THE RPA/NFMA: Solution to a Nonexistent Problem

By R.W. Behan

My antipathy toward the Resources Planning Act of 1974, as amended by the 1976 National Forest Planning Act, is a matter of record. My stance is not anti-planning; it is anti-planning law. When I called for repeal of this legislation eight years ago, I noted that planning with the authority of law would lead to procedural paralysis, to "... forest plans [being] challenged on legal technicalities, and redoubled efforts thereafter to make them 'bombproof,' legally invincible, at exponentially rising costs" (Behan 1981).

The intervening years, which have witnessed the development and institutionalization of a sizeable national-forest planning industry, have done little to alter my judgment. Planning has literally become an end in itself, with a large, articulate, well-educated, highly skilled and well-compensated interest group, composed of forest planners and the professional representatives of people affected by forest planning, dedicated to its continuation.

I will focus this article primarily on the NFMA amendment—on the national forest planning issue—because I believe the RPA process is brain-dead and therefore virtually irrelevant. RPA assessments and programs have not and will not affect long-term appropriations, as the writers of the law hoped and intended. The Office of Management and Budget has seen to that, quite appropriately in my view (my argument is arcane and academic, but see the excellent article by Dr. V. Alaric Sample [1989]).

The other half of the law—the NFMA process—is impossible to administer and exorbitantly expensive. I expect the RPA/NFMA to ultimately sink and drown in its statutory procedural morass and hence feel no continued compulsion to seek its repeal: One hesitates, with grace, good will and good sense, to slay the terminally ill.

The Wrong Problem

If a problem is badly defined, according to the canons of decision theory, the search for solutions will take some bizarre turns. Something of this nature got us into trouble with the National Forest Planning Act. We made a problem-definition mistake and finally constructed an elegant solution to a problem that didn't exist.

The "problem" was first articulated accurately and well, in the Bitterroot National Forest in Montana, in site-specific, experiential and substantive terms. People became concerned in the late 1960s and early 1970s about the visual effects of clearcutting and terracing the Bitterroot mountainsides and about the impacts on wildlife
habitat and water yields and quality. Real people with real feelings, looking at a real tract of forest land, made an empirical assessment of what they saw and then defined the problem in terms of inadequate timber management practices.

They were not unopposed. Sawmill interests in Darby, Montana, responded with talk about local jobs and payrolls. Site-specific, local and empirical controversies can often be resolved with site-specific, local and empirical adjustments. Perhaps the adoption of a partial-cutting harvesting technique could have resolved the Bitterroot controversy.

But the issue was not resolved locally. Environmental groups called in their regional and eventually their national offices; the forest industry trade associations were informed. And the conflict escalated in the Forest Service hierarchy, eventually to the national office in Washington, D.C. (A similar issue on the Monongahela National Forest in West Virginia, also prompted by problem definition, made an historic detour through the courts at about the same time.)

By the time the problem arrived in Washington, it was a long way from its origins and could no longer be solved by a localized, bargained adjustment in timber management practices.

The Wrong Solution

Lawmaking is the basic industry of Washington, D.C. When a problem is sent there, its solution will be a statute, almost by definition. A managerial problem of timber harvesting techniques in the Bitterroot and Monongahela National Forests was transposed into a problem of inadequate legislation, and a different calculus of problem solving came into play.

In the legislative process, a singular and comprehensive view of “The American People” is almost always adopted. In seeking to do what is good for The American People, legislators define and debate problems in ideological, not empirical terms. Timber resources become essential to the national weal, to build homes and churches and shopping malls, to provide paper for the education of the young and the edification of the mature, to contribute to export trade, etc. On the other hand, scenic beauty, quietude, clear sparkling streams, an abundance of wildlife, an enduring resource of wilderness, all uplift the spirit of The American People in ways beyond measure.

Ideological disputes cannot be resolved with local, site-specific and empirical adjustments. It is indeed good, in the abstract, to cut trees down; it is equally good not to. How can these ideologies be reconciled, by “adjusting” one or both? They cannot. However, they can be accommodated in legislation if the problem is left unspecified, and agreement on solutions is sought directly. This is the strategic basis for what has been called “partisan mutual adjustment,” the modus operandi of our pluralistic political system (Lindblom 1965); it is the way, I believe, that the National Forest Management Act came into being. National forest planning was seen as one way for all contestants to further all of their interests. It was an agreed-upon solution to an unspecified problem. After that accord was reached, the “problem” could be approached again and redefined in terms that threatened no one: The troubles in Montana and West Virginia must have been provoked by inadequate planning.

That problem definition threatened no one because it described a non-
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existential problem. The Forest Service has for decades displayed exemplary performance in natural resource planning, without the benefit of statutory drivers, and that performance was never at issue.

**A Procedural Paralysis**

As the legislative process unfolded, another classic stratagem surfaced. During bargaining and negotiating among conflicting interests—the essence of the process—agreement is often reached if the language and provisions of the proposed legislation are made vague and ambiguous enough to serve the interests of every party involved.

The National Forest Management Act benefited immensely from that stratagem. And because of it, I believe the NFMA is impossible to administer without legal challenges. The law is so complex, and so laden with vague provisions, that virtually any contested national forest plan can be shown to be illegal.

At this juncture, the forest planning process is in the grips of procedural paralysis, and the prognosis is gloomy. As of this past spring, 29 of the anticipated 123 forest plans had not been completed, 13 years after passage of the NFMA. Of the 94 completed plans, 92 were under formal appeal. Of the 332 active appeals, 106 were filed by conservation organizations and 50 by the timber and mineral industries. Eighty-three appeals were filed by private citizens, 28 by state and local governments, 12 by Native American interests and 16 by a category called “miscellaneous” (The Wilderness Society 1989).

Following exhaustion of the appeals process, litigation was initiated against five of the plans. One plan, for the Rio Grande National Forest, has been declared illegal.

Given the universality of outrage across the spectrum of forest users, I believe my thesis is tenable: It is impossible to administer this law. The NFMA has catapulted the agency and its clientele groups into a quagmire of adversarial proceedings. Procedural paralysis is evident and it can only intensify. But that is the nature of the legal milieu, and it is the consequence of a forest planning law.

**The Overwhelming Cost**

The RPA is irrelevant. The NFMA is impossible. And the legislation has been expensive. In my judgment, the cost has been exorbitant.

In 1983, the Grace Commission, appointed by President Reagan to study economizing measures in the federal government, looked into the costs of implementing the RPA/NFMA. Planning costs are not identified explicitly in the Forest Service budget but instead are folded into the various resource line-items, so the commission found it difficult to track them. However, evidence suggested that the Forest Service was spending at least $200 million annually on the task (President’s Private Sector Survey on Cost Control 1983).

That figure makes the cost of forest planning the largest single item in the national forest system budget, edging out, in fiscal year 1988, such historic and richly endowed programs as road construction ($171,764,000) and timber sales administration and management ($185,561,000) (USDA Forest Service 1989). It is also nearly twice the combined annual expenditure for wildlife and fish habitat management, range management and soil, water and air management programs ($111,940,000). The cost of forest planning represents 16 percent of the total management budget for the entire national forest system.

Put in other terms, the national forests have spent perhaps $2 billion on planning since the NFMA was enacted in 1976. What has been accomplished? Thirteen years later, we have tons of expensive documents (the Coconino National Forest plan fills 1,352 pages and weighs just under eight pounds) and a procedural snarl. Only three-quarters of the plans have been completed; 98 percent of these are under appeal. And the lawsuits have just begun.

The irony here is massive. Planning was never an issue in the original situations that spawned the NFMA; along with forest fire suppression, planning was something the Forest Service had always done with distinction—and with no small measure of public support.

The National Forest Management Act is indeed an elegant solution to a nonexistent problem. Professor K.
Norman Johnson, a gifted scholar of management science, the architect of FORPLAN and an unquestionably competent observer, has called the NFMA process "... the most sophisticated planning effort in natural resources ever attempted in the history of the world" (Johnson 1987).

Meanwhile, that process lumbers along—to adopt forest economist John Beuter's beguiling pun. In a recent article, Beuter took a generally benign, even a grudgingly admiring view of the NFMA process and achievements:

Before allowing the doomsayers to make us all unhappy, we should ask if there is any good in the process. I believe there is, and furthermore, that the good outweighs the bad (Beuter 1989).

The national forest planning process is not altogether devoid of benefit—I will yield that much—but my disagreement with Beuter is clear. I believe that the process is depersonalized, bureaucratized, centralized, "legalized" and it may well be paralyzed. Furthermore, I believe there is no defensible way to assert the success or efficacy of the RPA/NFMA until the outrageous costs of the program are confronted and compared to the benefits.

**Guidelines or Obligations?**

Meanwhile, many site-specific, local, empirical controversies over national forest management remain unresolved. Others emerge daily, and still more are certain to arise in the future. In addition, the biophysical condition of forest lands, and the social demands lodged against them, are volatile and difficult to predict.

Forest plans written under the NFMA severely limit forest managers' ability to deal with empirical controversies and rapidly changing biophysical and social circumstances. Typically, managers can respond only at 10-year intervals, when the plans are rewritten.

Until the NFMA, management plans on the national forests were written, viewed, and used as guides, managers deviated from them when circumstances warranted; clearly, the conscious deviation from a pre-existing plan is not a bad definition of the role of management. Plans-as-guides are eminently sensible documents and preconditions for sound management because they are not rigid and absolute.

Under the NFMA, forest plans are legal documents, and some people believe that the output targets they contain constitute legal obligations. This has yet to be tested in court, but the decision flexibility of national forest managers is certainly constrained when plans-as-guides are displaced by plans-as-laws. The function of sound, day-to-day management—the conscious and warranted deviation from a pre-existing plan—has been rendered illegal.

Forest managers have become marionettes, dancing at the end of forest plan strings. They must implement the plans as written or stand in violation of the law. Or they can rewrite the plans at 10-year intervals. (Their other option is to seek formal amendments to the plans—which are just as vulnerable to the processes of administrative appeal and litigation as the original documents.)

Many non-commodity clientele groups of the national forests are delighted with this state of affairs. They feel that the playing field has been leveled for them. Now they can enter the contest with the timber interests, which they suspect share a timber management bias with forest managers, with litigation as a potent tool. Conservation groups have filed twice as many formal appeals of the forest plans as commodity interests.

I believe these groups' suspicions were well-justified 20 years ago, when
the Bitterroot controversy emerged. I also believe that the timber management bias of professional forestry has been scrutinized, found wanting and is now in the process of fundamental change.

A Better Paradigm

If a different paradigm of professional practice were to be adopted, a different management practice could emerge. Let's trace this possibility—that a new, more broadly rationalized approach to professional forest management could attenuate the unfortunate side effects of plans-as-laws.

Why were Forest Service managers terracing and clearcutting on the Bitterroot National Forest and elsewhere? Were they simply pursuing their traditional, orthodox paradigm of maximizing the sustained yield of commercial timber—a single resource—attempting to avert a “timber famine” in the future?

One contemporary critique, the “Bolle Report,” said as much after an inquiry into the Bitterroot controversy requested by Montana Senator Lee Metcalf. Dr. Arnold W. Bolle, dean of the University of Montana School of Forestry, assembled an interdisciplinary faculty committee to conduct the study, which concluded:

Multiple-use management, in fact, does not exist as the governing principle on the Bitterroot National Forest. . . Quality timber management and harvest practices are missing. Consideration of recreation, watershed, wildlife and grazing appear as afterthoughts (Bolle et al. 1970).

Here was a problem definition that said nothing at all about inadequate planning; it spoke instead of an inadequate paradigm of professional forest management. At least by implication, a better paradigm would include a system view of the forest, and managers would indeed consider the impacts on recreation, watershed, wildlife and grazing before they clearcut or terraced.

Defining the problem in terms of an inadequate professional paradigm could have led to some better approaches to national forest management: management that is empirical, not ideological; site-specific, not abstract; decentralized and diverse, not centralized and uniform; and management that remains in the forest, not entangled in the context and procedures of law.

The paradigm of professional forestry today is in fact undergoing a radical change, and the expectations of foresters' social responsibilities are also altering substantially. The initiative for these changes can be traced to the Bitterroot and Monongahela issues. As one burst of social response began channeling through legal and political institutions, to arrive eventually in Washington, another response was taking place within the forestry profession. Programs were initiated to scrutinize, criticize, improve and develop professional school curricula and the professional literature began featuring lively debates about the orthodox professional paradigm—sustained-yield timber management.

The forestry profession is working out the details and techniques of “multi-resource forest management,” in which the forest is seen as more than a tree plantation—or a prospective tree plantation. All the resources of the forest—commodities and amenities, tangibles and intangibles—are components of a complex, interacting and dynamic system. The alteration of any one influences the status and behavior of all the others. With the aid of computer simulation models, the consequences of management perturbations—say, a clearcut or a terraced hillside—can be displayed before the fact (and, obviously, avoided before the fact as well).

The profession is also dropping its historic preoccupation with “timber famines” and their prevention through maximization of physical production. The timber industry faces far greater problems, foresters are beginning to understand, in the short-run competition from other materials (plastic grocery sacks come to mind) than in long-run supplies of sawtimber at the end of the next rotation.

Recognizing Diversity

Multi-resource forest management recognizes the rich diversity of forest resources and their mutual influence in the forest system. It also recognizes the rich diversity of social demands lodged against that system:
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"Multi-client forest management" is an emerging reality as well.

Foresters, particularly (but not exclusively) public foresters, are beginning to realize that they have a distinct and identifiable constituency: it is composed of the people who know about, care about and are significantly affected by forest managers' decisions. It was the Bitterroot constituency, for example, that first raised objections to timber management practices.

Constituency-based, multi-resource management is an emerging paradigm of professional forestry. It deals with complex systems, both biological and social, but the problems it encounters can be kept empirical, substantive and "close to the ground." Solutions to these problems can be negotiated, on-site and within the constituency, and should prove both durable and economical.

Adopting and implementing constituency-based, multi-resource management can provide an effective end-run around the centralizing and paralyzing tendencies of the RPA/NFMA. It can address the real, empirical and substantive problems that emerge quicker than plans can be written, and it can accommodate the often rapid changes in biophysical and social circumstances.

The RPA/NFMA will not be repealed: The forest planning industry will see to that. Plans will be produced, but they will come to be seen as rather pointless artifacts as the madcap character of statute-driven planning becomes more and more apparent to the real people with real feelings looking at real tracts of forest land.

These people, or constituencies, and their local forest managers will come to see the futility of seeking solutions to localized, empirical problems through centralized and adversarial means. By adopting more elements of the new paradigm—constituency-based, multi-resource management—the process of public forest management can become decentralized, debureaucratized and "repersonalized" once again.

**Literature Cited**


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