGEMENT PLAN, PROGRAM DEVELOPMENT PROCEDURES, 1977, *supra* note 57, at 6-17.

In many ways the planning process is a formal decision-making routine in which conflicts among users are addressed at a fairly broad conceptual level; in subsequent stages the abstract decisions are translated into more concrete operational decisions. Even at the abstract stage of planning decision making, the choices made preclude (or at least attempt to preclude) many options otherwise available.

The degree to which adopted plans are actually carried out and integrated into the budgetary and personnel activities of the agencies is not known because of the lack of systematic implementation data and the serious methodological problems attendant on measuring implementation. But it appears that the Forest Service, under authority conveyed in RPA and NFMA, is moving to formally integrate land use plans into its work activities. The BLM and Park Service are moving in the same direction, on the basis of less explicit statutory mandates.

One of the most important characteristics of the land use planning process in the public lands agencies is the requirement for public participation. "Public participation" should be understood as a set of mechanisms designed to channel and legitimize interest group access to administrative decision making. In institutionalizing political input into the decision-making process, it is clear that the emerging planning process amounts to something quite different from the classic "rational decision-making" model. The agencies' planning sequences have all the hallmarks of rational decision making: alternatives are identified; the consequences of each alternative are evaluated; inventories are prepared to assist in the preparation of alternatives; and planning is done by interdisciplinary teams to assure a thorough consideration of relevant alternatives and consequences. However, in the rational decision model of classic public administration theory, an agency's fundamental policy is presumed to be set by legislative and executive direction, and plans are only technical efforts of agency experts to implement broad policy directives.⁶² But the public lands planning efforts implicitly recognize that the plans and decisions of these agencies amount to major choices, and that among the proper criteria for making such choices is the need for the agency

62. See Wilson, *The Study of Administration*, 56 *Pol. Sci. Q.* 481-506 (1941); F. GOODNOW, *POLITICS AND ADMINISTRATION* (1900). Traditional public administration's position on the policy roles of the administrative and legislative branches reflects the pre-1935 position on the delegation doctrine in administrative law. See G. Robinson & E. Gellhorn, *THE ADMINISTRATIVE PROCESS* 34-135 (1974). Rational decision theory's opposite, incrementalism, is the logical counterpart of politicized, pluralistic administrative behavior because incremental decision making allows for adjustment of policy to group interests; D. BRAYBROOKE & C. LINDBLOM, *A STRATEGY OF DECISION* 243 (1963).

to respond to group demands, that is, to make decisions based upon political as well as professional grounds.

The key to the success of a land management plan is the degree to which it meets the goals and purposes of the agency, to be sure, but it is also the degree to which it achieves an acceptable political balancing of contending group demands. The requirements of public participation in the NFMA and the FLPMA are broad enough so that the agencies have a variety of institutionalized options open to them. The National Park Service public participation options are even wider (to the extent that they have any explicit statutory basis at all), since they are based upon NEPA. None of the land managing agencies and few responsible agency officials and claimants upon the agencies are satisfied with the changing public participation processes. These public participation processes have come to be an important and inherently controversial part of the planning effort because the formal processes create differential access to and influences over agency planning, and the agency planning effort amounts to the allocation of important benefits among contending claimants.

If land use planning of the public lands agencies is indistinguishable from decision making and is an *explicitly* political (in addition to technical) process, still another consequential difference between land use planning in these agencies and the more familiar urban and regional planning processes exists. This difference involves the question of who does the planning. Planning is decentralized in all three agencies, involving the primary field-level agency officers rather than specialized planning experts. The planning "teams" may be augmented by expert planners on occasion, but the major activities in preparing plans are carried out by the regular field office staff of the agency. The Park Service is more likely to send out specialized planners from its Denver Service Center to draft components of plans for individual Parks than are the other agencies. This tendency exists perhaps because of severe NPS staffing problems caused by the expansion of the Park system. Reliance upon planning specialists may also explain why NPS plans seem more similar to urban and regional plans than are the products of the other agencies. In all three agencies there seems to be more central direction and quality control exercised over the production of environmental impact statements than over the production of planning documents, to the extent that the two types of documents are different.

The lodging of primary planning responsibility in ad hoc teams drawn from the field offices of the agencies, rather than from specialized planning sections or offices, seems likely to foster an increasingly diverse field-level staffing pattern for all the agencies. In

order to comply with NEPA's mandate for interdisciplinary planning while keeping the planning process decentralized, a more diverse set of capabilities must be created in these offices. Because of the complexity of the planning requirement, staff members of the decentralized field offices must become highly professional and political at the same time. Where planning is decision making, the mandate for interdisciplinary planning moves the agencies in the direction of treating different resource uses as roughly equivalent in importance and legitimacy. We expect that the planning requirements, which are the same for the Forest Service and BLM, are likely to make both agencies increasingly identical in their staffing patterns and policy decisions.

The effect of expanded planning responsibilities on the centralization of agency policy making is ambiguous. While the new planning legislation and internal agency directives invest more responsibility in field offices, they also lead to more centralized supervision of the planning effort. The planning documents of the three agencies from the last few years reveal that the planning is becoming more standardized, particularly in the BLM. The Forest Service efforts to link land use, functional, and work planning processes to agency-wide budgeting is also a centralizing influence. On the other hand, public participation requirements and vague statutory mandates for coordination with state and local plans could lead to a genuine decentralization of decision making, making decisions more responsive to local political demands.

This issue of centralized direction versus decentralized control is critical because different resource interests have different degrees of access to the central, regional, and field units of the agencies.⁶³ What seems to be emerging—highlighted, but not fundamentally caused, by the new statutory mandates—is a system of multiple vetoes over positive agency decisions. The new planning processes will probably lead to decisions that are implementable political bargains among contending interests. While decisions that survive the planning process may be implementable, not many positive initiatives may actually survive the process. The planning process will be prolonged, by any standard.

63. The question of conformity to central agency direction is a long-standing one in public land management. See H. KAUFMAN, *THE FOREST RANGER* (1960).