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Professional Ethics for Natural Resource and Environmental Managers: A Primer

Lloyd C. Irland

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Professional Ethics for Natural Resource and Environmental Managers: A Primer

Lloyd C. Irland

"I have finally found the book that helps me to understand and transmit the importance of ethics in the environmental sciences. The information contained in this book can provide the environmental professional with guidance in ethical behavior. As a profession, we need to be sure that all of our many disciplines understand and act according to ethical precepts. I believe this book will raise the importance in ethical behavior for all of us."

Paul B. Looney
Secretary, National Association of Environmental Professionals
Certified Environmental Professional
Certified Senior Ecologist
Professional Wetland Scientist

"Finally, a book about ethics that provides answers to practical questions across the variety of professions involved in natural resources. An easy read, with great guidance on every page. More importantly for foresters it discusses what is meant by the SAF code of ethics – the words left unsaid or the context for the words that are there."

Patricia A. Layton
Chair, Forestry and Natural Resources
Clemson University

"This timely and important book addresses an enduring and significant issue – how to offer professional services in a just, fair, and ethically responsible manner. This challenge is especially great in the environmental field, which is often confronted with reconciling the objectives of natural resource protection with meeting legitimate human needs. As environmental goals increasingly become a core issue in modern society, this challenge will grow. This book provides useful and relevant guidance regarding how to act with a sound ethical and moral environmental compass."

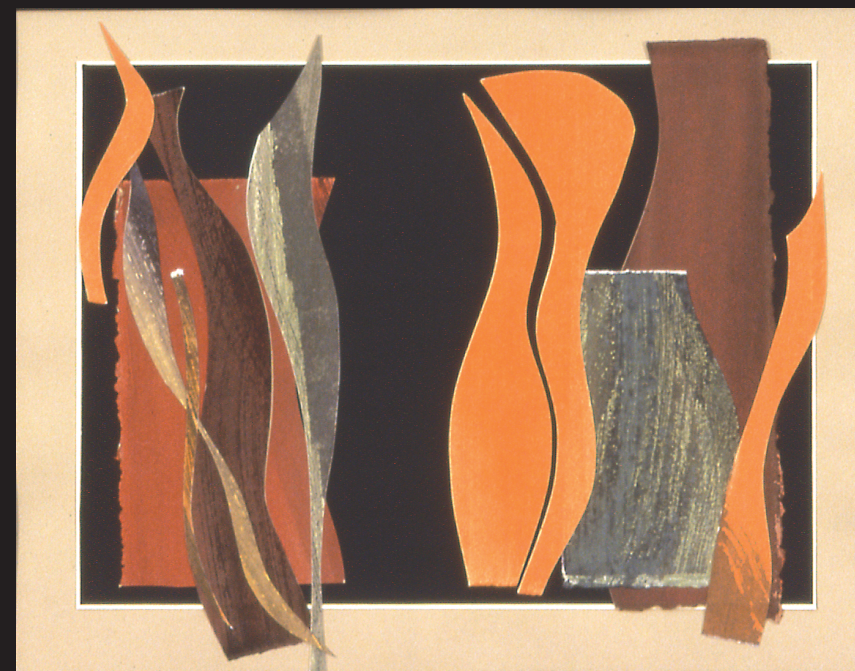
Stephen R. Kellert
Tweedy/Ordway Professor of Social Ecology
Yale School of Forestry & Environmental Studies

"Dr. Irland has written a concise and applicable introduction to ethics in natural resources. This book presents practical insight in ethics issues that most professionals face daily. It is a needed publication that can be used as a starting point for more detailed studies on ethics in natural resources. Not very many texts present a clear and concise approach to avoiding ethics violations in managing natural resources, but Dr. Irland accomplishes it. I recommend this book to consultants, managers, educators, scientists, and students. No matter if one is working in the private or public sector, the information presented is very pertinent and should be required reading for anyone in natural resources."

Dr. Victor L. Ford, CF, RF
Chair, Ethics Committee (2003–2006)
Society of American Foresters

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VALE PRESS



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Professional Ethics for Natural Resource and Environmental Managers: A Primer

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Yale School of Forestry & Environmental Studies

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Dedication

*To my students,
who teach me something every day*

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Foreword

*James Gustave Speth, Dean
Yale School of Forestry & Environmental Studies*

On behalf of our School and its faculty and students, I am happy to introduce this short book to what we hope will be a large audience. It goes without saying that a high standard of ethical behavior is required for leaders in land management, nonprofit organizations and advocacy groups, government, and elsewhere. Our world can neither advance the economic well-being of its citizens nor manage its environment sustainably without a major focus on professional ethics. Lloyd Irland's book will meet a major need by providing an excellent overview of this important topic.

Here at Yale, and at other institutions training young people for new roles in environmental management, we have been grappling with the best ways to cover this subject. We offer courses in environmental ethics, professional ethics, special workshops and brief training sessions. But we are still experimenting to find the best way to provide ethics training to our graduate students.

This book sums up and makes available in condensed form many years of work and discussion on the subject of professional ethics by Irland, who teaches ethics at our environment school here at Yale. We hope that wide availability of this book will enable our students, as well as students and professionals around the world, to open up their education on professional ethics effectively. I am certain you will find it useful.

Acknowledgements

A book like this emerges over many years, with the aid of many people. Dave Kittredge of the University of Massachusetts drafted me to develop a short distance-learning course, whose materials became the nucleus of this book.

At risk of omitting mention of some, I'd like to note the efforts of Rondi Doiron in assembling this manuscript for print, and of Jane Coppock, Editor of the Yale School of Forestry & Environmental Studies Publication Series, who supplied many helpful suggestions and saw the book smoothly through the production process.

We are grateful to the following organizations for permission to reprint material previously published: Cambridge University Press, Association of Consulting Foresters, and the Society of American Foresters, and also to the American Fisheries Society, The Land Trust Alliance, Canadian Institute of Forestry, the National Association of Environment Professionals, and the Wildlife Society for permission to reprint their ethics codes.

Finally, I would like to acknowledge the many foresters and students who engaged in discussions with me on these issues over the years, helping me to gain perspective on these issues and how to help people understand and resolve them.

Note to the Reader

This short book offers a primer on professional ethics. Many practitioners and students have felt a need for an accessible introduction.

The book includes material that has been used in a one-credit reading and discussion course at the Yale School of Forestry & Environmental Studies for several years, and also in our one day Professional Ethics workshops. It offers several articles, most previously published, that discuss specific issues in more detail. Finally, it offers a series of resources for learning and an appendix of ethics codes of several major professional societies. While the codes are all available on the Web, it seemed to us that placing them together with the introductory material would be an aid to learning.

In the previously published items, minor edits have been made to delete citations to superseded documents or otherwise avoid confusion. Their literature citations have been retained with them and not moved to the end in a comprehensive bibliography section.

My hope is that this book will ease the learning curve both for students and for mid-career people who are shouldering new responsibilities in natural resource and environmental management careers. Ethical issues can and will arise in private employment, for consultants, for government officials, and in the nonprofit sector. A little preparation will go a long way to help you navigate these choices in ways that you will continue to feel comfortable about in the future, and that you would feel comfortable explaining to one of your own children or family members.

NOTES ON THINKING ABOUT ETHICAL DILEMMAS

- 1. Life in the market, in administrative, political, advocacy, social change, and consulting settings, can be messy. Get used to it.**
- 2. Awareness of potential ethical problems, leading to early detection, is critical.**
- 3. Problems can be avoided or dealt with if detected early enough.**
- 4. Legitimate personal loyalties often conflict. Not all of these conflicts are ethical problems.**
- 5. Mandates in agency rules and professional society ethics codes often conflict.**
- 6. Many ethical dilemmas have more than one right answer.**
- 7. Developing skills in ethical reflection can help.**
- 8. Keep learning: treat ethics as a lifelong study, not a one-time curriculum requirement.**
- 9. “Ethics is not an exact science” – R.S. Miller**

PART I:

PROFESSIONALISM AND ETHICS

CHAPTER 1

Developing Ethical Reflection¹

This book was written not to offer a handbook of right and wrong answers to ethical questions, but to aid you in developing skills of ethical reflection. This short essay was published more than a decade ago in the *Journal of Forestry*.

If we wish to improve the ethical standards of all natural resource and environmental management professions, we need to stimulate and reward the exercise of ethical reflection – that is, reflective discussion and thought about upcoming issues, in the context of ethics, that help a person make right choices. A great deal is gained by studying ethics codes. Reviewing and discussing cases is also important. But these are only aids in developing a core professional skill, the skill of ethical reflection.

This critical skill enables professionals to make sense of the general and formal rules, and of the case examples offered in courses, readings, or discussions. Ethical reflection focuses on developing sensitivity to the kinds of situations that can lead to unethical decisions; it helps detect potential problem situations early; and it develops the ability to recognize available options that can assist in resolving a problem in a satisfactory manner.

The ethical choices that foresters face generally fall into several basic categories: business or policy situations that develop over time in unforeseen ways; ethical claims or canons that conflict; ethical rules that are very general and subject to legitimate debate as to how they apply in specific situations; and positions that offer strong temptations.

The only way to confront these facts fruitfully is to treat ethics as a key professional skill for ongoing use, not as a periodic obeisance to canons in a rulebook.

¹ Irland, L.C. 1993. Developing Ethical Reflection. *Journal of Forestry* 91(4):11. © Society of American Foresters. Reprinted with permission.

The only way to confront these facts fruitfully is to treat ethics as a key professional skill for ongoing use, not as a periodic obeisance to canons in a rulebook.

Cultivate awareness. One way to develop an ethical basis for decisions is to read, attend meetings, and cultivate an awareness of the kinds of situations that tempt people to behave unethically. An excellent starting point is to periodically review applicable codes of ethics, and apply them to recent situations in your experience. Discuss these situations with associates and friends in informal settings.

As you develop awareness, you will also develop foresight. You will learn to recognize situations early for their dangers. When you sense such a circumstance arising, stall for time or find a gracious way to defer a decision until you can think the matter over and consult with others. Always think ahead. Where could this situation go? Will it place me in a position where my ethical standards will be challenged?

Learn to see marginal or ambiguous situations more clearly. Frequently ask yourself:

- “Is this ethical?”
- “Could it lead me to act unethically in the future?”

Ask certain questions during the early stages:

- “How would it look to someone else?”
- “Who else is affected by this decision and how?”
- “Is there an angle I’m not seeing?”

Choose a mentor. Cultivate one or more friendly but tough mentors – not yes-people. Your mentor need not be your boss, though you are fortunate if your boss would be tough-minded but helpful.

You may need to try a few people out for their advice before finding those with the necessary depth of experience and understanding, and an interest in your development. A mentor who always gives you the easy answer – “No, there’s no problem here” – is only teaching excessive regard for expediency. Find another one. They who walk with the wise shall be wise.

Don't just bring up the tough problems. Talk over the routine ones too – asking if you're overlooking something. I always prefer to disclose any minor conflict of interest myself, and I'm surprised at how often I overlook one. Asking for advice will prevent minor lapses. Not only that, it gets you into a good habit.

Construct options. When a situation raises an ethical concern, think of the options. Are there ways to deal with this situation openly with all parties so that any appearance of improper behavior can be avoided? What is the most straightforward approach? Many of the borderline concerns can be addressed by merely disclosing the situation to all affected parties and asking their advice.

For example, a potential client calls asking if you would accept an assignment. Your first response is, "We are delighted to be on your list. But we have worked for Company X, one of your competitors. Would you see that as creating a conflict in this situation?" Many times they will say no. Before accepting the assignment, it may be wise to consult Company X too. They will appreciate being consulted and will remember your thoughtfulness.

Act courageously. Recognize and support sound ethical decisions by others, even when they cost you convenience, money, or opportunities. Be tough-minded with yourself: What is your real motivation for this decision? Is it ethical standards? The expense? Convenience or expediency? To spare yourself embarrassment?

Be ready to admit a mistake – to yourself, to others, to the injured party. This can take uncommon courage. The most severe punishment that can be administered to a child is to be compelled to apologize. Some children never outgrow this. Admitting an ethical mistake will not damage your reputation – it will improve it.

Admitting an ethical mistake will not damage your reputation – it will improve it.

Client confidence can be influenced by appearances – that is often all that people have to go by. Many of us react with disgust when we read about members of Congress junketing around in the private jets of high-rollers who are later found to be savings and loan looters. But we ourselves are not always careful to avoid or to carefully manage

situations that might give rise to an appearance of a conflict of interest.

Develop skills. A valuable aid in facing ethical situations can be found in Arch Patterson's four questions:^{*}

- What does my conscience say?
- What would it be like if everyone did this?
- How would it feel if everyone knew about this?
- How would I feel about this tomorrow?

Gaining wisdom is a journey, not a destination. Anyone who can develop habits of ethical reflection will be best equipped to handle the ever more complex and murky choices that life brings. Gaining skill in ethical thinking is no different than gaining skill in estimating timber, playing poker, or fly-fishing. It requires expenditures of time, energy, interest, and learning. If you are really serious about fishing, you learn something even when you come home with no fish: This is also true of developing your skill in dealing with ethical questions.

When we treat ethics as a professional skill to be developed, and when we develop commitment to the highest personal and organizational standards of ethical behavior, then forestry will be well on the way to realizing the promises in its ethics codes.

^{*}Patterson, Archie. 1984. "Ethics in Forestry." Speech presented at the Association of Consulting Foresters Practicing Foresters Institute IX, October 7-11, Athens, Georgia.

CHAPTER 2

Professionalism, Professional Ethics, and Ways to Think about Ethical Problems

This chapter quickly reviews a number of basic questions that must be answered before we can make sense of professional ethics and what it means for our life at work. It begins by summarizing what it means to be a professional, and then reviews the scope and content of professional ethics. Finally, it summarizes simple checklists for helping to think through ethical problems.

WHAT IS A PROFESSION?

In our work managing forests, rangelands, parks, watersheds, and wildlife resources, we like to think of ourselves as professionals. Leaders of our professional societies and distinguished academics tell us that we are professionals. Yet, in my experience, few of us have ever had occasion to think about what this means. During my education, nobody ever told me specifically what a profession is. So, what does it mean?

Defining what a profession is involves a number of points. In day-to-day talk, we often distinguish between someone who is an amateur versus someone who is a professional. A professional racing car driver possesses unusual skills in a demanding field, but is not generally regarded as a professional in the sense we mean here. Likewise, a professional baseball player is not seen as practicing “in the public interest” as is a medical doctor. So, being a professional means more than spending a lot of time at it and doing it for money.

The first hallmark of being a professional is completion of **specialized and rigorous training**. The classic “learned professions” of medicine, the law, and the ministry exemplify this. The required postgraduate training is highly selective, rigorous, and time consuming. People recognize that not everyone is qualified to enter medical school or law school. The education is demanding because **the service provided by professionals is highly specialized**. It draws upon complicated kinds of information and analysis. In a patent lawsuit, for example, the attorney knows not only specialized aspects of law, but is able to search cases applicable to the dispute, and to understand how to judge the significance of other legal decisions for the matter in hand. Because of these complexities, the client is usually not in a position to judge the competence of the attorney. For this reason, clients are protected from unqualified attorneys by state requirements for training and licensing.

While it may be invisible to the public, a basic trait of a profession is **regular concentration on continuing education**, and updating in new science and techniques that become available. State licensing practices require minimum amounts of annual continuing education as a condition of retaining one’s license to practice.

TRAITS OF A PROFESSION

- **Specialized knowledge/training.**
- **Recognized rigor of post-graduate training.**
- **Service provided is highly specialized.**
- **Public acceptance as a profession.**
- **Practical experience essential.**
- **Professional societies.**
- **Some professions have privileges: journalists, attorneys, confidentiality.**
- **Status as professional is recognized by state governments.**
- **Professional practice is considered to be “in the public interest,” not merely a private business.**

A critical marker of a profession is that it is an activity that is practiced **“in the public interest.”** Medicine, the law, and the ministry are fields recognized as touched with the public interest in special

ways. The interest of society in being protected from dishonest or incompetent doctors is obvious. Reflection will suggest that similar public interests affect other learned professions. This does not mean that professionals are expected to live in poverty by giving their services away for free. It means, for example, that an engineer must design a bridge that fully meets safety standards, and not just the cheapest possible one. The client's desire for a low cost bridge must not trump the public's interest in a safe bridge. Professional practice is intended to be more than a mere private business. Still, a professional's practice must succeed as a business or it cannot last. A friend of mine often observes that you must have a successful practice in order to be able to resist temptation enough to perform in an ethical manner. I believe he's right.

A friend of mine often observes that you must have a successful practice in order to be able to resist temptation enough to perform in an ethical manner. I believe he's right.

Engineering is probably the original model of the modern technical profession. The field emerged in the 19th century in full development with university level training and specialized techniques, yet engineers existed in Roman times and before. For the most part, ancient engineers practiced as part of military or other government bureaucracies that were capable of supervising their work. They did not, by and large, hang out shingles as consultants to private clients, as they do today. Today, engineers may receive less formal university training than did the classic learned professions. Foresters, wildlife, and fishery professionals are in a similar position. This smaller dose of specialized, advanced education is one reason why the public may not perceive land managers as professionals in the classic sense.

Another marker of a professional is that **he or she exercises prudent judgment** on behalf of the employer or client. This judgment is based not only on highly specialized training, but also on experience in dealing with similar situations. Decisions are based on a combination of knowledge and practical experience, not merely on calculations based on book learning. Similarly, attorneys advise clients on the basis of their experience in similar litigation or contract

drafting, and doctors rely on experience to diagnose illnesses and prescribe courses of treatment. All of these professions have guides and handbooks, but their work entails the use of judgment. Similarly, foresters rely on experience in developing prescriptions for forest stands, and wildlife biologists rely on experience in rendering advice concerning changes to game laws or regulations.

Further, a profession maintains a professional society, such as the Society of American Foresters, the Wildlife Society, or the American Fisheries Society. These groups accredit undergraduate degree programs, arrange technical meetings and conferences, publish journals, and may also award specific professional certifications. It is difficult to see how practitioners of a technical field could describe themselves as a “professional” if they are not members of their corresponding professional society.

Professionals are **licensed or otherwise regulated** by the states. Parts of this control may be delegated to state medical societies or bar associations, but the states backstop this with the requirement that one may only practice the profession with a license. Those whose license is withdrawn may not practice. In more than 2 dozen states around the country, systems of forester licensing or certification have been introduced in order to enable forest landowners to be assured that persons professing to practice forestry are adequately qualified.

Finally, **a profession is accepted by the public as such**. Plainly the traditional learned professions qualify. Very likely engineers do as well. Yet it is not so clear that land managers do. I have no survey evidence, but would guess that few members of the public would classify foresters and other wildland specialists as professionals in the same category as doctors and lawyers. Only a minority of the states have felt it necessary to license or certify foresters, while few if any license wildlife or fishery biologists or park managers.

If the public does not think of us as professionals, does it matter? Personally, I don't think so. Foresters and other land managers can aspire to that status, and will upgrade their self-esteem and public reputation by acting like professionals. So, what does this mean, in practice?

PROFESSIONAL PRACTICE

Professional practice entails four principal components. It is built on a base of technical **training**, usually in a college or university setting,

where the basic knowledge and techniques are mastered. It then relies on **experience** as a basis for developing seasoned **judgment**; additionally, formal certifications may be involved. Finally, professional practice involves understanding of the **ethical requirements** for professional behavior. As these are not always self-evident, training in ethics is mandatory, at least as part of undergraduate education. Only when these four elements are present is an individual truly a professional.

Figure 1



THE NATURE OF PROFESSIONAL ETHICS

In professional practice, certain kinds of issues arise that may be somewhat different and often more specialized than encountered in everyday life. This is why we have a distinctive field of Professional Ethics: the general lessons of other ethics fields do not cover all of the questions that can arise in professional practice. For example, in everyday life, the ethical acceptability of accepting a finder's fee does not arise (a finder's fee, or referral fee, is offered in compensation for a referral of business or for bringing a deal to an investor). In business and professional work it does. The appropriateness of finder's fees may be resolved differently in some lines of business than in some professional situations. In real estate, for example, finder's fees are generally accepted, while in some professions, accepting a finder's fee is considered unethical.

It is important to recognize these differences. The fields of professional ethics, business ethics, personal ethics, scientific ethics,

and personal ethics and convictions are all somewhat different. Land managers occasionally encounter situations where these different claims on our loyalties will conflict. Ethics as such cannot always answer how to balance or chose between those claims. There is no escaping making judgments. What is called for is that those judgments be supportable by plausible reasons following a process of “ethical reflection,” which we discuss below.

Professional ethics is a professional skill just like the more technical ones. As a skill, it must first be introduced through training, and then it must be cultivated over time. As our responsibilities change, we encounter new issues and challenges. As new sensitivities arise, ethics questions may be come more subtle or nuanced. As our work, family and financial situations change, we may feel the tug of competing loyalties. Different work situations, a longer list of client associations, and wider extended family links can increase the potential for us to blunder into conflicts of interest. As our children approach college age, our income needs increase, and we may feel our loyalty to the land ethic of our younger years tested more often by competing client or employer pressures.

Professional ethics is a professional skill just like the more technical ones. As a skill, it must first be introduced through training, and then it must be cultivated over time.

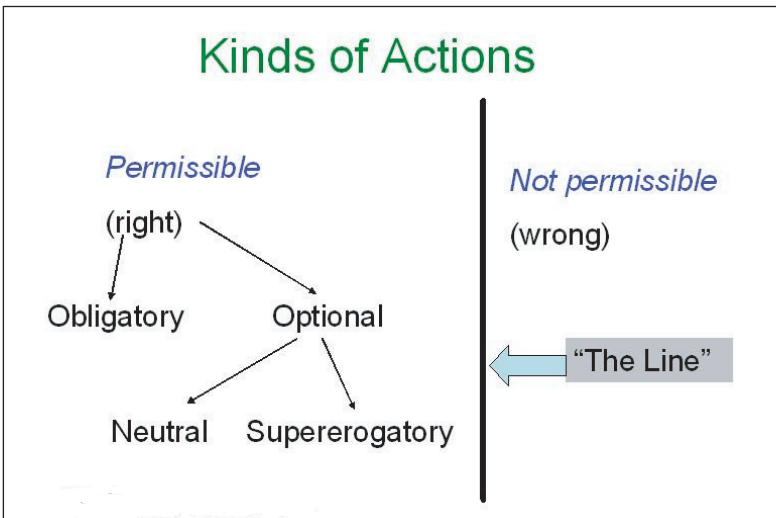
‘THE LINE’ VERSUS THE GREY ZONE

Too often, in our ethical discussions, we are so focused on trying to discern what is prohibited that we turn discussion into a negative sort of exercise. It is understandable how, in practical situations, the question is formed as, “Would it be unethical to do this”?

It is a step forward, I think, that the revised Society of American Foresters Ethics Guide, for example, announces as one of its goals an aspirational one – **to advocate standards for a higher level of ethical behavior, rather than simply to mark out what is unacceptable.** In our discussions of professional ethics we handicap ourselves by trying to

draw a clear line between what is ethical and what is not. The belief that there is a clear line, I think, often causes us to push that line too far in the direction of expediency. To divide all behavior into “ethical” and unethical” is a mistake. In enforcement of rules, some judgment must be made about behavior. But experience shows that reducing ethics to black and white is not always helpful.

Figure 2



Source: Pojman 1995: 10

An example may help. When a murder has been committed, the corpse is indifferent as to matters of degree. But not the law. The law distinguishes between “Murder One,” “Murder Two,” and so on. The distinction is based on the circumstances. Cold-blooded, premeditated murder is treated differently from manslaughter in self-defense.

So also, in discussions of ethics, there should be room for more categories than just the black and the white. In Islamic ethics, according to author Reza Aslan (2006), there are five categories of behavior. Actions may be considered:

- forbidden and punished;
- discouraged but not necessarily punished;
- morally neutral and indifferent;

- meritorious and rewarded;
- obligatory.

Looking at ethics in this way enables us to see a richer picture of our choices. It can point to nuances of situations that can help us seek to work to a higher standard than we would reach if we sought only to avoid prohibited behavior.

WAYS TO THINK ABOUT ETHICAL PROBLEMS

Why do we need to think about ethical problems? First, we need to learn to detect an upcoming ethical problem. We then need to define the problem in a sound manner. Finally, we need to use prudential judgment in applying ethics codes to solving the problem.

The existing professional ethics codes leave us in difficulty here. First, their provisions are often hopelessly vague, amounting to little more than telling us to “do the right thing.” Second, situations can arise in which ethical mandates conflict. One situation recently receiving much debate is the Society of American Foresters Land Ethic Canon. Many foresters ask, “how can I serve the Land Ethic Canon and also be loyal to my employer or client?” “What do I do if these seem to conflict?”

Other more mature professions solve these problems by issuing interpretive guidance, in a form that can fill a large volume of fine print. They have decided that they must guide their members in a fairly detailed way, so as to minimize constant arguing over what the rules mean. The land management professional organizations, thus far, have sought to avoid this.

FIRST, DEFINE THE PROBLEM

Not all dilemmas are ethical ones. We face many problems or conflicts in day-to-day life at work. Some dilemmas are business, administrative, or legal ones and can be resolved by appeal to existing policies or the use of prudent judgment. We may encounter political dilemmas of various kinds. We may find our personal attitudes and values in conflict with official policies of our employer – is it then unethical to continue to serve? Finally, we may have differences of view about particular policies. Many times, these dilemmas are not

ethical ones at all, and we complicate our lives in trying to make them so. Not all problems in work life are made easier to solve by dragging ethics into situations where it doesn't belong.

Figure 3



There is a tendency to think that someone who disagrees with me is unethical. This is often not so. In any case, accusing those who disagree with you of unethical conduct is not usually a productive way to engage in a discussion.

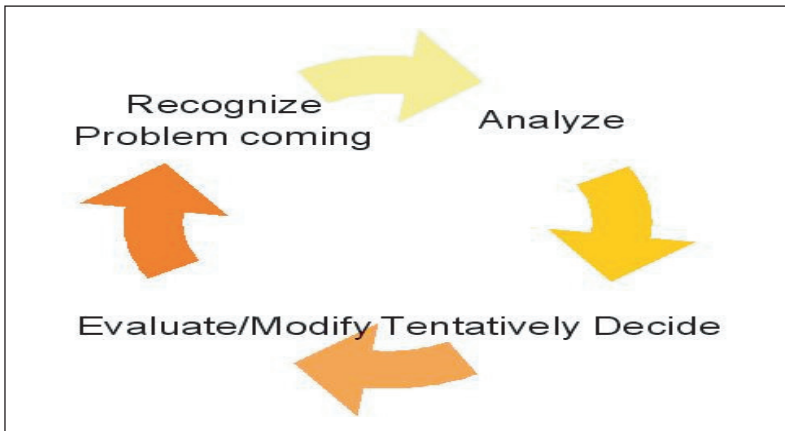
The most important ethical skill is recognizing impending problems. That is why this book is organized around specific kinds of ethical issues that are featured in professional codes. The assumption is that professionals don't go to the office in the morning looking for something to do that is unethical. But, for lack of awareness and foresight, they may slide into a situation unknowingly, and commit an unethical act before they realize they have done something wrong. You should always be able to cite specific reasons why an ethical problem does not exist before drawing that conclusion.

Not all problems in work life are made easier to solve by dragging ethics into situations where it doesn't belong.

Ethical reflection is learning to be able to pose reasons for choices. It consists of thinking through a problem, applying ethical principles, and developing a reasoned basis for a choice. Ethics is not only philosophy, discussed in abstractions. What is ethical may depend on many factual details. One problem with using most published cases to teach ethics is that they often fail to include enough facts to enable a person to make a sound judgment.

Finally, our ethical judgments should be considered provisional. We often do not have enough information at the time we make a choice. It is important to realize that we may come to understand the facts more fully, and over time may find more satisfactory ways to balance conflicting ethical claims.

Figure 4



Can't My Conscience Be My Guide?

A key principle is that “letting your conscience be your guide” is not enough. Our conscience, whatever merits it may have, is not educated to the subtleties of many professional ethics issues. For example, if we have not even realized that we could be in a situation where we might act unethically, then how is our conscience supposed to guide us? A final argument on this point is that all of the Nazi war criminals brought before the war crimes tribunal at Nuremberg had a “clear conscience.” Many of them told us so. At times, when someone tells us “my conscience is clear,” they are trying to deflect discussion of or questioning of their actions. Such a statement is often a way of saying,

“Well, I can’t really defend this in rational terms, but I feel fine about it.” Is this enough? In my opinion, a “good feeling” is not enough to qualify as professional judgment.

ETHICAL CHECKLISTS

Archie Patterson’s Four Questions

- What if everybody did it?
- Would I want to hear about it in the news?
- What does my conscience say?
- What will it look like tomorrow?

Irland’s Addition:

- Would I feel comfortable explaining this to my 12 year old?

Source: Irland, 1994: 45-47.

Useful aids to ethical thinking can be found in various ethics checklists (see Johnson, 2005). A widely used one is Rushworth Kidder’s, reproduced in the box below. Notice that Kidder recognizes the presence of “right vs. right” considerations as well as “right vs. wrong” ones.

Rushworth Kidder’s Ethical Checkpoints (lightly edited)

1. Recognize the problem.
2. Determine the actor.
3. Gather relevant facts:
 - a. Clarify factual points;
 - b. Read Codes and identify applicable principles/rules;
 - c. Identify important missing facts.
4. Interpret and apply codes and commentary:
 - a. Look to interpretative/ training materials such as the Society of American Foresters Ethics Guide;
 - b. Right vs. wrong issues;
 - c. Right vs. Right issues, e.g. when Code provisions conflict.
5. Apply other ethical perspectives.
6. Look for a Third Way: Formulate options.
7. Make and implement decision.
8. Revisit/reflect.

Source: Adapted from Johnson 2005: 188-189.

We can be ethical without having to be saints. We can practice our work “in the public interest” without having to give away our services and sacrifice income opportunities. In our choices, we should focus not only on “where the line is.” but also on staying sufficiently far from that line that we can claim to be practicing to a high ethical standard. We should not be always pushing to find the minimum standard that would pass muster.

We can be ethical without having to be saints.

If a need to reflect on an ethical problem is not noticed, then all the study of philosophy, all the ethical checklists or ethics codes in the world will not lead to ethical behavior. We cannot always assume that our conscience, unaided by thoughtful reflection, will lead us correctly. While we should certainly be seeking to avoid choices that are clearly unethical, this is not enough.

All resource and environmental professionals should cultivate the habit of occasionally reading books and articles on professional ethics and related topics. We should seek to get our organizations in the habit of openly discussing troublesome issues at meetings and conferences. We should get into the habit of simply seeking advice, from a mentor, a colleague, or family member.

CHAPTER 3

What is a Professional Ethics Code?

It is now time to more specifically define what a professional ethics code is, before discussing specific provisions and their meaning.

DEFINITION

An ethics code is a tightly summarized series of ethical mandates designed to depict ethical behavior for members of a professional society. Points in the code are often given lofty designations, such as “canons.” At least one society freely states in each point “It is unethical to . . .”, while others avoid specific prohibitions.

The degree of detail varies. Some provisions are extremely general, virtually useless as guides to action without considerable additional explanation. The Society of American Foresters Ethics Guide was issued in 2004 to help explain the code’s provisions and supply cases for discussion. But it does not take the further step of indicating more detailed guidance for applying the code’s provisions. On the other extreme, accountants and attorneys encounter many diverse situations in practice. Their codes are supplemented by elaborate rulebooks exceeding a hundred pages in length.

The Codes of resource societies included in the Appendix, for example, do not develop detailed guidance. Members complain that the last thing they want is a detailed rulebook – but they still want to enjoy the status accorded to physicians and attorneys, without the detailed rules! Ethics committees of professional groups resist developing more detailed codifications of rules, on the grounds that they do not want “their hands tied.” Members of such committees are

often from career backgrounds serving in sprawling government and corporate bureaucracies in their “day jobs.” They feel buried under rules. Such persons do not usually wish to encumber their voluntary professional activities with more of the same.

CODES ARE DEVELOPED BY PROFESSIONAL SOCIETIES

1. National groups: Society of American Foresters, American Fisheries Society, etc.
2. Usually adopted by majority vote after considerable discussion . . . at times, amended to account for new legal developments. Example: In the past, some associations had ethics rules discouraging or barring price competition. These were ruled illegal by the Federal Trade Commission.
3. Some government agencies have developed codes for their employees.
4. In some states, forester licensing or registration programs have developed Ethics Codes, often borrowing heavily from the Society of American Forester’s Code.
5. Most societies attempt to protect their professional designation from misuse by untrained individuals or nonmembers.
6. Procedures are adopted for hearing and adjudicating complaints concerning violations of the ethics rules. Expulsion from the Association is a common sanction.
 - a. In the law, being “disbarred” means an inability to practice law at all in a given jurisdiction, and is usually observed in others as well.
 - b. In resource professions, expulsion from a professional association is usually not a significant occupational issue (only about half of the foresters in Maine are Society of American Forester members, for example.)
7. But except for the most egregious situations, it is very difficult for a profession to regulate itself. Association disciplinary bodies usually learn of alleged violations from unhappy clients or other Members. Procedures are complex

and burdensome, and many members are reluctant to pursue ethics proceedings against colleagues.

8. Some Societies obligate members to report wrongdoing if they observe it, others do not.
 - a. The Society of American Foresters at one time had such a provision in its Code; it has been deleted.
 - b. Elite organizations such as military service academies often include such a requirement – West Point: “I will not cheat nor tolerate those who do” (cadets have been expelled for not reporting violations)
 - c. Arguments pro and con for such a provision can be advanced. If rigorously enforced, it could result in some professional Societies having very small memberships.

In the resource management fields that we are considering now, there is usually no employer requirement that a practitioner be a member of any professional society. As a result, the codes protect clients and the public only to the extent of the society’s membership.

CHAPTER 4

Point by Point Explanation: Society of American Foresters Code

This chapter briefly explains the terms used in one ethics code, that of the Society of American Foresters. This code is quite similar to those adopted by other resource management professional societies, so it serves as a good example. It addresses most of the issues that come up in the codes of many professional resource societies. It is not held up as a model, but it serves our present purpose as an expository device. It is also the field most familiar to the author. Codes of several other natural resource groups are in the Appendix. More complete discussions of specific points are in later chapters and in the Applications section.

PURPOSES OF AN ETHICS CODE

The Society of American Foresters (SAF) Ethics Guide states three purposes of a code:*

1. Clarify core values;
2. Guide professional conduct for the benefit of society;
3. Inspire members to exceed minimum standards when possible.

SAF CODE – OVERVIEW

1. The Code consists of an explanatory *Preamble*, followed by a series of six points in common format. Each point consists

*Source: Society of American Foresters Ethics Guide: 6

of a broadly stated *Principle*, followed by specific *Pledges*. Generally, the Pledges restate separate provisions (Canons) of the previous Code. The current Code was adopted in 2000, following a revision that boiled it down to a set of six sections, from a previous version containing 16 Canons.

2. The *Preamble* states the profession's mission of forest stewardship and emphasizes the importance of forests to society. It then refers to two heroic figures of the profession, Aldo Leopold and Gifford Pinchot, who are said to exemplify the profession's highest traditions.
3. It states comprehensive and ambitious goals for the Code, including protecting and serving society, fostering long-term stewardship, supporting good business relationships, and then reiterates service to society once again.
4. To coin shorthand names for the Principles, they are six:
 1. Land ethic.
 2. Importance and role of landowner/client objectives and rights.
 3. Importance of science.
 4. Public policy and role of foresters.
 5. Communication, confidentiality.
 6. Civil and dignified behavior.

You will note that the SAF Code tries to present obligations in a positive tone. The term "unethical" nowhere appears in its Code, in contrast to some other societies who use it frequently.

DISCUSSION OF PLEDGES AND PRINCIPLES

Now some brief comments as to what the specific Pledges contained under each Principle might mean . . .

Note: these are my own personal observations and have no official status as far as SAF is concerned. I am trying to interpret what they say, not what I might like them to say. In this discussion I try to comment on the general concepts incorporated in the Pledges, and indicate some of the issues of interpretation that will arise. More specific points will be taken up later, so this opening introduction does not supply anything like a thorough discussion.

It will be important to carefully read the discussion in the Society of American Foresters Ethics Guide pp. 24 ff at this point.

Land Ethic

Until recently, the SAF Code was without a Land Ethic Canon. One was added by member vote in 1992. In a new environmental age, a Land Ethic seemed to many members to be necessary and appropriate. Yet, it is far from self-explanatory and to date, SAF has done little to provide details as to its interpretation.

The Principle states that foresters have a “*responsibility to manage.*” Yet many foresters are in staff positions or are scientists. Entry level foresters often have limited autonomy. How they are to respond to such a mandate when they do not control decisions is an issue.

Land is to be managed “*for current and future generations.*” Presumably this means we need not be altruistic toward the future and refrain from using forests, yet we are in some sense to provide for future generations. But how much? Do we merely refrain from cutting? Or, must we actively invest?

The first Pledge commits Members to *practice and advocate* management to “*maintain long-term capacity of the land.*” This leaves considerable room for current management to reduce growing stock so long as soil productivity is unaffected. (And on very small ownerships, this can be necessary at harvest time.) The pledge goes on to mention a “*variety of materials, uses and values*”, endorsing the multiple uses of forests. This hints that single use management, at least over large areas, could contravene the Land Ethic. Finally, the notion is introduced of values desired by the “*landowner and society.*”

This statement affirms that both the landowner and society as a whole have a legitimate stake in how forests are managed.

Importance and Role of Landowner/Client Objectives and Rights

This Principle expands upon the duality of landowner rights and social claims on private land. The duality is stated matter-of-factly, but little is offered by way of guidance as to how to balance or resolve dilemmas created by this situation. The Principle simply acknowledges the facts as they are – in today’s society, a view of outright supremacy of unrestrained landowner desires is untenable. Forestry came into being in this country as a response to the problems

created by the supposed right of owners to do whatever they please. Society's interests are described in terms of a "*stewardship responsibility to society*." Note the way this is stated . . . both the terms stewardship and responsibility have multiple shades of meanings. There is no suggestion here that society as a whole possesses any specific, identifiable rights in the matter.

Forestry came into being in this country as a response to the problems created by the supposed right of owners to do whatever they please.

A sentence from the previous Principle is then repeated virtually verbatim, with the added concept that management is to be in accord with "*professional standards*." No indication is given, in the Code itself or elsewhere, concerning the sources of such standards. In some professions, extensive discussion is given to professional standards to be adhered to by Members, usually in an annex to their ethics code. You don't even have to get out of college to know that there is debate within the profession as to what good management practice consists of. And our notions of "good management" have changed over the years.

As an example from wildlife management – it was proposed to save the California Condor from extinction by incubating eggs in captivity and then releasing the birds. Some scientists bitterly protested that this would fail and be the end of the species. I understand that this course was followed, and has so far been successful. The point is, for that problem there was no "standard" at the time. The best-informed scientists were divided as to how to save the Condor.

The final pledge under this Principle requires that Members will "*advise landowners of the consequences of deviating from such standards*." It is not stated whether this advice is to be formal or informal, in writing or not, in what degree of detail it is to be presented, or what the source of the standard is to be. It clearly implies an out for the forester, however. Once advising of consequences, the forester is free to proceed with operations that in their judgment deviate from standards. (Does this contradict earlier language pledging that management will be in accord with standards?)

Importance of Science

This Principle enshrines science as the basis of forestry. It embodies an assumption that science speaks with a single voice, which at times it does not. How science speaks is left to the forester to judge (using “*most appropriate*” data). There are three important components to the pledges:

First, that of *continuous improvement* of knowledge and skills. This states a basic hallmark of a profession – continuing education – and makes it an *ethical* obligation.

Second, it mandates that members perform *only services for which they are qualified*, and

Third, it introduces the *social sciences* as being coequal with the biological and physical sciences. This has been controversial with some members, given the difficulty of gaining consensus on many issues within the social sciences. It could be that the principal social science intended by this language was finance, but no indication is given.

Public Policy, Social Values, and the Role of Foresters

Public Policy arises for the first time in Principle 4. Previous principles dealt with the individual forester. This principle urges that policy should be based on “*both scientific principles and social values.*”

The Pledges are three:

- to help formulate “*sound forest policies*” and laws.
- “*to challenge and correct untrue statements*”.
- and “*to foster dialogue*” among various groups concerned with forest policy.

Note that these are stated as affirmative obligations. They are not optional. SAF members are to go forth into the world and carry out these pledges. The Principle does not call on us to sell our worldly goods and become missionaries. But it does obligate members to participate at some level in these activities.

One issue for interpretation – it is not usually scientific principles that are involved in management decision-making. Rather it is specific results, in particular places, interpretations of imperfect or short-term experiments, and competing views of new concepts and data. So pointing to general principles would seem to be of little help.

As a general matter, it is plain that science and public values are involved in policy. Yet, it is symptomatic of this postmodernist age that the Code's authors could not bring themselves to appeal to the now unpopular concept of a "public interest," which so animated the profession's founders a century ago.

Communication, Confidentiality, and Conflict of Interest

This Principle deals with "honest and open communication" as a key to good service. The sense of the sentence seems to mean service to client or employer, but perhaps it can be read as a hint at the public interest component of the profession as well.

Foresters are "to present accurate and complete information," not biased or selectively edited to support a viewpoint. Yet foresters, as consultants or employees, are expected to advocate client or employer viewpoints in business negotiations, legislative proceedings, or public debates. Usually this entails a point of view that may not be seen as "complete or accurate" by persons holding opposing views. In addition, they are "to indicate on whose behalf public statements are made" This sounds clear enough. But if I advocate publicly, say in a letter to the editor, a viewpoint that coincides with my employers, must I reveal who my employer is? Or only if my employer asked me to write the letter? This pledge is an example of how very general pledges need to be interpreted before they can actually help in answering day to day questions.

This Principle also contains pledges dealing with some of the more business oriented ethics issues:

Conflicts of interest are "to be disclosed and resolved," though they are assumed to be self-defining as far as the Code is concerned. In practice, however, the issue is often whether a conflict exists or does not exist.

Finally, *proprietary information* is to be respected.

Civil and Dignified Behavior

This principle holds that professional and civic behavior is to be "based on honesty, fairness, good will, and respect for the law." It would seem that professional behavior by *definition* would encompass honesty, fairness, and respect for the law. Those terms could by themselves define professionalism. The term "good will" is a concept

that sounds generally virtuous but whose meaning may be less than clear. The term may suggest that nasty, hostile, or prejudiced attitudes are out of place.

Conduct by foresters is to be civil and dignified, and to embody respect for “the needs, contributions, and viewpoints of others.” Foresters today are often subjected to what they consider to be unwarranted, unscientific, and even scurrilous attack. Some SAF members have wondered aloud why they are not entitled to respond in kind. This pledge simply suggests that professional behavior requires a certain calm, and demands turning the other cheek even when subjected to verbal abuse (recall that a previous pledge mandates responding to scientifically dubious claims).

Conduct by foresters is to be civil and dignified, and to embody respect for “the needs, contributions, and viewpoints of others.”

The final phrase is simply a ban on plagiarism a mandate to give due credit to others when warranted.

Again, I emphasize, do not rely entirely on these brief notes . . . read the Code itself and the commentary in the Society of American Foresters Ethics Guide.

Key points about professional ethics codes:

1. They usually state ethical mandates in very broad terms, and leave key terms undefined.
2. Pledges (Canons) within codes frequently conflict. In many practical ethics questions, you will be able to identify two or even more Pledges that would pull your judgment in opposite directions.
3. Whether the problem identified actually exists in a given case may not be immediately clear.
4. For all these reasons, extensive interpretation is required to apply ethics codes to actual decisions.

That is why this primer is just a start on your (hopefully lifelong) ethical education!

CHAPTER 5

Point by Point: The Association of Consulting Foresters Code

If you are or plan to be a consulting wildlife biologist, fisheries biologist, or wetlands ecologist, you may find the ACF Code helpful, as Codes of those professional organizations place little emphasis on business ethics.

In 1948 a number of forestry consultants formed their own group, the Association of Consulting Foresters, feeling a need for a group identified with the commercial practice and business of private consulting. At that time, the SAF was heavily influenced by members from the US Forest Service, State Agencies, industry, and academia. Some consultants at that time felt that their interests and concerns were met with indifference within the SAF. Nonetheless, the ACF and SAF Codes share many common features. A major difference is that the ACF Code is more detailed and explicit on many business-oriented issues. This makes it a helpful resource as an aid to study, even for nonmembers. Today, many ACF members are also SAF members.

ACF promptly adopted a Code of Ethics. Because of the numerous specific circumstances unique to consulting, their Code is longer than SAF's. Until they ceased publishing it recently, their quarterly publication, *The Consultant*, regularly discussed ethical issues.

POINT BY POINT SUMMARY

Preamble

The Code's preamble is brief, indicating that all Members are bound by its provisions and that its goal is to "*secure decent and honorable*

business and professional relationships,” confidence and respect, and provide for maximum service.

The Code consists of 28 Canons, organized into 4 sections:

- Professional Life
- Dealing with the Public
- Clients, Principals, and Employers
- Other professional foresters

These categories logically reflect the focus of a consulting forestry practice as a business.

Professional Life

These four canons open with a commitment to practice *for the benefit of society*. They mandate cooperation with other foresters and active participation in groups and organizations. Members must advertise in a dignified manner.

Canon 4 states that consulting foresters should gain their work based on “*experience, competence, and reputation*,” and repeats the admonition against improper advertising. This is one of the few Canons in the ACF Code where the term “unethical” is specifically used.

Dealing with the Public

Canon 5 combines two points. First is the obligation to pursue continuing education. Second is a mandate to “discourage and condemn” “unfair, false, and exaggerated statements” concerning forestry (note the contrast with the tone of pledges in Principle 6 in the SAF Code)

Canon 6 requires members to indicate on whose behalf they speak in public statements, and Canon 8 requires them to be fully informed of the facts and not bias their statements.

Canon 7 addresses expert witness engagements, stating that members will employ adequate facts as the basis for opinions given. (Given that experts are typically sworn in, this may be redundant as a practical matter, but it emphasizes an activity that can be important in any consulting practice.)

Canon 9 requires that forestry plans be written in unmistakably clear terms. Presumably this is to ensure that consultants cannot

escape responsibility for outcomes at a later time by pointing to ambiguities in their conclusions or recommendations.

Clients, Principals, and Employers

This section naturally has a large number of canons.

Canon 10 requires loyalty to the employer.

Canon 11 requires that consultants clearly present consequences to the client if their technical recommendations are over-ruled. Note that, as in the SAF Code, the consultant is not required to withdraw. Also, as in SAF, the nature of the communication to this effect (written or other) is not clearly specified.

Canon 12 concerns client confidentiality. On some engagements you may have to employ highly sensitive client information. Frequently, a client not only wishes information to be held in confidence, but also does not wish to be identified in any conversations you may have with others as you gather information. They may want their interest in the topic to be confidential. Large organizations may require you to sign a lengthy (and sometimes scary) confidentiality agreement.

Canon 13 states the prohibition against conflicts of interest, or even the appearance of conflicts. As in the SAF case, conflicts are not defined. In contrast, SAF does not use the term “appearance of conflict.”

Canon 14 bans accepting payment twice for the same service. As an example, a forester may cruise a property. Shortly thereafter, another individual may wish to buy the cruise. A forester may not sell the results again without approval of the original client, which may reasonably be withheld. Some consultants have a rule of thumb that they will not re-cruise the same property again in less than a certain number of years.

Canon 15 is another version of the obligation to offer only services for which a member possesses the necessary competence and experience. One is to refer the work to better qualified consultants whenever it is best for the client. We all hate to send business elsewhere but we must consider the client first. We usually hope that if we refer work to others, the favor will be returned in time.

A related issue can arise – we may be too busy to perform the work properly. In such cases we should refer to others (this is one form of the diligence issue).

Canon 16 bars accepting work at prices that cannot fund proper professional work.

Canon 17 emphasizes that members accept personal responsibility for their work and their actions.

Canon 18 follows the ethics code of the appraisal community . . . it bars doing appraisals if the fee to be paid is contingent on the dollar value found for the property.

Canon 19 bars either paying or accepting a referral fee. The term “unethical” is used here to make this unmistakably clear. The accounting profession has a similar provision. “Finders’ fees” or fee-splitting are often used on real estate and some other fields. You may be offered such a fee or asked for one and this Canon requires you to decline.

Other Professional Foresters

The 9 Canons in this section address:

- #20: Protecting the profession from “misrepresentation and misunderstanding”.
- #21: Requires members to ensure that those admitted to forestry (presumably the ACF) are of good moral character and sound training.
- #22: Bars plagiarism.
- #23: Bars injuring the reputation or business of another forester without cause.
- #24: Requires reporting misconduct when solid evidence exists.
- #25: Members are not to attempt to supplant another forester who has been hired for a project.
- #26: When asked, members are to submit fair and honest letters of recommendation.
- #27: Members are not to solicit political contributions from employees (in some states in the past this was common practice for state government employees – contributions were a condition of employment and not optional).
- #28: Principle of appropriate and adequate compensation (see Canon 16).

You can see that even though these Canons are more numerous and address more specific points, in most cases they do not define terms used and they too require additional interpretation in order to be applied.

The ACF Code contains no Land Ethic Canon. Not only is there limited support within its membership for such a Canon, many members are concerned that a vague Land Ethic Canon could be the source of much mischief.

PART II:

ISSUES AND COMMENTARY

CHAPTER 6

Agency and Trusteeship: Legal and Ethical Issues in Relationship with Employers and Clients

Professionals in natural resource and environmental management will often find themselves acting in agency and trusteeship roles during their careers. This may be during the conduct of their work with employers, or in off time civic work. I believe that a clear understanding of these concepts can provide a good base for understanding professional ethics, and that concepts of agency and trusteeship underlie the most important and valued traditions of our fields.¹

AGENCY: DEFINITIONS AND DUTIES

What is an agent? One who acts on behalf of another, “a person authorized by another to act for him, one entrusted with another’s business” (Black’s Law Dictionary) Key points are:

1. The agent takes *actions*,
2. on behalf of a *client or principal*, who has
3. *authorized* the agent to act on their behalf.

Degree of Independence

The relation of agency covers a variety of types of relationships. Agents act with a degree of independence typically agreed upon in advance with principals, or set by custom in a particular business.

¹ I would like to acknowledge valuable assistance from Mr. Jim Carolan, Associate General Counsel of Yale University.

A stock broker or investment adviser may have broad autonomy over investment decisions, or may act only on specific instructions from the client. An attorney is a very special kind of agent. The attorney client relationship is highly complex and covered by a vast array of laws and customs.

A consulting forester, when asked to manage land and sell timber, is acting as an agent for the land owner. This initial step of agreeing on prescriptions is not an agency relationship, but implementing it through timber sales or other actions often is. Many landowners at a distance may delegate broad authority to their managers, while others are actively involved in approving every action. Typically, in the former case, a long-term management contract with understandings concerning fees and expenses would be entered into.

A “power of attorney” is a specialized form of agency relationship that is usually very tightly drafted and often intended to be of limited duration.

The Duty of Care

Duty of care is assumed by the agent is an important issue. The agency relationship demands a commitment to a professional level of care in acting for the principal.

The Principal’s Interests

As examples, a real estate agent assists an owner in selling property. The agent may be empowered to accept the best offer, but often must clear important points like price with a principal.

An agent is entrusted with making business arrangements that are to the greatest benefit of the principal and not to the agent. The principal’s interests in an agency relationship are to take precedence over those of the agent. (Many of the issues that can arise in this area are considered below in Conflict of Interest.)

An agent is entrusted with making business arrangements that are to the greatest benefit of the principal and not to the agent.

FIDUCIARY RELATIONSHIPS

A fiduciary is “. . . a person holding the character of a trustee . . . in respect to the trust and confidence involved in it and the scrupulous good faith and candor which it requires.” (Black’s) Sections of the Land Trust Alliances Standards (Appendix) amount to an extended definition of trusteeship.

A trust relationship has four components:

- A *corpus*, or body of the trust. The corpus could consist of natural resources, land or other natural assets, buildings, patents, or financial instruments.
- A *beneficiary*, on whose behalf the corpus is to be managed.
- A *trustee*, who holds responsibility for seeing to it that the trust is properly administered.
- *Trust requirements or constraints* may be laid down in the legal instruments creating a trust. The requirements may constrain a land trust to maintain natural areas and not build shopping malls on the land, for example. A foundation’s benefactor may prescribe that its funds are to support certain kinds of medical research. I understand that at Yale University, for example, there is an endowment that supports the maintenance of campus flowerbeds.

Trustees may be individuals. This is not uncommon in providing for the executor of an estate or guardianship of a minor. Commonly, even for very small organizations like local land trusts, small family foundations, or churches, trustees are a group of individuals, in order to ensure thorough discussion of issues.

Large bodies of law and custom govern the duties of trustees. Typically persons appointed as trustees are asked to do so because their experience and judgment have been demonstrated. A trustee assumes duties of diligence, thoroughness, and prudence in carrying out trust responsibilities. As a trustee, an individual is rarely in the position of actually handing funds involved . . . this is done through a group’s treasurer. But trustees commonly negotiate the purchase and sale of assets, the best method of investing endowment funds, and salaries and terms of employment of managers or consultants.

An agent, on the other hand, may be closely involved in handling and accounting for funds and property. An example is handling timber sales. Accountability for volumes harvested, assurance of payment, settling accounts with contractors and others, involves considerable recordkeeping, inspection and oversight, and other management activity. Consultants acting as agents for others maintain separate bank accounts so that a client's funds are never commingled with their own funds. Current, accurate, and thorough recordkeeping is critical to adequate performance as an agent.

Trust requirements are enforced by the Attorneys General of the states. For example, when the Boston Red Sox, owned by a trust, were sold, the Massachusetts Attorney General conducted an inquiry to ensure that the price and terms were fair to the beneficiaries of the trust. Persons who believe that a trust has been improperly managed seek redress through the Attorneys General.

TRUSTS IN NATURAL RESOURCES

There are several important kinds of trusts in the natural resources field.

Tribal Trust Lands

Under treaties and federal law, many lands in Indian Reservations are legally held in trust by the federal government on behalf of the tribes. Many tribes also hold "fee simple" lands as well, which are under their own direct control. There has been considerable controversy of late concerning alleged default of trust responsibilities by the Department of the Interior in custody of funds and assets due the tribal members who are the beneficiaries of this trust.

Land Trusts

Land trusts are legally created as charitable institutions to hold land for conservation and closely related purposes for the public benefit. Lands or real estate are deeded to them with trust restrictions. When a person donates property to The Nature Conservancy, a form of trust is created that commits the Conservancy to maintain the land in a natural condition. A backup trustee may be named in the event that default by the primary trustee is found.

Constitutional Trust Lands

Some important natural resource lands descend from original ownerships by the crown or the federal government, and retain that status to this day. For example, some of the public lands of Maine are termed “Public Reserved Lands,” as they were originally reserved in the State Constitution for specified public purposes. Another well-known example is the school lands (Section 16 & 32 lands) of the western states. These lands were granted by the federal government on statehood. Their revenues were to benefit schools in the states. The State of Washington has received substantial timber sale revenues for highly productive timberlands in its state forests. The state is the trustee; the land is the corpus, and the schools – and the students – are the beneficiaries. Federal law and state constitutions provide the trust rules and constraints.

Public Trust Resources

There is a special class of resources that are called public trust resources. These include natural assets that are legally held in trust by the sovereign (state or federal governments) for the benefit of all the people. Such assets are typically held to be inalienable, though they may be leased out for uses deemed consistent with the public trust. A tract of land purchased for a wildlife refuge or state forest is usually not in this category. An example is the tidelands (with their fishery resources, recreational values, and oil and gas) held in trust by state or federal governments. The state’s ownership of the fish and wildlife (*ferae naturae*) shares some of the features of a public trust resource. A large and complex field of public trust law emerged as a prominent specialty in the 1960s and 1970s as environmental law came into its own in this country.

CHAPTER 7

Loyalty to Employer: Samurai vs. Free Spirit

What duties are owed an employer? An employment relationship is not the same as agency or trusteeship, but it does entail some duties. Before detailing what those might be, let us first paint the picture in strong tones by contrasting the Samurai and the Free Spirits.

SAMURAI – ABSOLUTE LOYALTY

In the waning months of World War II, Americans learned of the Samurai Code through the kamikaze pilots who flew explosives-laden planes directly into US ships during the last few island assaults of the War. The pilots were volunteers prepared to die for the emperor. They prepared for take off with traditional ceremonies and wrapped sacred scarves around their necks. They jettisoned landing gear on takeoff. The kamikazes were said to revere the Samurai warrior's Code of Bushido.

The samurai arose during Japan's feudal period. They were a special warrior caste, marked by obligations of absolute loyalty to their lords. The caste was abolished after the Meiji Restoration of 1868 brought to an end the 250-year Tokugawa Shogunate. Yet their values soon re-emerged in the period of militarism that ended in the dramatic conquests of 1941-42, and then in the later disasters of 1944-45. The code of Bushido apparently never had an official form, but consisted of notions of duty and honor written down at different times and in different ways over centuries.

The samurai provide one view of the duty of loyalty to an employer. The culture of the samurai has provided grist for many popular films, including Kurosawa's *Seven Samurai* (later remade as the *Magnificent*

Seven, with Yul Brynner), the TV series based on James Clavell's *Shogun*, and the recent *Last Samurai* with Tom Cruise. The tale of the 47 *Ronin* lent its name to another recent film.

The samurai provide one view of the duty of loyalty to an employer.

FREE SPIRITS

In modern times, we frequently encounter individuals whose measure of policy is their own “inner voice” – their personal values of what ought to be done. We encounter these individuals in several forms.

There are times when a new administration is voted into office bringing a different political party's platform. Often, the new administration brings very specific programmatic promises. They will re-organize this, change this, change that. Start doing A, stop doing B.

As they set about these tasks, the newcomers may be resisted by career administrators who disagree with the changes, for reasons ranging from self-serving to altruistic. The incumbents may seek to preserve jobs, careers and prerogatives, and they may attempt to advance professional and program goals to which they are deeply committed. The reformers quickly find that their own employees are resisting and undermining their efforts. They are found to be leaking memos to sympathetic members of the press and legislative committees. They are speaking with visible coldness and lack of enthusiasm of the new group's beloved initiatives.

There is a reason that senior officials in government serve at the pleasure of elected governors and presidents. It is simply that the elected officials need to be certain that their top administrators are loyal to their program – come what may. (Disclosure: I have served in two state government positions “at the pleasure” of top officers, where I could be removed “without cause,” as the saying goes).

In other contexts, younger individuals embarking on careers usually believe that they know better than anyone else what ought to be done. They seek change, improvement, and what they view as progress. For them, the system can never move fast enough. They are

likely to believe that their view of what is “the law” is correct and if the top legal officers of the organization don’t happen to agree, so much the worse for them. Their supervisors – who never move fast enough – are seen as craven, scared of change, obsessed with their pensions, and/ or sold out to outmoded ideologies.

The Free Spirits see their superiors as the Samurai of a vanished age . . . obsessed by outmoded loyalties to a dying feudal system. Notions of loyalty to employer are seen as defenses for a rotten system, far less important than the Free Spirit’s personal program and principles. Some Free Spirits view a job as an entitlement bearing few reciprocal obligations to the employer.

Sometimes the Free Spirits stick around long enough to achieve some authority and responsibility themselves, or are brought in from the outside by appointment. In due course, they can find themselves wishing that the virtues of the Samurai received a bit more respect in their dominions. It is a challenge to manage a pack of Free Spirits in a time of budget cuts when the press and hostile legislators are circling for the kill, and the Governor is having a hard time squaring the campaign’s promises for a cleaner environment, more jobs, and tax relief.

Not infrequently in modern life, persons who are anything but “Free Spirits” encounter wrongdoing in their own organizations. Despite risks to careers and the ability to pay college tuition and meet the mortgage payment, they summon the courage to challenge and unmask what is going on. Discouraged internally by “channels,” they then go outside to law enforcement or the press, becoming “Whistleblowers.” These people, neither Samurai nor Free Spirits, may then become popular heroes.

DUTIES TO AN EMPLOYER

To return for a moment to the workaday world, few of us wish to volunteer as Samurai – even fewer want to work for one. We may recognize that there will be practical limits on the freedom of our restless spirits, and we seek to understand what is called for of an employee.

To return for a moment to the workaday world, few of us wish to volunteer as Samurai – even fewer want to work for one.

Even though an employment relationship is not legally precisely the same as an agency (or client) relationship, it contains similar elements. Obligations include:

Diligence or “A fair day’s work for fair day’s pay.” In the conservation field, we accept that pay scales are lower than many other fields, and also that the hours will exceed 40, with the evening meetings, travel, and occasional forest fires and overtime during hunting season.

Prudence in making decisions and implementing them.

Fidelity to duly authorized policy (even soldiers are required only to obey “lawful orders”).

Honesty and thoroughness in accounting for employer assets, incomes, and expenditures.

Competence or not misrepresenting our knowledge of the technical factors and skills needed to do our jobs. More importantly, improving that level of competence through formal study, conferences, and interaction with peers and experts. In entry level positions, it is understood that the employee may have a considerable training period ahead.

Refraining from using employer premises/equipment for other purposes (unless authorized, as for charitable or professional association work).

Avoiding conflicts of interest and loyalty.

Offering superiors our unvarnished views when decisions are being debated.

Supporting decisions once reached (if only tacitly). Refraining from publicly criticizing or otherwise undermining those decisions once made.

This is where loyalty to the employer can be severely tested. Few of us can reasonably expect to win every argument, or expect that our view of the best answer will always prevail. We know that considerations of cost, tradition, politics, or timing affect decisions. We have seen political or administrative disasters when bullheaded people plow ahead with their ideas against all contrary advice.

So we must ask the question, when does the situation reach the point that I can no longer serve in this organization? What do I do about it? What are my options? These are too complex to fully discuss here. They might range from:

1. **Placing one's views in writing** (which goes beyond what the Professional Codes requires of us).
2. **Appealing to higher authority within the organization** (some organizations are not very open to this).
3. **Internal or outside "whistle-blowing."** Some organizations have internal Ombudsmen or ethics officials to whom conflicts can be reported if an employee believes illegal or unethical activity is going on. These are not designed to deal with differences over policy. (It is true that many people define policy positions not their own as inherently "unethical" . . . this is not always evident to other observers). Outside law enforcement or legislative bodies can be another avenue, and the final avenue is the press.
4. **Resigning the position or assignment.** This is easy to talk about, but for most of us, if we have mortgages, kids heading toward college, and hopes for retirement, resignation is not a reasonable option.

The difficulty in defining loyalty to employer in an ethics code led the SAF, for example, to delete a provision from its Code that referred to service with "unqualified loyalty to the employer." It was felt that this potentially turned professionals into mere samurai, compelled to obedience even when contrary to professional principles.

RIGHTS OF AN EMPLOYEE

In addition to duties, employees have certain rights. These generalized rights listed here are supplemented by detailed manuals of policy and procedure in large organizations. To quote just one list (Snoeyenbos, Almeder, and Humber, 2001: 247), rights include:

- a safe and healthy work environment.
- job security and due process in hiring and promoting.

- privacy.
- compensation for work-related injury.
- voice in matters affecting employees.
- equality of treatment.
- protection of pensions where provided.
- collective bargaining as provided by law.
- freedom from harassment.
- a living wage.

The specific content and application of these rights are debated at length; some are protected by state and federal statute, others are not.

It is interesting that there is virtually no discussion in the literature of ethics in the conservation field to guide those who assume roles as *Employers or Supervisors*. Nor are there specific provisions in Ethics Codes governing a role as employer or supervisor. Hopefully, the work of this little book in elevating your sensitivity to ethical issues will serve you in good stead if you ever make this transition.

SELF-ABSORBED BUSINESS MANDARINS

The colossal business scandals of recent years all share a common theme. They expose Samurai – very successful ones – who have forgotten the Samurai Code. Isolated, arrogant top executives reported to boards of directors stocked with their own subordinates and compliant cronies. They decided that their primary loyalty was to their own greed rather than to the shareholders whose assets they were charged with managing. They contrived scams ranging from outright theft to incredibly baroque schemes of self-enrichment, all in the shadows of darkness and frequently approved by compliant law firms and accountants. Enablers abounded with whom the goodies were shared.

These self-absorbed samurai replaced their appropriate loyalty to their employers – the shareholders – with loyalty only to themselves and those cronies and enablers who facilitated their accumulation of wealth and power. In the process, they often ruined their companies, destroyed their own reputations and careers, and added to negative perceptions of the legitimacy of the nation's economic system.

Few of us will ever be tempted by the opportunities for default of duty and self dealing on such a scale. But perhaps studying such incidents can help us see the corrosive effects of secrecy, undue personal loyalties, willingness to accept shallow rationalizations for dubious behavior, and wishful thinking.

MOONLIGHTING

Moonlighting is the practice of working for another employer, supposedly on “one’s own time.” Moonlighting gives rise to a fair share of questions about where the ethical limits of loyalty to employers might lie. It is not practical to give them more than brief mention here. Note: moonlighting generally refers to practice of one’s same skills as used for the employer, not selling a bit of maple syrup or trading in antique fishing lures on weekends.

University professors are often authorized to do consulting on the outside up to a specified time limit. They may be encouraged to do so in fields where currency with a fast-changing marketplace is important to teaching. Contacts from consulting work can help gain students entrée into internships and jobs. (Disclosure: I do consulting “on the side.”) Professors are bound by institutional conflict policies and are usually required to report outside involvements yearly.

Yet serving two masters can raise challenges that call for mindfulness. It can lead to protests from others who may feel unfairly disadvantaged when public or university employees compete with them for business. As an example, independent forestry consultants have at times protested moonlighting by state-employed foresters, on grounds that they are unfairly advantaged by state-paid training, and inside information about programs. They may be subject to conflict of interest if they apply on behalf of clients for benefits from public cost-share programs which they themselves administer.

CHAPTER 8

Conflict of Interest: How to Detect and Resolve Conflicts of Interest

The problems of conflict of interest arise in many different forms. Failure to anticipate them can lead to serious consequences. Yet, in training young professionals, we place little or no emphasis on this problem. Conflict of interest is probably one of the most frequently debated ethics issues in our professional societies.

WHAT IS A CONFLICT OF INTEREST?

It is a situation in which a specific personal interest of your own – usually financial – is in actual or potential conflict with an interest of your employer or client. A conflict of interest can lead you to place personal concerns or interests ahead of or in competition with those of your employer, client, or others you are charged to serve.

The situation of concern need not be a current one – it could be a past client engagement. It may relate to an *appearance* rather than an actual conflict. It may not even relate to yourself, but to a close family member.

EXAMPLES AND DISCUSSION

A classic forestry example is that of a forester working in wood procurement for a paper company who also offers forest management and timber sales services to clients. If the forester is on both the buying and selling sides of the transaction, how can either be certain that their best interests are being looked after?

A related example is the financial planner who sells you a real estate partnership. Later, you hear that he went on an all-expense paid Caribbean fishing trip because he sold the most units in that deal.

A fishery biologist doing consulting work for a private client might want to let them know that they also serve on the Board of an organization that actively challenges some of the client's activities.

In another instance, in bidding on a consulting project in another state, their attorney general's office asked to see my entire client list for a considerable previous period of time to satisfy themselves that I had no material conflicts of interest.

I have reviewed research proposals for a nonprofit scientific research organization. They asked that we not review any proposal that included principal investigators with whom we had worked professionally for three previous years.

Does a past client have the right to require you to decline work based on a conflict of interest? This may be a matter of judgment. It may be wise for you to give heavy weight to a past client's opinion.

Yet in many instances past relationships are what give your work value – you know what's going on.

It has often been asked "Can I do appraisal work for the IRS and also for private clients?" In principle there is no reason why not, so long as there is no involvement on the same cases, and disclosure and other proprieties are observed.

There are physicians who only work for plaintiff's attorneys. Rightly or wrongly, a suspicion may arise as to their objectivity . . . and not only among insurance company lawyers.

Much in the news lately is the situation of some high-level National Institutes of Health scientists who have been allowed to take honorariums, often substantial, consulting for drug companies. Critics wonder aloud how they can be expected to serve government policy at the same time as their private paymasters.

My consulting firm performs occasional market research projects for lumber and wood products companies. Lumber is a highly

competitive field. There is no conflict of interest based on the mere fact that my clients compete with one another. On the other hand, if I were to work on a product for which there are only two producers, there would likely be a conflict of interest – or at least an appearance of conflict – if I were to shortly thereafter work for the other competing supplier.

When being asked to provide services by a client, I like to pause and think if I can see any potential conflicts of interest that would concern the client. I have more than once disclosed a situation that some might view as a material conflict, yet the client felt it did not concern them and hired me anyway. On other occasions I have declined work due to conflicts.

When being asked to provide services by a client, I like to pause and think if I can see any potential conflicts of interest that would concern the client.

FINANCIAL CONFLICTS

As a public official, or even a private employee, ownership of stock in a particular firm could create conflicts of interest. For most of us, these are not material. If, as a public lands forester, your 401(k) plan holds Amalgamated Paper Co. stock, and Amalgamated is an occasional bidder on timber sales you administer, this would not be considered material unless you were a major shareholder (and then again, why would you be working as a forester for a public agency instead of sitting on a beach someplace?)

In many positions of public service, such as legislative bodies or appointive positions, members must comply with stringent financial disclosures to guard against conflicts.

INTERESTS OR ATTITUDES?

Conflicts of *interest* are not the same as conflicts of *loyalties or attitudes*. I may not approve of every individual management decision made by some multi-national corporation for which I work. This is not a conflict of *interest*. *It would be a different matter if I were an officer of a group campaigning against that company's practices.*

I may choose not to work for clients whose activities I dislike. But this is not, strictly speaking, a conflict of interest. It may not be a matter of professional ethics, either.

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PERSONAL RELATIONSHIPS

Personal relationships can create conflicts, or at least the appearance of a conflict.

I was once asked by the Maine Public Utilities Commission to perform certain economic projections. I let them know that at the time my wife was working in the regulatory department of the state's largest utility. This was considered a material conflict and I was unable to do the work, appropriately so. Had I done the work, questions as to my objectivity would have been inevitable. Questions as to both my judgment and the client's judgment would properly have been raised.

This may be where the expression "purer than Caesar's wife" arises. (Julius Caesar's wife was an unusually virtuous individual at a time when this was very rare.)

Romantic relationships short of marriage can also create appearances of conflicts, as in the real-world case of a paper company forester administering large planting projects who became involved with a contractor. Large organizations may have policies concerning interoffice dating, for similar reasons.

ACCEPTING GRATUITIES

Organizations have rules on what you can accept from outside groups with an interest in what your organization does. You may be a purchasing agent or have purchasing authority. You may choose or recommend contractors or vendors for outside work of many kinds. Your organization should have clear rules on this.

Some rules say that you can accept anything as long as you can eat it at one sitting. Or they place a dollar maximum on the kinds of

things companies often pass out as promotional items. In some cultures, accepting small gratuities like this is an important protocol matter.

In many industries, a culture of giveaways exists. Fortunately, this is uncommon in the natural resource field.

While serving in an appointive position in state government, I was once asked by a private company to give a speech at a sales meeting. It was held at a very nice New England resort, a five hour drive away. This company had major public policy issues. I was an adviser to the director of my agency, and indirectly the Governor, on some of these matters. I asked my boss if it would be OK if they paid my mileage and lodging. I did not receive an honorarium. I was unwilling to cover the costs myself, and did not see why the State should pay for such an excursion. The question I asked myself was “What would my boss have thought if I had just done this and he found out indirectly at a later time?” On an informal occasion some time later, I was talking with the state Attorney General, and asked him what he thought, and he said he had no problem with it so long as I sought approval from the boss.

“REVOLVING DOOR” SITUATIONS

The “revolving door” is common in the defense industry, Washington D.C. lobbying firms, and in regulated industries. Here, the question is how can a government official evenhandedly perform their duties at the same time as they are being offered employment by a law firm or contractor doing a large volume of business with their department? What if they hope to receive such an offer of employment in the future? Several top employees of Boeing, a leading defense contractor, recently lost their jobs and may suffer criminal penalties for violating rules of this kind.

Top officials are regularly hired by D.C. law firms and lobbying firms. Ethics rules prevent them from practicing before or representing clients with the former agencies for a period of time.

WAYS TO RESPOND TO CONFLICTS

1. **Identify them.** The only way to do this is to understand the many different ways conflicts can arise, exercise foresight, and think carefully.

2. **If in doubt, ask for time and seek advice.** If you are uncertain about something, ask for time and consult your associates or even an attorney. You have to decide if it is necessary to consult the other party to the conflict. It may not be.
3. **Disclose to the other party.** Disclosure might not fully eliminate conflict, but for minor situations it may be adequate if the other party approves. If a conflict arises from a past engagement, there is usually no burden on you to inform the previous client.
4. **Decline the assignment.** This may be a tough business choice for a consultant. But it is even tougher for an employee. On disclosure, your employer may compel you to continue working on the project despite your concerns.
5. **Recuse yourself.** This is a lawyer's word for withdrawing from an individual decision process in which you have a conflict. Top government officials occasionally must do this, as unavoidable conflicts can arise unpredictably.
6. **Place your assets in a blind trust controlled by someone else.** Financial conflicts can be handled this way, if you are lucky enough to have this problem (given that most members of the U.S. Senate are millionaires, this ought to be more common than it is).

CHAPTER 9

Confidentiality and Proprietary Information

In a private enterprise economy, individual small landowners or farmers, and owners of companies or multi-national corporations, prize the privacy of information about their assets and business dealings. Their information is their property. The law recognizes and protects this.

As a natural resource professional, you may have occasion to deal with confidential private information. In addition, you may work for a public enterprise such as a state forest system that sells timber or mineral rights, that buys land, or manages land for a water district. This involves you in business transactions of a sort that most of us are hardly prepared for at all in our formal education.

CONFIDENTIAL BUSINESS INFORMATION

As an employee of a private business, you will quickly be made aware of what information is considered confidential by the owners/managers (oftentimes, all of it!). You may work for such entities as a consultant in wetland delineation, environmental permitting, preparation of EIS's, or forest or wildlife management. In such a setting you may work with highly sensitive business information.

As noted previously, in such instances you will usually sign a confidentiality or nondisclosure agreement, which may provide for the return of the information when you are finished with it.

There are several categories of confidential business information:

- Business data such as sales, prices, costs, and profits (under antitrust laws, discussions about information such as prices with other competitors is illegal).

- Information about customers or vendors, their identity, sales activity, etc.
- Proprietary information about technology such as formulations of products, industrial processes, etc.
- Environmental monitoring data.

Specific examples from forestry:

- Information as to timber inventories, harvest levels and growth from private cruise or inventory data. Such information is considered highly sensitive by most owners, especially large corporate owners.
- Corporate research results. Some large companies conduct costly programs of research on forest management practices, growth and yield. Some companies consider certain results to be highly sensitive. Copies of reports may even be numbered and marked with instructions that users keep them in a safe.
- Information prepared for attorneys in tax cases or other litigation.
- Real estate appraisals or development plans.
- Plans for mill expansions or construction of new mills or woodyards.

As a consultant, you may conduct projects such as cost benchmarking, market price surveys for wood, or wood use projections in which you need to gain the use of other companies' proprietary information. They, of course, will only supply such information to persons they believe they can trust not to improperly disclose that information to others. Typically, the consultant promises to blend all information into a general average so as not to reveal individual competitor operations.

GOVERNMENT DATA: SUNSHINE LAWS

In the 1960s and 1970s, a major trend emerged to open up government to scrutiny from the legislative branch and the press. Barriers of custom and regulation that had kept a lot of information under wraps were removed by so-called "sunshine laws."

Not all information in government possession is available to the public under sunshine laws, however. Depending on the laws/

regulations of your state or agency, *the following kinds of information may be protected as confidential*:

- Proposals and bid documents submitted to the agency in competitive bid situations (often, but not always, handled by a separate procurement agency).
- Data protected as confidential by statute.
- Appraisals or other data submitted by private parties in land acquisition or similar negotiations.
- Materials in the hands of your attorneys in preparation for or contemplation of litigation.

The above categories include information considered to be private property legitimately protected by a confidentiality privilege. Its presence in the files of public agencies does not automatically cancel the property rights of its owners. Without specialized advice, you may not be able to make that determination yourself. Private documents submitted for use in negotiations and protected by legitimate confidentiality rules are often returned to the owners so that there is no uncertainty as to its status. Alternatively, such materials can be filed with an agency's attorneys.

Some forms of internally-generated information may also be confidential. An important example in the conservation field would be materials assembled in the process of law enforcement investigations. For very good reasons, including protecting the rights of the innocent, files being prepared while investigating violations of land use, forest fire, forest practices, or fish and game laws may be held confidentially at least for a time. Generally, officers engaged in law enforcement receive thorough training on the rules.

In some organizations, draft materials, such as drafts of pending legislation, speeches, or policy papers are considered legitimately confidential until their final versions are completed and become public. The purpose is to protect the policy development process from leaks and grandstanding by parties at interest. Leaks of early or incomplete information may even be stage-managed by political leaders anxious to gain leverage from "trying the case in the press." Such behavior is now commonplace.

Confidentiality of government-held information is primarily a matter of recognizing the issue, learning the rules, and following

them. As you move on in your career, you will encounter new situations for the first time.

You may be the first one to notice an issue, and will have to seek guidance yourself, as nobody may have thought to brief you on these issues. For guidance in these situations, you must consult early and regularly with your organization's legal counsel.

When I worked at the Maine Department of Conservation, the Assistant Attorney General who worked with forestry used to say, only half in jest: "If you don't follow my advice, I won't defend you."

CONFIDENTIALITY OF RESEARCH MATERIALS

This book is not a primer on ethics in science, but in your work, you may encounter information that deserves confidential treatment. You may be shown or asked to review copies of research or project proposals, working drafts of research papers or administrative studies, and similar material.

Authors of these materials have the right to assume that you will not, without their authorization, copy such materials, share them with anyone with a competing interest in the information, or quote them in your own work, with or without attribution.

WHISTLE-BLOWING

This is a complex and difficult topic about which whole books have been written. It is considered briefly above under Duties to Employers and clients. Whistle-blowing often involves disclosure of information which, while perhaps legally confidential, contains evidence of wrongdoing of one sort or another. A whistleblower may incur legal liability for the acts of disclosure, or may be sanctioned by management for infractions of confidentiality.

If you are ever in a situation where you think whistle-blowing is legitimately necessary, you should learn more about the subject and seek unbiased advice before taking action.

CHAPTER 10

Professional Standards

Ethics codes all say that “professional standards” must be followed – but what are they? Where do they come from? What do we do if there exist no off-the-shelf “standards” that can help us in reaching decisions where judgment is a material factor?

DEFINITIONS

Professional standards have been developed in some fields:

Law	Code of Professional Responsibility, a 170-page book; numerous websites; news services following state-level developments.
Appraisal	The Appraisal Institute has substantial standards applying to reports.
Accounting	Ethics manual is 150 pages.
Statistics	American Statistical Association and International Statistical Institute issue large standards documents (20 pp. single spaced including reading list).
Engineering	Numerous specialized societies and large literature on professional ethics.
Planning	American Planning Association issues supplement to Code to guide members.

PURPOSES OF STANDARDS

1. **To guide professional practice** by setting a floor under duties of diligence and by specifying generally recognized techniques that will ensure proper outcomes.
2. **To protect clients** by ensuring them that such standards exist and are followed . . . for example, a client has no way to know what a civil engineer does to design a wastewater treatment plant. The “Licensed Professional Engineer” stamp provides assurance that technically sound practice is being followed.
3. **To guide the adjudication of disputes.** If the wastewater treatment plant does not work, there will be some basis for auditing the process to see if the design engineers followed standard practice or not.
4. **To support the time and cost requirements of the work,** in the face of client concerns over costs.

DON'T DETAILED STANDARDS ELIMINATE JUDGMENT?

The short answer is No.

Surely in engineering and law, there is ample scope for the application of experience and judgment in solving problems. That is why only experienced and distinguished architects are hired to design skyscrapers and bridges, and why they subcontract out technical work in structural design and other issues to highly experienced specialists.

It is why high-profile, experienced attorneys are always engaged for high-profile cases.

IMPORTANCE OF STANDARDS

The legal profession has perhaps the most highly developed approach to standards of practice.

The reason is that the consequences can be so extreme:

- Corporations survive or go bankrupt.
- Dollar amounts can be immense.
 - tobacco litigation – hundreds of billions
 - Enron, Worldcom, and others – tens of billions

- Accused defendants go to jail or go free.
- “Clients” may not choose their own attorneys.
- Complex cases may involve many attorneys and in litigation there can be multiple appeals.
- Large cases can continue for years, with turnover in personnel. Some basis for continuity in approach is essential.
- Attorneys and courts have a natural orientation to procedure and to documenting things.

The old joke has it that surveyors monument their mistakes, the doctors bury theirs, and the attorneys send theirs to jail.

Substantive Standards for Management Actions

In natural resource management, practitioners not only make *procedural* choices, they apply science and experience to judgments about *actions on the ground*:

- silvicultural prescriptions.
- judgments as to compliance with regulations.
- decisions about hunting and fishing regulations to meet biological goals.
- specification of BMP's to control erosion and sedimentation.
- calculations of allowable cut or harvest levels on large areas or individual properties.
- maintain accountability for resource sales and bookkeeping for revenues and expenses.
- design procedures for logging or other habitat manipulations, contract for the work, and inspect to ensure proper implementation.
- conduct various kinds of sampling to estimate fish or bird populations and reproduction; or conduct inventories of timber or other resources.

- prepare management plans for client guidance or as part of regulatory processes or tax programs.
- participate in the layout, maintenance, or closure of roads, bridges, campsites, and other facilities for vehicle or visitor access.

A substitute for detailed standards of practice has been a minimum education and experience qualification. The assumption is that if a resource professional has a college degree, and some amount of experience, proper professional technique will always be employed.

Hmmm . . . do you think this is valid?

Now in most areas, there may be a generally shared consensus among professionals as to how problems like these ought to be handled – that is, what would be the “professional” approach to each. Yet, at the same time, scientists and professionals often disagree as to the specifics.

Example: here we are logging on a gently rolling site, with deep, sandy soil and no surface water in sight. Maybe we don’t need to put in as many waterbars as the BMP booklet’s guideline suggests. Even BMP manuals, which seem to think of everything and to be highly detailed, leave considerable scope for discretion on some issues.

What is the professional approach?

Example: I am to prepare a management plan to qualify a property for a preferential tax rate. The owner wants to minimize the expense for the plan. How far can I cut corners on expenses before the plan is “unprofessional”?

Question: in these times, is it possible to argue that considerations of a Land Ethic are NOT part of the professional standards of a natural resource management profession?

CHAPTER 11

Duty of Competence and Diligence

In many kinds of employment, we are likely to face some basic questions in this area at one time or another. What kinds of work am I qualified to do? How much needs to be done to represent diligence? Professional ethics codes attempt to at least mark out in broad strokes what our general obligations are.

QUALIFICATIONS AS A PROFESSIONAL

Professions such as forestry, wildlife management, and fisheries biology have become highly specialized, perhaps even over-specialized. To deal with many management issues, you have to have a roomful of all the “ologists” – biologists of several kinds, hydrologists, pathologists, etc.

When you are fresh out of college, you still have a lot to learn. Your qualifications are still minimal until some practical experience and on the job training. There will be some areas of your field, where your knowledge will be minimal to nil. For example genetics and tree improvement are important in the South, but when I’m around geneticists, I don’t even know what they are talking about. As you move forward in your career, you will naturally specialize in one or a few areas and develop substantial knowledge of them. If you write and speak to professional and technical audiences regularly, you may come to be seen as an expert on certain topics.

A common issue in the conservation field is people misrepresenting their qualifications. In forestry, the fact that loggers and others present themselves in ads and flyers as “foresters” has long

been an irritation. Except in licensing and registration states, this may not be illegal. Usually they are not members of a professional association. It is not even an issue that a professional group can act on.

In consulting, you must often work on a variety of topics. It often happens that you revisit certain subjects more regularly and can then lay claim to expertise on them. When discussing potential engagements with clients, you have to be scrupulously honest on this. Sometimes someone asks you to work on a topic, and you admit you know nothing about it. The client may say, “well, far as I can see nobody else does either, so you’re hired.” In such instances your reputation for careful work may get you the job.

In public debates, it is common for conservation professionals to speak as if they are technically expert on a related field when in fact they are not.

CONTINUING EDUCATION

We all have seen people whose bookshelf contains their college textbooks, 15 years old, that are rarely opened. They do not read professional journals, complaining that “there’s nothing in there for me.” They are not members of any professional society. Not being members, they are not subject to the society’s ethics codes that mandate keeping up with their field.

Every learned profession requires its members to devote time to “keeping up.” Some maintain certification processes that require tracking of courses taken and presentations made, requiring a certain number of “points” every year from a variety of activities. State licensing boards enforce these.

DILIGENCE

Ethics codes admonish members to only accept assignments that they are in a position to carry out to a high professional standard, and to ensure that their compensation permits this. This is not just to prevent price-cutting in competition for work, but to prevent the devaluation of the profession by sloppy work, and also to protect the client. In some occupations, traditional pricing practices (percentage of the costs, as in real estate commissions) serve both purposes.

The suitable amount of diligence is not readily specified. Especially since, as noted above, there exist few precise professional standards that lay it out in all details. All the same, for many routine matters, there may be a generally recognized degree of diligence, in terms of time spent, cost, types of data used, sample size, and other matters. It is common, for example, to expect that a forester will inspect a logging job on a weekly basis. And there is a general sense of what is appropriate for an inventory on a small woodlot.

Yet these general averages must be subject to judgment. This is where experience comes in. Applying cookie-cutter methods regardless of circumstances is not professional behavior at all.

Factors legitimately considered in deciding the degree of time, expense, and diligence that is suited to dealing with a problem might include:

- Legitimate deadlines.
- Resource values at stake . . . are we dealing with second growth aspen, or with large trees that are currently eagle habitat?
- Financial values at stake.
- Priorities – usually we have plenty on our plates, and must set priorities for where the time goes.

The ethics codes specify that clients (read employers as well) must be advised whenever a situation arises that professional judgment and recommendations are not being followed. This should also apply to situations where the level of expenditure on information or data supporting a decision is felt to be inadequate.

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DILIGENCE VS. BUDGET REALITIES

In many businesses and public agencies, however, operations are under-staffed. Demands come from headquarters for some information or another and it has to be delivered by Friday, regardless. Continued demands of production in understaffed organizations over time can lead to downgrading of standards, and to slighting of important work that does not yield immediate results. Successive rounds of budget cuts lead managers to trim here, cut there, defer one more thing that isn't needed tomorrow. The next generation of managers finds that the property lines haven't been brushed for 15 years, the inventory is 20 years old, management plans are not up to date, and no compartment exams have been conducted as long as anyone can remember. Invasive weeds, aquatic or otherwise, are being ignored.

This is reality everywhere. It means that on an escalating list of issues "professional standards" have gone by the boards. There may be little that professionals can do about this in the short run. But they have an obligation to continue to point out to management exactly how things are falling behind and what the long-term consequences could be.

OBLIGATION TO REFER WORK

If you are an employee of an organization, you are likely to get the work assigned – with deadlines – regardless of your protests that you need specialist help or haven't the time to do it right. You may need to clearly state limitations in your results that are caused by this, or show a list of unresolved points.

A consultant has an affirmative obligation to see to it that the client is well-served. But consultants often face situations where work is offered for which they are not fully qualified – but the client does not know this. Consultants accepting work on this basis then rush about to get up to speed on the subject. This may at times call for you to refer the entire job to another firm or individual whom you know to be the best qualified on the topic of concern. Or, it may call for you to bring in the other expert onto your team for the work. Clients usually support this.

A consultant has an affirmative obligation to see to it that the client is well-served.

Referral to better qualified experts is specifically mandated in ACF Canon 15. Referring work to others is important to seeing that the client is well served, and is also a part of professional collegiality. You always hope that “what goes around comes around” and that people will refer something back to you on occasion (okay, sometimes you find yourself hoping for a long time . . .). There are giant consulting firms whose clients have plenty of money and do not seem to care if they know anything or not. Junior people at those firms call specialists and tap their brains for what they need to know. The specialist hopes the big firm will send them a piece of the work. They never do.

REFERRAL FEES

In some fields of business, fee-splitting or referral fees are customary. In most professions, however, referral fees are considered unethical. ACF Canon 19 bars soliciting or paying such fees.

DILIGENCE IN CONSULTING: FURTHER REMARKS

Many clients are tightwads who undervalue professional expertise and want to buy it for a song. Not only that, many consulting engagements, especially those connected with property transactions, come with tight time deadlines. You will get a call by someone doing “due diligence” who wants a complex task done in 25 days on a cut-rate budget. You will find that in a lot of situations, what goes by the legal term “due diligence” is not “due” at all. This helps explain why a lot of high profile business deals turn out disastrously.

An increasing volume of consulting work is bid out competitively. Price plays an important if not dominant role in who is selected. Requests for proposals are rarely written so clearly that they resolve all questions as to standards and diligence. Does the client want a Cadillac or a Jeep? You are often left to guess. You have to stand accountable for dollar estimates on costs of work that may be very difficult to predict accurately for hours and expenses. The firm with

the highest “professional standards” will usually lose. In a competitive bid situation, you will usually have no opportunity to educate clients on professional standards and why the work costs what it does.

Professional ethics codes usually specify that professionals should be retained on the basis of experience and reputation. This is a faint hope for most of us in the real world – this is controlled by the client, not by ourselves. Even if you are in the position of the organization reviewing bids by consultants for contract work, you may be able to do little about it.

The best you can do is promise the best you can do. This means being honest with yourself as to time required and time available. I have turned down work on the basis that I was simply too busy to get it done in the time available. You may know it will go to someone else who is actually in the same boat, but may be less scrupulous about quality. Turning down work you know you can do and want to do is hard.

THE EXPERT WITNESS

In litigation, specialists may be sought by one side or the other to serve as expert witnesses. An *expert* is a person who speaks to a contested point from knowledge, expertise, and experience. (“my ballistics tests show that the bullet was fired from this pistol”) This is in contrast to other witnesses, who saw or heard something happen (“the dog barked in the night”) and can testify from personal knowledge of an event.

A common sort of expert witness work for foresters in the past was to testify to financial damages from fires caused by sparks from steam locomotives. Due to their expertise in cruising timber and estimating its value, their testimony was important, since after a fire the evidence had disappeared or radically changed form. “Stump cruises” to estimate damages in trespass cases are still common. With the large volume of litigation on environmental issues and environmental regulations, experts in almost any natural resource field may find themselves playing roles in hotly contested litigation.

Qualification as an expert witness for courtroom testimony is a complex, formalized process. This note is a quick summary. If you are ever involved, the attorneys will fully brief you. Basically, an expert must be qualified by the court, based on adequate qualifications, which can consist of education, experience, publications, and prior expert

witness work. One party's experts are subject to cross-examination by the other party's counsel. If an expert is challenged, the court decides whether they are to be admitted or not. In complex litigation, experts may be subject to "discovery", which is pretrial interview by opposing counsel. In addition, every single item, including computer files, produced in preparation is potentially discoverable.

Before you are even retained, counsel may request detailed information on your past activities, speaking, and writing, to ensure that a past article or report of yours does not contain something opposing counsel will obtain and use against the client.

Ethics challenges in expert witness work are formidable. You must be intellectually honest and adhere to the facts. Your work and conclusions must meet high professional standards. You will face the discipline of withering cross examination by opposing counsel, which is designed to enforce this. Lawyers are trained to pick apart witness testimony. They are being well-paid to impeach your credibility. There may also be subtle or not-so-subtle pressure from your own side's counsel to ensure that your statements adhere to their view of the case.

CURRENT CV AND FILE ON ACTIVITIES/QUALIFICATIONS

At an early age it is sensible to begin a professional curriculum vitae (CV) and dossier. If you are at all active the list will grow at a satisfying pace. When you apply for jobs, or at other occasions, having this handy might save time. In many organizations, reviews for promotion or even retention often rely on a documented record of this kind.

The CV should include all educational and training experiences. Commonly at a meeting or training session you can get a signed sheet indicating the credit hours eligible to professional licensing or accreditation. (I usually lose these) Professional society officer/committee activities and civic activities would be included. Publications, including brief newsletter items initially, can be included.

Keep a file of your reports, publications, presentation overheads, and major memos. It can be embarrassing when you are unable to find bits of your own work years later. I know – it happens to me regularly.

Maintain a file for this purpose; toss items in there as they come up. You can periodically update your CV, and when some form comes to fill in your training experiences for the past 2 yrs, it's all in there. The

form usually wants names, dates, and hours. (If you can remember it all, you're probably not doing enough). Start doing this now if you aren't already.

Here is a depressing fact – corporate recruiters have found that about 20% of resumes of persons applying for high profile jobs contain material falsehoods. These have included claims to degrees that were never earned, or study at institutions never attended. These are often people of considerable accomplishment already. Examples appear regularly in the daily papers. Falsifications of military or employment experience are common.

Ethics is not about outright honesty – that is assumed from the start.

CHAPTER 12

Plagiarism and Credit

DEFINITION AND POLICY

Plagiarism is the use and presentation of the work of another person as your own. Concerning the person who actually did the work, it is simply stealing. Concerning anyone to whom the work is presented, be it a teacher, employer, client, or the general public, it is simply lying.

At this point you should check the website and read the plagiarism policy of any university.

Plagiarism charges have been raised against experienced and distinguished professional authors whose works have won major awards. The cases of Doris Kearns Goodwin and Stephen Ambrose come to mind. Both of their reputations were seriously damaged when instances of plagiarism cropped up in some of their works. Goodwin attributed it to incomplete note-taking; Ambrose to the poorly supervised work of assistants. It is difficult to imagine such people committing plagiarism intentionally, so their protestations to that effect ring true. *Unintentional* plagiarism is still plagiarism.

***Unintentional* plagiarism is still plagiarism.**

Strikingly, there is *never* a reason to commit plagiarism. Quotation marks suffice. Also, you can indicate, where you follow another person's work closely, what you have done. When others have helped, use an "Acknowledgements" section. Professional courtesy suggests erring on the side of generosity in acknowledging assistance.

Part of the prevention for plagiarism is to keep careful notes indicating sources, down to page numbers. Whether you use old

fashioned “3 x 5” cards or enter information into a computer database, keep track of where it all comes from, including interviews. This will save time later, believe me.

There is nothing complicated about plagiarism: it’s just plain lying.

One practice to learn early is always to fully cite the source in all tables and charts. The source may be your own computer file – include the filename. You won’t believe how easy it is in a complex report to lose track of where things come from. You may need to check data later, or may want more details. If you can’t find it yourself, how will your reader?

LIES, DAMNED LIES, AND PURCHASED TERM PAPERS

The purchased term paper, presented as a student’s own work, is an extreme case. It is a symptom of the state of our society that some students buy term papers and pass them off as their own. Apparently it’s a booming business. There are websites professors use to detect outright plagiarism. Many instructors, even in high schools, require submission electronically to enable them to audit against plagiarism websites. The good term-paper ghost-writers tweak papers to foil these systems. While doing research for this book, I encountered several websites offering term papers for cash. *You’ll love this – the subject of one of them was business ethics!*

It is a symptom of the state of our society that some students buy term papers and pass them off as their own.

One wonders what will become of someone who has cruised through college on purchased term papers if they ever have to do any actual work of their own. Could this trend be one reason why so many college graduates, who seem to get good grades, actually can’t write???

You will find, if you ask around, that many people think there is nothing wrong with either selling term papers to students (arguably

being an accessory to plagiarism) or submitting a hired term paper (lying to an instructor).

Arguably, a transcript containing grades that were “earned” by using purchased term papers compounds the offense—it amounts to lying to potential employers as well. It also amounts to lying to whomever financed the college training. It arguably amounts to students lying to themselves – but self deception is, they would argue, harmless, after all . . .

Routine use of purchased term papers, and other forms of cheating occur in an atmosphere where the risk of being caught is vanishingly small. I wonder if the corporate looters now facing jail time for fraud and deception learned their ethics while cheating in college . . .

If you discovered someone turning in purchased term papers in college, would you turn them in? Would it depend on who it was? How would you explain to them why you turned them in? For more, see the David Callahan book, *The Cheating Culture* (Callahan, 2004).

COPYRIGHT LAWS

Many kinds of published material as well as recorded music and computer software are protected by copyright laws. These laws protect the intellectual property rights of their creators, and of those who have invested money, often in large amounts, to produce the products and make them available.

Use of excerpts for specific purposes may be authorized under doctrines of “fair use”, which are not always crystal clear. Oftentimes it is sound practice under copyright laws, and also good professional courtesy as well, to seek permission for reasonable uses of copyrighted items.

If you have occasion to copy substantial amounts of copyrighted material beyond “fair use” you should obtain permission.

ALLOCATION OF CREDIT

This will not be a major problem in your early career; much of your work will be in the field. You will not be principal author of major documents involving numbers of people carrying out different parts of a complex project. Someone else will worry about allocation of credit. The first time you do a lot of work, and someone else uses it in a big report or article, or gives a PowerPoint presentation to an

important audience, without bothering to mention your name, you will understand clearly what the credit issue is all about. In the literature on ethics in scientific research, you can find further detail on this topic. As you do begin to work on larger and more complex projects, take care to see that the acknowledgments sections fully represent contributions by others.

CHAPTER 13

Professional Ethics and Safety

Questions of safety give rise, in one form or another, to many of the choices made by people and organizations in resource and environmental management. Because they can involve weighing of inexplicit policy guidance, and may involve important resource trade-offs and financial costs, safety questions are often technically very difficult. Specifically because of this, they engage our ethical obligations as well.

OCCUPATIONAL SAFETY

All organizations are subject to state and federal regulations concerning employee safety. Yet, safety as a management focus has not always been strong in the past. There can be a tendency to see it as someone else's job. You would be surprised at how poor the safety management, recordkeeping, and training can be in many public and private organizations. Safety demands a constant focus on the basics, in repetitive situations where people get sloppy and forget. Good managers have to risk being seen as obsessive scolds by constantly reminding people of safe practices – “*This is a hard hat area.*”

It's an old cliché that “safety is everybody's job” But it's true. So a basic tenet of professional ethics is that you have to be a contributor to a positive safety climate and working attitude. With training, alertness, and a good attitude, this will come quickly. Accident prevention is just like fire prevention – you never stop. Usually when a really bad accident occurs, it is found that some one contributed to it by being lax on some routine policy, repair, or precaution.

Despite various legal quibbles, an organization implicitly assumes duties toward the safety of contractors working on its land, and

toward members of the public who may be visiting. These are complicated matters. Law and practice will differ from state to state. There are few things more boring than reading liability insurance policies . . . but it might be good for you to do so.

Your organization should already have rules, practices, and training procedures in place. Your first mission is to familiarize yourself thoroughly with these. Doing these basics right – all the time—is a hallmark of a professional.

RISKS TO THE ENVIRONMENT, SUSTAINABILITY

But there are other policy questions for resource management in which you will become involved, if not as the decision-maker, then as an adviser, analyst, or participant. In conservation professions, we encounter issues of environmental risk or risk to future productivity at every hand. That's what our work is about. Some examples:

How should we design culverts to minimize risk of blowouts?

Does this pond need to be closed to ice fishing to eliminate a risk of overfishing?

What evidence do we need to have to adopt (or cancel) a fish consumption advisory due to toxics in fish?

How much water withdrawal from this stream for farming (if any) can be allowed without posing a risk to endangered salmon stocks?

A heavily used pond has become infested with an invasive species of milfoil. Should it be closed to use? Treated with an herbicide? Is there some other option?

Decisions of this kind all involve a dimension of safety or risk. Some may seem trivial from a natural resource perspective, others could involve major ecological damage or contribute to species extinctions. Ethical issues may arise when we have to make balancing judgments on these choices.

FEATURES OF RISKY DECISIONS

Decisions about risk or safety have some common features:

1. The degree of risk may be in dispute, possibly highly contentious dispute.

2. There may be too little information to clearly measure the degree of risk.
3. Decisions may be needed now, before final answers can be supplied by research.
4. On high profile cases, there may be highly polarized involvement by interest groups and by politicians, in an atmosphere in which “facts” are being used loosely, if at all.
5. There may be heavy political pressure of various kinds brought to bear on those whose duty it is to speak to what “the facts” actually are.
6. The decision process is often anything but neat and tidy. It may involve multiple complex analytical and quasi-judicial processes, layers of appeals and multiple agencies. Frustration is routine.
7. Doing nothing may also carry risks, though they may be underestimated or difficult to evaluate. In such cases, inaction or deferral is also a decision.

One thing that complicates many safety debates is that those who benefit from a proposed decision are different from those who will experience the costs. As economists would say, the incidence of costs and benefits is different. Our society does not do a very good job of finding good ways through such decisions. In the past, projects were bulldozed through while ignoring the costs, especially environmental ones. Today, it often seems that the opposite is true.

In the case of chemicals, few of us, regardless of our level of training, can claim actual expertise concerning their safety for human or environmental health. Yet we must share responsibility for choosing to use them or not, and how it is to be done. Unfortunately, with the general public, the existing regulatory structure relying on the EPA has a level of credibility somewhere south of the CIA right now. Nobody believes the people who supposedly know the most about it.

Participants in highly polarized controversies all like to burn incense before the idols of “Good Science.” They reserve to themselves, though, the right to cherry-pick the available information to define what “Good Science” says. Partisan scientists line up on opposite sides of the debate, leading to public cynicism about science in general.

If we are honest with ourselves, we have to admit that the “right” decision is not always clearly evident. But there will be participants who have no doubt about what it is.

Decisions that used to be made in local offices, by land managers themselves, with little specialized technical input, are now played out with extensive involvement of various interest groups. The press, politicians, and, not infrequently, lawyers can all be involved.

As professionals, we can now expect to be held to account for judgments we make – and in highly public forums to boot. We must respond to this higher level of accountability by making sure that our judgments withstand scrutiny technically, professionally, and ethically. We have to do this while under considerable administrative, political, and financial pressure, often from close friends and associates.

As resource managers, we are usually not scientists. If we are, our scope of expertise is likely to be quite specialized, and often not directly relevant to the specific question at hand.

You already know all of this. So how does ethics fit in? How to perform ethically on questions of safety in these conditions?

FIRST, THE CODES . . .

Decisions about safety do not fit neatly into ethics canons from professional society ethics codes. But they are there, implicitly.

Quite a number of terms in the *SAF Code* reflect, at least implicitly, a recognition of the importance of risk.

Members are to demonstrate a “commitment to the long-term management of ecosystems”, and “maintain the long-term capacity of the land” This obviously includes consideration and management of various kinds of risk.

The Code identifies “sound science” as the proper basis for action, along with social values.

A principal ethical concern, then, is to maintain intellectual honesty in applying what is known to the problem at hand. An awareness of how tentative and conditional knowledge can be, and of our own limits, is usually healthy.

Members of the *American Fisheries Society* “accept the responsibility to serve and manage aquatic resources for the benefit of those resources and of the public.” Doing so will regularly involve making judgments about risks to productivity.

The Code of *The Wildlife Society* includes similar commitments.

Aiding others in making judgments about long-term risks to resource productivity and environmental or human health will be some of the most difficult and demanding work you will do in this field. Such decisions may carry a heavy weight of responsibility for consequences, and could affect large numbers of people.

No ethics code can fully map out this difficult terrain for us. But professional ethics, taken seriously, admonishes us:

- To handle information and competing ideas in a professional manner.
- To be careful in keeping separate our personal views as individuals, our analysis of the science and the data, and our formal roles in the decision process.
- Keep our duties to clients, employers and the public in a clear focus in our minds at all times.
- When these conflict, as they may, seek advice and do not take refuge in slogans.

CHAPTER 14

The Land Ethic: What Does It Mean in Practice?

Stewardship of the long-term productive capacity of land and water, and sustaining the functioning of ecosystems, are the underlying reasons why society assigns technically trained people to work in natural resource and environmental management. Yet, translating these broad social ideals into operational guidance for practice has proven difficult, and the results often disappointing. Here, we consider how the “Land Ethic”, perhaps the most famous formulation of these ideals, fares in professional society codes.

THE SOCIETY OF AMERICAN FORESTERS CANON

In 1992, the SAF membership adopted the following Canon, placed first in its Code:

A member will advocate and practice land management consistent with ecologically sound principles.

Recognizing the intellectual debt to Aldo Leopold, this was always called the “Land Ethic” canon, although the term does not appear in the text at all. This language was adopted after several years of debate. Other resource societies include commitments with substantially the same meaning.

In 2000, a revision of the Code modified this language somewhat. The term “ecologically sound” was dropped, and three additional concepts introduced into the first “Principle and Pledge.” These were:

Current and future generations

Long-term capacity of the land

(essentially fitting the concept of sustainability into the Code without using the word)

Materials, uses, and values desired by landowners and society

This restatement of the “Land Ethic” canon recognizes the competing claims of future generations, of landowners and society. It emphasizes long-term productive capacity as the bottom-line issue, instead of specifically ecological concerns.

So, the issue now is, What exactly do these Code provisions mean in practice?

Professional groups have an obligation to explain and elucidate how these broad ideas are to apply to management decisions. Unless this is done, the Ethics codes will remain nice generalities but will be ignored by professional managers as not very helpful in the real world. Or, even worse, their vagueness will be used by some to justify virtually anything at all.

Unfortunately, we have to conclude that the professional societies have not done very much to assist entry level members, much less seasoned veterans, to apply and implement vague commitments that sound like a Land Ethic. At present, it would be very difficult to actually bring an ethics action against a member for violating this canon. To my knowledge, it has never been done.

A significant faction within the SAF strongly opposed the Land Ethic canon as well as other provisions of the 2000 Code revision. A short summary of some of their concerns is in the article by Billy Humphries listed in Further Reading below. Concerns included that a Land Ethic canon could create legal liabilities for members, is too vague to create enforceable obligations, and is likely to conflict with private property rights.

Does it matter whether a professional society’s Land Ethic is precise and enforceable or not? Perhaps not. A Land Ethic provision in an Ethics Code can be seen as an instructional and aspirational mandate – bringing our attention back to the long-term, abiding purposes for which we practice our trade. In fact, an inspirational objective is highly ranked in the SAF’s 2004 Ethics Guide.

CONFLICTS OF CANONS AND COMMITMENTS

A Land Ethic, taken seriously, is likely to conflict, at times sharply, with other Canons in an ethics code. If it doesn't, it probably isn't much of a land ethic!

But it's an imperfect world:

- Clients often want the money more than long-term ecological integrity, which is valued at zero on their balance sheet.
- Large organizations are understaffed and cannot re-examine and open up every problem that comes along to research and re-assessment.
- Some decisions cannot realistically be deferred.
- There is never enough money to do all that needs doing.
- As one individual, you can't change everything at once. You will have to choose your fights.
- In actual management, we can rarely satisfy all important values at once.
- There is often disagreement as to how fast we need to move to correct an admittedly unsatisfactory situation.

For some people, the conflict between their personal views and Land Ethic and what their clients or organization is doing is too much. They must then withdraw and seek employment elsewhere. In consulting, you can "fire the client." But for most of us in the world of work, simply resigning is difficult, if not impossible. The Ethics Codes seem like cold comfort in situations like that.

Discontent over the organization's policies led a number of US Forest Service employees to found an organization, the Association of Forest Service Employees for Environmental Ethics. (AFSEE). They have a website and a publication, Inner Voice.

Personally, though, I am not certain that it is helpful to label all differences of opinion about policy as questions of ethics.

A PERSONAL LAND ETHIC

As matters now stand, then, each of us is challenged to formulate our own personal Land Ethic – our own sense of when something is “too ugly” for us to participate in. Our professional societies have left the matter way up in the air, in the form of loose generalities.

Marking out such a personal land ethic cannot be taken lightly, especially as some people are in a position to impose their own ethic on others. It is not a task for single afternoon, or even a single college course, but rather for a lifetime.

It is often discouraging for some of us veterans to see how quickly new college graduates are acculturated into a culture of expediency within the organizations where they are first employed. Not surprisingly, new employees have to show their employers that they “mean business” and can get the work out. Social pressures within organizations can be subtle but powerful. Discussion is seen by some supervisors as “boat-rocking”, challenges to accepted ways are labeled as naiveté or inexperience. “That stuff they told you in college won’t work in the real world” (well, admittedly, sometimes that’s true). Also, most organizations can bring to bear strong social and informal pressures for at least overt conformity with, if not vocal support for, the organization’s practices and norms.

Reading widely and continuing to participate in professional discussion of these issues is important. My personal recommendation for cultivating and growing your own Land Ethic (or whatever you choose to call it) is to dip into Aldo Leopold’s *Sand County Almanac* a few times a year. If you don’t already own one, there are low cost paperbacks on the market.

CHAPTER 15

Resource Professionals in a Political World

Who am I speaking for?

Professionals in wildlife management, forestry, fisheries, and natural resources research, at one time or another, get involved in project decisions and policy debates. This may happen at work, or in a role as a member of a local planning board or conservation commission. All I can do to help you here is to offer a few observations from several decades of experience “in the trenches” in public service, in consulting, and academic work about natural resource policy. Here I use the SAF Code for teaching points; similar points are found in many other codes.

CIVIL AND DIGNIFIED

The SAF Code pledges members to conduct themselves in a “civil and dignified manner”, which is to say, in a professional manner. When we are under pressure, and feel unfairly criticized, anger can be a normal reaction. Controlling that reaction is part of a professional approach to things.

I usually find that if I write something in anger, it is best to place it in a desk drawer for a day or two and then edit it again, focusing on what is really important and deleting phrases that merely vent rage or that immoderately criticize others. When I don’t follow this rule, I often regret it. E-mail makes it easy to “fly off the handle.”

RESPECT OTHER VIEWS

The Code also requires that members “respect the needs, contributions, and viewpoints of others.” Some members find this

difficult to do in situations where critics of our work are free to employ insulting terminology and extreme characterizations of what we're doing, and to selectively edit information in ways we may find unfair.

Activist leaders from all points of the ideological compass are often drawn from ranks of people who love to hear themselves talk and who are given to sharp and unflattering characterizations of their opponents. Their constituents applaud good “zingers.” This style of rhetoric is motivated less by persuasion than by getting press attention and by getting nods of approval from one's own side of the aisle. So, debates about natural resource matters are often driven down to the lowest level of civility and end in outright hostility.

The SAF Ethics Code is saying that part of a professional approach should be to make every effort – in public discourse as well as internal debate – to avoid the name-calling and labeling that seem now to be standard practice.

Lowering the decibel level, if it can be done, usually helps.

CHALLENGE AND CORRECT

Professional societies usually believe their members know best. Thus, they mandate that their members “challenge and correct” misperceptions and misstatements about their field. Usually the members want their paid staff to be busy “correcting” opposing views about science and policy. Apart from generalized complaining and hortatory rhetoric, however, it is not clear just what individual members are supposed to do to meet this ethical mandate.

In one Society's Code, an interesting variant appears. The American Fisheries Society code:

“Restrict, to the extent feasible, criticisms of technical results and conclusions of other researchers to professional forums such as meetings and technical journals.”

This seems to be based on a desire to avoid “washing dirty linen” in public. But this does not apply to policy issues.

The ACF Code (# 5) obligates members to “discourage and condemn the spreading of untrue, unfair, and exaggerated statements concerning forestry.” Perhaps the condemning is to be done in a “civil and dignified” manner, though . . .

DO NOT SELECTIVELY EDIT THE FACTS

On any contentious issue, there may be many “facts.” Some of them may be in dispute. (some of them may even turn out to be false, or at best only weakly supported). Dramatically opposing views of “the facts” may be backed by distinguished scientific authorities (“the dueling professors”). All the same, professional codes admonish members to refrain from selectively editing the facts in presentations to the public. Probably if this were enforced, memberships of professional societies would be a good deal smaller than they are now, and would consist mostly of cloistered monks.

The AFS Code addresses these points. These introduce some useful notions:

- II-4. Express opinions on aquatic resources subject(s) only if qualified to do so by training, experience, or study;
- II-5. Clearly separate professional opinion from accepted knowledge or fact in all communications.

Which reminds me of an anecdote. I once worked on a western National Forest for a summer. With an assistant, I was studying possible socioeconomic impacts of a proposed ski area project. The Acting Forest Supervisor came to our area one time to ask how things were going, and asked us, “What is your objective opinion about what we should do?” I responded that I had opinions, just not any “objective” ones. There ensued a brief discussion of the issues. I was flattered to be asked, but when the Supervisor left, he was probably recalling President Truman’s old joke about the one-handed economist (“*Give me a one-handed economist! All my economists say, ‘on the one hand. . . on the other’*”).

If any ethical mandates need serious attention in public policy debates today, it would be these two from the AFS code. Adherence to these two notions would do more to upgrade the quality of professional participation in policy debates than anything else I can think of.

ON WHOSE BEHALF ARE YOU SPEAKING?

Another ethical question is to be clear about who you are speaking for. Large organizations, public and private, understandably have rules about who may speak officially on their behalf and in what ways. It

cannot be otherwise. People at junior levels are inclined to view this as neo-fascist thought control, however!

Individuals retain rights as citizens, whatever their obligations may be to employers during working hours. As citizens they may feel a need to publicly criticize their employers, and may feel it necessary to do so anonymously. It must be recognized that an ethical line is present here and if it is crossed, loyalty to employer becomes an issue. It is better to acknowledge in your own mind that you are making an ethical compromise than to pretend that the line does not exist.

Ethical lines do not go away just because our personal views are not always immediately adopted by our employers.

In other situations, a person may wish to support their employer's point of view publicly, as through letters to the editor. The SAF Code requires that members state "on whose behalf" any public statements are made. There may be room for discussion as to exactly what "on behalf" means. Do these words mean literally "at the request of"? Or something else? While one can quibble, it would be best to interpret these terms generously and recognize that identifying your employer is sound practice.

One may argue, "Well, if they know I work for the paper company (or the fish and game agency) they won't listen to what I have to say." But that is not the point. What if citizens find out later who you work for? . . . They will then feel you are trying to conceal something. How does that help?

In summary, when we become involved in debates about public policy, we cannot leave professional ethics at the door. This may mean we have to make some uncomfortable decisions. It may force us to recognize that we cannot at once serve all the commitments we have in life. Better to face this directly and honestly than to pretend that for our personal convenience the lines are waived.

As a famous fellow once wrote, "*In wisdom is much grief.*" Ecclesiastes 1:18.

PART III:
APPLICATIONS

CHAPTER 16

The Ethics of Forest Management – Serving as Both Forester and Logger at the Same Time³

Should a forester serve a landowner as both an adviser on marking and marketing the wood, and as the logger implementing the job? This is an example of a situation that arises often, on which ethics codes offer only general advice, and on which foresters disagree. Leading foresters have criticized the positions taken in this article.

Imagine this situation: one fine evening, a local forester knocks on your door and asks if you had been thinking of cutting your woodlot anytime soon. As this very possibility has been on your mind, you invite him to have a seat on the porch for a moment. “The markets are strong now,” the forester says, “and your woodlot looks mature. I bet there are some valuable logs in there. I’d be glad to write you a management plan for the state tax program, do the inventory, and mark the wood. I own some equipment that would be perfect for this lot, so I could do the cutting too. You’d be getting two-for-one: both forestry and logging service all at once.” He leaves a folder of information. You do some quick arithmetic and realize that there is real money out in that woodlot.

Next day, you meet an acquaintance who works for the state forestry agency and mention the conversation. She responds, “I don’t know him, but I’d be careful about hiring someone to do both the

³ Irland, L. C. 2005. “The ethics of forest management.” *Northern Woodlands*, Summer, p. 9. www.northernwoodlands.org. Reprinted with permission.

planning and marking, and the cutting – it’s a conflict of interest. He would be working for you in two different roles. Will he do what’s most profitable as a logging job or the best long-term silviculture for the forest?”

So, what do you make of the “two-fer” problem? Is it good business for you to hire such a forester-logger? It does seem to make financial sense. Yet the conflicts are there. But then again, it is a lot of money.

At a recent meeting of one of the divisions of the Society of American Foresters (SAF), this problem was discussed before a large and engaged audience. One recent forestry graduate described his small business doing both consulting work and the cutting as well. He explains the potential conflict to clients and invites them to hire out the cutting if they feel more comfortable with that. Another forester described his approach: he will do plans and marking for a given client, or he’ll do the logging, but not both.

There was strong agreement that knowledge of and experience in logging makes a forester a better forester and that knowledge of forestry makes a better logger. But this did not extend to a clear position on whether the practice of doing both in one woodlot is unethical.

Ethics codes of professional societies are binding only on their members, but they also indicate to nonmembers – and to clients – what the standards of professional behavior are. The Society of American Foresters ethics code requires its members “to fully disclose and resolve any existing or potential conflicts of interest.” It also binds foresters to only perform services for which they are qualified. Another national group, the Association of Consulting Foresters (ACF), has a more detailed code than the SAF’s and is strongly oriented toward issues faced regularly by consultants. Among its provisions: an ACF consulting forester must avoid conflicts of interest or even an appearance of such conflicts. The Consulting Foresters Association of Vermont has taken a public position opposing the practice of foresters both giving forestry advice and doing the logging. They feel strongly that it is too grave a conflict of interest.

So, who’s right? Foresters disagree. The SAF code requires members to resolve conflicts: so long as a conflict is resolved in the eyes of the client, the two-fer practice is not banned. The ACF code raises the important issue of an “appearance of a conflict.” Though it is not

specifically stated in its Code, ACF considers it unethical to provide both forestry advice and logging services on the same lot. But in practice, the organization does not oppose it if suitable precautions are employed.

Some northeastern states have licensing or registration for foresters; others do not. States that do may have ethics codes, which licensed foresters must follow; many of these are modeled after the SAF code.

The Maine Forest Service's annual Silvicultural Activities Report says that in 2003, 71 percent of all acres harvested had professional forester involvement. On small tracts, however, only 25 percent of the harvests had forester involvement. So, on three-quarters of the small-tract harvests in Maine, forestry choices are being made without a forester anyway. In this situation, can a two-fer operator be any worse for the land than what is happening now?

My advice to a landowner would be: when a two-fer operation is proposed to you, check out the operator and take due care. A two-fer can work well, provided you do not take the situation for granted and that the operator is aware of the potential conflicts between the roles.

To a forester, I would say: two-fer operations are not plainly unethical as long as the potential conflicts are clearly communicated to the client (preferably in writing) and you act in ways that address the issue of appearances. Giving the client a choice to find another operator to do the cutting is best.

Landowners should be glad to know that foresters who work on small woodlots are aware of this issue and are debating it, even if they don't entirely agree with each other. I know I am.

CHAPTER 17

Forest Management Plans for State Tax and Regulatory Programs: A Menu of Ethical Issues for Discussion⁴

In many states, management plan requirements figure prominently in programs for use-value taxation or for protecting key habitats or water quality on private lands. Private foresters and resource specialists prepare and implement management plans that meet the requirements of these programs. The degree of oversight by state officials can range from meticulous (and frustrating) to virtually none. Many fuzzy lines exist. This essay reviews a number of the ethical questions that can arise. It was stimulated by a conference on recertification under the Maine Tree Growth Tax, sponsored by the local chapter of the Association of Consulting Foresters.

The issues, however, are widely encountered around the country. Some of them may be evident to foresters in states in which public agency approval of plans is required. Environmental consultants may encounter similar issues in some states.

Maine's foresters are facing a surplus of ethical questions in preparing and submitting Tree Growth Tax plans now. Administrative practice has not settled all the specific questions. This is not surprising, as we are just entering the period of heavy work on recertifications. All the questions could not have been foreseen by writers of laws and regulations.

⁴ Based on a presentation at an Association of Consulting Foresters meeting, April 29, 2002.

As a result, many foresters are faced with detailed questions that are handled differently by different local governments, or for which no clear answers have been supplied by the state. Often, both a forestry agency and a tax agency are involved. But work must be done, papers filed, plans done, decisions made. Maine foresters have been thrown back on their own ethical and professional judgment to get things done.

In time, more of these gray areas will be cleared up. The number of questions that really require ethical judgment should shrink. To the extent that we can increase the number of questions that are clearly answered as a matter of administrative practice, ethical dilemmas will be less numerous. But given the complexity of such programs, the various landowner motives, and the complexity of situations on the ground, ethical issues will never entirely disappear.

TENSION BETWEEN LEGAL STANDARDS VERSUS FORESTRY STANDARDS

In our work helping clients, we often feel tension between different standards. Our ethical duties require us to act properly under the law, and also to practice in accord with good standards of forest practice. Often, however, the minimum standard to comply with a tax program is lower than what would be suggested by standards of “good forestry.” It will aid our thinking to keep these two things straight.

A serious obstacle is lack of professional consensus on what a management plan ought to contain. How much detail is required? How specific should recommendations be? Foresters do not agree on these points. They understandably resist highly prescriptive regulations specifying plan content, but this can leave all concerned with no effective guidance.

WHAT SHOULD THE STANDARD OF FOREST PRACTICE BE – SAINTLINESS OR JUST THE MINIMUM?

Foresters are often torn between what we like to think of as “good forestry,” and what seems to be the minimum legal requirement. Many foresters want to see a public program fostering “good forestry,” not just some bare minimum. Society is not unreasonable to expect something in return for a tax break. Something more than “trees are still growing on it.”

We might think of three levels of standards for forest practice:

Saintliness – This would be the highest quality, ecosystem friendly, productive, and far-seeing forest practice that we all like to do once in a while. It would be the dream client, the woodlot we'd like to have written up in a national magazine. Or, the way we'd manage our own lot – if we had the time.

Professional, “good forestry” – We like to think of “good forestry,” management that balances practical limits, and is flexible to meet income needs. But it never slips into exploitation. It may place a very high priority on income but does not step over the line. We would all like to have more clients like these. With this owner, you know they will do what the management plan says.

We may disagree about what the specifics of good forestry might be. There is no clear, written, shared understanding of what this is, and there may never be. As they say, “you know it when you see it.” Perhaps it's more the attitude and time perspective of a forester, a logger, and a landowner than any set of particulars.

The legal minimum – Many clients cannot be brought to the level of what we consider good management. They have other objectives. For them, we still have to ensure legal compliance. In many instances, there is no clear bright line defining the legal minimum. Some owners may want to take very aggressive positions to push that line in the direction that expediency and momentary profit might demand. If we meekly fall into the habit of going along with this every time, against our own better instincts, professional forestry and our own self respect will suffer in time (not to mention the forest).

Use-value taxes are intended to provide a tax environment that permits reasonable, forward-looking forest practice and reduces the tax pressure to cut excessively or subdivide just to pay taxes. This does not require saintly forestry. Nor does it necessarily require (as a legal matter, that is) professional “good quality” forestry. Other regulatory schemes may be aimed at regeneration, habitat, or water quality.

When a client seeks, over time, aggressively to push the limits, their behavior invalidates the assumption that the client wants to do what is right. These situations test us. We know there are operators who buy timberland in order to exploit it for the highest immediate income and then sell immediately. It is hard to see what such activity has to do with forestry.

As a matter of professional ethics, foresters try to make the best possible case for good forest practice as we see it. But if we do not convince the client, there is nothing unethical about conducting operations to the lowest legal standard . . . so long as we do not give in to mere expediency in deciding where the line is. The problem arises when there is continuous pressure to aggressively interpret the legal limits, to ignore them, or to wink at uncertain or minor instances. Honest errors are defensible. But they are more defensible if we have a client with the proper attitude, and when errors are repaired if they can be.

Professional foresters need to consider the long-term political context. It is far more critical that we preserve the availability of use-value taxation for all owners. If foresters spend their time advocating bottom of the barrel forestry, participating in a “race to the bottom,” we can clearly compromise political support for retaining such programs.

WHAT CODE APPLIES?

Only Maine Licensed Professional Foresters (LPF’s) can sign the forms to the towns attesting to the existence of a Management Plan, and attest that compliance has been achieved. Employees of landowners who do not work on other private lands need not be LPFs or members of any professional group. Unless licensed, however, they cannot sign the tax paperwork.

All Maine LPF’s must abide by the State Licensing Board’s Ethics Code, which was revised in 2002. In addition, members of SAF or ACF must abide by those codes as well. This creates a potentially complicated situation as these codes vary in content and wording.

SPECIFIC QUESTIONS

In this discussion, points of ethics inevitably blend with points concerning professional standards and mere administrative rules. Also, suggestions about ways to prevent problems are made. The worst problems seem to hit us with looming deadlines, or with troublesome landowners or assessors. But there are ways to reduce these problems in the future.

1. Can a Plan be Amended . . . If the Intent is Obviously to Evade the Law?

Not uncommonly, some event such as an ice storm may invalidate the assumptions and schedules in a woodlot management plan. The wind, the ice, or the spruce budworm takes over the management of the

forest, or at least the decision as to timing the cut. Changes in markets or in owner circumstances may suggest plan amendments. The use of formal amendments for such purposes should be encouraged. Maine state officials indicate that assessors are unlikely to raise objections; the situation may differ in other states.

What about the occasional case in which an owner simply forgets to carry out reasonable, even needed, activities in a plan and then runs out of time? They could ask for a plan amendment that eliminates all previously planned activity, even going so far as to defer it beyond the next decade as well. But what if there is a fairly good basis for believing that the plan was a sham to begin with?

There is apparently no legal or ethical difficulty in setting off a small house lot for sale or for owner use, within the limits provided in the law. There is certainly no compromise of forestry standards involved. What if a large property is purchased, heavily cut, and resold as an immediate large-lot subdivision? How extreme does the situation have to be before the owner's intent in filing a plan is plainly to disguise a de facto change of use to evade the withdrawal penalty? For this owner, a management plan is a fig leaf to cover evading the law. The owner is not entitled to expect the forester to be their advocate for this. For the classic coastal owner who wants never to cut, the recommendation would be to urge them to switch to Open Space, and suggest selling or donating development rights.

2. How Can Foresters be Confident of an Owner's Intentions to Follow a Plan?

A consultant would like to avoid being in the position of judging a landowner's good faith. It is safe to assume good faith will apply in most instances. Yet this does not dispose of the matter. The situations that come up for discussion most frequently involve either indifference (a version of bad faith?) or suspicions that no actual management is intended at all, just the enjoyment of the tax reduction. A consultant bears no formal or ethical obligation to ensure follow-through. The obligation is entirely on the landowner. Yet, is this all there is? The best remedies – for both forester and client – are those arranged well in advance of final deadlines. All the more reason for a practice of advising clients of pending management actions from their plans.

Wouldn't sound client service include reminding owners of plan recommendations, as an eye doctor prompts a patient to report for a three-year exam? Isn't it good business to avoid the missed deadline or last-month rush by helping clients stay on schedule? That would avoid being in the position of being unable to certify compliance with a plan you wrote ten years ago. If you have offered reminders and advice, it would help ward off any effort by a landowner to persuade you to certify compliance when they have failed to follow through.

After giving an owner the benefit of reasonable doubt, a consultant would be justified in "firing the client" if they repeatedly ignore plan commitments that are not burdensome or even would yield income. The client won't pay you anyway when you decline to certify their compliance. Why not just avoid the trouble.

3. What is Landowner/Consultant Obligation to Report on Recertification at Deadline?

Maine law states that the obligation is entirely the landowner's. As a matter of good business practice, though, a consultant may wish to act as a partner with the client in ensuring continued access to the benefit of Tree Growth treatment. Most towns issue no reminders. Failure of a town to issue reminders or even keep good records does not excuse failure to report. Reminders when practices are scheduled, or when inspections are warranted, even a periodic suggestion that they walk the lot, could bring a consultant added work, and could prevent at least some instances of owners being penalized over plan compliance issues.

In sum, the consultant has no ethical obligation to ensure follow through, but does have good business reasons to assist the client in doing so.

4. What Constitutes "Compliance" with a Management Plan?

Apparently, within the strict rules of the Maine law, local assessors are not bound to accept any excuses – ice storms, trespass, memory lapses, etc. They may informally grant extension of time, but they are not bound to do so. Their attorneys will advise them not to. Plans ought to be drawn up in such a way that a third party can tell whether or not they have been followed. This much is simply clarity. In the instances where it is clearly evident that no actions are prescribed that ought to be easy. Other areas can be grey.

Good evidence for compliance would be that an owner acts on their own to initiate contacts when the plan indicates some activity. That they visit the land regularly and keep a log. They maintain a separate checking account for the forest enterprise, its incomes and expenses. They cut their own firewood in accordance with some sensible rule that will improve stands instead of degrading them. They themselves suggest amendments when it seems desirable. They can even follow through and brush and paint the lines. Even on a parcel with minimum needs, such a pattern of interest can be followed and be documented. Few assessors would dispute a record such as this as compliance with a plan. If questioned, a forester could attest to the existence of these items without handing over the plan itself. Such a record may also be helpful on certain income tax matters.

The best evidence, in contrast, for *noncompliance* would be the absence of all the above. It would be a record in the forester's file that an owner has displayed a pattern of not returning calls, not responding to reminders, and declining to follow simple and low cost recommendations in a plan. Additional evidence would be a refusal to simply amend a plan to drop practices the owner no longer wishes to support. A pattern of behavior over time is a far more reliable indicator of compliance than is any particular instance or plan provision.

5. When Do You “Fire the Client”?

You fire the client if there is a continued pattern of pressure: to not comply with the law (clients have asked consultants to not file legally required notifications, for example), to act in plainly exploitive ways, or to interpret laws and rules so aggressively as to render them meaningless. In my opinion, exploitive land management does not require a forester's advice. A technician or certified logger can see to compliance with BMP's and similar rules. It arguably contravenes the broad ethical standards implied in the SAF Land Ethic Canon and that appear in some state ethics codes as well.

6. How to Prevent the “Shopping for a Compliant Forester” Merry-Go-Round?

A concern has been raised that clients can promote a “race to the bottom.” They would do this by “shopping” for the forester with the most permissive view of the rules. This is known to be done for soil scientists, lawyers, appraisers, and others.

If a forester declines to certify an owner's compliance, in Maine this is between the owner and the forester. Given that confidentiality is considered an important obligation for professionals, there may be nothing the individual forester is required to do, or able to do about this. The remedy would lie in efforts over time to prevent the situation from arising in the first place.

CONCLUSION

State programs for use-value taxation or other purposes often require a management plan prepared by a private professional forester. That forester, over time, may be required to attest to landowner compliance, some of these programs are not administratively mature, and the many unanswered questions leave foresters to fall back on judgment and on ethical sensibilities to get on with the work.

If a professional consensus on what constitutes an adequate management plan could be developed, that would help – in some states. Programs need to find the right balance between clarity of the rules and definitions defining an adequate plan and compliance, and avoid becoming excessively detailed and prescriptive on the other. Proper use of provisions' for needed amendments will help. In most instances, adopting a more active program of reminding clients of activity dates, and keeping records of owner actions, would be a sensible way for foresters to help their clients prevent the problem from coming up in the first place.

CHAPTER 18

The Ethics of Professional Advertising⁵

As many persons trained in wildlife or fishery biology or other environmental sciences often go into consulting, either as individuals or with large firms, these observations on advertising will be relevant.

At one time, it was considered unprofessional for doctors, lawyers or foresters to advertise. Professional leaders considered advertising undignified, equivalent to hawking soap powder or snake oil. Advertising did not comport with their vision of the role and image of a learned profession. It also conflicted with a comfortable vision of professional practice in which price competition was severely discouraged. In fact, many professional ethics codes banned advertising until the late 1970s, when the Supreme Court ruled that such bans were an illegal restraint of trade.

Advertising can serve consumers and clients by encouraging competition and providing information about suppliers of services they need and new entrants in the field.

Many consulting foresters conduct little or no advertising to promote their practice. Some nationally known firms do not advertise at all, while others place ads in leading publications simply to support professional organizations. Yet in many areas of the country, the consulting business is becoming more competitive. If a forester adds new services or a branch office or enters the field anew, a need may arise for advertising. In planning advertising, foresters should check the ethics canons. On reading the canons, however, a few questions are likely to remain.

⁵ Ireland, L. C. 1997. The Ethics of Professional Advertising. *The Consultant*, Summer: 28-30. Reprinted with permission.

There is little reason to think there is any problem at present with unethical advertising in forestry. This impression was bolstered by informal inquiries with state registration (or licensing, certification, etc.) boards and the Association of Consulting Foresters (ACF) and the Society of American Foresters (SAF) officers. But complaints of one sort or another do occur, many having to do with non-registered individuals in states with registration laws. Thinking ahead about ethical questions is the best way to avoid problems in the future. The following may help members who are grappling with these questions.

WHAT DO THE CODES SAY?

Canons of both SAF and ACF include a number of common elements. The codes include mandates for truthfulness; dignity; qualifications and experience; and selection on experience, competence and reputation. Members also must refrain from criticizing competitors and from excessive self-praise.

The ACF Canon directed toward advertising refers only to services offered and not to competence, but competence is mentioned in the next canon.

Registered foresters in many of the 15 states with registration programs are covered by ethics codes or practice standards adopted by these programs. Of ten states responding to my inquiry, six (Alabama, Maine, New Hampshire, Michigan, South Carolina and Oklahoma) clearly mentioned advertising in their rules.

ACF firms which do advertise use a variety of publications, according to an informal survey. Many consultants place ads in their state forestry association magazines as well as regional and national landowner publications. Others mentioned state bar association and real estate magazines.

A unique tack was taken by Lanny Autry, ACF, of New Albany, Mississippi. For some 15 years he purchased space for a weekly column (200 to 250 words) in a local daily newspaper. Called "Timber Tips," the folksy column contained limited, but powerful references to forestry. One week's topic – turnip greens – concluded with the point that this was a fine vegetable, but did nobody any good until it was cut and eaten. Autry said the column created good name recognition for him throughout the area.

WHAT IS ADVERTISING?

The dictionary defines advertisement as “a notice designed to attract public attention or patronage.” The canons use “advertise” as a verb, implying the specific activity of advertising, or placing ads in suitable places. This may include hand-bills or other items passed out at meetings, ads on radio, newspapers or forestry-oriented publications, or even product marketing bulletins issued by state forestry agencies. All these things we readily understand as advertising.

Yet other activities could be taken as advertising if:

- a measure of actual or implicit self-promotion is involved or could reasonably be inferred by the audience.
- potential clients are likely to be aware or become aware of statements made.

These situations might include talks at meetings of landowner groups at which potential clients are likely to be present, as well as articles or letters to the editor of publications read by potential clients. A display poster in a promotional booth at a forestry fair or similar event could be taken as advertising, even if not strictly intended as such. A brochure or mailer listing the firm’s activities and services would presumably have to abide by ethical rules related to advertising, even if it is not strictly speaking an “ad.” The ACF is now circulating its Membership Directory very widely. It would not be a stretch at all to construe a claim of competence in the directory as “advertising.”

Under ACF by-laws, individuals are members, but not firms. Thus, ads by firms must include the name of the ACF member.

Most of us welcome chances to talk about our work and forestry issues to landowner groups, and to write brief contributions to newsletters and magazines likely to be seen by potential clients. This is a basic promotional strategy—making ourselves more visible in situations where we are presented as experts. So is this advertising? Not really, but conversation can at times drift into a self-promotional vein quite by accident. At such times, it is well to be mindful of the canons. We also write letters to clients or even publish newsletters informing them of our activities. We don’t think of these as ads, but their purpose is the same. In the legal profession there has been considerable discussion of the ethical guidelines for such materials.

There are points about which foresters do not agree. When advocating your viewpoint about one of these, take care to avoid statements that could be taken by a listener or reader as criticism of an individual competitor.

WHAT IS DIGNIFIED?

The canons of both ACF and SAF require members to be truthful in all advertising. This is easy. But what does dignified mean? Dignity in these times may not be easy to define in operational terms. When people wear Levi's to church, presidents of the United States sign laws by informal first names (Jimmy, Bill) and senior business executives make a cult of informality, Victorian notions of dignity are out the window. As Marcus Aurelius said, what we are looking for is a "proper dignity and proportion." We just need to find out what that is. To some extent, we know it when we see it.

The American Heritage Dictionary offers five meanings of "dignity." The meaning most in point here is "poise and self-respect; stateliness and reserve in deportment and appearance."

Now "poise and self-respect" are little more specific than where we started. But they help. They convey a sense of taste reflecting self-respect and not crass commercialism or brazen self-promotion. Staleness may be of little help, but the notion of reserve may be useful.

Members are specifically admonished to avoid criticism of competitors in advertising by the ACF Code, but not by the SAF Code. Perhaps the SAF Code's drafters intended to imply such a prohibition in their requirement for dignity.

"There is a proper dignity and proportion to be observed in the performance of every act of life" — Marcus Aurelius

WHAT IS COMPETENCE?

Competence surely involves the ability to deliver a service at a high level of quality in conformance to professional standards. Yet time and budget limits often force us to employ approximations or shortcuts, or otherwise balance cost versus depth of investigation on a problem. Judgment and experience are often substituted for detailed measurement and analysis. Because of this, competence is often judged by reputation.

Consumers often have little or no basis to determine the competence of doctors, attorneys, appraisers, foresters or loggers they retain for important assignments. Listing various services in an ad, brochure or directory is a claim of competence in those special areas. In an advertisement, support for assertions about competence cannot be exhaustively listed. For some services, ownership of up-to-date and powerful equipment is essential, and can be cited. References to educational attainment, special professional designations (e.g., MAI), or association membership (ACF) also are customary.

Consumers often have little or no basis to determine the competence of doctors, attorneys, appraisers, foresters or loggers they retain for important assignments.

How much competence is enough? There is no answer to this question. Quite often, a professional embarks on offering a new service with only a minimum of experience. It is not necessary to advertise inexperience, but candor with clients concerning applicable experience is essential when handling inquiries.

When services requiring specialized knowledge are needed by a client, a common approach is to bring a specialist into the project. Consultants must judge for themselves what level of knowledge of specialized tasks they must have before offering them to clients (Schlossberg, 1993: 163-164).

Examples of misrepresentations of competence have occurred, including one recently within ACE. Usually, however, these are not in the context of advertising.

WHAT IS EXPERIENCE AND REPUTATION?

The first is clear, the second less so. There is no limitation on factual references to key measures of experience, such as 22 years of field experience, 250 forest tracts appraised, 400,000 acres of timberland cruised. Facts like these provide potential clients with an indication of your track record.

Reputation is not so clear. It is probably best to avoid references to reputation in advertising and in all ad-like statements or situations.

Providing references on request is perhaps the best way to establish reputation for potential clients who are not in a position to be familiar with your work. In brochures and informational materials, however, authorized and accurate quotations from former clients about your work can be useful.

One aspect of reputation is the public face you present to the world. Advertisements and related items are a critical element in this.

ADVERTISING ABOUT PRICES

Professional foresters rarely, if ever, mention pricing practices in advertisements. Yet they may refer to them in the many other ways noted above. The SAF Canon specifically permits reference to fees charged, while the ACF Canons are silent on this topic, preferring to urge clients to select forestry consultants on the basis of experience and reputation. Yet all of us often bid on industrial and government agency projects in which cost is a significant or perhaps the only consideration in awarding the work.

Claims about pricing practices used, stated in a suitable manner, are clearly acceptable. Note that in both ethics codes, additional canons bear peripherally on pricing of services. While some foresters feel that any mention of pricing (methods or amounts) is undignified, there seems to be no specific ethical barrier to doing this. Advertising about prices is increasingly common among doctors, attorneys and other professionals. Foresters must judge whether it is useful to their customers or not.

Advertising about prices is increasingly common among doctors, attorneys and other professionals. Foresters must judge whether it is useful to their customers or not.

PRACTICAL GUIDELINES

In advertising and related speech and materials, exercise restraint and poise. Err on the side of modesty and dignity. Avoid negative statements or implications about competitors.

Be aware of situations that might be perceived as self-promotion or advertising. Make sure you keep the ethics canons in mind. Remember that listings in directories may be construed as ads.

When relevant and possibly important to the potential client, you may refer to pricing methods or systems used, or suggest that details can be provided on inquiry.

Advertising and related materials can and should speak specifically of experience, educational attainment, types of clients served, professional designations and memberships, ownership of specialized equipment, and related points.

In a state with a registration law, you may be affected by its provisions whether registered or not.

If you make any claims even loosely related to environmental benefits, check with your state's attorney general's office to see if there are any guidelines about environmental marketing claims.

Many professional foresters would benefit by making careful use of advertising as a business development tool. Early on, foresters should reflect on the relevant ethics canons and review their planned materials and statements with the canons in mind.

ETHICS CANONS ON ADVERTISING

- SAF Canon 3: A member will advertise only in a dignified and truthful manner, stating the services the member is qualified and prepared to perform. Such advertisements may include references to fees charged.
- ACF Canon 3: A member will advertise only in a dignified and truthful manner, setting forth in truthful and factual statements services offered prospective clients and the public.
- ACF Canon 4: Professional work should come to ACF consulting foresters only on the basis of their experience, competency, and reputation. Solicitation by criticism of competitors, self laudation or lobbying is degrading to the profession and is unethical.
- Michigan Standards of Practice for Foresters No. 3: A registrant shall not make exaggerated, false, misleading, or deceptive statements in advertising, brochures, or written or verbal presentations . . .

CHAPTER 19

Recognizing and Resolving Conflicts of Interest⁶

Although conflict of interest is a common area of professional concern, good guidance on how to handle it is difficult to find. In several recent books on ethics the term does not even appear in the index. And the extreme cases of conflict of interest we read about offer little help for dealing with more subtle situations encountered in daily life.

For consultants, being careful about conflict of interest can cost money in the short run – in assignments declined. But conflicts are not just a concern for private consultants. Public land managers also deal regularly with significant sums of money; their judgments about timber values and interpretations of regulations may have significant financial and environmental consequences. Conflicts of interest can also arise in science and academia. And occasionally, one's family and social relationships can cause conflicts of interest on the job.

This article offers a few general observations on the subject, provides some example scenarios of conflicts of interest, summarizes information that professional ethics codes offer, notes questions for discussion, and makes suggestions to help the professional forester handle potential conflict of interest situations.

WHAT IS CONFLICT OF INTEREST?

A conflict of interest arises in any situation that may bias a professional's judgment or impair a professional's loyalty to an employer or client. Professional ethics codes mandate that the client's

⁶ Irland, L.C. 1995. Recognizing and Resolving Conflicts of Interest. *Journal of Forestry* 93(9):26-29. © Society of American Foresters. Reprinted with permission.

or employer's interest be placed above one's own (see SAF Canons 5 and 9, "Other Organizations' Conflict-of-Interest Canons"). Ethics codes usually do not provide specific definitions of conflict of interest, however. Even fully developed institutional policies often define it only by listing examples.

In order to know when conflicts of interest occur, it is important to understand some of the basic misconceptions about them. First, a conflict of interest should not be confused with the conflict that can arise between a client's need and a professional's personal views about policy or loyalty to the public interest. This situation is a personal conflict. Also, a conflict of interest does not necessarily occur when consultants work at different times for clients whose interests are opposed. Appraisers, for example, work for buyers and for sellers; they may work for taxpayers and also for the Internal Revenue Service. Such a pattern of work is not in itself a conflict of interest, although it naturally creates a need for caution.

In commenting on the canons related to conflict of interest, the Discussion Guide for the SAF Code of Ethics (1989) observes:

"Loyalty to the employer refers to the responsibility of the member to render high-quality advice and service, as free as possible from personal bias. Loyalty, however, does not mean a blind loyalty that is oblivious to the larger interests of society and other canons of the Code of Ethics. It was for this reason that the term "unqualified loyalty" was stricken when the Canon was revised by the referendum in 1986. The Canon requires that members faithfully perform professional services to the full extent of their ability. Where a member is unable to reconcile loyalties to self, the employer, the profession, and society, it may be wise to disengage from service.

A conflict of interest implies a relationship or situation where one's judgment may be influenced by potential personal gain. It may also imply serving two masters where the gain of one will adversely affect the other."

**OTHER ORGANIZATIONS' CONFLICT-OF-INTEREST CANONS:
HOW DO THEY COMPARE WITH SAF'S?**

Society of American Foresters

Canon 5. A member will perform services consistent with the highest standard of quality and with loyalty to the employer.

Canon 9. A member must avoid conflicts of interest or even the appearance of such conflicts. If, despite such precautions, a conflict of interest is discovered, it should be promptly and fully disclosed to the member's employer, and the member must be prepared to act immediately to resolve the conflict.

Association of Consulting Foresters

Canon 10. ACF Consulting Foresters will be loyal to their employers and to the organization in which they are employed, and will faithfully perform their work and assignments.

Canon 13. An ACF Consulting Forester must avoid conflicts of interest or even an appearance of such conflicts.

Ecological Society of America

Certified members only:

Canon 3. Will inform a prospective or current employer or client of any professional or personal interests which may impair the objectivity of their work, and provide their clients with access to the provisions of this Code.

Publication:

Canon 7. Will not serve as editor or reviewer of a manuscript if present or past connections with the author or the author's institution may prevent an objective evaluation of the work.

Canon 8. Will not purposefully delay publication of another person's manuscript to gain advantage over that person.

American Society for Public Administration

Canon 3. Avoid any interest or activity which is in conflict with the conduct of official duties.

Code of Ethics for Government Service (PL 96-303, 1980)

Canon 5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed as influencing the performance of governmental duties.

Canon 7. Never engage in any business with the government either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

Canon 8. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

CONFLICT OF INTEREST SITUATIONS

Situations involving conflicts of interest are numerous and best illustrated through examples.

Conflicting client interests. The classic case involving conflicting client interests occurs when a forest professional is required to serve a client whose interests directly clash with those of another current client. Obviously, a forester representing a landowner in a timber-trespass case cannot also work for the logger who allegedly committed the trespass, but many more subtle situations can also present conflicts.

For example, suppose that two years ago you did a large project for a government agency. Today, the phone rings and an attorney for an environmental group asks if you would work for them in litigation against the government involving the work you did. Can you accept? Does the answer depend on whether you agree with the group's position or not?

Here is another situation that might arise. You are at a meeting in which a former client of yours is being discussed. You must now consider whether more loyalty is owed to your past client than to those at the meeting. Although this matter could be resolved using sound business judgment, it should also be considered from an ethical standpoint. Is it permissible to speak in public against a past client?

On the other hand, are there situations in which you must speak against a past client (Howard, 1995)?

Or, consider what you would do in this case. You have just finished a wood supply evaluation for a local wood products firm that is considering expanding its production. A month later, another company in your town that uses the same raw material asks you to conduct a similar study. Wood markets are very competitive in your area, and you know that two such plant expansions could lead to overcutting and drive log prices so high that both plants lose money. Therefore, the new client's interests may conflict with those of the past client. The past client may also be concerned that confidential data about them in your files might be disclosed to future clients. Should you conduct the study?

Financial conflicts. Financial conflicts of interest are not always as clear-cut as one might assume. For example, when a forester who owns a partial interest in a wood-using manufacturing plant sells wood on behalf of a forest landowner, the forester has an obligation to make the landowner aware of this other business interest.

Some consulting foresters believe that charging for services by asking for a percentage of gross timber sale receipts also creates a financial conflict of interest. They feel that this arrangement can create an incentive to remove too much high-value wood, or keep a forester from recommending thinnings or handling low-value wood that needs to be removed to improve the stand. To avoid this situation, some consultants charge by the hour (Steigerwaldt and Hittle, 1994). Foresters often serve as vendors of related services like planting, in addition to providing advice to landowners; their dual role may cause conflicts of interest. In this situation, the client can never be certain the best source of service has been recommended. Also, a forester's judgment about the need for the service may be affected by a desire to sell other services.

Professional and other outside activities. Occasionally, an employee's activities in professional organizations, such as policy advocacy groups, can lead to conflicts with an employer's views. One example, in this case involving an employee's abuse of an employer's trust, is the leaking of information to outside groups.

Another conflict may occur when foresters serving on local planning or zoning boards have to rule on proposals made by their

employers. In such cases, it is best for the employee to withdraw from all consideration of that proposal, a practice known as “recusal.”

Family or personal loyalties. Especially in small communities, family and personal relationships can overlap with business relationships or interfere with public duties in unexpected ways. At times, clients have good reasons to wonder if a forestry professional’s decisions will be influenced by undisclosed relationships of this kind, and we should be sensitive to this concern. For example, I once was unable to participate in an assignment for the Maine Public Utilities Commission because my wife worked for the state’s largest electric utility.

The potential for conflicts when making referrals is also great. At times, in efforts to be helpful, we casually refer a client to a relative or friend for a needed service. Usually the family or personal connection is disclosed, and it always should be. It is important to be certain that the client’s interests are foremost in these referrals.

Science and academia. In the scientific research setting, conflicts of interest can arise when scientists or faculty members hold directorships on boards of outside organizations or corporations, or when they accept research grants or consulting assignments from them. Scientific institutions have rules regarding outside activities, and most universities have detailed conflict of interest policies. When scientists publish articles on research that could affect companies they serve as officers, or those in which they have large stockholdings, disclosure is crucial (Barinaga, 1992). In addition, scientists managing or serving on peer-review panels that award research grants can face many kinds of conflicts of interest (Marshall, 1992; Sigma Xi, 1993; Swazey, et al., 1993; Anon., 1995).

Conflicts of interest can also arise in academia. The University of Maine System’s (1991) Conflict of Interest Policy lists 19 examples in several categories, such as personal gain from university position, contracting and leasing, outside commitments, use of university name and resources, and nepotism. Other conflicts of interest involving the professor, the student, and the goals of the university may arise. For example, professors’ standards are occasionally tested when they face subtle pressures to alter the grades of star athletes.

Conflicts of interest in government. Conflicts of interest may affect members of the executive, legislative, or judicial branches of

government. State and federal statutes and regulations govern official conduct. Issues addressed by federal laws include disclosure of assets and business relationships, limits to service on outside boards of directors; limits on acceptance of gifts, meals, and honoraria and on use of government staff and property; and rules restricting post employment dealings with the government (US Department of Justice, 1989; US General Accounting Office, 1992). By studying these rules, a forester who works for the government can be armed to make better decisions in conflict of interest situations.

Suppose, for example, you are an official in a state forestry agency who is supervising the development of regulations implementing a Forest Practices Act. You are asked to give a presentation on this topic to executives of the state's largest forest landowner who are meeting at a posh resort. Should you accept their offer to cover your lodging and travel costs? Should the state pay those costs? May you accept an honorarium? If you give a talk at a university on the same topic, may you accept an honorarium? Under what conditions?

AVOIDING CONFLICTS OF INTEREST

Now that you have seen where conflicts of interest generally occur, you will want to anticipate and avoid them. Because there are numerous approaches to avoiding conflicts of interest, this subject warrants more discussion than a single article can provide. However, by following a certain thought process, anyone can learn to resolve most such conflicts wisely.

The first step you and your colleagues should take in avoiding conflicts of interest is to build awareness of situations that might cause them. Early detection of potential problems is essential. Good ways to build awareness are to read frequently on the subject of ethics and raise questions. If you work for a large organization, obtain and study the organization's ethics codes, its conflict of interest policy, and any of its applicable laws and regulations. When a potential conflict arises, decisions should not be made without considering the situation from every angle.

In deciding if a perceived conflict is real and how to handle it, ask yourself the following questions:

- Is this decision about the conflict based solely on a regard for the client's interests, or is it based on my own interests?
- Would I be completely comfortable discussing this conflict and disclosing any related information to all affected parties?
- If a contractor working for me failed to disclose information about a similar conflict to me, would I ever hire that contractor again?
- Would I be comfortable if the full story of this conflict were printed in tomorrow's newspapers?
- Would I be comfortable discussing my decision about the situation with my 13-year-old son?

When you are faced with a difficult ethical decision, discussing it with a third party often helps clarify your thinking (Kennedy and Mohai, 1987). Therefore, you should develop a relationship with one or more mentors whom you can trust. When choosing a mentor, especially one from your own place of business, be aware of any conflicts that might exist even between you and that individual. Conflicts between employees of the same organization are often not examined and brought out into open until it is too late, so potential conflicts in your working relationships should be disclosed to your supervisor.

Often, the best remedy for perceived conflicts is disclosure. In many borderline cases, consulting affected parties will lead them to give their consent for you to move ahead. Also, be aware that a significant conflict can be overlooked in the rush of events. I know from experience. Even if a conflict is discovered late in the process of a business transaction, it still should be disclosed.

In some situations, you will have to deal with a conflict situation by withdrawing from the decision process involved. The final resolution is to decline the assignment, withdraw from the committee or group entirely, sell the stock, or otherwise end the ongoing situation creating the conflict. Of course, it's a lot easier for a consultant to decline a small assignment from a client than for a salaried employee with five years left until retirement to side-step a direct order from a supervisor. It's nothing new that our life circumstances, such as a need for job security, can force us to do things we would rather not do

professionally, but simple awareness of this fact can go far in preventing serious mistakes.

In the end, you have to accept responsibility for your decisions. The decision-making process will force you to weigh competing commitments, and determining which are most important won't always be easy.

Finally, especially in large organizations, you should support and encourage discussions of ethical issues arising in day-to-day work. More importantly, you should support associates who make the right decisions, especially when they are costly.

IN CLOSING

Frequently, your loyalty to client or employer will be tested by your financial interests, or by other interests of your own, your family, or others important to you. Conflicts of interest of the most extreme kinds are usually obvious and easy to address. Many of them, however, require a more refined awareness, discussion with colleagues or mentors, and special efforts to avoid or to resolve. Since you may encounter the larger conflicts only rarely, your reputation for ethical judgment will depend on how you handle the more routine matters. As Thomas (1993: 36) notes, “. . . tests come in small packages and quiet ways – and they do come often. For most professionals, it is these small and personal tests that determine a person's reputation for integrity and ethical behavior . . . or lack of same.”

SOME READINGS ON ETHICS

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CHAPTER 20

Postscript: How to Evade an Ethical Problem

Before an ethical issue can be addressed, it first must be identified and acknowledged. Below is a short list of brush-offs commonly used in organizations when people wish to deny the existence of, minimize, or otherwise evade recognizing a potential ethical problem.

Motives for such evasion need not be dark ones; it is often as simple as lack of time, stress, and sheer overload. Frequently, though, it reflects working in a culture that has lacked focus on ethical awareness, reflection, and mentoring.

On the wall there is often a large poster declaiming in eloquent language the organization's "vision" of its ethical character. Side by side with this poster may hang the ethics code of a respected professional society.

It is not necessarily irresponsible or unethical to consider cost, political, or administrative points in deciding ethical questions. It is not unethical to "choose your battles." But it is unsound to resolve every question that comes along on the basis of sheer expediency. The Romans used to observe that "the road to Perdition is paved with good intentions."

Use of these evasions does not mean that a person is bad or unethical. It's just that they have become so commonplace and acceptable that people stop thinking about them as evasions.

Here is what you will often hear if some one asks whether a situation poses an ethical issue or not:

EVERYBODY DOES IT

It ought to be obvious that what “everybody does” is not necessarily ethical. By making everybody else’s decisions a benchmark for your own, you implicitly cede ethical judgment to others. People with reputations of high character are usually the ones who do not always do what “everybody else does.”

IT’S AN INDISTINCT AREA

Terms in ethics codes are notoriously ill-defined (when defined at all) and the rules leave abundant maneuvering room for interpretation and application to specific cases. Ethical mandates, loyalties, and operational considerations often do conflict. And typically, the associations issuing ethics codes provide little or no guidance to members.

People can tell when the limits are being pushed, but vagueness does not in itself justify it.

THIS ISSUE IS CONTROVERSIAL SO LET’S STAY AWAY FROM IT ALTOGETHER

We have seen that in many instances, Canons or pledges of ethics codes can conflict. Debates over some questions can become highly polarized. Acknowledging the concern and taking action can be painful.

THE LAWYERS CLEARED IT

In large organizations, outside lawyers review many things. “Shopping for lawyers” – asking one lawyer after another until you get the answer you want – is not unheard of. At times the lawyers aren’t told all the facts. Also, outside counsel may be paid handsomely . . . their motives for vetoing management actions may be diluted by this fact. Many arguments by lawyers can be convincingly answered by arguments reaching an opposite conclusion, which is why we have courts. A lay person may read what seem to be highly strained logic, misuses of

anecdote, factual errors, or extreme torture of language in legal memos and briefs. Euphemisms are used to describe positions so supported as “novel” or “aggressive.” Finally, an action may be “legal” according to such reasoning as above described . . . but that may not make it right.

NOBODY EVER CHALLENGED THIS BEFORE

In some instances the reason is that the action has been kept secret. In others, the authority responsible is overwhelmed and will simply never get to it. In still others, there is no audit at all addressing the issue. “Nobody ever challenged this before” amounts to the assertion that since we’ve gotten away with it this long, it must be okay. In some instances, a searching inquiry may yield a conclusion that the practice is okay after all. We do not leave to others the determination of our own ethical standards.

We do not leave to others the determination of our own ethical standards.

BUSINESS IS BUSINESS

This notion is surprisingly popular, and is usually a way to shut off further discussion. People who talk this way are often extremely alert to situations when vendors, competitors, or customers cut corners on them, however.

YOU DON’T UNDERSTAND ALL THE PROBLEMS

Often true. This statement might be an opening to probe into what those conflicts and problems are.

IT’S A MINOR MATTER ANYWAY

This is an insidious attitude. What is minor to General Motors or a large federal agency may in fact be major to the individual or group involved. Labeling things as minor does not make them go away. Being careless about minor matters can become a habit.

All of the above points may be true in a given case. There are many issues that do not have easy or precise answers, but these obstacles do

not add up to an argument for pushing an issue aside. On the contrary, they may amount to a compelling case for some study, discussion, and reflection. They may motivate an attempt to develop some clarity of approach that satisfies ethical demands and can be implemented administratively.

These brush-offs occur in all organizations and groups, even in some that are highly regarded for their ethical standards. Yet when they crop up at more than a minor and infrequent level, they may be a symptom of a weak ethical climate.

Minor situations may be the best ones to attempt to conduct ethical discussion about, as the stakes for the organization are small and it is easier to be objective. Fixing what you can fix quickly is often a good administrative strategy in any case.

It can be difficult for your interpersonal relations with peers and managers to raise ethical concerns about established practices – it can be taken as an accusation that your associates have been behaving badly. One reason ethical issues get swept under the rug often turns out to be that those raising them in the first place are accusatory, preachy, and sanctimonious, not to mention inexperienced. They may be unwilling to understand the situation's context. Also, people are understandably unwilling to become identified as tiresome moralizers seeking to impose their values and attitudes on others.

Trying to create a better climate for ethical discussion simply by levying accusations is not likely to succeed. Because of the difficulty of critiquing an organization's own practices, a process of raising discussions of cases involving others may be sensible.

I always find it easier to see what others should do!

CHAPTER 21

Reflections on Professional Ethics in Conservation

On reading over these past writings from over the years, a number of more general questions about professional ethics in the practice of land management come to mind. I offer them here as informal observations in the form of questions to stimulate discussion among students, and, hopefully, some introspection among leaders in our professional organizations.

- The ethics codes for the land management professions considered here are all very similar – why do we need separate ones? The reason is that ethics code drafting is parochial and political – nobody wants to cede control. What’s ethical does not depend on whether you’re a forester or a wildlife biologist. The specific problems might differ at times, but that’s easily handled.
- A certain obligation to perform *pro bono* work is recognized as part of the classic learned professions. Yet I have never heard any suggestion that forestry and other wildland professionals owe a duty of *pro bono* service to indigent clients, nonprofit organizations, or the public. If we are a profession, why is there no discussion of *pro bono* work?
- I think most would agree that we don’t do enough to educate about professional ethics or discuss it in our professional and technical journals. There are a number of options, and numerous opportunities for practitioners to exercise leadership on this issue.

- Most of the ethics codes considered in this book display a reluctance to be clear about specific unacceptable behavior. The ACF code is an exception; it specifically prohibits certain actions.
- We are not taking ethics seriously by adopting, with such fanfare, vague, one-page ethics codes. Drafting committees, we are told, are worried about tying hands of ethics committees . . . but that's exactly what rules are for – to reduce bias and haphazard thinking. Accountants and attorneys got beyond this long ago. They found there was no substitute for providing clear advice on numerous practical situations.
- Vague rules cannot be enforced. What good are they? I think it is time for the professional societies to come clean and admit it – one page ethics codes couched in extremely general language are advisory and aspirational only and are NOT enforceable.
- In conservation fields, college and postgraduate training in ethics is very thin. In the field of engineering, institutions manage to find time for a full 3-credit course in professional ethics. Engineering is highly technical; curriculum time is at a premium. Yet the engineering professional societies consider ethics an educational priority. I am not aware of a single forestry school that requires a 3-credit professional ethics course. I wonder when institutions training foresters, wildlife and fish biologists, and allied conservation professionals will decide to catch up with the engineers. In the growing fields of environmental sciences and management, broad based professional societies are few. Many graduates of such programs will find in time that as they specialize, they will join one professional society or another, but usually without benefit of any training at all on ethics during their education.
- In some programs, students are encouraged (often not required) to take courses in ethics- related fields. Too much of this, it seems to me, consists of general environmental ethics or reviews of philosophical thought which do not get into the details of professional practice that students need.

- In light of the above reflections, it is reasonable to wonder whether the leaders of these professional societies are really serious about acting like professionals, or whether ethics codes are something like required courses in college, things you go through because you have to, but you then pay the subject no attention afterward.
- There is every reason to leave the “leaders” behind and act professional ourselves. Here’s a good start – we can each make a personal study of professional ethics a priority and treat it as a professional skill. As we are involved in planning meetings, we can ask for time to be made for discussion of ethics issues. I find when this is done it is usually appreciated. Simply asserting that we are professionals does not make it so. We must act like it.

PART IV:

RESOURCES FOR LEARNING

CHAPTER 22

An Applied Ethics Reading Buffet

Most of us were brought up to clean our plates at the dinner table. We find the lesson hard to unlearn. We apply this to books as well – if we haven't time to read the whole thing, we don't pick it up at all. In this chapter, I offer a list of heavy, very thorough books as a buffet – suggesting that you read only the parts that interest you. Then, I list a few shorter ones offering easier reading but still filled with ideas and insights. Many of these will be valuable for people wanting to lead discussions and workshops on applied ethics.

A book review is usually timely, coming out shortly after publication. Because a few of the items in this essay have been around a while, all I can say is, "Better late than never." First come five general works with broad scope. Next are five excellent reference volumes on ethics as a whole, environmental ethics, and religion and the environment. Following are several applied volumes dealing with public administration, forestry and environmental ethics, and business ethics. Finally, for dessert, I review a series of shorter works.

FIVE ON THE BIG ISSUES

Callahan, David. 2004. *The Cheating Culture: Why More Americans Are Doing Wrong to Get Ahead*. Orlando: Harcourt, Inc.

David Callahan makes a strong story out of many themes related to his subject in *The Cheating Culture*. Callahan relies on a large body of information. Most troubling are the surveys of college students, in which many students say they have cheated and see nothing wrong

with it. In sports, rock music, the world of finance and law, and among top corporate executives, the cash rewards for being at the top are so immense that some people cannot resist the temptation to cut corners. Also, Callahan points to the ubiquitous perception that people will “get away with it.” He notes the examples of criminals who served time or were fired for fraud or other crimes and were later rewarded with lucrative book contracts. Callahan’s book contains far too many anti-commerce clichés and slogans. Is this evidence of bias? Perhaps. But the overall picture is a sobering one and the information is generally, although not always, well buttressed with citations. If even half of what Callahan says is true, we all have a major chore ahead of us. We are not only seeking improvements in professional behavior, but we must engage in a major cultural change in order to achieve it!

Allen, Anita L. 2004. *The New Ethics: A Guided Tour of the Twenty-first Century Moral Landscape*. New York: Miramax Books.

Anita Allen, in a rich series of almost conversational essays, *The New Ethics*, supplies abundant thinking material for ethical reflection. In her introduction, she wonders why we see such “widespread ethical failure against the background of a culture rich with moral resources” (Allen, 2004: xii). One of the ethical resources she points to is the abundance of professional ethics codes and manuals. Yet, they seem to produce only limited results: “. . . some self-regulating is ineffective in protecting the public’s interest. Ethics codes adopted by professional groups are often high-tone pronouncements aimed at reassuring the public rather than effectively addressing the complex causes of professional conduct” (Allen, 2004: xxvi). Her closing chapter, *Agenda for a Better Ethics*, offers a twelve-point list that makes an excellent ethical thinking checklist (Allen, 2004: 276).

Kidder, Rushworth M. 2005. *Moral Courage: Taking Action When Your Values are Put to the Test*. New York: William Morrow.

Rushworth Kidder is a leading author and lecturer on ethical issues and founder of the Institute of Global Ethics in Camden, Maine. In *Moral Courage*, he summarizes survey evidence showing how values of truth, fairness, and respect are widely shared around the world despite wide differences in cultural outlooks. Kidder describes moral courage as action based on principles, involving personal danger or risk, which

is knowingly endured for the sake of those principles. Kidder's closing chapter, *Practicing Moral Courage in the Public Square*, draws his argument together with several compelling examples.

Arendt, Hannah. 2003. *Responsibility and Judgment*. New York: Schocken Books, edited by Jerome Kohn.

Hannah Arendt, a leading philosopher of the last century, became widely known for a book about the trial of Adolph Eichmann, Nazi organizer of the Holocaust. Jerome Kohn has assembled several of her major essays into a short work, *Responsibility and Judgment*, that is worth your serious attention. Arendt's concerns with the "banality of evil," the problem of responsibility in a dictatorship, and her reflections on the role of conscience in moral judgment are powerfully expressed.

Carter, Stephen L. 1996. *Integrity*. New York: Basic Books.

Stephen Carter, a Yale Law School professor, defines *integrity* as "the faculty that enables us to discern right and wrong." In his book of the same name, he explores the meaning and application of integrity in a variety of areas of life in an engaging way. This is not a handbook about ethics but instead a compelling essay on one of the groundings of ethical behavior: integrity.

MAJOR SURVEYS OF ETHICS AND ENVIRONMENTAL ETHICS

Singer, Peter, ed., 2003. *A Companion to Ethics*. Malden, MA: Blackwell Publishers.

Few of us want to know as much about ethics as we find in Peter Singer's *A Companion to Ethics*. It is intended as a compact encyclopedia of the whole field. As such, it deserves a place on a bookshelf for occasional reference. The volume's 47 chapters are written by specialists in their fields. The writing is not always easy, but the pieces are coherent and brief. Coverage is excellent on the history of ethical thinking and especially so on non-Western traditions – one gets a capsule summary of Islamic, Buddhist, Indian, and classical Chinese ethics, in addition to the Christian and Jewish approaches. A further series of chapters on applications covers the range from poverty to euthanasia. I did not find the chapters on environmental

ethics and business ethics to be very focused, very thorough, or very balanced, but would not discount the whole volume on that account.

Wenz, Peter S., ed. 2001. *Environmental Ethics Today*. New York: Oxford University Press.

Peter Wenz, in his *Environmental Ethics Today*, organizes the work around a number of different approaches to environmental ethics, recognizing that there need not be a single philosophical viewpoint and that readers bring their own philosophies to the subject. He observes,

“I introduce many views and endorse most of them because they have merit. They are proper ways to look at some things at some times. But they are limited. No one view provides an adequate perspective on all issues for all time.” (Wenz, 2001: 15)

We might wish that more authors in this field would consider a similar approach. Wenz’s three principal approaches are: Anthropocentrism, Non-anthropocentrism (which includes a Land Ethic), and Environmental Synergism – which includes a good section on the role of religion.

Gottlieb, Roger S., ed. 1996. *This Sacred Earth: Religion, Nature, Environment*. New York and London: Routledge.

Roger Gottlieb in his widely used 1996 readings volume, *This Sacred Earth*, offers a vast menu of material drawn from diverse traditions on spiritual concerns and environmental ethics. Purely secular essays are included as well, on topics ranging from vegetarianism to the Gaia hypothesis. This work offers strong representation of native or aboriginal perspectives from North America, Hawaii, and Africa, something not well covered in the other volumes. In Daniel Swartz’s essay titled Jews, Jewish Texts, and Nature: A Brief History, he offers a challenging metaphor:

“To take seriously the notion that we are but leasing the planet from God is to provide ourselves with specific behavioral guidelines. One who leases is called, in general, a shomer, usually translated as a guardian [emphasis supplied]. . . Harvest a tree? Not without planting another. Farm the land, [but] not without allowing it periodic rest and rejuvenation.” (Gottlieb, 1996: 98).

Modern authors are included, from Barry Lopez to Annie Dillard. Expert essays review traditional religions and their attitudes toward nature, including a valuable summary by Mawil I. Izzi Deen on Islamic environmental ethics, a topic on which little has been readily available in English. Eco-theology, feminism, and deep ecology all find their place.

Berry, Thomas. 1999. *The Great Work: Our Way into the Future*. New York: Bell Tower.

Thomas Berry's *The Great Work* argues: "The Great Work now, as we move into a new millennium, is to carry out the transition from a period of human devastation of the Earth to a period when humans would be present to the planet in a mutually beneficial manner" (Berry, 2001). Berry's essay takes a sweeping view of history. Judging by the frequency of his quotations in things I've been reading lately, I suspect his influence in the field of environmental ethics is massive. Berry summarizes what he calls "the wisdom of the traditions" as wisdom of indigenous peoples, of women, of (philosophical and religious) traditions, and of science. He concludes that "[w]e need all of the traditions. Each has its own distinctive achievements, limitations, distortions, its own special contribution toward an integral wisdom tradition . . ."

Fowler, Robert Booth. 1995. *The Greening of Protestant Thought*. Chapel Hill: University of North Carolina Press.

At times in the past, thinkers in environmental ethics have debated the role of religion in fostering, rationalizing, ignoring, or potentially overcoming environmental degradation. In Berry's spirit, I suggest a highly readable book by Robert Booth Fowler, *The Greening of Protestant Thought*, which attempts to summarize various strands of Protestant religious feeling and thought about environmental issues. These range, some might be surprised to learn, across a fairly wide range of environmental sentiment. This book is extremely well written and is refreshingly calm and balanced in discussing contending viewpoints.

EIGHT BOOKS ON APPLIED ETHICS

Cooper, Terry L. 2001. *Handbook of Administrative Ethics*. 2d edition. New York: Marcel Dekker.

Terry L. Cooper has done yeoman work in compiling an impressive volume on ethics in public administration, the *Handbook of Administrative Ethics*. People active in professional ethics issues will find much of interest in several essays (e.g., Plant, Bowman) on professional ethics codes for public administrators. Teachers and those active in ethics training will find the Yoder/Denhardt essay and the Menzel piece on Ethics Management useful. Environmental professionals active in volunteer roles on planning boards, school boards, and the like will see interest in parts of this work. One doesn't need to be a professional public administrator to find a lot here.

Fleishman, Joel L., Lance Liebman, and Mark H., Moore, eds. 1981. *Public Duties: The Moral Obligations of Government Officials*. Cambridge: Harvard University Press.

Two older volumes on ethics in the public service remain worth a look. Fleishman et al. in their book *Public Duties* supply a broad overview of philosophical issues, administrative theory, and practical ethics. Warwick, in Chapter 4, offers five ethical principles for public servants: (1) a public orientation, (2) reflective choice, (3) veracity, (4) procedural respect, and (5) a restraint on means. A later chapter by Dennis Thompson reviews the ethical challenges faced by city leaders during the New York City fiscal crisis of the mid 1970s. During that period, devices ranging from standard accounting gimmicks to outright misrepresentation were employed to conceal the city's dire straits from taxpayers and lenders.

Donahue, Anne Marie, ed. 1989. *Ethics in Politics and Government*. Series title: *The Reference Shelf* vol. 61, no. 2. New York: H. W. Wilson Company.

Anne Marie Donahue's volume of readings, *Ethics in Politics and Government*, is built on published articles from serious journalism sources. It contains well-written essays dealing with, among other things, the Iran-Contra scandal of the mid 1980s. Short essays by serving members of Congress are included. The writing is excellent;

the treatments are issue and news-oriented and not built around technical explanations of ethical theory.

List, Peter C., ed. 2001. *Environmental Ethics and Forestry: A Reader*. Philadelphia: Temple University Press.

Peter List of Oregon State has edited a strong compilation of environmental ethics and forestry materials, *Environmental Ethics and Forestry: A Reader*. He (and the authors included) will make many foresters angry with some of their assertions, but at least his biases are on the table. He asserts flatly:

“In short, professional forest conservation serves the interests of the capitalist economy of America in domestic and foreign markets.” (List, 2001: 25).

Some foresters may assent to this description, but those who don't should read on. Despite the familiar campus biases that underlie the book, a few middle of the road writers have been included. This compilation contains an unusual amount of commentary and connective material for a readings volume and, together with footnotes, this book amounts to an excellent source for finding much of the recent literature on the subject. List has obviously taken the trouble to learn a lot about forestry. Some of the criticism in the book is hard for this writer to take. It is either too extreme, too one-sided, or just stated in insulting tones. But it is not a bad reflection of what the general public reads every day in the paper and what is taught every day on campuses nationwide. We should not toss the volume out because we find some statements in it to be irritating or unfair.

Snoeyenbos, Milton, Robert Almeder, and James Humber, eds. 2001. *Business Ethics*. 3d edition. Amherst, NY: Prometheus Books.

The field of business ethics has burgeoned in recent years, although from the exploits of notorious financiers reported in the daily press, one would hardly know it. A helpful readings volume on this topic is always welcome. Snoeyenbos, Almeder, and Humber have updated their *Business Ethics* with this newer edition. Theirs is perhaps the most applied of all of the books discussed in this essay and is certainly one for the bookshelf of almost any practicing forester, in public or private employ. The material is organized around practical topics, for

example, Ethics in Organizations, Employer Rights, Employee Rights, Finance, Consumer Rights, Environmental Issues, and Multinational Corporations. Cases and essays are brief and to the point.

Miller, Richard B. 1996. *Casuistry and Modern Ethics: A Poetics of Practical Reasoning*. Chicago: University of Chicago Press.

With some uncertainty, I include one work of philosophy. I am not competent to review the work, aimed as it is for specialists in that field. Yet I found it an excellent candidate for the selective reading approach – I did not finish it. Richard B. Miller's *Casuistry and Modern Ethics* may put many bookstore browsers off by its title alone. As the author notes,

“Casuistry’s basic premise is that virtue is incomplete without the skill of practical deliberation – that appeals to character, integrity, or purity of heart alone are insufficient for ethical theory and the moral life . . . even the well-intentioned conscience needs practical wisdom about managing day-to-day affairs.” (Miller, 1996: 17).

In addition, the author notes that ethical maxims and practical demands often conflict, so that “it is not always obvious what virtue requires” (Miller, 1996: 17). Miller’s approach resonates strongly for me. He emphasizes the importance of a “fine-grained analysis” of practical facts. This emphasis should certainly be appealing to environmental professionals interested in developing their ethical reflection skills. In a series of chapters, the book offers examples of ethical argument on topics as diverse as the first Gulf War, transplanting human fetal tissue, and violent pornography.

Appelbaum, Arthur Isak. 1999. *Ethics for Adversaries: The Morality of Roles in Public and Professional Life*. Princeton: Princeton University Press.

Closely related to the issue of loyalty to employer is the ancient question of whether one’s role in life can suspend moral or ethical responsibilities. The classic example is that soldiers, in the proper circumstances, are exempted from the ancient Mosaic injunction “Thou shalt not kill.” Arthur Applebaum’s *Ethics for Adversaries* (1999) explores this issue in great detail and in a fairly formal philosophical way.

Applbaum opens with an extended discussion of one Charles-Henri Sanson, who served as the official executioner of Paris under the ancient regime and then under the various governments of the Revolution and the Terror. Applbaum titles this chapter, Professional Detachment.

Barrett, Carol D. 2001. *Everyday Ethics for Practicing Planners*. Chicago, IL: American Institute of Certified Planners.

Carol D. Barrett (2001) is a planner who has written about planning ethics for years. Her *Everyday Ethics for Practicing Planners* is a valuable sourcebook for professional ethics in the environmental area. It is essentially a casebook. But what is especially valuable about this book is that Barrett has done a tremendous amount of work to provide full discussions of the cases. There are cases corresponding to 32 different key elements of the planner's ethics code.

SOME LIGHTER FARE

These books may be “lighter” only in comparison to the weight and technical depth of the above-listed items. They are aimed at general rather than specialized audiences; all are well written.

Robinson, Dave, and Chris Garratt, 1997. *Introducing Ethics*. New York: Totem Books.

Dave Robinson and Chris Garrett's *Introducing Ethics* (1997) is a very reader-friendly and thought provoking introduction especially aimed at readers not versed in the philosophies of ethics.

Blackburn, Simon. 2001. *Being Good: A Short Introduction to Ethics*. Oxford: Oxford University Press.

An introduction to ethics that fits in a pocket is badly needed. Simon Blackburn's *Being Good* (2001) is a pocket sized overview that is well written and thoughtful. For many of us, it is as far as we will want to go into philosophy, at least for the time being. It does not drill down much into conflict of interest, loyalty to client, or other more day to day issues.

Curtler, Hugh Mercer. 2004. *Ethical Argument: Critical Thinking in Ethics*. 2d edition. Oxford: Oxford University Press.

A welcome development is the issuance of a second edition of Hugh Mercer Curtler's *Ethical Argument*, which has been a longtime stalwart in teaching people how to think about ethical problems. His 2004 edition offers the same compact approach to the thought process and includes short cases. Curtler leaves aside the recital of all the different schools of philosophers and gets right down to how to think effectively about solving ethical problems.

Smith, David H. 1995. *Entrusted: The Moral Responsibilities of Trusteeship*. Bloomington: Indiana University Press.

No one should serve on a board of directors – private or nonprofit – without reading David Smith's little gem of a book, *Entrusted*. I have not yet found a better introductory essay on fiduciary responsibility. Smith's examples are found in the world of issues faced by trustees of nonprofit institutions. As Smith notes, "Trusteeship is a special kind of moral responsibility . . ." and his book explains in more detail what that means.

Pfeiffer, Raymond. S. and Ralph. P. Forsberg, 2000. *Ethics on the Job: Cases and Strategies*. 2d edition. Belmont, CA: Wadsworth Publishing Company.

Workplace ethics for managers is a huge topic. Raymond Pfeiffer and Ralph Forsberg have provided a useful short introduction with *Ethics on the Job: Cases and Strategies* – and have worked a lot of value into 145 pages. They outline the widely used RESOLVEDD method for analyzing ethical problems. The 45 cases include a wide range of common business problems, from alcohol abuse to fair treatment of employees. These authors, like some of the others noted in this essay, are suspicious of the notion that your conscience will be your guide: ". . . you must still decide for yourself what to do and whether your conscience truly does indicate the best course of action. Further reflection and analysis may be necessary to determine just what your conscience really does indicate and whether the verdict of your conscience or intuitions is correct" (Pfeiffer and Forsberg, 2000: 51).

Terris, Daniel. 2005. *Ethics at Work: Creating Virtue at an American Corporation*. Hanover: University Press of New England/Waltham: Brandeis University Press.

The Lockheed-Martin Corporation, a major defense and aerospace contractor, instituted a broad ethics program in the wake of bribery scandals in the early 1970s. Daniel Terris, of Brandeis University's Center for Ethics, Justice, and Public Life and author of *Ethics at Work*, spent considerable time with the company's employees studying how its program works. Terris notes, "The defense industry has, to some people's surprise, the broadest and most sustained set of ethics programs of any sector of American business today." Terris gives the Lockheed-Martin program high marks for institutionalizing effective ethics at what he calls the "administrative" level. He takes the company to task, though, for compartmentalizing administrative ethics away from the larger ethical questions that ought, he feels, to engage workers in arms plants. His claim that this compartmentalization actually threatens the program (see, especially, pages 141-154) seems overblown. He offers no evidence that conducting major debates about the morality of arms production would improve ethical behavior at any level of the company. We can all agree that in a better world we would have no defense contractors, but I am not convinced that broadening the coverage of business and administrative ethics provides real benefits.

Surowiecki, James, ed. 2002. *Best Business Crime Reporting of the Year*. New York: Anchor Books.

James Surowiecki's compilation, *Best Business Crime Writing of the Year*, is an excellent topical view of the recent big business and financial scandals. The editor has assembled press accounts of the biggest business crime stories of 2002 – a year that was certainly rich in examples. Revelations of pathological executive greed, reliance on expensive legal hair-splitting by high priced lawyers and accountants, and passive boards of directors and regulators illustrate a massive failure of personal and business ethics.

His Holiness the Dalai Lama. 1999. *Ethics for the New Millennium*. New York: Riverhead Books.

His Holiness the Dalai Lama offers a highly readable overview of a Buddhist view of ethics in *Ethics for the New Millennium*. Some may wonder what a Tibetan monk may have to say to professional people functioning in a Westernized, secular society. I think, after reading the book, you will agree that the answer is, “a good deal.” Of interest here, he repeatedly returns to his theme of a “need for discernment,” his term for having the practical wisdom to make prudent choices when loyalties, or ethical obligations, conflict. Later in the work, he discusses ethical concerns for the natural world.

Bell, Derrick. 2002. *Ethical Ambition: Living a Life of Meaning and Worth*. New York: Bloomsbury.

“We need not aim for sainthood, but by striving to choose ethically – no matter the success rate – we will have a cumulative wealth of knowledge and experience to draw on that will pay dividends throughout our lives and beyond.” So writes Derrick Bell, in closing his extended essay *Ethical Ambition*, which treats the conflict between career ambitions and our desire to make decisions that advance higher ideals. He calls this the “paradox of success.” Bell has mastered the art of brevity, bringing in his work at 178 pages. He was the first African-American to be tenured at Harvard Law School, clerked for Justice Thurgood Marshall, and served in the civil rights struggles of the 1960s and 1970s. In a chapter titled Courage and Risk-Taking, Bell draws from experiences as an Army officer, a law professor, and a civil rights activist. A major source of courage for Bell is his religious faith, as he explains in the chapter, *Evolving Faith*. One excerpt:

“The gravitational pulls of our ‘free enterprise’ society urge acceptance of the social system as it is. It counsels us to compete and win by any available means. As needed, we can pretend we are ethical and humane. Our posturing will look like spirit and it will appear sufficient.” (Bell, 2002: 93).

The Biodiversity Project. 2002. *Ethics for a Small Planet: A Communications Handbook on the Ethical and Theological Reasons for Protecting Biodiversity*. Madison, WI: The Biodiversity Project. www.biodiversityproject.org/ethicsforasmallplanet.htm.)

A valuable readings volume on environmental ethics is the Biodiversity Project's recent *Ethics for a Small Planet*. It is certainly the most reader-friendly of the works noted here. Educators and those conducting ethics discussions will find a wealth of citations and resources. Essays by Bakken, Elder and Farrior, Swartz, and Nelson provide a brief overview of ideas from major cultural and religious traditions. Despite the effort to note a range of ideas in the core essays, some will notice a strong preservationist ideology here. A few clues lie in the fine print, where contributors gloat over alleged defeats inflicted on "Wise Use" groups. As long as environmental ethics remains so closely identified with preservationists and with glib zingers, there will continue to be difficulty in bridging the cultural gap to resource owners and managers.

Perschel, Robert T. 2004. *The Land Ethic Toolbox: Using Ethics, Emotion, and Spiritual Values to Advance American Land Conservation*. Washington: The Wilderness Society. www.wilderness.org.

A more recent entry is Bob Perschel's *Land Ethic Toolbox*. This toolbox, issued by The Wilderness Society, is loaded with references to literature, organizations, and individuals working on land ethics issues. The cheap editorializing is left aside in this one. This book is something like a Rolodex for the entire subject; readers with a special interest in this topic will want one.

Johnson, Craig E. 2005. *Meeting the Ethical Challenges of Leadership*. 2d edition. Thousand Oaks, CA: Sage Publications, Inc.

For managers, the problem of building ethical perspectives into daily action – whether in the marketplace, in nonprofits, or in government – is ongoing. Craig Johnson's *Meeting the Ethical Challenges of Leadership* (now in a second edition) tries to help, not by giving detailed guidance on every problem, but by suggesting ways to think about ethical problems. The book is built around extensive lists that make it a useful instructional resource. Johnson opens by noting the shadows cast over leadership by power, privilege, misplaced or broken loyalties, and deceit. He offers useful ideas in his later chapters on avoiding groupthink, on creating an ethical climate in an organization, and on cultural diversity.

Johnson offers a number of formats for ethical decision making. One, drawn from Rushworth Kidder's work, involves the following steps: (1) recognize the problem, (2) determine the actors, (3) gather the facts, (4) test for right versus wrong issues, (5) test for right versus right issues, (6) apply the relevant standards, (7) look for a third way, (8) make a decision, and (9) revise and reflect. This is a sensible and straightforward guide – it attempts to supply a way to think through problems rather than a list of canned answers to canned problems.

Some of the powerful CEOs showcased in Surowiecki's book may do jail time. If so, they should be required to read Johnson's book. They may wish they had done so sooner.

APPLIED ETHICS READING BUFFET

Allen, Anita L. 2004. *The New Ethics: A Guided Tour of the Twenty-first Century Moral Landscape*. New York: Miramax Books.

Appelbaum, Arthur Isak. 1999. *Ethics for Adversaries, the Morality of Roles in Public and Professional Life*. Princeton: Princeton University Press.

Arendt, Hannah. 2003. *Responsibility and Judgment*. New York: Schocken Books, edited by Jerome Kohn.

Barrett, Carol D. 2001. *Everyday Ethics for Practicing Planners*. Chicago, IL: American Institute of Certified Planners.

Bell, Derrick. 2002. *Ethical Ambition: Living a Life of Meaning and Worth*. New York: Bloomsbury.

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Callahan, David. 2004. *The Cheating Culture: Why More Americans are Doing Wrong to Get Ahead*. Orlando: Harcourt, Inc.

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- Wenz, Peter S., ed. 2001. *Environmental Ethics Today*. New York: Oxford University Press.

CHAPTER 23

Suggested Activities

1. AS AN INDIVIDUAL

- a. *Read a general book on ethics twice a year. Discuss it with friends, pass it around, and mark especially useful passages. (see Suggested Reading below)*
- b. *Try to read an article a month on ethics issues.*
- c. *Consider writing ethics cases for discussions.*
- d. *At coffee breaks, informally bring up ethics questions to discuss.*
- e. *If you work in a licensing/registration state, check the state ethics code to be sure you know of any differences from your profession's Code or other codes for natural resource professionals.*
- f. *Other?*

2. AT YOUR WORKPLACE

- a. *Start a monthly lunchroom "brown bag seminar" at which some current ethical topic in the news will be discussed.*
- b. *Post your own profession's Ethics Code on the bulletin board in your work area.*
- c. *At staff meetings and in discussions of operational problems, raise the ethical questions when they come up – don't wait for someone else to do it. (You don't have to have the answer – just try to start a discussion when you think it is needed.)*
- d. *Pass around articles, cases, or sources on ethics to colleagues occasionally.*

- e. *See if your organization has a Code of Ethics, an ethics officer, or other ethics program. If not, should they?*
- f. *Support ethical behavior and leadership when you observe it.*
- g. *Find a mentor to whom you can bring work-related ethical questions.*

3. AS A MEMBER OF YOUR OWN PROFESSIONAL SOCIETY

- a. *Ask program chairs to include ethics sessions/discussions at meetings.*
- b. *Volunteer to set up a discussion of a current topic at a chapter meeting. Learn who is active on this issue in your area and volunteer to help.*
- c. *Suggest cases for posting/discussion in your State Society Newsletter.*
- d. *Write short articles on ethical issues for professional newsletters, journals, or other publications.*

CHAPTER 24

Further Reading

BASIC SOURCES

Society of American Foresters. 2004. *SAF Ethics Guide*. Bethesda: SAF. <http://www.safnet.org/>. Irland, Lloyd C. 1994. *Ethics in Forestry*. Portland: Timber Press.

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Books by Aldo Leopold

- Game Management*. New York: Charles Scribner's Sons, 1933/Madison: University of Wisconsin Press, 1986.
- A Sand County Almanac and Sketches Here and There*. New York: Oxford University Press, 1949.
- Edited by Luna B. Leopold. *Round River: From the Journals of Aldo Leopold*. New York: Oxford University Press, 1953. (Contains unexpurgated excerpts from Leopold's hunting journals + nine literary/philosophical essays.)
- A Sand County Almanac: With Essays on Conservation from Round River*. New York: Oxford University Press, 1966. (Seven essays from Round River added as a new Part III; original Part III becomes Part IV and its essays reordered.)
- Edited by Susan L. Flader and J. Baird Callicott. *The River of the Mother of God and Other Essays by Aldo Leopold*. Madison: University of Wisconsin Press, 1991. (Literary and philosophical essays from 1904-1949.)
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Jostad, Patricia M., L. H. MacAvoy, and D. McDonald. 1996. "Native American land ethics: implications for natural resource management." *Society and Natural Resources* 9: 565-581.

Meine, Curt. 1988. *Aldo Leopold: His Life and Work*. Madison: University of Wisconsin Press.

More at *The Aldo Leopold Foundation*: <http://www.aldoleopold.org/Publications/Publications.htm>.

Weber, Leonard J. 1991. "The social responsibility of land ownership." *Journal of Forestry* 89 (4): 12-25

General Works

These books on ethics are brief and accessible to the student and non-philosopher.

Curtler, Hugh Mercer. 1993. *Ethical Argument: Critical Thinking in Ethics*. New York, Paragon House.

Johnson, Craig E. 2005. *Meeting the Ethical Challenges of Leadership: Casting Light or Shadow*. 2d Edition. Thousand Oaks: SAGE Publications, Inc.

Newton, Lisa H. 2005. *Business Ethics and the Natural Environment*. Malden, MA: Blackwell Publishing.

Pojman, Louis P. 1995. *Ethics, Discovering Right and Wrong*, 2nd Edition. Belmont: Wadsworth Publishing Company.

On Beyond Sunday School

For many of us, an early source of ethical instruction was stories told in Sunday school based on the Bible. Even people who have no religious feelings at all would find a lot of material for ethical reflection in these works.

Armstrong, Karen. 1996. *In the Beginning: a New Interpretation of Genesis*. New York: Alfred A. Knopf.

Kirsch, Jonathan. 1997. *The Harlot by the Side of the Road: Forbidden Tales of the Bible*. New York: Ballantine Books.

Visotzky, Burton L. 1996. *The Genesis of Ethics*. New York: Crown Publishers.

For several other faiths, see relevant sections of chapter 22 above, and

Tucker, Mary Beth and John A. Grim, Eds. 2001. Religion and Ecology: Can the Climate Change? *Daedalus*. Vol. 130, No. 4. Proc. Amer. Acad. Arts and Sciences.

On Beyond Outrage: Terrible Events

Studying terrible events may not yield immediately useful guidance on daily problems. Still, for those inclined to try it, you could look at some of these. Few if any of us will ever have the influence of the leaders and primary decisionmakers discussed in these works. But many will have occasion to wonder how the actions of ordinary individuals enable or collaborate with them. Because leaders need followers to implement their schemes, reading these works should be beneficial to anyone. The purpose is not to let us simply feel outrage at the actions depicted in these books, but to get beyond that as we think about our own lives and work. The list includes a few stories of those who exhibited moral courage by resisting.

- Berger, Thomas R. 1991. *A Long and Terrible Shadow: White Values, Native Rights in the Americas*. Vancouver: Douglas & Macintyre/Seattle: University of Washington Press.
- Desch, Michael C. 2007. "Bush and the Generals." *Foreign Affairs* May/June. (Same failures discussed by McMaster, below concerning Gulf War II.)
- Hine, Robert V., and John Mack Faracher. 2000. *The American West: A New Interpretive History*. New Haven, CT: Yale University Press. (Chapters 3 and 4 on the Indians.)
- Holbrooke, Richard. 2007. "Defying orders, saving lives." *Foreign Affairs*, May/June. (Low-level consular officials defying orders to enable Jews to escape Nazi-occupied Europe.)
- McMaster, H. R. 1997. *Dereliction of Duty: Lyndon Johnson, Robert McNamara, the Joint Chiefs of Staff, and the Lies They Told That Led to Vietnam*. Harper Collins, 1997. (Heavily documented and powerfully argued story of how the Joint Chiefs, perhaps the ultimate "Samurai," failed their duty of loyalty to employer, as did their civilian bosses.)
- Miller, Richard B. 1996. *Casuistry and Modern Ethics*. Chicago: University of Chicago Press. (Chapter 2, Justice, Complicity, and the War Against Iraq [Just War traditions and the First Gulf War].)
- Rusesabagina, Paul. 2006. *An Ordinary Man: An Autobiography*. New York: Viking Press. (The 1994 Rwanda genocide.)
- Sereny, Gitta. 1995. *Albert Speer: His Battle With Truth*. New York: Alfred A. Knopf.
- Woodward, Bob. 2005. *The Secret Man: the Story of Watergate's Deep Throat*. New York: Simon and Schuster. (Multiple ethical issues in Woodward's tale of FBI official Mark Felt, the mysterious "Deep Throat" of the Watergate Affair.)

APPENDIX:
ETHICS CODES

American Fisheries Society⁷

STANDARD OF PROFESSIONAL CONDUCT

Preamble:

A member of the American Fisheries Society (AFS) has an obligation to perform his/her duties in an ethical manner. First and foremost, on joining the AFS, a member accepts the responsibility to serve and manage aquatic resources for the benefit of those resources and of the public, based on the best scientific data, as specified by the Society's "North American Fisheries Policy" (see Fisheries 21[3]:26–29). He/she acts ethically in his/her relationships with the general public and with his/her employers, employees, and associates, and he/she follows the tenets of the Society's Equal Opportunity Policy (see 1997–1998 AFS Membership Directory and Handbook, page 3). He/she strives to preserve and enhance the fisheries profession. All members must adhere to the "Standard of Professional Conduct" as herein established.

Section I. Integrity of the Profession

Each member of the AFS shall:

I-1. Avoid actual or apparent dishonesty, misrepresentation, and unprofessional demeanor by using proper scientific methodology, by adhering to the Society's "Guidelines for Use of Fishes in Field Research" (see Fisheries 13[2]: 17–21) by fully documenting technical conclusions and interpretations, and by encouraging these practices by others;

I-2. Not speak for, represent, or imply in any way that he/she represents the Society without the express approval of the president or Governing Board. No member of any Chapter, Division, or Section may speak with authority for that group without specific authorization;

⁷Version adopted by the Governing Board August 1997. © Copyright American Fisheries Society. Used with permission.

I-3. Give appropriate credit for professional work done by others;

I-4. Make the fisheries profession more effective by exchanging information and experiences with colleagues, students and the public via formal publications, reports, and lectures; informal consultations; and constructive interactions with professional societies, journalists, and government bodies;

I-5. Approve only those plans, reports, and other documents he/she has helped prepare or has supervised;

I-6. Make professional recommendations and decisions to benefit fishery resources and the public, base them on the best available scientific data and judgments, and give a clear and balanced exposition of the consequences of following and of not following such recommendations and decisions;

I-7. Restrict, to the extent feasible, criticisms of technical results and conclusions of other researchers to professional forums such as meetings and technical journals;

I-8. Treat employees justly and fairly with respect to recruitment, supervision, job development, recognition, and compensation.

Section II. Relations with Clients, Employers, and the Public

Each member of the AFS shall:

II-1. Serve each client or employer professionally without prejudice or conflict of interest; unless the member's professional convictions conflict with the policies of the employer, in which case the member will provide the employer with full supporting evidence and sufficient time for study and action;

II-2. Maintain confidential relationships with employers and clients unless authorized by the employer or required by law or due process to disclose information or results produced while employed by that client;

II-3. Advertise his/her professional qualifications truthfully, without exaggeration and without denigration of others;

II-4. Express opinions on an aquatic resources subject only if qualified to do so by training, experience, or study;

II-5. Clearly separate professional opinion from accepted knowledge or fact in all communications;

II-6. Advise against any action or decision by an employer, client or colleague that violates any law or regulation. If a member finds

employment obligations conflict with professional or ethical standards, the member should advise the employer of the conflict. If such a conflict is not resolved in a timely manner, or if the action appears to materially affect the public health, safety, or welfare, then the member shall advise AFS of the objectionable condition or practice and supply substantial evidence of the problem. The member should reject attempts by employers and others to coerce or manipulate professional judgment and advice. The member should exercise professional judgment without regard to personal gain, and refuse compensation or other rewards that might be construed as an attempt to influence judgment;

II-7. Not distort or withhold information solely to substantiate a personal point of view;

II-8. Give expert testimony to a court, commission, or other tribunals only when based on adequate knowledge and honest conviction and give balanced judgments about the consequences of alternative actions;

II-9. Expose scientific or managerial misconduct, including misrepresentation to the public of aquatic science/professional information, by informing the president of the AFS. The president shall refer this material to “The Ethics and Professional Conduct Committee.”

Canadian Institute of Forestry Code of Ethics⁸

Approved by the Canadian Institute of Forestry National Board of Directors, December 2000.

A. RESPONSIBILITY TO MAINTAIN THE PUBLIC GOOD

I. Forest Stewardship

To advocate, promote and practice the highest possible standards of forest stewardship, based on ecologically sound principles, which will maintain, protect and enhance the integrity, utility and value of the forest resource for the benefit of society, without compromising the opportunity for present and future generations to meet their objectives.

Guidelines and Standards

Forest management requires making choices and gauging the short and long-term consequences of those choices on the forest, while seeking to meet the diverse demands of society. Forest management choices and decisions should be made with consideration for the multiplicity of values of forest resources including their ecological, economic, recreational, aesthetic, cultural and spiritual values. Decisions should include the consideration of public concerns and use sound ecological principles as their basis. Impacts resulting from management decisions should be examined, fully considered and mitigated to the greatest extent possible. The goals of society, as expressed by citizens and their various levels of government should be met, in the context of legislation, valid and current information, sound science, pertinent experience, responsible economics and rational planning.

⁸ Canadian Institute of Forestry website: <http://www.cif-ifc.org/english/e-ethics.shtml>. Used with permission.

II. Public Confidence

- To inspire the public's confidence in the practice of forestry by maintaining high standards in one's conduct and daily work.
- To carry out such work in a spirit of integrity, honesty, fairness, good faith and courtesy.

Guidelines and Standards

Forest practitioners have an obligation to the public to conduct themselves, both personally and professionally, in a respectful and dignified manner. Service should be put ahead of gain and excellence above quantity. Specialized skills and knowledge should be applied in the best interests of society, thereby inspiring confidence in the practice of forestry. People should be treated with equality, while discrimination, harassment and other unethical behavior will neither be practiced nor tolerated in others.

III. Public Understanding

To broaden the public's understanding of forests, the practice of forestry, the value of forestry to society and our commitment to the highest possible standards in the practice of forestry. The promotion of truthful and accurate statements on forestry matters should also be undertaken.

Guidelines and Standards

It is essential that the knowledge and skill of the forest practitioner be used to promote an enhanced public understanding of the forest resources, forest regulations and practices so that the public may be able to make informed decisions as to how forests can best be managed and conserved. When asked, expertise should be provided to those who society or employers have empowered, to help them in their forestry related tasks. For example, expert advice should be provided to elected representatives and those involved in drafting legislation and policy related to forests. When engaging in activities that will broaden the public's knowledge of forestry, all statements and professional opinion should, to the best of one's ability, be truthful, accurate and objective. Professional opinion should be expressed only when founded on adequate knowledge of the facts and upon solid technical experience and competence in the subject matter. It should

be clearly stated on whose behalf opinions are being provided. Untrue, incomplete, biased or exaggerated statements will be challenged and corrected. Information cannot be distorted or withheld in order to support or refute a particular opinion or perspective. Information can only be withheld when such information is provided in confidence by the client or employer and must be held as confidential unless authorization is provided to release such information.

IV. Public Welfare and Safety

To have proper regard, in all aspects of work, for the safety, health and welfare of the public and the potential impacts of forestry practices on public welfare.

Guidelines and Standards

Forestry practices can have wide ranging effects on the welfare of the public both today and in the future. Forest practitioners should be aware of the social and environmental factors related to forest management that could affect the public. Such factors include but are not limited to aesthetic values, spiritual values, cultural benefits, economic benefits, wildlife habitat and ecological integrity. The forest contains many natural hazards and potentially dangerous conditions. The public should be made aware of these known dangers and advised of the proper actions to take to avoid them. Legal obligations with respect to environmental, industrial and construction safety legislation must be clearly understood and complied with. All necessary safety precautions and public notices must be maintained and no plans should be approved or undertaken if they are seen to jeopardize the safety, health and welfare of the public, forest workers or other forest users.

B. RESPONSIBILITY TO THE PROFESSION

I. Improve the Practice of Forestry

To work towards improving the standards, practices and policies that affect the stewardship of forest land.

Guidelines and Standards

Every effort should be made to keep informed and aware of current technical, professional, political, economic and environmental issues pertaining to forestry and to improve the level of education and

knowledge in the practice of forestry. Such efforts should include reviews of current literature, attending professional development seminars and conferences, consulting with other practitioners and seeking other sources of current information, including electronic sources. Keeping informed with respect to laws related to the practice of forestry in the jurisdiction in which one works is another important aspect of improving forestry practice. Maintaining a professional or technical designation through provincial professional and technical bodies, if such organizations exist, will assist in keeping up to date on appropriate legislation. Maintaining active membership and participation in national and provincial forestry organizations and educational institutions will also keep forest practitioners current. Maintaining efforts in continuing education programs, both formal and informal, will ensure knowledge remains current. In provinces where professional and technical organizations do not exist, working towards the creation of these organizations is an important way to ensure standards and measures will be in place in all jurisdictions. Scientific and technical knowledge and skill should be developed and maintained and all work undertaken should be consistent with current scientific knowledge. When new approaches and emerging science begin to challenge traditional practices, these new methods should be explored, communicated to others and adopted where appropriate.

II. Ensure Competency

To undertake only such work as the person is competent to perform by virtue of their training and experience and to strive to improve the competence of all those practicing forestry.

Guidelines and Standards

Only work for which the individual has the training and experience should be undertaken. Activities or circumstances where it is unlikely that competent service can be provided should be avoided. If additional expertise is required, other forest practitioners and/or specialists should be retained. Employees or those under the supervision of senior practitioners should be provided opportunities to increase their expertise. Experience should be as wide ranging as possible but work assignments should be geared to an individual's expertise, competence and level of responsibility. All work carried out or supervised should meet the highest possible standards of

stewardship and all documents must be complete, comply with legal requirements and reflect the best possible forest management principles. Forest practitioners should be capable of conducting all aspects of their work in an efficient and competent manner and individuals should seek reviews and evaluations of their work on a regular basis. The work of others must be given credit and acknowledged. Forest management principles and the rights of others should be upheld against the demands of employment.

C. RESPONSIBILITY TO THE EMPLOYER/CLIENT

I. Consistent, Professional and Dedicated Service

To promote the best interests of an employer or client by consistently maintaining high standards of performance while acting in a conscientious, diligent and efficient manner.

Guidelines and Standards

Forest practitioners are obliged to provide dedicated, professional service in the interest of achieving their employer's objectives, except where such services may conflict with legal or professional duties or responsibilities. Forest practitioners should not misrepresent their own abilities either in advertising or competition for the provision of services. The principle of just compensation, based on comparative qualifications, degree of responsibility and difficulty of work, as well as upon responsible and equitable negotiation of adequate salary scales, is accepted. Forest practitioners should strive to deliver all work on time and in a complete and accurate manner, giving fair notice of any delays or deficiencies in the work. No compensation in any form should be accepted for a particular service from more than one source without the full knowledge and consent of all interested parties.

II. Consequences of Actions

To anticipate and advise employers or clients of the consequences of any contemplated policy, procedure or course of action which, based on professional judgment, is not consistent with the principles of sound forestry practice and best possible stewardship of forest land.

Guidelines and Standards

Specialized knowledge regarding the practice of forestry includes an understanding of the potential moral, legal and environmental consequences of forestry related activities that may not be anticipated or understood by an employer or client. Although they may not always be responsible for the employer's or client's final decisions or actions, forest practitioners should be responsible to fully inform their employer or client of the potential consequences. When a forest practitioner believes that the employer's or client's actions will be detrimental to the best possible forest stewardship of forest land, they should apply reasonable efforts to ensure that the employer or client fully comprehends the reasons for concern and/or the possible consequences of the actions. The availability of possible alternative actions and their implications should also be described. The potential results of such actions must be expressed as accurately as possible, noting any unsubstantiated factors or issues. The employer or client should be made aware of the limits of knowledge available in a particular situation. Assumptions that are made about a particular course of action and the anticipated results need to be fully explained. Where knowledge is incomplete, measures should be put in place to gain additional knowledge. Where assumptions are made, a range of outcomes, based on a range of reasonable assumptions should be provided. Tests and procedures, which can verify that assumptions are reasonable or need to be adjusted, should be in place.

III. Confidentiality

To hold as confidential and not to disclose information obtained as to the affairs, technical methods, practices and processes of the employer or client, unless released from this obligation by the employer or client, or except as required to do so by law.

Guidelines and Standards

In the course of their employment, forest practitioners may be exposed to confidential information that is the exclusive property of their employer or client. It is incumbent upon the forest practitioner to keep such information confidential, except when disclosure is required by an appropriate authority. In all cases, forest practitioners

must exercise judgment in the use and disclosure of confidential information. Confidential or proprietary information received from, or prepared for a previous or current employer or client must not be disclosed without the consent of the previous employer or client. Similarly, confidential information should not be used for a forest practitioner's benefit or the benefit of a third party without the owner's consent. Forest practitioners should ensure the maintenance of confidentiality by all persons in their employ.

IV. Conflict of Interest

To ensure that activities related to all forestry undertakings do not conflict with the interests of their employer or client.

Guidelines and Standards

In the course of conducting their work-related activities, forest practitioners must pay special attention to any possible conflict with the interests of their employer or client, or between clients. Forest practitioners should not undertake any assignment that may create a conflict or even the appearance of such conflict with the interests of their employer or client without the full knowledge of the employer or client. Any business connections, interests or circumstances that might be construed as prejudicial to the judgment of the forest practitioner in rendering service to the employer or client should be promptly and fully disclosed to the forest practitioner's employer or client. The forest practitioner should be prepared to act immediately to resolve such conflict. When there is any doubt as to which course of action to follow, forest practitioners are encouraged to seek the advice of their professional or technical association, senior practitioners, a member of any Section Council, the Executive Committee, or legal counsel. In all such cases, forest practitioners should record their actions and the steps that were taken to resolve any potential conflict of interest.

D. RESPONSIBILITY TO OTHER PROFESSIONALS

I. Fairness

To conduct oneself in a manner that demonstrates personal dignity and respect towards other forest practitioners, who are involved in the practice of forestry at all levels.

Guidelines and Standards

Where differences of opinion exist between forest practitioners or others with regard to the practice of forestry, discussions should be undertaken with a view to resolving such differences. Such discussions should be professional in nature, using neutral, non-personal language and descriptions. Undignified or unfair criticism should be avoided and there should be no attempt to injure the reputation or business of other forest practitioners. Malicious or damaging information must be avoided and must not be used to gain an advantage over another forest practitioner. Persons using malicious or damaging information should be advised and steps taken to correct their actions.

II. Support

To provide advice, recognition, support and guidance to those practicing forestry in order to assist in furthering and enhancing their efforts and to ensure that the best possible practices and objectives are undertaken and recognized.

Guidelines and Standards

The work of other forest practitioners should not be interfered with unless it is determined to be in conflict with recognized standards. Offers to share information and experience with others and to assess the work of others, should be made. The work of others should only be assessed with their full knowledge, unless such assessments are in the form of recognized and often anonymous peer review of scientific or technical papers.

It is appropriate to:

- provide opportunities for the professional development and advancement of forest practitioners including employees and/or less experienced individuals;
- recognize and give credit for work done by others and support qualified individuals in gaining membership in the CIF/IFC and other associations and societies;
- cultivate an esprit de corps among forest practitioners and recognize the outstanding contributions made to forestry by forest practitioners through CIF/IFC national awards and other mechanisms; and

- recognize and welcome new forest practitioners to the profession through support and participation at events such as ring ceremonies and graduations.

III. Questionable Practice

To strive to avoid improper or questionable practices in their own work and in the work of others and to take steps as soon as possible to correct such practices and minimize their impacts on both the resource and the reputation of those engaged in the practice of forestry.

Guidelines and Standards

If, in the opinion of a forest practitioner, another forest practitioner is undertaking an action that is likely to cause damage to the resource, steps should be taken to correct such action. Minor technical issues should be resolved between forest practitioners. More serious violations may warrant a formal complaint to the appropriate licensing body.

Land Trust Standards and Practices⁹

Revised 2004

PART I: ORGANIZATIONAL STRENGTH

Standard 1: Mission

The land trust has a clear mission that serves a public interest, and all programs support that mission.

Practices

A. Mission. The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization.

B. Planning and Evaluation. The land trust regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals and activities to be sure they are consistent with the mission.

C. Outreach. The land trust communicates its mission, goals and/or programs to members, donors, landowners, the general public, community leaders, conservation organizations and others in its service area as appropriate to carry out its mission.

D. Ethics. The land trust upholds high standards of ethics in implementing its mission and in its governance and operations.

Standard 2: Compliance with Laws

The land trust fulfills its legal requirements as a nonprofit tax-exempt organization and complies with all laws.

Practices

A. Compliance with Laws. The land trust complies with all applicable federal, state and local laws.

⁹ Land Trust Alliance website: <http://www.lta.org/sp/>. Used with permission.

B. Nonprofit Incorporation and Bylaws. The land trust has incorporated according to the requirements of state law and maintains its corporate status. It operates under bylaws based on its corporate charter or articles of incorporation. The board periodically reviews the bylaws.

C. Tax Exemption. The land trust has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. If the land trust holds, or intends to hold, conservation easements, it also meets the Internal Revenue Code's (IRC) public support test for public charities. Where applicable, state tax-exemption requirements are met.

D. Records Policy. The land trust has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored and disposed. (See 9G.)

E. Public Policy. The land trust may engage in public policy at the federal, state and/or local level (such as supporting or opposing legislation, advocating for sound land use policy, and/or endorsing public funding of conservation) provided that it complies with federal and state lobbying limitations and reporting requirements. Land trusts may not engage in political campaigns or endorse candidates for public office.

Standard 3: Board Accountability

The land trust board acts ethically in conducting the affairs of the organization and carries out the board's legal and financial responsibilities as required by law.

Practices

A. Board Responsibility. The board is responsible for establishing the organization's mission, determining strategic direction and setting policies to carry out the mission, and, as required by law, the oversight of the organization's finances and operations.

B. Board Composition. The board is of sufficient size to conduct its work effectively. The board is composed of members with diverse skills, backgrounds and experiences who are committed to board service. There is a systematic process for recruiting, training and evaluating board members.

C. Board Governance. The land trust provides board members with clear expectations for their service and informs them about the board's legal and fiduciary responsibilities. The board meets regularly enough to conduct its business and fulfill its duties, with a minimum of three meetings per year. Board members are provided with adequate information to make good decisions. Board members attend a majority of meetings and stay informed about the land trust's mission, goals, programs and achievements.

D. Preventing Minority Rule. The land trust's governing documents contain policies and procedures (such as provisions for a quorum and adequate meeting notices) that prevent a minority of board members from acting for the organization without proper delegation of authority.

E. Delegation of Decision-Making Authority. The board may delegate decision-making and management functions to committees, provided that committees have clearly defined roles and report to the board or staff. If the land trust has staff, the board defines the job of, oversees and periodically evaluates the executive director (or chief staff person). (See 3F and 7E.)

F. Board Approval of Land Transactions. The board reviews and approves every land and easement transaction, and the land trust provides the board with timely and adequate information prior to final approval. However, the board may delegate decision-making authority on transactions if it establishes policies defining the limits to that authority, the criteria for transactions, the procedures for managing conflicts of interest, and the timely notification of the full board of any completed transactions, and if the board periodically evaluates the effectiveness of these policies.

Standard 4: Conflicts of Interest

The land trust has policies and procedures to avoid or manage real or perceived conflicts of interest.

Practices

A. Dealing with Conflicts of Interest. The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy

applies to insiders (see definitions), including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.

B. Board Compensation. Board members do not serve for personal financial interest and are not compensated except for reimbursement of expenses and, in limited circumstances, for professional services that would otherwise be contracted out. Any compensation must be in compliance with charitable trust laws. The board's presiding officer and treasurer are never compensated for professional services.

C. Transactions with Insiders. When engaging in land and easement transactions with insiders (see definitions), the land trust: follows its conflict of interest policy; documents that the project meets the land trust's mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the land trust obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the land trust widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.

Standard 5: Fundraising

The land trust conducts fundraising activities in an ethical and responsible manner.

Practices

A. Legal and Ethical Practices. The land trust complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits fundraising costs to a reasonable percentage of overall expenses.

B. Accountability to Donors. The land trust is accountable to its donors and provides written acknowledgement of gifts as required by law, ensures that donor funds are used as specified, keeps accurate

records, honors donor privacy concerns and advises donors to seek independent legal and financial advice for substantial gifts.

C. **Accurate Representations.** All representations made in promotional, fundraising, and other public information materials are accurate and not misleading with respect to the organization's accomplishments, activities and intended use of funds. All funds are spent for the purpose(s) identified in the solicitation or as directed in writing by the donor.

D. **Marketing Agreements.** Prior to entering into an agreement to allow commercial entities to use the land trust's logo, name or properties, the land trust determines that these agreements will not impair the credibility of the land trust. The land trust and commercial entity publicly disclose how the land trust benefits from the sale of the commercial entity's products or services.

Standard 6: Financial and Asset Management

The land trust manages its finances and assets in a responsible and accountable way.

Practices

A. **Annual Budget.** The land trust prepares an annual budget that is reviewed and approved by the board, or is consistent with board policy. The budget is based on programs planned for the year. Annual revenue is greater than or equal to expenses, unless reserves are deliberately drawn upon.

B. **Financial Records.** The land trust keeps accurate financial records, in a form appropriate to its scale of operations and in accordance with Generally Accepted Accounting Principles (GAAP) or alternative reporting method acceptable to a qualified financial advisor.

C. **Financial Reports and Statements.** The board receives and reviews financial reports and statements in a form and with a frequency appropriate for the scale of the land trust's financial activity.

D. **Financial Review or Audit.** The land trust has an annual financial review or audit, by a qualified financial advisor, in a manner appropriate for the scale of the organization and consistent with state law.

E. **Internal System for Handling Money.** The land trust has established a sound system of internal controls and procedures for

handling money, in a form appropriate for the scale of the organization.

F. Investment and Management of Financial Assets and Dedicated Funds. The land trust has a system for the responsible and prudent investment and management of its financial assets, and has established policies on allowable uses of dedicated funds and investment of funds.

G. Funds for Stewardship and Enforcement. The land trust has a secure and lasting source of dedicated or operating funds sufficient to cover the costs of stewarding its land and easements over the long term and enforcing its easements, tracks stewardship and enforcement costs, and periodically evaluates the adequacy of its funds. In the event that full funding for these costs is not secure, the board has adopted a policy committing the organization to raising the necessary funds. (See 6F, 11A and 12A.)

H. Sale or Transfer of Assets (Including Land and Easements). The land trust has established policies or procedures on the transfer or sale of assets, including real property. (See 4C, 9K and 9L.)

I. Risk Management and Insurance. The land trust assesses and manages its risks and carries liability, property, and other insurance appropriate to its risk exposure and state law. The land trust exercises caution before using its land to secure debt and in these circumstances takes into account any legal or implied donor restrictions on the land, the land trust's mission and protection criteria, and public relations impact.

Standard 7: Volunteers, Staff and Consultants

The land trust has volunteers, staff and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.

Practices

A. Capacity. The land trust regularly evaluates its programs, activities and long-term responsibilities and has sufficient volunteers, staff and/or consultants to carry out its work, particularly when managing an active program of easements.

B. Volunteers. If the land trust uses volunteers, it has a program to attract, screen, train, supervise and recognize its volunteers.

C. Staff. If the land trust uses staff, each staff member has written goals or job descriptions and periodic performance reviews. Job duties

or work procedures for key positions are documented to help provide continuity in the event of staff turnover.

D. Availability of Training and Expertise. Volunteers and staff have appropriate training and experience for their responsibilities and/or opportunities to gain the necessary knowledge and skills.

E. Board/Staff Lines of Authority. If the land trust has staff, the lines of authority, communication and responsibility between board and staff are clearly understood and documented. If the board hires an executive director (or chief staff person), the board delegates supervisory authority over all other staff to the executive director. (See 3E.)

F. Personnel Policies. If the land trust has staff, it has written personnel policies that conform to federal and state law and has appropriate accompanying procedures or guidelines.

G. Compensation and Benefits. If the land trust has staff, it provides fair and equitable compensation and benefits, appropriate to the scale of the organization.

H. Working with Consultants. Consultant and contractor relationships are clearly defined, are consistent with federal and state law, and, if appropriate, are documented in a written contract. Consultants and contractors are familiar with sections of Land Trust Standards and Practices that are relevant to their work.

PART II: LAND TRANSACTIONS

Standard 8: Evaluating and Selecting Conservation Projects

The land trust carefully evaluates and selects its conservation projects.

Practices

A. Identifying Focus Areas. The land trust has identified specific natural resources or geographic areas where it will focus its work.

B. Project Selection and Criteria. The land trust has a defined process for selecting land and easement projects, including written selection criteria that are consistent with its mission. For each project, the land trust evaluates its capacity to perform any perpetual stewardship responsibilities.

C. Federal and State Requirements. For land and easement projects that may involve federal or state tax incentives, the land trust determines that the project meets the applicable federal or state requirements, especially the conservation purposes test of IRC §170(h).

D. Public Benefit of Transactions. The land trust evaluates and clearly documents the public benefit of every land and easement transaction and how the benefits are consistent with the mission of the organization. All projects conform to applicable federal and state charitable trust laws. If the transaction involves public purchase or tax incentive programs, the land trust satisfies any federal, state or local requirements for public benefit.

E. Site Inspection. The land trust inspects properties before buying or accepting donations of land or easements to be sure they meet the organization's criteria, to identify the important conservation values on the property and to reveal any potential threats to those values.

F. Documenting Conservation Values. The land trust documents the condition of the important conservation values and public benefit of each property, in a manner appropriate to the individual property and the method of protection.

G. Project Planning. All land and easement projects are individually planned so that the property's important conservation values are identified and protected, the project furthers the land trust's mission and goals, and the project reflects the capacity of the organization to meet future stewardship obligations.

H. Evaluating the Best Conservation Tool. The land trust works with the landowner to evaluate and select the best conservation tool for the property and takes care that the chosen method can reasonably protect the property's important conservation values over time. This evaluation may include informing the landowner of appropriate conservation tools and partnership opportunities, even those that may not involve the land trust.

I. Evaluating Partnerships. The land trust evaluates whether it has the skills and resources to protect the important conservation values on the property effectively, or whether it should refer the project to, or engage in a partnership with, another qualified conservation organization.

J. Partnership Documentation. If engaging in a partnership on a joint acquisition or long-term stewardship project, agreements are documented in writing to clarify, as appropriate, the goals of the project, roles and responsibilities of each party, legal and financial arrangements, communications to the public and between parties, and public acknowledgement of each partner's role in the project.

K. Evaluating Risks. The land trust examines the project for risks to the protection of important conservation values (such as surrounding land uses, extraction leases or other encumbrances, water rights, potential credibility issues or other threats) and evaluates whether it can reduce the risks. The land trust modifies the project or turns it down if the risks outweigh the benefits.

L. Non-conservation Lands. A land trust may receive land that does not meet its project selection criteria (see 8B) with the intent of using the proceeds from the sale of the property to advance its mission. If the land trust intends to sell the land, it provides clear documentation to the donor of its intent before accepting the property. Practices 4C, 9K and 9L are followed.

M. Public Issues. A land trust engaging in projects beyond direct land protection (such as public policy, regulatory matters or education programs) has criteria or other standard evaluation methods to guide its selection of and engagement in these projects. The criteria or evaluation methods consider mission, capacity and credibility.

Standard 9: Ensuring Sound Transactions

The land trust works diligently to see that every land and easement transaction is legally, ethically and technically sound.

Practices

A. Legal Review and Technical Expertise. The land trust obtains a legal review of every land and easement transaction, appropriate to its complexity, by an attorney experienced with real estate law. As dictated by the project, the land trust secures appropriate expertise in financial, real estate, tax, scientific, and land and water management matters.

B. Independent Legal Advice. The land trust refrains from giving specific legal, financial and tax advice and recommends in writing that each party to a land or easement transaction obtain independent legal advice.

C. Environmental Due Diligence for Hazardous Materials. The land trust takes steps, as appropriate to the project, to identify and document whether there are hazardous or toxic materials on or near the property that could create future liabilities for the land trust.

D. Determining Property Boundaries. The land trust determines the boundaries of every protected property through legal property descriptions, accurately marked boundary corners or, if appropriate, a survey. If an easement contains restrictions that are specific to certain zones or areas within the property, the locations of these areas are clearly described in the easement and supporting materials and can be identified in the field.

E. Easement Drafting. Every easement is tailored for the property according to project planning (see 8G) and: identifies the important conservation values protected and public benefit served; allows only permitted uses and/or reserved rights that will not significantly impair the important conservation values; contains only restrictions that the land trust is capable of monitoring; and is enforceable.

F. Documentation of Purposes and Responsibilities. The land trust documents the intended purposes of each land and easement transaction, the intended uses of the property and the roles, rights and responsibilities of all parties involved in the acquisition and future management of the land or easement.

G. Recordkeeping. Pursuant to its records policy (see 2D), the land trust keeps originals of all irreplaceable documents essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and copies in a separate location. Original documents are protected from daily use and are secure from fire, floods and other damage.

H. Title Investigation and Subordination. The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.

I. Recording. All land and easement transactions are legally recorded at the appropriate records office according to local and state law.

J. Purchasing Land. If the land trust buys land, easements or other real property, it obtains a qualified independent appraisal to justify the purchase price. However, the land trust may choose to obtain a letter of opinion (see definitions) from a qualified real estate professional in the limited circumstances when a property has a very low economic value or a full appraisal is not feasible before a public auction. In limited circumstances where acquiring above the appraised value is warranted, the land trust documents the justification for the purchase price and that there is no private inurement or impermissible private benefit. If negotiating for a purchase below the appraised value, the land trust ensures that its communications with the landowner are honest and forthright.

K. Selling Land or Easements. If the land trust sells land or easements, it first documents the important conservation values, plans the project according to practice 8G, and drafts protection agreements as appropriate to the property. The land trust obtains a qualified independent appraisal that reflects the plans for the project and protection agreements and justifies the selling price. (The land trust may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstance when a property has a very low economic value.) The land trust markets the property and selects buyers in a manner that avoids any appearance of impropriety and preserves the public's confidence in the land trust, and in the case of selling to an insider (see definitions) follows practice 4C. (See 6H for sales of other assets.)

L. Transfers and Exchanges of Land. If the land trust transfers or exchanges conservation land or easements, the land trust considers whether the new holder can fulfill the long-term stewardship and enforcement responsibilities, ensures that the transaction does not result in a net loss of important conservation values and, for donated properties, ensures that the transfer is in keeping with the donor's intent. If transferring to a party other than another nonprofit organization or public agency, the consideration is based on a qualified independent appraisal (or letter of opinion when the property has a very low economic value) in order to prevent private inurement or impermissible private benefit.

Standard 10: Tax Benefits

The land trust works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.

Practices

A. Tax Code Requirements. The land trust notifies (preferably in writing) potential land or easement donors who may claim a federal or state income tax deduction, or state tax credit, that the project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or any other federal or state requirements. The land trust on its own behalf reviews each transaction for consistency with these requirements.

B. Appraisals. The land trust informs potential land or easement donors (preferably in writing) of the following: IRC appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.

C. No Assurances on Deductibility or Tax Benefits. The land trust does not make assurances as to whether a particular land or easement donation will be deductible, what monetary value of the gift the Internal Revenue Service (IRS) and/or state will accept, what the resulting tax benefits of the deduction will be, or whether the donor's appraisal is accurate.

D. Donee Responsibilities. IRS Forms 8282 and 8283. The land trust understands and complies with its responsibilities to sign the donor's Appraisal Summary Form 8283 and to file Form 8282 regarding resale of donated property when applicable. The land trust signs Form 8283 only if the information in Section B, Part 1, "Information on Donated Property," and Part 3, "Declaration of Appraiser," is complete. If the land trust believes no gift has been made or the property has not been accurately described, it refuses to sign the form. If the land trust

has significant reservations about the value of the gift, particularly as it may impact the credibility of the land trust, it may seek additional substantiation of value or may disclose its reservations to the donor. (See 5B for other gift substantiation requirements.)

Standard 11: Conservation Easement Stewardship

The land trust has a program of responsible stewardship for its easements.

Practices

A. Funding Easement Stewardship. The land trust determines the long-term stewardship and enforcement expenses of each easement transaction and secures the dedicated or operating funds to cover current and future expenses. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)

B. Baseline Documentation Report. For every easement, the land trust has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, a schedule for finalizing the full report and an acknowledgement of interim data [that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)] are signed by the landowner at closing.

C. Easement Monitoring. The land trust monitors its easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keeps documentation (such as reports, updated photographs and maps) of each monitoring activity.

D. Landowner Relationships. The land trust maintains regular contact with owners of easement properties. When possible, it provides landowners with information on property management and/or referrals to resource managers. The land trust strives to promptly build a positive working relationship with new owners of

easement property and informs them about the easement's existence and restrictions and the land trust's stewardship policies and procedures. The land trust establishes and implements systems to track changes in land ownership.

E. Enforcement of Easements. The land trust has a written policy and/or procedure detailing how it will respond to a potential violation of an easement, including the role of all parties involved (such as board members, volunteers, staff and partners) in any enforcement action. The land trust takes necessary and consistent steps to see that violations are resolved and has available, or has a strategy to secure, the financial and legal resources for enforcement and defense. (See 6G and 11A.)

F. Reserved and Permitted Rights and Approvals. The land trust has an established procedure for responding to landowner required notices or requests for approvals in a timely and consistent manner, and has a system to track notices, approvals and the exercise of any significant reserved or permitted rights.

G. Contingency Plans/Backups. The land trust has a contingency plan for all of its easements in the event the land trust ceases to exist or can no longer steward and administer them. If a backup grantee is listed in the easement, the land trust secures prior consent of the backup grantee to accept the easement. To ensure that a backup or contingency holder will accept an easement, the land trust has complete and accurate files and stewardship and enforcement funds available for transfer. (See 11H.)

H. Contingency Plans for Backup Holder. If a land trust regularly consents to being named as a backup or contingency holder, it has a policy or procedure for accepting easements from other land trusts and has a plan for how it will obtain the financial resources and organizational capacity for easements it may receive at a future date. (See 11G.)

I. Amendments. The land trust recognizes that amendments are not routine, but can serve to strengthen an easement or improve its enforceability. The land trust has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires

compliance with the land trust's conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization's mission.

J. Condemnation. The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation and the IRC, and has appropriate documentation of the important conservation values and of the percentage of the full value of the property represented by the easement. The land trust works diligently to prevent a net loss of conservation values.

K. Extinguishment. In rare cases, it may be necessary to extinguish, or a court may order the extinguishment of, an easement in whole or in part. In these cases, the land trust notifies any project partners and works diligently to see that the extinguishment will not result in private inurement or impermissible private benefit and to prevent a net loss of important conservation values or impairment of public confidence in the land trust or in easements.

Standard 12: Fee Land Stewardship

The land trust has a program of responsible stewardship for the land it holds in fee for conservation purposes.

Practices

A. Funding Land Stewardship. The land trust determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement and other costs. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See 6G.)

B. Stewardship Principles. The land trust establishes general principles to guide the stewardship of its fee-owned properties, including determining what uses are and are not appropriate on its properties, the types of improvements it might make and any land management practices it will follow.

C. Land Management. The land trust inventories the natural and cultural features of each property prior to developing a management plan that identifies its conservation goals for the property and how it plans to achieve them. Permitted activities are compatible with the conservation goals, stewardship principles and public benefit mission of the organization. Permitted activities occur only when the activity poses no significant threat to the important conservation values, reduces threats or restores ecological processes, and/or advances learning and demonstration opportunities.

D. Monitoring Land Trust Properties. The land trust marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse or overuse, vandalism or safety hazards) and takes action to rectify such problems.

E. Land Stewardship Administration. The land trust performs administrative duties in a timely and responsible manner. This includes establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting, and maintaining files.

F. Community Outreach. The land trust keeps neighbors and community leaders informed about its ownership and management of conservation properties.

G. Contingency Backup. The land trust has a contingency plan for all of its conservation land in the event the land trust ceases to exist or can no longer manage the property. To ensure that a contingency holder will accept the land, the land trust has complete and accurate files and stewardship funds available for transfer.

H. Nonpermanent Holdings. When a land trust holds fee land with the intention to sell or transfer the land, the land trust is open about its plans with the public and manages and maintains the property in a manner that retains the land trust's public credibility. (See 8L.)

National Association of Environmental Professionals Code of Ethics and Standards of Practice for Environmental Professionals¹⁰

The objectives of Environmental Professionals are to conduct their personal and professional lives and activities in an ethical manner. Honesty, justice and courtesy form moral philosophy which, associated with a mutual interest among people, constitute the foundation of ethics. Environmental Professionals should recognize such a standard, not in passive observance, but as a set of dynamic principles guiding their conduct and way of life. It is their duty to practice their profession according to this Code of Ethics.

As the keystone of professional conduct is integrity, Environmental Professionals will discharge their duties with fidelity to the public, their employers, clients, with fairness and impartiality to all. It is their duty to interest themselves in public welfare, and to be ready to apply their special knowledge for the benefit of mankind and their environment.

CREED

The objectives of an Environmental Professional are:

1. To recognize and attempt to reconcile societal and individual human needs with responsibility for physical, natural, and cultural systems.

¹⁰ National Association of Environmental Professionals website: <http://www.naep.org/display.common.cfm?an=1&subarticlenbr=3>. Used with permission.

2. To promote and develop policies, plans, activities and projects that achieve complementary and mutual support between natural and man-made, and present and future components of the physical, natural and cultural environment.

ETHICS

As an Environmental Professional I will:

1. Be personally responsible for the validity of all data collected, analyses performed, or plans developed by me or under my direction. I will be responsible and ethical in my professional activities.
2. Encourage research, planning, design, management and review of activities in a scientifically and technically objective manner. I will incorporate the best principles of the environmental sciences for the mitigation of environmental harm and enhancement of environmental quality.
3. Not condone misrepresentation of work I have performed or that was performed under my direction.
4. Examine all of my relationships or actions, which could be legitimately interpreted as a conflict of interest by clients, officials, the public or peers. In any instance where I have financial or personal interest in the activities with which they are directly or indirectly involved, I will make a full disclosure of that interest to my employer, client, or other affected parties.
5. Not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation or discrimination.
6. Not accept fees wholly or partially contingent on the client's desired result where that desired result conflicts with my professional judgment.

GUIDANCE FOR PRACTICE AS AN ENVIRONMENTAL PROFESSIONAL

As an Environmental Professional I will:

1. Encourage environmental planning to begin in the earliest stages of project conceptualization.
2. Recognize that total environmental management involves the consideration of all environmental factors including: technical, economical, ecological, and sociopolitical and their relationships.
3. Incorporate the best principle of design and environmental planning when recommending measures to reduce environmental harm and enhance environmental quality.
4. Conduct my analysis, planning, design and review my activities primarily in subject areas for which I am qualified, and shall encourage and recognize that participation of other professionals in subject areas where I am less experienced. I shall utilize and participate in interdisciplinary teams wherever practical to determine impacts, define and evaluate all reasonable alternatives to proposed actions, and assess short-term versus long-term productivity with and without the project or action.
5. Seek common, adequate, and sound technical grounds for communication with and respect for the contributions of other professionals in developing and reviewing policies, plans, activities and projects.
6. Determine that the policies, plans, activities or projects in which I am involved are consistent with all governing laws, ordinances, guidelines, plans and policies to the best of my knowledge and ability.
7. Encourage public participation at the earliest feasible time in an open and productive atmosphere.
8. Conduct my professional activities in a manner that ensures consideration of technically and economically feasible alternatives.

ENCOURAGE DEVELOPMENT OF THE PROFESSION

As an Environmental Professional I will:

1. Assist in maintaining the integrity and competence of my profession.
2. Encourage education and research and the development of useful technical information relating to the environmental field.
3. Be prohibited from lobbying in the name of the National Association of Environmental Professionals.
4. Advertise and present my services in a manner that avoids the use of material and methods that may bring discredit to the profession.

Society of American Foresters Code of Ethics¹¹

Preamble

Service to society is the cornerstone of any profession. The profession of forestry serves society by fostering stewardship of the world's forests. Because forests provide valuable resources and perform critical ecological functions, they are vital to the wellbeing of both society and the biosphere.

Members of the Society of American Foresters have a deep and enduring love for the land, and are inspired by the profession's historic traditions, such as Gifford Pinchot's utilitarianism and Aldo Leopold's ecological conscience. In their various roles as practitioners, teachers, researchers, advisers, and administrators, foresters seek to sustain and protect a variety of forest uses and attributes, such as aesthetic values, air and water quality, biodiversity, recreation, timber production, and wildlife habitat.

The purpose of this Code of Ethics is to protect and serve society by inspiring, guiding, and governing members in the conduct of their professional lives. Compliance with the code demonstrates members' respect for the land and their commitment to the long-term management of ecosystems, and ensures just and honorable professional and human relationships, mutual confidence and respect, and competent service to society.

On joining the Society of American Foresters, members assume a special responsibility to the profession and to society by promising to uphold and abide by the following:

¹¹ Society of American Foresters website: <http://www.safnet.org/who/codeofethics.cfm>. Copyright © 2007 Society of American Foresters. Used with permission.

Principles and Pledges

1. Foresters have a responsibility to manage land for both current and future generations. We pledge to practice and advocate management that will maintain the long-term capacity of the land to provide the variety of materials, uses, and values desired by landowners and society.
2. Society must respect forest landowners' rights and correspondingly, landowners have a land stewardship responsibility to society. We pledge to practice and advocate forest management in accordance with landowner objectives and professional standards, and to advise landowners of the consequences of deviating from such standards.
3. Sound science is the foundation of the forestry profession. We pledge to strive for continuous improvement of our methods and our personal knowledge and skills; to perform only those services for which we are qualified; and in the biological, physical, and social sciences to use the most appropriate data, methods, and technology.
4. Public policy related to forests must be based on both scientific principles and societal values. We pledge to use our knowledge and skills to help formulate sound forest policies and laws; to challenge and correct untrue statements about forestry; and to foster dialogue among foresters, other professionals, landowners, and the public regarding forest policies.
5. Honest and open communication, coupled with respect for information given in confidence, is essential to good service. We pledge to always present, to the best of our ability, accurate and complete information; to indicate on whose behalf any public statements are made; to fully disclose and resolve any existing or potential conflicts of interest; and to keep proprietary information confidential unless the appropriate person authorizes its disclosure.

6. Professional and civic behavior must be based on honesty, fairness, good will, and respect for the law. We pledge to conduct ourselves in a civil and dignified manner; to respect the needs, contributions, and viewpoints of others; and to give due credit to others for their methods, ideas, or assistance.

The Society of American Foresters' Bylaws specify processes through which a member's violation of the code may lead to reprimand, censure, expulsion from the Society, or other disciplinary action. Any two persons, whether or not SAF members, may charge a member with violation of the code. Such a charge must be made in writing to the SAF President and must refer to the specific Pledges alleged to have been violated.

Adopted by the Society of American Foresters by Member Referendum, November 3, 2000, replacing the code adopted June 23, 1976, as amended November 4, 1986, and November 2, 1992. The 1976 code replaced the code adopted November 12, 1948, as amended December 4, 1971.

The Wildlife Society¹²

IV. ETHICS AND PROFESSIONAL CONDUCT FOR WILDLIFE BIOLOGISTS

Associate and Certified Wildlife Biologists shall conduct their activities in accordance with the Code of Ethics and the Standards for Professional Conduct as prescribed by The Wildlife Society outlined below.

A. Code of Ethics

Associate and Certified Wildlife Biologists have a responsibility for contributing to an understanding of mankind's proper relationship with natural resources, and in particular for determining the role of wildlife in satisfying human needs. Certified individuals will strive to meet this obligation through the following professional goals: They will subscribe to the highest standards of integrity and conduct. They will recognize research and scientific management of wildlife and their environments as primary goals. They will disseminate information to promote understanding of, and appreciation for, values of wildlife and their habitats. They will strive to increase knowledge and skills to advance the practice of wildlife management. They will promote competence in the field of wildlife management by supporting high standards of education, employment, and performance. They will encourage the use of sound biological information in management decisions. They will support fair and uniform standards of employment and treatment of those professionally engaged in the practice of wildlife management.

B. Standards for Professional Conduct

The following tenets express the intent of the Code of Ethics as prescribed by The Wildlife Society and traditional norms for professional service. *Wildlife biologists shall at all times:*

¹² The Wildlife Society website: <http://www.tws-west.org/sjvc/certification.html>. Used with permission.

1. Recognize and inform prospective clients or employers of their *prime* responsibility to the public interest, conservation of the wildlife resource, and the environment. They shall act with the authority of professional judgment, and avoid actions or omissions that may compromise these broad responsibilities. They shall respect the competence, judgment, and authority of the professional community.
2. Avoid performing professional services for any client or employer when such service is judged to be contrary to the Code of Ethics or Standards for Professional Conduct or detrimental to the well-being of the wildlife resource and its environment.
3. Provide maximum possible effort in the best interest of each client/employer accepted, regardless of the degree of remuneration. They shall be mindful of their responsibility to society, and seek to meet the needs of the disadvantaged for advice in wildlife-related matters. They should studiously avoid discrimination in any form, or the abuse of professional authority for personal satisfaction.
4. Accept employment to perform professional services only in areas of their own competence, and consistent with the Code of Ethics and Standards for Professional Conduct described herein. They shall seek to refer clients or employers to other natural resource professionals when the expertise of such professionals shall best serve the interests of the public, wildlife, and the client/employer. They shall cooperate fully with other professionals in the best interest of the wildlife resource.
5. Maintain a confidential professional-client/employer relationship except when specifically authorized by the client/employer or required by due process of law or this Code of Ethics and Standards to disclose pertinent information. They shall not use such confidence to their personal advantage or to the advantage of other parties, nor shall they permit personal interests or

other client/employer relationships to interfere with their professional judgment.

6. Refrain from advertising in a self-laudatory manner, beyond statements intended to inform prospective clients/employers of qualifications, or in a manner detrimental to fellow professionals and the wildlife resource.
7. Refuse compensation or rewards of any kind intended to influence their professional judgment or advice. They shall not permit a person who recommends or employs them, directly or indirectly, to regulate their professional judgment. They shall not accept compensation for the same professional services from any source other than the client/employer without the prior consent of all the clients or employers involved. Similarly, they shall not offer a reward of any kind or promise of service in order to secure a recommendation, a client, or preferential treatment from public officials.
8. Uphold the dignity and integrity of the wildlife profession. They shall endeavor to avoid even the suspicion of dishonesty, fraud, deceit, misrepresentation, or unprofessional demeanor.

Biosketch of Author



Lloyd C. Irland is Lecturer and Senior Scientist at the Yale School of Forestry & Environmental Studies and President of The Irland Group, a Maine consulting firm. His Ph.D. is from Yale and he has taught at Yale F&ES at several different times during his professional career. His undergraduate degree in forestry is from Michigan State University and his Master's is from the University of Arizona, Tucson.

At the outset of his career, he served with the USDA Forest Service as a research economist before coming back to teach at Yale for three years. He then served five years with the Maine Department of Conservation, and five years as Maine's State Economist. Since 1987 he has been consulting, mostly to industry, but also to governments, trade groups, and environmental groups. He served as a junior author of one section of the Millennium Ecosystem Assessment, and participated in the U.S. National Assessment on Climate Change. He has worked actively in the field of forest certification and is a Fellow of the Society of American Foresters.

Lloyd Irland has also worked in forestry and professional ethics and edited a major readings volume, *Ethics in Forestry* (Timber Press, 1994). His most recent book is *The Northeast's Changing Forests*, distributed by Harvard University Press (1999). He is also co-editor of a recent Yale Global Institute of Sustainable Forestry publication on long-term forest research.

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Environmental Statement by Cover Artist Linda Fries

Artists care for the Earth both by the subjects we address and the materials we use. I am a painter and out of concern for the impact of potentially dangerous man-made chemicals in art products, I have chosen to make art using only natural ingredients. My Earth paintings are composed entirely of natural earth pigments that I have collected in San Francisco and Marin counties. I grind each color of soil by hand using a mortar and pestle. I mix the soil with tree sap, which I use as a binder to make the paint. Each year I collect natural pigments during the rainy season when clay runs down the hillsides and along the roads in rivers of oranges, reds, greens, grays, creams and yellows.

I had been a painter for over twenty years before I began to question the nature of my art materials. At last, my involvement with environmental issues infiltrated my practice of art. I found that art materials are among the most toxic consumer products available. The manufacture, distribution, use and disposal of most art materials cause ecological harm. So I left behind my indoor studio work with conventional art products and started painting entirely under open skies in wild places. I used simple materials: recycled papers, sumi ink from pine bark, and the earth on which I sat. The drama and energy of the natural world influenced my work.

While I continued on my own path as an artist, I began to develop education materials about “Earth-safe” art. Truly “Earth-safe” art materials can be used without causing harm to any living system. By example I hope to inspire other artists in any specialty to ask questions and to find their own “Earth-safe” practices.

ltfries@hotmail.com

www.friesarts.com

www.weadartists.org (Women Environmental Artists Directory)

Yale School of Forestry & Environmental Studies**PUBLICATION SERIES**

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