

# Committee on Resources

## Subcommittee on Forests & Forest Health

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### Statement

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#### Coordination of Forest Service Rules, Regulations, and Initiatives

Testimony by Fred Ebel

President

Society of American Foresters

before the

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Madam Chairman and members of the subcommittee, I am Fred Ebel, President of the Society of American Foresters (SAF). The more than 17,500 members of the Society constitute the scientific and educational association representing the profession of forestry in the United States. SAF's primary objective is to advance the science, technology, education, and practice of professional forestry for the benefit of society. We are ethically bound to advocate and practice land management consistent with ecologically sound principles.

I am especially pleased to be here today to comment on Forest Service rules, regulations and initiatives. We appreciate your efforts to focus attention on these important issues. I wish to thank the subcommittee for its continued support of professional forestry, and its continued support of our priorities. I thank the Chair for the opportunity to testify.

Madam Chairman, and members of the subcommittee this has been a very interesting year. The Forest Service has produced an astonishing number of initiatives. This plethora of initiatives is a concern for us because of the general lack of coordination, problems of political influence, the unrealistic comment deadlines placed on the interested public, and the fiscal resources associated with conducting these initiatives.

Before I get into my detailed remarks, it might be useful to think about where planning for a series of initiatives like this might best start. In many ways, the Government Performance and Results Act (GPRA) mandated strategic plan should be the most cohesive strategy the Forest Service develops. This document should be the basis for coordination amongst both rule making and other initiatives and management activity

as well. However, when we examined the plan, we found that it did not provided a comprehensive strategy. The document is somewhat disappointing both in its vision and scope.

The comment deadline for the strategic plan was 60 days. Though we requested an extension, we were not granted one, and as an organization we decided not to comment on the strategic plan because there was so much work to be done on other Forest Service initiatives. Apparently many others agreed with us as just 2,260 people commented on the plan (that number accounts for comments received after the deadline, and the Forest Service seemed somewhat uncertain about the actual number) compared with 365,000 comments on the scoping period of its roadless area initiative. It is frustrating to think that the document that should be providing the Forest Service with long-term strategic direction only garnered 2,260 comments. This may be because people were too tired, frustrated, and confused to comment on yet another initiative.

## Mission

We believe many of the problems associated with the lack of coordination amongst these various initiatives stem from the fact that the Forest Service is an agency without a clear mission or purpose. The National Forest System was successful in the past because Forest Service managers, Administrations, Congress and the American people agreed upon the purposes of these lands. Currently, there is no consensus amongst Congress, the Administration, the American people, or even within the Agency itself. This lack of consensus is one of the fundamental reasons the Forest Service is the target of an unprecedented level of criticism; criticism that comes from all sides of the issues. There is little purpose in developing a new set of planning regulations, forest plans, road policies, strategic plans, or watershed plans when there is no clear mission that guides Forest Service management.

This lack of mission is demonstrated by President Clinton's announcement regarding roadless areas. This one action could make every forest plan useless and obsolete as it seeks to change land management uses without using the planning process. The President's initiative seeks to "protect" roadless areas, which seems to demonstrate a lack of understanding of the Agency's fundamental purpose. If these lands are not already "protected" due to their status as part of national forests, then the Forest Service needs some serious reform.

The purposes of the national forests and public lands are no longer clear. In the last 20 years, changing public values, federal environmental laws, court decisions, executive orders and regulations have increasingly emphasized the importance of protecting ecological processes on the public lands and national forests. These incremental changes have come without a corresponding change in the basic land management statutes. Congress has the constitutional responsibility to set policy for the national forests and public lands and should act decisively to establish clear priorities for their management. Although the legislative intent and organizational goals must be clear, there is also a need for flexible, local implementation, that meets local and regional needs. This was the original management philosophy of the Forest Service. We believe it is still an appropriate goal. In fact Gifford Pinchot the founder of the Society of American Foresters and of the Forest Service stated the ideas behind the Forest Service very clearly in the original *Use Book* for the national forests. He said,

*Many people do not know what the National Forests are. Others may have heard much about them, but have no idea of their purpose and use. A little misunderstanding may cause a great deal of dissatisfaction. The National Forests very closely concern all the people of the West and, indeed, of the whole country. They affect, directly or indirectly, many great business interests. It is the objective of this publication to explain just what they mean, what they are for, and how to use them.*

Things have changed since Pinchot's time. There are a great deal many more laws and regulations today than there were when Pinchot wrote that 42 page *Use Book*. But no-matter how much things have changed, it is clear that the Agency needs guidance on its mission, and the Society of American Foresters believes that Congress should begin a national dialogue about the purposes of the National Forest System, resulting in new legislation describing the purpose of these lands. In the absence of that dialogue, we believe that multiple use, when viewed as a guiding principle for the national forests, has become an engine of conflict that pits one interest group against another and denies land managers a clear mandate.

The proliferation of rules, regulations, regional plans, and other initiatives are merely a symptom of the Forest Service's fundamental problem: its purpose is no longer clear.

## **Lack of Coordination**

Perhaps our most significant concern is that the Forest Service has not adequately addressed how the long-term transportation policy, the roadless area policy, the proposed planning regulations, the draft Government Performance and Results Act strategic plan, and the unified policy for a watershed approach to management are related; not to mention the various regional initiatives and forest plan revisions currently underway. There seems to have been no effort to integrate the five national proposals.

### **Lack of Coordination: Road proposals and planning**

For example the two road related proposals are contrary to the Forest Service's emphasis on collaborative decision-making, the Forest Service planning process, and forest management in general. The two proposals are top-down management decisions that force managers to make decisions based on national criteria versus local needs and conditions. One need look no further than the Forest Service's proposed planning regulations to see how important the Agency finds public involvement and collaborative decision-making at the local level. Yet these proposals make a mockery of local involvement and seem in no way consistent with the proposed planning regulations. It is only appropriate to consider changing the status of roadless areas from multiple use management to some type of restricted use, on a case by case basis. The Forest Service's roadless initiative would change the status of all inventoried roadless areas at once based on a set of national criteria. Those same criteria would eventually be applied to areas that demonstrate roadless characteristics.

In addition to being inconsistent with the planning process, this proposal would overturn existing forest plans, some of which have been developed quite recently. This is unreasonable and unacceptable. Citizens from all over the nation have worked to create these forest plans, they cost millions of dollars to develop, and through this possible decision these plans could become useless.

### **Lack of Coordination: Inconsistency between the road related proposals**

One of the largest areas of inconsistency is between the roadless area policy and the long-term transportation policy. We believe the proposed rule for a long-term transportation policy eliminates any need for a separate policy on roadless areas. While we disagree with many aspects of the long-term transportation policy, it does provide appropriate direction for natural resource professionals to consider roadless values as they contemplate building new roads. Land managers are given a set of criteria, almost a checklist to consider before building a new road. This seems like a sensible policy for every acre of national forest land, not just roadless areas. Before a land manager makes a decision about building a road, they should be very cautious about ensuring that they are making the right decision that most benefits the resource and the users of the national forests.

The direction provided in the long-term transportation policy demonstrates that a separate policy on roadless areas is unnecessary. Roadless area values should be protected under the transportation policy, and would also allow local managers the needed flexibility to build roads when necessary. The problem with the transportation policy is that roadless values should not be the only factor considered in the roads analysis process. Land managers must also consider firefighting, access to inholdings, future recreation potential, access for the disabled and a variety of other factors. Language in the roadless area policy and the transportation policy allowing entry into roadless areas for a "compelling need" should include restoration efforts. For example, economic salvage coupled with fuel reduction and other restoration activities could be a "compelling need" but does not appear to be one under these proposals. We understand and support a policy to prioritize road needs. However, we do not support the Agency's possible adoption of a policy of never entering roadless areas. We believe that in some instances critical forest management priorities will require that the Agency enter roadless areas.

Another problem with these road proposals is how they integrate with other entities conducting forest management. In some mixed-ownership watersheds, private landowners and other governmental entities are interested at minimum, in an efficient road system for the entire watershed, not just Forest Service land. The Forest Service's policy should create such a road system in partnership with private and other public landowners. There are private landowners that have built unneeded duplicate roads on their lands to avoid the onerous process of obtaining a right-of-way permit across existing roads on Forest Service land. These permits sometimes come with an unacceptable set of conditions on private land management. Duplicate roads can lead to adverse ecological impacts. The proposed policy should foster cooperative road development.

### **Lack of Coordination: Definitions are inconsistent**

We are also concerned that some definitions are inconsistent from proposal to proposal, and that some are used rather haphazardly. For example, the Forest Service must be careful with statements such as "potential positive effects are expected for fire management, insect and disease management, noxious weed control, water and air quality, wildlife and fish values, and passive use values" when referring to not entering roadless areas. There are significant tradeoffs for all of these categories between roaded areas and unroaded areas. While human-caused fire ignitions may decrease with fewer roads, lack of access to wildfires will hamper suppression efforts. While fewer roads may slow the spread of noxious weeds, forest health and insect and disease infestations may not be treated due to lack of road access. Fish habitat may benefit from fewer roads, but some fish habitat in dire need of active restoration may not occur with the lack of management access. The Agency must not carelessly bandy about such value-laden statements without a thorough analysis of tradeoffs--an analysis not found in the roadless area proposed policy's accompanying environmental assessment. We believe the policy requires a full environmental impact statement, and that it really should be comprehensive and relate to a variety of other initiatives within the Forest Service. A proposal as sweeping as the roadless area proposal will limit future management options. There is little evidence that the Forest Service has truly done any analysis to consider the long-term implications of such a proposal.

### **Lack of Coordination: Economic analysis missing**

The full spectrum of economic benefits associated with management represented in part by a sensible road program is not adequately presented or analyzed in the long-term transportation policy. The benefits of roads to recreation and other ecosystem management functions must be fully assessed. The majority of road

use is for non-timber purposes, yet the entire impact quantitatively measured for the road rule is predicated on reduced timber harvest. To provide a more accurate assessment, the Forest Service must estimate the economic benefit that new roads provide for recreational use and for ecosystem management activities.

### **Lack of Coordination: Proposals are inconsistent with current law**

In some cases the regulatory actions taken by the Forest Service seem inconsistent with current law. The planning regulations would take the Forest Service beyond their current legislative mandate. The Society of American Foresters believes that there is no public consensus about how the Forest Service should manage the National Forest System. We believe the Forest Service has presented one option with this proposal, but we do not believe the Agency should be presenting new mandates for management of the lands it holds in stewardship for the American people. The proposed planning regulations are supposed to govern how the Agency plans, not how it wants to change the management priorities of the National Forest System. The forest plans produced through the planning process as outlined in these proposed rules should be a significant expression of public trust in the Forest Service. Individual forest plans are built from the ground up with people at the local level. Instead, many of these initiatives are top down directives inconsistent with the principles of forest planning, and undermine the public trust. People have to understand the purposes of these lands and have confidence that the Forest Service is striving to encompass both local level and national interests to develop a sound forest management plan. If the Forest Service steps outside of their legislative mandate, people and the Congress in particular, will lose trust and confidence in the Agency. The planning regulations merely define the arena in which the conflicts will be played out. The goal should be to simplify and clarify the planning procedures so that they are transparent and accessible for interested citizens and interest groups.

The Forest Service proposes to substitute sustainability as the guiding principal for management actions through these proposed planning regulations, yet we can find little reference to this concept in current law. While we believe sustainability is the right goal for the national forests, we do not believe it is the purpose of the national forests. It is a goal to guide how we manage, not what we manage to achieve. As a nation, we have promised the international community that all of our forests, public and private, would be managed sustainably by the year 2000. This is not to say that they will all be managed for the same purpose. Industrial forests will be managed for very different purposes than Wilderness areas, but both will be managed sustainably. This is why we believe the purposes of the national forests and public lands should be clarified. As a nation we know we want all of our forests managed sustainably, but SAF believes that as a nation, we have not agreed on what we are managing for on the national forests and public lands.

Based on our belief that the Forest Service is changing its mission through regulatory action and misinterpreting legislative mandates, if the Forest Service adopts these rules, they might be in violation of the Organic Administration Act of 1897 (16 U.S.C. 475), the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528-31), and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 and other laws (16 U.S.C. 1600-14). *Bowen v. Georgetown Hospital*, 488 U.S. 204, 208 (1988), *United States v. Larionoff*, 431 U.S. 864, 873 n.1 (1977) and other court cases ruled that an agency's power to promulgate regulations is limited to the authority delegated by Congress. The new mandate the Forest Service wishes to give itself is not within the authority delegated by Congress.

### **Lack of Coordination: ICBEMP and the roadless proposal**

Another example of inconsistent initiatives involves the Interior Columbia Basin Ecosystem Management

Project (ICBEMP) Supplemental Draft Environmental Impact Statement, which pointed out that western white pine (*Pinus monticola*) and whitebark pine (*Pinus albicaulis*) have decreased by 95 percent of their range within the project area. The way to recover the white pine cover type is through a disturbance process that allows managers to plant blister rust resistant white pine. If we want to bring back the white pine cover type within roadless areas this will be difficult if not impossible. Without access to these areas through a road network, even if the Agency wanted to use mechanical treatment it would likely be cost prohibitive. This is not considered within the Roadless evaluation.

The ICBEMP project also discusses that eight percent of stream miles within the project area are water quality limited as defined by the Clean Water Act. And yet, the Roadless proposal map on page 3-30 (which I have brought with me today) describes a much different water quality situation. Most of the ICBEMP area is shown as having 11 to 25 or greater percent impairment. Of course, all of this seems inconsistent with a recent report we have produced with the National Association of State Foresters, which demonstrates that water quality impairments due to forestry are drastically overestimated. Again, these initiatives suffer from a general lack of coordination and inconsistent data, and we really do not know which data we should believe at this point without commissioning studies of our own.

Madam Chairman, I have only scratched the surface of the non-integrated nature of some of these proposals. I hope it is clear that the Forest Service has a lot of work to do in making the public understand their comprehensive strategy toward management of the national forests. I have one final thought on of the coordination of these initiatives: how are they coordinated with the Forest Service's budget projections for the future. It appears that they have given little thought to fiscal implications of implementing many of these proposals.

## Political Influence

The Forest Service and Agriculture Secretary Glickman claim that they believe significant public comment is essential to the roadless area proposal's success. In fact, the Agency has planned a series of public meetings both to explain the proposal, and to hear public comments. We applaud this effort. As we mentioned, the Forest Service has not given us an appropriate amount of time to fully analyze a 700-page document. However, we have to question the sincerity of this effort when the Vice-President makes public statements about changing the outcome of the proposal if he were to become President. The Vice-President's comments that he would prohibit logging in roadless areas and extend a ban on development in roadless areas in the Tongass National Forest circumvent the process the Forest Service has designed for getting meaningful public comments. If people believe that this decision has already been made, that it will be held hostage for political reasons, or that a decision is being made to bolster a political campaign, then what is the point of participating in this process? This is a relevant question both for the public and for the Forest Service personnel that have to conduct what some now see as meaningless public meetings.

Comments from the Vice-President and other political motivations, as appropriate or inappropriate as they may be, thwart the public collaboration process envisioned by the GPRA and National Forest Management Act. For example, the GPRA strategic plan should be a blue print for the Agency to operate under, and politicians should be able to work within that framework, but not outside of it.

Another problem facing the Agency is that the purposes of public participation in federal resource management remain unclear. What is the goal? It is a good idea to hear the public's views on issues, this is especially important when making value-laden decisions, but sometimes decisions require scientific analysis and professional judgement. Should we be managing by public opinion? Will the Forest Service make better

decisions because they have held 300 meetings and received thousands of comments? I honestly do not know the answer to that question, but Congress should clarify what it expects in public involvement processes, because right now the purposes and outcomes of public involvement are unclear.

## **Time Demands are Unrealistic**

The comment deadlines the Forest Service has given for all these various initiatives are unrealistic. In addition to leading the SAF, I am a businessman, and I truly care about the future of the national forests. I do not have the time to analyze all of these documents and prepare comments that reflect my values. Surely I could send the Forest Service a postcard saying yes or no to a particular proposal, but I do not have the time to develop the meaningful response that would benefit this process. Luckily, I am the President of an association that can accomplish some of this work, but even though we have two staff members working on policy issues and more than 17,500 members to assist us, we have chosen not to comment on some proposals because we knew we could not do a professional job based on the time constraints we were facing.

Recently, we received a letter denying our request for an extension of the comment period on the Roadless Environmental Impact Statement. This letter stated "Agriculture Secretary Glickman and Forest Service Chief Dombeck believe sufficient opportunity to comment on this effort is essential to its success, but decided that an extension of the formal scoping period would not have been necessary or useful." How can we be expected to comment on a 700-page proposal in 90 days when it is clear that few within the Agency carefully read it before it was released? We are concerned that the same time constraints placed on the public have also hindered internal Forest Service analytical work. The document is riddled with errors and inconsistencies both in grammar and in substance. The Forest Service would benefit from additional time to examine this document as well.

How could language like the following make it into the proposal: "Many people enter the wood products industry because it provides opportunities to earn high wages without having a high level of education. For these people, what is at stake is not a traditional lifestyle and occupational culture, but rather an accessible route to a middle class lifestyle. If equivalent jobs were readily available, these individuals would be happy to take advantage of them." Forest Service officials have publicly apologized for that statement, but it is clear that the Agency did not carefully scrutinize this document before it was released. If they had, they probably wouldn't have had to apologize for that comment.

Unfortunately, I suspect they will have a great deal more to apologize for as people continue to analyze this document. For example, on page 3-103 of the Forest Service Roadless Area Conservation Draft Environmental Impact Statement the Agency states that 10 million acres of inventoried roadless area in the West are at moderate or high risk of catastrophic wildfire based on Table 3-20 on page 3-104. When one examines Table 3-20 the figure is actually 21,224,000. The narrative is completely inconsistent with the table, so one is left to wonder which data is correct and where it came from. On page 3-101 the Forest Service claims that eight million acres are at high risk from catastrophic wildfire, yet on page 3-103 they claim that seven million acres are at high risk due to wildfire. This might be because the seven million figure is for Western lands at high risk and the eight million figure is for the whole country, but the Agency claims there are only 776,000 acres at moderate to high risk in the East. So what is the correct number? Yet another oddity is that the Forest Service claims that 100 percent of the roadless areas in South Dakota are in need of treatment to reduce wildfire threats, and that 71 percent of those acres are at high risk from wildfire. They claim that only five percent of the acres in Montana need to be treated, and that 67 percent are at risk

from wildfire. This analysis is mind-boggling. I cannot fathom how they generated these numbers.

## **Fiscal Issues**

I have to admit that I am more than a little frustrated with the sheer amount of rules, regulations, regional plans, and other initiatives the Agency has undertaken. This frustration is compounded by a lack of coordination amongst these initiatives, and what I perceive must be a tremendous amount of fiscal resources tied to producing initiatives instead of work on the ground. Though we have requested information regarding the cost of these various initiatives we have yet to receive it. But I note that the Washington Office budget of the Forest Service has increased by \$200 million over the last three years. The Agency has increased spending on national priorities by 47 percent since 1998. Field staff within the Agency tell us that resources they should have in place on the ground are tied up because money is not being released from the Washington office. A good example of this comes from firefighting spending. The SAF worked diligently to explain to Congress that the Forest Service needed increases in funding for their fire programs. This is no doubt true, and will be for years to come. I am happy to say that the Congress responded last year by increasing appropriations for preparedness by \$33 million. The problem is that the money does not appear to be getting to the ground. In Fiscal Year (FY) 1999 the Forest Service had access to 865 engines, 86 bulldozers, 51 helicopters and 8160 firefighters. In FY 2000 the Agency has 10.2 percent fewer engines, 13.9 percent fewer bulldozers, 5.8 percent fewer firefighters, and one additional helicopter. Now either that is one expensive helicopter or the money is not getting to the ground.

## **Conclusion**

I am very concerned that the Forest Service has not done an adequate job of coordinating these various proposals, that they have given little thought to fiscal considerations of both proposing them and implementing them, that some are not consistent with current law, and that have not given enough time for the public's meaningful consideration. Again, I believe that much of the difficulties the Forest Service is facing right now stem from an unclear mandate. If Congress, the American people, and the Forest Service had a common understanding of the purposes of the national forests, we may have a series of initiatives that are coordinated, make sense, and accomplish the right type of management on the ground.

Thank you for having me here today.

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