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Requirements of the National Environmental Policy Act of 1969**

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This thesis, directed and approved by the candidate's committee, has been accepted by the Graduate Committee of The University of New Mexico in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

THE FOREST SERVICE AND THE ENVIRONMENT: MEETING THE REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

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THE FOREST SERVICE AND THE ENVIRONMENT: MEETING THE
REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

BY

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THESIS

Submitted in Partial Fulfillment of the
Requirements for the Degree of

Master of Arts in Public Administration
in the Graduate School of

The University of New Mexico

Albuquerque, New Mexico

May, 1972

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ACKNOWLEDGMENTS

I wish to express my appreciation to all personnel involved with the Program for Advanced Study in Public Science Policy and Administration for making this a productive and rewarding year. Special appreciation goes to the members of my thesis committee, Dr. Albert H. Rosenthal, Dr. John M. Hunger, and Dr. Nicholas Henry, for their invaluable help in proposing and directing the development of my research.

Forest Service personnel at all levels have been cooperative and willingly gave me access to any information that I requested. My special acknowledgments are to Mr. Robert Cook of the Regional Office in Albuquerque for his generous guidance in the area of Forest Service policy and programs.

Finally, and most importantly, I want to thank Miss Betty Wollerman for her patience and perseverance in typing my thesis, and her overall support in getting me through the program.

620215

THE FOREST SERVICE AND THE ENVIRONMENT: MEETING THE
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BY
Bruce D. Weydemeyer

ABSTRACT OF THESIS

Submitted in Partial Fulfillment of the
Requirements for the Degree of
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ABSTRACT

The decade of the Seventies may be regarded as the one in which the environmental movement came of age. By the end of the 1960's, it was becoming evident that the condition of our human environment was a valid issue of public concern. This awakening concern on the part of many groups in our society indicated a new awareness of irreplaceable values represented by natural beauty and wildness, and a realization that economic considerations were no longer completely overriding for our society.

The most significant legislation resulting from these new public concerns was the National Environmental Policy Act of 1969, which made environmental protection a matter of national policy. Besides declaring a national policy for the environment, the Act required of all Federal agencies a comprehensive statement on the environmental impacts of any proposed activity that significantly affected the quality of human environment.

This thesis focused attention on one Federal agency, the Forest Service, in attacking the problem of agency response to the new requirements placed on their activities by the Act. The Forest Service, as the most visible, and diversified of our public land management agencies, is in the forefront on problems regarding the environment and, as a result, is open to a greater degree of public criticism over its management practices.

In determining the Forest Service's response to the requirements of the Act, this thesis concentrated on two Regions: Region One, which includes much of Montana and Idaho, and Region Three, which includes national forests in Arizona and New Mexico. Primary emphasis, in the research, was placed on interviews with Forest Service personnel at the regional, forest, and district level. Supporting evidence was gained through analysis of agency directives relative to compliance with the Act, and observations of activities at the district level.

In responding to the Act, and the general pressures exerted on them by environmentalists, the Forest Service has placed primary emphasis on building a decision model based on ecological capability of the forest land to support various activities, rather than maximum quantities of resources derived from the land. Through the use of multidisciplinary planning teams, the agency should be able to bring a greater degree of environmental consideration into the full range of their activities.

As an overall conclusion, the Forest Service response to the Act may be described as adaptive, rather than one of fundamental change. The extent that the Forest Service will be successful in meeting the Act's requirements through an adaptive response can be judged by two conditions: (1) the extent that District Rangers, as primary land managers, respond positively to the intent of the Act, that is, full consideration of environmental factors be accorded in the agency's decision-making process, and (2) the ability of the Forest Service bureaucracy to adapt to the rapidly changing nature of today's society and its demand for new values.

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CHAPTER I

MAN AND THE ENVIRONMENT

The question of man's effect on the ecosystem of our planet through his activities has become of increasing concern to the American public. The degree of this concern is reflected in the extensive literature on the subject, the public interest in conservation groups, as indicated by the 85,000 members of the Sierra Club, and congressional activity.

The concern over conservation of our natural resources is not new but the modern emphasis is different. The early conservation movement, borne of the Progressive Era and represented by Gifford Pinchot, was primarily concerned with efficient and wise utilization of the Nation's resources. The movement was materialistic and represented the expanding economic growth of the country at the time. The emphasis on wise utilization of resources for economic growth demanded the reliance upon scientific expertise for decisions as to the greatest good to be derived from these resources. The movement, in Professor Grant McConnell's perspective, was neither democratic nor broad based.¹

In contrast to the early conservation movement, the present interest in conservation, as part of the concern over environmental quality, is firmly established on principles strongly held by a substantial and

¹Grant McConnell, "Environment and the Quality of Political Life," in Congress and the Environment, ed. by Richard A. Cooley and Geoffrey Wandesforde-Smith (Seattle: University of Washington Press, 1970), p. 9.

articulate element of the American public.² This popular base of the modern conservation movement is, in Professor McConnell's view, partially explainable in terms of our maturing society and political system. It involves a new awareness by people of the irreplaceable values of natural beauty and wilderness, as well as the increasing urbanism and the drift of political power to city dwellers. The other element is a realization that economic considerations are no longer completely dominant as our Nation has become rich and prosperous. There is evidence that many Americans have moved beyond the view that everything of meaning in life can be measured in dollars or amount of goods consumed.³

The larger concern for the general decline in the quality of human environment has become a major social and political problem. As pointed out by Professor Lynton K. Caldwell, "public responsibility for the state of the human environment is becoming implicit in popular movements for environmental quality and in the actions of governments and some industries."⁴ He noted that prior to the nineteen sixties there was no clear concept of a public responsibility for maintaining environmental quality. As a result of this situation, "concern for the quality of the total environment had been the business of almost no one in our public life."⁵

By the end of the 1960's it was becoming evident that the condition of the environment was reaching the level of a valid national public

²Ibid.

³Ibid., 12-13.

⁴Lynton K. Caldwell, Environment: A Challenge for Modern Society (Garden City, New York: The Natural History Press, 1970), p. 2.

⁵Ibid., p. 7.

responsibility. The problem, as late as 1969, was the lack of any real consensus as to the form or methods that public action should take in coping with environmental degradation. As a result of this situation, the modern tendency has been, in Professor Caldwell's view, to deal with environmental problems segmentally, through the use of experts whose professional judgments frequently conflicted.⁶ Because of this, the public decision makers have had to deal with environmental questions without the help of a comprehensive body of environmental policy for official guidance. The net result of the above conditions was a continued deterioration in the human environment.

Whether or not there is a "crisis" in the environment in terms of man's survival on this planet is debatable. All citizens would not share the degree of concern expressed by Congressional Quarterly in August of 1970: "The environmental crisis has already reached a critical stage and the next decade could determine whether or not man will complete the destruction of his planet or learn to live in harmony with it."⁷ Dire warnings, as expressed above and backed up by experts such as Paul Ehrlich or Barry Commoner, coupled with increased public interest in the matter of environmental quality, have resulted in extensive political activity directed towards a comprehensive national policy for the environment.

Probably the most significant legislation produced in response to the awakening environmental awareness was the National Environmental Policy Act of 1969,⁸ which made environmental protection a matter of

⁶Ibid., p. 9.

⁷Congressional Quarterly, Man's Control of the Environment (Washington, D.C.: Congressional Quarterly, Inc., 1970), p. 1.

⁸42 U.S.C. 4321-4347 (Supp. V, 1970).

national policy. The Act also provided for a three-man Council on Environmental Quality in the Executive Office of the President and, finally, instructed all Federal agencies to take cognizance of environmental quality in their activities.

Of specific concern to those Federal agencies entrusted with our natural resources was section 102(2)(c) of the Act. Section 102(2)(c) required that every Federal agency include in every recommendation for legislation and other major activities significantly affecting the quality of human environment, a detailed statement on the environmental impact of the proposed action. In general, the Act has demanded of Federal agencies, especially those dealing with natural resources, that they clean up their own house environmentally and maintain a high priority for consideration of environmental impact in their future activities.

The Research Problem

The question of interest to this research is the extent to which the Federal agencies have complied with the provisions of the National Environmental Policy Act. The study will be limited to one Federal agency, the United States Forest Service, to determine their response to the requirements set forth in the Act. The scope of the project will be restricted to an examination of policy directives from the Chief of the Forest Service in respect to compliance with provisions of the Act and the response at selected districts and forests within two regions: The Northern, with headquarters at Missoula, Montana; and, the Southwestern, with headquarters in Albuquerque, New Mexico.

The "response" of the Forest Service is defined as the extent to which the districts, forests and regions within the perimeter of the study took cognizance of the Act's requirements in their management

policies and practices. The extent to which the Act has resulted in changes in Forest Service management practices and organizational structure will be considered in the response of the agency.

The term "environment" refers to an ecological concept: the interrelationships of the biotic elements on our planet, all those things that are considered to be living, with the abiotic elements, those non-organic components of the biosphere. "Environmental quality," as used in this study, refers to the degree to which man is able to live in harmony within the natural interrelationships of the other elements of the biosphere.

Theoretical Framework

The problem of environmental quality, or the degree to which man can, or should live in harmony with the natural ecological community that makes up our planet is, in reality, one of values. As Garret Hardin pointed out in his provocative article, "The Tragedy of the Commons,"⁹ the morality of any act is dependent upon the state of the system at the time it was performed. In reference to pollution problems, the degree of significance of any activity on the environment is dependent upon the population and the quantity of resources available. The increasing population in our Nation, coupled with the idea of a finite capacity of our resources, brings us to the possibility of confrontation with Malthusian principles of misery.

In considering the role of the Forest Service as caretaker of the national forests, the thesis of Hardin's article, "The Tragedy of the

⁹Garret Hardin, "The Tragedy of the Commons," Science, 162 (Dec. 13, 1968), 1243-1248.

Commons," is applicable. According to Hardin, the ultimate result of each individual pursuing his own best interest is ruin for all of us. The extent to which the national forests are used for individual interests, by stockmen demanding a larger head count, by lumber industries demanding greater increase in allowable timber cut or the general public demanding more accessible recreation sites, becomes a determinate factor in the survival of our forests, and possibly ourselves.

In Hardin's view, the increased population in this country demands the abandonment of the commons in many aspects, for example in food gathering and waste disposal. The abandonment of the commons involves the infringement of someone's personal liberty but the increased regulations become essential if we are to escape from ruin and maintain a level of individual choice for all citizens.

What is the ultimate role of the Forest Service as caretaker of the national forests? Are their basic management concepts of multiple use and sustained yield compatible with the idea of a national environmental policy, or conversely, are they promoting the end of the commons by extended economic management of our forest lands? It is not the purpose of this research to examine the philosophical implications of land use control; in a more modest sense, Hardin's thesis is useful as a theoretical backdrop for the idea of measuring the activities of one Federal agency, the Forest Service, against the provisions of an environmental act with national intentions. The Act is not trying to close off the commons of our public lands, but it is, in this researcher's view, attempting to reorder priorities in land use to those more compatible with long range national interests.

Hypothesis

The Forest Service's view of their own operations is of crucial importance in determining their response to Federal restrictions on their operations for the purpose of promoting environmental quality. The basis of Forest Service policy is the concept of "multiple use" and the associated idea of "sustained yield" of resources. Multiple use refers to the idea of managing all renewable resources of the national forests so they are utilized in combinations that will best meet the needs of the American people, without impairment of the land's productivity.

If the Forest Service has, as a central tenant of professional dogma, "the dictum of sustained yield timber management, which decrees that productivity will be defined as the maximum physical production of saw logs,"¹⁰ the essential question would seem to be: are these basic concepts of Forest Service management compatible with the intent of the National Environmental Policy Act?

The ideas of multiple use and sustained yield timber management, in this researcher's professional experience, have largely been interpreted by the Forest Service in an economic sense. The theoretical implications of the National Environmental Act is that environmental considerations be given equal weight in Federal agency decisions with economic and technical considerations. Is the structure of Forest Service bureaucracy and basis of their management decisions compatible with the demands of the American public for environmental quality as expressed in the Act?

It is the hypothesis of this research project that the Forest Service will have to implement changes in the administration of their

¹⁰U.S. Congress, Senate, A University View of the Forest Service, S. Doc. 115, 91st Cong., 2nd sess., 1970, p. 22.

legislative mandate for managing the national forests in order to comply to the fullest extent possible with the provisions of the Act.

Methodology

This research proposal is designed as a case study of the Forest Service's response to legislative demands for a re-evaluation of the agency's operations to encompass considerations for environmental quality. The first step in the above study is to look at the Act, the Congressional Hearings before the House Subcommittee on Fisheries and Wildlife Conservation on Administration of the Act, and guidelines of the Council on Environmental Quality to determine their interpretation of the Act, particularly section 102(2)(c). Included in the first section of research will be memorandums from the Department of Agriculture to the Council concerning the applicability of the Act to the Department.

The next step in the research is an overview of the Forest Service; the legislative basis of their operations, the traditions of resource management developed in the agency, and their method of operation. This discussion will necessitate analysis of the agency's enabling legislation, official policy statements, and management guides to determine how the Forest Service views their goals and operations. The Forest Service view will be balanced against outside critiques of the agency to obtain a basis for comparison.

The bulk of the research will be devoted to analysis of specific actions, or lack of action on the part of the Forest Service in meeting requirements of the Act. As a first step, the research will focus on directives from the Washington Office to determine the extent to which they have presented guidelines to the field offices for implementation of the Act.

Since the environmental impact of Forest Service activity will become evident at the implementation level, the Ranger Districts, the activity that is carried out at the district level becomes the guiding line for determining changes in Forest Service activity. Forest Service policy follows the general flow of directives from the Washington headquarters to the regional offices and then dispersed through the forest headquarters to the specific districts within the forest. The degree of compliance by the Forest Service to the National Environmental Policy Act will depend to a large extent on the pressure exerted from the top and the views of all Forest Service personnel as to what constitutes environmental quality.

The principal research methodology used in this project will be interviews with Forest Service employees at the district, forest, and regional levels to discern the particular activities undertaken by the agency in meeting the requirements of the Act. These interviews will be supplemented by written inquiries to Forest Service personnel and personal observations of Forest Service activities at the district level that may have a significant impact on the quality of our environment.

By an examination of Forest Service policy statements, professional attitudes as determined through interviews, and actual examples of Forest Service response to the Act (environmental impact statements written and submitted to the Council on Environmental Quality), it is possible to determine what the Forest Service response has been, and if they are complying to the fullest extent possible with the provisions of the Act.

The concluding section of the thesis will deal with the relationship between the Forest Service's view of their activities relating to the environment and the stated purposes of the Act; to declare a national

policy which will encourage productive and enjoyable harmony between man and his environment and to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man. From the above analysis it may be possible to make observations on the Forest Service's role in the larger problems of man's relation to the environment in our modern society.

CHAPTER II

THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969: THE PUBLIC DEMANDS A QUALITY ENVIRONMENT

The National Environmental Policy Act of 1969,¹ in the two years since its enactment, has created a significant change in the operational procedures of those Federal agencies faced with environmental questions. For the first time, Federal agencies are required by law to take environmental factors into full account in all their planning and decision making.² With many Federal agencies this requirement means a new look at their policies and development of alternative decision making models that include this intangible consideration, environmental quality.

What are the provisions of the National Environmental Policy Act that have made it one of the most significant pieces of Federal legislation in the last decade?³ The Act, in section 101 declares it the continuing policy of the Federal government to promote conditions under which man and nature can exist in productive harmony. In order to carry out this policy, it is the responsibility of the Federal government to use all practical means to improve and coordinate Federal activities

¹42 U.S.C. 4321-4347 (Supp. V, 1970). See Appendix A for text of Law.

²U.S., Council on Environmental Quality, Environmental Quality: The Second Annual Report of the Council on Environmental Quality (Washington, D.C.: Government Printing Office, 1971), p. vii.

³This view of the Act was expressed by John Hirten, Deputy Assistant Secretary of Transportation for Environment and Urban Systems, in lecture to Public Science Policy Seminar, University of New Mexico (February 2, 1972).

relative to a national goal of environmental quality. Section 101 also declares that each citizen should enjoy a healthful environment, as well as contribute to the preservation and enhancement of the environment. As anyone who is familiar with the operation of the Federal government knows, policy proclamations as expressed in section 101 of the Act sound impressive but do not really hold Federal agencies to specific duties. Section 102 and 103 of the Act do require Federal action.

Section 102 (a) and (b) requires that all Federal agencies develop an interdisciplinary, broadly-based model for decision making that includes use of natural and social sciences and will insure that presently unquantified environmental values will be given appropriate consideration along with economic and technical considerations. Part (c) of section 102(2) puts teeth into the Act by requiring that all Federal agencies:

Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the human environment, a detailed statement by the responsible official on--

- (i) the environmental impact of the proposed action;
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (iii) alternatives to the proposed action;
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and,
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implanted.

Section 103 of the Act requires that all Federal agencies review their statutory authority, administrative regulations, and current policies to determine if they are in any way inconsistent with full compliance by the agency with the provisions of the Act. Each agency was to propose

to the President by July 1, 1971⁴ any measures needed to bring their authority and policies into compliance with the Act.

The above discussion outlines the provisions of the Act that are the most important for evaluating any agency's compliance, whether by Congress, the Council on Environmental Quality, or the public. The degree of agency compliance with the Act will depend to some extent upon the interpretation given it by Congress, the Executive branch, including the Council, and the courts. Through guidelines by the Council based on their interpretation of the Act, the various affected Federal agencies, such as the Forest Service, are directed as to the manner in which they are to comply with the Act.

Section 202 of the Act provided for the Council on Environmental Quality as a new member of the Executive office of the President. Its duties included the authority, in Section 204(3):

To review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

The proposed role of the Council in establishing national trends and standards for environmental quality was revealed in testimony before the House Subcommittee on Fisheries and Wildlife Conservation, on H.R. 6750 which eventually became Public Law 91-190, the National Environmental Policy Act of 1969. Former Secretary of Interior, Stewart Udall, in his testimony before the Subcommittee, drew the analogy between the proposed Council on Environmental Quality and the existing Council of Economic Advisors. Udall saw the need for vigorous action programs that dealt with

⁴This date was moved up to September 1, 1970 by Executive Order 11514, issued on March 5, 1970.

the environment as a basic national issue, of concern to urban and rural citizens alike. The Council, according to Udall, would help us to develop new goals and new national priorities, and by so doing, regain a balance between the economic considerations and considerations for the quality of life in this country and the quality of man's environment.⁵

Interpretations of the Act

The Council on Environmental Quality, then, as principal enforcer of the Act, plays a major role in its interpretation and its impact on the other Federal agencies. From analysis of a series of hearings by the House Subcommittee on Fisheries and Wildlife Conservation on administration of the National Environmental Policy Act,⁶ as well as Executive Order 11514⁷ on implementation of the Act, and guidelines issued by the Council, it is possible to develop the proposed impact of the Act on Federal agencies. A further look at Department of Agriculture guidelines on implementation of the Act will indicate its application to a specific Department, and generally to one agency within the Department, the U.S. Forest Service.

⁵U.S., Congress, House, Committee on Merchant Marines and Fisheries, Environmental Quality, Hearings before the Subcommittee on Fisheries and Wildlife Conservation, House of Representatives, on H.R. 6750, H.R. 12143, 91st Cong., 1st sess., 1969, p. 19.

⁶U.S., Congress, House, Committee on Merchant Marines and Fisheries, Administration of the National Environmental Policy Act, Part 1, Hearings before the Subcommittee on Fisheries and Wildlife Conservation, House of Representatives, on Federal Agency Compliance with Section 102(2)(c) and Section 103 of the National Environmental Policy Act, 91st Cong., 2nd sess., 1969. (hereinafter referred to as Hearings on Administration of NEPA, Part 1).

⁷U.S., President, Executive Order 11514, "Protection and Enhancement of Environmental Quality" (reprinted in Environmental Reporter, 71:0121).

President Nixon, as chief executor of our laws, gave the first administrative interpretation of the Act in Executive Order 11514, issued on March 5, 1970. In this Order, the President outlined the Federal Government's policy with respect to the Act. The Federal agencies, according to Nixon, would initiate measures needed to direct their efforts towards meeting national environmental goals. These measures would include the monitoring and evaluating on a continuing basis of their respective activities so as to protect and enhance environmental quality.

Another emphasis of the President was on public information and understanding of Federal plans and programs with environmental impact. Section 2(b) of the Order directed that the Federal agencies develop methods to ensure the fullest practicable provisions of public information on their programs in order to obtain the views of interested parties. These procedures were to include public hearings, whenever appropriate, and information to the public on alternative courses of action. These directives from the President were very general and expressed, on paper at least, the commitment of the Federal Government to provide leadership in protecting and improving the quality of the nation's human environment.

The real responsibility for administering the Act was delegated to the Council on Environmental Quality. The President elaborated on the Council's duties in section 3 of the Executive Order. The Council was to evaluate existing and proposed policies and activities of the Federal agencies in light of their environmental impact, and review procedures employed in the development of Federal standards affecting the environment. The Council, as a member of the Executive Office, was also responsible for advising the President on national environmental policies. The Council's role as Presidential advisor was to come in conflict with its

other major role, that of evaluating the environmental impact of major Federal activities through the 102 process.⁸

Most significantly, for this study, the Council was directed by the President to issue guidelines to Federal agencies for preparation of environmental impact statements as required by section 102(2)(c) of the Act. Since the environmental impact statements are the major means by which the Council can determine the degree of agency compliance with the Act, these statements take on additional significance. The Council, through its procedure for commenting on "draft" environmental statements before accepting them as final, can levy strong pressure on these agencies to consider fully the environmental effects of proposed activities.

The Council does not, however, have a veto over any agency action, proposed or in the process of implementation. This point was discussed at length by Russell Train, Chairman of the three-man Council, in his testimony before the House Subcommittee on Fisheries and Wildlife Conservation:

We clearly do not have any statutory authority to veto any proposed action. We certainly have the authority to tell an agency that we disapprove of the project. Now, to what extent that would be persuasive or not is something else again because it carries no statutory weight. Likewise, we consider it our responsibility, as required, to advise the President of our objection to a proposed course of action.⁹

Train also pointed out that the responsibility for filing impact statements

⁸An example of this conflict was the SST controversy. President Nixon asked Congress to authorize funds for development of the airplane before the environmental statement had been released to the public by the DOT, thereby casting doubt on the effectiveness of the Council in monitoring agency proposals that significantly affect the quality of human environment, and also the economy. See Hearings on Administration of NEPA, Part 1, p. 72.

⁹Hearings on Administration of NEPA, Part 1, p. 13.

lies with the agency involved, not the Council. He indicated that it might be useful for the Council to have the authority to require impact statements from agencies on specific proposals. This authority, according to Train, could also be beneficial to the agencies involved, by keeping them out of trouble in their activities involving sensitive environmental questions.¹⁰

In reference to the Council's overall effectiveness in implementing the Act, Train expressed the central conflict created by such an agency in the Executive Office: how far may they proceed as a watchdog over Federal agencies' activities relative to the environment without running afoul of specific programs of the President? Train expressed the opinion that environmental factors should play a more significant part in decision making, to the point of being determinate in some cases, such as those in which adverse environmental impacts outweigh any possible benefits. He did question the possibility of giving the Council an across-the-board veto on activities with environmental impacts, largely because of perceived conflicts of authority with the President:

I think also involved is the relationship of the Council to the President. As I understand the intent of the Congress--and I think this is borne out by the legislative history of the Act--the Council on Environmental Quality is advisory to the President. We assist the President in the development of environmental policy.... As far as Executive actions are concerned, it is the President, who, by Constitution and by statute, is the final arbiter, and I think there is sort of an organizational problem in creating in the Office of the President a body with a veto power over, I suppose, even decisions of the President.¹¹

With respect to the Forest Service, the conflict between the President's view of national needs and the Council's efforts to insure

¹⁰Ibid.

¹¹Hearings on Administration of NEPA, Part 1, p. 14.

environmental consideration in agency decision making is most probable in the lumber business. A Presidential priority for increased housing, and consequently expanded timber harvesting, could run up against the Council's view that the Forest Service could not increase their allowable cut without adverse environmental effects. The possibility of this kind of conflict does not prevent the Council from requiring a significant degree of environmental awareness in the decisions of affected agencies.

As previously mentioned, the chief programmatic concern of the Council as overseer of the Act, is with Federal agency compliance with section 102(2)(c) which requires environmental impact statements on all major proposals. By forcing Federal agencies to prepare such statements, it was hoped that they would begin to make the policy of the Act a living reality in all their decisions that significantly affect the environment.¹² Russell Train, in further testimony before the House Subcommittee, pointed out specifics as to their progress in implementing the environmental impact statement requirement. These included such things as issuing guidelines for impact statements, as directed by Executive Order 11514, and assisting the Federal agencies involved in developing procedures for compliance with the 102 requirement.

The Council accelerated by ten months the requirement in section 103 of the Act that agencies review their regulations, authority, policies, and procedures to identify deficiencies or inconsistencies which would prohibit full compliance with the Act. Train noted that all principal agencies affected had responded and in his view, "there appear to be no significant deficiencies or inconsistencies that will prevent

¹²View expressed by Russell Train in Hearings on Administration of NEPA, Part 1, p. 3.

agencies from complying with the Act's requirements, including those in section 102."¹³

In general, Train presented an optimistic view of the beginning implementation of the Act. From his contacts with Federal agencies and through extensive briefings on priorities and importance of the Act, he was willing to state that in every case, he had met a desire to comply with the Act on the part of the agencies. He further stated that despite press reports of specific problem areas, the Act and their efforts had, in general, resulted in a very considerable turnaround in agency procedures.¹⁴

In his testimony, Train emphasized the role of the different branches of the Federal Government in making the Act work. According to Train, the Council, as an arm of the Executive branch, was primarily responsible for implementation of the Act. The other branches of the Federal Government, in his view, were in a position to assist in implementing the Act. For example, Congress, by not acting upon a proposal until there has been a satisfactory compliance with the Act, could force agencies toward full compliance with the intent of the law. The courts, through the use of injunctions, have upheld the right of citizens' groups to demand environmental statements on controversial agency decisions.¹⁵

The final fact in implementation of the Act, and the one that has created the most serious conflicts in interpretation, is the matter of public information, specifically, public access to 102 statements before

¹³Ibid.

¹⁴Hearings on Administration of NEPA, Part 1, pp. 3-4.

¹⁵Wilderness Society v. Hickel, 1 ERC 1335 (D.D.C. April, 1970).

agency decisions are implemented. The Act specifically states in section 102(2)(c) that:

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State and local agencies, which authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review process.

In the hearings before the House Subcommittee on administration of the Act, Representative John Dingell, chairman of the Subcommittee, brought out the problem of meaningful public participation in the review process of environmental impact statements. In his view, the Council had interpreted the statute in such a way as to create a situation in which the adverse commentary of the agencies with special expertise and jurisdiction, the impact statement and the announcement of the decision by the agency would reach the public the same day.¹⁶ If, as pointed out by Frank M. Potter, the Act was drafted in large measure to force government agencies to respond more adequately to public criticism of environmental degradation, it was necessary for the Council to resolve these ambiguities in favor of greater public disclosure.¹⁷

102 Guidelines

The Council, in its revised guidelines to Federal agencies for

¹⁶Hearings on Administration of NEPA, Part 1, p. 64.

¹⁷Frank M. Potter, "Public Access to Agency Environmental Statements," in Hearings on Administration of NEPA, Part 1, pp. 91-93.

meeting the requirements of section 102(2)(c) of the Act,¹⁸ developed procedures whereby public participation could become a meaningful part of agency decisions in respect to the environment. The purpose of these guidelines, in supplanting section 102(2)(c) of the Act was, according to the Council, to:

Build into the agency decision making process an appropriate and careful consideration of the environmental aspects of proposed actions and to assist agencies in implementing not only the letter, but the spirit of the Act.¹⁹

The Council's guidelines set up a series of criteria which the Federal agencies were to follow in meeting the requirements for environmental statements. Each Federal agency was to develop procedures indicating how they would meet the Act's requirements. These procedures would cover such areas as: identification of those agency actions requiring environmental statements; the agency review process by which environmental statements are to be available; designating the officials who are to be responsible for the statements; meeting the requirements for providing timely public information on plans and programs with environmental impact; and, consulting with and taking account of the comments of appropriate Federal, State, and local agencies.

The guidelines expanded the language of section 102(2)(c) by declaring the phrase, "to the fullest extent possible," was meant to make clear that each Federal agency would comply with the requirements of the Act unless existing law applicable to the agency's operations make compliance

¹⁸U.S., Council on Environmental Quality, "Statements on Proposed Federal Actions Affecting the Environment: Guidelines," Federal Register, XXXVI, April 23, 1971, 7724-7729.

¹⁹Ibid., p. 7724.

impossible.²⁰ Also included in the guidelines was criteria for agency use in deciding whether a proposed action required the preparation of an environmental statement, and a detailed description of those items to be included in the statement. The guidelines included a list of Federal agencies to be consulted in connection with preparation of environmental statements and their special area of expertise.

The most significant revision in the guidelines was in the area of availability of statements to the public. The revised guidelines dictated in section 10(b) that "draft" environmental statements be prepared and circulated for comment and furnished to the Council early enough in the agency review process to insure that there be meaningful consideration of the environmental issues involved. To insure that the environmental statement, the agency comments relative to it, and the administrative decision of the affected agency could not all appear at the same time, the guidelines stated, in section 10(b), that to the maximum extent practical, no administrative action involving environmental questions could be taken sooner than ninety days after a draft environmental statement had been furnished to the Council and made available to the public. Also, the administrative action should not be taken sooner than thirty days after a final statement, with agency comments, had been made available to the Council and the public.

In expanding upon the criteria for public disclosure of agency decisions relative to environmental questions, the guidelines indicated that Federal agencies, in accord with the policy of the Act and Executive Order 11514 have the responsibility for developing procedures to insure full

²⁰U.S., Council on Environmental Quality, "Guidelines," Sect. 4.

disclosure of their plans and programs to all interested parties. These procedures should include, whenever appropriate, provisions for public hearings and information on alternative proposals of action. Finally, the agency which prepared the environmental statement is responsible for making it and any comments received relative to it from other agencies available to the public at the head and appropriate regional offices of the agency.²¹

The Department of Agriculture guidelines²² for implementing section 102(2)(c) of the Act, closely paralleled those of the Council. The Department's guidelines did add one significant requirement to those of the Council, for inclusion in environmental statements. This requirement was the element dealing with favorable environmental effects of agency activities and would become a part of all environmental statements prepared by the agencies within the Department, including the Forest Service.

The Secretary's memorandum on the Act stressed the need: to provide a uniform system for determining those USDA proposals, legislative or otherwise, that will significantly affect the quality of human environment; to develop guidelines for preparing environmental statements on Departmental activities; and, to develop means for timely public information on agency activities that will have a significant environmental impact.

²¹U.S., Council on Environmental Quality, "Guidelines," Sect. 10(e), (g).

²²U.S., Department of Agriculture, Guidelines for Preparing Environmental Statements Required by Section 102(2)(c) of P.L. 91-190, Secretary's Memorandum No. 1695, Supplement 4, Dec. 1, 1970 (reprinted in Hearings on Administration of NEPA, Part 2, pp. 251-254.).

In Appendix C of the Department's guidelines "major actions" (other than legislative) were construed to include:

- (a) projects and continuing activities
 - directly undertaken by USDA agencies
 - supported in whole or part through educational, technical or other forms of USDA assistance and contracts, grants, cost-sharing, subsidies, loans or other forms of funding support
 - involving a USDA lease, permit, license, certificate or other entitlement for use
- (b) policy and procedure-making
 - 1. New programs initiated or current ones significantly modified under existing legislation
 - 2. Projects requiring local sponsorship which are initiated or significantly modified
 - 3. Decisions to initiate actions that are likely to be highly controversial, some of which may result in administrative appeals or court actions.²³

It is this last category of "major actions" that will be of the greatest concern to the Forest Service in meeting the section 102 requirement for environmental statements.

A Broad Environmental Responsibility

The National Environmental Policy Act imposes a broad scope of environmental responsibility upon government agencies. The Act declares a comprehensive national policy designed to promote a quality environment and imposes regulations upon Federal agencies to implement these policies. The degree to which the Federal agencies meet the requirement of section 102(2)(c), for environmental statements, will be a determinate factor in evaluating their compliance with the formal provisions of the Act. Since

²³Ibid., Appendix C., p. 267.

the number and quality of environmental statements prepared by an agency is the most convenient means of measuring their compliance with the Act, these statements are being emphasized by the Council as well as the affected agencies. Unfortunately, as pointed out by the Council in their second annual report, environmental statements are all too often written to justify decisions already made, rather than as a basis for critical analysis of the total situation.²⁴

In the Council's view, the Act was intended to bring environmental factors onto an equal level with technological and economic considerations in government decision making. It has not, as yet, been fully successful in that respect.²⁵

The ultimate role of the Act as a determinate in Federal agency decision making will only be realized when these agencies, such as the Forest Service, seek to administer their programs in response to the spirit, as well as the letter of the law. The above view of the Act's intent was discussed by Ronald Peterson in his legal analysis of Title I of the Act. His in-depth analysis of the requirements and implications of the Act brought out the compulsory nature of its application to Federal agency activities:

NEPA declares a policy that has a broad scope and imposes duties that are compulsory. It would be a great mistake to view the act more narrowly, because Congress clearly intended that it apply to most Federal action which affects the environment. As agencies become familiar with the substantive and procedural requirements of NEPA, they will

²⁴U.S., Council on Environmental Quality, Environmental Quality, p. 26.

²⁵Ibid.

slowly incorporate the intent of Congress--the restoration and maintenance of environmental quality--into their decisions.²⁶

In Peterson's view, judicial enforcement of the requirements of the Act will be necessary if, "as is likely, the Federal agencies concerned do not readily abandon entrenched attitudes and procedures that currently result in environmental degradation."²⁷ Because of the lack of authority on the part of the Council to demand environmental statements, and adherence to them when they are prepared, the courts will become the final arbitrator, particularly in those actions with major environmental repercussions.

The extent to which conservation organizations, such as the Sierra Club and the Wilderness Society will be successful in challenging agency actions on the grounds of non-compliance with the Act is not as yet certain.²⁸ One of the unresolved issues is that of "standing" to sue in Federal court. Under Article III, Section 2 of the U.S. Constitution, a Federal court lacks the jurisdiction to consider any action unless the claimant can show that he has been injured. The traditional, restrictive view of standing is undergoing important changes. A recent tendency of the courts is to stress the public nature and effect of the injury suffered, with less emphasis on the plaintiff's personal, direct, legal interest. Therefore, challenges to agency actions by a person whose concern is not official, but representative of community or general

²⁶Ronald C. Peterson, "An Analysis of Title I of the National Environmental Act," 1 Environmental Law Reporter 50051.

²⁷Peterson, 1 ELR 50035.

²⁸See U.S., Council on Environmental Quality, 102 Monitor, Vol. 1, No. 12 (January, 1972), for cumulative list of the reported court decisions on NEPA through December 31, 1971.

public concern, may have standing.²⁹ The upshot of this broader view of standing is to increase the probability of unpopular agency decisions on environmental questions ending up in court, after the plaintiff has exhausted administrative remedies.

In retrospect, the goals expressed by the National Environmental Policy Act, for achieving a quality human environment will affect all Americans; the degree to which these goals will be implemented will, in the final analysis, be dependent upon the public's willingness to pay the costs of a quality environment. As pointed out by Henry Jackson, the Act's goals are "man" oriented. In his view:

They are concerned with humanity and man's relationship to his surroundings. By way of contrast, most Federal resource policies and laws are "object" oriented. Human values and aspirations tend to be submerged in programs and numbers, and the issues tend to become quantitative and objective. Qualitative, humanistic considerations are too often lost in legislative and administrative efforts to adjust or re-define man's changing relationship to his environment.³⁰

It is just this problem of the human goals as opposed to resource goals that is the subject of the next chapter. To a great extent, the problem of the Forest Service in an urban society is to reach a balance between resource considerations and human values, something they are being compelled to face in adjusting to the provisions of the Act.

²⁹Henry Rothschild, "The Standing Problem," Natural Resources Journal, XI, No. 3 (July, 1971), 591. See also Environmental Quality, Ch. 5, "The Law and the Environment," pp. 166-170.

³⁰Henry Jackson, "Environmental Policy and the Congress," Natural Resources Journal, XI, No. 3, (July, 1971), 408.

CHAPTER III

THE U.S. FOREST SERVICE: CONSERVATION AS WISE UTILIZATION OF RESOURCES

The United States Forest Service, by their own admission, has the responsibility for national leadership in forestry. This role includes such things as participation in setting national priorities, developing programs in forest management and establishing trends in Federal policies that relate to man and his environment.¹ The men who have managed our national forests have generally shown a concern for conservation of forest resources and a good understanding of forest ecology. There had not been, however, any statutory demands on the Forest Service to consider the total environmental impact of their management practices until the National Environmental Policy Act of 1969. The purpose of this chapter, then, is to outline and discuss the development and implications of the Forest Service's tradition of resource management. The Forest Service view of resources, as expressed by their management practices, has brought them into conflict with environmentalists who question their professional decisions. The ability of the Forest Service to respond to the new demands on land management will ultimately determine the degree to which the agency is able to comply fully with the intent of the Act.

¹U.S., Department of Agriculture, Forest Service, Fact Sheet: What the Forest Service Does (Washington, D.C.: Government Printing Office, 1970), p. 1.

The Legislative Mandate

The statutory basis of present Forest Service management policies is largely contained within the Multiple Use Sustained Yield Act of 1960.² This act outlined the purposes for which the national forests would be administered and defined the terms, "multiple use" and "sustained yield." According to section 1 of the Act, it "is the policy of Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed and wildlife and fish purposes."

Multiple use, as defined in section 4 (a) of the Act means:

The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Sustained yield is defined, in section 4 (b) of the Act as, "the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land."

The broad policy directives of the Multiple Use Act, that the national forests be managed under principles of multiple use and to produce a sustained yield of products and services are not incompatible with

²16 U.S.C. 528-531.

the demands of the National Environmental Policy Act for a quality human environment.³ The fundamental criticism of the Forest Service has been in regard to their dominant-use philosophy which has emphasized the production of merchantable timber, and other commercial interests at the expense of related forest uses.⁴ The criticism, then, has been largely over Forest Service interpretation of their legislative mandate to manage the national forests, and their lack of response to changing public values for resource management.

The Forest Service Tradition

The institution and tradition of the Forest Service grew out of the Progressive Era and its demand for scientific planning to promote efficient development and use of all natural resources. This "gospel of efficiency" promised the wise use of resources and, in the process, subordinated the aesthetic to the utilitarian. In the view of Samuel P. Hays, "preservation of natural scenery and historic sites...remained subordinate to increasing industrial production."⁵

The early conservation movement, under the leadership of Theodore Roosevelt and Gifford Pinchot, who became the first Chief of the Forest Service, was responsible for withdrawal of 234-million acres of forested lands from private entry to be retained in public ownership and management. Pinchot's primary achievement was the creation of the U.S. Forest Service,

³Ira Michael Heyman and Robert H. Twiss, "Environmental Management of the Public Lands," Ecology Law Quarterly, I, No. 1 (Winter, 1971), 128.

⁴U.S., Congress, Senate, A University View of the Forest Service, S. Doc. 115, 91st Cong., 2nd sess., 1970.

⁵Samuel P. Hays, Conservation and the Gospel of Efficiency (Cambridge: Harvard University Press, 1959), p. 127.

which was given responsibility as caretaker of the forest lands that would become the national forest systems. The idea of conservation as wise utilization of resources for public benefit, which grew out of the Progressive Movement, was incorporated into the philosophy of land management agencies and became the basis of their professional views of resource management.⁶

Grant McConnell, writing in Natural Resource Journal,⁷ expressed another dimension of the intellectual foundation of the conservation movement and its connection with the Progressive Era. In his view, a significant element of the movement that Pinchot founded was a deeply felt sense that it was wrong the forests should be exploited by a few interests out for economic gain. According to McConnell, "Pinchot reiterated that the benefits of the forest were for all the people, and like other leaders of the time, he saw those benefits as very nearly wholly economic."⁸ McConnell reinforced this economic aspect of the conservation movement by noting that it appeared at a time of tremendous growth and development and also in the era of Taylorism and scientific management. Conservation, in the view of Pinchot and his descendents in the Forest Service, came to mean much more than just preservation; it was

⁶John C. Hendee, Richard P. Gale, and Joseph Harry, "Conservation, Politics, and Democracy," Journal of Soil and Water Conservation, XXIV, No. 6 (November-December, 1969), 212.

⁷Grant McConnell, "The Environmental Movement: Ambiguities and Meanings," Natural Resources Journal, XI, No. 3 (July, 1971).

⁸Ibid., p. 430.

a "resource ethic"⁹ that emphasized the use of natural resources for public benefit.

To what extent is this resource ethic a determinate factor in Forest Service management practices today? One of the first major public indictments of Forest Service multiple use management was a select committee's report on the timber management practices in the Bitterroot National Forest of western Montana.¹⁰ The committee, chaired by the Dean of the School of Forestry, University of Montana, looked into timber harvesting practices, particularly clearcutting, in response to severe public criticism of the Forest Service in the area. The committee found as a major finding in their study that, "multiple use management, in fact, does not exist as the governing principle on the Bitterroot National Forest."¹¹

A Forest Service Task Force, organized by the Regional Forester in Missoula, Montana, to look into the management practices on the Bitterroot, had previously noted as a major element in the controversy that, "there is an implicit attitude among people on the staff of the Bitterroot National Forest that resource production goals come first and land management considerations take second place."¹² The Task Force report

⁹This view of the Forest Service is discussed by Gordon L. Bultena and John C. Hendee in, "Forester Views of Interest Group Positions on Forest Policy" (unpublished paper, Pacific Northwest Forest and Range Experiment Station, Forest Service, Seattle, Washington, 1971), p. 3.

¹⁰A University View of the Forest Service, S. Doc. 115.

¹¹Ibid., p. 13.

¹²U.S., Congress, Senate, Senator Lee Metcalf speaking on Forestry Practices, Congressional Record, February 5, 1971.

became the starting point for the select committee's analysis of the Bitterroot situation. The overemphasis on production of resources was a major point of agreement in both reports.

The problem in the Bitterroot, as seen by the committee, was the Forest Service's overriding concern with production of saw timber at the expense of other, related forest uses. In the committee's view, the core of professional forestry has been sustained yield timber management and its implicit view of productivity:

"Productivity" we learned time and again, meant maximum physical production of saw logs. Much timberland was being harvested ostensibly to "get it into production." The idea that a scraggy stand of overmature timber could and does provide other values was alien and largely absent from the thinking of most of the professional foresters we encountered: this in spite of their lip service to "multiple-use."¹³

Generally, in the committee's view, the single-minded concern with production of timber prevented the full consideration of other forest values, such as recreation, watershed, wildlife and grazing that are essential elements of multiple-use land management.

A recent study by John Hendee of the Pacific Northwest Forest and Range Experiment Station, U.S. Forest Service, and Gordon Bultena, sociologist at Iowa State University, brought out evidence on the Forest Service's alignment with commercial interests on problems of resource utilization.¹⁴ In their survey of Forest Service personnel in Washington and Oregon, two major timber producing states, they asked for views on increasing versus decreasing timber cutting and opening versus closing most forest trails to motorbikes. The foresters were asked to indicate

¹³A University View of the Forest Service, S. Doc. 115, p. 22.

¹⁴Bultena and Hendee, "Forester Views of Interest Group Positions."

what position they felt each of 16 types of interest groups would take on the two issues and also what position on these issues he felt was held by his immediate supervisor.

The findings indicated that "nearly all (94%) the respondents saw their superiors in the Forest Service as favoring increased allowable cuts of timber to the extent permissible."¹⁵ These results placed the Forest Service in agreement with the foresters' view of positions held by small logging companies, the forest products industry, city and county officials and local chambers of commerce. The authors concluded from the study that the foresters in their group aligned themselves with the commercial interests on the issue of timber cutting and saw their agency's position as favoring these interests. On the issue of motorbikes on forest trails, the foresters did not show any real consensus, which indicated conflicts in the Forest Service's view of the role for recreation in the national forests.

It is important to take cognizance of the fact that both previous examples were taken from regions with heavy timber emphasis. Both studies, however, emphasized the point that the problem existed far beyond the boundaries of their respective studies. The Bolle report on the Bitterroot National Forest indicated that the core of forest professionalism is sustained yield timber management, a concept that was introduced into American forestry by Gifford Pinchot, and came to mean the maximum biologically sustainable quantity of the product, wood.¹⁶

¹⁵Ibid., p. 7.

¹⁶A University View of the Forest Service, S. Doc. 115, p. 22.

The basic Forest Service view of conservation as wise utilization of resources has, at least from the point of view of some researchers, resulted in their identification with commercial interests, which are strongly oriented towards economic utilization of resources. The essential question of this commercial orientation becomes: what types of influences have perpetuated these management practices, and will continued identification with commercial interests prevent the Forest Service from responding in a positive way to new political forces; forces that view conservation as preservation of resources and had their views felt, to some extent, in the passage of the National Environmental Policy Act?

As anyone who has observed the operations of the Forest Service knows, their management policies are implemented in a largely rural environment. The lower administrative offices of the Forest Service are usually in small towns which place foresters in close, continuous contact with local groups strongly committed to commercial forest interests. The extent to which local pressures are influential in determining Forest Service policies is debatable; there is support for the opposing view that management direction is largely determined in the Washington Office with the field officials implementing predetermined policies.¹⁷

One significant factor coming from the research of John Hendee is that the rural outlook of many foresters coincides with commercial interests' view of utilization of resources. Hendee summed up his view of the relation of foresters to local, commercial interests thusly:

¹⁷Ibid., p. 26.

Perhaps foresters come to field assignments favoring commercial over social-aesthetic uses and abhorring inefficiency, waste and "unused" resources. This orientation may be reinforced by local clientele, but forestry education, early "on the job" training and selectivity of recruitment may partly explain such attitudes.¹⁸

In contrast to the rural orientation expressed by the Forest Service, the United States is rapidly becoming an urban nation and these urbanities are making their demands upon the forest lands. The recreation-aesthetic orientation towards forests is most strongly held by urbanites, and as such, is, in many cases, directly in conflict with more traditional Forest Service views.¹⁹

In attempting to categorize the Forest Service orientation as rural and commercial, in opposition to the urban, recreation-aesthetic orientation of much of our society, it is important to not make these categories all inclusive. For example, in the Bitterroot controversy the initial opposition came from local residents who objected to the unsightly scars created by the increasing number of clearcuts. At the other extreme, the largely urban demands for mass recreational uses of the forest, as exemplified by ski resorts, and locally, the Sandia Peak Tramway, are creating serious environmental problems. In reality, commercial interests, whether they be represented by local, or national demands for economic exploitation of national forest resources, including recreation, will be of increasing concern to the Forest Service as they readjust their programs to meet the requirements of the National Environmental Policy Act.

¹⁸Bultena and Hendee, "Forester Views of Interest Group Positions," p. 12.

¹⁹Hendee, Gale and Harry, "Conservation, Politics and Democracy," p. 212.

The professionalism developed within the Forest Service has a lot to do with their view of resource management. Individual forester's view of the public interest is tempered by their education, background and values. Their belief in reliance upon their own technical expertise to make decisions with major social consequences is also included under the guise of professionalism.²⁰

Probably the Forest Service is more widely recognized by the general public than any other Federal agency dealing with our natural resources. Through the use of a systematic public relations campaign that includes such things as "Smokey Bear" symbols, numerous publications on Forest Service activities and distinctive uniforms for its employees, the Forest Service had been able to create a generally favorable view of their activities in the public mind. The overall implications of the Forest Service's campaign to maintain its public image is pointed out by Herbert Kaufman in his study of administrative behavior in the agency:

The public relations campaign also creates both inside and outside of the Forest Service an image of the Service as the uncompromising champion of the public interest and welfare, as a defender of public property against spoilation by powerful but selfish interests, an image that builds up the pride of the men associated with it and elevates their personal prestige along with its own.²¹

Kaufman also tries to show how the entire structure and operation of the Forest Service is designed to prevent men from deviating from

²⁰Daniel H. Henning, "Natural Resource Administration and the Public Interest," Public Administration Review, XXX, No. 2 (March/April, 1970), 136.

²¹Herbert Kaufman, The Forest Ranger: A Study in Administrative Behavior (Baltimore: The Johns Hopkins Press, 1960), p. 196.

promulgated policy. The extended integration techniques of the Forest Service heighten its employee's identification with the organization through instillation of pride in the Service that practically merges the individual's identity with that of the organization. The ultimate result of this Forest Service strategy is to create a strong professionalism among its employees that has isolated them to a great extent from public criticism.

It is precisely this strong professionalism that has become one of the recent points of criticism of the Forest Service. Their reliance upon in-house technical expertise to manage the national forests for what they feel is the best public interest has been seriously challenged by environmentalists. Geoffrey Wandesforde-Smith discussed the nature of this criticism and some of its implications for natural resource managers.²² From his perspective, the problem extends to the basis of professional resource management:

The environmentalists even go so far as to question the rights of professional resource managers to make binding determinations about the most appropriate uses of the resources of the nation's lands.

This last position is based on the assertion that in terms of the values and long-range social goals being sought the views of the professional resource manager are not all that much more valuable than anyone else's. Indeed, they may be less valuable despite the manager's professional training, because the record shows that by training and experience resource managers tend to regard the productive uses of resources as paramount.²³

²²Geoffrey Wandesforde-Smith, "The Bureaucratic Response to Environmental Politics," Natural Resources Journal, XI, No. 3 (July, 1971).

²³Ibid., p. 481.

In the author's viewpoint, these ideas lead to the conclusion that modern conservationists will not accept the resource manager's right to determine future resource uses almost entirely on professional grounds. Instead, they are asking for a wider public involvement in resource decisions than is represented by those interests likely to gain from economic or productive uses of the resources.²⁴ The attempt to solicit a wider public participation in the decision making process is one theme of the National Environmental Policy Act, and one aspect of the Forest Service's response to the Act. This response will be discussed in detail in the succeeding chapters.

Returning once again to the question posed earlier: is the rural orientation of the Forest Service, its association with commercial interests and integrated professionalism incompatible with the expressed requirements of NEPA, to bring environmental considerations into full account in management activities? The Forest Service is proud of its position as caretaker of the national forests, and as Kaufman pointed out, they have a highly developed sense of internal solidarity. Being very conscious of their public image, the agency has been quick to respond to their interpretation of changing views on the part of the public. The extent to which their present response is a legitimate effort to develop a model for environmental management rather than a defensive, short run effort at administrative gadgetry will determine the degree to which the agency will be able to meet the requirements of the Act.²⁵

²⁴Ibid., p. 482.

²⁵Richard M. Alston, Ph.D., "Forest--A Goal Oriented Decision Model" (unpublished paper, summary of findings of research performed under auspices of the Production Economics Unit at the Intermountain Forest and Range Experiment Station, Ogden, Utah, 1971), p. 2. Alston develops the components of a decision-making model that would enable the F.S. to better carry out its legislative mandate.

The Forest Service's management policy has been to build up a series of multiple use plans and guides to implement their legislative mandate. These guidelines contain the plans, programs and projects to be implemented by the agency as well as the methodology required in carrying them out. The Forest Service Manual, issued by the Chief's Office, contains the primary directives for the agency. At the next level of line operation, the region, a Regional Multiple Use Management Guide gives the policy direction for the region. The Regional Guide describes management situations for the major resources, states basic assumptions for various resources and activities within the region, sets management objectives based on resource potential and contains coordinating requirements for resources and use activities within the region.²⁶

The District Multiple Use Plan is designed to make more specific, in content and location, the general resource guidelines contained in the Regional Guide. Both the Regional Guide and the District Plan are designed primarily to coordinate different resource and use activities so that one activity does not prove detrimental to the other. As such, these two plans represent two levels of advance resource planning. The third level of advance planning is usually carried out at the forest level. The forest level planning is functional, based on specific resources. These plans would include: timber management, watershed management, transportation, wildlife and range conservation.

The functional resource plans are supposedly coordinated through the Regional Guides and District Plans; in many cases, the District Plan

²⁶U.S., Department of Agriculture, Forest Service, Multiple Use Management Guide, Southwestern Region (Albuquerque: Region 3, U.S. Forest Service, 1967), p. iv.

becomes a device to record where within the district the activities established by the functional plans will take place. The possibility for conflict over various uses and activities within the district, leading to environmental damage, becomes possible through this planning procedure.²⁷

The general impact of these three levels of advance planning on environmental protection is discussed by Ira Heyman and Robert Twiss in their article for Ecology Law Quarterly. The authors' view is that the various policy statements and guidelines concerning environmental protection, as expressed in the Forest Service Handbook, are either very general, all inclusive statements, or very specific management directives based on past field experience. The shortcomings of this type of management direction were noted by the authors:

There is a lack of clear criteria and potentially achievable operational standards for measurable elements of environmental quality...Without a broad spectrum of standards for different aspects of the total environment--open space, visual parameters, parks, and wildlife--environmental quality considerations cannot hold a strong position in the decision making processes which govern timber practices and other forestry activities.²⁸

In contrast to this need for standards of environmental quality, which demands large quantities of relevant and accurate data, the information available to the Forest Service for environmental considerations in environmental considerations in management is, in the judgment of Heyman and Twiss, barely adequate to marginally useful depending upon the circumstances of the decision.²⁹

²⁷This view expressed by Heymen and Twiss in "Environmental Management of the Public Lands," p. 114.

²⁸Heyman and Twiss, "Environmental Management," p. 129.

²⁹Ibid., p. 130.

The evidence from the above critiques of the Forest Service's ability to respond to demands for environmental management points out the need for more intensive data collection, better understanding of public demands upon public lands, and most of all, development of a more sophisticated view of the relation of resources to land capability; one that transcends thinking of the national forests primarily in terms of productivity.³⁰

Having discussed in some detail the intellectual traditions of the Forest Service as well as the emerging challenges to their world view, it behooves this researcher to consider the Forest Service's response, keeping in mind the limitations of this study, to the specific requirements of NEPA. The final section of the chapter, then, will be directed to a look at the response at the policy-making level of the agency, the Washington Office.

The Service Responds

Thomas C. Nelson, Deputy Chief of the Forest Service, addressed himself to a general appraisal of the Forest Service's role in environmental management.³¹ He first of all made the distinction between environmental management and production management as they relate to the Federal forest administrator. In Nelson's view, environmental management is a dimension that has been added to land management practices in the 1970's to protect and improve the quality of air, water, soil and natural beauty. In most

³⁰Partly in response to the above pressures, the F.S. is perfecting a sophisticated land use planning procedure, based on intensive technical inventories of resource capabilities. The implications of this planning attempt will be discussed in later chapters.

³¹Thomas C. Nelson, "The Role of Federal Forest Administrators in Environmental Management" (paper presented at Western Forestry Conference, Portland, Oregon, Nov. 30-Dec. 3, 1970).

cases, according to Nelson, it involves the extra work necessary to do a quality job of growing or harvesting a particular product of the national forest with appropriate concern for other resource values, rather than have as a primary objective, simply, the protection and improvement of these basic resources.³² In reality, his view of the Forest Service's role in environmental management is adaptive, rather than one of fundamental change.

Obviously, Nelson's perception of environmental management would not closely coincide with that of the Wilderness Society, but does commit the Forest Service to giving environmental factors increased emphasis. Specifically, the overriding considerations of the Federal forest administrator in environmental management are, in Nelson's view: balance the program emphasis among national forest activities and ensure quality management. Program balance means, "a balance among the total gamut of activities--outdoor recreation, watershed improvement, and fish and wildlife habitat management as well as timber production and forage management. It means balance between commodity and noncommodity uses."³³

The emphasis on balance in programs was combined with an awareness of the need for an increase in the quality of Forest Service performance, to indicate to the public that the agency is, in fact, doing a responsible job of forest land management. This emphasis on public relations is a major part of the Service's response to recent demands for environmental quality in land management.³⁴

³²Ibid., p. 1.

³³Ibid., p. 3.

³⁴U.S., Department of Agriculture, Forest Service, Framework for the Future: Forest Service Objectives and Policy Guides (Washington, D.C.: Government Printing Office, 1970).

The Chief's Office has indicated a very similar response to the more specific requirements of NEPA; one of confidence in the ability of the Forest Service to adjust their programs to insure a more realistic balance in forest uses that will stress environmental quality. An indication of the policy guidelines from the Chief's Office was a memorandum issued by John R. McGuire, Associate Chief. The memorandum, dated June 8, 1970, and distributed to the regional offices, outlined the appropriate response for the field offices and reiterated the agency's commitment to environmental quality in management.

McGuire's memorandum was concerned primarily with section 102(2)(c) of the Act, requiring environmental impact statements, and indicated two points of emphasis for the agency: to be as responsive as possible in considering environmental factors and to make this consideration public. He also declared, rather confidently, that, "we believe this can be done with little additional effort by adopting our usual impact reports and similar reports to specifically include the five items required by section 102(2)(c)."³⁵ In reference to the Act's requirement for consultation with other Federal, State and local agencies in preparation of environmental statements, McGuire indicated that this type of consultation was their typical procedure and the only change required by the Act and the Council's guidelines was more formality. The early response from the Washington Office, then, was one of confidence in adjusting the traditional Forest Service management policies to conform to the requirements of the Act.

³⁵John R. McGuire, Memorandum to All Regional Foresters on Agency Response to Section 102(2)(c) of NEPA (June 8, 1970).

The Chief's Office has issued two major directives in the way of guidelines for field implementation of the Act. The initial directive, dated July 13, 1971, concerned environmental statements and was an adaptation of Council on Environmental Quality and Department of Agriculture guidelines to Forest Service activities.³⁶ The second directive was a revision of Title 2100 of the Forest Service Manual, "Multiple Use Management" and coordinated multiple-use policies and planning procedures with the general emphasis of the Act for environmental considerations in management practices.

Emergency Directive No. 1, on environmental statements, is the major guideline from the Chief of the Forest Service in respect to compliance with section 102(2)(c) of NEPA. The Forest Service guidelines parallel those of the Council, with adaptations where necessary to fit the particular management activities of the agency. The Forest Service's interpretation of the purpose of environmental statements, and indirectly the Act, indicated their points of emphasis:

The objective of an Environmental Statement is to provide a means for giving environmental quality careful and appropriate consideration in the decision-making process... This means environmental quality must be objectively weighed with economic development and social well-being goals over both the short and long run. The Environmental statement process also provides a formalized procedure for informing and taking account of comments from other agencies, individuals, and groups having expertise or interest in the subject area under consideration.³⁷

The major purpose of the Act, from the Forest Service's outlook, is to assure the Executive and Congress that environmental quality is fully

³⁶U.S., Department of Agriculture, Forest Service, Emergency Directive No. 1, "Environmental Statements," Chapter 1940, Title 1900, Forest Service Manual (Washington, D.C.: Government Printing Office, July, 1971).

³⁷Emergency Directive No. 1, "Environmental Statements," Sec. 1940.2.

considered in all Federal activities affecting the environment.

Other items included in the Forest Service guidelines were: statements on the responsible official for determining the need for, and preparation of, environmental statements on specific Forest Service actions; determination of the "Lead Agency" in situations where other agencies are involved; and application of requirements to existing projects and programs. The major thrust of the guidelines, however, was directed toward delineating those actions requiring environmental statements and developing the format and content of the statements.

As previously discussed in Chapter II, the Act requires that environmental impact statements be prepared and submitted with proposals for legislation and for other major actions significantly affecting the quality of the environment. The Forest Service guidelines indicated that environmental statements are required for proposed actions with major environmental impacts which are highly controversial. The guidelines noted that:

"Major" actions and "significant" environmental effects are difficult to define precisely and uniformly because of the great variation in social, political and ecological conditions. The official responsible for taking action must use good judgment in determining when formal Environmental Statements are appropriate and useful in the decision making and public involvement processes.³⁸

The Forest Service guidelines included categories of criteria that should be considered by officials in making the determination as to the appropriateness of a statement. These categories included:

1. Degree of ecosystem disturbance. Both on-site and off-site effects should be recognized.

³⁸Emergency Directive No. 1, "Environmental Statements," sect. 1941.

2. Irreversible effects on basic resources; short term versus long term commitments.
3. Cumulative effects of many small actions.
4. Chain reactions or secondary effects of interrelated activities.
5. National versus regional and local importance.
6. Uniqueness or rareness of resource.
7. Precedent-setting cases.
8. Scope of anticipated public involvement and controversy anticipated.³⁹

The guidelines further delineated the criteria for judging the necessity of environmental statements by specifying thirty components of the forest system, which, if significantly affected by Forest Service activity, would require an environmental statement. These included such items as rare and endangered species, Wilderness Areas, Historic Areas, municipal watersheds, shorelines, large unroaded areas, air or water quality, and key wildlife or fish areas.⁴⁰ As pointed out by the guidelines, a complete list of activities requiring environmental statements can not be specified because of the complexity of Forest Service programs. A great deal of discretion was given to the field offices to make the final determination as to those activities that would require impact statements.

The final section of the guidelines was devoted to the proper format for preparation of environmental statements and the consultation and review process of these statements. The consultation and review process would include the following six steps:

³⁹Ibid.

⁴⁰Emergency Directive No. 1, "Environmental Statements," Sect. 1941.

1. Individual agency and public inputs leading to a Draft Environmental Statement.
2. Development of the Draft Statement
3. Filing Draft Statement with Council on Environmental Quality.
4. Review of the Draft Statement by appropriate agencies and the public.
5. Preparation of Final Statement.
6. Filing Final Statement with Council.⁴¹

The guidelines from the Washington Office of the Forest Service for implementation of the National Environmental Policy Act stressed the programmatic function required by section 102(2)(c), for preparation of environmental statements. These guidelines give a broad sense of direction to the field offices for implementation of this requirement of the Act. The extent to which field implementation of section 102(2)(c) will meet its expressed objective, "to build into the agency decision-making process an appropriate and careful consideration of the environmental aspects of proposed action and to assist agencies in implementing not only the letter, but the spirit, of the Act,"⁴² will be the subject of the next chapter.

⁴¹Ibid., Sect. 1943. See Appendix B for Flow Chart on Environmental Statement Process.

⁴²U.S., Council on Environmental Quality, "Statements on Proposed Federal Actions Affecting the Environment: Guidelines," Federal Register, XXXVI, April 23, 1971, 7724.

CHAPTER IV

IMPLEMENTING THE ACT: THE NORTHERN REGION

The Northern Region (Region 1) of the U.S. Forest Service with headquarters in Missoula, Montana, encompasses some 26-million acres in five states. It extends across Montana, northern Idaho, a corner of Washington, and portions of North and South Dakota. This area is divided into sixteen national forests, four national grasslands and contains ninety-one Ranger districts. Included with the Northern Region are the Great Plains areas of eastern Montana and western Dakotas, the heavily timbered slopes of northern Idaho and northwestern Montana, and the rough mountainous region in Montana and Idaho. These diversified land areas all contribute toward a great variety of vegetative cover and growth and climatic conditions.

Lands under Forest Service administration within the Northern Region have been important sources of grazing forage for domestic livestock, habitat for game and sport fish, recreation, water, minerals, wilderness, and most of all, timber. These uses are diversified, and in some cases, conflicting. As pointed out by the Forest Service in their Management Direction for the Northern Region, "commercial enterprises related to use of renewable natural resources such as water, wildlife, recreation and fiber will grow."¹ These traditional economic demands on the national

¹U.S., Department of Agriculture, Forest Service, Management Direction for Northern Region (Missoula, Montana; Region 1, U.S. Forest Service, 1970), p. 9.

forests are being supplemented by the challenges of a maturing society.

Again from the Forest Service's Management Direction:

A growing population, continued lowering of the medium age, more leisure time and the trend toward urban living will result in increased demand for new and different outdoor recreation uses and for more vigorous or action-oriented recreation such as hunting, fishing, hiking, winter sports and water sports.²

The attempt to reconcile these diversified demands upon the forest land is not always possible, despite the Forest Service's assumption that, "values such as natural beauty and quality of the environment are competing equally with the more traditional forest land values and will increasingly influence many resource management practices and programs."³ True, but demands of the wood products industry for increasing allowable cut, or stockman's demands for larger range allotments are basically incompatible with the avid preservationists' interest in increased wilderness and generally reduced emphasis on timber harvesting.

The Northern Region is in no way unique in this respect, but the distribution of resources within the region has favored the past emphasis upon production of commercial timber. The Bitterroot National Forest, which was the subject of the University of Montana select committee investigation on timber harvesting practices, is typical of those forests that comprise the bulk of the Region, and make up the 100 billion board feet of sawtimber presently growing on the land. In respect to meeting the requirement of section 102(2)(c) of the Act, for environmental impact statements, it can be safely assumed that problems relating to timber harvest will compose the majority of these statements in Region One.

²Ibid.

³Ibid.

The Guidelines

The Regional Office is responsible for adapting the Chief's policy directives and guidelines to the particular management situations existing within the region. Within the past year, the Regional Office at Missoula has developed a Northern Region Program Emphasis⁴ which indicates the direction for the region in planning and programming for the next three years. It also indicates the high priority items for the next Fiscal Year. Although the Program Emphasis does not refer in detail to the requirements of NEPA, it does show the influence of present public demands for a greater degree of environmental consideration in management.

Regional Forester Steve Yurich, in the introductory statement to the Program Emphasis, noted the Region's major point of emphasis: "Our first responsibility is to manage the land and its resources to meet the needs of the people. High quality land management will be the common standard for measuring all programs and the objective of all activities."⁵

In delineating the Region's most critical immediate needs, the Regional Forester emphasized as one broad category, regaining professional credibility with the public. His major objective was to eliminate the credibility gap by being visible and remove the inconsistency between what they say and what they do. He felt it equally important that the Region take steps to provide a frame of reference for their actions that was based on their words and concepts.⁶

⁴U.S., Department of Agriculture, Forest Service, Northern Region Program Emphasis (Missoula, Montana: Region 1, U.S. Forest Service, 1971).

⁵Ibid., p. 2.

⁶"Regional Forester's Points of Emphasis," in Northern Region Program Emphasis, p. 3.

One specific item in the first category was that of improving the quality of timber harvesting activities. Because of the degree of criticism levied against their timber management practices, the Forest Service was particularly sensitive to this issue. The Specific Direction Item for timber indicated that "environmental values will be protected through quality sales planning and layout, road construction, silviculture, and logging practices."⁷ The Direction also emphasized the need for a multidisciplinary approach in development and layout of sales and concluded by stating, "we must meet the provisions of the Environmental Policy Act."⁸

These general directives from the Regional Forester are very broad but do indicate the areas of emphasis for the next three years. Although they include problem areas which are stressed by section 102 of the National Environmental Policy Act, such as the need for public involvement and public information on agency activities, plus incorporation of a multidisciplinary approach to management plans, the Program Emphasis does not delve into specifics of implementation. For example, one Specific Direction Item under the category of "Raising Forest Service Standards" indicated a need to "promote a continuous evaluation of our standards to insure that they are compatible with current social values and land management objectives."⁹

The very vague direction, as indicated by the above quote, is expected to be applied by the Forest Supervisors to specific programs and

⁷Ibid., p. 4.

⁸Ibid.

⁹Ibid., p. 6.

activities, then implemented at the district level. The problem becomes apparent in attempting to implement these very general goals within the framework of the Act's demand for an interdisciplinary decision-making model that will insure that presently unquantified environmental values will be given appropriate consideration along with economic and technical considerations. In many cases, the Regional Program Emphasis has reiterated the general emphasis of NEPA in questions of environmental quality with no guidelines as to how it will be accomplished.

In developing procedures for meeting the very specific requirement of section 102(2)(c) of the Act, the Regional Office has issued a supplement to Emergency Directive No. 1, issued by the Chief's Office. The Region One Emergency Directive¹⁰ is an amplification of the Chief's guidelines for preparation of environmental statements.

The Regional guidelines stressed several problem areas in preparation of statements. The first was determination of responsibility for the statement. Responsibility for preparation in those major actions which have significant environmental impacts when viewed cumulatively from a Forest basis, or are highly controversial, was delegated to Forest Supervisors. Environmental statements for actions within the area of responsibility of a Regional Division, such as prescribed burning for sagebrush control, would be prepared by the appropriate Division, Range and Wildlife Management in this case, in the Regional Office.¹¹

¹⁰U.S., Department of Agriculture, Forest Service, Emergency Directive No. 1, "Environmental Statements," Chapter 1940, Forest Service Manual (Missoula, Montana: Region 1, U.S. Forest Service, November, 1971).

¹¹Ibid., p. 1.

The most important section of the Emergency Directive was section 1941, dealing with those actions requiring environmental statements. The Regional Directive stipulated:

Any action, whether considered major or not, which is likely to be highly controversial, that is, which may result in administrative appeal or court actions, requires an environmental statement.¹²

In section 1941.22, the Regional Directive admitted that a definitive list of activities that would require environmental statements could not be specified because of the varied activities within the Region. They did list thirteen categories of activities that would require impact statements, and the level, Forest or Region that was responsible for their preparation.

Region One environmental statements, according to the Directive, should follow the guidelines prescribed by Emergency Directive No. 1 from the Washington Office in respect to content and format. All environmental statements, whether they be prepared under the direction of a Forest Supervisor or Division Chief, would be directed to the Multiple Use Group in the Regional Office for review of format and content, then transmitted directly to the Washington Office.

At present, a significant portion of those environmental statements prepared under the authority of a Forest Supervisor will originate at the Ranger District level. Although section 1942 of the Regional Directive requests that forests, when preparing environmental statements, consult with the function Division at the Regional Office with expertise in the specified area, the Forest Service personnel are spread too thin to provide professional expertise for all circumstances. As pointed out

¹²Ibid.

by John Leasure of the Multiple Use Group, there is just not enough technical information at the Ranger District level to meet the demands of every activity that would require an environmental statement.¹³

One of the criticisms expressed in the University of Montana select committee's report on the Bitterroot National Forest was that the research basis for management of the Forest was too weak to support the management practices used.¹⁴ In the committee's view, "multiple use planning must precede management commitment of land to known or expected production goals."¹⁵ This planning requires the availability and direct participation of well-qualified experts in all relevant resource fields, at a stage in the planning process that will enable them to influence the management decisions that must be made. The committee noted, however, that manpower and budgetary restrictions do not allow for the staffing necessary to implement an integrated multiple use planning process.¹⁶ The Forest Service strongly agrees with the last conclusion.

Partially in response to general criticisms of their management practices, as well as specific reports, such as the select committee's, the Forest Service in Region One has indicated as their number one high priority item for F.Y. 1973, multiple use planning and public involvement.¹⁷

¹³John Leasure, private interview held in Missoula, Montana, January 6, 1972.

¹⁴A University View of the Forest Service, S. Doc. 115, p. 13.

¹⁵Ibid., p. 19.

¹⁶Ibid.

¹⁷Northern Region Program Emphasis, p. 11. This planning, also referred to as land use planning, is an effort to better determine the ecological capability of the land to produce the various resources, as opposed to functional planning for outputs, which has been the traditional Forest Service approach.

The general hope, as expressed in the Program Emphasis, is that this planning will enable the Forest Service to develop the technical information necessary for meeting the 102 requirement for environmental statements. The degree to which the Region has been able to implement this multiple use planning is determinate on their available manpower and professional expertise. The real question of interest to this study is whether or not the multiple use planning will enable the agency to meet, in a manner acceptable to the public, the overall 102 requirements of the Act.

The indications from the Regional Office are that the Forest Service is directing particular attention to implementing the specific requirement of section 102(2)(c) for environmental statements. The broader implications of the Act, that the Federal agencies develop an interdisciplinary, broad-based model for environmental management, are much more difficult to measure in any evaluation of Forest Service activity.

The remainder of this chapter will be directed towards analysis of Forest Service implementation of the Act, with particular emphasis on the 102 requirement, in two Ranger Districts of the Kootenai National Forest of northwestern Montana.

The Pipeline Forest

The Kootenai National Forest is situated in the extreme northwest corner of Montana. Climatic conditions and terrain favor the growth of extensive forests which are important for water, grazing, sport fish and game habitat, and most of all, timber. Timber from the Kootenai National Forest has been and remains a major economic base for the three main towns in the area.

The allowable cut on the Kootenai Forest has been revised upward in the last two decades, primarily because of better technical information on capability of timber resources and change in economic value of certain timber species, for example, spruce and lodgepole pine. At present, F.Y. 1972, the allowable cut for the Forest is slightly over 200 million board feet per year.¹⁸ This major emphasis on timber is, in the view of one District Ranger, largely the result of national pressures. The Kootenai Forest was described by him as a "Pipeline Forest"; one designated by the Chief of the Forest Service to produce a set volume of timber each year to the national economy.¹⁹

The response of the Kootenai Forest to the Act's requirements, according to one official in the Forest Supervisor's Office, will be to incorporate the Act in a creative way into their multiple use management concepts. Unfortunately, the Forest has not as yet reached the degree of implementation of the Act to have readily available evidence of their efforts. For example, the first environmental impact statements will not be forwarded to the Multiple Use Group in the Regional Office for a draft review until July.

As pointed out in the Regional Guidelines, the Forest Supervisor has responsibility for preparation of environmental statements for most activities within the Forest. This responsibility would include those statements required for the 5-year Timber Management Plan as well as multiple

¹⁸U.S., Department of Agriculture, Forest Service, "5-Year Timber Harvest and Sales Program, Kootenai National Forest," Forest Service Manual 2417.3, supplement (Libby, Montana: U.S. Forest Service, 1971).

¹⁹Dean Weeden, private interview held in Fortine, Montana, January 6, 1972.

use planning prescriptions. Due to the recentness of the Guidelines (November 29, 1971) there is some measure of duplication between the Forest and its respective districts in regard to environmental statements.

The planning branch at the Forest Office is technically responsible for multiple use planning and development of necessary environmental statements. The planning team is multi-disciplinary, being composed of biotic and abiotic planning specialists, a soil scientist, watershed specialist, landscape architect, and a draftsman.²⁰ Their approach is to pick out high priority items throughout the Forest and develop a land use plan for the area. Examples of the high priority items at present would be any area with potential qualifications for wilderness, or other unroaded areas within the Forest.

Supposedly, the planning team includes the District Ranger as an integral member of the team in any planning process taking place within his district. In reality, the present state of the planning art has not progressed beyond those very high priority items, such as a potential wilderness area at Scotchman Peak on the Montana-Idaho border. Therefore the District Ranger finds himself responsible for preparing environmental statements for specific projects, such as a timber sale, that may be highly controversial. There is, then, at present a joint responsibility in some areas, such as timber management, for preparation of statements.

The problems of discerning the Forest Service's response to the Act at the implementation level are most difficult at this stage in the implementation process because of the lack of sufficient time lapse from

²⁰U.S., Department of Agriculture, Forest Service, Forest Organization Study (Missoula, Montana: Region 1, U.S. Forest Service, 1971), p. 10.

the Act's passage. The researcher is forced, in many instances, to rely on written directives or District Ranger's information on their activities in lieu of specific examples of compliance, such as environmental statements prepared or observable changes in management practices.

The two Ranger districts observed in this study are typical of the six districts that comprise the Kootenai National Forest. Timber, livestock grazing, water, and game and fish habitat have been the traditional forest uses in the districts, but large-scale outdoor recreation is becoming more important.

The greatest impact of the Act at the Ranger district, in the view of the two Rangers, was in timber management. They saw the need to consider other values, such as wildlife and visual aesthetics in planning and preparing sales. Again, the role of multiple use planning would be to give the Ranger a stronger technical basis for his decisions relative to timber harvesting, a basis that would take into consideration environmental factors as well as economic ones.

The greatest problem facing the Forest Service in respect to meeting the 102 requirement was, in one Ranger's view, getting good field inventories that would enable them to adequately meet the five specific requirements for an impact statement. In his view, the District did not have the personnel and technical expertise to gather the kind of data in the time sequence required by the Act. This very problem was also mentioned by personnel at the Regional Office and points out one of the problems inherent in the Forest Service's decentralized organization.

The majority of those environmental statements under preparation by the districts were concerned with some aspect of timber management. This included review of ongoing projects as well as proposals on future

clearcuts, or areas that would be opened up to public access through new roads for logging. In light of the Regional Guidelines for actions requiring environmental statements, that is, any action which may result in administrative appeal, the districts were prepared to develop impact statements for any major timber-related activity.

Probably the one area which will be of the most pressing concern to these two districts in the near future is that of determining the management prescription for those roadless areas within the districts. The Regional Forester has directed that road construction, timber harvest, or other developmental activities be withheld in these roadless areas until the multiple use planning for these areas has been completed and management prescription determined.²¹ Since any activity conducted within these areas will be considered highly controversial, if not by the Forest Service, most likely by conservationists, environmental statements will have to be prepared.

Both districts observed by this researcher have sizeable land areas fitting the above category and if the past record of conservationists' enforcement priorities is any indication, those impact statements justifying intrusion into previously undisturbed areas will be good candidates for court cases.²²

Since the Kootenai National Forest has not as yet passed the stage of internal preparation of environmental statements, it behooves the researcher to look at other aspects of the Forest Service's response in

²¹Memorandum from Regional Forester to Forest Supervisors and Division Chiefs, in Northern Region Program Emphasis.

²²"Summary and Comments," 1 Environmental Law Reporter 10067.

the Kootenai, to the requirements of the act. This response could be divided into two categories: bureaucratic organization changes and effect on management activities relative to the local clientele.

One of the Forest Service's reactions to public insistence on managing the national forests with less emphasis on products and more on environmental quality was to consider a partial reorganization of the agency to better cope with this challenge. With the added emphasis of the statutory demands for environmental quality expressed in the National Environmental Act, the Forest Service developed a proposal for reorganization of the Forest Supervisor's Office.²³

The traditional organization of the Forest Office is functional, based on products or outputs, such as timber, forage, recreation and watershed. Consequently, the land areas within the Forest have been managed on a functional output basis, stressing production of resources.

In their own view, the Forest Service has now "reevaluated our basic mission and altered our objectives from those which emphasize the meeting of several functional product goals to those which place emphasis on one product--the protection and enhancement of the quality of the land."²⁴ This reorientation of goals has necessitated a different organizational structure, one based on organization by process or management function. A process could be multiple use planning which emphasizes the ecological capacity of the land to produce all basic resources, as opposed to functional thinking which tends to look at each of the resources separately.

²³U.S., Department of Agriculture, Forest Service, "Proposed Organization: Kootenai National Forest," Forest Organization Study (Missoula, Montana: Region 1, U.S. Forest Service, 1971).

²⁴Ibid., p. 3.

The Kootenai Forest was one of two within Region One to be chosen as pilot projects for the reorganization. This reorganization, which was implemented in June of 1971, has affected the procedure through which the Forest will implement the 102 requirement. One of the newly created entities within the Supervisor's Office is the Multi-Disciplinary Program Planning Group. This group is responsible for the preparation and maintenance of all long-range multiple use planning, through the use of multi disciplinary planning teams. It is these planning teams, as mentioned earlier in the chapter, that are responsible for determining impacts of major projects and preparing impact statements when necessary.²⁵

The extent that a change in organizational structure will result in a fundamental reorientation of the Forest Service's values relative to resources, or vice versa, as the agency viewed the process, is not as yet discernible from their activities. In a more modest appraisal, the multidisciplinary planning team will enable the Forest Service to present a technically sophisticated view of impacts from various activities on the forest; one that will, in most cases, enable them to successfully meet the 102 requirement.

At the district level, the Act's demand for full consideration of environmental qualities is already affecting timber harvesting activities. The regional restrictions on roadless areas, plus the need to consider a wide array of technical, as well as aesthetic values in sale preparation, has resulted in delays for logging activities.²⁶ In the larger view, the more stringent planning techniques going into sale preparation,

²⁵Ibid., p. 6.

²⁶"Foresters Weigh Region's Policies," Spokesman Review, February 26, 1972.

particularly clearcuts, may reduce the allowable cut for a district. The result of this, according to one of the Rangers, who foresees a reduction in his district's allowable cut due to environmental considerations, is the elimination of at least one logging operation in the area.

One significant consideration demanded by the Act and emphasized by the Council's guidelines was that of public participation in management policies. The role of public participation in Forest Service activities at the two Ranger districts in the Kootenai was difficult to assess. Because of the community's overriding concern with the timber industry, most public concern was over clearcuts, Wild or Scenic Areas, and other timber-related activities.

The role of public participation, in the opinion of both District Rangers, was largely as a check on professional expertise and a device to gain better acceptance of their management results. Neither Ranger saw the process as innovative. In one Ranger's view, it was difficult to accurately determine what the public wants at the local level because the participation was largely from those at opposite ends of the viewpoint on any particular situation. Some residents of the area, such as hunting and fishing guides, are totally opposed to clearcuts in any area that might be visible to their clientele. Others, that are tied economically to the timber industry, are just as vehement in their opposition to closing of any area to logging because of the threat to their livelihood.

A Land Ethic

In the Northern Region of the Forest Service, timber is still King, and will probably remain so for the foreseeable future. The emphasis on timber does not preclude consideration of other forest values, such as

recreation and wildlife management. The degree to which the Region, and particularly the Kootenai Forest meets the requirements of the Act will be dependent upon their timber management practices.

The Kootenai Forest is isolated. Its remoteness from major urban areas or major tourist routes had enabled the Forest Service to manage the Forest's resources with little fear of public reprisal. Communities within the Kootenai are financially dependent upon the timber industry and are largely concerned with maintaining a steady harvest because of their vested interests in the timber resource. Conversely, environmental quality has become a national concern and has reached the most isolated areas; for example, the Sierra Club sent representatives to a public hearing on the 5-Year Timber Management Plan for the Kootenai.

Is the Forest Service in Region One responding in a positive way to the national implications of the Act? The indications from this researcher's findings would be a qualified "yes." The degree of concern about meeting the Act's requirements is significant at all levels within the Region. The evidence of compliance, as indicated by environmental statements prepared and corresponding consideration by the agency of these factors in management practices, is as yet skimpy. Ultimately, the Region's response to the Act will be determined by the degree to which they are able to meet the Regional Forester's observation "that ours is a land ethic, not a resource ethic; and at its roots is realization that life's quality must be sustained within the limitations of the land's capability."²⁷

²⁷Steve Yurich, Memorandum to Forest Supervisors and Division Chiefs, in Northern Region Program Emphasis.

CHAPTER V

IMPLEMENTING THE ACT: THE SOUTHWESTERN REGION

Region Three of the Forest Service includes twelve national forests and six national grasslands in four states. The area under Forest Service administration, some 20.5 million acres, is largely contained within the states of New Mexico and Arizona, with small inclusions from western Texas and Oklahoma. The variety of land, vegetation and climatic conditions, along with the overlay of Spanish cultural traditions, all make for a management situation unique in Forest Service regions.¹

In contrast to the geographic isolation and climatic conditions of the Northern Region that have favored one resource, timber, the Southwestern Region, with its extremes of temperature, moisture, and intensity of land use and development, presents much different management situations. The 300 years of Spanish heritage, with the accompanying exploitation of land resources inherent in colonialism and its presently existing land grants, all affect the management situation. The proximity of large urban areas, mainly Phoenix, Tucson and Albuquerque, to the national forests of the Southwestern Region, increase the demand for all types of recreation provided by the forest environment.

The five multiple uses for which the national forests are to be administered, water, range, recreation, timber, and fish and wildlife, all

¹U.S., Department of Agriculture, Forest Service, Multiple Use Management Guide, Southwestern Region, Sect. 000--1.

play significant roles in Region Three of the Forest Service, but in different degrees than in Region One. As pointed out in the Regional Guide, recreation and population in Region Three are growing somewhat faster than the national average.² Because of the generally favorable climatic conditions, camping and picnicking are year-round activities in the Region and expose an increasing number of people to the forest habitat and the Forest Service's management activities.

Increased population with extended leisure time has continued to increase the pressure on the Region's forest lands, for hunting and fishing, aesthetic pleasure, winter sports, and family outings. These uses of the forest are competing with the traditional economic demands for timber, grazing, and water. Within the Region, the Forest Service's efforts to meet these new "people" demands, especially for mass recreation, will be a significant area of concern in respect to meeting the requirements of NEPA.

In looking at the response of the Forest Service in Region Three to the requirements of NEPA, this chapter will focus on directives from the Regional Office in Albuquerque relative to the Act's requirements and implementation in the Cibola National Forest of central New Mexico with emphasis on the Sandia Ranger District.

The Regional Guidelines

The Regional Office, as was the case in Region One, is responsible for implementing the Washington Office guidelines on preparation of environmental statements, as well as providing the overall direction for the Region in meeting the intent of the Act. At present, the Regional

²Ibid., Sect. 114.2.

Office is in the process of revising its Multiple Use Management Guide, to include the necessary changes in management direction required in meeting the public demands for environmental quality. The main change in Regional management direction will be the emphasis on land use planning³ to better determine the land's capability to produce various resources and the addition of greater public involvement in selection of management alternatives.

In contrast to Region One, the Albuquerque Office has not issued formal guidelines to the Forest Supervisors in respect to format, content and preparation authority for environmental statements. The Regional Office, through the use of memorandums and personal contact, has imparted the general content of the Chief's directives relative to environmental statements. Responsibility for statement preparation, according to Regional officials, would be determined by the level of line responsibility for the specific action involved. All statements, regardless of point of origin, will be reviewed by appropriate personnel in the Regional Office for format before being sent to the Washington Office.

The present status of 102 statements in Region Three largely reflects the "brushfire" tactics necessary in meeting a relatively new Federal requirement in implementing pre-existing proposals. Of the half-dozen draft environmental statements released by the Regional Office for review and comment by the Council and the public, the statements concerning a proposed powerline by Tucson Gas and Electric Company and the

³Land use planning, as in use in the Southwestern Region, is similar in process and objective to the operation in Region One as described in the previous chapter. This process, whether it be entitled "land use planning" or "multiple use planning" is a Service-wide effort to develop more sophisticated resource inventories for management decisions, and improve the agency's credibility with the public.

proposed Elk Mountain Road⁴ are typical of the above situations. In both cases, the Forest Service was designated "lead agency" at the request of the parties involved. Because of the nature of the activity, in one case a major forest access road, in the other a special use permit to cross Forest Service land, the Regional Office had responsibility for the action and thus the impact statement.

In the case of the proposed powerline by Tucson Gas and Electric, to be constructed from Waterflow, New Mexico, to Tucson, Arizona, the original feasibility study was undertaken in 1969, previous to NEPA. Although the Forest Service only has jurisdiction on 49 miles or 13% of the total land covered by the transmission line, they ended up with the responsibility for preparing the formal statement on the proposal.⁵ The draft environmental statement for the proposal was released in December of 1971 and a final statement is now under preparation. A final decision by the Forest Service, on the right-of-way permit to Tucson Gas and Electric will not be made until at least 30 days after the final environmental statement is released.

Similarly, the proposed Elk Mountain Road in San Miguel County, New Mexico, which will skirt the edge of the Pecos Wilderness Area, has been of interest to the Forest Service since 1963. In that year, the Regional Forester approved a project, then known as the Rio Pecos Way, for a Forest Service scenic road from Santa Fe to Las Vegas which encompasses the

⁴Copies of both draft environmental statements may be reviewed at Regional Office, Forest Service in Albuquerque, as well as the Forest Supervisor's offices of the affected Forests.

⁵U.S., Department of Agriculture, Forest Service, Draft Environmental Statement for a Proposed 345 K.V. Powerline by Tucson Gas & Electric Company (Albuquerque: Region 3, U.S. Forest Service, 1971), p. 9.

present proposal. Financial difficulties prevented the Forest Service from completing the road, but San Miguel County was successful in obtaining a grant from the Economic Development Administration, in October of 1970 for 80% financing of the Road.⁶

The Upper Pecos Association, a conservation group with personal interests in the project, filed a suit in Federal District Court⁷ asking for an injunction against the proposal on the grounds that the EDA had not prepared an environmental impact statement before approving the grant to San Miguel County. The suit was dismissed, on the grounds that the Forest Service, not EDA, was the lead agency and thus responsible for the environmental statement. The Court noted that:

The Forest Service has prepared and issued on February 9, 1971, a detailed environmental impact statement on the Elk Mountain Road Project and will issue a final environmental impact statement when the engineering studies now in progress are concluded....

Under these circumstances, I conclude that the Forest Service and not the Economic Development Administration is the lead agency...and that the directives of the National Environmental Policy Act and the recommendations issued pursuant thereto have been satisfied to date.⁸

In retrospect, the Elk Mountain Road is an example of the Forest Service preparing an environmental statement to justify a prior decision. Although the environmental analysis, which was submitted as a draft impact statement, contained alternative proposals, including that of no road, it recommended selection of the Elk Mountain proposal for the route.

⁶U.S., Department of Agriculture, Forest Service, Environmental Analysis: Elk Mountain Road Proposal (Albuquerque: Region 3, U.S. Forest Service, 1971), p. 4-7.

⁷Upper Pecos Association v. Stans, No. 8799 Civil (D.N.M. June 1, 1971), 1 ELR 20228.

⁸1 ELR 20229.

The analysis, which was done after the EDA grant was made, largely supported the decision made in 1963 by the Regional Forester, to build a scenic highway in the area.

The Upper Pecos Association, in appealing the District Court's opinion relied on the above mentioned point, that the Forest Service's analysis was made after the grant and thus did not constitute compliance "to the fullest extent possible" with NEPA. The 10th Circuit Court of Appeals in reaffirming the District Court's opinion upheld the legality of the grant, on the grounds that the Forest Service analysis did fulfill requirements of NEPA.⁹

In order to prevent a situation of land management by individual court cases, which significantly alters the orderly management direction of the agency, the Forest Service is implementing a decision making model, which includes public participation in the decision making process. It is the agency's hope that future environmental statements will be made on a process basis, resulting from their land use plans, and thus keep them out of court and gain better credibility with the public.

The land use planning under way in Region Three will, in the view of those responsible for the process at the Regional level, enable the Forest Service to provide a stronger research base for their management practices. Basic assumptions inherent in the whole planning process are: (1) that expanded use of science and technology will give the Forest Service a stronger basis for determination of land capability within the forest; and (2) that informed public participation in the management process will provide innovation as well as direction in public demands

⁹"Elk Mountain Road gets green light from Appeals Court," Albuquerque Tribune, Dec. 9, 1971.

upon resources. The first assumption can be tested through observation of Forest Service activities; the second is difficult, if not impossible, to evaluate.¹⁰

There are at present six or seven high-priority management areas within Region Three that are the pilot areas for intensive land use planning. These areas are under the direction of a multidisciplinary planning team from the respective Forest Supervisors' Offices, but may rely upon technical help from the Regional Office. The Forest Service anticipates that through the process of land use planning, they will be able to accurately predict the impact of various uses on the land and thus be able to develop satisfactory environmental statements for those proposed activities they deem "highly controversial."¹¹

The one planning area of direct concern to this study, as an example of the method by which the Forest Service hopes to meet the 102 requirement for environmental statements, is the Sandia Mountains that overlook Albuquerque. The next section of this chapter will look at implementation of the Act at the forest and district level, in a situation strongly influenced by population pressures and, as such, greatly different in character than those study areas in Region One in Montana.

¹⁰The role of citizen participation in planning process can be discussed in terms of benefits, such as program acceptance, and program relevance, or in terms of costs, such as delays in the planning process that can result in ineffective or non-rational decision making. The degree and effectiveness of citizen participation depends upon whether the citizen view of participation, usually one of providing inputs into political process, or the planners' view of participation, one of gaining advice from citizens, becomes the model.

¹¹The Forest Service uses the subjective terminology "highly controversial" as a guideline for determining those activities that may require an impact statement.

"People Problems" in the Cibola

The Cibola National Forest contains five Ranger districts all within a one-hundred mile radius of Albuquerque. In contrast to the very rural setting of most Ranger districts, such as those in the Kootenai Forest of Montana, the Cibola Forest, and particularly the Sandia Ranger District, are subject to intensive public demands for recreation and open space. The priorities on land use within the Cibola are increasingly determined by these population pressures, which are likely to be conflicting.

Of the five designated uses for the national forests, recreation increases in importance in relationship to the closeness of urban areas to the Forest. In the Cibola, those districts farthest removed from Albuquerque are more concerned with other multiple uses of importance to New Mexico, mainly grazing, water production, and water purity. Timber production within the Cibola Forest is approximately 10 million board feet per year, an insignificant amount when compared to the 200 million board feet harvested on the Kootenai Forest each year. Throughout the Forest, different uses are stressed depending upon the resources available and the public's demands; however, the Forest Service maintains that multiple use management is practiced in all areas within the limits of the Forest's capability to produce these resources.

In regard to environmental statements, the Cibola Forest is in the same situation as the Kootenai, they have not submitted any as yet, but do have some in preparation. One of their first statements will be concerned with the 5 Year Timber Plan for the Forest, due to be released this spring. Forest Supervisor W. L. Lloyd indicated that he does not expect great controversy over the Timber Plan environmental statement because they have pulled all proposed sales out of inventoried roadless

areas, pending decisions on management direction for these areas.¹²

The other environmental statement under consideration by the Forest Supervisor's Office is for the Sandia Mountains planning area. As the principal summer and winter outdoor recreation area for the Albuquerque metropolitan area, the Sandias are literally becoming inundated with people. Mass recreational facilities, such as the Sandia Peak Tramway and restaurant, have increased their business geometrically, and in the process developed environmental problems, such as sewage disposal facilities that do not operate effectively at 10,000 feet elevation.

The Sandia Ranger District is unique in Region Three by virtue of its immediate proximity to the Albuquerque area. Its 85,000 acres under Forest Service administration are largely devoted to recreation of all types, watershed, and wildlife habitat, in that order. Because of the intensity of land use and magnitude of people demands on the area, it was designated the number one priority for land use planning in the Cibola Forest.

Land use planning normally originates at the Forest level with selection of multidisciplinary teams, whose function is to inventory all basic resources, such as vegetative, geologic, and water within the planning unit. From these resource inventories, the team determines the capability of the land to produce these resources and the effect of different activities on the land's capability to maintain an ecological balance.

In most instances, the Forest Office is responsible for planning personnel, but in the case of the Sandias, the overlay of public dissatisfaction with the proposed Crest Loop Road brought in the Regional

¹²W. L. Lloyd, personal interview, Albuquerque, New Mexico, March 27, 1972.

Office with its support personnel. The present makeup of the team includes an equal number of representatives from both Offices, a situation that is unique in the Region and indicates the Forest Service's concern over the project.

The land use team working on the Sandia planning unit,¹³ as is the case with Region One, is heavily oriented toward technical disciplines. Their job is to inventory the basic resources and determine land capabilities for various activities within the unit. The social and economic demands upon the area will, to a large degree, be determined by public input, or so the Forest Service hopes. The Forest Service anticipates being able to release a tentative land use plan, for public comment by April 15.

According to Forest Supervisor W. L. Lloyd, the Forest Service will present four management alternatives for the Sandias; at least one alternative would include the proposed Crest Loop Road, others would not. It is hoped by the Forest Service that public input will help refine these options, or propose alternatives. After evaluating the public input, the Forest Office will submit a draft environmental statement, listing possible alternatives and their effect on the environment, and indicate which alternative the agency prefers. Copies of the draft environmental statement should, according to Forest Service guidelines,¹⁴ be distributed by the responsible official, in this case the Regional Forester, to appropriate Federal, State, and local agencies and the public for review and comment.

¹³The specific area under consideration by the planning team is restricted to the Sandias proper, or some 55,000 acres out of the 85,000 total Forest Service acreage in the District.

¹⁴U.S., Department of Agriculture, Forest Service, Emergency Directive No. 1, "Environmental Statements," Sect. 1943.22.

After the 30-day time limit for consideration of outside comment, the Forest Office will prepare a final statement with one management alternative for the planning area. This statement, according to the Washington guidelines, must indicate consideration of comments from other interested parties, and explain rejection of any proposed comments or problems raised in the review process as well as include copies of all written comments on the proposal.¹⁵

As indicated by the above example, the Forest Service anticipates meeting the 102 requirement of NEPA on a process basis, rather than by specific projects. The Cibola Forest will prepare just one statement for the entire 55,000-acre planning unit on the Sandias, and the variety of activities proposed for the Mountain. The possibility of having to prepare additional environmental statements, for specific activities on the Mountain, such as new campgrounds, is conceded by Forest Service officials.

One significant consideration running throughout the 102 requirement of NEPA, the Council's guidelines, and the Forest Service's response is the belief in positive benefits gained through public participation in the decision making process. In the example at hand, the Sandias, Forest Service officials at all three levels, district, forest and region, have expressed confidence in the public's ability to provide innovative guidance on management alternatives for the Mountain. Implicit within the Forest Service's reliance upon public participation in determining management alternatives is the belief that greater public participation at the input level will result in better acceptance of the results

¹⁵Ibid., Sect. 1943.3.

by the public at large. It is, as yet, too early to determine the degree of success experienced by the Forest Service in their attempt at making creative use of public participation; but if the urban experience in the quagmire of participatory administration is any indication,¹⁶ the Forest Service is being overly optimistic in their expectations of the public response.

In a more realistic approach, Region Three officials have indicated that they intend to distribute the land use proposal for the Sandias to interested parties and discuss the alternatives informally before making a public presentation of the plan. In their view, meaningful public involvement must begin with small groups and individuals. From this type of informal participation, the Forest Service should be able to discern differing views as to the appropriate management direction for the Sandias, but the larger problem of reaching any form of agreement among the interested parties still remains.

A Significant Degree of Concern

In looking at the response of the Forest Service in Region Three to the requirements of NEPA, the unique situation created by the geography and climate of the Southwest is overriding. As more people are attracted to the Southwest for its year-round recreation potential, the Forest Service will, of necessity, become more concerned with providing recreation facilities, or in many cases, non-facilities such as open space. Conflicts between different types of recreation activities, as well as between recreation pressures and traditional economic demands upon forest

¹⁶See James L. Sundquist, Making Federalism Work (Washington, D.C.: The Brookings Institution, 1969), especially Ch. 2 and 3 for discussion of citizen participation in urban problems.

resources all add to the complexity of the Forest Service's management challenge in meeting the intent of NEPA, to enable man to live in greater harmony with his natural environment.

In attempting to assess the Forest Service's response to the Act in Region Three, a comparison with activities in Region One can be useful, if one keeps in mind the different problems faced in the two regions. As previously indicated, the most devastating criticism of the Forest Service has been over their timber management practices, and their possible detrimental effect on the environment. The Forest Service's traditional emphasis on timber production, in Region One, has come under serious criticism from several sources. In order to combat this criticism, and regain public credibility, all levels of the agency within the Region have attempted to reorder priorities in timber management to insure that timber harvesting activities will be compatible with the ecological capability of the land.

Conversely, the distribution of resources within Region Three, and the proximity of population centers, have probably contributed to a more balanced approach to the multiple uses of the national forests in the area, which, in turn, generated less criticism of their activities than is the case with their counterparts in Region One. The lack of criticism, of the severity encountered by the Forest Service in the Northern Region, does not mean that the Southwestern Region will be able to meet the Act's requirements without implementing changes in their management policies. However, their efforts at implementing the Act will not be subject to the degree of pressure existing in the Northern Region, for changes in timber management direction to encompass environmental quality.

One significant consideration within this study has been the degree of concern expressed at the Ranger district level over meeting the requirements of NEPA. There was, in this researcher's view, little concern on the part of personnel at the one Ranger district observed in the Southwestern Region as to the national implications of the Act, or the need to adjust management practices to comply with the Act. One possible reason for the above situation was brought out by the Cibola Forest Supervisor in his discussion of the Forest's role in meeting the 102 requirement. According to W. L. Lloyd, environmental statements are largely a part of the planning function and therefore a forest responsibility. The District Ranger, in his view, was too busy with everyday activities to become overly concerned with long-range planning.

Predicting an overall Forest Service response on the basis of observations in one Ranger district is naturally open to question, but the location of the District, adjacent to Albuquerque, and the resulting emphasis on meeting urban recreational demands would tend to expose district personnel to a more cosmopolitan viewpoint on public demands than is likely in the more isolated districts within the Forest. Consequently, the District presumably would be more aware of the national implications of the Act and its potential effect on any activity within the national forests. The lack of concern expressed at the district level may be an indication of inherent problems of the Forest Service's decentralized administration in meeting national demands for environmental quality.

The overall indications from the Southwestern Region are of positive response to the new challenges represented by the Act. As is the case in Region One, the evidence of compliance, or non-compliance is not decisive, mainly because of the recentness of the Act. As pointed out by

Robert Cook, Regional Planner, the final evaluation of our ability to live in harmony with the natural environment will be the acceptance by the American society, including the Forest Service, of a land ethic based on capability of the land, not public demands of it.¹⁷

¹⁷Robert Cook, personal interview, March 27, 1972, Albuquerque, New Mexico.

CHAPTER VI

CONCLUSION: THE FOREST SERVICE AND THE ENVIRONMENT

The Forest Service, as one of the most significant and visible of land management agencies, will be in the forefront on any environmental issues concerning the public lands. Their tradition of conservation and resource management, based on wise utilization of all forest resources, has come under fire by a modern breed of conservationist, aesthetically oriented and not dependent upon the economic resources of the national forests. These preservationists¹ were a part, and in some cases a decisive influence, in the recent development of public interest in protecting the quality of our human environment. The significance of this awakening environmental awareness is reflected in the National Environmental Policy Act of 1969. The response of the Forest Service to the public demand for environmental considerations in public land management, as represented by the Act, was the subject of this thesis.

In analyzing the Forest Service's response, this research focused primary attention on examples of agency compliance with the 102 requirement of the Act, for environmental impact statements. Of secondary consideration was the Act's more intangible demands for actual changes in management practices that resulted in consideration of environmental

¹See Hendee, Gale, and Harry, "Conservation, Politics, and Democracy," p. 212, for discussion of preservationists and their tactics in environmental battles.

elements on an equal basis with economic and technical considerations in management decisions. The above two criteria were used as a guide for testing the hypothesis of this thesis, that the Forest Service would have to implement changes in the administration of their legislative mandate for managing the national forests in order to comply to the fullest extent possible with the Act.

At this point, the pertinent question becomes: has the Forest Service's response to the Act represented compliance "to the fullest extent possible";² and, does this response indicate a change in the agency's approach to natural resource administration? As previously discussed in Chapter III, the Forest Service view of resources has traditionally been one of management for productivity. The essence of Forest Service professionalism is the inherent belief in their technical ability to increase forest productivity through intensive management, without impairment of the land.³ Conversely, the intent of NEPA is that unquantifiable environmental values be given equal weight in Federal agency plans and policies with the traditional economic values.

In determining the Forest Service's response to the Act, the most frustrating problem faced was that of attempting to analyze Federal requirements that were in the beginning stages of implementation. Indications from both regions within the scope of the study were that the Forest Service had, in most cases, shown a significant degree of concern

²This phrase, from section 102 of the Act, has been used by the courts as a standard for determination of an agency's compliance with the 102 requirement, for environmental statements. See Upper Pecos Association v. Stans, No 71-1411 (10th Cir. December 7, 1971), 2 ELR 20085 and Sierra Club v. Hardin, 325 F. Supp. 99, 1 ELR 20161 (D. Alaska, 1971).

³As one District Ranger expressed confidently, "we can double timber production in prime areas through intensive management."

over the new requirements placed on their agency by the Act, but the evidence of compliance was in no way conclusive in either of the national forests reviewed in this thesis. The conclusions from this research, of necessity, will be tempered by the degree of reliance upon agency directives and planning procedures for meeting the Act, in lieu of more definitive evidence, such as environmental statements prepared and resulting changes in management activities.

As an overall conclusion, the response of the Forest Service could be best defined, in a broad sense, as adaptive rather than one of fundamental change. The early response from the Washington Office expressed this attitude, specifically that environmental management is a dimension that has been added to land management practices to protect and improve the quality of forest resources and the total human environment.⁴ A similar attitude was discernible at all field offices observed. The Forest Service's view of their own role as caretaker of the national forests, and promoter of conservation, is largely responsible for the above-mentioned reaction of the agency to NEPA.

In responding to the provisions of NEPA, the Forest Service has not shown, nor likely will show, a significant change in their view of the need for utilization of forest resources. The adaptive nature of their response to the Act is represented by recent activities: the Forest Service has not significantly curtailed timber harvesting in the Kootenai Forest, but they have shown a greater degree of concern for environmental considerations in sale preparation and execution.

⁴Thomas C. Nelson, "The Role of Federal Forest Administrators in Environmental Management" (paper presented at Western Forestry Conference, Portland, Oregon).

The specific requirement of the Act for environmental statements is the most convenient standard by which to measure Federal agency response to the Act. A larger question is: does agency compliance with the 102 requirement indicate actual change in agency policies and practices to include greater consideration of environmental qualities? Some observers, such as Russell Train, have taken an optimistic view of the Act's effect on agency activities:

What is not generally realized by the public amidst press reports of specific problem areas is the very considerable turn-about the act and our efforts have effected on agency procedures. The Corps of Engineers, for example, on September 25 issued new rules on the preparation of environmental impact statements which should do as much as procedure can do to protect environmental values.⁵

Others, looking at the 102 procedure from a more pessimistic outlook, express reservations over the process:

Can an agency which diligently researched and frankly set forth the environmental risks inherent in its proposed action then proceed down the path of environmental ruin, or is it bound to alter its proposed actions in accordance with knowledge gained by virtue of its own research?⁶

In applying the 102 standard to Forest Service activities, it can reasonably be said that the degree of effort required of the agency in preparing environmental statements will force them to consider, in a more sophisticated manner than in the past, the total environmental effect of proposed activities. The Act's emphasis on public information, and participation in the 102 process, plus the threat of judicial review of these administrative actions, all emphasize the need for an intensive

⁵Russell Train, testimony before the House Subcommittee on Fisheries and Wildlife Conservation, in Hearings on Administration of NEPA, Part I, p. 14.

⁶"Summary and Comments," 1 ELR 10066.

evaluation on the part of the Forest Service of any proposed activity with significant environmental repercussions.

The Forest Service has indicated that they eventually hope to be able to meet the Act's requirement for environmental statements on a process basis; as part of their long-range land use plans. Supposedly, these plans will exhibit a high degree of technical information on the land's ecological capability and represent public involvement in the final decisions. By incorporating their environmental statements into the overall planning process, the Forest Service will have to take a greater degree of consideration for environmental protection than they have previously done.

As pointed out by Ira Heyman and Robert Twiss in their exhaustive critique of the Forest Service's system of environmental management, the greatest effectiveness of NEPA in respect to environmental protection will be in its requirement for "sensible agency decision processes."⁷ In developing a decision process that will incorporate environmental protection into management direction, as indicated through environmental statements, the Forest Service will have to implement changes in their traditional view of management by functions, which stress production of individual resources. One example of this type of change is the reorganization of the Forest Supervisor's Office in the Kootenai to emphasize the overall process of environmental management through a multidisciplinary approach to resources. The use of multidisciplinary planning teams at the forest level, which look at the entire scope of activities on the

⁷"Environmental Management of the Public Lands," Ecology Law Quarterly, p. 140.

forest, should enable the Forest Service to exhibit a greater degree of environmental consideration in implementing specific activities, such as timber sales.

Does the adaptive approach of the Forest Service, which, in essence, is an effort to bring their programs in line with one overriding consideration, the capability of the forest land to support these activities, represent a significant change in their administration of the national forests: one that will enable them to meet the requirements of NEPA? The evidence gained from this research, keeping in mind the limitations caused by the newness of the Act and the degree of Forest Service implementation, would indicate an affirmative answer. Support for this view of success in meeting the Act's specific requirements through incremental measures comes from conclusions of Heyman and Twiss in their analysis of the Forest Service's system of environmental management. The authors recommended that the agency develop means for production and publication of technical information showing the environmental consequences of proposed development activities and then concluded with an observation of how these proposals could be implemented:

The contemporary environmental movement is peopled by some who call for an immediate and total re-ordering of American values and by others who believe that change can come incrementally. This Article is largely addressed to the latter group and seeks to show how thoughtful adjustments in existing management systems can produce higher levels of environmental protection.⁸

Two indications of the Forest Service's successful compliance with the Act will be the degree to which the district level assumes an integral role in implementing the intent of the Act; and the public

⁸"Environmental Management of the Public Lands," Ecology Law Quarterly, p. 140.

acceptability of the agency's decision making process, as indicated by the number of their decisions that end up in court for non-compliance with the Act. Despite the everyday management concerns of district personnel, their attitude and concern over implementing new requirements of a model for environmental management will be crucial, simply because the effect of any Forest Service management practice is ultimately visible at the field level.

The District Ranger's role in the process of Forest Service administration is, in many instances, one of implementing predetermined decisions. Some criticism of the Forest Service in respect to environmental protection has been over this very problem, of the Ranger's lack of authority to respond to local public demand for greater environmental considerations in management.⁹ The Forest Service, in one reorganization proposal, has attempted to upgrade the District Ranger's role to one of greater responsibility in carrying out the programs on his district in a manner which will take due consideration of the basic resource, environmental quality.¹⁰ Whether or not an expanded role for District Rangers in the process of land management will result in greater emphasis on environmental quality is debatable; some critics claim just the opposite, that local commercial interests will outweigh consideration of the national interest for a quality environment.¹¹ The recommendation of this

⁹A University View of the Forest Service, S. Doc. 115, p. 26.

¹⁰U.S., Department of Agriculture, Forest Service, "Proposed Organization: Kootenai National Forest," p. 5.

¹¹See Grant McConnell, "Environment and the Quality of Political Life," in Congress and the Environment, p. 11, for discussion of "locals" against "outsiders" in environmental protection.

thesis would be for a strong education program at the district level to acquaint personnel with implications of the Act, which, in turn, would enable them to better cope with opposite viewpoints as to the best uses of the forest.

The best means, at present, for determining whether the Forest Service response has represented compliance to the fullest extent possible, is through court action on the 102 process. As pointed out by the Council on Environmental Quality, "Federal courts across the country in widely varying fact situations have proved that the '102' provisions are court enforceable."¹² In the one example from the parameter of this study, Upper Pecos Association v. Stans, the environmental statement prepared by the Forest Service for a scenic highway was accepted by the court as satisfying NEPA. The court decisions regarding the 102 process have generally been concerned with agency compliance with the procedural duties of the Act, for preparation of statements. Procedural compliance with the Act does not mean that agencies have complied with the substantive duties of NEPA, to consider all relevant environmental data in implementing the decision. For example, preparation of a detailed statement under section 102(2)(c) does not exhaust an agency's duty under NEPA. It must consider means for compensating adverse environmental effects before taking action.¹³

¹²U.S., Council on Environmental Quality, 102 Monitor, January, 1972, p. 1.

¹³See Ronald C. Peterson, "An Analysis of Title I of the National Environmental Policy Act of 1969," 1 ELR 50040, for discussion of distinction between procedural and substantive duties of NEPA. The court, however, in Upper Pecos v. Stans, indicated that only the procedural duties of NEPA were court enforceable.

The incisiveness with which some environmental advocates, who are imbued with the righteousness of their cause, approach the question of compulsive duties required by the Act is not always observable in agency response. Also, the court interpretation of agency compliance to the fullest extent possible may not satisfy environmentalists, who are opposed to the idea of a specific agency activity, such as a hard surface forest road into a previously undisturbed area, irregardless of proposed environmental precautions to be undertaken by the agency. Final determination of the Forest Service's compliance to NEPA will rest with the public, and the degree to which they accept Forest Service management of the public forest lands.

In regard to the hypothesis presented in this study, that the Forest Service will have to make changes in their procedures for administering the national forests in order to comply with the Act, this thesis has attempted to show what types of changes are required by the Act and the degree of Forest Service response to them. In essence, the Act has required of Federal agencies the development of a decision making model that will bring environmental considerations into full account in all phases of their activities, from planning through implementation.

The Forest Service, in responding to the Act, and environmental pressures in general, has attempted to alter its view of land management to establish objectives more in line with public demands upon the forests. The present model, as developed by the agency, will use the land's capability as the basis for determining priorities in forest resources. From the above model, the Forest Service determines an overall goal of maximizing the weighted values of all forest resources without impairment of the land's total productivity or the environment. Although their decision

model still emphasizes production of resources, it attempts to show the relationship of resource values, and the impact of decisions relative to production of one resource, on the realizable values of other resources.¹⁴

Although the Forest Service should, as a result of present efforts, be better able to demonstrate the environmental consequences of alternative policies, the problem of public acceptance of agency activities remains. A major part of this public acceptance is the problem of determining the public interest. In questions of environmental quality in management, determining the public interest is difficult because in many respects, environmental quality is non-negotiable.

Public Interest and the Environment

An underlying theme running throughout this thesis has been the question of public interest and its role in the management of public lands. The Forest Service, as is the case with most public administrators, usually claims their decisions are in the public interest. Their view of the public interest is usually expressed by the platitude, "the greatest good for the greatest number, over the long period of time." In many cases, the Forest Service view of the greatest public benefits is based on numbers of people and amounts of dollars without consideration of quality and intangibles, such as the environment.¹⁵ In many resource situations, especially those involving environmental protection, the above criteria for determining the public interest is inadequate, as pointed out by Daniel Henning:

¹⁴Richard M. Alston, Ph.D., "Forest--A Goal Oriented Decision Model," p. 9.

¹⁵Daniel H. Henning, "Natural Resource Administration and the Public Interest," p. 137.

The greatest good to the greatest number for the longest time may mean few and insignificant benefits for everyone, and an increase in socioeconomic benefits may only mean large profits for small clientele groups over a short period of time.¹⁶

There is no one public interest; instead, a diversity of interests within the American public compete for the resources of our country, within generally defined limits of private gain and public benefit. The greatest problem facing land managers today is to determine a degree of balance among these competing interests for public resources. Public demands for a greater degree of environmental consideration in resource management have added an overlay to the traditional economic considerations faced by land managers, and increased the complexity of the decision making process.

What is, or should be, the role of professionals in the Forest Service, in regard to questions of the public interest? One view of the professional's relationship with the public, in environmental problems was expressed by Arnold Bolle, Dean of the University of Montana Forestry School:

Problems of environmental quality involve two main aspects: the physical or biological aspect; and, the human, including as a minimum the social, economic, and political aspects. Agency resource-trained professionals are, or should be, best informed in the physical or biological aspects. Theirs is the responsibility to be expert in these matters. But only the public is able to provide adequate and important knowledge and insights into the social or human aspects. The contribution of both provides the basis for problem identification.¹⁷

In Bolle's view, the land manager must invite and use public participation

¹⁶Ibid., p. 139.

¹⁷Arnold W. Bolle, "Public Participation and Environmental Quality," Natural Resources Journal, XI, No. 3 (July, 1971), 502.

in goal establishment and problem identification and solution. The main shortcoming of Bolle's problem-solving model is that it does not consider any effective means for the land manager to evaluate the conflicting public interests on any given resource problem.

The degree of this conflict between competing demands upon the forests is best represented by comparing the views of the wood products industry with those of preservationists. As pointed out by Geoffrey Wandesforde-Smith, "the environmentalists appear intransigent, extremely difficult to bargain with, and unwilling to accept a compromise."¹⁸ To their way of thinking, wilderness values are irreplaceable and priceless, and "not the kind of values that can be traded-off under the rubric of multiple use or according to the principles of professional forestry."¹⁹

One example within the present study area, of the intransigent nature of some Forest Service critics, was the controversy over clear-cutting in the Bitterroot Forest of Montana. As brought out in the University of Montana select committee's report, the most sophisticated arguments would never convince some opponents of the appropriateness of certain forest practices, such as clearcutting. The committee noted that:

Regardless of any developed fund of knowledge, research results, or even conditions of pure and simple fact, some of the groups involved in the Bitterroot National Forest are opposed to these land management practices under any and all circumstances; and nothing that can be said is likely to change their views, their positions or their unconditional opposition.²⁰

¹⁸Geoffrey Wandesforde-Smith, "The Bureaucratic Response to Environmental Politics," p. 481.

¹⁹Ibid.

²⁰A University View of the Forest Service, S. Doc. 115, p. 25.

On the other side of the coin, the wood products industry looks at the national forests totally in terms of productivity. Their view of conservation, as wise use of the forests, has been associated with the traditional Forest Service view of resources and stresses good technical management to improve productivity. The gap between their view of the forests and those of aggressive environmentalists is illustrated by a statement from an American Forest Institute publication:

Proposals that we follow the simple expedient of locking up our timberlands in order to preserve them don't address the central problem--they simply ignore it.²¹

It can realistically be stated from observation of the above mentioned examples, that the views of strong preservationists and the commercial forest users are basically irreconcilable. The Forest Service, as caretaker of our national forests, can not possibly satisfy both points of view. A larger question in the controversy, and one of crucial interest to the Forest Service, is the extent to which these two extremes represent the public interest. John Hendee, in his discussion of environmental groups, readily admitted that they are not representative of the general population, but then compares these preservationists with other interest groups:

But the more critical question is whether organized conservationists are any less representative of the general population than other organized, political activist groups who represent other portions of the general public. They probably are not, since highly educated professional and managerial segment of the public is the most involved in the political decision-making process on almost all issues.²²

²¹American Forest Institute, "People, trees and the press," in Forests USA (Washington, D.C.: American Forest Institute, 1971), p. 3.

²²Hendee, Gale, and Harry, "Conservation, Politics, and Democracy," p. 215.

In one respect, these new conservationists are more representative than many other political lobbyists in that their base of support is from human rather than financial resources.

The Forest Service, of necessity, will become involved in brokerage politics to some degree in resolving conflicting interests between forest uses. By playing the role of a broker, the Forest Service attempts to resolve these conflicts through bargaining with the involved interests, without direct consideration of their responsibility to an idealized public interest. At any rate, the Forest Service will have to make decisions concerning the public interest in environmental problems as well as in other aspects of national forest usage. The personal nature of these decisions was brought out by Harlan Cleveland, who noted in his discussion of the public executive that, "ultimately the definition of the public interest in each situation is the sole responsibility of each person involved."²³

The Forest Service and the American Tradition

There is inherent within the American ethic an optimistic belief in our ability to adapt to changing demands in the society and solve all dilemmas by confronting them with sufficient technical expertise. In respect to environmental pollution, these attitudes are reflected in two ways: that we can alleviate environmental pollution; and, that expanded use of science and technology will be the means to that end. Implied within the National Environmental Policy Act, and the Forest Service response to it is the belief that man can live in harmony with his natural

²³Harlan Cleveland, "A Philosophy for the Public Executive," in Perspectives on Public Management: Cases and Learning Designs, ed. by Robert T. Golembiewski (Itasca, Illinois: F.E. Peacock Publishers, 1968), p. 19.

environment. The kind, and degree of change necessary for the Forest Service, as representative of public management in the society, to meet this challenge has been of central concern to this thesis.

In contrast to the above themes, other trends are surfacing in our present society. As pointed out by Frederick Mosher, our society is becoming temporary.²⁴ In Mosher's view, American society is temporary in that it is changing rapidly and will be transformed into another society within a decade. Also, the institutions and organizations within it are undergoing rapid change. This change in public organizations is represented by increasing emphasis on problems and problem solving, with growing distrust of traditional routines that have failed to provide solutions.

The Forest Service, as part of the Federal bureaucracy, is typical of those agencies of which Mosher is speaking when he discusses tenets of the civil service administration which, in his view, seem inconsistent with the directions of modern society. According to Mosher, careerism, which features recruitment into the Federal service soon after completion of education, continued service within one agency, and advancement from within, is an important discourager of creativity and innovation. Moreover, careerism has other disfunctional aspects, as noted by Mosher:

It discourages lateral entry or the ingestion of new blood above the bottom or entering level, and some agencies have absolutely banned it....And insofar as it assures that the older officers within the system will hold the top positions of the agency, it assures continuity, stability, and conservatism in agency policy.²⁵

²⁴Frederick Mosher, "The Public Service in the Temporary Society," Public Administration Review, XXXI, No. 1 (January/February, 1971), 47.

²⁵Ibid., p. 58.

Within the Federal service, the Forest Service has one of the most structured, and impervious of bureaucracies. Careerism and the associated tenant of professionalism are dominant characteristics of the agency, and stressed by Forest Service publicity and recruitment.²⁶ All line officials, including District Rangers, Forest Supervisors, Regional Foresters and the Chief of the Forest Service have been promoted from within the agency and show extended experience at each level.

As a final conclusion of this research, the rigid bureaucracy perpetuated by the Forest Service, when combined with their lack of any real social science representation in staff support, will be the greatest hindrance to the agency in meeting, to the fullest extent possible, the requirements of NEPA. The larger philosophical question, as to whether man on this planet can eventually live in harmony with the natural environment, is beyond the scope of this thesis and, in most respects, unanswerable.

²⁶For a discussion of these aspects of the Forest Service Bureaucracy, see Herbert Kaufman, The Forest Ranger, pp. 161-170.

THE NATIONAL ENVIRONMENTAL POLICY ACT

PURPOSE

Sec. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

Sec. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Sec. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(F) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality established by title II of this Act.

Sec. 103. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Sec. 104. Nothing in Section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Sec. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Sec. 202. There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter

referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Sec. 203. The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

Sec. 204. It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 201;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Sec. 205. In exercising its powers, functions, and duties under this Act, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such

representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

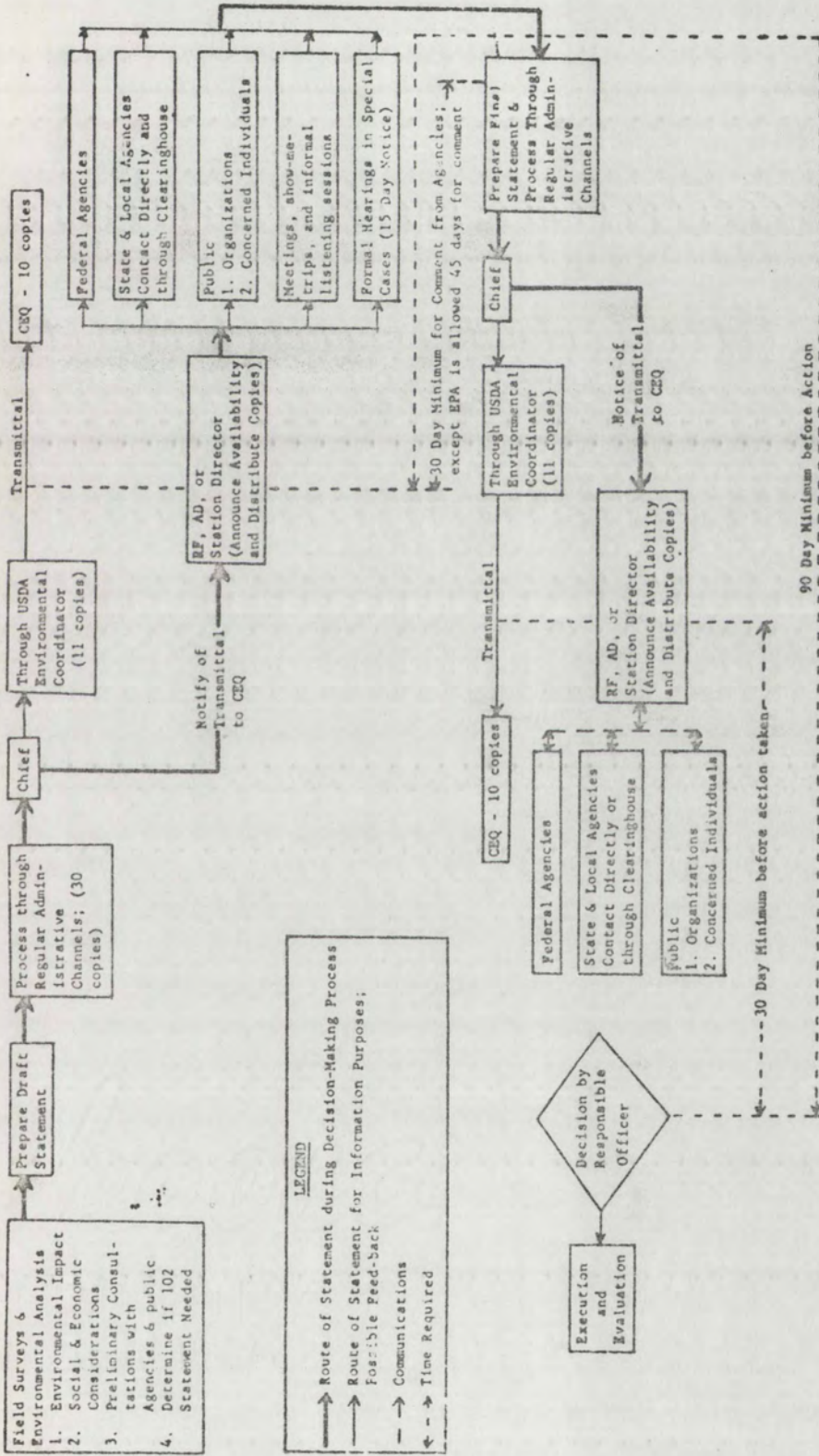
(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Sec.206. Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

Sec. 207. There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

APPENDIX B

FLOW CHART - PROCESSING OF ENVIRONMENTAL STATEMENTS INITIATED AND PREPARED BY FOREST SERVICE



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