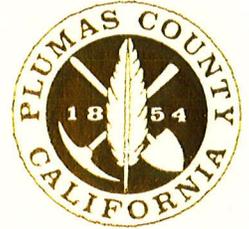


BOARD OF SUPERVISORS

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May 10, 2011

Forest Service Planning DEIS
c/o Bear West Company
132 E 500 S
Bountiful, UT 84010

Dear Sir or Madam:

Please accept the following comments from the County of Plumas regarding the new forest planning rule proposed by the United States Forest Service.

Water and Timber: It has been said from time to time that for today's Forest Service "water is the new timber." In Plumas County, there is a high level of public recognition of the water supplies that flow from National Forest lands to meet local needs and to feed into California's State Water Project, which provides water to 25 million people from Northern California to as far away as San Diego. We applaud the steps taken by the Forest Service in recent years to elevate its mission of ensuring "favorable conditions of water flows" (one of the two forest purposes established in 1897) and to seek to establish better connections between our relatively remote forest lands and the people downstream who benefit from the abundant water supplies that come off the forests.

However, the other fundamental purpose for establishing the National Forests was to provide a "continuous supply of timber for the use and necessities of citizens of the United States." From the broadening of recognized forest uses in the Multiple-Use Sustained-Yield Act of 1960, to today's interest in monetizing an array of ecosystem services, the fact must not be lost that the primary purposes of the National Forests are to supply water and timber. This concept must be stated explicitly in the planning rule to provide context for the ambitious inventory of spiritual sustenance, wilderness designations, sustainable recreation facilities, and many other things the proposed rule seeks to advance.

As clearly stated in the Multiple-Use Sustained-Yield Act and reinforced by the United States Supreme Court, uses of the forest for purposes such as grazing, aquatic habitat, or recreation are to be supplemental to, and not in derogation of, the purposes for which the national forests were established in 1897, which are the twin pillars of water and timber. (*United States v. New Mexico*, 438 U.S. 696, 714 (1978).) We are pleased that water is receiving a renewed level of appreciation and attention, but only as a complement to timber and not as a replacement. In that vein, the new planning rule should seek to resurrect an effective level of active forest management, not only to restore the continuous supply of timber, but also in recognition of the

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many attendant benefits, such as biomass, fire resiliency, and long-term habitat preservation and species conservation.

Forest Receipts: When the National Forests were reserved by the federal government and taken off the local property tax rolls, a commitment was made for a mechanism to generate revenue and pay for local public services. New forest plans should include proactive planning that will increase economic activity and fulfill the promise of that compact with the forest counties. In addressing economic sustainability, as the new rule requires in section 219.8(b)(3), forest plans should recognize the local economic benefits and impacts of the National Forest and address the relationship between trends in forest management/forest receipts and payments to support local roads and schools. Instead, and unlike the 1982 Planning Rule, the new rule eliminates any reference to forest receipts, which is an unfortunate reflection of the abandonment of forest counties.

Coordination: In 2008, the Plumas County Board of Supervisors adopted Resolution 08-7514, implementing Coordinated Agency Status and notifying federal and state agencies of Plumas County's expectation that other agencies coordinate their plans and projects with the County as required by various federal and state laws. In particular, the National Forest Management Act (NFMA) requires that forest plans be coordinated with the land and resource management planning processes of state and local governments. The provisions of the 1982 planning rule that address coordination (§219.7) provide an appropriate framework for coordination with other public agencies, and those provisions should be carried forward in the new planning rule without alteration. Areas of particular concern include the following:

- §219.7(b) of the current planning rule requires county governments to be given direct notice of forest plan revisions and schedules of anticipated planning actions. Providing a mechanism for direct notice is a vital means of ensuring engagement in planning processes, and we are strongly opposed to the elimination of the county notice requirement in the proposed rule.
- §219.7(e) of the current planning rule requires the Forest Service to seek input specifically from local governments to help resolve management concerns in the planning process. This requirement for direct consultation stems from NFMA's mandate for coordination with local agencies and confers a status in planning processes that acknowledges the contributions and responsibilities that are in many ways unique to local agencies, including representation of the local electorate, institutional memory, and planning responsibilities for the private lands that fall under the "all lands" umbrella.
- §219.4(b) of the proposed rule states that the Forest Service will comply with the local government coordination requirements of the National Forest Management Act (16 U.S.C. section 1604) "to the extent practicable and appropriate" (emphasis added). The proposed rule adds no such qualifying language where reference is made to the requirements of the Endangered Species Act, Clean Water Act, Clean Air Act, or Wilderness Act. It is inappropriate to graft that qualification onto the clear

statutory language of NFMA, as if to encourage the responsible official to look for excuses to circumvent the statute.

- §219.4(b)(3) of the proposed rule states that the Forest Service will not conform resource management to meet non-Forest Service objectives or policies. That approach is completely backwards. Forest Service planning and actions should strive to be consistent with the plans and priorities of local agencies for forest management, recreation, fire safety, transportation, and ecological and economic sustainability, among other things. If the plans and priorities of the Forest Service and local governments cannot be reconciled, there must be adequate analysis to document that there is no superior alternative to a proposed plan or action. This analysis is already required by the implementing regulations of the National Environmental Policy Act (40 CFR 1506.2(d)).
- §219.7(e)(2) of the proposed rule provides that “coordination activities” are among the optional content of a forest plan. Forest-specific coordination protocols should be included in §219.7(e)(1) as part of the required content in a forest plan.

As a general matter, the rule should be proactive in encouraging and requiring better coordination with local governments. The statutory mandate of NFMA is only a starting point, and the intent of Congress in mandating “coordination” is reflected in the Federal Land Policy and Management Act (FLPMA). The Forest Service should embrace the positive lessons of successful coordination that have come out of the FLPMA process rather than attempt to hide behind a narrow interpretation of NFMA. And, as explained in the February 2011 letter to Chief Tidwell from Fred Kelly Grant and Sean Curtis, there is a strong case to be made that the Forest Service is legally compelled to acknowledge and apply the FLPMA coordination process.

The elected officials in our national government represent the broad interests of the American people in how our National Forests are managed, but the consequences of Washington, D.C. management decisions are felt most immediately and directly by the citizens of forest communities. Local governments and locally elected representatives bring a reservoir of knowledge and institutional memory to assist often-transient Forest Service staff, and they must continue to have input into forest planning and management decisions. The recent decisions under the Travel Management Rule and the ensuing wave of appeals and pending lawsuits are just the latest example of the chaos created when national policy directives are imposed without any meaningful local coordination.

Finally, while we support the coordination provisions of the 1982 rule over the newly proposed structure, we also support the provisions of the new rule that seek to provide earlier and greater opportunities for public input and to give greater discretion to local Forest Service staff to determine what forms of outreach and interaction are appropriate for a particular planning process. Unfortunately, these improved opportunities for the public are proposed at the expense of local government coordination. There is no need for such a trade-off; the public can be given the opportunities that are included in the new rule, while the role of local government can be respected by retaining §219.7 of the 1982 rule.

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Pace and Scale of Fuel Treatment: Pacific Southwest Regional Forester Randy Moore has called for an increase in the pace and scale of fuel treatment to 500,000 acres per year in California to reestablish fire-resilient forest ecosystems and help offset climate change impacts on the forests. Unless fuel treatment efforts are increased dramatically, the size, number, and intensity of catastrophic wildfires will continue to grow, progressively destroying the Sierra Nevada. Each forest plan should be required to quantify acreage progress and timelines that will be achieved to restore healthy forest conditions and maintain those conditions on a sustainable basis. Given the state of the federal budget and the unlikelihood that the pace and scale of necessary fuel treatment will be supported with appropriated funds, forest plans should include contingency financing plans that show how fuel treatments can be made financially self-supporting.

Other Comments: We also offer the following comments with respect to particular areas of the proposed rule:

- §219.2(b)(3) – We fully support the change from the 1982 rule that shifts primary decision-making authority from the Regional Forester to local forest supervisors. This new approach will produce a superior product at the end of the planning process.
- §219.7(e)(1)(i) – In addition to the required plan content that identifies watersheds that are a priority for maintenance or restoration, the plan should identify water users who rely upon favorable conditions of water flows and address how water rights relate to watershed maintenance and restoration.
- §219.9(b) – In supporting species conservation, a forest plan should not establish any requirements that exceed those of the Endangered Species Act. Forest management activities directed toward ecological sustainability and resiliency have been significantly constrained over the past two decades by single-species management resulting from lawsuits or threats of lawsuits. The planning rule should not include any requirements that impose species conservation burdens on the Forest Service in excess of existing statutes.
- §219.10(a)(1) – In developing integrated resource plans, the Forest Service should consider surface and subsurface water supply in addition to water quality.
- §219.10(b)(1)(i) – New plans are required to address sustainable recreation and desired conditions for scenic “landscape character,” which is defined as a “sense of place” and used “to determine scenic attractiveness and to measure scenic integrity.” The concept of “landscape character” should not be so narrowly limited. Evidence of working landscapes and historic landscapes are familiar and welcome sights that go to a “sense of place” that also envelops community, ancestry, productivity, and resource stewardship.
- Subpart B – For the pre-decisional administrative review process, standards should be included to specify when a decision or proposed action needs to be recirculated for additional public review following a decision by the responsible official to

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significantly alter the decision or project as a result of the administrative review process. At a minimum, recirculation should be required when significant new information is incorporated in a revised decision or when a plan or proposed action is significantly changed. A revised decision should not need to be recirculated as long as the revision has not deprived the public of meaningful opportunity to review the final decision and provide comments or raise objections.

As a final note, we are disappointed by the last-minute release of the Science Review as the comment period nears its end. The timing of the release of that document has created confusion as to whether it too needs to be reviewed and commented upon. The purposes of this agency-sponsored review are not entirely clear, but it should not be a basis for decision-making given the point at which it has been interjected in the NEPA process.

Sincerely,



Lori Simpson
Chair, Board of Supervisors