

Statement

Dale Bosworth

Chief, USDA Forest Service

Subcommittee on Forests and Forest Health

Committee on Resources

U.S. House of Representatives

Washington, D.C.

December 4, 2001

Mr. Chairman,

Thank you for this opportunity to testify this morning on the laws and regulations governing the management of this nation's national forests and grasslands.

Mr. Chairman, let me begin by sharing my goals. Forest Service employees and I are committed to the goals of protecting and improving the quality of our land, our water, our wildlife, and our air and with the goals of protecting and preserving this nation's precious historic and cultural resources. I believe the Forest Service can do so utilizing its broad authorities, provided by statute and never rescinded, to make choices among the whole range of public benefits in determining the proper management of national forests and grasslands.

The Forest Service should be judged by "how we leave the land," and I am personally prepared to abide by that judgment. Forest Service managers will continue their efforts to ensure that all land management

decisions are based on a collaborative, integrated approach that addresses the environmental implications of our actions in a timely and efficient manner. That is how it should be.

I want to talk to you this morning about improving agency decision making so that line officers can engage stakeholders, vet issues, secure all necessary consultations, permits and approvals, focus on the environmental aspects that truly matter and merit detailed analysis, and make decisions in a timely fashion.

Since I was privileged to be named by Secretary Veneman as the Chief, I have spoken many times about the "analysis paralysis" that grips the Forest Service.

When I use that expression, I mean the difficult, costly, confusing and seemingly endless processes that have been put in place in order for agency line officers to comply with the laws enacted by Congress and the implementing regulations put in place by the Forest Service and other agencies.

Those processes involve many people, result in many studies and analyses and involve many administrative appeals and much litigation. Too frequently, however, these processes combine to keep on-the-ground work from ever actually being accomplished, even very small projects or projects of great environmental merit. The inability to complete projects can have a detrimental effect on the land. We have too little to show for our efforts except for completion of the processes. Too little value returns to the public, or the resources that we are charged with protecting and managing.

Let me share an example. Last year in Montana, when I was Regional Forester, we had huge fires in the Bitterroot Valley. Fires burned in both the Bitterroot National Forest and the Sula State Forest, which is adjacent to the national forest. The Bitterroot's final environmental impact statement to cover post-fire treatment and rehabilitation was released in October. On November 23, I proposed that the Under Secretary delay his

decision on the project until December 10 to provide public notice that the Under Secretary would be making the final decision on the project. In contrast, the State finished salvage of 22 million board feet of fire-killed and damaged timber this summer and will harvest the remaining 4-6 million board feet this year.

While there may be some legitimate reasons for this disparity in reaching the point of on-the-ground action, I am not satisfied with this result.

Your letter of invitation said this morning's hearing was to examine the conflicting laws and regulations, as well as the negative effects and the growing impacts of regulation by other federal agencies and to identify some possible solutions.

You refer to the "conflicting laws." Others talk about the "crazy quilt of laws." Let me make several points:

First, many times this is not a conflict between commodity production and environmental stewardship. Conserving natural environments has been a statutory responsibility of the Forest Service since it was created, even as it was charged with producing timber, forage and other commodities.

Second, while I do not believe the laws conflict, their coordination does present complex challenges.

One fundamental challenge is the limits on management discretion afforded agency line officers that have resulted from the numerous laws with which the Forest Service must comply.

The Organic Administration Act of 1897, the Multiple Use-Sustained Yield Act of 1960, and the Forest and Rangeland Renewable Resources Planning Act of 1974 shaped the management of the National Forest System by requiring the Forest Service to apply the principles of multiple use and sustained yield to meet the diverse needs of the American public. Specific direction on how to make the management choices was not provided.

Since the mid-1960's, there have been a plethora of authorities that affect the Forest Service and all other federal land management agencies. The Endangered Species Act, the National Historic Preservation Act, the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, the National Forest Management Act, the Federal Land Policy and Management Act, the Administrative Procedure Act, and the Federal Advisory Committee Act, among others, with some exceptions, have all too often been interpreted and implemented in ways that constrict the ability of land managers to make choices or to exercise broad discretion in determining the appropriate management of forests.

However well intentioned, Congress has enacted multiple laws and the Forest Service and other agencies have promulgated thousands of pages of regulations that often contain overlapping and sometimes conflicting requirements, procedural redundancies and multiple layers of interaction. The direction on how an agency is to arrive at a decision under each law has created an extremely complex operating arena. There is considerable confusion by the public, even by seasoned and experienced participants, with the processes and the decisions being made, as well as interpreting the requirements for making decisions.

That's what I mean by "analysis paralysis." Resolving this analysis paralysis is my highest priority.

I want to address this problem head on, not engage in finger pointing, or blaming everybody but us for the current problem. In written reports and hearing testimony, the General Accounting Office and others have detailed their views on the underlying causes of inefficiency and ineffectiveness in the Forest Service's decision-making. No question - - we share responsibility for the problem. But we cannot fix the current problem by ourselves.

A second challenge results from the natural tension that exists between our desires as managers for clearly defined, logical, and understandable processes that produce timely decisions on one hand and the time needed to consider all relevant information about a vast, complex, and ever-changing environment. The public expects our processes to use the best available information and to result in timely decisions and implementation. The processes dictated by regulation for incorporating new information into decision making, however, create the potential for never getting out of the planning loop or halting projects already under way.

We also need to interact with Federal, state, local, and tribal governments, local communities, scientists, citizens and public interest groups so that we consider disparate views into our decision making and provide appropriate opportunities for redress to those who disagree with our decisions. Every decision or agency action that affects the environment represents an opportunity for appeal or litigation for those who are not completely satisfied with the proposed resolution of an issue, the implementation of a project, or active management of federal lands. That is not inherently bad, but this can prevent an agency from ever finalizing a decision.

Mr. Chairman, I have a lifetime of being part of the Forest Service culture, traditions, and debate about the management of America's forests and rangelands. In 35 years working in the Forest Service, I've had many jobs and I have developed an appreciation for how the job being performed on-the-ground by our employees is the foundation of our credibility with the public. One of the greatest strengths of the Forest Service has been the ability of line officers at the ranger district and forest levels to make and implement decisions that take national and local interests into account and strike an appropriate balance. We need to get that flexibility back. And we won't until we fix this analysis paralysis.

Mr. Chairman, this problem is not new. We've talked about the effects and the symptoms a lot. We don't need analysis paralysis about analysis paralysis. It's time we start trying to do something to get good, sound decisions and project implementation. Here's what the Forest Service is doing.

First and foremost, we have embarked on a close review of our own processes to reduce the time and expense it now takes to get work done. Not just to look, but also to make changes. It's very frustrating to our folks in the field and it's frustrating to us in Washington that we spend so much time and energy on our processes that add only marginal value to our decisions.

The agency's Inventory and Monitoring Institute, in collaboration with a business consultant, has begun assessing the activities required for project level planning and implementation. Using information from the laws, regulations, the Forest Service manual, agency handbooks, and the knowledge and experience of agency personnel with subject matter expertise, we are developing a model of the complex and numerous activities required. Legal and subject matter experts within the Executive Branch, including the Council on Environmental Quality, still must validate the draft model. But I believe it could serve as a sound and powerful tool that the Forest Service, other agencies and Congress could use to consider changes to the current the legal and regulatory framework.

I have also tasked a team to update former Chief Jack Ward Thomas' study on the Forest Service legal and regulatory framework. You will hear today from Chief Thomas about his original report. We will update this work, taking into consideration new laws, regulations, and court decisions since the study was prepared in 1995. That report will identify how we can resolve the issues -- through actions the Forest Service, as well as others can take.

Our frustration with the status quo provides us the motivation to examine our processes from top to bottom. Our focus is in large part on National Environmental Policy Act procedures because they provide the framework for analyzing our management decisions and, if done properly, integrate our consideration of all the other requirements set out in myriad laws, regulations and directives.

Our opportunity is real. No one doubts that integration is flawed or lacking, and that these same laws could be implemented more efficiently and effectively. I am dedicated to revising, not just reviewing, our processes. We must provide the best tools and training for our line officers and staff. As we put our house in order, any need for reforms beyond the Forest Service will become clearer. Our priority will then be to work with all the agencies that oversee the implementation of the environmental laws that affect our decision making and, if appropriate, to seek your help with legislative changes.

I expect our endeavors to resolve analysis paralysis will take significant effort and a great deal of time and will generate opposition.

The Council on Environmental Quality, which, as you know, is responsible for the NEPA regulations that apply to all federal agencies, and the other federal agencies and departments with whom we closely work,

such as the Department of Commerce, the Department of the Interior, and the Environmental Protection Agency, share our desire to improve the effectiveness and efficiency of our processes. I know we can count on their support as we undertake this task.

I ask you and the other Members of this subcommittee to look at this issue with an open mind and give me a chance to work with you to find a way to make Forest Service land management decisions in an effective, efficient and timely manner.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions from you and the other Members of the Subcommittee.