

# NATIONAL FOREST MANAGEMENT PLANNING REGULATIONS

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## HEARING

BEFORE THE

## COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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MAY 25, 2005  
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# NATIONAL FOREST MANAGEMENT PLANNING REGULATIONS

WEDNESDAY, MAY 25, 2005

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC.*

The committee met, pursuant to call, at 2:05 p.m., in the Longworth House Office Building, Hon. Bob Goodlatte (chairman of the committee) presiding.

Members present: Representatives Gutknecht, Johnson, Osborne, Bonner, Neugebauer, Schwarz, Kuhl, Conaway, Fortenberry, Peterson, Holden, Marshall, Herseth, Butterfield, Melancon, Salazar, Pomeroy, Davis, and Chandler.

Staff present: Bill Imbergamo, Ben Anderson, Callista Gingrich, clerk; and Tony Jackson.

## **OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA**

The CHAIRMAN. Good afternoon. This hearing of the House Committee on Agriculture to review the National Forest Management Planning Regulations will come to order.

The national forest covers some 191 million acres or roughly 8 percent of the surface area of the United States, and constitute almost one-third of the Federal Government's land. While these lands provide numerous benefits of the American people, they also produce an impressive supply of controversy and a depressingly large amount of litigation. With the passage of the National Forest Management Act in 1976, there was hope that the forest planning process would provide a forum to hash out differences between interests group and settle on a consensus direction for these public lands. This hope has been dashed on the rocks of experience.

While the NFMA was being considered on the Senate floor, Senator Hubert Humphrey suggested the plan should not cover more than 20 pages. This has not turned out to be the case. In my own home State of Virginia, the Jefferson National Forest recent revision took almost 12 years, cost over \$5 million, and the final documents total almost 1,700 pages.

Regrettably, the process of completing the Jefferson plan revision is still not over. Both the forest industry and environmental advocacy groups have filed administrative appeals with the agency to date has not resolved. The process of revising the Jefferson National Forest plan could last nearly as long as the time period the plan is supposed to cover.

Unfortunately, the situation on the Jefferson is not unique. The Forest Service says that, under the 1982 rule, the plan revision process takes between 5 and 7 years. The revision of the Tongass National Forest plan in Alaska took 9 years and cost \$13 million to complete. Keep in mind that the NFMA requires that plans cover a period of not more than 15 years, so we are spending between 30 percent and almost 50 percent of the planning time line engaged in a revision process.

The general public, or the advocacy groups who speak for portion of the public, is deeply unsatisfied with the results of this slow moving and expensive process. Even if a plan survives the arduous process of development, analysis, appeal, and potentially litigation, the Forest Service has found that the extensive documentation and analysis required is virtually useless when it comes time to propose actual land management projects.

When the agency attempts to deal with unforeseen circumstances, the detailed plans are essentially overridden immediately. When the Forest Service tried to develop a critical habitat for the Mexican spotted owl in Arizona and New Mexico, for instance, it basically overrode existing forest plans in doing so. As Roger Sedjo, senior fellow at the think-tank Resources for the Future points out, this “demonstrates the forest plans for this region, meticulously developed at large costs, will never be implemented and, in fact, have contributed little to the long-run management of the forests.”

There is bipartisan recognition that the forest planning process has been a failure. The previous administration proposed some changes in 2000, however, by almost any measure that rule would have made things worse. Both preservationist groups and industries who use resources on public lands sued to block the 2000 rule from being implemented.

After 4 years of internal analysis and consultation with other agencies, including the Council on Environmental Quality, the Forest Service proposed a new set of rules in December 2004.

It is the 2004 rule that brings us here today. The new rules provide some promise that the planning process will be more strategic in nature, less cumbersome, and more adaptable. I believe that, on two big issues, the new rule gets it right. The way the 1982 rules dealt with the compliance with the National Environmental Policy Act and how plans provide for the protection of wildlife habitat, are chief among the reasons why plans are so cumbersome to develop, and why projects frequently require heroic analysis even after the overall plan is complete.

I am concerned that the 2004 rule proposes several new duties for the Forest Service officials, however, including an environmental management systems for each unit of the national forest system. The 2004 rule also contemplates a level of resource monitoring that has never been attempted before and which I am not confident the agency will be able to executive. I hope the administration is able to assure me that the monitoring requirements in the new rule will be justified by better results, both in the form of higher output levels for goods and services, and in less litigation and controversy both over plan development and projects that take place once the plans are completed. I am extremely concerned that

the rules monitoring costs have all but wiped out potential savings from a streamlined plan development process.

Our second panel will consist of distinguished experts who have played leading roles in forestry and wildlife societies which have been extremely concerned with the failure of the planning process. They will give us better perspectives on how they view the 2004 rule relative to the older versions it replaced, and whether they believe it will make the forest planning process work more quickly and efficiently. As we will hear, not all are sure of the direction chosen by the new rules is the right one. I look forward to all of the testimony and a lively discussion.

At this time I am pleased to recognize the ranking member of the committee, the gentleman from Minnesota, Mr. Peterson.

**OPENING STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA**

Mr. PETERSON. Thank you, Mr. Chairman, and thank you for holding this hearing today. And I also want to take this opportunity to thank the witnesses, many of whom have traveled a long way to be with us today to review the National Forest Management Planning Regulations.

As everybody knows, these regulations guide the management of the national forest system, and I guess we are here today to talk about the finalized rule that came out in December 2004. According to the Forest Service, this rule will enable the Forest Service experts to respond more rapidly to changing conditions, such as wildlife emerging threats based on specifics and so forth. And the new rule will make forest planning more timely, they say, and cost effective by decreasing the amount time it takes to implement the Forest Service plans.

And I had some people in yesterday from Minnesota who have gone through this process and completed their plan. And I don't know if I completely understand it because it is not totally in my district, but apparently, already they are being sued by the Sierra Club and the Friends of the Boundary Waters and so forth, and so it doesn't look like we have got this figured out yet. After going through this whole process and spending all this time, we are back to lawsuits again.

And so I hope that we can figure out some way to make the process more streamlined so we can actually get to where we need to be in managing these forests. So I look forward to hearing the testimony of the witnesses and hope that we can come up with some ideas that may make this process work better.

The CHAIRMAN. I thank the gentleman.

Without objection, all other opening statements will be made a part of the record. However, if anybody has a statement they would like to give, I would be happy to recognize them.

The gentleman from Tennessee, Mr. Davis, is recognized.

**OPENING STATEMENT OF HON. LINCOLN DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE**

Mr. DAVIS. Mr. Chairman, thank you for recognizing me to make a few brief statements, and I want to thank the ranking member, Mr. Peterson, this year, and for the opportunity to discuss the National Forest Land Management plan, and I want to thank the witnesses that here, and obviously, the witnesses that you will have, perhaps, to answer several questions that may be asked to members of this panel.

I grew up in the Upper Cumberland Park, the Upper Cumberland Mountains of Tennessee. And near where I live is the Big South Fork National River and Recreation Area. Also near the area is a very pristine area called the Obed River National Park. I have always had an opportunity to enjoy the outdoors. It has been a part of my life. For instance, when I was mowing the yard on Saturday afternoon, two wild turkeys I found nesting just over the fence near where I live, my home, less than 50 yards from my house. So I have always enjoyed the outdoors and know that the conservation measures and practices are certainly important to wildlife and to the environment.

I have three daughters and five wonderful grandchildren. When my grandchildren come to the farm, not only do they get to ride the livestock that we have, the mules and the horses, but they also get an opportunity to see a flowing stream in front of our home that comes out of the mountains that is not as clear as it used to be when I was a youngster growing up.

That entire area of Tennessee, the Cumberland Mountains, is in my congressional district. It is almost a quarter of Tennessee's geographic area. Many families over the years have made a living from the backyard sawmills, and what we often would call pulp wood trucks, with small mounted band saws. Even the individuals who couldn't afford to buy the circular saws are now buying the band saws. So the forest industry has always been a major part of the economy for those of us who grew up and lived in the Upper Cumberland Mountains. So as we look at how these new policies and how these particular changes may occur, obviously we need to protect the environment, but also keep in mind that it also has a tremendous impact on our economy as well.

In the area I represent, the State parks that are there, the highest waterfall in the southeast is located at Fall Creek Falls State Park, there are at least four different State parks in that area, and people, that is the destination for many individuals from part of the South, and certainly from Tennessee, and maybe even those from north of the Mason-Dixon come to our area to enjoy the pristine beauty and the wildness of that area, either to ride horses, to hunt, or to just enjoy the natural beauty.

So as we go through the process today, for me it cuts both ways. Do we look totally at the environmental issues, or do we look also at the economic issues and how they impact an entire community? So as we interact today, and as the forum continues and those who will be testifying, I anticipate and look forward to a very healthy discussion.

Thank you, Mr. Speaker—I mean, Mr. Chairman. We could make you Speaker if you would like.

The CHAIRMAN. I tried to make Jerry Moran that the other day. I thank the gentleman for the promotion.

The gentleman from Colorado, Mr. Salazar, is recognized.

**OPENING STATEMENT OF HON. JOHN T. SALAZAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO**

Mr. SALAZAR. Thank you, Mr. Chairman, and thanks Ranking Member Peterson for holding this important hearing today.

I just wanted to start by stressing the important role of the Forest Service in the Third Congressional District of Colorado. My congressional district covers and includes over 12 million acres of national forest. These forests provide many constituents with many opportunities and livelihoods, as the previous speaker talked about, from recreational opportunities to livestock raising to timber supplies.

And with that being said, I just would like you to address some of the issues that are of real concern to the third congressional. I think many of you who are familiar with Colorado understand that we are being hit hard by what is called the pine beetle infestation, and I would like to know how the new forest management regulations will address these infestations and the general overall forest health. And second of all, I would like to know how the new regulations will interact, if at all, with the new mineral leases that will occur or may occur in the near future on Forest Service lands.

And with that, Mr. Chairman, I will yield back the rest of my time and I will submit my full statement. Thank you.

The CHAIRMAN. I thank the gentleman.

Anybody else have an opening statement? If not, we are pleased to welcome our first panel, including a graduate of the House Agriculture Committee. Dave Tenny has been serving as Deputy Under Secretary for Natural Resources and the Environment at the U.S. Department of Agriculture since October 2001. He actually helped oversee the transition to the new administration at the USDA, starting in January of that year. Prior to that, many of you will remember Dave for his years of service as a staff member here on the Agriculture Committee, where he worked closely with me and former chairman Bob Smith of Oregon on forestry issues.

Dave, we are delighted to have you back here today and we appreciate your service in the executive branch. Dave is joined by Mr. Fred Norbury, Associate Deputy Chief of the national forest system at the Forest Service, and one of the leading architects of the new planning rule. Mr. Under Secretary, we welcome your testimony.

**STATEMENT OF DAVID TENNY, DEPUTY UNDER SECRETARY, NATURAL RESOURCES AND THE ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE**

Mr. TENNY. Thank you, Mr. Chairman. It is good to be back. Somehow I feel like I should be sitting up there behind you rather than in front of you.

I brought with me, for historical reference, two things just to preface my remarks. This is the handbook that was used by the

Forest Service in 1905, the year that it was created. This comprised the entire set of instructions for the management of the national forest system. You will note that it is small enough to fit in a pocket. In fact, I will put it in my pocket so you can see that it actually fit in the pocket of a field manager so they could take it out in the field and have an idea at their fingertips regarding what they should do and how they should manage.

This is the forest plan final for the Targhee National Forest in Idaho. It was completed in 1997. You will notice it is a little bit too big to fit in my pocket. It represented a great deal of time and effort to complete; a little bit more complex; a lot more words than what we saw in the original instructions that comprised the direction to the field in 1905.

Now, a lot could be said about whether this is good, whether it is bad, or whether it is somewhere in between, but I think, as a point of reference, it begs the question, are we doing more in a way that is better, or are we just doing more? And I think that was the question that was facing the Forest Service, particularly when I came in in 2001.

The 2000 planning rule had just been completed. The agency was trying to decide what to do with that rule. The agency requested of the department an opportunity to review that rule to determine how difficult it would be or what the implications would be for implementation of that rule. Of course, that opportunity was granted. The agency came back to the department with a finding that the 2000 rule, in a nutshell, was almost impossible to implement because of the complexities that had been put into that rule. Many of the operational considerations or the operational aspects of planning had actually been codified in the rule. It would have been enormously expensive to implement, and in some cases, nearly impossible to lay on the ground, with very, very little flexibility for the manager to use discretion as to how best to go about doing their business on the ground.

As a result of that, the agency embarked on a process to create a new planning rule, one that would have advantages over the approach that had been taken in 1982, when the first planning rule was put into place under NFMA, and also that would provide more operational flexibility to the ground than what was provided in the 2000 planning rule.

About 4 years later, the agency completed that process and now we have what is before you today, the 2004 planning rule. The question is, hearkening back to what we have got here, are we doing something that is going to be better, or is it just going to be more? In my estimation, this is a rule that is going to be better, and I will give you at least six examples—this is not exhaustive, but six reasons why this rule is going to be better.

Number 1, this rule draws, I think, more fully than any rule we have had before us, on the expertise and the experience of the agency. When this rule was put together, the collective experience of the experts in the Forest Service were drawn upon, with always the question before the group, how do things really work on the ground? What effect will this really have on the day-to-day management of the folks who are out there day in and day out trying to implement whatever policy is put into place on the ground?

Second, this plan takes a more contemporary view of what plans actually are and what they actually do. Initially, when the 1982 rule was put into place, they stood for the proposition that they would try and forecast everything that would happen over the course of 15 years under a plan. Well, experience showed us that that just couldn't happen. These plans are more strategic in nature. They don't try to determine all the effects or try and estimate everything that will happen over the life of the plan. Rather, they set goals and objectives, and ask the critical question, what is it we want to accomplish over 15 years? And they put in place a system that will enable us to measure how we are doing over time.

Third, these will be more comprehensible to the public. Mr. Chairman, you will remember our former supervisor, Bill Dammon, who I spoke to many times while I was sitting as staff on this committee, and he would lament the difficulties that he was having putting together a forest plan, and as he noted 11 years, 12 years, \$5 million was a heck of a long time and a lot of money to put together a plan. His primary concern was, he was getting people and was trying to keep people engaged, they were getting burned out, and it was very difficult to keep someone engaged for that period of time.

Fourth, these plans will be more efficient. We expect that, rather than spending the average of 5 years and \$5 million on a plan, that these plans will take about 2 to 2½ years and maybe 2 million bucks a pop to complete. The analytical requirements will still be rigorous, but some of the things that we have done before, that haven't really added value to our decisions, have been streamlined so that in the end we have a more efficient process.

Number 5, these plans will be more results-oriented. The purpose of an environmental management system is to discipline the management of the agency so that we can ask and answer the question, are we getting to where we decided we wanted to go at the outset? It requires measurement, it requires audits, it requires a constant checking of our performance, and as a result of that, it requires greater transparency and accountability.

And I think, No. 6, finally, these plans will be more informed because we are constantly asking the question, are we getting there, and we are constantly measuring what we are accomplishing, and we are gathering that information in a dynamic way over the course of the plan; our projects are going to be better informed. Our NEPA will be better, our decisions will be more defensible, frankly, we will have a much better position to be in if and when we end up in a court. And ultimately, we will be able to have a better, I think, assurance of what we are doing the ground is exactly what we set out to do.

In conclusion, this is, in my estimation, the most important single undertaking of the agency in my experience working in the department, because it affects fundamentally everything the agency does. It will help the agency more effectively manage the national forest system, and it will make the agency more accountable to Congress, to the administration, and most importantly, to the public as we go about our business of caring for our national forest system.

Mr. Chairman, that concludes my remarks. I will turn the time over to Mr. Norbury, who has further enlightenment for the committee.

[The prepared statement of Mr. Tenny appears at the conclusion of the hearing.]

The CHAIRMAN. Mr. Norbury, welcome.

**STATEMENT OF FREDERICK NORBURY, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. NORBURY. Thank you.

I have worked for the Forest Service for 23 years, and for almost all of that period, I have been involved with NFMA planning in one form or another. This rule summarizes and takes advantage of the experiences that I have had, and experiences that many, many other people in the agency have had, in trying to implement the National Forest Management Act over the last two decades. It grows out of a consensus view within the planning professionals within the agency that there has simply got to be a better way than what we have been doing for the last 20 years. And we have an opportunity now to put in front of you what we think is a better way, based on our experiences in trying to implement that act.

This rule replaces two previous rules. It replaces a rule originally adopted in 1982. It was original, actually, in 1979 and amended in 1982; that with time had grown increasingly out of date with current thinking, and increasingly out of sync with what our own experience was in implementing NFMA. It also replaces a rule that was adopted in 2000, that had many important concepts in it that were closer in concept to current thinking about what good land management consists of, but raised severe concerns amongst the professionals in the agency about the amount of process that was being created, and whether that process was going to make things easier or worse at the task of trying to get plans done in a reasonable period of time for a reasonable amount of money.

There are at least three key principles in this rule that I would call your attention to. The first is public involvement. And you have probably heard some comments on how this rule relates to public involvement. What I would like you to understand is two things. First, this rule preserves all the opportunities for public involvement that the public has had in the past, has come to expect and has come to appreciate. But the rule does something even more important on public involvement that we think will make the process more accessible to the average citizen. We think this rule can cut in half the amount of time it takes to prepare plans.

And the reason that is important is because, when our planning processes stretch on for 5, 6, 7, 10 years, what we have found through experience is that we lose the average citizen. They simply haven't got the stamina and the time in their own personal lives to stay with us for that amount of time. One example that I have before you is, one young mother told us once, there is only so many times you can get a babysitter and go down for yet another Forest Service meeting on the plan on Tuesday night. And they ask us again and again to find a way to get on with the process and get to the conclusion. When these processes stretch on for years and

years and years, what we find is, the people who participate are the people who represent organized constituencies, and we lose that broad middle of the public is concerned about our plans and about our management of the national forest.

The second thing I would call your attention to is the way we have dealt with sustainability. The rule is firmly rooted in the Multiple-Use Sustained Yield Act of 1960. And it is also consistent with the current thinking in international circles about what sustainable management consists of. That thinking recognizes that sustainability has got three interwoven and interconnected components, economic, ecological, and social, and that you can't deal with one without the dealing with the other, or your efforts will be doomed to failure. This rule requires a balanced consideration of all three aspects of sustainability.

Within the ecological aspect of sustainability, it again tries to get more in sync with current thinking in ecological circles about the way nature works. The old rule had us looking at the world species by species by species, and that effort is doomed to failure. There are simply too many species. What this rule does is ask you to look at the ecosystem under the concept that if you have a healthy ecosystem, most of the species that make up that system will do just fine.

It also recognizes that there may be circumstances under which one or more species may run into trouble, and it directs the forest supervisors to identify those species and adopt additional provisions for those specific species where necessary. Our goal, and it is imbedded in our direction, is that no species should become listed under the Endangered Species Act as a result of any act of commission or omission on our part. That is our overriding goal with respect to species.

The third feature that I would direct your attention to is the third fundamental pillar of this plan, which is the use of science and the use of good science in preparing our plans. There is an explosion of scientific information in the world, and we have learned through experience that you can't build a good plan without incorporating that science. What this rule does is codify practices that are already in use in many parts of our system, and we make sure that this will happen on a consistent and regular basis. It gives, for supervisors, various options for ensuring that science is consulted and appropriately interpreted and used, and ensures that that use of the science is properly disclosed. Good plans require good science.

Another feature of the rule that has required and that has attracted a lot of attention is our requirement for us to adopt environmental management systems. And you might reasonably ask yourself, why would we adopt yet another acronym in the Forest Service? And the environmental management system, well, let me back up.

For 20 years people have telling us planners and managers, you really need to use adaptive management. That is the modern view of how you manage natural systems. And we have agreed and we have struggled as to how to construct an effective adaptive management system and how to get it uniformly and consistently applied across the system. This was our opportunity to codify an

adaptive management system. And the one we chose was the environmental management system, in part because it is widely used throughout the world, and it is widely recognized for its effectiveness.

The particular environmental management system that we adopted is based on an international standard, and it is another acronym, the International Standards Organization 14001. We did that for a couple of reasons. One of them is that we discovered that this standard had been successfully applied around the globe, in Canada, in France, in Austria, in New Zealand and South Africa and other places, for managing forestry enterprises.

The second thing was a piece of legislation, the National Technology and Advancement Act of 1995, which directed Federal agencies to use consensus standards where they existed rather than create new standards of their own. And the ISO 14001 is exactly such a consensus standard. So we thought that, under the terms of the act, it was an appropriate thing to do, to adopt that, in addition to the practical reasons for doing so.

I would also like to comment just briefly on compliance with the National Environmental Policy Act. As Dave mentioned, when we set out to do planning back in 1979 and 1982, we had the assumption that you could do an EIS on a plan covering 15-years worth of activities and you never have to do an EIS again, and we learned very quickly that that is just not true, that you are going to have to do complete NEPA compliance every time you want to do an activity on the ground. And there is nothing in this rule that changes how we comply with NEPA for projects and activities. Before you do a timber sale, before you build a trail, before you permit use of the forest, you are going to have to comply with NEPA exactly the way you do right now.

What changes is the plan, what we do for the plan. Once we understood that the plan was not about 15-years worth of activities, but instead was about creating a strategic vision for the forest, we began to wonder whether the EISs were worth doing. There are essentially two tests you would want to apply to the question of whether or not to do an EIS for a plan. One of them is, is it useful? And the second would be, is it required by the law and the regulations?

We conclude that the EISs for the plans weren't useful, and part of it was that there were simply taking too big a bite of the future and requiring us to speculate about too much for too long a time period in the future. The second was that when you got ready to do a project, we discovered there was very little information in those EISs that would help you do the project, in part because they were too general, in part because they were too old. If you revise your plan on schedule, it is going to be 15-years-old, and there is precious little information that you are going to extract out a forest plan EIS 5, 10, 15, 20 years down the line that is going to help you do a project.

So that took us to the question about whether or not it was required. We consulted with the Council on Environmental Quality and our conclusion was that it wasn't required, that instead, that a categorical exclusion for most of the kinds of plants that we saw constructed under this rule would be sufficient, and we thought

that was a more efficient and effective way to go, and it would also help us to achieve our goal of getting a planning process that would move on quickly and involve the public more effectively.

The planning process that this rule creates will save some money in doing plans. Now, it will also require us to spend some money on doing monitoring, and we think that is appropriate. We think that will have us spend less time speculating about what might happen over the next 15 years and let us spend more of our time and money and professional resources finding out what is really happening on the ground and what the real effects of our management are so that we can adjust that management as it becomes necessary.

In short, we think that this rule will produce not only cheaper plans, but it will do a better job of involving the public, and for that reason it will be better plans, and that better plans will result ultimately in a better job of management of the national forest. And with that, I would be happy to take any questions.

The CHAIRMAN. Thank you, gentlemen.

Mr. Tenny, I think the crux of all of this is the fact that while we are taking two steps in the right direction, we may be taking an almost as big a step backward on this monitoring. So let me ask you a couple questions, first regarding the savings, which we think are important. We would rather see the resources of the national forest system dedicated to maintaining our forests rather than maintaining the piles of paper that you have and accumulating a whole bunch of new ones. According to the cost benefit analysis provided along with the final rule, overall savings will only amount to roughly \$4 million annually under the new rule versus the 1982 rule, admittedly far less expensive than the \$147 million expected annual cost associated with the 2000 rule, this is only about a 4 percent savings. Do you believe the savings could be greater than those projected in the cost benefit analysis?

Mr. TENNY. Over time, yes. What we are finding, I think, as Fred pointed out, plans are going to probably be completed in about half the time at half the cost. We still have a considerable backlog of plans that need to be completed, and that has been precipitated in large part because of the cost and time associated with planning under the system that we have just replaced.

And so in the near term, the answer is, per plan we are going to realize some significant savings, but we still have a little bit of backlog, so the aggregate savings will probably occur later down the road. But the short answer to your question is yes, we will experience greater savings over time using this planning rule.

The CHAIRMAN. The principal reason why we are going to suffer these increased costs, or better put, marginal savings, is because of the monitoring required by this. Would you go into some detail and tell us if you believe that these increases are justified? Will the plan level monitoring and evaluation allow the agency to better defend project decisions, when compared to the plan level NEPA analysis conducted under the 1982 rule? What is this monitoring? Tell me what it is going to entail.

Mr. TENNY. OK, I will explain the two points, and Fred may want to elaborate further.

Right now, when we do project level NEPA, we spend a considerable amount of time trying to gather information. As was pointed out earlier, the information in the plan becomes stale. So if the plan doesn't have the information you need to make your decision, then you have got to go get it somewhere else. And the process of going to get that information costs time and money, and that is project dollars that we are spending to do that. If we spend and make an investment in monitoring, and keep current and refresh the information that underlies the plan, then the costs associated with planning projects should decrease. The information will be more available, it will be more useful. The NEPA work that you have to do will be that much more effective. And so we expect that we will realize cost savings as we undertake project planning over time. And that, as much as anything, is a very good reason why we want to keep and why we should keep the information in the plan current and updated using an effective monitoring system.

The CHAIRMAN. Could you give us an example of this monitoring? What type of monitoring are we talking about?

Mr. TENNY. I will give you a general and then maybe Mr. Norbury can give you a more specific.

Generally speaking, and I will make a general statement, we monitor all sorts of different things. Some things that we monitor are really important to what we do. For example, the things we monitor under the Healthy Forest Restoration Act, these are things that are mandated that we should monitor to determine whether we are improving found conditions over time. Some things we monitor out there because they are interesting. Under the new planning rule, we will monitor what is needed to determine whether we are making progress over time. Are the forests getting healthier? Is the water getting cleaner, or is the water not getting dirty? Are we accomplishing what we want to accomplish to create the right habitat for species, as opposed to having a less disciplined approach to monitoring, monitoring things that may or may not have a lot to do with what we are trying to accomplish over time? And maybe Mr. Norbury has more that he would like to add to that.

Mr. NORBURY. Yes. There is a trade off between planning and monitoring that is at the heart of this, and you can think about water quality as an example. One way you could try to protect water quality is you could adopt an exhaustive list of rules about what you can do and you can't do that will anticipate every possible contingency of every possible activity that everybody might do for the next 20 years, and that is kind of what we do in a plan.

The CHAIRMAN. Let me interrupt you because my time is running out here. I can see why that would cost a lot of money. Why would it cost a lot of money to periodically keep tabs on what is happening to the environmental situation of a particular area so that you know if things aren't going well? I take it that that is monitoring is all about.

Mr. NORBURY. Exactly. The monitoring is intended to measure how well we are doing in achieving our goals for the national forest.

The CHAIRMAN. Why is it so expensive? Why is it so expensive?

Mr. NORBURY. Because there are many dimensions to the forests that people are interested in, and many dimensions to the environ-

ment on those forests, and many dimensions to the services that are provided to the forest. And if we want to get a comprehensive view of how well we are doing, we need to look at a lot of different things. Second, the information needs to be scientifically correct.

The CHAIRMAN. Why do we need all of that information? Why don't we just monitor the most sensitive things, the things we have identified in our plan as the things most likely to be subject to change or stress or whatever? And can't we write a rule that says, there are certain things we are really worried about and we are going to monitor those closely, and if they change, then we know we have got to do something differently, and we are not going worry about a lot of the other things we are monitoring?

Mr. TENNY. But that is essentially what an environmental management system will do, it will lay out what we want to accomplish and what we need to measure to determine whether we are accomplishing what we set out to accomplish. We expect that the monitoring that we do will be much more disciplined.

Like I mentioned earlier, sometimes we monitor things that are just interesting to know rather than things that are critical to our management. Sometimes those monitoring costs are on the back of projects. Sometimes, when we are monitoring, that is project dollars that are going out there.

So what we are seeing here in part is a shifting of what is paid for monitoring. Monitoring accounts should pay for monitoring. Project dollars should not pay for monitoring. So there is a little bit of realignment that will take place under this rule in the plans as well, so that we are making sure that, A, we are monitoring what needs to be monitored, like you said, Mr. Chairman; B, that we are using the right accounts to monitor it; and C, that it is going to tell us something that we need to know, something that is actually going to inform our decisionmaking going forward so we know we are getting to the right place at the right time and achieving the results we want to achieve over time.

The CHAIRMAN. Thank you very much. The gentleman from Minnesota is recognized.

Mr. PETERSON. Thank you, Mr. Chairman.

Are either of you familiar with the Chippewa and Superior National Forest in Minnesota? Am I right that they just developed a plan under this new process recently, and they have already been sued, as I understand it? Am I correct?

Mr. TENNY. I believe that that particular plan revision is now on appeal, and the appeal decision is pending in the Washington office of the Forest Service. Is that correct?

Mr. NORBURY. That is correct.

Mr. TENNY. That is correct.

Mr. PETERSON. So whatever this new process was, was not designed to diminish these suits or anything?

Mr. TENNY. Well, what will happen under the new rule, right now the way it works, and Mr. Norbury may want to elaborate on this point, too, having been there on the Tongass National Forest. But right now the way it works is you go through the process of creating a forest plan revision, either creating the plan or revising it. At the very end of that process, after you have made the decision, then there is an opportunity to appeal. That creates an incen-

tive in some ways for folks to hold their powder for the fight at the OK Corral at the end of the process. Then the appeals come in, and then there is an effort to sort of muscle the system through the appeals process, and maybe even through litigation later, to try and get the points or try and accomplish what you wanted to accomplish from your particular point of view.

That has not been the most effective, nor has it been the most the useful process from the standpoint of the public, because once you get into the appeals process, there is a lot of the public that doesn't even get involved in that, nor can they. The new approach we have takes a different tack, and that is that rather than having an appeals process at the end of the decisionmaking, we have an objection process before the decisionmaking is concluded. So that if you have an objection to what you see as what is likely to be the final decision on the plan, you have an opportunity to engage before that final decision is made. That brings the resources of the agency to bear, it brings more of the public into the process for a discussion on whether or not that is a good idea. Yeah.

Mr. PETERSON. I agree with that, that is a good direction. But can you explain to me why did they use that process with this situation?

Mr. NORBURY. No. The Chippewa-Superior plan was developed under the old rule, the one that we are replacing.

Mr. PETERSON. The 1982 rule?

Mr. NORBURY. Exactly. And the difficulties that have run into there is an illustration of why we wanted to replace that rule.

Mr. PETERSON. OK. So I was mistaken, then, because I had a brief meeting with them, and I thought they said they had done a new plan under the new rule or something, but that is not the case?

Mr. NORBURY. That is not correct.

Mr. PETERSON. Who are the people that come to these meetings?

Mr. NORBURY. Well, of course, they will vary from community to community.

Mr. PETERSON. Are they just ordinary people off the street, or are they organized environmental groups?

Mr. NORBURY. What my experience has been in the planning process is that, initially, there is quite a lot of interest in the planning process, and you get a pretty good cross-section of the public, people who do not necessarily belong to any organization, but they use the national forest, so they depend on the national forest and they care about the national forest, so they want to get involved in the planning. As the planning process continues, then we tend to lose those people and the people who come are the ones who represent organized groups that have an interest.

Mr. PETERSON. And they probably aren't from the area even.

Mr. NORBURY. Some are and some aren't.

Mr. PETERSON. Yes. Probably more are not than. It is kind of like what we have when we have the city people coming out and telling us how to farm and how we should do things and so forth. The same kind of process.

Mr. NORBURY. The national organizations do take an interest in the national forest to use opportunities that they have to provide input into those plans.

Mr. PETERSON. Well, depending on their point of view.

Mr. NORBURY. Yes, sir.

Mr. PETERSON. Right. That is what the whole problem is. If we keep dancing around this and spending all this money, I am not sure. And it sounds like you tried to streamline this, but I am not sure where we are going to get these folks to quit suing us. I commend what you are trying to do, but it is an uphill battle. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. The gentleman from Alabama, Mr. Bonner is recognized.

Mr. BONNER. Thank you, Mr. Chairman.

Mr. Secretary, I would just like to go back to your opening example, where you cited the manual from 1905, I believe, and then just a small portion of the rules and regulations that you all have to deal with today. And I guess I would say that that raises a question in my mind, and so it is a theoretical question that I will pose to both of you.

Who do you believe has been more influential in helping to write the rules and regulations that the forestry service operates under over the last 20 years, those very rules in front of you, special interest groups; Sierra Club and others that are advocating certain sides, depending on which administration is on office at the time; the Federal courts, or those of us who were elected by the American people in the United States Congress?

Mr. TENNY. Well, I will take a stab at that to start out with. I think the answer is all of the above. I think some of the most profound influences on the planning process, though, over time have been the Federal courts. And in the construction of the laws that govern planning, and the rules, including the 1982 rule that has now been replaced, Federal court decisions have had a profound influence on what the agency has been required to do to comply with its own rules. And more and more, those requirements have become increasingly complex. And the question that those complexities have begged is, with all the complexity, are the decisions getting better? Is it helping? Is it making management of the national forest system better today than it was before?

The conclusion that the agency drew from my standpoint as I observed them wrestling with this problem was that, in fact, no, the requirements that were becoming more and more complex were not actually adding value. And because of that, there needed to be a rethinking, a fundamental rethinking of how we go about doing planning and how we go about implementing plans once we have put a plan in place. And I think a lot of that is reflected here in this regulation. Certainly there is an intent to preserve the discretion of the manager on the ground who works day to day with the public and is probably the most informed of anyone regarding what ought to be done to the extent that they rely upon the information that is available to them, both the scientific information and the public information as they work their public. And that is what we want to preserve in this. We want our publics working with our managers to decide what they want to accomplish over time. And then we want to preserve the discretion to actually go about doing that.

Mr. BONNER. Any other comments?

Mr. NORBURY. Well, I would acknowledge the role of Congress. I know, when we were sitting around trying to draft this rule, what we kept going back to was the law and we kept rereading NFMA over and over and over again, trying to see what did the law require as distinct from what custom and the court really have accumulated for us over the years. So we tried to combine the law with our experience about what worked and what didn't work, to reset the clock and to try to scrap away some of the complexity that is built up over the last, it is almost 30 years now since NFMA has passed.

Mr. BONNER. I guess, Mr. Chairman, if I have the time, I would like to ask one more, again, somewhat theoretical question, and that is, is that the two of you were not speaking to the members of the House Agriculture Committee who have been given the opportunity to discuss this, but you were speaking at a Rotary Club or a Kiwanis Club in Monroeville, Alabama, a small town in my district. We don't have a national forest in Monroe County, but we have several national forests in my home State.

Can you honestly say that all of these increased regulations are, whether it is being forced upon by the Federal courts or it is things that we are working on here in Congress, can we honestly tell the American people that these, and this basically goes back to the Secretary's original question, are we doing more that is better, or are we just doing more? And I think, for many us, that is the impression that we sometimes, not just with this issue, but with many issues that involve Federal agencies and the Federal bureaucracy. Can we really go back and give the American people a healthy report card that we are doing better, not just doing more?

Mr. TENNY. I think the answer to that question is yes and we hope and we plan to. If you take a look at, for example, some of the things that we have accomplished together, the administration, the Forest Service, the Department of Interior, the Congress, on the front of fire and fuels, I think the answer to that question is yes, we are doing better. We are treating four times the number of acres this year than we treated just a few years ago. We are able to report to the public that the tools that Congress has given us are working. They are significantly reducing the time and the cost of putting projects on the ground, that intuitively, not just through the analysis that we do to justify the project, but intuitively know what we know ought to be done.

With respect to this rule, the answer is, we expect that this will answer your question in the affirmative; this will be better. This is going to involve the public more and more completely and more effectively. This is going to help us measure more effectively what we are accomplishing. It will help us report to you as the Congress and to the public and to anyone who wants to know whether we are getting there or not.

Mr. BONNER. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. I think the gentleman from Georgia is the next on the Democratic side.

Mr. MARSHALL. Thank you, Mr. Chairman.

I very much appreciate what you do, and I think management of our forest is the baseline that we set for management of our national parks, and all of those assets are things that we need to

cherish and maintain for the benefit of the future of America. And I use those assets a lot and appreciate what you guys do.

When of the primary objections to the rules that you are proposing here, could you just quickly summarize what you see to be the main opposition, and what the argument is from the main opposition, and what your response is to the main opposition to the new rules that you are proposing?

Mr. TENNY. Do you want to take a stab at that?

Mr. NORBURY. OK. There are two issues that come back again and again, and I honestly think that they are founded on a misunderstanding of the rule. One issue has to do with compliance with the National Environmental Policy Act. Some people think that, and there are two kinds of objections here. Some people think that a categorical exclusion is an exemption from NEPA, which is just wrong under the law. Categorical exclusion is part of NEPA and it is compliance with NEPA when the category fits.

The second kind of related objection is people think that if you are going to a categorical exclusion, they are going to lose their opportunities to get involved in our planning and decisionmaking. A lot of people have got public involvement in NEPA confused, and they don't understand that, under NFMA and under our regulations, that we actually provide more access and more public opportunities for public involvement than NEPA requires. So I really do think that is a fundamental misunderstanding.

The second objection that we run into quite commonly is how we address the requirement in the law to provide diversity of plant and animal communities, consistent with the multiple-use objectives. The 1982 regulation had a requirement in it to provide for viable populations of wildlife well-distributed throughout the planning area. That has proven expensive and unworkable in practice, and it led us into that cul de sac of trying to treat nature on a species-by-species basis. And so we have adopted what we think is a better approach in this rule. Some people think that by dropping that requirement that was in the 1982 regulation, and I stress, not in the law, but in the regulation, that we are turning our back on wildlife. And they don't understand our commitment to ensure that no species get listed as a result of our actions under the Endangered Species Act. We will keep all the pieces of the ecosystems that are there.

Mr. MARSHALL. Skipping to the environmental impact studies, that has not been controversial?

Mr. NORBURY. Well, the environmental impact studies are part of the National Environmental Policy Act. People think if you are not going to do the environmental impact study, you are going to do the categorical exclusion.

Mr. MARSHALL. And that is what you mean by categorical exclusion?

Mr. NORBURY. Exactly.

Mr. MARSHALL. And the idea here is that the plan is planned, and once the plan gets into the execution phase, if there is an issue that is appropriately covered by NEPA, then, at that point, when there is a specific proposal and an EIS under the circumstances, let us assume, is called for, there would be an EIS?

Mr. NORBURY. That is exactly the logic of this rule.

Mr. MARSHALL. I think that is the only question I have got. Thank you for what you do.

The CHAIRMAN. I thank the gentleman. The gentleman from Texas, Mr. Conaway is recognized.

Mr. CONAWAY. Thank you, Mr. Chairman.

Coming from a district that has very few trees, thank you for what you do. I also am someone that campaigned on this idea of deregulating businesses and I think, deregulating executive branch agencies is a worthy goal in and of itself. Mr. Tenny, what is that stack of paper on your elbow which is still in the shrink-wrap?

Mr. TENNY. This is the forest plan for the Targhee National Forest. It was completed in 1997 under the 1982 rule.

Mr. CONAWAY. OK. How much of the forest did we lose printing it? That is a rhetorical question.

Mr. TENNY. I think most of the trees in your district, sir.

Mr. CONAWAY. They say Paul Bunyan did a good job in my part of the world.

Mr. TENNY. Yes.

Mr. CONAWAY. On page 6 of your testimony you make this statement: "However, these costs will not be fully realized until the land management plan revision is currently underway and completed, either under the 1982 rule or by transition to the final rule." That does not mean that we are hidebound to the 1982 processes; that with the new rule we are saying, all right, we are going to chuck all of the stuff that was under the 1982 rules and keep the pieces that we need to finish out the plans; we are not finishing under the old rules just for the sake of finishing, are we?

Mr. TENNY. We have some plans that are nearly completed, and for those plans that are nearly completed, they will most likely finish the process under the 1982 rule. During the transition, there is an opportunity for the forest to make that determination. Those forests that have begun the process, most of those forests, to my understanding, are opting to use the new planning rule. It affords them a lot more flexibility. There is a great deal of enthusiasm, actually, out there on the ground to use the new rule.

Mr. CONAWAY. So somebody in your squad has taken an objective look and saying, in terms of gaining these savings that you say are somewhat delayed by the old rules, has looked at it and said, all right, they have the flexibility in saying it is going to cost less to finish under the old one versus through the new one, and if we don't have some goofy situation where you say, well, we have got to finish this one because that is the way the old rule was, we have done away with that kind of stuff, right?

Mr. TENNY. That is essentially right.

Mr. CONAWAY. One other quick one. On page 2 at the bottom, you say there is an opportunity to use the new rules to increase participation by a more diverse number of people, including members of underserved and low-income populations. And that is a laudable goal and I think we ought to always do that. But my sense of that statement ought to be this way versus this way, and that is, that people who have a self-generated interest in being a part of this planning processes who fall in these groups, we should make sure that our procedures don't create barriers or unreasonable prevention for them to help out; that we don't spend a lot of

time going and finding people who are simply trying to feed their families every day and trying to convince them to be a part of this and thereby, in effect, waste time on trying to meet this laudable goal. But there are those in our communities who want to be a part of it, that we make sure they can, which is what you all are saying. So I have obviously tainted or biased it, but that is my sense of what that ought to say and ought to mean versus something else.

Mr. TENNY. I think that the approach that we are trying to take in this rule is that forest planning ought not to be an endurance contest, that everybody who wants to be involved should be involved, and that the process itself should not be prohibitive, so that as Mr. Norbury pointed out, that the mother who said, how many times do I need to get a babysitter so I can attend the Tuesday night meeting on the rule?

Mr. CONAWAY. Right.

Mr. TENNY. That is not the way it ought to be. We can do better than that, and that is the approach that we are trying to take in this rule, to be more inclusive, to make it not take so much time that you are thinking at the front end, OK, if I am around in 10 years, then maybe I will be able to get my point of view adopted or even considered seriously in this planning process. That shouldn't be the case. That should be a 6-month to 1-year proposition.

Mr. CONAWAY. All right. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. I thank the gentleman. The gentleman from North Dakota, Mr. Pomeroy, is recognized.

Mr. POMEROY. Thank you, Mr. Chairman. I apologize that I was unable to be here for the beginning of the hearing.

We have a Forest Service issue in North Dakota with the national grasslands, a discussion over the weekend with the press in North Dakota, regarding the environmental impact statement regarding grazing on those national grasslands. I am wondering if you can generally describe where you think the conclusions are going under the study.

Mr. NORBURY. I believe you must be referring to the report of the science review team that was chartered to take a look at the grazing projections that were in the grassland plan to determine whether or not those projections were attainable. I have not seen the report. All I have seen is press reports on the report, and a briefing paper. What I got out of the briefing paper was that the finding of the science review team was that they thought that the projections in the plan were generally accurate, but the data that was available to them to make their calculation wasn't as reliable as they thought it ought to be, and they had a strong recommendation for us to improve the data that we had for making those computations.

Mr. POMEROY. Is that presently formulated in your Chadron, Nebraska shop?

Mr. NORBURY. I don't know the answer to that. And again, I caution you, this is based on reading a briefing paper and not the report.

Mr. POMEROY. And unfortunately my question is also generally based on the media reports, so I think that we are still in a period of time where we can have discussions regarding the specific find-

ings. But they relate very directly to headcount allowed on those lands, and that relates very directly to the viability of some of those family farmer and rancher operations trying to essentially make nearly a subsistence go of it out in the western part of my State. So these conclusions will have a significant economic impact in that part of the region and we are very concerned about it. I look forward maintaining a vigorous dialog as we begin to get a better understanding in terms of what might be from the Forest Service, a directive to pull cattle off those lands.

Mr. NORBURY. And I would comment that the observation that we need better data is one that is consistently true across our system. And part of the logic of the monitoring that we have built into this new rule is to try to continuously assemble a better data set so that we will have better data to address important questions like that.

Mr. POMEROY. One other question, Mr. Chairman.

Do you believe that the Forest Service, with all the issues you have on your plate, can appropriately also attend to national grasslands? We certainly found, in the prior administration, not the Bush administration, the grasslands issue, range land management issues, got swept into essentially the Forest Service regulations with people not ever thinking that they were talking about an area that hasn't seen a tree ever. Very, very different circumstances, obviously, grasslands to forests. And at least during the tenure I have been in Congress, I have seen some confusion from time to time within the Forest Service regarding appropriate management rules applying to one and not the other.

Mr. NORBURY. What I could tell you is we are very sensitive to the difference between the forested areas and the grassland areas. I personally met with all the grassland managers in the Forest Service 2 weeks ago in Pueblo, Colorado. I spent several days with them and listening to them explain the challenges that they face, and a commitment to work with them to work through some of those challenges. The grasslands are achieving, are getting direct attention from the Washington office.

Mr. POMEROY. Thank you. Mr. Chairman, I yield back.

The CHAIRMAN. I thank the gentleman. The gentleman from Michigan, Mr. Schwarz is recognized.

Mr. SCHWARZ. I have no questions for this panel. I will have a couple for the next panel, Mr. Chairman.

The CHAIRMAN. Thank you. I will use your time, then, to ask a couple a more myself.

Mr. Tenny, I understand that the legal precedent in the *Lands Council v. Powell* lawsuit is now binding for the Ninth Circuit. Can you tell me what implication that has for forest plan revisions, including the, I can't even pronounce it, Chequamegon-Nicolet plan.

Mr. TENNY. Thank you, Mr. Chairman.

Well, what can I say about the Lands Council decision, other than it affects 122 million acres of national forest system land that is covered by the Ninth Circuit. And in our estimation, that could have a profound effect on management activities of a whole variety of sorts on the ground. The issue has been raised in the context of the Chequamegon-Nicolet national forest plan, excuse me, revision. It is an issue that most likely would play itself out in the Federal

courts. It is a different circuit, obviously, but there is no guarantee that the Ninth Circuit precedent that now has been established won't be followed. Our estimation is that the Lands Council decision was incorrectly decided, and we are working to address that issue as we speak; but the effects could be profound, and already have been in some regions of the national forest system.

The CHAIRMAN. Is there an appeal of the Ninth Circuit decision to the Supreme Court?

Mr. TENNY. No, there is not. Presently we are working on administrative options to address and clarify the intent of NEPA and its implementing regulations with respect to cumulative effects, which is the issue that was addressed in Lands Council.

The CHAIRMAN. The last round of forest planning in the southern United States was slow and expensive and the results have caused considerable problems for our forest products industry and others. In general, the new plans drastically increase the acreage set aside as not suitable for timber production, while drastically reducing expected timber outputs. Do you believe that species-specific management has had a hand in this result?

Mr. TENNY. To some extent, yes. As Mr. Norbury pointed out, one of the challenges that arose over time in the implementation of the 1982 rule was the requirement for a species-by-species approach to managing the national forest system, and in fact it pitted one species against another rather than taking the holistic view of what is happening across the landscape, which is the contemporary view of how we ought to be managing.

And so as a result of that, there are lots of musts and must nots in the forest plans that were produced under the 1982 rule for the purpose of complying with the law, with the body of case law that was governing the implementation of that rule. One of the reasons why you will find that in the 2000 rule, we have taken a more holistic look. A more consistent diversity approach to species management is that we don't want to pit one species against another. In addition to that, we are trying to reduce the number of absolute musts and must nots in the plan process and the plans themselves so that we can take a look at what is, in fact, happening over time, and adjust over time what we are doing so that we can benefit not just one species, but all the species that take advantage of the national forest system. And as a result of that, our management options are also going to be more flexible. And as a result of that, we will probably be able to do more proactive management, that we will have a whole variety of benefits, both ecological and economic.

The CHAIRMAN. So in other words, you think that the desired future condition model of planning will help remedy some or all of those concerns?

Mr. TENNY. Yes. I think I will let Mr. Norbury talk about that. That is a point that he feels particularly strong about.

Mr. NORBURY. If I could give you, maybe, an analogy out of your own life to help you understand the profound shift that is occurring in planning. Let me illustrate it.

Under the 1982 rule, our plans tended to focus on the negative, don't do that, don't do that, don't do this other thing, and above all, don't go over there. The new rule, and the direction that we are putting out to support it, asks you to think about where you are

going and where you are trying to go, what are you trying to create out there? If I give you the analogy, it is kind of like if you were travel planning. The planning we have done up until now, supposed you were going to take a trip. The kind of planning we have done up until now would have you focus on what the speed limits were along the way and where all the left turn signs were.

What this rule asks you to think about is where do you want to go? What do you want to do when you get there? What do you want to do along the way? Now, speed limits are necessary and we will observe them, and we will find no left turn signs and we will observe those when we find them. But we are asking people to think about what kind of forest do you want to create. What does a good forest look like to you? What kind of services do you want out of that forest? And we think that if you approach that, you are going to end up focusing on the right things and you are going to end up with a better balance in the management of the national forests, amongst the ecological and economic and the social aspects.

The CHAIRMAN. I am not clear on the exact relationship between the forest plan document and the environmental management system. Can a plan or a plan revision be approved before an EMS is in place?

Mr. NORBURY. Those are required to run concurrent to one another in the planning process. The idea is that if you are going to identify a desired future condition, what do you want the forest to look like in the future? What kinds of services do you want it to provide? What kind of benefits will it provide to the public? The environmental management system has to be in place in order for you to have the management discipline to determine whether you are getting there, whether the forest is, in fact, moving toward that desired condition, and whether it, in fact, is providing those services that you want to provide to the public.

And so the environmental management system is just that, it is a management system that helps you measure over time, and forces you to check over and over again whether you are getting there along the way, and then disclose that to the public.

The CHAIRMAN. And finally, I understand that this plan is already in litigation, correct?

Mr. NORBURY. That is correct.

The CHAIRMAN. What is the impact if a Federal court were to enjoin the use of the 2004 rule?

Mr. NORBURY. Well, as a legal matter, our position is that the only rule that exists at this point is the 2004 rule. A court would have to take an extraordinary step in reinstating another rule that no longer exists in the Code of Federal Regulations. So short of that, if the 2004 rule were somehow enjoined from being implemented, then we would be back to the statute and we would be implementing the National Forest Management Act as the only authority that we could apply to forest planning and forest management.

The CHAIRMAN. All right. Well, thank you, gentlemen. I appreciate your contribution today. I will reiterate my concern that I expressed at the outset, that the monitoring requirements of this new planning process are going to go a long way towards eliminating some of the benefits of the streamlining that you have done, and

that it is my hope that you will monitor the monitoring requirements pretty closely, and help us to find ways to do that as efficiently as possible.

We certainly want to keep track of what is going on in our forests, but when I see that the cost is going to be just as great to do this as it was under the old system, then I wonder whether we are really making progress in terms of being able to make decisions in a timely manner that are so critical to managing our forests when they are faced with changes that are ongoing or a fire or a disease or insect infestation has taken place. And right now we are simply not able to respond quickly enough to take a new course of direction. I am not convinced at this point that this is going to be more effective. But keep us posted. Thank you very much.

We would now like to invite our second panel to the table, Dr. Donald Floyd. Dr. Floyd is the professor of Forest and Natural Resource Management with the College of Environmental Science and Forestry of the State of New York, of the State University of New York, Syracuse, New York. He is here on behalf of the Society of American Foresters; Mr. Daniel Dessecker, senior wildlife biologist with the Ruffed Grouse Society of Rice Lake, Wisconsin; and Dr. Perry Brown, dean of the College of Forestry and Conservation, and the Director of the Montana Forest and Conservation Experiment Station with the University of Montana of Missoula, Montana.

Gentlemen, we welcome all three of you. We will take note of the fact that your entire statement will be made a part of the record, and we would ask that you limit your remarks to 5 minutes. So I will notify the members that sometime in the next 10 to 25 minutes, we are expected a series of votes on the floor, so we will hopefully get at least all three of your statements on the record before then, and then we will come back and ask some questions after that. So, Dr. Floyd, welcome.

**STATEMENT OF DONALD W. FLOYD, PROFESSOR OF FOREST AND NATURAL RESOURCE MANAGEMENT, COLLEGE OF ENVIRONMENTAL SCIENCE AND FORESTRY, STATE UNIVERSITY OF NEW YORK, SYRACUSE, NY, ON BEHALF OF THE SOCIETY OF AMERICAN FORESTERS**

Mr. FLOYD. Thank you. First let me explain that it is a privilege to appear before the committee. I am sorry. Here we go. I think this oversight and this hearing is particular important, and especially we appreciate the committee's interest in the Nation's forests because of the broad responsibilities that this committee has. And so taking your time to focus on forestry issues, we certainly welcome that. We also welcome your continuing support for bipartisan approaches to achieving sustainable forest management on both our public and private forest lands, and I think this committee has done a particular good job of approaching these issues in that way.

We believe the planning rule offers several important improvements to the national forest planning process. We applaud the Forest Service for furthering sustainability as a goal for the national forests. The focus on forest sustainability aligns the national forest system with national and global initiatives, and begins the process

of establishing an easily understood framework for measuring our progress.

We think that the categorical exemption for new forest plans will significantly improve the planning process as they have supported moving away from the strictures of NEPA's decisionmaking framework in the planning process since the late 1990's. We believe the administration and the Forest Service should be congratulated for their willingness to adopt an environmental management system. The ISO standard offers a significant improvement for continuous feedback to evaluate the success of forest management. The ESF program will offer many implementation challenges, and I think you have already highlighted that.

Large organizations in the private sector spend millions of dollars on environmental management systems. And one of the things that I would like to suggest is that we look at large organizations. The Forest Service has a budget of more than a billion dollars and 35,000 employees. If you were to look at other organizations of comparable size, and look at what they are spending on their Environmental management system, that might give us a comparable, something to compare, in terms of what we might expect this thing is going to look like. The administration, the agency, and the oversight and appropriation committees will need to be mindful of the scope of the commitment.

We think the new rule offers some potential for clarifying the environmental and program monitoring. SAF believes that monitoring has been one of the weaknesses of many national forests' planning processes. While we have a much better hand on ecological monitoring, social and economic data have been challenging for many forests, and the Forest Service has found this out through their own attempt to use the criteria and indicator process on a forest-by-forest basis in what they call their lucid analysis.

Effective monitoring requires a significant commitment of resources. There is always a budgetary tension between doing projects and analyzing the effectiveness of our management. And we think that one of the benefits of implementing the EMS process is closing the gap between these two different goals.

The species diversity requirements of past rules have been difficult to implement and we believe the focus on ecosystem diversity is a step in the direction. I am little concerned about delegation of decisions on species, and concerning species of interest, to the regional offices, because I think there have been some cases where those kinds of decisions have been subject to political pressure. And I trust the regional foresters to do the right things, but I think there is the potential for a little bit of a rub there.

While the planning rule has the potential to improve the process, it is still important to reiterate that we cannot resolve some of the fundamental issues that confront the national forests through better planning. And I think this is one of the things that you were trying to get to earlier, in terms of appeals and litigation. Changing the planning rule is not going to resolve the appeals and litigation problem. It may help it incrementally, but we are not going to resolve that unless we have some more fundamental reform of what we are doing in terms of national forest management.

Environmental and industry groups seek very different policies, and the initiatives of each new administration emphasizes different underlying values and approaches. Lacking a clear consensus from the users, some House and Senate members wage policy through appropriations. Like Odysseus, agency leaders navigate between Scylla and Charybdis. But unlike our Greek hero, their fate is more likely a trip to Federal court than an eventual homecoming.

In 1960, when the multiple use and sustained yield passed, the population of the United States was about 178 million. Today it is nearly 300 million. Those are of the national forest system has not changed much in those intervening 45 years. More people want more things from their national forests, and over the decades Congress and the Forest Service have effectively agreed to give it to them. The assumption is that Americans can have wilderness, biodiversity, and economic opportunity by relying on increasingly sophisticated and complex planning processes to allocate those uses. But from the perspective of economics, we are reaching the point of diminishing returns from our planning.

Successful public forest management requires striking a balance between legislative prescription and agency discretion. In a more perfect world, the legislature, like a board of directors, would communicate a clear set of priorities to the agency managers. If the first priority is conserving biodiversity or ensuring clean water or making boards, it is up to Congress to say so. Although most would agree with the intent of each current directive that we have now, the aggregate effect suggests that the agencies are supposed to everything everywhere at the same time.

The SAF believes that we must eventually be more explicit about the meaning of multiple use. Healthy and resilient public lands require healthy and resilient political and civic institutions that focus on the long-term public interest. Our current set of public land policy problems won't be resolved until bipartisan consensus outweighs partisan interests. That is most likely to occur as resource-dependent communities that have the most to gain or the most to lose in the current debate get the attention of influential legislators. If ever there were a time for thoughtful, bipartisan voices on public forestry to seize the day it is now. We believe that this committee offers a venue for those discussions, and we look forward to working with you on oversight of the planning regulations and a host of other issues in the years to come. Thanks.

[The prepared statement of Mr. Floyd appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Dr. Floyd. Mr. Dessecker, welcome.

**STATEMENT OF DANIEL R. DESSECKER, SENIOR WILDLIFE  
BIOLOGIST, RUFFED GROUSE SOCIETY, RICE LAKE, WI**

Mr. DESSECKER. Thank you, Mr. Chairman. I appreciate the opportunity to testify before the committee this afternoon.

The Forest Service planning regulations released in December 2004 will unquestionably help to return common sense to the management of our national forests, while at the same time reinforcing the role of science in that management.

For the past 20 years, the Forest Service and the public have been saddled with a lengthy and an overly complex planning proc-

ess. As has been referenced, plans and plan revisions take 8 to 10 years to complete for documents destined to have a lifespan of only 10 to 15 years. As Mr. Norbury referenced, the length of the process disengages the public. The general public simply is not going to spend years and years and years with no light apparent at the end of the tunnel. That is what experience has shown us. The complexity of the eventual planned documents themselves has led to what Chief Bosworth has called "analysis paralysis", that being the inability to move beyond the planning and produce results on the ground.

In summary, the 1982 regulations were all but unworkable. And one specific clause within the 1982 regulations probably bears more of the blame for that untenable situation than any other, and that is the viability clause, the clause that requires each national forest to maintain viable populations of native and desired non-native invertebrate species. This single clause held the Forest Service to a more stringent standard than that imposed on any other Federal agency. This single clause held the Forest Service to a more stringent standard than even the Endangered Species Act. In some instances, the viability clause was simple impossible to implement, placing the Forest Service in an impossible situation.

The 2000 regulations did, indeed, address part of the problem with the viability regulation by recognizing that some species are inherently low-density on some forests, and that the agency should not be charged with arbitrarily increasing those population densities. But the 2000 regs compounded the problem by extending the viability requirement to all species; fungi, bacteria, fish, mammals; again, placing a burden that was virtually impossible for the agency to meet. As Jack Ward Thomas, the former chief of the Forest Service, stated, "There is not enough gold in Fort Knox to survey and monitor all species all of the time."

With regard to the conservation of wildlife, the new regulations released in December 2004 will return to the explicit mandate outlined in the National Forest Management Act, and that mandate being conservation of communities. The wildlife community-based approach is precisely the approach promoted by 22 of the Nation's leading wildlife conservation organizations during the public input process; and that letter is attached to my testimony.

The 2004 regs do, however, go beyond that to a species-specific level where warranted, such as the conservation of threatened or endangered species, species identified as species of concern or species of interest; species of concern being those that may, at some point in time in the near future, be listed; species of interest that are of interest because of their ecological or social importance.

And the Forest Service is to be commended because, for the identification of these species of concern and species of interest, they have established a process whereby they are using independent third-party prioritization processes, processes that have already been completed. The Forest Service does not need to reinvent the wheel to identify what species is imperiled on what landscape; processes such as those developed by the U.S. Fish and Wildlife Service, State resource agencies, and Nature Conservancy and others. These third-party processes will not only help the Forest Service from a timing standpoint, but I think it is fair to suggest that

they will to some degree help the Forest Service gain back a portion of the credibility that it has lost in the past several decades.

In summary, it is the mission of the Forest Service to protect the land and serve the people, and frankly, the 1982 regulations severely compromise the ability of the agency to do either. The new regulations place an emphasis on resource management accomplishments, on-the-ground conservation, not on the production of paperwork, and that in itself is a huge step forward. Thank you.

[The prepared statement of Mr. Dessecker appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you very much. Dr. Brown, welcome.

**STATEMENT OF PERRY J. BROWN, DEAN, COLLEGE OF FORESTRY AND CONSERVATION, AND DIRECTOR, MONTANA FOREST AND CONSERVATION EXPERIMENT STATION, UNIVERSITY OF MONTANA, MISSOULA, MT**

Mr. BROWN. Thank you, Mr. Chairman. It is a pleasure to be here this afternoon.

Just at the outset let me say there is no way that I would defend the 1982 rule nor the 2000 proposed rule. I think that it was high time that we moved to something new, that we begin to change where we have been. You have heard from other people on this panel, and on the previous panel, about some of the problems in the past. It is really time to change. I mean, a lot has happened in the world in the last 25 years. We have learned a lot; we have got new knowledge bases; we have got new technologies; we have got current perspectives on natural resources that come from the American people that I think are different than they were back in 1979 and 1982; and so it was high time to make a change.

I would also say that it is very likely that some of my concerns with the current rule, this new planning rule, have to do with the way that rule was written as opposed to or in contrast to the vision that we have heard from the deputy under secretary and from Mr. Norbury today. Because I think that there are things in the way that it is written that leaves some ambiguities or lead you in particular directions that may be a little bit different than what their vision is because, I think, their vision, from what I understand, is pretty much on target about where we need to go. There are laudable objectives that have been provided for the new rule, and I sincerely hope that the rule and the implementation of it are going to meet those objectives.

It is going to take a lot of work, however, to really make it happen, because if you have already heard, there is a lot that we don't know, and there are new processes and new things that need to unfold, and we are not sure how to make all those happen. So let me just highlight just a few concerns that, if they are seriously addressed as they unfold the new rule and put into place, will probably make it work, or might make it work, and we will have a good chance to have something that is going to go.

One of the concerns I have is that there could be a view that this is, in some sense, the non-planning rule rather than the planning rule. And I say that simply because planning deals with defining the desired future and specifying how one proposes to move from the present toward that desired future. Planning is about making

decisions. Planning is a form of decisionmaking. And the new rule, at least the way things are written, tends to shy away from that principle and put decisions in another category. The new rule deals with strategy and aspirations, and ostensibly it does so because of the social, economic, and environmental conditions are dynamic. There is not a question that they are dynamic. But planning has long dealt with dynamic systems and adaptive management. And so if we can really address that and make that clear, then we are going to be on the right path, I think, here. Selecting strategies and aspirations are decisions about direction, especially to guide subsequent project planning. And so if they don't provide this guidance, and are not decisions to be followed, then they probably don't need to be stated. But if, in fact, we all really are in the process of making decisions here, then they will be stated and they should be stated.

Rule statements about collaboration and public participation are another area where I find a bit of concern, and I think, primarily, my concern is that we talk a lot about public participation and points we can get to, but use the word collaboration, which I think is a very different kind of process. And I am not sure we fully captured that at this particular time.

There are some tools and concepts to be developed that are going to take a long time to develop, I think, and certainly the EMS Program, which has been tested at a large scale, as large as scale as they are proposing, is one that is going to take awhile to unfold. There is certainly questions about NEPA that come up, but I think the lawyers are going to deal with that and I am not going to address those.

And then there is the question of how much publics are going to be able to participate in this large volume of directives that are in various kinds of documents and stuff that they are going to have to get into to understand what is happening. So there are questions about that. But if they are really addressed, we can move forward and it will be good.

So just a few things that we ought to be concerned about or deal with in implementing this new planning rule. One is we need to develop real clear processes, building on the past and on the transactive and collaborative processes that are well-described in the planning literature. We need to develop processes that make clear demarcation between forest plans and project plans that don't drive everything to the project plan level, I think, because a lot of the planners in the field are very fearful that they are really going to get saddled with something on many of these projects.

We need to acknowledge that strategic plans and plans of aspirations are decisions about directions and eventual outcomes. And as people have talked about, we do need to make it explicit that monitoring and evaluation are integral to performing this assessment, plan revision, and fundamentally, to national policy as articulated in NEPA. So there are a number of things that if they are addressed, this going to be an advancement and we are going to move forward. And I think the Forest Service is working on trying to address some of these issues. I just wanted to bring them right to the fore, and if there are questions about them, then we can deal with those. So thank you very much for the time.

[The prepared statement of Mr. Brown appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Dr. Brown.

Dr. Floyd, do you think the new rule adopts an appropriate and meaningful approach to NEPA compliance?

Mr. FLOYD. I do, and I will tell you why, and Fred said this earlier, is that I think a lot of people misunderstand the role of NEPA and how you get to a categorical exclusion. But I don't see any reason to believe that we wouldn't have meaningful analysis in the planning process, it is just that by going to the categorical exclusion, we are not bound by the NEPA processes in terms of how those decisions are shaped. So I have a great deal of faith that the Forest Service is going to continue to do an excellent job, especially on their environmental analyses. I indicated earlier that I think it is a little more challenging in some of the forests in terms of the economic and social data that are required. But yes, I have a great deal of faith in that.

The CHAIRMAN. What safeguards to you believe are in place in ensure an environmental review takes place?

Mr. FLOYD. Again, I think you have to go back to NEPA. I think there are going to be, well, there are a lot of different safeguards that are going to be in place. As long as the rule is in place, the NEPA processes of getting to the categorical exclusion ensure that there are going to have to be appropriate analyses. Given the level of scrutiny that we have from all of the interest groups that are involved, I don't think there is a chance in a thousand that the environmental community and the forest industry won't be looking over the shoulder of the agency as they go through this process. So I think that the pressure from the interest groups is going to keep them honest.

The CHAIRMAN. Thank you.

Mr. Dessecker, you suggested that the 2000 planning rule, and I am quoting you now, "imposed survey and monitoring requirements that no agency could meet, even with unlimited resources." I am quite concerned that the new rules may lead us to the same place, with three levels of monitoring required for the plan, plus the EMS requirements. What makes you confident that the new rule's monitoring and evaluation process will work better than either the 1982 rule or the proposed 2000?

Mr. DESSECKER. I think, cautiously confident. The 1982 and 2000 regulations basically put everything on the front end. It mandated that the agency dot every "i" and cross every "t", and it mandated that the agency make decisions, frankly, that we probably shouldn't have been making because we just didn't have the information.

The 2004 regs, on the other hand, hearken back to what Aldo Leopold cautioned us about in terms of recognizing that wildlife management is both an art and a science. There is science there, but there is also a bit of art. And it is important that we recognize that placing the emphasis on monitoring actions generates data and generates conclusions, and that is part and parcel with the 2004 regs. The 1982 and 2000 regs placed the emphasis on making assumptions during the planning process; guesses, if you will, best guesses.

But if we are going to spend the same dollar, ecologically it is no contest. We should be spending that dollar on the tail end to monitor what is going on on the ground and incorporate the answers to those questions in the future decisions, and that might enable us to recognize cost benefits at a later date, if indeed those decisions are more defensible.

The CHAIRMAN. Thank you. I am going to recognize the gentleman from California, Mr. Costa, since we are coming up for votes. I will give him the opportunity to ask questions.

Mr. COSTA. Thank you very much, Mr. Chairman.

I would like to reserve the opportunity to ask a question, and I think it is probably more appropriate to panel I. And I will submit the question to the committee, as it relates to the new rule and the forest management plans, specifically as they relate to the Sierra. It has been in various reiterations in the last 4 or 5 years, and I would like to know, currently, how the new rule would apply as it relates to the efforts to try to finalize the plan as it relates to the Sierra Nevada. So I will submit that in the form of a written question, and you will find out who can appropriately answer the question within your department. Thank you.

The CHAIRMAN. I thank the gentleman. The gentleman from Michigan, Mr. Schwarz.

Mr. SCHWARZ. Dr. Brown, I am a half-resident of the State of Montana, as well as I have a home and property just 95 miles north of Missoula, and married into a family many years ago who are very deep Montanans, all of whom are graduates of the University of Montana, both the undergraduate school and unfortunately the law school, as I am a physician, but what the heck.

What difference would this rule make in the way, as an example, the Flathead National Forest or the Kootenai National Forest, were handled in the years 1982 to, say, 2000, 2001, 2002, and would this rule make any difference in what has happened in the last 4 or 5 years? Actually, the last 2 or 3 years in those forests, where there have been conflagrations, some of which gave me great concern about my home and the homes of friends in that area. Is this a step forward and would it make any difference to those national forests that essentially are on the south and the west sides of Glacier National Park?

Mr. BROWN. Sure. I am happy that you have a part-time home, anyway, in Montana. That is wonderful that you are able to be there.

Mr. SCHWARZ. Well, Congressman Rehberg and I now say that Montana doesn't have just one, they have one and a half Members of Congress.

Mr. BROWN. And you are the other half. That is great. That is wonderful.

I do think the move of this rule will help with a number of things on the Flathead, the Kootenai or any other forest. One of those things that will help, as you have already heard, and I buy into this argument, that the time for planning will be shortened, and I think that is useful because then we can get on and think about the projects that need to be implemented to actually reach this vision of what the forest would be like that Mr. Norbury talked about a few minutes ago. So I think there is that advantage.

With regard to fires and conflagration, there is a whole other process that is involved in terms of restoration of forest. Now, the planning gets into the because, I think, with this rule, the idea is to put together the desired future condition of what this forest will be like and design the programs to lead toward that forest. And if we have a clear idea of where we want to be, we ought to be able to put together the programs that will get to that particular point, and then hopefully reduce the, at least, catastrophic fire damage.

Now, in the kinds of forests that we have, we don't want to eliminate fire. I mean, that has been a past problem that we have had. We want, in fact, to be able to use fire as a tool and to have nature use it as a tool, but in a way that does not devastate everything and threaten the communities that we have. And I think this rule could lead us along a path that would make it quicker and easier to get those projects done. So I think there is some benefit here.

Mr. SCHWARZ. Thank you.

The CHAIRMAN. The gentleman from Texas, Mr. Conaway.

Mr. CONAWAY. I just had one quick one of Dr. Floyd. You mentioned that decisions on endangered species acts are at the regional level and that troubles you, or they should be at the regional level and it does not? Could you expand on that?

Mr. FLOYD. I think the issue is that species that are listed I don't think are going to be an issue. And actually I might refer to my colleague here a little more on the wildlife issue. But species of interest and species of concern were to particular designations. The guidance for which species are actually going to be listed, as I read the rule, are supposed to be handled in the regional office. The regional office is supposed to develop guidelines for those.

Now, if there is, as you suggested, a third-party review of that, I don't think that is going to be an issue. But what concerns me is that sometimes what happens at the regional offices is that we get a little bit of political pressure from local representatives and other folks about which species ought to be listed and which species should not be listed because of the economic impacts that are associated with those kinds of decisions.

Mr. CONAWAY. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. I thank the gentleman.

We have votes pending on the floor, and I think we have a few more questions that I would like to ask. But rather than hold you over, because this is a long series of votes, we will submit those to you in writing. And then thank you very much for your participation today. This has been very valuable to me. As I expressed earlier, I am concerned about the cost of these monitoring requirements and how useful the information is going to be. Certainly some of it will be definitely useful. And with regard to the other changes, I think those are positive. But we will stay in touch with you, and if you could answer these questions that we have in writing, we would make those a part of the record of the committee.

Mr. DESSECKER. Thanks.

The CHAIRMAN. As indicated earlier, all statements will be made a part of the record. And without objection, the record of today's hearing will remain open for 10 days to receive additional material and supplementary written responses from witnesses to any question posed by a member of the panel. This is hearing of the House

Committee on Agriculture is adjourned. Maybe not. The gentlewoman from South Dakota.

Ms. HERSETH. Mr. Chairman, I apologize for being late, and I apologize to our witnesses today. I do have a statement for the record, however, for my colleague, Mr. Udall from New Mexico. If I could also have that submitted for the record prior adjournment of the hearing, I would appreciate it.

[The prepared statement of Mr. Udall appears at the conclusion of the hearing.]

The CHAIRMAN. Without objection, so ordered.

Ms. HERSETH. Thank you.

[Whereupon, at 3:48 p.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]

CLOSING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS  
FROM THE COMMONWEALTH OF VIRGINIA

I think there is a broad consensus that previous attempts at national forest planning have been a failure. Plan development and revision has, up till now, taken too long and cost far too much, with little benefit in terms of either meaningful plans or production of goods and services.

Clearly, the new planning rule takes some important steps to remedy the key issues that had dogged the process in the past. They have responded to clear guidance from the courts that forest plans are not subject to certain NEPA documentation requirements, and they have adopted more realistic approach to managing and conserving wildlife.

But I remain concerned that the Forest Service might have embarked on yet another odyssey with an unknown destination. As they develop monitoring and EMS for each unit of the National Forest System it is my hope that they will choose simplicity and accountability over complexity and jargon whenever possible. If they do not, I fear that the agency will sink further into the "analysis paralysis" that Chief Bosworth has observed.

The multiple use mandate for the Forest Service remains in effect, and I hope agency officials do the best they can to sustain a commitment to that mandate throughout the planning process. Ecosystem management may be the means to achieve it, but we in Congress need to consider whether, given the checkered history of court interpretation, the overall responsibilities of the Forest Service need further clarification through legislation.

I also hope the agency uses the planning process to cooperate closely with State and local governments, both to develop new forest plans and to test new and innovative ways of receiving and filtering public involvement. Federal land managers should be graded not just on how well they meet national goals, but on whether they are viewed as good neighbors in the rural communities where they work. Working more closely with State and local governments will enable the agency to better understand local needs.

Last, in both plan development and project implementation, the agency must find ways of reducing costs. Support for the agency, both as a competent land manager and an overall net benefit for our country, could well dissipate if the agency does not find a way of doing its business more efficiently. Some programs remain very expensive in spite of greatly reduced outputs. Agency managers need to think about how to reduce these costs and get more money into managing the forests rather than managing paperwork and process.

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PREPARED STATEMENT OF HON. TOM UDALL, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF NEW MEXICO

Thank you, Chairman Goodlatte, Ranking Member Peterson, and Congresswoman Herseht for giving me the opportunity to submit a statement for this important hearing.

I am deeply troubled by the proposed regulations to the National Forest Management Act published in the Federal Register in January 2005. I am concerned that these regulations eliminate requirements to conduct environmental analysis and obtain public input in developing Forest Management Plans. I am also worried that these regulations eliminated existing requirements for protecting wildlife. Further-

more, I am concerned that these regulations are a departure from a 20-year history of involving scientists in the forest planning process.

Fifty-four Members of Congress joined me in submitting a letter to Forest Service Chief Bosworth on March 7, 2005, voicing our concerns over the proposal to categorically exclude national forest management plans from National Environmental Policy Act (NEPA) requirements. While these other Members of Congress and I agree that the forest planning process could be more efficient, both the public involvement and environmental analysis requirements of NEPA are critical to providing balanced use of Federal forest lands. They must not be sacrificed in the name of streamlining.

I believe, therefore, that the Forest Service should withdraw its proposal and continue to utilize the important public input and environmental analysis tools of NEPA in forest management plans. I understand that if not withdrawn, the NEPA categorical exclusion portion of these new regulations will be finalized sometime this summer. I ask that all of us, as policy makers, take a serious look into the potential effects on public involvement and environmental review that would result from categorical exclusion of NEPA in forest management plans.

Second, Mr. Chairman, I am concerned about the lack of scientific input in the development of these regulations. Since 1976, the USDA has always convened a Committee of Scientists to provide direction for the planning regulations, whenever they are significantly modified. The January 2005 regulations do not reflect a strong role for scientists in the forest planning process no Committee of Scientists was convened to advise in the drafting of these regulations. Forest Service and Department of Agriculture staff alone, without the benefit of any outside scientific expertise, developed these regulations. Last, Mr. Chairman, I am troubled that these regulations eliminate the species viability requirement, which enabled the Forest Service to ensure viable populations of native fish and wildlife species in our national forests. Without the species viability provision, forest plans will no longer be required to balance wildlife needs with other forest issues.

Again, Mr. Chairman, I urge the Forest Service to withdraw the proposal to categorically exclude national forest management plans from NEPA requirements. I believe it is critical to retain NEPA safeguards to ensure proper public involvement and environmental review. Thank you for the opportunity to provide input on this critical issue.

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#### STATEMENT OF DAVID TENNY

Mr. Chairman and Members of the Committee, thank you for the opportunity to discuss the new Forest Service land and resource management planning process.

The new planning rule, released in January 2005, is forward looking; encouraging extensive public collaboration, considering the best available science and continuing the Forest Service commitment to sustainability while recognizing the certainty of change and limits on agency resources.

Forest Service planners, biologists, hydrologists, research scientists, and many others contributed to development of the new rule that is built on the experience of over 25 years of forest planning under the National Forest Management Act.

Public comments on the draft rule from those who use, play in, and value our public lands also greatly contributed to its final form. The public wanted a voice in planning, and more transparency and accountability from the Forest Service. The 2005 Planning Rule provides for effective public participation in the process from beginning to end.

Under the new planning rule, a forest plan would be a collaboratively developed strategic vision for a forest and, typically, would not authorize project level decisions. Plans would describe desired conditions and objectives for forests, and provide guidance on achieving and maintaining them. Land management plans would merely guide how we decide the how, where, and when future activities should occur.

The 2005 rule replaces three previous planning rules. Under the 1982 rule, extensive front-end analysis was required that asked managers to predict all issues and changes that might affect the forest or grassland over at least a decade. Experience has taught us that it is much more efficient to establish desired land conditions and give managers some flexibility, along with accountability, in working toward those conditions.

Forest managers and land management planners told us after the release of the 2000 rule that they thought that rule's processes were just too detailed and complex, and would extend the time spent in planning, taking scarce resources from monitoring of forest activities and plan adjustments.

The 2005 rule itself is streamlined and is focused on the overall goals of planning. The Forest Service is placing the procedural and technical details of planning, which are like the manual instructions for a car, in the Forest Service Directive System rather than in the planning rule as had been done in the past. Forest Service directives are the basis for the Forest Service's internal management of all programs and the primary source of administrative direction to Forest Service employees. As new information becomes available and as science changes, we can easily update the Directive System and continue to use the best information available.

The new planning rule will help the Forest Service continue to provide clean air, clean water, and abundant wildlife for future generations and will foster better public involvement. Under the new rule, plan revisions will be tailored to fit local environmental and community conditions. Plans will be more dynamic and will allow the Forest Service to better use new science to respond to rapidly changing conditions, like wildfire and invasive species.

#### KEY FEATURES OF THE NEW PLANNING RULE

Public collaboration and participation remain an important part of the new planning rule. The Department of Agriculture and the Forest Service continue to have a strong commitment to active and collaborative planning with the public. The new rule retains the key public involvement opportunities familiar to the public, and gives the public a more effective voice in the entire planning process from beginning to end.

It took between 5 and 7 or more years to complete a forest plan under the 1982 rule. For example, the Jefferson National Forest in Virginia began its plan revision process in 1993. This revision was just completed in 2004. The Forest tells me people were simply worn out by such a long process. It has been very difficult for the public to stay engaged for that long. Often, the only people who could keep involved were those paid to do so. The average person, no matter how interested and how much he or she valued our national forests and grasslands, simply couldn't attend meetings for years on end. The Forest managers also tell me that they believe the new rule will really help when they revise the George Washington National Forest plan. They anticipate they can complete the process on the George Washington start to finish in less than 3 years.

Under the new rule the public will help the Forest Supervisor identify forest and grassland desired conditions, and work with us in developing ways to achieve these desired conditions. The public will help us look at what areas are most suitable for certain uses and what guidance there should be for on-the-ground activities. Finally, the public will assist in designing plan monitoring and help implement Environmental Management Systems, which I will discuss shortly. The Forest Service expects plans to be developed, on average, over a 3-year period rather than the current average of 6 years.

There is an opportunity to use the new rule to increase participation by a more diverse number of people, including members of underserved and low-income populations. The Forest Service will continue to work to build or improve relationships and trust with Federal, State, and local Governments, American Indian tribes, Alaska Natives, private landowners, and interested individuals and organizations.

The role of sustainability in the new planning rule. The Forest Service continues its commitment to sustainability. Like the 2000 rule, the new rule characterizes sustainability as composed of interdependent social, economic, and ecological elements. Within the sustainability framework, the public has been most interested in how the new planning rule addresses the ecological element which equates to "diversity of plant and animal communities" under the National Forest Management Act.

In the 1970's and early 1980's, the Forest Service timber harvest program was over 10 billion board feet. It made sense at the time to analyze intensively the effects of timber harvest and other programs, and to develop plans that were more prescriptive in order to conserve species and other resources. We concentrated on prohibiting or constraining management activities, rather than on desired conditions, which we now believe are the appropriate focus of the plan.

Today, the agency is focused on outdoor recreation and ecological restoration. We are harvesting a little over 2 billion board feet nationally, and much of the vegetation treatment is for restoration of ecological conditions in fire adapted ecosystems. With the focus on restoration and recreation, our planning processes will emphasize developing desired conditions to guide sustainable management of our national forests and Grasslands.

The new rule is based on maintaining a diversity of plant and animal communities, beginning with an ecosystem approach. An ecosystem approach maintains and restores ecosystem conditions needed to conserve most species. This concept has

considerable support among scientists. In short, if the ecosystems are in good shape, most species are being conserved.

In those cases where the ecosystem approach does not adequately provide for federally listed threatened or endangered species, species-of-concern, and species-of-interest, the plan must include additional conservation measures for these species. We will continue to comply with the Endangered Species Act and provide for the conservation of Threatened and Endangered species. We have taken an increased focus on conserving species with rangewide concerns in order to help keep species from being listed. For example, on the George Washington National Forest, they will now be able to better focus on critical species like the Cerulean Warbler.

The new rule provides for monitoring the progress toward desired conditions and objectives and requires that the results be made available to the public. The monitoring and feedback process will facilitate adaptive management and help maintain and improve diversity.

A Forest Service goal for land management planning is to provide for diversity of plant and animal communities and using the best available science. The new rule has adopted scientific principles to consider larger landscapes in the planning processes so we can look at the context within which species operate and then we will look at individual species that may still be of concern. The new rule aligns our planning process with contemporary thinking about sustaining ecological systems and providing for the conservation needs of species.

The application of science in the new rule. The Forest Service has always used science in planning. The new rule requires documentation of how the best available science was considered in the planning process, evaluate and disclose substantial uncertainties in that science, disclose substantial risks associated with the plan, and document that the science was appropriately interpreted and applied. Although this direction was not included in the 1982 rule, these requirements reflect current agency practice.

The Forest Supervisor has several options to consider and integrate the best available science in our planning processes. We can use independent peer reviews, science advisory boards, or other appropriate means to evaluate the use of science in the planning process. The application of science will vary from plan to plan as appropriate and the new rule keeps the flexibility to make science work for us, in a common sense manner.

Under the new rule, plans can be updated quickly with new science or other new information. Often the science can be evaluated and applied right away, for example if the science suggests a better way to monitor this can be quickly changed and adapted.

Environmental Management System. An Environmental Management System will make our management more accountable, systematic and transparent. An Environmental Management System (EMS) seeks continual environmental improvement. Simply put, an EMS is a system to manage environmental impacts. It focuses on how to improve our everyday work to reduce impacts when we are interacting with the environment.

Why did the Forest Service include an EMS in the new planning rule? First we began with the existence of change and the need for adaptive management. Management actions over time lead to changes in resource conditions that require periodic review. These reviews can provide for continual improvements in management practices by learning from the outcomes of previous management actions. For example, fires and insect disease outbreaks can substantially change environmental conditions within short time periods. We also knew scientific findings can change our understanding of the environment and of the effects of specific activities. Such things as better monitoring techniques or ways to achieve objectives may arise. The public itself changes, as do its demands of the resources. A forest EMS will be specific to that unit's desired conditions and objectives, organizational structure, and the environmental impacts the forest believes are important.

Therefore, the Forest Service thought that land management plans must reflect the fact that change and uncertainty are inevitable and that the plans must allow for quick response to these ever changing conditions. The concept of adaptive management has wide support. The National Association of Professional Forestry Schools and Colleges and others commented on the proposed rule regarding the importance of using adaptive management when dealing with complex ecosystems. In 1999, the Committee of Scientists developed recommendations that strongly encouraged the use of adaptive management.

The Forest Service EMS is based on the International Organization for Standardization as ISO 14001: Environmental Management Systems—Specification With Guidance For Use (ISO 14001). The agency chose ISO 14001 as the vehicle for adaptive management for several reasons.

First, it is the most commonly used EMS model in the United States and around the world. This will make it easier to implement and understand (internally and externally) because there is a significant knowledge base about ISO 14001.

Second, the National Technology and Advancement Act of 1995 (NTAA) (Public Law 104-113) requires that Federal agencies use or adopt applicable national or international consensus standards wherever possible, in lieu of creating proprietary or unique standards.

Third, it has been a long-standing policy that Federal agencies implement the EMS to improve environmental performance (Executive Order 13148 issued April 21, 2000 (executive order I1113148), titled "Greening the Government Through Leadership in Environmental Management" and an April 1, 2002, Memorandum from the Chair of the Council on Environmental Quality and the Director of the Office of Management and Budget to the heads of all Federal agencies). Federal agencies that have been implementing the EMS in response to Executive Order 13148 have typically been using ISO 14001 as their model.

Real time planning and rapid response to change. The prime intent of changing the planning rule was to make planning more streamlined and effective. We did not change it just to make planning itself better, but rather to shift efforts to on the ground management. It's time to get our very talented resource professionals out of the office, and back to the woods to tackle our very real resource issues, to monitor our activities, and to adjust as needed.

What has changed most with the new rule is how quickly new information can be applied. In the past, applying science could be very difficult and time-consuming. For example, in the 1990's science indicated the Queen Charlotte's Goshawk on the Tongass National Forest was in decline and new plan guidance was needed. The plan guidance proposed was suggested by the science, was generally supported, and was not very controversial. Nevertheless, because of the cumbersome nature of the analysis process for planning, it took 7 years to amend the Tongass plan to include Goshawk guidance. This is not a very good use of taxpayer money, nor does it serve species conservation.

The new rule makes some fundamental changes in how the agency will conduct land management planning. Up until now, planning regulations required an environmental impact statement (EIS) for development of plans, significant amendments, and revisions. The new rule clarifies that plans will be strategic, rather than prescriptive in nature, and do not make resource commitments. Therefore, the Forest Service anticipates most plans may be categorically excluded from NEPA documentation.

A categorical exclusion (CE) is not an exemption from the requirements of NEPA. Rather, CEs are an essential part of NEPA that provide a categorical determination that certain actions do not result in significant impacts, eliminating the need for individual analyses and lengthier documentation for those actions. CEQ regulations direct agencies to use categorical exclusions to define categories of actions that do not individually or cumulatively have a significant effect on the human environment; and do not require the preparation of an environmental assessment or an environmental impact statement, thereby reducing excessive paperwork.

The Forest Service is evaluating public comments on its proposal to add a category for planning to its NEPA procedures. This category would add a new CE for plan development, amendment, and revision. Finalization of the proposal is expected later this year.

The new rule still requires that analysis during the development of plans, amendments and revisions be documented and that the public retain all the familiar planning involvement opportunities. The new rule also emphasizes monitoring, including a comprehensive review at least every 5 years to make sure unanticipated cumulative effects are not occurring and that the forest is moving toward desired conditions as anticipated. However, use of a CE, based on our more strategic plan structure, would vastly streamline the upfront planning time. This would allow resources to be shifted to monitoring and plan adjustment. Overall, planning would more effectively use public funds.

New planning processes will put money in the right place. The rule will provide an annual average cost savings of \$4.6 million when comparing to the 1982 rule, and an estimated annual average savings of \$36.9 million when comparing to the 2000 rule. However, these cost savings will not be realized fully until after land management plan revisions currently underway and completed either under the 1982 rule or by transition to the final rule. Increased costs associated with land management plan monitoring activities under the final will be incurred, but we anticipate this will likely be off-set by decreases in the cost of planning. Agency time and money will be used more effectively. This will enable the eventual shift of planning funds to activities which will keep the plans current.

The new rule will foster effective collaboration with the public, provide for use of the best available science, and improve results and accountability. Environmental Management Systems will help the Forest Service better manage for real environmental improvement. The Forest Service wants to work with the public to do good planning and management. This rule will help make that happen.

ANSWERS TO SUBMITTED QUESTIONS FROM CHAIRMAN GOODLATE

**Can you explain the legal reasoning behind your intention to categorically exclude most plan development from NEPA documentation requirements? Aren't forest plan decisions about how we want our forests to look?**

Yes, land management plans are strategic and aspirational in nature. They focus on desired conditions and objectives for National Forest System lands. They also include guidelines, suitability of areas, and special areas. These identifications will be designed to inform and guide projects and activities. This vision provides a starting point for project and activity NEPA analysis. It is only at the project and activity level that the Forest Service has the detailed information about what projects and activities will be proposed, how many projects will be approved, where they will be located, or how they will be designed. It is only at the project and activity level that on-the-ground effects can be meaningfully evaluated using NEPA documentation procedures.

Four rulings have provided a framework for Federal court consideration of jurisdiction to consider land management unit-wide challenges or to grant unit-wide injunctions.— The rulings consist of: (1) the Supreme Court's decision on "final agency action" and ripeness grounds in *Lujan*, 497 U.S. at 891–94, 899; (2) the Supreme Court's unanimous decision that challenges to a forest plan are not ripe in *Ohio Forestry Assn v. Sierra Club*, 523 U.S. 726 (1998); (3) the Ninth Circuit's decision that a challenge to the quality of forest-wide wildlife inventory data was not ripe and was not a "final agency action" with definite consequences in *Ecology Center v. U.S. Forest Service*, 192 F.3d 922 (9th Cir. 1999); and (4) the Fifth Circuit's en banc decision in *Sierra Club v. Peterson* that the "final agency action" concept prevents APA review of national forest-wide challenges and prevents forest-wide injunctions.

**I am concerned that the Categorical Exclusion for forest plans has not been finalized in spite of the fact that the comment period closed almost 3 months ago. I know forests are anxious to get started on revising their plans, but without the CE the process is likely to be no less cumbersome than it was under the old rules. Can you tell us when the CE will be finalized? Is the Agency still sorting through public comment or is it working out internal issues?**

We expect the CE to be finished the summer of 2005. We are compiling information for the administrative record. We are developing responses to approximately 55,000 comments.

**While I know that you cannot comment directly on ongoing litigation, what would be the impact if a Federal court were to enjoin the use of the 2004 rule? How would you imagine the agency would proceed and what would the impact on your operations be?**

The 2005 planning rule is the only regulation for the land management planning process, since the 1982 and 2000 versions of the planning rule are eliminated. If a court would enjoin the planning rule, we would carry out land management planning under the authority and direction of the statute (the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended). An enjoined 2005 planning rule would not affect existing approved plans, but it may affect plan revisions and plan amendments in development. There may be little effect on project and activity decisions.

**I understand that land management plan revisions would be conducted under the categorical exclusion provisions of the National Environmental Policy Act. Can you tell me what circumstances a plan revision would require development of an Environmental Impact Statement (EIS) or an EA?**

There is one extraordinary circumstance where further analysis documented in an EA or EIS would be required for a plan. That circumstance is when the land management plan revision includes a project or activity proposal with on-the-ground effects on resource conditions that can be meaningfully evaluated.

QUESTIONS SUBMITTED BY SUBCOMMITTEE CHAIRMAN MORAN

**In my district, in the southwestern part of Kansas we have the Cimarron National Grassland. When will that plan be revised?**

The final plan revision should be completed in late 2006. The draft is scheduled for public comment in late 2005.

**Is the Cimarron National Grassland one of the units of the National Forest System that will use the new planning procedures?**

Yes, the Forest Supervisor for the Pike and San Isabel National Forests, Cimarron and Comanche National Grasslands has elected to transition the previously-initiated Land and Resource Management Plan Revision so that it falls under the requirements of the 2005 Planning Rule (January 5, 2005, 70 Federal Register 1055).

Is the concept of desired future condition as well developed among range managers as it is among foresters? Do you have much experience managing grasslands and working with grazing permittees to achieve it?

The principle of desired future condition (DFC) has been developed for vegetation management across the Forest Service. For rangelands, due to their greater complexity as an ecosystem, it is much more difficult to fully define DFC. However, the principles are well known and practiced. The principles of ecology/ disturbance ecology centered around herbivory (grazing), browsing, and fire form the foundation of developing ecologically based desired conditions based on applied research by range scientists. A diversity of grassland structural stages can be provided over time in a shifting mosaic to sustain grazing and plant and animal diversity.

We have been practicing these principles on grasslands since we began managing them in the 1960's, however, we know more now, because rangeland vegetation science has evolved considerably over time. We work very closely with our permittees to achieve proper management that will gain our desired outcomes on the land.

**Are you working with the grazing permittees to achieve a consistent and sustainable flow of AUMs?**

The Forest Service works very closely with the grazing permittees in planning for the use of National Forest System (NFS) lands over the long term, through the allotment management plans, and in the short term, with the annual operating plans for grazing use. We work with them throughout the grazing season to make sure that the grazing meets the standards of use, and change that use needed. When there are allotments that are vacant, we use them, as appropriate, to supplement grazing on other NFS lands.

During the most recent drought years, we worked very closely with our permittees to maintain grazing, albeit at reduced levels. We allowed the maximum flexibility, in use and numbers, to best meet the needs of the permittees while protecting the sustainability of the range resources.

For the most part, there will be a consistent number of AUMs of grazing on NFS lands as we approach or exceed the more normal rainfall levels in the west. We are already seeing increased use this year due to the sufficient level of rains in some parts of the west.

QUESTIONS SUBMITTED BY REPRESENTATIVE STEPHANIE HERSETH

**I support the new Federal forest planning regulations to the extent that they allow faster completion of new forest plans and revisions than the old regulations have while still allowing meaningful stakeholder input. This is not a high hurdle to clear. The Black Hills National Forest (BHNF) in South Dakota is currently in the 15th year of completing a 15-year forest plan revision. In those fifteen years, BHNF has operated under four different BHNF Forest Supervisors, four different region II regional foresters, and four different Forest Service Chiefs, to say nothing of the members of the "public" who started on the process that have retired, moved or died. If the FS is going to engage the public in the planning process, it simply has to be over a much shorter and more manageable planning horizon. How will these regulations ensure a faster process?**

The final rule allows the Responsible Official flexibility and discretion in deciding the form of collaboration, analysis, science support, ecosystem diversity evaluation, and species diversity evaluation needed to support the decision to be made in the development, revision, or amendment of plans. By focusing our analysis and public involvement on the strategic decisions to be made in a specific plan, substantial ad-

ditional time savings should occur. The final rule requires a comprehensive evaluation report and a set of documents, rather than an environmental impact statement to document our analysis. We expect that savings in time are likely to result because the final rule focuses our analysis on strategic decisions and increases our flexibility in analysis and documentation.

**The elimination of the “Viability Rule” has been controversial. How will the new rule ensure adequate and diverse species habitat within National Forests? How will the new rule treat species that exist in national forests but have never been naturally abundant or common?**

The final rule adopts a two-level approach to sustaining ecological systems: ecosystem diversity and species diversity. The final rule clarifies the two-level approach; leaving the specific detailed procedures for inclusion in the Forest Service directives.

Under the two-level approach, the more effective the ecosystem diversity provisions are in sustaining species within the ecosystem (first level), the less need there is for species-specific analysis (second level). The principle of range of variability of ecosystem conditions that historically existed will provide valuable information to design desired ecosystem conditions to represent a diverse array of habitats within the planning area. However, if after evaluation of the ecosystem diversity framework the responsible official determines that “species that exist in national forests but have never been naturally abundant or common” needs additional plan components, the Responsible Official would add additional provisions.

In the planning rule, the Agency selected federally listed threatened and endangered species, species-of-concern, and species-of-interest for evaluation and conservation because: (1) these species are not secure within their range (threatened, endangered, or species-of-concern), or (2) management actions may be necessary or desirable to achieve ecological or other multiple use objectives (species-of-interest). The agency continues to be committed to species conservation and will fully comply with the Endangered Species Act (ESA) contributing to the conservation of threatened and endangered species. Furthermore, a key principle of the new rule and directives is to manage National Forest System lands such that listing species under the ESA is not necessary. Therefore the agency objective is to also contribute to providing habitats to support populations of species-of-concern that may be under consideration for listing under ESA.

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#### STATEMENT OF DANIEL R. DESSECKER

Mr. Chairman:

Regulations guiding National Forest system Land Management Planning released on December 22, 2004, outline substantive improvements to the land management planning process. These improvements will allow the US Forest Service to spend more time protecting wildlife and other natural resources, and less time producing paperwork.

The new planning regulations outline a fundamental change for the Forest Service, from an emphasis on process to an emphasis on outcomes. Under the 1982 planning regulations, the Forest Service engaged in lengthy planning processes leading to the development of documents measured not in pages but in pounds. These documents attempted to predict with certainty the results of future management activities, in essence, to dot every “i” and cross every “t”. Due to changing science, policies and budgets, these predictions were seldom realized.

Under the new planning regulations, the Forest Service is charged with placing less emphasis on crafting detailed plans and more emphasis on the delineation of desired social, economic, and ecological conditions for the planning unit in question. The agency is then to monitor progress toward these conditions resulting from management activities. Where progress is deemed insufficient, the Forest Service will modify activities to increase the likelihood of attaining the desired conditions. The success of this adaptive management approach will depend in part on the ability of Congress to provide sufficient funds to support the necessary resource monitoring programs. Likewise, success will depend in part on the ability of the Forest Service to demonstrate measurable progress toward desired conditions outlined in forest plans.

Perhaps the single most important improvement outlined in the new regulations is a return to the clear direction of the National Forest Management Act (NFMA) regarding the conservation of plants and animals. NFMA explicitly directs the Forest Service to “...provide for diversity of plant and animal communities”, yet the 1982 planning regulations went well beyond the statutorily mandated community-

based approach and instead invoked species-level requirements—the species viability clause. The new regulations remove reference to species viability and establish a hierarchical approach using ecosystem diversity as a coarse filter and species diversity for those species where ecosystem-level assessments may be inadequate to ensure appropriate safeguards. This ecosystem- or community-based approach is consistent with the model proposed by 21 of the nations leading wildlife conservation organizations during the public comment period (4 February 2003 letter attached).

The viability clause from the 1982 regulations placed the Forest Service in the untenable position of being required to sustain viable populations of all “native and desired non-native vertebrate species...” on each national forest where a species exists, even if on the extreme edge of the geographic range of that species. This artificial spatial consideration imposed a requirement even more stringent than that outlined in the Endangered Species Act, a requirement that was, in some instances, impossible to meet “bad science, bad policy. The proposed regulations released in November, 2000, modified the viability requirement and, in fact, provided some of the same guidance found in the new regulations. Unfortunately, the 2000 regulations imposed survey and monitoring requirements that no agency could meet, even with unlimited financial resources.

Experience has demonstrated that meeting the requirements imposed by the viability clause dramatically increases the time and cost of forest planning processes. As an example, the recent revision of the Forest Plan for the Chequamegon-Nicolet National Forest in Wisconsin took 7 years to complete—this for a Plan designed to be operational for 10–15 years. The Forest conducted viability assessments on approximately 120 species, a process that lasted 3 years.

The tremendous workload and cost of forest planning take scarce personnel and financial resources away from needed, on-the-ground conservation activities. On the George Washington-Jefferson National Forest in Virginia, critically important young forest habitats account for only 1.8 percent of the forest landscape, a level well below that called for in the Forest Plan. A part of the reason for this failure to attain clearly stated Plan objectives is the time and money spent on producing planning documents.

A 1996 Government Accounting Office report found that under the 1982 regulations, the Forest Service spent more than \$250 Million each year preparing 20,000 environmental documents. According to the Forest Service, approximately 50 cents of every fire reduction dollar goes toward process and analysis, rather than on-the-ground fire fighting.

Improvements outlined in the new planning regulations that guide wildlife conservation will enable the Forest Service to better address the conservation needs of both common and imperiled wildlife, while providing the flexibility required to adapt to changes on the ground and in our understanding of the relevant science. The Forest Service is to be commended for adopting this visionary approach to resource management planning.

#### ATTACHMENT TO TESTIMONY

To: USDA FS Planning Rule  
Content Analysis Team  
P.O. Box 8359  
Missoula, MT 59807

4 February 2003

RE: USDA FS Planning Rule—Section 219.13 Sustainability

The undersigned organizations, representing over 1.4 million sportsmen, sportswomen, and other wildlife conservationists, have a vested interest in working with the U.S. Forest Service (USFS) to sustain game and nongame wildlife on national forest system lands. To best facilitate this important goal, we urge the USFS to adopt Option 2 for paragraph (b) of section 219.13—Sustainability, as modified below for the proposed rule released on 27 November 2002.

The first paragraph under section 219.13 (b) (2), and under the continuing paragraphs (i) and (ii) for Option 2 provides general planning intent to meet the diversity requirement of the National Forest Management Act (NFMA). To ensure that the planning rule is consistent with the intent of NFMA, proposed direction regarding species diversity should be deleted and the agency should instead be required to provide for diversity of plant and animal communities necessary to meet the multiple-use objectives of the planning area. The amended requirement we propose is both ecologically and economically feasible and is, therefore, a significant improvement over existing regulatory guidance vis-a-vis species viability.

The analysis process requirements in the first paragraph under section 219.13 (b) and those in paragraph (b) (1) should be removed from the planning rule and placed in the agency handbook. The codification of process requirements in a regulatory document is inappropriate as currently accepted processes can be rejected as new information becomes available; this is a basic operating tenet of adaptive management. Eventual handbook direction regarding diversity should clarify that promoting overall multiple-use objectives is the purpose of land management planning and that diversity is one component thereof.

We recommend that language be incorporated into section 219.13(b) (2) explicitly recognizing that the continued persistence of any species within the planning area can be affected by factors beyond the control of the agency. Therefore, rather than invoke an unattainable goal (continued persistence), the agency should instead implement actions to sustain the diversity of plant and animal communities in ways that recover and conserve species listed under the Endangered Species Act (ESA) and that would not likely lead to other species being proposed for listing under ESA.

In addition, actions or factors under the direct control of the agency should not cause a significant decline in the abundance or distribution of those plant and animal communities needed to attain the multiple-use objectives outlined in the Forest Plan. Further, the agency should work with the appropriate State resource agency to identify and to provide conditions to support plant and animal communities of ecological, economic, and social importance as specific multiple-use objectives.

We have limited our comments in this letter to the proposed language in section 219.13 - Sustainability. However, we may submit comments on additional components of the rule before the end of the 90-day comment period.

Thank you for the opportunity to comment. If you have any questions, please don't hesitate to contact Dan Dessecker (Ruffed Grouse Society: P.O. Box 2, Rice Lake, WI 54868; 715-234-8302, rgsdessa@chibardun.net), or Steve Mealey (Boone & Crockett Club: 541-896-3817, steve—mealey@bc.com).

Sincerely,

BOONE & CROCKETT CLUB  
 BOWHUNTING PRESERVATION ALLIANCE  
 BUCKMASTERS AMERICAN DEER FOUNDATION  
 CAMPFIRE CLUB OF AMERICA  
 CONGRESSIONAL SPORTSMEN'S FOUNDATION  
 CONSERVATION FORCE  
 FOUNDATION FOR NORTH AMERICAN WILD SHEEP  
 INTERNATIONAL ASSOCIATION OF FISH & WILDLIFE AGENCIES  
 INTERNATIONAL HUNTER EDUCATION ASSOCIATION  
 NATIONAL TRAPPERS ASSOCIATION  
 NATIONAL WILD TURKEY FEDERATION  
 PHEASANTS FOREVER  
 POPE AND YOUNG CLUB  
 QUAIL UNLIMITED  
 ROCKY MOUNTAIN ELK FOUNDATION  
 RUFFED GROUSE SOCIETY  
 SAFARI CLUB INTERNATIONAL  
 SHIKAR SAFARI CLUB INTERNATIONAL  
 US SPORTSMEN'S ALLIANCE  
 WILDLIFE FOREVER  
 WHITETAILS UNLIMITED

#### ANSWERS TO SUBMITTED QUESTIONS

**Dr. Brown mentions that in order to be successful in implementing the new EMS, agency culture will have to change. I agree. Do you think it is possible that part of the needed change in culture involves a transition from the old-style planning to a more dynamic process that actually comes to a conclusion?**

The successful implementation of the new EMS will require that the Forest Service move away from the all but endless cycle of planning and, instead, expend substantial effort monitoring the effects of on-the-ground activities and incorporate this new information into subsequent decisions—this is the very essence of an adaptive management process. This will indeed be a significant change in the way the Forest Service does business and it will require the agency, and Congress, to provide sufficient financial resources to implement the necessary monitoring, resources that should be able to be reprogrammed from planning processes.

**You mention that the Chequamegon-Nicolet National Forest plan took 7 years to complete, in large part because the agency spent 3 years conducting viability assessments on dozens of species. Is it your view that the plan that resulted will actually provide the optimal mix of habitats to sustain those species? Could professional foresters have just as easily arrived at such a plan using an ecosystem approach?**

The revised Forest Plan for the Chequamegon-Nicolet should provide habitats adequate to sustain viable populations of the over 100 species for which viability assessments were conducted. There is little question that Forest Service resource professionals could have solicited input from outside experts and crafted a plan likely to sustain viable populations of these species without going through the lengthy assessment process. The assessment process was conducted to ensure that the eventual plan would withstand any judicial challenge based on the viability clause of the 1982 planning regulations to bullet-proof the plan.

**Do you believe that the ecosystem approach to species conservation will lead to better decisions, given the large number of species either on the Threatened or Endangered Species lists or on forest by forest sensitive species lists? Won't we just wind up using the same approach?**

Full compliance with the Endangered Species Act will require that the Forest Service work to conserve all listed species. Under the new planning regulations, sensitive species lists are eliminated and replaced by "species of concern". For species of concern, the Forest Service is required to provide appropriate ecological conditions to contribute to supporting species of concern. This requirement is substantially less onerous than the viability requirement of the 1982 regulations and should enable the Forest Service to make both better, and timelier decisions.

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#### STATEMENT OF PERRY J. BROWN

Mr. Chairman and members of the committee, my name is Perry Brown. I am the Dean of the College of Forestry and Conservation and director of the Montana Forest and Conservation Experiment Station at The University of Montana, located in Missoula, Montana. We are a fairly comprehensive natural resources college and experiment station with programs in forest and range management, wildlife biology, outdoor recreation, wilderness studies, and conservation. In my 34-year career I have taught and researched topics of natural resource policy, land use planning, and outdoor recreation planning and management. As an academic working at Utah State University, Colorado State University, Oregon State University and The University of Montana I have worked very closely with both the USDA Forest Service and the USDI Bureau of Land Management.

#### NEED FOR A NEW FOREST PLANNING RULE

The basic forest planning rule developed to implement the National Forest Management Act dates from 1979, with slight amendments in 1982. Attempts have been made to modify the rule over the ensuing several years (early 1990's, 2000, and 2002). A final new rule, somewhat based on the draft promulgated in 2002, took effect on January 5, 2005.

Since the 1982 amendment of the 1979 rule, much experience has been gained and a lot has changed. Science has made advancements on many fronts, new technologies for analysis, planning and management have been developed, and changing perspectives among people about natural resource priorities have occurred. All of these provide important insight into the need to modify the rule to bring it to the current knowledge base, current technology base, and the current perspectives on natural resources of the American people.

In the context of the need to change the rule, one often hears lament about the number of court cases filed in response to failures of the previous forest planning rule, but such lament is far less important for changing the rule than science, technology, and perspectives. These various court cases speak less of a need to change the rule, than a need to follow it.

At the beginning of the 21st century, the time is ripe for updating the rule. The rule that has been promulgated is supposed to do the following:

This final rule describes the national forest system land management planning framework; establishes requirements for sustainability of social, economic, and ecological systems and developing and amending, revising, and monitoring land management plans; and clarifies that land management plans under this final rule, ab-

sent extraordinary circumstances, are strategic in nature and are one stage in an adaptive cycle of planning for management of national forest system lands. The intended effects of the final rule are to streamline and improve the planning process by making plans more adaptable to changes in social, economic, and environmental conditions; to strengthen the role of science in planning; to strengthen collaborative relationships with the public and other governmental entities; and to reaffirm the principle of sustainable management consistent with the Multiple-Use Sustained-Yield Act and other authorities. (Federal Register/Vol. 70, No. 3/January 5, 2005/p. 1023)

These are laudable objectives, and the new rule should strive to fulfill them.

#### WHAT ABOUT THE NEW RULE?

In my view, the new rule does not measure up to its aspirations. Why is this so?

One cynic might posit that the new rule is designed to sink the Forest Service, to be part of a plan to generate evidence that the Forest Service cannot work and thus to do away with the Forest Service. Another might posit that if one were to design a system to take the public out of forest planning, to avoid the hard work of effective planning, to avoid the courts so that experts make unchallenged decisions for us, and to do something that does not really matter, this is a great planning rule. These are a couple of the cynical positions. I have no idea how much truth is in either of them, but the new rule certainly could lead to cynicism given its vagueness, contradictions, and apparent flaunting of the American people's widespread interest in participatory democracy in the natural resources arena.

One question that comes to mind, is this really a planning rule or a non-planning rule? Planning deals with defining a desired future and specifying how one proposes to move from the present toward the desired. In land use planning we usually have dealt with issues of land allocation and appropriate use at a scale different from project planning, with projects nested within the strategic or allocation plan. At both scales, however, we are dealing with the intersection of demand and supply, with our desired future on the demand side and the available resources on the supply side of the equation. Given that the planning rule suggests that forest planning is strategic and aspirational (I'm not even sure this is a word), and that it deals with guidance and information, and not decisions, one must wonder if this really is an exercise in definition of desired futures (a necessary, but not sufficient part of planning) that really does not matter because no decisions are made.

The justification for the no decision rule seems to be that we cannot set a course because the social, economic, and environmental situations are dynamic. But, planning theory has made it clear that plans are not one time decisions, but rather dynamic decisions subject to modification due to change as one moves toward a desired future. For a long time, concepts of adaptive management have been recognized as part of planning. So, does the rule really deal with planning?

The notion of "to what we aspire" is fundamental to planning. But, "to what we aspire" is a decision about what we want and where we want to be in the future. Once we have indicated to what we aspire, the rule speaks to frameworks and guidelines to get us there. Once we adopt these, then are decisions made? The rule seems to suggest, no. But if the answer is no, then they really are not frameworks and guidelines in which projects are nested. What we have done is left the projects to the desires of the project developer.

The chatter in the rule about collaboration and public involvement seems to ignore that people care about both strategic (things to which we aspire and broad resource allocation) and tactical issues. They are unlikely to participate in something that does not lead to anything real (decisions). There are issues of allocation and policy that interest people and there are issues of project implementation that interest them. To leave all of the important and tough decisions to the project realm suggests a lack of interest in public engagement in allocation and policy issues. Once people discover that forest planning has little meaning, why will they participate?

The change in the statement about science from the 2002 draft to the 2004 final rule raises a question regarding whether or not sustainability is a serious goal of the rule. The change from "consistent with" the best available science to "take into account" on the surface seems like a minor word change. But, from a sustainability perspective it is huge. If the best available science suggests that certain actions are necessary to ensure perpetuity of something, but once having taken account of that scientific finding, and then dismissing it as being unimportant, have we not said that sustainability is unimportant? That is curious for a rule that purports to focus on sustainability as a guiding principle.

One must wonder if the Forest Service actually has the tools to do the job that is suggested by the new rule. This is a rule that is described as steering the Forest

Service in a direction 180 degrees from what it has been doing, and learning, over the past 25-plus years. A quick review of the prototype forest plans suggests to me that the Forest Service has a lot to develop to even do the planning sensibly. For example, the land use zone vs. recreation activity matrix used in these plans mixes land character and use classes on one axis and ignores a lot of what we know about recreation on the other. Add to this the laudable, but totally untried, Environmental Management System (EMS), and one might suggest that Forest Plans of any substance will be a long time in development. EMS has never been implemented at the scale suggested by the rule, and given that the Forest Service often has tried to develop systems to the nth degree, it might be bogged down in EMS development for a long time. Also, given the record to date of Forest Service monitoring and evaluation one might wonder if this new EMS system will mean any more than past systems. Maybe it will, maybe it will not, but if it is to be useful the culture of the Forest Service will need to change a lot.

For much of its first 100 years the Forest Service was described as a can do, action oriented agency. In recent years it often has been described as a planning agency. Now, with EMS will it become the "monitoring" agency? I wonder if we are just substituting monitoring for planning to make us appear adaptive.

Lawyers looking at the new rule have raised many issues regarding the apparent abandonment of NEPA in the rule and the movement of rule standards to a directives system. This seems particularly problematic given the project exclusions of NEPA in the Healthy Forest Recreation Act; NEPA is marginalized on both ends of planning. But, I leave to lawyers' substantive comment on these issues.

However, one social point is clear. To understand what the Forest Service is doing for any forest plan or for any project, vast amounts of time and searching will be required for any engaged citizen. Forest Service directives can be measured both in pounds and liner feet of bookshelf and the number of places one must look for all of the applicable directives is astounding. Such does not make for a very transparent planning system and one where citizen collaboration and participation are encouraged. What it does is make a place for participation by those who are paid by special interests to be involved; those whose job it is to dig out all the directives. A second point of potential confusion is the requirement to make recommendations on designation of Wilderness and special areas. It would seem that if these are included in a plan, a NEPA document is required, and thus an EIS cannot be relegated to project level planning.

#### WHAT SHOULD BE DONE?

The simple answer to my question is that the Forest Service needs to rewrite the rule in plain English to clearly define planning and how it is to be conceptualized. That is too simple, though, so here are a few more specific things that might be done.

Develop a process that is clear and transparent, that meets the needs of people. Transactive, collaborative processes for planning are well described in the planning literature and they are good candidates for a new forest planning model and rule. They would involve working with interested publics in developing the best baseline information for the planning (regional and forest information), developing desired future conditions for forests and grasslands and associated communities and regions, gleaned the best ideas agreed upon for how to reach the desired conditions, and monitoring and evaluating how well a plan is working and whether or not it remains relevant. Such processes put the Forest Service in the roles of facilitating collaboration and providing analyses for collaborators, eventually deciding to accept or reject the outcomes of the collaborative processes, and facilitating monitoring and evaluation so that direction adapts to changing realities. In the case of forest planning, these decisions are about desired conditions, land allocations, and constraints. They are the essence of what we have been viewing over the past 20 years as dynamic Ecosystem Planning and Management (i.e. large scale, collaborative, integrative, and adaptive).

Develop a process that makes clear demarcation between forest plans and project plans. Forest plans should not drive all substance to project plans, where it is impossible to deal with large scale integrative issues, and impossible to deal with issues of land allocation to meet desired futures.

Acknowledge that strategic plans and plans of aspiration are decisions about direction and eventual outcomes.

Estimate the effects of plan decisions through NEPA processes. For example, if future landscapes are to be projected, if social sustainability is to be projected, and if economic sustainability is to be projected, should we not evaluate the con-

sequences of the choices we have before us and the consequences of directions chosen?

Make explicit that monitoring and evaluation are integral to performance assessment, plan revision, and fundamentally to national policy that indicates we are to "encourage productive and enjoyable harmony between man and his environment" (42 U.S.C. 4331) EMS might be a right "process jargon" for this, but we need an EMS that is applicable and tested at the scale we are considering. Short of that we need a rule that is much clearer about parameters for monitoring and evaluation.

During the past week, I had the opportunity to speak with planners from regions 1 and 2. Both people are emerging leaders in the Forest Service, and quite bright people. One of them suggested that it was really hard to tell what the new rule means and directs. The other indicated that it appears that all of the tough decisions are being moved to the project level, and woe to the first project to come forth because all analysis for the whole forest will be on the back of that project. Neither of these perspectives seems very optimistic for the new planning rule.

#### ANSWERS TO SUBMITTED QUESTIONS

As noted in my oral testimony, what I know about the vision that prompted the new forest planning rule is very positive. The vision is progressive and optimistic. Whether or not the rule that was actually written will meet the vision, is a matter for discussion. My participation in this discussion is offered in support of what I perceive as the positive vision of the agency.

**Dr. Brown, I share your concern that the new rule proposes extensive new responsibilities, particularly monitoring and development of an EMS system. You mention that in order to be successful in implementing the new system, agency culture will have to change. I agree. Do you think it is possible that part of the needed change in culture involves a transition from the old-style planning to a more dynamic process that actually comes to a conclusion?**

The change in culture needed is less a change in planning and more a change in priorities and learning. A simplification of the planning system likely will help in developing and implementing a monitoring and evaluation culture, but the major problem is the low priority that the agency has historically placed on monitoring, evaluation, and learning. In the past, if there were budget constraints, one of the first things dropped was systematic monitoring and evaluation. This is partly due to the agency having a huge work load and to it having a very strong, and positive, can do attitude. If one is focused on "doing", one does and then moves on to the next thing to do. Looking back and evaluating the effects of what one has done is of lesser priority than doing more. This has been good in that the Forest Service has done a lot on the ground over the years. It is bad in that some of what it has done could have been improved by assessing the effects of what it has done and making adjustments before the next set of actions the essence of adaptive management.

Many years ago, social psychologist Donald Michael wrote a book on planning titled, "On Learning to Plan and Planning to Learn" in which he describes the learning culture that is necessary to do effective planning (and management). His experience with many corporations and some government agencies provided the basis for his assertion that planning must be conceptualized in a learning environment. Monitoring and evaluation are absolutely necessary for the necessary learning to better plan and manage in the future. To the extent that the new planning rule embraces, and leads to implementation of, monitoring and evaluation, and subsequent learning, good. But, to the extent that these concepts are generally not within the mind set and image of agency employees, developing an effective adaptive planning and management system might be difficult and long-term. Both extensive classroom/workshop training and discussion and on-the-ground practice followed by evaluation and discussion are going to be needed to change the culture over time.

Regarding the EMS, one will need to see how it evolves in practice. The development of EMS was for facilities managed by corporations, and a lot of money has been spent on developing and implementing EMS, often under the incentive of compliance with government regulation. The scale at which the agency is proposing to implement EMS is unprecedented and could prove to be very costly and ultimately impossible given resources available. It also could be effective. We do not know at this time which it will be. Under any circumstances, we need a planning rule that is clear about parameters for monitoring and evaluation, and the priority of monitoring and evaluation in building a culture of learning.

**Multiple-use has been the framework for public land management in this country for over 40 years. Some have suggested that overlapping mandates such as ESA, CWA, and others have created a new mandate for ecosystem management. Is it possible that some other framework might work better and do the new planning regulations offer anything to address this issue? Would further legislation provide greater clarity?**

The form of multiple use practiced in this country and defined by Chief McArdle at the 5th World Forestry Congress is an extensive form of multiple use (in contrast to an intensive form) that is dependent on ecosystem health. Mandates such as ESA and CWA bring other dimensions to our consciousness, and might trump other uses and outputs from ecosystems, but they do not argue for ecosystem health any more than does the extensive form of multiple use articulated for management of forest land. Rather than viewing every acre of land supporting intensive multiple uses, the form of multiple use practiced visualizes large areas supporting more than one use distributed across specific sites within the area, and where compatible, smaller areas supporting compatible multiple uses on a common tract of land. Thus, we have a mosaic of uses across a large landscape or set of ecosystems. That mosaic of uses is dependent on the health of the larger landscape.

One vision of the new planning regulations is to offer a framework that will help address the issue of conflicts among natural resource laws. It tries to do this by focusing attention on “desired future condition” of forests and grasslands. This does seem like a good starting point, but it does not get to the tough allocation decisions regarding how the land might be used. Such is the essence of land use planning and the decisions made through it. Since the various laws deal with specific things such as water and endangered species, planning will need to address them across the landscape being considered and within the context of desired future conditions. It is these specific things (or uses of the forests and grasslands) that create social, economic, and ecological consequences and thus that affect social, economic, and ecological sustainability. The new planning rule can start us on a good path, but it is a path that needs to be more fully articulated and carried out, and it is a path that requires allocation of land to broad categories of use distributed across the landscape in ways that lead to the desired futures we choose.

Where Congress might help is in clarifying the national desired future of forests and grasslands and ensuring that current and subsequent laws are compatible with that vision. The National Association of University of Forest Resource Programs (formerly NAPFSC) has been drafting such a vision for America’s Forests that could be instructive to Congress. But, presently, because there is no overall direction offered by Congress, in the form of a modern directive that recognizes changes in values, language, enfranchisement of multiple publics, technologies, and law over the past century, it is easy for different groups to argue about the purpose of national forests and grasslands. This is what was requested by the Society of American Forester testimony at the hearing; it is a clarification of the purposes of the forests and grasslands given the seeming incompatibility of laws about specific things such as water, timber, and endangered species.

**You criticize the rule because, in your view, it will make it harder for citizens to track individual projects. I do not understand how this could be so, given that projects will still be subject to public notice and comment, as well as full NEPA documentation. Won’t a shorter, more concise planning process allow citizens to actually focus on proposed projects, rather than on abstract plans that are rarely implemented?**

I might not have articulated my criticisms clearly since I said hardly a word about public participation and projects. My comments were not about projects. My best guess is that there will be a lot of public participation over projects because that is where “the rubber meets the road” for many people. My comments suggested that publics might not find participation in the forest planning process particularly useful.

For me there are two concerns. First, is the agency prepared to engage in collaboration in the planning for forests and grasslands, as contrasted to affording opportunities for public participation? Second, will people be motivated to participate in forest and grassland level planning?

A new planning rule offers a tremendous opportunity to build collaboration concepts into the forest planning process without detracting from the decision making authority of the agency. But, collaboration is far more than offering opportunities for publics to be involved. It is the form and substance of involvement that is critical and the roles that agency personnel play in collaborative processes will have a lot to do with achieving success. As I noted in my testimony, the roles are ones of facili-

tating collaboration and providing analyses for collaborators (including agency personnel), deciding to accept or reject the outcomes of collaborative processes, and facilitating monitoring and evaluation. I am hopeful that as the new rule is implemented, practice of transactive, collaborative processes will become a significant part of the implementation.

My second concern has to do with the non-decision nature of the discussion around forest plans. I do believe that decisions will be made (if one is planning, one is making decisions), but if the public believes that all of the action is at the project level, why should we expect them to participate in forest planning? Care in articulating what is and what is not happening in forest planning will be very important in engagement of publics in the process.

#### CONCLUDING COMMENT

The Forest Service is embarking on a new way of doing business with publication of the new planning rule. One might be hopeful that the rule itself will meet the vision of those who recognized that a new rule was needed and set about fashioning a new forest and grassland planning system, but to get there will involve a lot of discussion and a lot of work.

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#### STATEMENT OF DON W. FLOYD

Mr. Chairman, my name is Don Floyd. I am a professor of forest and natural resources policy at the State University of New York's College of Environmental Science and Forestry. It is a privilege to appear before Committee on Agriculture today representing the Society of American Foresters. We have submitted written testimony for the record. What I offer today is brief comments that summarize some of the salient points on the new national forest planning rules.

First: We believe the new regulations are an incremental improvement in the planning process. The focus on forest sustainability aligns the national forest system with national and global initiatives. We believe the Administration and the Forest Service should be congratulated for their willingness to adopt an environmental management system. We have been patient advocates for increasing attention on environmental and programmatic monitoring.

Second: Having said that, we believe these incremental changes cannot resolve the fundamental problem that the Forest Service and the Bureau of Land Management face: clarifying their mission.

The forest planning process has become a complicated and time-consuming endeavor for the Federal land management agencies, particularly the Forest Service. We are encouraged to see efforts in the new regulations to attempt to streamline the process, including a new categorical exclusion for forest planning. The exclusion will remove the need for the agency to prepare an environmental impact statement or environmental assessment. The regulations instead shift the analysis of environmental effects to a program-level assessment. This move hinges on the fact that forest plans do not normally result in actual, on-the-ground activity; they only project activities, and then subsequent, project-specific analysis is completed. We believe this will allow the Forest Service to look at real-time impacts of projects rather than try to predict these impacts before projects are even identified.

We also believe the inclusion of environmental management systems in the forest planning process will improve the accuracy and timeliness of information used to make decisions and will catalyze the agency's ability to monitor and adapt to real-time conditions. We hope that this process will allow the Forest Service to better tie with other monitoring efforts underway that address sustainability across the forested landscape, such as the Montreal Process Criteria and Indicators and efforts in State agencies and on private land. Although an EMS will improve the process, it will take time for agency personnel to adapt to this new system.

With other rulemaking underway such as the new roadless rule, the Forest Service has acknowledged the role State's can and should play in Federal land management decisions. Further developing this idea beyond just roadless areas, to include all Federal lands, would help address the role of, and set goals for,—Federal lands within landscapes of multiple ownerships. We urge the Forest Service to move forward with its planning processes with these ideas in mind.

Additionally, we agree with the focus in the new rule on the use of the most current, up to date science. SAF can play a key role in the gathering and synthesizing of scientific information and will continue to work with the Forest Service to create a mechanism to make this happen. A system similar to how the medical profession gathers information for clinical practice guidelines could be considered.

The regulations also take an ecosystem-scale approach to providing for species diversity, rather than a species-specific approach. This means that efforts to conserve species will mostly be accomplished by managing forests in a comprehensive manner rather than tied to one species' needs. The exception to this is endangered and threatened species, which will receive special attention. We believe this approach is an improvement over previous approaches because of the interconnected nature of ecosystems and the need to examine all components of an ecosystem when providing species protection.

These are just a few of the improvements included in the regulations. We would, however, like to reiterate some cautions with the new regulations. These regulations mark a substantial change from previous planning regulations, making it necessary for the Forest Service to essentially retrain its personnel on some aspects of planning. Additionally, we are concerned about the agency's capacity to implement these new regulations because of significant declines in the agency's forestry expertise. Many forestry experts are retiring from the agency and are not being replaced with people of comparable expertise. This is a significant concern given that now, more than ever, the agency will need people with the broad expertise and comprehensive view of forest management that those with professional forestry backgrounds possess.

One of the dynamics that define modern American government is the tension among the executive branch, administrative agencies, interest groups, and the legislature. The policy conundrum that sometimes threatens the Forest Service and, to a lesser extent, the Bureau of Land Management provides an excellent example. Much of the recent criticism aimed at these two agencies is the result of the structure of the political and institutional environments in which they operate. Environmental and industry interest groups seek very different policies. The policy initiatives of each new administration emphasize different underlying values and approaches. Lacking consensus, House and Senate leaders wage policy through appropriations. Like Odysseus, agency leaders navigate between Scylla and Charybdis. But unlike the Greek hero, their fate is more likely a trip to Federal court than an eventual homecoming.

Forest Service Chief Dale Bosworth has recently referred to implementing the complicated statutes and regulations as "analysis paralysis." Another term is "forestiosclerosis." Just as arteriosclerosis constricts the flow of blood through the arteries, forestiosclerosis occludes the management necessary to sustain healthy, resilient forests that provide the habitats, clean water, recreation, forage, cultural resources, and fiber that Americans seek from their public lands. Healthy, resilient public lands require healthy, resilient political and civic institutions that focus on the long-term public interest. In the past two decades, both conditions have been obtained only infrequently.

Success requires forging a national consensus about the public purposes that national forests and BLM lands are supposed to provide. Absent that consensus, the opposing interest groups will seek to block each other's proposals through the courts, the legislature, or administrative policy. One may argue that this kind of policy inertia was a preferred outcome for the Constitution's framers, but it is a poor way to manage forest fires, endangered species, and insect and disease outbreaks.

Not all the agencies' problems are external. Although these broader, institutional issues frame the dilemma, there are internal management problems, such as accounting and resource and program monitoring that have been brought to light by repeated studies from the Government Accountability Office. In some cases the agencies have acknowledged the problems and attempted to implement solutions.

For the Forest Service, the complex rules that implement the national forest planning process and the appeals process for management and land-use planning decisions are largely self-inflicted. The agency and each new administration endlessly write and rewrite new regulations in hopes of removing some of the plaque that clogs the arteries.

Most forest policy leaders are coming to the conclusion that management priorities must be set through a political and legislative process that focuses on a broadly defined public interest, not through administrative rule-making.

For more than 50 years, agencies and most foresters were quite pleased to advocate the concept of multiple use to maximize professional discretion and administrative flexibility. As a management doctrine, multiple use allows professional resource managers to make most resource allocation decisions, often by playing off one interest group against the others. Agency discretion thus relied on a delicate power balance among interest groups, legislators, and the executive.

The foresters who managed the Forest Service were particularly successful in advocating and maintaining professional discretion through multiple use for the first two-thirds of the 20th century, keeping legislative oversight and statutory guidance

to a minimum. But when the delicate balance among interest groups and institutions wobbled, the agencies found little direction or political cover in their legislative mandates.

At some point Congress will have to revisit the purpose of these lands because there is no consensus around these purposes or the concept of multiple use, and that lack of consensus is reflected in the lack of management on the ground. In 1960, when the Multiple Use and Sustained Yield Act passed, the population of the United States was about 178 million. Today it is nearly 300 million. The area of the national forest system has not changed much in the intervening 45 years. More people want more things from their national forests, and over the decades, Congress and the agencies have effectively agreed to give it to them. The assumption is that Americans can have wilderness, biodiversity, and economic opportunity by relying on more sophisticated and complex planning processes to allocate the uses. But from the perspective of economics, we are reaching the point of diminishing returns from planning.

The growing power of the wilderness and environmental movements in the 1960's and 1970's brought important changes to Federal land management. New laws—the Clean Air Act, the Clean Water Act, the Endangered Species Act—forced BLM and the Forest Service to share authority with the Environmental Protection Agency, State environmental agencies, the Fish and Wildlife Service, and NOAA Fisheries.

Newly shared intergovernmental responsibilities and the decision-making requirements imposed by the National Environmental Policy Act make Federal multiple-use land management a very complicated proposition. Resource managers now labor to make environmental analyses and impact statements “bombproof” to subsequent appeals and litigation.

Commenting on the situation in 2001, Forest Service Chief Dale Bosworth asked,

Is that the way it was supposed to work? No way. When the National Forest Management Act was passed in 1976, Senator Hubert Humphrey proclaimed something to the effect that we have now taken national forest management out of the courts and given it back to the professionals. Instead, the opposite has happened. Now, judges are sitting in courtrooms and making resource management decisions based on points of law, not on conditions out in the field.

Chief Bosworth recently told the U.S. House of Representatives Subcommittee on Forests and Forest Health that “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.”

In his plainspoken way, former Chief Jack Ward Thomas has been telling legislators that they have been doing a poor job of setting and communicating priorities for public natural resources management. In recent testimony in the House of Representatives, he observed, “The sorely needed outcome is for the mission to be redefined in the light of the experience of the last two decades. To leave matters as they are, is to leave the agency to ‘twist in the wind’ as a political scapegoat for Congressional refusal” or inability to clarify matters.

Successful implementation requires striking a balance between legislative prescription and agency discretion. In a more perfect world the legislature, like a board of directors, would communicate a clear set of priorities to the agency managers. If the first priority is conserving biodiversity, or ensuring clean water, or making boards, the legislature should say so. Although most would agree with the intent of each current directive, the aggregate effect suggests that the agencies are supposed to do everything, everywhere, at the same time.

Policy obfuscation is common when there is little unity among representatives and senators about the public lands. Since the creation of the forest reserves and the decision to retain the public lands, most attempts at statutory reform have languished or resulted in unintended consequences. Congressional policy guidance for the national forests and public lands more often comes in the form of selectively funded budget priorities and appropriation riders that restrict administrative initiatives. Witness the recent efforts in the Interior Appropriations bill to limit Federal spending for roads for the Tongass National Forest and wild horse and burro management on BLM lands.

Given the general lack of legislative consensus, some might hope for leadership from the executive branch. But the public lands policy agendas of alternating Republican and Democratic presidents in the past three decades can charitably be labeled schizophrenic. Little wonder, then, that Federal land management agencies attempt to define their own priorities in what amounts to a policy vacuum, and that the courts have filled it.

What should an agency and its professional resource managers do when the legislature can't agree on priorities and interest groups have fundamental value differences? One potential solution lies in reminding ourselves why we have public lands in the first place.

Our system of Federal and State lands (including forests, BLM lands, parks, and wildlife refuges) was established to conserve the natural resources that were not being conserved on private and unmanaged public lands during the late 19th and early 20th centuries. Public lands should give priority to meeting public purposes, like watershed protection and biodiversity conservation; commercial activities are appropriate on public lands when they serve public purposes and help accomplish desired resource management and protection goals.

Federal and State governments should not expect private landowners to make public purposes first and foremost in their management plans without compensation, and commercial interests should not expect public lands to meet economic development goals without assurances that nonmarket values have been adequately conserved. The purposes are different for good reason. Governments will never be as efficient as the private sector at producing fiber and forage, and private, for-profit firms will never be as effective as public agencies at stewarding nonmarket values. Regulating private firms to produce public values is as inefficient as legislating public lands to produce private goods.

A traditional solution for complex problems is an independent commission. The Public Land Law Review Commission that operated during the 1960's was the fourth such effort in our history. It was followed by the President's Advisory Panel on Timber and the Environment during the early 1970's. Few, if any, of the recommendations from those commissions have been realized. A commission can be effective if its recommendations are insightful, its timing nearly perfect, and its recommendations are supported by the legislative branch. Elevation of the issues and recommendations must coincide with the agendas of the executive and the legislative majorities—or they will be ignored or overshadowed by more urgent legislative priorities.

From a political perspective, our current set of public land policy problems won't be resolved until bipartisan consensus outweighs special interest group and partisan interests. That is most likely to occur as resource-dependent communities—those that have the most to gain and the most to lose in the current stalemate—get the attention of influential legislators.

If ever there were a time for thoughtful, bipartisan voices on public forestry to seize the day, it is now. Certainly, there is a catalytic role for citizens, not-for-profits, universities, and professional societies. A need for nonpartisan analyses from organizations such as the National Research Council and the National Academy for Public Administration is clearly indicated. It is incumbent on us all to elevate and temper the debate by focusing on the Nation's long-term public interest in sustainable forest management rather than the mud that mires our feet.

Our public lands are one of our most valuable and treasured American legacies. They are the natural estate that we will pass to subsequent generations of Americans. Their stewardship is much too important to be subject to the prevailing whipsaw of interest-group politics and short-term election cycles. As we celebrate the Centennial year of the U.S. Forest Service, still the world's foremost public conservation agency, we must resolve to provide a policy framework that will enable the agency's natural resource managers to do their job in the best interest of all of our citizens during the next century and beyond.

#### ANSWERS TO SUBMITTED QUESTIONS

**Multiple-use has been the framework for public land management in this country for over 40 years. In your testimony you mention that this concept does not appear to be working as a guideline for management any longer because many have interpreted it to mean all things for all people on all lands. Is there some other framework that might work better and do the new planning regulations offer anything to address this issue?**

Some have suggested sustainability as a new framework for public land management. The idea would be that if all three "legs" of the sustainability stool—the economic, social, and ecological, are addressed—our forests can be sustainable. These "legs" would be used as benchmarks to sound management. Federal land managers would need to ensure, over the entire national forest system land base, that these goals or "legs" are being addressed. If this is done at a strategic level we could move away from the current perception that the multiple use mandate means all things to all people on all lands.

This framework, however, should not simply be another way of saying multiple-use and then engaging in a process where we try to find some politically equitable distribution of competing values.— Management goals would have to be constructed in a way that the generation of economic value supports the provision of environmental and social values, generation of environmental values is recognized as critical to sustaining the core asset and generation of social values are what give permission for the economic and environmental values to be delivered. In other words, each is connect to the other and alone they would not support sustainability. One value could not be emphasized over another in order for the system to work.

The idea is certainly fraught with complications, especially given that no matter how you phrase the sustainability argument, individuals, because of their own personal values, typically choose one “leg” as more important than the other two. Until we get past this, sustainability as a framework for public land management is doomed to fail.

The new planning regulations do address the issue of sustainability, claiming it is a goal of forest planning and forest management. However, with multiple use as the overarching legislated mandate, it will continue to trump management decisions, even those that might be framed in terms of sustainability.

**As you state in your testimony, the new regulations contain extensive monitoring and adaptive management component. Why is this important in forest management? Do the new monitoring requirements cause you concern because of their potential costs?**

Monitoring and adaptive management are both extremely important as we strive to be good stewards of our forest resources. Monitoring tells forest managers how they are doing in achieving long-term goals and adaptive management allows managers to make adjustments in their actions when monitoring tells them they are straying from the path that leads to their goal. Having one without the other defeats the purpose of both.

Monitoring can be extremely expensive and is often the first thing to be cut when funding is limited. However, the benefits far outweigh the costs of monitoring because better decisions can be made based on the results of monitoring. Additionally, a sound monitoring program can help demonstrate the outcomes of projects to the public, potentially building public support when monitoring demonstrates improvements.

**You suggest that bipartisan efforts are needed to help create a new consensus on forest management. I agree. I believe we started those efforts with the Healthy Forests Restoration Act. Do you believe that the new regulations will help foster an environment of cooperation that could lead to a new bipartisan consensus? Why or why not?**

I don't think that the new regulations alone will foster this consensus. While the regulations do contain opportunities to build consensus through public involvement and pre- decisional objections, the question of what these lands should be managed for will remain. The regulations cannot fix the problems of overlapping mandates court decisions, laws, and other agency regulations. Only Congress can fix this problem of overlapping mandates by revisiting the issue of what our forests should be managed for. Once Congress, through bipartisan consensus, clearly outlines the goals for national forest system management, then the regulations can foster a dialog through public participation to determine how best to reach those goals.

**What I find most frustrating with the national forest system lands, is the amount of time and process—highly trained professionals must endure to develop forest plans and implement projects. Undoubtedly, no matter how much time and public involvement was included, many well-intentioned projects are postponed or cancelled altogether when they are confronted with appeals and litigation. While the Healthy Forests Restoration Act begins to address some of these problems for forest health and wildfire-related projects, what can be done for projects that don't fall within these categories but are just as important?**

As mentioned above, the current system of overlapping and conflicting mandates provides little overall direction for national forest system management, fostering the divisiveness in Federal forest management and creating the problems you mention above. Congress could adopt similar streamlining options for other forest management activities, however, this could create other problems. If this piecemeal approach continues, managers will be uncertain what process to use, be unsure of the options, and ultimately might hesitate to use new tools because of the variability and uncertainty associated with them. Emergency situations are instances where

these new tools make sense but to improve the process for everyday forest management activities, the system needs to be revisited. What is needed is a fundamental examination of the laws governing national forest system management. Once clear direction is provided by Congress, Federal land managers and the public will have a better idea of what these lands are to be managed for and can then focus on implementation. Appeals and litigation will never go away completely and they shouldn't, but with better guidance, they can be reduced.

