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Progress and Problems
in National Forest Planning

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The Public Lands During the Remainder of the 20th Century:
Planning, Law and Policy in the Federal Land Agencies.

Natural Resources Law Center
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I. Legal Requirements for Planning

A. Federal Legislation Affecting Land Management Planning.

Bubany, Kramer, Skillern, Mertes, Federal Statutes Affecting the Land Management Planning Functions of the Forest Service, Volume I: Planning Sheets, Volume II: Analysis and Discussions.

1. Integrated planning should be undertaken with a thorough understanding of the National Forest Management Act (NFMA), and other statutes which impact land management planning functions.

2. Legal Context for Planning

a. Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 (16 USC 1601, 1600-1614).

(1) The emphasis of the RPA is congressional oversight of the Forest Service, through the requirement of extensive reporting and formulation of a recommended Renewable Resource Program.

(2) The RPA requires for planning at 3 levels.

(a) National level

(b) Regional level

(c) Forest level

(3) National level planning requires the development of 3 documents.

- (a) An assessment of the Forest and Rangeland Situation in the United States describes the present and analyzes future environmental social and economic trends.
- (b) The Recommended RPA Program sets a long-term course of action for the Forest Service.
- (c) The Annual Report spells out year-to-year accomplishments.

b. National Forest Management Act (NFMA) of 1976 (88 STAT. 476 (RPA); 90 STAT. 2949 (NFMA); 16 USC Section 1600-1644, as amended October 22, 1976.)

- (1) NFMA is a comprehensive framework and primary source of direction to the Forest Service for fulfilling its mandate to manage the National Forest System (NFS)
- (2) The central element of NFMA is the institution of land and resource management planning as the basic means of achieving effective use and protection of renewable resources and a proper balance of the uses of the Nation's forest lands.
- (3) The Act sets forth policies, requirements, and an outline of regulations for planning.

c. NFMA Regulations

(1) Regulations were developed to implement the NFMA in 1979 and revised in 1982 (36 CFR 219).

a. Rules require an integration of planning for the National Forests and Grasslands, including planning for timber, range, fish and wildlife, water, wilderness, and recreation resources, together with resource protection activities, such as fire management, and the use of other resources, such as minerals.

(2) The Regulations were again revised in 1983 to direct reevaluation, through forest planning, of those National Forest System (NFS) roadless and undeveloped areas recommended in 1979 for wilderness designation or designation for non-wilderness uses (36 CFR 219.17, Wilderness Designation).

B. History of Land and Resource Planning in the National Forests (Oregon Law Review, Wilkinson, Anderson, Volume 64, #1 and 2, 1985).

II. Status of National Planning and Forest Plans

A. The second Renewable Resources Assessment was completed in 1979, and an updated Supplement was prepared in 1985 (USDA

Forest Service, An Assessment of the Forest and Rangeland Situations in the United States, Forest Resource Report 22, Washington, D.C. 352 pp. (1979), and America's Renewable Resources: A Supplement to the 1979 Assessment of the Forest and Rangeland Situation in the United States, FS-386, Washington, D.C., 84pp. (1984).

- B. The third Renewable Resources Program was delivered to Congress in September 1986. (USDA Forest Service, A Recommended Renewable Resources Program: 1985-2030, FS-400, Washington, D.C., 35 pp. (1986).

- C. The NFMA called for an attempt to complete land management plans by September 30, 1985.
 - 1. The planning process will not stop when plans are completed; it is a dynamic process.
 - 2. The Forest Service, in cooperation with the public, will continue to update and amend forest plans to ensure that adequate resources will be available to meet future needs of the American public.

- D. A total of 123 Forest Plans will be completed.

- E. As of May 1, 1987, status of Forest Plans is:
 - 1. Final Plans 66
 - 2. Draft Plans 42

III. Forest Plan Appeal Process (36 CFR 211.18)

A. Purpose of the appeal process is to provide an opportunity to have a decision informally reviewed at higher Forest Service organizational levels.

1. In the case of a Forest plan, the decision is made by the Regional Forester, and is appealed for reconsideration to the Chief, Forest Service.

2. The Secretary of Agriculture may, on his own volition, elect to review the Chief's decision.

B. Appeals can be resolved in several ways:

1. Dismissed

2. Withdrawn by the Appellant

3. Decision is made on merits of appeal

a. Regional Forester's decision may be affirmed in total or in part.

b. The Forest Plan may be remanded with instructions for further action.

c. Decision may be reversed.

C. Status of Appeals as of 5/01/87: There have been appeals on 65 final plans; 129 of these have been decided. Twenty-one Forest Plans have cleared the administrative appeal process.

Appeals Dismissed 67

Appeals Withdrawn 24

Appeals Closed - Decision Affirmed 28

Appeals Closed - Decision Affirmed but

IV. Planning Issues

A. Allowable Sale Quantity (ASQ)

1. NFMA requires that the ASQ for each National Forest be limited to a quantity equal to or less than the quantity that can be removed from the forest annually in perpetuity on a sustained yield basis. (36 CFR 219.16 - Timber resource sale schedule.)
2. New ASQ's are being established for each National Forest during this current planning effort.
3. Magnitude of ASQ is primarily dependent upon:
 - a. Amount of land to be managed for timber production.
 - b. The intensity of timber management practices.
 - c. The demand for timber production.
4. ASQ represents the planned level of timber production, but it does not necessarily represent the amount of timber actually produced.
 - a. Annual budgets determine how much timber is to be offered for sale and the market determines how much timber is sold and cut.
 - b. Historically, actual volume produced has been less than the ASQ when reviewed on a national basis.
5. Opposing viewpoints between commodity and noncommodity interests often characterize the controversy surrounding the appropriate ASQ levels.

B. Minimum Management Requirements (36 CFR 219.13)

1. Minimum Management Requirements (MMR's) for integrating individual forest resource planning into forest plans are established in the NFMA regulations (36 CFR 219.14- 219.26).
2. MMR's are a particularly controversial and sensitive issue in the Pacific Northwest Region (Oregon and Washington) where the public is concerned that the National Forest planning process provides for a full public discussion of MMR's.
3. What are MMR's and what role do they play in Forest Planning?
 - a. MMR's are the management requirements specified in the National Forest Management Act regulation 219. These requirements have effects on individual National Forests.
 - b. All forests plan alternatives must comply with applicable laws and regulations.
 - (1) Some of the regulations have a definite and measurable standard for the expected result from implementation of the plan.
 - (2) Some regulations are procedural, affecting the way the plan is developed.
 - (3) National direction (MMR's) has been established to assure consistency in applying applicable laws and regulations to Forest Service planning. [Forest Service

memorandums, 1910/1920, dated 10/14/81; R.
Max Peterson; 1920, dated 2/26/86, Gary
Cargill]

C. Clearcutting

1. Clearcutting is one of several silviculture systems; it is the harvesting, in one cut, of all trees in an area in order to create a new even-aged stand of trees. Clearcutting must be demonstrated to be the optional silvicultural method before it can be used.
2. Negative concerns expressed about clearcutting include:
 - a. Creates giant "gaps" in the landscape.
 - b. It is visually unattractive.
3. Positive aspects of clearcutting include:
 - a. It can increase timber yields
 - b. It is practical and re-establishes healthy trees quickly.
 - c. A properly designed clearcut may improve areas for some wildlife, for example; many animals depend on young vegetation which is available following the removal of trees.
 - d. It is the least expensive of the silvicultural systems.
 - e. Least number of acres subjected to harvesting vs. other methods.

f. Clearcutting is a temporary condition and is designed to blend into its surroundings so it is not visible along major highways and popular forest areas.

D. Wilderness - Roadless Areas

1. In 1979, the State of California filed a lawsuit challenging the adequacy of the RARE II Environmental Impact Statement (EIS) as the basis for deciding to manage 47 roadless areas in California for uses other than wilderness. In October 1982, the U.S. Court of Appeals for the Ninth Circuit ruled that the RARE II Environmental Impact Statement did not adequately meet the requirements of the National Environmental Policy Act (NEPA) with regard to evaluation of environmental consequences of the actions proposed for these areas. *California, et al. v. Block, et al.*, Nos. 80-111, 80-4112, 80-4115, 80-4218 (Ninth Circuit, October 22, 1982).
2. A major portion of the RARE II roadless areas issue has been resolved by enactment of State Wilderness legislation, with "release" language which in effect "releases" nonwilderness areas from further wilderness consideration.
3. NFMA directed that wilderness be considered in forest planning along with all other multiple-use resources.
4. NFMA regulations require evaluation of roadless areas (36 CFR 219.17) in the planning process.

5. Wilderness Act of 1964 (16 USC 1131-11-36, 1982)
6. Eastern Wilderness Act of 1975 (88 Stat. 2096)
7. Endangered American Wilderness Act of 1978 (91 Stat. 1425, 1978)

E. Diversity

1. Diversity is a major international issue in conservation (Office of Technology Assessment Report F-330 March 1987):
2. Diversity is the variety and variability of life and the ecological complexes in which it occurs.
 - a. Species extinctions and overall loss of biological diversity is increasing yearly, especially in tropics [key Fed. legislation includes Endangered Species Act, Convention on International Trade in Endangered Species (CITES), diversity stipulations in AID programs, diversity in NFMA and FLPMA]
 - b. Maintaining plants, animals, and ecological processes onsite, in their natural environments, is the most effective way to conserve a broad range of biological diversity.
 - c. There are varied values and benefits of biological diversity.
 - (1) Genetic resources (medicinal, agricultural, forests).

- (2) Healthy functioning of ecosystems (pest management productivity, resilience to stress, adaptability to change)
 - (3) Esthetics and sense of stewardship (beauty and reminders of our land ethic).
3. The Forest Service mandate for diversity on the NFS is unique among Federal agencies.
- a. NFMA specifically mandates provision for plant and animal community diversity on NFS (Sec. 6(3)(g)(B)).
 - b. Recognition 10 years ahead of the current debate that diversity is important and that it can be a key goal on managed landscapes, not just on parks and preserved lands. Forest plans must provide for the biotic diversity needed to meet the goals and objectives of the Forest Plan.
 - c. The keys to the Forest Service strategy on diversity as shaped in RPA Program, Regional Guides, and Forest Plans are:
 - (1) recovery of threatened or endangered species, viable populations of all other species so as to preclude the need for "listing."
 - (2) productivity, abundance, and locations of species' populations and habitats that are valued resources for human uses, (e.g., Douglas-fir, elk, salmon, perennial grasses,

old growth forests, riparian areas, hardwoods, etc.).

- (3) maintenance of the ecological processes and functions that keep wildlands productive and healthy (e.g., natural pest management, predator-prey balances, nutrient cycling, and forest resilience through snags and fallen trees and their associated vertebrate, invertebrate, plant, and fungal biota).

V. Planning Accomplishments

A. Land management planning is the process followed by the Forest Service to determine the best use of the resources found within the 191-million acre National Forest System.

1. The NFMA planning is the most comprehensive and rigorous planning effort ever undertaken.

- a. The NFMA planning process integrated more than 80 separate planning processes into one process; results were:

- (1) Reduced costs and increased efficiency.

- (2) Integrated resource planning, which provides information to the public in a more coordinated and understandable manner.

2. Total planning effort required development of new analysis techniques.

- a. IMPLAN (Forest Service, Land Management Planning Systems Section IMPLAN Version 1.1: Analysis Guide, Palmer and Siverts (July 1985)
- (1) IMPLAN is an "input/output" model, which is a computer system containing a description of the economic relationship among businesses within each of the Nation's counties.
 - (2) IMPLAN estimates how employment, wages, and business incomes might change as a result of managing the National Forests in any of the ways identified by a forest plan.
 - (3) IMPLAN System is being used by:
 - a. Other Federal Agencies
 - b. State Agencies
 - c. Universities
- b. FORPLAN (Iverson and Alston, Intermountain Research Station, General Technical Report INT-214, The Genesis of FORPLAN: A Historical and Analytical Review of Forest Service Planning Models. See also Forest Service Land Management Planning System Section, FORPLAN Version 1 (February 1986) and FORPLAN Version 2: An Overview, Norm Johnson (August 1986)
- (a) FORPLAN is a computer modeling system to aid forest managers in assessing cause and

effect relationships as a result of different management activities.

(b) FORPLAN is a linear programming model that allocates scarce or limited resources among competing activities to identify the best "mix" possible.

3. NFMA planning is a sophisticated process that treats land management problems in their entirety so multi-functional, rather than single-functional solutions, can be attained in the most cost-efficient manner.

B. Planning assists managers in:

1. Determining the best use of natural resources.
2. Scheduling resource use so that adequate supplies of varied resources are always available.

C. Planning responds to changes in demands made upon the supply of renewable resources.

VI. Public Involvement in the Planning Process

A. NEPA (40 CFR 1500)

1. NEPA is the basic national charter for protection of the environment.
2. NEPA requires an open process for determining scope of issues to be addressed.

B. Public involvement is also a requirement of NFMA regulation.

1. Participation by the public is required throughout the entire planning process.
2. Intent of public involvement.
 - (a) Public involvement ensures a broader information base for decisionmaking.
 - (b) Public involvement results in a better understanding of public needs, concerns and values.

VII. Lessons Learned from Planning Process

- A. Planning doesn't automatically translate into budget dollars. However, budget provides a benchmark to measure degree of plan adoption.
- B. Congress and other politicians don't think in terms of long-term needs or desires. Therefore, political realities must be recognized in the early years of a plan.
- C. Plans answer questions, they don't make decisions. A plan serves to guide decisionmaking, but there are many other factors that enter into the process.
- D. No planning process can resolve all issues, such as those that are fundamentally concerned with distributing limited resources. It can provide a clear understanding of how Forest management will address public issues.

- E. The planning process can and does provide a logical way for all viewpoints to be heard and considered.
- F. The process defines alternative levels, or kinds, of management. It answers questions concerning:
 - 1. What it is possible to do.
 - 2. What limitations on production are necessary if legal requirements are to be met.
 - 3. How the most goods and services can be obtained from a limited land and water base.