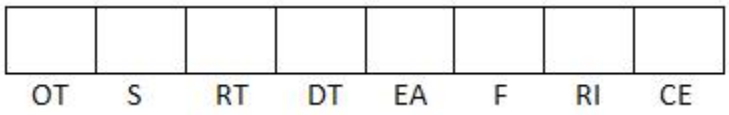

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Subject: Planning Rule

Introduction

I am deeply concerned about the 2011 Revised Planning Rule and the implications that it has for citizen involvement in the forest planning process. The new rule largely appears to be a rehash of failed attempts by the Bush administration to revise the rule in 2005 and 2008. Like the Bush era proposals, the new rule appears to be a self-serving attempt by the USFS to subvert meaningful public input into the planning process and give more credibility and oversight to local special interests.

The purpose and need statement suggests that the main reason for a change in the regulations is so that "national land management planning can regain momentum and units will be able to complete timely revisions." You contend the existing 2000 rule (Alternative B) is a "complex, costly, lengthy, and cumbersome planning process" and suggest that it is the main reason that the Forest Service has not completed 15 year updates to their existing forest plans. This is purely "government speak" for the fact that the Forest Service is trying to avoid meaningful public input and oversight of the planning process.

Part B – Pre-Decisional Administrative Review Process

The confirmation for me that the proposed rule is all about limiting meaningful public oversight is the elimination of the post-decisional administrative appeal process in favor of a pre-decisional process (Part B – Sections 219.50 to 219.58). This process is mainly designed to eliminate public involvement of concerned citizens in favor of hand selected small "collaborative groups" which will have undue access to federal resources and insider information regarding proposed planning alternatives.

Collaborative groups are currently being touted as the "new way" of doing business in the Forest Service. These groups are generally "selected" by local political and agency personnel and are usually composed of people who represent local special interests or professional staff of "Forest Service friendly" environmental groups. Most often these people are paid employees of their various organizations and can devote their full-time energies to forest planning activities. Such groups are often "touted" as representing diverse special interests when in reality they mostly represent the local perspective of pro-development interests with token representation of the environmental community that give the "collaborative group" its presumed legitimacy.

The new planning regulations highly favor "selective collaboration groups" at the expense of true citizen involvement. First, these groups are crafting the alternatives that will be considered in the planning process. They have input to the planning alternatives prior to the general public's participation and generally have been given access to agency resources and information that is not available to the general public. As local representatives and members of the "selected collaborative group" they will have direct access to the Forest Supervisor who will now be the responsible official (Section 219.2) for making the final decision on the Forest plan.

This truly puts the average citizen and other people who are not members of the "selected collaborative group" at a real disadvantage in a pre-decisional appeal process. First, if you are not a local citizen or a paid employee of a special interest group or environmental organization it is highly unlikely that you will be able to

participate in all of the pre-decisional efforts of the Forest Service. It is hard enough for most people just to keep up with the final selected alternatives let alone the wide variety alternatives that will be generated prior to the final decision. If you have a full-time job or don't live in the local area you really can't be a member of a "local collaborative", participate in alternative development as a collaborative member (a role that is supposed to be reserved for federal employees under NFMA and NEPA) or have the privilege of hearing and seeing all of the "insider" information that collaborative group members are being exposed to. It is also highly unlikely that you have a personal or even professional relationship with the local Forest Supervisor.

Another example of how the revised planning rules are designed to limit public input can be seen in sections 219.53 and 219.57. Under the pre-decisional objection rules, people don't even have a chance to object unless they have somehow been able to hit the "moving target" of changing alternatives and options in their formal comments to the process (219.53). This doesn't seem to be fair, given the complexity of forest planning and the extraordinary time commitment that the Forest Service is expecting from members of the public. If an objection is filed by a concerned citizen who has taken the time prepare a formal objection, that objection should be considered on its merits regardless of the citizen's previous comments. Once an objection is filed, this should be a matter between the objector and the Forest Service. Other interested persons (219.57), should not be allowed to participate in meetings to resolve the objection. This process encourages, well connected people like those in collaborative groups, to support the Forest Service opinion and minimizes the chance of the objection being resolved in favor of the objector.

In summary, I believe you should abandon the pre-decisional administrative review process (Sub-part B). There is already ample opportunity for pre-decisional input in the existing planning regulations and through the NEPA process. The pre-decisional administrative review process favors local special interests at the expense of national interests and is very unfair to concerned citizens. Forest planning is by nature a complex, costly, and time consuming activity and the new rules will not change that significantly. It really only makes it harder for legitimate concerns to be heard. Like democracy, forest planning is sometimes a difficult and inefficient process, but also like democracy it is better to hear what is being said than to squash that debate with a heavy handed administrative policy like Subpart-B.

Section 219.9 (Diversity of plant and animal communities) and 219.10 (Multiple uses)

The new rules (Section 219.9) also remove the "viability clause" of the 2000 rule by going to the "coarse filter"/"fine filter" habitat approach. Once again this is an effort to limit legitimate challenges to forest plan decisions, by reducing the level of responsibility of the agency to protect the species within the planning area. This approach absolves the Forest Service of direct responsibility for these species as long as habitat objectives are met at some level. It then becomes unnecessary to monitor or protect the species directly (Section 219.10) regardless of what factors may be affecting the actual populations. For example, Forest Service activities such as OHV disturbance or chemical treatments (pesticides, herbicides, etc.) could be affecting a species even when the habitat condition appears to be fairly favorable to the species in question. Without direct responsibility for individual species and only habitat maintenance responsibilities (Sections 219.9 & 219.10) the Forest Service will never know how actual populations are responding unless that information is provided by outside agencies (State Fish and Game Agencies, USFWS, NMFS etc.).

In (Sections 219.9, 219.10 and 291.12) the proposed rules will eliminate population monitoring for all vertebrate species by substituting habitat monitoring for a small number of focal species. Again it is apparent that the Forest Service is opting to abandon its responsibility for maintaining and monitoring populations of native and desired non-native vertebrate species. While the Forest Service claims their new process is better because they include "native plants" and "native invertebrates" there will not be any real monitoring for these species either (only monitoring of coarse filter conditions is proposed).

The "focal" species concept is fairly sketchy and needs to be clarified. Focal species really don't sound much different than MIS species which you claim have been discredited, but you offer no literature citations to support this claim. What is the difference? It is also clear that the Forest Service intends to keep the number

of these species very small so as to eliminate and reduce challenges to their plans over the issue of "species viability".
Please eliminate your efforts to remove the "1982" viability provision from the new rule. This is not a positive change to the planning rule and unnecessary change designed primarily to eliminate legal challenges to the Forest Plans over this issue. If the Forest Service really wants to make a positive change instead of deleting the requirement to "to maintain viable populations of native and desired vertebrate species" they should add native plants and native invertebrates.

219.3 Role of Science in Planning

The decision to drop committees of scientists from development of the 2011 rule in favor of collaborative groups (page 8482) and the suggestion that science only must be "taken into account" really undermines the integrity of the proposed 2011 planning rule. Decisions that are not grounded in appropriate scientific findings are unsustainable and doomed to failure. The fact that various scientific findings may be in debate is not a reason to abandon the best held theory's in favor of political expediency and the desires of biased collaborative groups that have their own self interest in mind.

219.4 Requirements for Public Participation

As I have discussed above, the Forest Service has recently adopted the strategy of local collaborative groups as model for forest planning at both the land management plan and project scale. I have seen this process unfold in my local area (Clearwater Basin Collaborative) and am not very happy with the results. The process tends to exclude average citizens who are not members of the group and those that live outside of the local area. The groups generally have little national perspective and tend to view the national forest lands as sources of local economic development or as their own personal playgrounds. There is little realization that these lands belong to the American public as a whole and that a person in New York City has as much right to comment on their management as they do.
Forest Service collaborative groups are generally composed of locally politically connected individuals who are tied to local resource extraction industries such as the timber and livestock industry. There is always someone who represents the motorized recreation interest, a few state agency people (mostly Fish and Game), someone form local tribal government and perhaps a few local politicians. Finally, some local environmental types are carefully selected to participate in the process. The less experience these folks have the better, but their involvement is very important to give the process legitimacy.
Such groups generally work outside of the public eye developing proposals and alternatives that the Forest Service then tries to implement (Usually with hardwired NEPA decisions). The groups are given access to federal resources such as GIS stand layers and maps. Agency personnel are assigned to the group to assist them with their negotiations, document writing and analysis. Such groups are often given USFS federal grants and funding for their activities. These folks clearly have unequal access to federal resources yet most of them are neither elected officials nor are they federal employees.
If this is the model for public participation that the Forest Service is adopting with its new planning rule then I am strongly opposed to it. We need equal access for all concerned citizens and those that chose to participate in the process need to know that their input will be considered on an equal basis regardless of the where they live or who they know. Please explain to me why these people are being given special privileges in the planning process, and why the Forest Service is trying very hard to exclude the input of others with its draconian proposed planning rules?

219.5 Planning Framework and Section 219.12 Monitoring

The planning framework appears simple in its general context. It brings out the concept of a circular loop between 1) Assessment 2) Plan Development and 3) Monitoring. However, it is unclear exactly how monitoring will be used to make adaptive changes to the forest plan in a timely manner. How will you integrate broad scale monitoring with unit plans and make appropriate changes at the unit level? What

thresholds will cause you to initiate forest plan changes? How will you assure consistency between units and for that matter adjacent regions of the country?

What monitoring data is already being collected that has caused the Forest Service to change management direction? Since most forest plans are over 20 years old it seems like you should have some idea about what type of data is necessary to develop an appropriate monitoring strategy. What broad scale and unit level data has proved useful in the past and where is this information? We are talking about planning rules for forest plan revision, yet the text of your revised rule reads like you have to start anew. Surely, the Forest Service has had some successful monitoring efforts that could be utilized as a template for a revised monitoring strategy. Monitoring is generally a long-term proposition and if it is to be successful it requires some very in-depth and upfront design work. A successful monitoring strategy will require long-term commitment of resources. From the tone of your discussions and the direction of the new rule it does not appear that this was done with the original forest plans. Your discussion suggests you are on track for a repeat performance of the original forest plan mistakes in monitoring. This approach has the potential to waste a lot of time and money, yield statistically unreliable results and be uninformative regarding the need for management change.

Let's look at what you proposing in the new rule in regard to monitoring. First, you leave the development of most monitoring plans up to individual units. An approach that is bound to lead to inconsistency and varying degrees of statistical reliability given the fact that most units do not have personnel with the statistical background to develop a sound monitoring plan. Second, you give local line officers the ability to quickly modify the monitoring strategy based on a few years of data collection. This is a strategy that is bound to lead to inconsistency over time and more inconsistency between units. Finally, you leave "broad-scale" planning up to the regional offices, but don't even define in a general sense what might be monitored, how you will address issues that go beyond regional boundaries or how that information will be incorporated into unit plans.

I believe that rather than a new planning rule and a repeat of past mistakes in monitoring, that the Forest Service needs a blue ribbon committee of qualified scientists that can examine the existing monitoring plans of all 155 national forests, 20 grasslands and 1 prairie. This committee needs to look at what is working and what is not working in current plans and how the monitoring efforts are being integrated across the national forest system. From that review the committee should make recommendations for improvement and the development of a new national plan.

Such a plan should include: 1) Detailed descriptions of the items to be monitored across the country, 2) Standard protocols for collecting similar information 3) Identification of any site specific monitoring requirements for particular national forests or groups of national forests, 4) Integrated databases that can keep track of this information, 5) Review requirements (When) and review responsibilities (Who), and 6) Thresholds that will cause management review for each item being monitored.

Section 219.7 Plan Development

For meaningful protection of water quality, wildlife, fisheries, sensitive plants, federally listed species and our cultural heritage resources more emphasis on science and data based standards is required. Today's managers are under extreme pressure to produce goods and services and reduce negative impacts from wildfire. Given guidelines that allow managers to "opt-out" of protection measures for "other" resources is "loophole" that many of these managers will take when faced with hard choices between conflicting demands.

It is very easy to rationalize these choices and one commonly sees rationalization statements from managers to the effect "my choice will harm wildlife in the short term but in the long-term it will be better because I have prevented future wildfires" or "this harvest unit or road is OK because there is plenty of habitat on the other side of the hill". If the Forest Service really wants to conserve non-commodity values within the national forest system it is unrealistic to expect that guidelines will get the job done given the current culture and reward system within the agency.

Section 219.8 Sustainability

Ecological sustainability should be the driving factor behind all forest plan decisions. The idea that social and economic sustainability should be given equal footing with ecologic sustainability is a fundamental flaw. Without ecological sustainability there cannot be social and economic sustainability.

Section 219.18 Severability

The idea that the remaining provisions of the 2011 rule should be still considered valid if other portions are deemed invalid by a court is ludicrous. It appears that the Forest Service is just trying to sling some mud on the wall and see what sticks. Rulings of the court are the purview of the court and should remain in that arena.

Regulatory Certifications

I disagree with your contention that the revised rule is not economically significant. It has the potential to change the management of entire national forest system (an area of over 59 million hectares).

Summary

The Forest Service does not need to change the current 2000 planning rule with 1982 revisions and should select Alternative B (No Action). The 2011 rule (Alternative A) is poorly written and takes away many basic citizen rights in the National Forest planning process. Proposed changes in species the species viability rule (Section 219.9) is a particularly egregious act that abandons Forest Service management responsibility for maintaining populations of our native species. The Forest Service does need to examine its Forest Plan monitoring efforts, but modifying the current planning rules as proposed (Alternative A) is not the answer to this problem. I recommend a national committee of highly qualified scientists that can look at this problem and offer solutions for improvement of current monitoring efforts.

Sincerely,

/s/*Harry R. Jageman*
Harry R. Jageman