

**HEARING TO REVIEW THE U.S. FOREST
SERVICE'S PROPOSED FOREST PLANNING
RULE**

HEARING
BEFORE THE
SUBCOMMITTEE ON CONSERVATION, ENERGY,
AND FORESTRY
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS

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**HEARING TO REVIEW THE U.S. FOREST
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THURSDAY, MAY 5, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CONSERVATION, ENERGY, AND FORESTRY,
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 9:30 a.m., in Room 1300, Longworth House Office Building, Hon. Glenn Thompson [Chairman of the Subcommittee] presiding.

Members present: Representatives Thompson, Goodlatte, Tipton, Southerland, Huelskamp, Hultgren, Ribble, Holden, Schrader, Owens, McIntyre, and Fudge.

Staff present: Brent Blevins, Tamara Hinton, John Konya, Debbie Smith, Heather Vaughn, Nona S. Darrell, Liz Friedlander, Lisa Shelton, and Jamie Mitchell.

**OPENING STATEMENT OF HON. GLENN THOMPSON, A
REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA**

The CHAIRMAN. Good morning. The Subcommittee on Conservation, Energy, and Forestry public hearing to review the U.S. Forest Service's proposed forest planning rule will come to order.

I will take the liberty of offering my opening statement.

I really do want to welcome everybody to this hearing. For those who don't work in the agriculture community, forestry perhaps is not recognized as a crucial component of agriculture, but it certainly is. Forestry and the forest products industry contribute hundreds of thousands of jobs across the country, resulting in billions of dollars of productivity to the economy.

Forestry and timber harvesting also provide significant environmental benefits, because these activities are critically important to maintaining the health of the forest lands. Now, without active management of our National Forests and public lands, government costs would increase in the long run.

Indeed, forestry is one of the most important economic engines in Pennsylvania, particularly throughout my district. My district is heavily forested and contains the Allegheny National Forest, which consists of more than half a million acres. Now, the Allegheny operates successfully for multiple purposes, including recreation, timber harvesting, and oil and gas development.

Nationwide, the U.S. Forest Service has 155 National Forests that consist of 193 million acres in 46 states across the country.

And the purpose of this hearing is to examine the proposed forest rule. Now, this rule was released in February, and the comment period ends May 16th. Now, I believe it is critically important that we now hear from the Administration about what went into crafting this rule, and to hear from groups who would be most affected by its implementation.

Now, we are at this point in the process because two previous attempts to promulgate a rule in the last 6 years were thrown out by the Federal court. Now, this has resulted in our National Forests operating under a rule that is 30 years old.

I understand the significant impact that forest action or inaction, as the case may be, can have on America's rural population. I am concerned that our National Forests are not being managed in the best possible manner. I believe our forests should be actively managed so we are better equipped to deal with the threats of natural disasters, fires, and invasive species.

Our National Forests should also be a prime source of timber, a reason for which the forests were actually formed, a source of timber that everyone can be assured is harvested in a responsible manner. Indeed, the rule makes reference to climate change. If this is an important issue, I can think of nothing more effective than taking care of our forests and harvesting a sustainable amount of trees.

Some have embraced the ideology that preventing human access to these lands is the best way to keep our forests healthy. I disagree. I think the opposite is true: Maintaining the land yields forest health. Younger trees can sequester more carbon, and we can ensure that older trees do not emit carbon as they rot due to lack of harvesting. Further, the removal of decaying materials on the forest floor helps generate renewable biofuels.

People often forget that the Forest Service is part of the Agriculture Department rather than Department of the Interior. I believe there are some people who confuse National Forests with national parks. But now is a good time to remind everyone that Congress, through legislation over decades, recognized that our National Forests serve many different functions, production of our natural resources being one of them and, I believe, primary.

Energy exploration is one of the key issues for forest management. I see firsthand in northwestern Pennsylvania the positive impact that the production of our natural resources within our National Forests can have on a community. In addition to encouraging oil and natural gas production, we must do a better job of utilizing woody biomass from our forests. There is a clean, renewable, and easily utilized source of energy that can be used in our rural communities.

Now, as we confront high energy prices, it is important that we explore energy from all types of sources, particularly where we can on our Federal lands. With that in mind, I am concerned that this proposed planning rule is complex and will face the same sort of litigation that has hamstrung previous attempts to formulate a rule.

Now, I want to thank you for being here, Under Secretary Sherman. I very much appreciate it. I look forward to hearing how this rule will be different from previous planning rules and the process

by which it was formulated. I also look forward to hearing how this rule will improve the health and the well-being of our National Forests.

And I certainly would welcome our second panel of witnesses. They will share with us their concerns about the plan, how it will affect everyday people, and, always, how we can improve the rule.

And, finally, I certainly want to take the opportunity to offer a warm welcome to a constituent of mine, John Bortz. Mr. Bortz is Commissioner from Warren County that contains about $\frac{1}{4}$ of the land mass of the Allegheny National Forest. And Mr. Bortz is all too familiar with the importance of the management of our natural resources in rural areas, and the great impact that they can have on the livelihoods of these communities.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS
FROM PENNSYLVANIA

Good morning. I want to welcome everyone to this hearing to review the U.S. Forest Service's proposed Forest Planning rule.

For those who don't work in the agriculture community, forestry perhaps is not as recognized as a crucial component of this field.

Forestry and the forest products industry contribute hundreds of thousands of jobs across the country resulting in billions of dollars of productivity to the economy.

Forestry and timber harvesting also provide significant environmental benefits—because these activities are critically important to maintaining the health of forest lands.

Without active management of our National Forests and public lands, government costs would increase in the long run.

Indeed, forestry is one of the most important economic engines in Pennsylvania, particularly throughout my district.

My district is heavily forested and contains the Allegheny National Forest, which consists of more than $\frac{1}{2}$ million acres.

The Allegheny operates successfully for multiple purposes including recreation, timber harvesting, and oil and gas development.

Nationwide, the U.S. Forest Service has 155 National Forests that consist of 193 million acres, in 46 states across the country.

The purpose of this hearing is to examine the Proposed Forest Rule.

This rule was released in February and the public comment period ends May 16th.

I believe it is critically important that we now hear from the Administration about what went into crafting this rule, and to hear from groups that would be most affected by its implementation.

We are at this point in the process because two previous attempts to promulgate a rule in the last 6 years have been thrown out by federal court.

This has resulted in our National Forests operating under a rule that is 30 years old.

I understand the significant impact that Forest Service action—or inaction as the case may be—can have on America's rural population.

I am concerned that our National Forests are not being managed in the best possible manner.

I believe our forests should be actively managed, so we are better equipped to deal with the threats of natural disasters, fire and invasive species.

Our National Forests should also be a prime source of timber, a source of timber that everyone can be assured is harvested in a responsible manner.

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Energy exploration is one of the key issues for forest management. I see firsthand in northwestern Pennsylvania the positive impact that the production of our natural resources within our National Forests can have on a community.

In addition to encouraging oil and natural gas production, we must do a better job of utilizing woody biomass from our forests. This is a clean, renewable and easily utilized source of energy that can be used in our rural communities.

As we confront high energy prices, it is important that we explore energy from all types of sources, particularly where we can on our Federal lands.

With that in mind, I am concerned that this Proposed Planning Rule is complex and will face the same sort of litigation that has hamstrung previous attempts to formulate a rule.

Thank you for being here, Under Secretary Sherman. I look forward to hearing how this rule will be different than previous planning rules and the process by which it was formulated.

I also look forward to hearing how this rule will improve the health and well-being of our National Forests.

I welcome our second panel of witnesses. They will share with us their concerns about the plan, how it will affect everyday people, and ways we can improve the rule.

Finally, I want to welcome a constituent of mine, John Bortz. Mr. Bortz is a commissioner in Warren County, which contains about $\frac{1}{4}$ of the landmass of the Allegheny National Forest.

Mr. Bortz is all too familiar with the importance of the management of our National Forests on rural areas and the great impact they can have on the livelihood of these communities.

I now yield to the gentleman from Pennsylvania, Mr. Holden, for his opening statement.

The CHAIRMAN. I now yield to my friend, the gentleman from Pennsylvania, Mr. Holden, for his opening statement as Ranking Member.

**OPENING STATEMENT OF HON. TIM HOLDEN, A
REPRESENTATIVE IN CONGRESS FROM PENNSYLVANIA**

Mr. HOLDEN. Thank you, Mr. Chairman.

I would also like to thank our witnesses and guests for coming today to discuss the U.S. Forest Service's planning rule. This hearing not only presents an opportunity for Members of the Subcommittee to review the proposed rule, but also an opportunity for many here, myself included, to get better acquainted with the national framework for forestland management in the 155 National Forests and the 20 grasslands in the National Forest system.

As a newly added jurisdiction to this Subcommittee, I look forward to learning more about forestry from the U.S. Forest Service and our other distinguished witnesses, as well as Chairman Thompson and Congressman Schrader and others who represent Congressional districts that are home to much of our National Forest land.

The National Forest Management Act established standards for how the Forest Service is to manage our National Forests and develop and implement land management practices. The last major action on the NFMA was nearly 30 years ago in 1982. While there have been several attempts to update this Act in recent years, litigation and negative feedback has continually stalled the process.

These false starts are not good for our forests, and the *status quo* is not adequate. We need to make sure the Forest Service and its partners work together to ensure the viability of our forestland and the forest communities in the 21st century.

This should be a commonsense rule based on sound science and void of over-burdensome sustainability requirements. It needs to take into account the multiple uses of our National Forest land, including timber production, habitat preservation, natural resource management, and recreation, and ensure local economic development and environmental protections work in harmony instead of in competition with each other.

A new rule must also be flexible and allow for management decisions based on the specific needs of local communities. Public input from all involved parties, a few of which are represented by our panelists today, will be critical to ensuring a reasonable and workable approach to forestland management.

I look forward to today's expert testimony and the opportunity to listen, learn, and question those on the forefront of this very important issue.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Holden.

The chair will request that other Members submit their opening statements for the record so witnesses may begin their testimony, and ensure that there is ample time for questions.

And it is very much an honor to welcome the witness that will be on our first panel, the Honorable Harris Sherman, Under Secretary for Natural Resources and Environment, the U.S. Department of Agriculture.

And, Mr. Secretary, we are honored to have you before the Committee this morning. I look forward to your testimony.

STATEMENT OF HON. HARRIS SHERMAN, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Mr. SHERMAN. Mr. Chairman, thank you very much. I am Harris Sherman, the Under Secretary at USDA for Natural Resources and the Environment. We appreciate the opportunity to be here today to explain the proposed national planning rule.

And I must say, your timing could not be better because we are in the midst of our public comment period, which will end on May the 16th. And so, this discussion today will be very useful and very helpful to us as we move toward a final rule.

I thought it would be helpful to put the proposed rule into context. The Forest Service oversees 193 million acres of land. That is about eight to nine percent of the land mass of the United States. It is comprised of 155 National Forests, 20 grasslands, and one national prairie.

Based on the national planning rule, over time, each of these National Forests will prepare an individual forest plan, and those forest plans will govern the future actions that can occur on those National Forests. So the national planning rule is the template for all future forest plans, which, in turn, provide direction that occurs on the ground.

What we are attempting to do here is to establish a new rule that is effective, it addresses the challenges and the needs of our National Forests, it is modern, it is efficient, and it will serve the public well.

To that end, over the past 18 months, we have reached out to our stakeholders, to members of the public, to our agency professionals, to try to put together a bottom-up new national planning rule. We have had about 40 meetings before we came out with a draft rule. Some 3,000 people attended these sessions. We received 26,000 comments concerning what we should do with this national rule. And, from that, we formulated the draft that you have in front of you.*

We released that draft, and, since releasing it, we have had another 27 meetings around the country to explain it to those who were interested. That has appeared in 75 different venues by virtue of video streams. And we now are proceeding to hopefully finalize this before the end of the calendar year.

We believe that the draft rule addresses the most important issues facing the Forest Service. The draft rule has strong support from professionals within the Forest Service, including those who have been working on planning issues for decades. And we have tried to incorporate the best examples, the best practices that we have learned over the years.

Our goal is to finalize a rule that will last for several decades, because we believe strongly that the public and our stakeholders and the agency deserve a stable, lasting, and predictable planning rule. And we of course look forward to hearing from the public as we move now to this final stage.

I want to briefly explain what the overriding goal of the planning rule is. It is really to principally restore the health and the resiliency of our National Forests. A significant portion of the 193 million acres is in serious need of restoration. Disease and pests are impacting huge swaths of our National Forests. In the West alone, some 40 million acres of dead trees are the result of a bark beetle epidemic, and that number is growing.

We are seeing more frequent, larger, intense fires. The consequences of fires and unhealthy forests have significant impacts to our water resources. I think people don't realize sometimes that 66 million Americans get their water from our National Forests.

There are many positive benefits that our National Forests provide and this planning rule needs to address them. We need to help foster recreation on our National Forests. Last year, we had 173 million visits. That resulted in 250,000 jobs. These visits are dependent upon healthy and resilient forests which are safe to recreate in. And it doesn't matter whether you are talking about managed recreation, such as ski areas, or you are talking about cross-country skiing or hiking, these forests need to be safe to recreate in.

Our forests support a wide variety of multiple uses, including timber, grazing, renewable and nonrenewable energy development. These opportunities create jobs and they create stability and oppor-

*The draft planning rule can be accessed at <http://www.gpo.gov/fdsys/pkg/FR-2011-02-14/pdf/2011-2989.pdf>.

tunity for our rural communities. Timber production not only creates jobs and not only provides for rural stability, but it is essential that we have a healthy industry to conduct the restoration efforts that we need to do all over this country.

So we have proposed a plan which we believe is adaptive and nimble to current conditions, where we will monitor our results, and, where necessary, we will make appropriate amendments and adjustments to what we are doing.

We believe this is a 21st century approach. We have built in a collaborative process where the public and our stakeholders can fully participate. We believe it is a strong proposal, and we are anxious to hear from the public through the May 16th comment deadline so we can move to finalize this rule.

So, Mr. Chairman, thank you for the opportunity of being here, and I look forward to answering your questions.

[The prepared statement of Mr. Sherman follows:]

PREPARED STATEMENT OF HON. HARRIS SHERMAN, UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department's view on the U.S. Department of Agriculture Forest Service's proposed planning rule, published on February 14, 2011. We appreciate the Subcommittee's interest in a matter of great import to the agency and Department.

The timing of this hearing could not be better, coming in the midst of a 90 day public comment period on the proposed planning rule that runs through May 16, 2011. Our intent is to issue a final planning rule by the end of this year.

In the 193 million acres of forests, grasslands and prairies that make up our National Forest System (NFS), the citizens of the United States are blessed with some of the most diverse, beautiful, and productive landscapes and watersheds on the planet. As required by the National Forest Management Act of 1976 (NFMA), land management plans for each forest and grassland provide a framework for integrated resource management and guide project and activity decision-making on a unit. The planning rule provides the overarching framework for individual NFS units to use in developing, amending, and revising land management plans to maintain, protect, and restore NFS lands while providing for sustainable multiple uses.

Planning Rule History

Currently, the agency is using the procedures of a planning rule developed in 1982, which has guided the creation of every land management plan, revision or amendment to date. However, over the past thirty years, much has changed in our understanding of how to create and implement effective land management plans, and in our understanding of science and the land management challenges facing Forest Supervisors. Ecological, social, and economic conditions across the landscape have altered. New best practices and scientific methods have evolved. And so has the country's understanding of and vision for the multiple uses, values, and benefits provided by NFS lands.

Additionally, developing land and resource management plans using 1982 rule procedures is often time consuming, costly and cumbersome. Because of this, units often wait until circumstances require a complete overhaul rather than update plans more incrementally as conditions change. This can result in a drawn-out, difficult, and costly revision process and has made it challenging for units to keep plans current and relevant. Of the 127 land management plans for NFS lands, sixty-eight are past due for revision, meaning that they are fifteen years old or more.

Beginning as early as 1989, the Department and Forest Service have made numerous attempts to review, revise and modernize the planning rule. After two proposals in the 1990s, a final rule was published in 2000 to replace the 1982 regulations, but the 2000 rule was challenged in court, and an internal review concluded that the number and specificity of its requirements were beyond the agency's fiscal and organizational capacity to successfully implement. A new planning rule was developed and published in 2005, and a revised version in 2008, but each of those rules was held invalid by a Federal District Court on grounds that it violated Na-

tional Environmental Policy Act requirements for analyzing environmental impacts, among other findings. In 2009, the court's decision brought the 2000 rule back into effect. The Forest Service is utilizing the transition provisions from the 2000 rule for plan revisions and amendments pending finalization of a new rule. These transition provisions allow for use of the procedures from the 1982 rule.

The instability created by the history of the planning rule has had a significant negative impact on the Forest Service's ability to manage the NFS and on its relationship with the public. At the same time, the vastly different context for management and improved understanding of science and sustainability that has evolved over the past 3 decades creates an urgent need for a meaningful, durable, and implementable 21st Century planning framework that allows the agency to respond to new challenges and management objectives for NFS lands.

Collaboration and Public Participation

Because of the planning rule's history and the high degree of interest in management of the NFS, the Department and Forest Service decided to take a different approach to developing the 2011 proposed planning rule. We strongly believe that involving the public through a participatory, open, and meaningful process is the best way to develop this new planning rule. Our goal has been to learn from the previous efforts, and listen to input from the public, agency employees, other governmental representatives, and internal and external scientists to develop a proposal for additional public feedback. As a result, the proposed rule now out for public comment is the product of the most participatory and transparent planning rule development process in Forest Service history.

The development of the proposed rule was informed by 26,000 public comments made on the Notice of Intent (NOI); a Science Forum with panel discussions from 21 scientists; regional and national roundtables held in over 35 locations and attended by over 3,000 people; regional and national roundtables and 16 government-to-government consultations with Tribes; and over 300 comments on a planning rule blog developed to reach people online. The agency and Department also reviewed previous rules and planning reviews, current science, and best practices being implemented on NFS lands; worked closely with other agencies; and actively engaged and sought feedback from Forest Service employees.

Since the proposed rule was published in February, we have also taken the unprecedented step of hosting another series of meetings to provide stakeholders with information about the proposal in order to help inform their comments on the proposed rule and the Draft Environmental Impact Statement (DEIS). We held 29 national and regional public forums that were attended by over 1,300 people. Some of these were presented through video teleconferencing, reaching 74 locations across the country in all.

The Department and Forest Service believe that our approach and commitment to meaningful public engagement sets a new standard for public land management, and we are continually learning as we travel this path. Above all else, as we see so many people take the time to come out to workshops on their local units, participate via the Internet, or submit comments, we are gratified to see once more how people truly cherish their National Forests and Grasslands and care deeply about their management.

Proposed Rule

The Department and Forest Service used the input we received through our planning process to develop the proposed rule and DEIS now out for public comment. The proposed rule provides a framework for planning in order to sustain and restore the health and resilience of our National Forests. The goal is to guide management of NFS lands so that they are ecologically sustainable and contribute to social and economic sustainability, with resilient ecosystems and watersheds, diverse plant and animal communities, and the capacity to provide people and communities with a range of social, economic, and ecological benefits now and for future generations.

The planning framework in the proposed rule will help the agency to provide clean water, habitat for diverse fish, wildlife, and plant communities, opportunities for sustainable recreation and access, and a broad array of other multiple uses of NFS lands, including for timber, rangeland, minerals and energy as well as hunting and fishing, wilderness, and cultural uses.

The proposed rule emphasizes integrated resource management so that all relevant elements of the system are considered as a whole, instead of as separate resources or uses. The proposed rule includes requirements to sustain and restore the health and resilience of our National Forests and watersheds. There is a strong emphasis on protecting and enhancing water resources, including important sources of drinking water for downstream communities.

The proposed rule includes requirements to provide for diversity of plant and animal communities, and is designed to provide habitat to keep common native species common, contribute to the recovery of threatened and endangered species, conserve candidate species, and protect species of conservation concern.

The proposed rule includes requirements to contribute to social and economic sustainability. Plans would be required to provide for sustainable recreation, and to protect cultural and historic resources. Planning would consider and provide for a suite of multiple uses, including ecosystem services, watershed, wildlife and fish, wilderness, outdoor recreation, energy, minerals, range, and timber, to the extent relevant to the plan area. Plans would also guide the management of timber harvest on NFS lands.

The proposed rule creates a framework that would allow adaptive land management planning in the face of climate change, and each phase of the framework addresses climate change.

The proposed rule creates a more efficient and effective planning process through an adaptive framework of land management assessment, planning and monitoring. This framework would allow Forest Supervisors to adapt plans to reflect new information and changing conditions. Information developed in each phase will inform the public and feed into the next phase, building a strong base of information and public input that will support a shared understanding of and vision for the landscape. Responsible officials will then be able to use monitoring data and other sources of information to amend plans and keep them current and effective.

The proposed rule strengthens public engagement throughout the planning process, specifying numerous opportunities for meaningful dialogue and input. Responsible officials would be required to seek input from the public, consult with Tribes, encourage participation by youth, low-income populations, minority groups, and affected private landowners, and seek input from and coordinate with related planning efforts by other government entities including Tribes, states, counties, local governments, and other Federal agencies.

The proposed rule requires taking into account the most accurate, reliable, and relevant scientific information available in order for responsible officials to make informed decisions during the planning process. The appropriate interpretation and application of science provides the foundation for planning, with other forms of information, such as local and indigenous knowledge, public input, agency policies, results of monitoring, and the experience of land managers also taken into account in determining how to accomplish desired outcomes.

The proposed rule creates a strategy for monitoring at the unit level and at a broader scale. Monitoring would be a central part of both plan content and the planning process, allowing responsible officials to test assumptions, track changing conditions, measure effectiveness in achieving desired outcomes, and feed new information back into the planning cycle so that plans and management can be changed as needed.

The proposed rule also requires that NFS lands be managed in the context of the broader landscape. While the proposed rule explicitly reaffirms that the Forest Service does not intend to and cannot direct management of lands outside the NFS, responsible officials would use assessments, monitoring and public engagement to create a continually evolving understanding of conditions, trends, and stressors both on and off NFS lands, and would work in the planning phase to respond to changing conditions across the landscape, and coordinate, where appropriate and practicable, with other land managers and owners to accomplish shared objectives.

Conclusion

The proposed rule seeks to create framework that will allow the Department and Forest Service to more effectively restore and protect our natural resources, support communities, and adapt to changing conditions. It represents our desire to create a modern planning rule based on science, public input, and agency experience.

Management of America's 193 million acres of National Forests, grasslands and prairies is enormously important as we work to win the future for the next generation. This Administration's goal is to collaboratively develop a meaningful and enduring planning rule and a more efficient, effective, and participatory land management planning process.

The proposed rule and DEIS are currently out for public comment. The Department and Forest Service are eager to receive feedback from the public by the end of the comment period, and look forward to reviewing that input in order to develop a final rule that is practical, workable, and reflective of our shared values and vision for America's National Forest System.

This concludes my prepared statement, and I would be pleased to answer any questions you may have.

The CHAIRMAN. Thank you, Mr. Secretary. We appreciate it.

The chair would like to remind Members that they will be recognized for questioning in order of seniority for Members who were here at the start of the hearing. After that, Members will be recognized in the order of their arrival. And I appreciate Members' understanding.

I intend to reserve my time for questions, and I would like to recognize the gentleman from Virginia, Mr. Goodlatte, for 5 minutes for questions.

Mr. GOODLATTE. Well, thank you, Mr. Chairman. I very much appreciate your holding this hearing. Forestry is a very important part of the economy of western Virginia, and my Congressional district contains about 1.2 million acres of National Forest land, so we are very interested in the topic.

And, Mr. Sherman, we very much appreciate your coming to be with us today.

I wonder if you could explain why the proposed rule does not do more to promote timber harvesting on our National Forests?

It seems to me it is a win for everyone. It is harvested in an environmentally sound manner. It promotes forest health by controlling for fire threats and invasive species. And it not only benefits but, in many cases, it is vitally important for these rural economies, the small towns that are dotted in and around our National Forests that have suffered greatly by the significant reduction in recent decades in harvesting in our National Forests. In my opinion, it is good both for the environment and the economy.

Mr. SHERMAN. Congressman, we believe the proposed planning rule does address timber and the importance of timber. Timber is a key multiple use, and multiple uses are expressly recognized in this proposed planning rule. Multiple uses are obviously critical to furthering ecological—

Mr. GOODLATTE. Do you anticipate there will be an increased production of timber off of our National Forest lands as a result of this rule?

Mr. SHERMAN. I think that we will continue to see an upward effort to produce timber on our National Forests.

Mr. GOODLATTE. Do you have any projections in terms of how that will go?

Mr. SHERMAN. I don't have a specific projection. I know this past year, in the President's budget, we projected a slight increase in production of our timber.

But I want to just say that this rule contains sections that relate to timber production. It identifies how we are going to identify lands that are suitable for timber production—

Mr. GOODLATTE. I understand that. Let me interrupt because I have a couple other questions I want to ask. But if you could provide the Committee with some projections showing where timber production has been and where you expect it would go, I think that would be very helpful to all the Members of the Committee.

I represent the George Washington National Forest and the Jefferson National Forest in western Virginia. The George Washington is currently operating under a plan crafted in 1993. The process to revise the plan began in 2007 and, when all is said and done, will have taken about 5 years to complete.

I understand that there was a court ruling that invalidated the previous rule, but what assurance can you give me that future rulemaking will not drag on in the same manner?

Mr. SHERMAN. We are hopeful that the adaptive process that this rule is based on will result in new revised plans being done much quicker than the previous rule.

The previous rule, took, on average, 5 to 8 years to complete forest plans. And some took more than that. We are hopeful through the process that we have outlined here that new revised plans can be prepared in 1 to 3 years. That is our hope.

We have studied this greatly. This is a process where we are going to be doing more frequent amendments rather than waiting until the end of a 15 year period to revise a forest plan—

Mr. GOODLATTE. That would be a good goal and a good process.

One of the issues that comes up here is litigation, and I wonder what the Forest Service is doing. Are you taking any proactive steps to attempt to head off litigation with regard to this rule?

Mr. SHERMAN. We have worked carefully with our legal consultants on the formulation of this rule. We have studied extensively past litigation, past court decisions. And we believe that we have structured this rule and phrased this rule in a way that will withstand litigation. Obviously, you can't determine whether somebody will sue you or not. But if are sued, we believe that this is a rule that is defensible and that, as I said, will withstand challenge.

Mr. GOODLATTE. And, finally, one last question: Can you discuss the decision to catalog invertebrates on National Forest land, primarily insects? This seems like a burdensome requirement on Forest Service personnel that has only marginal benefit.

Mr. SHERMAN. The 1976 National Forest Management Act required us to come up with a forest plan that addressed plants and animals. It didn't say *vertebrates*; it said *plants and animals*. Animals include, obviously, *vertebrates* and *invertebrates*.

We believe it is a much more holistic and responsible way to look at both invertebrates and vertebrates, because they are absolutely part of these ecosystems that we are trying to protect.

Mr. GOODLATTE. Have you taken a look at what this is going to cost and what it is going to do to deter limited forest personnel from being able to do other duties in our National Forests?

Mr. SHERMAN. We have evaluated what it will take to incorporate our review of invertebrates along with vertebrates. Again, we are not going out and doing original research or study on these issues; we are taking information that is available to us. But when you are looking at these issues, you need to look at them in a holistic way. Otherwise, we are not understanding what is really happening to the ecosystem.

So we have reviewed this carefully, we have talked within the agency about this, and we believe we can perform these types of reviews efficiently and effectively.

Mr. GOODLATTE. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

I now recognize the Ranking Member, Mr. Holden, for 5 minutes of questions.

Mr. HOLDEN. Thank you, Mr. Chairman.

Mr. Schrader has a prior commitment, so I am going to give my time to him for the first 5 minutes.

Mr. SCHRADER. Thank you, Ranking Member and Mr. Chairman.

I am very concerned about the proposed forest rules and the evolution of the Forest Service into a hybrid of the National Park Service and U.S. Fish and Wildlife. I think the original mission of Forest Service has completely been lost in a lot of the iterations of rules and regulations that have been written over the last 20 years.

Unlike Mr. Goodlatte, I don't have a forest industry hardly anymore, despite the fact that half of my land mass in Oregon is Federal forest land and BLM. So it is a great concern, looking at some of these guidelines that are out there.

As a matter of fact, could you comment in a little more detail about the so-called viability rule? I share the concern about looking at invertebrates. I mean, basic science would tell you that if the higher-chain vertebrates are living, that the invertebrates they depend on and that ecosystem depend on are probably in good shape.

And you obviously don't have the resources to manage what you do do now, much less expand your mission. So, given the fact that the law calls for diversity, not viability, why are you changing the law?

Mr. SHERMAN. Congressman, I don't believe we are changing the law. I think we are following—

Mr. SCHRADER. Well, you obviously are. You indicated just a moment ago you are expanding it into invertebrates, when the law itself calls for plants and animals.

Mr. SHERMAN. Well, the 1976 Forest Management Act requires us to provide for animal and plant diversity. And—

Mr. SCHRADER. So it says diversity, not viability; is that correct?

Mr. SHERMAN. Well, it says diversity. And—

Mr. SCHRADER. Okay.

The other thing I am concerned about is the multiple use standard. You have talked about economic viability, yet you were unable to give even a remotely close estimate of what is going to happen to the towns and the timber harvest that a lot of rural America depends on.

They have been in a depression for almost 20 years. If we are interested in helping them, how and in what way do you address that?

Mr. SHERMAN. I think that we need to put together a planning system that spells out—

Mr. SCHRADER. But, basically, what you are saying is this rule doesn't even address that. You are going to have another set of rules that deal with the planning system to deal with what the Forest Service was originally set up to do, and that is to make sure that we have healthy forests.

Mr. SHERMAN. This proposed planning rule provides for timber as a recognized multiple use. And it provides—

Mr. SCHRADER. Multiple use? It is a major use.

Mr. SHERMAN.—for the method by which—

Mr. SCHRADER. If I may, I have limited time, unfortunately. I apologize, Mr. Sherman. But, I mean, it is the major use.

I am very concerned about climate change. I am worried about the status of our forests. You indicated the bark beetle infestation,

the forest fires. I see the inability of the Forest Service to deal with those right now with a limited budget. The President is proposing a cut in the Forest Service budget. There is no way you are going to be able to do your holistic approach. I am very concerned about that.

You have listed guidelines. In the past, the guidelines that the Forest Service has used have provided an outline, allowed some discretion at the local level, depending on the particular National Forest that is out there. I am concerned that the new rule says that the projects must comply with the guidelines. In other words, you are creating new, hard and fast, one-size-fits all rules; is that correct?

Mr. SHERMAN. No, that is not correct, Congressman.

Mr. SCHRADER. Could you elaborate?

Mr. SHERMAN. Yes. The standards and the guidelines under this proposed planning rule will be established by the local responsible official.

Mr. SCHRADER. Good. Good.

I would like to talk about the best available science information. That is a catch word that we all use. And that science seems to depend on which side of the issue you are on.

Isn't it going to be very, very difficult to come to any decisions and won't there be lots of litigation over what is, "the best science," at the end of the day? So isn't this rule actually going to make things worse, not better, in terms of getting jobs done?

Mr. SHERMAN. We do not believe so. We do feel it is important for our local responsible officials to get the most accurate, reliable information concerning projects, and review that information. Sometimes, with scientific information, there is not a unanimous opinion about an issue; it is up to the local official to review those different pieces of scientific information and then make a responsible decision about what needs to be done and document why and how that was decided.

That is our intention about using best available science. It is not to go out—

Mr. SCHRADER. Will there be deference given to the local Forest Service personnel, obviously, based on their particular situation in that forest?

Mr. SHERMAN. Absolutely.

Mr. SCHRADER. Okay. Good to hear.

Last but not least, while the line of questioning is a little bit harsh—and I apologize for that, but it is an important part of industry in my state. And, in Oregon, we have been suffering for a long, long time.

I do want to give you some kudos, though, on the pre-decisional type of orientation that this forest rule has, that if you are not at the table to begin with, you don't raise the objections upfront, you don't have the ability to raise them on the back end. And any way we can help you to make sure that stays, I would like to work with you on that.

Mr. SHERMAN. Thank you.

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

The CHAIRMAN. I thank the gentleman.

The next 5 minutes of questioning will be from the gentleman from Wisconsin, Mr. Ribble.

Mr. RIBBLE. Mr. Sherman, thanks for being here today. I think this is a very important hearing. It certainly is for my district. I represent Wisconsin's northeast district, Wisconsin's Eighth District, which has one of the largest and robust forest lands in the United States.

And I am wondering, the big concern—I will just give you a little bit of background, and maybe you can help me see through this. I want to talk a little bit about Laona, Wisconsin.

Laona, Wisconsin, is a small, rural community in the heart of our Nicolet National Forest who, 20 years ago, had a thriving and robust school system. Through policies coming out of the USDA and the decimation of Wisconsin's timber industry—literally, decimation of Wisconsin timber industry—we are now at risk of losing our rural schools. Because the timber industry that was funding those schools has been literally destroyed by bad policy coming out of this city.

And I am wondering if you can tell me, since Secretary Vilsack has said a priority of his is revitalizing and strengthening our rural communities, how will this rule restore timber harvesting in northeast Wisconsin?

And I would just also add, why in the world should northeast Wisconsin be importing timber from Canada rather than harvesting timber that is rotting in our National Forests?

Mr. SHERMAN. We are very hopeful that this planning rule and subsequent actions taken by the U.S. Forest Service will result in responsible development of our timber resources. This rule provides for it.

We need to set forth a framework, which this does, to identify lands within our National Forests that are suitable for timber. We need to streamline our environmental review processes so that we can have projects ready to go when timber sales come up. And we need to work hard on the collaboration side of this because, in the past, litigation has really complicated our ability to get important work done.

Mr. RIBBLE. And who are those litigants? Who are filing the suits?

Mr. SHERMAN. The litigants cover a wide spectrum of parties. Sometimes they represent environmental parties. Sometimes they are local parties. Sometimes they are timber organizations. There have been a wide number of litigants in the past.

Our hope is that we can bring these parties together, we can have a collaborative process which leads to a mutual understanding of what needs to be done. When that happens, I believe we will be much more effective in getting on with the business that needs to occur, which is to do good restoration work in these forests which will allow substantial amounts of timber production.

And, this can be a win-win situation, but it is going to require collaboration. I think a lot of things in this rule are very helpful to set up a framework so that collaboration can occur.

Mr. RIBBLE. Okay.

You mentioned in your testimony or maybe in an answer to a previous questioner, when you were asked about when will timber

harvesting be increased, you used the words, "Well, we are hoping to have an upward trend." Did I hear that correctly?

Mr. SHERMAN. I am hopeful that we will have an upward trend in the production of timber in this country, yes.

Mr. RIBBLE. How do we change it from hope to reality?

Mr. SHERMAN. Well, part of that, again, comes back to moving to a more cooperative environment as opposed to litigation. And litigation has been the principal reason we have not seen more timber production, along with the market forces that are currently occurring.

But if we can establish a framework where there is good collaboration with the public, and if we have forest plans that identify areas suitable for timber production, and if we have an environmental review process that will work hand-in-hand with this so that it can get done expeditiously and efficiently, I am hopeful we can increase our timber output in this country.

Mr. RIBBLE. I can tell you, as a former business owner myself, I have often heard government agencies talk about collaboration with business, but I rarely have experienced it in my lifetime. And to the degree that the USDA and the Forest Service is actually willing to collaborate, I can tell you that you could save school-children, you could provide opportunity for rural communities to expand and improve, without more collaboration.

I hope this is not just in answer to a Congressional Committee but it is an actual heartfelt sense at the U.S. Forest Service and USDA to actually make this happen. We need action, and we need it very, very quickly, as it relates to the timber industry in Wisconsin.

And I yield back.

The CHAIRMAN. I thank the gentleman.

We are going to try to hold to our 5 minutes just because our first round of votes will be coming up here, hopefully not for 15 or 20 minutes. It would be great to get through all of our questioning with the Secretary. I know he has an appointment that he has scheduled for a little later this morning. We want to be respectful of that.

And I yield to Mr. Holden.

Mr. HOLDEN. Thank you, Mr. Chairman.

I just have one question. Mr. Sherman, it is my understanding that, the last time this rule was done, it was shelved during the implementation phase because of cost. It is also my understanding that USDA conducted a cost-benefit analysis as part of the process for this planning rule.

Can you explain why a rule was shelved in 2000 due to cost and what the cost-benefit analysis now states? Did it become less costly over the past decade to do this rule?

Mr. SHERMAN. The 1982 planning rule has had fits and starts since it came into existence.

In 1995, and 1998, there were efforts to amend it, and then the 2000 rule was promulgated; it was then set aside by the incoming Administration.

Mr. HOLDEN. Because of cost?

Mr. SHERMAN. Because of cost issues and complexity issues, that is my understanding. Then a new planning rule was put together

in 2005. Then it was litigated, and set aside by the courts, and then another rule was promulgated in 2008, and then it was set aside by the courts.

So we have looked at this history very carefully, and as for the rule that we have come up with now, we believe we can implement it in a cost-effective way. We have reviewed this very carefully with our professionals in the agency. We have had a lot of public comment on it, and will continue to have public comment on it, and we will go through those comments to see if we can make it more efficient than it is.

But I have to say, one of our major concerns going into this was: can we come up with a rule that is implementable? And I believe that this draft is implementable. And we can demonstrate to you, I believe, if given the opportunity, that this will be implemented in an effective way.

Mr. HOLDEN. So, in your opinion, it was not cost-efficient in 2000 but it is cost-efficient now?

Mr. SHERMAN. This proposed rule is more straightforward, more simple than what was proposed in 2000.

Mr. HOLDEN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

And I now recognize the gentleman from Colorado, Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman.

And thank you, Mr. Sherman, for being here. I appreciate seeing you again.

I want to go on maybe a little bit of a different track here. It is in regards to some of the leasing that we are having in the Forest Service right now.

Your surface occupancy leases are the gold standard for environmental protection. They prohibit the lessee from disturbing essentially even a spoonful of dirt on the surface. NSO leases are more protective than any past, present, or future roadless rule, including those like Colorado's roadless rule. But the Forest Service is still refusing to offer the NSO leases and offering leases in the most restrictive environmental process possible.

Can you explain why?

Mr. SHERMAN. Congressman, I am not intimately familiar with this situation, and I have had to recuse myself from implementation of the Colorado rule since I was one of the authors of it prior to coming to Washington. But my understanding is that the Forest Service and the Department of Agriculture have released a proposed Colorado roadless rule, which is out for public comment now. And, the comment period ends in July, whereupon a final Colorado roadless rule will be issued.

It is my understanding that the Administration did not want to do anything relative to these particular leases until there had been final action with the Colorado roadless rule. But I have not been involved in that, and I have had to recuse myself from that particular issue.

Mr. TIPTON. Okay. I guess just as a little bit of follow-up on that in terms of the policy of the Forest Service, we had received a letter from Deputy Secretary Jensen, who wrote me and said that the Forest Service was not going to offer any NSO leases in the Colo-

rado roadless area, which you were just speaking to, because it wasn't finalized. And the Forest Service has concerns with consistency between the NSO oil and gas leases and the proposed rule.

That position actually seems to be basically irrational because an NSO lease doesn't allow any disturbance in a roadless area at all. So any development of an NSO lease must be done from the direction of a well-drilling pad somewhere else.

Where is the consistency in terms of the problem when there is no way that an NSO lease can disturb the roadless area?

Mr. SHERMAN. Congressman, if you would permit us, I would like to ask Deputy Under Secretary Jensen to get in touch with you directly and to go over the specifics of this. And I am sure we can get you an answer as soon as possible.

Mr. TIPTON. You know, I would really appreciate that. You know, a lot of the issue—and I know you are well aware of this—in Colorado, and particularly the Third Congressional District, we have reported unemployment in double digits. Mesa County, as an example, had the highest unemployment rate per capita in the entire United States at one point last year. A lot of our public lands on the western slope of Colorado, 70 percent of our lands are public BLM/Forest Service lands, native lands as well.

And the Forest Service and the BLM used to have that policy of, "land of many uses, yours to enjoy." And it seems that we are getting incredibly restrictive in terms of responsible development of these resources. And I would really appreciate the follow-up on that. We have to be able to get our people back to work. And we are going to play a critical role in our nation's future with the development of these resources.

You know, when we are talking a little bit about some of the bark beetle damage that is out there, can you maybe give us an idea what the Forest Service is doing very proactively to allow private-sector people to be able to get in and harvest the downed timber and the dying timber?

Mr. SHERMAN. The Forest Service is working with a wide variety of people, companies, to come into bark beetle-infested areas and to harvest this wood, where possible.

One of our problems, quite frankly, as you well know, is to ensure that we have a viable timber industry that can process this material. I know the Montrose mill in Colorado is extremely important to the future restorations of Colorado—

Mr. TIPTON. Right. And that is in receivership right now. One of the issues that we have had—and if you could maybe let us know on this, as well—are some of the contracts for being able to harvest that timber. The contracts were based on prices when the economy was moving. And we now need to be able to address that because, simply, particularly with fuel costs now skyrocketing as well, the ability to be able to deliver that.

Thank you, Mr. Chairman.

Mr. SHERMAN. If I could just quickly respond, Mr. Chairman?

The CHAIRMAN. Please.

Mr. SHERMAN. We have been working very diligently with the receiver to review all of their contracts to see where we can modify those contracts. In fact, we have made a number of modifications.

But it is our hope that we can provide a stable, long-term supply of timber to that mill and keep that mill going. Because, again, it is important for that community, and Colorado cannot effectively restore its forests without having mills in operation.

Mr. TIPTON. Thank you.

The CHAIRMAN. Very good. Thank you.

I now recognize the gentleman from New York, Mr. Owens.

Mr. OWENS. Thank you, Mr. Chairman.

Mr. Sherman, there has been some commentary in your testimony and also Mr. Schrader asked you about the question of best science. And I would like to get from you your description of what you believe that to be.

My view is that oftentimes we suffer from what I would call "proponent science," where each side brings in experts who provide information that may be questionable. So I would like to see how you are going to shape up a best-science program.

Mr. SHERMAN. Our hope is that we will be able to get the most accurate, reliable information, going forward, with the development of these forest plans throughout the country, and then the actions that we take under those forest plans.

This is not a call for original research or Ph.D. theses on the various issues we are dealing with at all. It is to go to available, reliable information. And we will turn to stakeholders, the public, universities, our research centers, and other institutions, where necessary, to get information that can be helpful to these decisions that we need to make.

There may well be competing science on a given issue. And it is up to our local responsible official to review these different materials and to explain how he handled the material. In other words, these materials don't dictate any particular decisions, but we want to be transparent, we want to explain what we do with this information.

This is a standard that is, in fact, used with other agencies in the U.S. Government. It is not novel or unique. But we think it is important that we do get good information, good scientific information, before we make decisions.

Mr. OWENS. Thank you.

When you say the local responsible official will make that decision, can you describe for me the typical position of that responsible official?

The reason I am asking the question is, if this is scientific information, then the person who would parse it and make a decision about it clearly would have to have the background to be able to do it. And that is why I would like to know who those persons might be, not individual names, but just the title.

Mr. SHERMAN. Sure. Typically, the local responsible official would be a Forest Supervisor, the individual overseeing that particular unit of a National Forest. Now, this individual is not operating in a vacuum when he receives this information. He will have access, again, to our research centers. His decisions will be reviewed by a Regional Forester or perhaps others. As I say, this individual will get a lot of information from the public, from stakeholders and others.

So there will be a lot of information coming to this individual, and we believe our Forest Supervisors are trained to handle these types of issues. And they ultimately will be able to make appropriate decisions.

Mr. OWENS. Will there be any, if you will, national, independent review by individuals who have the appropriate expertise but also are not in any way connected to either or any of the proponents or stakeholders?

Mr. SHERMAN. I think it would depend on the issue. For example, with the national planning rule that we are working on now, we have brought in scientists from all over the country to assist us in the formulation of the draft rule. And since the draft rule has been out, we have had further review internally by Forest Service scientists and by an external science panel.

So, on a major rule such as this, yes, science is brought to bear. And with individual forest plans, depending on the issue, the Forest Supervisor will seek outside assistance to assist him in understanding the issues.

So, again, I think it depends on the complexity of the issue we are facing, but science should be part of our decisions.

Mr. OWENS. Thank you very much.

I yield back.

The CHAIRMAN. I thank the gentleman.

I now recognize the gentleman from Illinois, Mr. Hultgren.

Mr. HULTGREN. Thank you, Mr. Chairman.

Thank you, Under Secretary Sherman.

A couple quick question. One, I understand that many stakeholders—I think I saw that 65 different stakeholders had signed a letter and have asked your agency to extend the comment period for the proposed rule by 90 days.

Given the persistent questions regarding the rule's impact on jobs and the regional economy, I wonder why the Department of Agriculture declined to grant this extension.

Mr. SHERMAN. Congressman, thank you for that question. Let me explain why we have declined this request.

We front-loaded this process by working with the public and working with stakeholders for a year and a half to come up with the proposed draft rule. And this may have been before you arrived, but I explained we had some 40 meetings around the country, we had more than 3,000 people who participated in those meetings, we had 26,000 comment letters on the draft rule. Since the draft rule came out, we have had another 29 meetings around the country. We have Web-streamed this to 74 sites. There has been as bottom-up a process as I have seen in my government experience.

We originally were going to provide 60 days of public review. Internally, we decided we would stretch that to 90 days. I am apprised that, apparently, in the previous planning rules, there was usually 60 to 90 days provided.

And, at some point, we just have to get on with completing our review of this rule. We feel we have really extended ourselves to the public. We have given lots of opportunities, and we feel now we have to move on and bring this to closure.

Mr. HULTGREN. I think, with the impact that it is having and the significance of this, to me, it doesn't seem like another 90 days, from what I hear, would be that detrimental for the agency but really could be significantly beneficial for the number of stakeholders. You know, maybe it is too late, but I wish that would have been reconsidered. I think this is important, and, clearly, we are seeing that.

A couple other questions real quick. What does the proposed Forest Service planning rule do to relieve the agency's "analysis paralysis," as described by former Forest Service Chief Dale Bosworth?

Mr. SHERMAN. I think we feel that this planning rule will, in fact, reduce the time to prepare new forest plans. The previous forest plans took 5 to 8 years, on average, to do. We think the new, revised plans will be capable of being completed in 1 to 3 years.

We believe the collaboration that is encouraged in this rule is going to reduce litigation. And we believe this adaptive framework will allow us to be much more nimble and flexible and focused, doing small amendments as we go along rather than waiting and waiting and waiting for a major change or revision of the planning rules.

In our discussions with our professionals in the agency, we have asked this question over and over and over: Will this be more efficient? And the answer we have gotten back from the people who are very experienced is, "Yes, this is a much more focused, nimble, flexible rule, and it should work much more effectively than the previous rule."

Mr. HULTGREN. One more question, if I may. Why does the proposed Forest Service planning rule frame its standards for species conservation in terms of maintaining viable populations, when the National Forest Management Act never mentions population viability but, rather, frames statutory direction in terms of maintaining plant and animal community diversity?

Mr. SHERMAN. The 1982 planning rule that we are operating under does have a viability standard. And it was a standard which was in certain ways very difficult for us to meet, with respect to native vertebrates, because the Forest Service has control over certain things that we handle, but we don't have control over everything. And so, this particular rule does have a population viability standard as it applies to species of conservation concern. But that is actually, in some ways, a reaction to what was required under the 1982 rule.

Our goal here is to keep common species common. And our goal is, where we have threatened and endangered species, we want to contribute to their recovery. Where we have candidate species, which may go on the endangered species list, we want to conserve these species so they don't go on the endangered species list. And where we have species of conservation concern, in these cases, we want to move forward in a way which contributes to keeping their populations viable.

I think this is a reasonable approach. It is, in some ways, a limitation of what was done under the 1982 rule, but it is one that we think we can properly implement.

Mr. HULTGREN. I yield back. Thank you.

The CHAIRMAN. I thank the gentleman.

I now recognize my friend from Florida, Mr. Southerland.

Mr. SOUTHERLAND. Thank you, Mr. Chairman.

I am, as the Chairman duly noted, from Florida, Florida's Second Congressional District. And we are, obviously, proud of the Apalachicola National Forest. And I had some questions regarding the forestry plan there in Apalachicola, if we could discuss that for just a few moments.

Obviously, in our area, we are home to longleaf pine, which is a huge production. We harvest much timber pine in north Florida. And I want to ask you, what is—well, let me just read this.

According to the USDA's website, "The Apalachicola, Osceola, and Ocala National Forests are public lands that protect more than 1.2 million acres in north and north-central Florida."

Please elaborate on why the term *protect* is used solely and why there is no stated purpose of timber economic activity if one of the stated purposes under the plan is to strengthen jobs and rural communities?

Mr. SHERMAN. Congressman, I had earlier explained that timber production is an important multiple use, as provided for in this proposed national planning rule. There are several sections of the rule that do deal with timber and the importance of timber. And we believe that this planning rule sets out a framework where we will identify areas that are suitable for timber production, areas that are not suitable for timber production. We will be identifying expected levels of timber production in individual National Forests.

We think it is an important part of the economic sustainability that this plan provides, and we think it is an important part of the restoration efforts that are going on around the country.

Mr. SOUTHERLAND. Let me say this, if I could. If your statement is, in fact, true, if you believe that it is important to the communities that surround the National Forests—I know in the Apalachicola National Forest, 10 years ago they were harvesting 24 million board feet out of the Apalachicola National Forest. That was drawn down to zero—zero—zero harvesting annually. Okay? And now we are back to 6 million board feet. So we are still 75 percent below where we were 10 years ago.

If your statement is correct, that the Department believes that harvesting out of the National Forest is critical and it has an economic component that is critical to the neighborhoods and the communities around the National Forests, then why, then, what you just said is not factual as to what has been done?

Mr. SHERMAN. I think, at least as a general statement, market forces have been an important factor here. Litigation that has shut down our efforts to produce timber in certain areas has been a factor. Sometimes our planning efforts have not been as nimble and focused as they should be. It is a variety of things that have caused the reduction in the levels of timber production in this country.

It is our hope here that we are going to provide a framework which will be responsive to the needs of the public, the needs of these communities, and that can be done in a way that is environmentally sound. I think you can do both.

Mr. SOUTHERLAND. Is there currently a harvest date, crop rotation schedule, that when you know you are going to plant, for example, longleaf pine, is there a set schedule that you know that in

X amount of years that particular quadrant of the forest will be harvested?

Mr. SHERMAN. I think that there will, in a given forest plan, be certain long-term projections about how long it will take to re-establish a forest and whether there will be certain portions of that forest which will be amenable to timber production.

Mr. SOUTHERLAND. But isn't that really the purpose of a National Forest? I mean, we are not talking about national parks. And there is a difference between the two. And so, therefore, when you distinguish and you say in a National Forest that this area is going to be wilderness, you might as well say that inside that National Forest that you are making that particular area a national park.

Mr. SHERMAN. Well, under our authorizing legislation, there are multiple purposes that are attached to National Forests.

Mr. SOUTHERLAND. And one of those is economic vibrance to assist the communities.

Mr. SHERMAN. That is correct, but there is also ecological sustainability.

Mr. SOUTHERLAND. But that is what national parks are for.

Mr. SHERMAN. No. National Forests, Congressman, also provide for ecological sustainability. It is our job to figure out how we can have both ecological sustainability and economic vibrance.

Mr. SOUTHERLAND. I would agree. But for you not to have a harvest date crop rotation schedule tells me that you are utilizing a park mind-set in National Forest areas, and I think that that is a disservice to the American people, especially in Florida when we are staring at 12 percent unemployment.

Mr. Chairman, I yield back my time.

The CHAIRMAN. I thank the gentleman. And I am going to take the opportunity for the last 5 minutes.

First of all, Mr. Secretary, thank you for being here. Frankly, this Committee, I hope you get a sense, shares your passion for our forests. We chose to serve on the Agriculture Committee, many of us. A primary reason was the fact that trees are cropped. And I hope you also sense our frustration that what we are seeing—and I don't pretend to speak on behalf of every Member of the Committee—and there are some that would agree based on some of the line of questioning—that we are concerned with what I would call "mission creep" within the United States Forest Service. Trees are cropped. That is why U.S. forests are not under the Interior Department, as my good friend referenced; it is under the Department of Agriculture.

I know there are a lot of pressures, certainly a lot of pressures in Washington on agencies, and I have a lot of respect for folks within the USDA and the Forest Service, but these pressures are out there. I think we are pretty clear about where we stand, at least from my perspective, with our forests, providing resources. Resources have made the country strong and will make it strong in the future.

I have numerous concerns—well, first of all, there are just so many questions and so little time. So I am going—I will formally do this for Secretary Vilsack and yourself—request an extension on this so we have an opportunity for at least one more hearing to be

able to have some good discussion and allow all key stakeholders to come to the table and encourage folks to weigh in from different communities.

I do have concerns with expanding scope of mission, what I would call mission creep, within this proposed rule, things that are in there, such as climate change. I mean, you want to put a controversial thing in Washington that will be challenged from all sides. Why would you do that? Because you are going to create enemies, you are going to create friends. It is one of those terms that, frankly, will never be agreed upon. That is just reality. Things adding mission creep, like invertebrates, into this. Just language, vague definitions and terms. And that is an area of specific concern that I do have because in the Forest Service, there are good scientists and certainly good forest technicians that try to do work, but much of the changes that come, come through the court system. And we got to figure out how we stop reimbursing, frankly, what I consider to be special interest groups that are fundraising through filing lawsuits against the Forest Service. They are having more influence on the Forest Service public policy than what Members of Congress are and certainly what local communities are that agreed in a collaborative way a century ago to give up their private lands to have them become public lands. We have to figure out how we stop that, how we stop at least rewarding them by paying their court costs.

So there is a lot of concerns out there, and all kinds of different ways to go. Obviously energy is very important in my National Forest. I am very proud it is a profitable National Forest. In your written testimony you said that the planning framework in the proposed rule would help the Forest Service provide, among other things, access to minerals and energy.

How, specifically, does the proposal treat energy production on Forest Service lands?

Mr. SHERMAN. The draft planning rule recognizes both renewable and nonrenewable energy as multiple uses that will occur on National Forest lands.

As I stated earlier, part of our mission here is to contribute to economic sustainability. So there is activity now going on on many of our National Forests concerning energy development, both renewable and nonrenewable, and this plan provides a framework for how that will continue.

The CHAIRMAN. Well, the Forest Service essentially and the Administration laid off a whole bunch of folks in January of 2009, shortly after I was sworn into Congress for the first time, by putting a moratorium on the drilling permits for oil and natural gas. And actually, interestingly enough, 93 percent of the subsurface rights in the Allegheny National Forest are privately held, so it was such an infringement on private property rights. In fact, a Federal judge in Erie, Pennsylvania found, not once, but twice against the Forest Service. But the Forest Service, with the Sierra Club, a partnership, imposed that moratorium. So I think that to me it emphasizes how we need very specific terms and definitions because when you start saying invertebrates—I can see people that own subsurface rights, I can see the Forest Service, which I think has a fiduciary responsibility to produce timber—that is good for

our communities, it is good for America—with vague terms, that is all the more opportunity to be sued and allow some of these groups to do their fundraising by filing these lawsuits. They are going to shut down timber because of invertebrates, because of a snail someplace, we are not going to allow the folks who own subsurface rights to be able to exercise those private property rights. So I really would encourage a little more thoughtful process in terms of defining terms very specifically.

I want to ask a little bit about the public participation and how engaged they were. In section 219.4, there was a request for public participation. As I was reading through it, I found it interesting—and you talked about a fairly comprehensive approach to different folks you reached out to, I didn't hear you talk about—and maybe it was there, and I certainly didn't read it in the text—much reference to the people who gave up their land to form these National Forests, the counties. And we are going to hear from a County Commissioner in the next panel, the school districts, the boroughs, the townships, the folks whose very economy they said, you know what, we will allow these. These were my predecessors in Pennsylvania about 87 years ago who were at the table with these folks and said we are going to allow these private lands to be taken off the tax rolls and put on the public rolls with the United States Forest Service to manage them through USDA. I am sure it was with an assurance that there would always be a strong and vibrant economy. And we just haven't seen that.

And I know there are different market influences at play, but that just means that I think the Forest Service has to be overly aggressive with its production of resources. There are some market influences we are not going to control, preferences for different types of wood, a depressed housing industry, those types of things. But the fact is that the Allegheny National Forest, which the current forest plan, management plan says it can harvest 90 million board feet, we are doing much better than Florida, my friend in Florida, we have been doing 20 million board feet out of that 90. Most recently—and I appreciate it, actually, since I have come to Washington—and I like a very collaborative process for the Forest Service, it is going to 40 million board feet.

But describe for me, how has the Forest Service engaged what I think are the very key stakeholders, the local communities who gave up their private grounds to have them become public grounds and public trusts as a National Forest? Are you satisfied with the specific things that were done in terms of communicating directly with them, other than saying you have 90 days to get back to us?

Mr. SHERMAN. As I say, we did reach out, and as part of our effort of reaching out we have worked with counties, we have worked with state governments, we have worked with local landowners. This proposed planning rule does encourage local governments to work closely with us on the formulation of forest plans. And Congressman, we have a provision here which offers both local governments and state governments cooperating agency status as we move forward with these individual forest plans.

We think it is very important to work with the counties, to look at their current plans for what they want to do with surrounding communities and surrounding areas, and we will do that. And I

might also say that at every stage of this process, whether it is the assessment process or the amendment processes, or the monitoring or the environmental review processes, we are hopeful that local governments and local landowners will work with us.

I might also just say that when you look at the types of issues the Forest Service is dealing with, many of these issues we have to look at on an all-lands basis. We can't just look at where the Federal property line ends. When you have fire issues, water issues, invasive species type issues, wildlife issues, it covers a wide swath of land and we need to have a cooperative relationship with our neighbors.

The CHAIRMAN. And I appreciate that approach. I think that land rolls up not just to those specific types of land you talked about, it rolls up to the steps of the county courthouse, it rolls up to the classrooms, it rolls up to the business and industries and the township and the borough.

So I appreciate the opportunity to work with you, and I look forward to doing that. I think that we are all on the same page in terms of having a passion for our National Forests. We are committed in the Agriculture Committee that trees are a crop, and that we have a responsibility back to our rural communities and to this nation to make sure we are providing the sustainable resources certainly for business, for industry, for construction, for energy, which is kind of an exciting new opportunity that our National Forests can help us meet our domestic energy needs.

I really appreciate your time. I know that you are very busy and you have a busy schedule today. So thank you so much for taking time and being with us.

And I will be sending something formal over to Secretary Vilsack and to you. We just have a lot of questions. We just want to make sure this is an exhaustive process. I know there are times, having worked around the Forest Service for a while, there are times where comment periods, when our local communities are waiting for something, those tend to get expanded when it is in the best interests of the Forest Service. I think there is probably nothing more important than these plans, proposed rules, and so we will be requesting an extension so we can take at least one more opportunity like this.

Thank you, Mr. Secretary. I appreciate it.

Mr. SHERMAN. Thank you. And we look forward to further discussions with you.

The CHAIRMAN. I look forward to it, Mr. Secretary.

Votes have been called. We have two votes. And so I apologize to the second panel; there is going to be a bit of a delay. The first vote will last probably another 15 minutes, we hope—until we get to the floor—and then there will be one vote right after that we can vote immediately and we will be back. So we will recess just for a short period of time, and then the Subcommittee looks forward to being back and convening with the second panel.

[Recess.]

The CHAIRMAN. We reconvene this Subcommittee hearing for the Agriculture Subcommittee on Conservation, Energy, and Forestry. I would like to welcome our second panel of witnesses to the table.

First, we will introduce all four of the witnesses, and then we will get started.

The first of our witnesses, as I referenced in my opening statement, is Commissioner John Bortz from Warren County. Commissioner Bortz, thanks for being here.

Now I am going to yield to my good friend from Wisconsin to introduce a constituent of his who is our second witness.

Mr. RIBBLE. Good morning, everybody. I want to welcome Steve Guthrie to the panel this morning. Steve is a constituent of mine from Laona, Wisconsin. He is a professional forester and has done this for a very long time. And Mr. Guthrie, I understand it is your birthday today, so happy 39th birthday. It is very good to have you, and thanks for coming.

The CHAIRMAN. We are also joined on the panel by Mr. John Shannon, Vice President of the National Association of State Foresters in Little Rock, Arkansas. Mr. Shannon, thank you for being here.

And our fourth witness is Mr. Jack Terrell, Senior Project Coordinator, National Off-Highway Vehicle Conservation Council, from Auburndale, Florida. Thank you. I appreciate all of your testimony.

Before you are three lights. When you get to 1 minute remaining, the yellow light will come on. When it hits the red, I will give you a little audible signal for that as well. I don't like to cut anybody off midstream, so take a sentence or two to complete whatever thoughts you want. Be assured that all Members of the Committee have your written testimony. We very much appreciate the time that went into preparing that and providing it for us, and we look forward to your verbal testimony.

Mr. Bortz, please begin when you are ready.

STATEMENT OF JOHN R. BORTZ, JR., COMMISSIONER, WARREN COUNTY, PENNSYLVANIA, WARREN, PA

Mr. BORTZ. Thank you, Mr. Chairman. Good morning to you and to the ladies and gentlemen of the Committee.

My name is John Bortz, Jr., and I am currently serving in my fourth year of my second term in office as a County Commissioner within the Commonwealth of Pennsylvania. The body of three Commissioners is statutorily charged by the Commonwealth with both executive and legislative authority in order to administrate the affairs at the county level.

Pennsylvania has a history steeped in forestry. Its name, literally translated, means Penn's woods, a distinction earned by our founder, William Penn, and the dominant characteristic of our landscape.

Within our boundaries is over a half million acres of federally owned property called the Allegheny National Forest. My county, Warren, makes up over ¼ of the total acreage of the ANF and it is a sizeable presence within my county. I know that many of my colleagues throughout the United States share in this distinction.

My professional experience with the National Forests are varied. Since 2003, I have actively participated in the latest revision of the forest plan, allocated financial resources from Secure Rural Schools funding under title III, appointed members of my communities to serve on resource advisory committees, and testified in Federal

court concerning litigation between the Allegheny National Forest and members of the oil and gas industry.

In both my capacity as a County Commissioner and as a concerned citizen, I am very interested in the proceedings that will modify the forest planning rules. I have submitted a White Paper for your consideration as part of my testimony, and in it are outlines of my experiences while working through the latest revision of the Allegheny National Forest forest plan.

By my observation, the forest planning process touches on three critical areas—resource management, economic impact, and government-to-government relations. Our National Forests are a renewable resource that can bring a tremendous economic stimulus to our nation's communities. The best strategies for assuring forestry conservation and community revitalization occur when local governments are made a part of the forest planning and management process.

While the forest planning rules provide the framework for the planning process, they haven't been implemented in a manner that consistently welcomes local government involvement, and *consistently* is the key word. Too much is left up to the sentiments of the forest officials' interpretation.

Furthermore, no planning provision should directly or indirectly interfere with personal property rights. I have seen on many occasions where intrusiveness is imposed as authority. Over 90 percent of the subsurface holdings underneath the Allegheny National Forest are owned by others. They have claim to this property, and must not be prohibited by the service holder from accessing it.

Thank you.

[The prepared statement of Mr. Bortz follows:]

PREPARED STATEMENT OF JOHN R. BORTZ, JR., COMMISSIONER, WARREN COUNTY,
PENNSYLVANIA, WARREN, PA

A Strategy for Bringing the Allegheny National Forest Administration and County Governments Toward a More Effective Relationship

(1.0) Executive Summary

Until recently, Federal and county governments have had an arm's length relationship pertaining to the Allegheny National Forest. However, a number of eroding influences impacting the county level are forcing Commissioners to address the performance of the Allegheny National Forest and to coordinate with the management of that asset toward the highest and best use for their communities.

To be clear, the ultimate authority for managing the Allegheny National Forest rests with the Federal Government. The Department of Agriculture's Forest Service is responsible for administrating all vegetative management and land use, but they must do so within the context of a number of Federal regulations. Within those regulations, specific involvement is allocated to county governments, and it is the purpose of this document to utilize these regulations so the four counties of the Allegheny National Forest can coordinate with the Federal administrators.

Elk, Forest, McKean, and Warren Counties must take a strong leadership role at the Commissioner level on this issue. This may best be accomplished through the formation of a four-county coalition responsible for formulating consensus based positions. In addition, this coalition could provide coordinating planning activities with the ANF administration as permitted by Federal regulations. The end result of county leadership will be more effective and efficient communication between local officials and the Federal administrators.

(2.0) Introduction

Warren County is one of four contiguous subdivisions of the Commonwealth of Pennsylvania whose relationship with the Federal Government includes a National

Forest, Elk, Forest, McKean and Warren Counties serve as a collective host for a Federal asset that measures over a half-million acres.

Counties	Acreage	ANF Acreage	Percentage ANF Owned
Elk	530,336	111,846	21.09%
Forest	275,840	119,116	43.18%
McKean	628,205	135,346	21.54%
Warren	565,120	147,018	26.02%

By virtue of its geographic size alone, the Allegheny National Forest (ANF) deserves the attention of the Commissioners; more than $\frac{1}{4}$ of the total acreage of the four counties is controlled through the ownership of the United States Government and this through the Department of Agriculture's Forest Service. When the monetary impact of the affiliated industries is considered, the Commissioners can easily justify giving the ANF priority status in their executive and legislative decision-making, but county government abilities are quickly challenged whenever they face the task of interfacing with a multi-billion-dollar Federal bureaucracy that abides by a myriad of strident regulations. Ultimately, the question before us is how can county government be assured that its local issues are being considered or accommodated by this monolithic agency? To date, no formally adopted position pertaining to the interplay of local interests against Federal management has been received by the ANF administration, nor is there a protocol for interfacing with those Federal administrators. ***The challenge in rectifying these deficiencies lies on two levels: (1) any formally adopted position reflecting the local needs vis-à-vis the Allegheny National Forest must be inclusive regarding the various items of local concern, and it must be specific in detailing those issues; and, (2) to be effective, communication protocols must be created and administrated in a manner consistent with local, state, and Federal guidelines.***

(2.0) Recent History of the ANF Administration and County Governments

The need for an official local position is beyond question, and that was never more apparent than during the development of the recent forest plan. As a forest plan is in process, Federal regulations require the Forest Supervisor to solicit input, on an early and frequent basis, from local officials who have jurisdictional authority within a National Forest. The language in the Code of Federal Regulations is very clear on this matter. 36 CFR 219.14 reads as follows:

Involvement of state and local governments

The responsible official must provide early and frequent opportunities for state and local governments to:

- (a) Participate in the planning process, including the identification of issues; and*
- (b) Contribute to the streamlined coordination of resource management plans or programs.*

In spite of the "early and frequent" requirement, the ANF planning team developed a scope of issues as they formulated their Notice of Intent without the strategic involvement of local officials.

The Notice of Intent, the document submitted to the *Federal Register* to initiate the forest planning process, was filed on September 23, 2003. One of the objectives of creating a Notice of Intent is to identify the preliminary issues which need addressed, and, in accordance with 36 CFR 219.14(a), the input of local governments is required to identify them. However, nowhere in the "Government Participation" section of the Notice of Intent is local government involvement identified; only state and Federal agencies are specifically listed.

After the Notice of Intent was filed, numerous concerned citizens and elected officials repeatedly asked then Forest Supervisor Kevin Elliot about the role of local governments in the forest planning process. He publicly directed their efforts toward the Collaborative Learning Approach, and on numerous occasions he upheld that same process as the method through which input would be received. Many of the same individuals chastised Mr. Elliot regarding the ineffectiveness of the Collaborative Learning Approach as they strongly felt it was an inappropriate forum for elected officials to communicate with the ANF administration. In fact, they asked him if their communication efforts were placed on equal footing with those who maintained "fringe" positions of a micro-minority. He affirmatively answered this question, and he indicated that if the local leadership did not participate in the Col-

laborative Learning Approach, that was their choice to do so. He did not offer any other alternative modes for local governments to participate in the planning process.

Mr. Geoff Chandler followed Mr. Elliot in an interim appointment to the Forest Supervisor's position. The same questions were posed to him relative to local leadership involvement, and he responded in a much different fashion. He referenced his experiences at other National Forests where local officials had a greater participatory role. He also provided specific regulations which mandated the U. S. Forest Service's embracing local governments at the earliest opportunity during the planning cycle. This new position by ANF top-level management signaled an opportunity for local government involvement, but local officials also expressed an underlying concern that it may already be too late. Even still, local leaders were conservatively encouraged, and they became more directly involved.

Kathleen Morse picked up on the initiative of Mr. Chandler during the Summer of 2005 as she assumed her role as Forest Supervisor. County Commissioners, County planners, township supervisors, school board members, and others were provided an opportunity to outline their standing to the ANF planning team. One of the earliest meetings for this purpose was held on September 19, 2005, almost 2 years after the initial filing of the Notice of Intent. My notes taken at that meeting read as follows:

"The largest procedural issue I have with the current planning process is timing: the counties are strategically disadvantaged due to our recent involvement. At this point, the counties should be asserting our preferred alternative. Instead, the counties are playing catch-up to the ANF regarding our engagement and dialogue.

Their timeline continues while the counties become educated. Until a correcting measure is affected onto their timeline, the counties will be unable to present their preferred alternative."

By that time, the public sector's lacking of an opportunity to prepare for this issue became glaringly obvious. While the vast majority of local government officials shared consensus-based positions, our ability to contribute to the planning activities was compromised, because a codified public position at the local level was not in existence. Furthermore, even if a position were available, the framework by which we could effectively participate in the planning process was limited due to the ANF planning team not involving local officials on an "early and frequent" basis as required by law. We were forced to communicate to the planning team through means largely designed by the local ANF administration resulting in a dialogue that was reactionary rather than participative in nature. *In short, we didn't know what to say, nor did we know how to say it.*

The most furtive attempt to officially communicate a local position to the ANF planning team came in the form of a twelve-point resolution. The efforts leading up to the creation of the resolution involved numerous township supervisors, County Commissioners, school board members, industry groups, planning agencies and others, and a sizeable number of those involved formally approved the twelve-point resolution at their regular public meetings.

Of particular note are the activities of the local development districts (LDD's) surrounding the ANF in their handling of the twelve-point resolution. LDD's are the regional agencies within the Appalachian Regional Commission. This multi-state, federally chartered organization is located within the Eastern United States ranging from Southern New York to Alabama, and its fundamental charge is planning. Within the Commonwealth of Pennsylvania, county officials maintain seats on the boards of LDD's, and they use the planning and development resources of these organizations to communicate local concerns to any number of government agencies. Southern Tier West (three counties, New York), the Northwest Commission (eight counties, Pennsylvania), and the North Central Commission (six counties, Pennsylvania) encompass the perimeter boundaries of the Allegheny National Forest as well as a man-made lake within the ANF, the Kinzua Reservoir. All three of these LDD's formally considered the twelve-point resolution at separate, respective board meetings. The Northwest and Southern Tier West Commissions both unanimously adopted the resolution; North Central Commission formally adopted the resolution as their official position with only one dissenting vote.

The lack of coordination between the LDD's and the ANF planning team is another topic worth mentioning. As stated earlier, the Appalachian Regional Commission is a federally funded, multi-state agency that is charged with planning. The three LDD's that encompass the perimeter of the ANF are fully engaged with their respective counties and municipalities, and the Northwest, North Central, and Southern Tier West Commissions could have played a much greater role throughout the entire forest planning process. In fact, 36 CFR 219.14(b) specifically charges

local governments to be involved in the planning process in an effort to “streamline coordination of resource management plans or programs”. These respective LDD’s could have significantly bolstered the forest planning efforts with their resources, but they were not mentioned in the Notice of Intent nor were they brought into the planning discussions until much later; one federally funded agency, the ANF, did not significantly involve another federally-funded agency, the ARC, in order to make them an “early and frequent” contributor even though the latter agency’s core charge is planning.

Warren County acted as the repository for those who approved the twelve-point resolution, and the collated documents were then forwarded to the ANF for their consideration. In spite of these regional efforts, the ANF administration gave the submitted twelve-point resolutions not much more than a cursory acknowledgement in their draft release of the new forest plan.

In May of 2006, a Draft Environmental Impact Statement of the forest plan was released. In the summary documentation under the “Alternatives Considered But Eliminated” section, the ANF planning team acknowledged receiving the twelve-point resolution. In their comments, they stated some points are responsive to several of the points recommended, other points simply are not feasible, and some are outside of the scope of the plan revision. The final comment pertaining to “outside the scope” issues begs the question: if local governments were involved at the earliest opportunity, as clearly stated in 36 CFR 219.14, then is it beyond reasoning that the original scope of issues of the 2003 Notice of Intent could have been more inclusive of local government sentiments?

The forest plan, the comprehensive guiding document which will serve as the basis for land use plans on the ANF for the next decade or more, was put into effect Spring 2007, but, to date, discussions pertaining to communication mechanisms between county officials and ANF administration are on going. Due to this arrangement, while decisions by ANF administration pertaining to the forest plan or any other significant activity on the ANF may be communicated to local officials, no coordinated efforts between the two parties have been officially established. They are currently performed on an “*ad hoc*” basis, and this was evidenced as the planning activities of the ANF administration addressed their recreation plan.

Among the multiple-use nature of the Allegheny National Forest is recreation. Primitive and developed campsites, hiking trails, hunting, scenic overlook areas, and designated motorized trails are only some of the many activities that are enjoyed on the Allegheny National Forest, and the U.S. Forest Service maintains authority over these uses and the development of them. No small amount of local benefit is realized as visitors patronize our communities while they pursue their pastimes, and with that in mind, the counties have a vested interest in seeing that the ANF is successful in managing desirable recreational venues.

Similar to the overall forest planning process, the ANF administration is required to create a recreational plan with the specific purpose of setting objectives for recreational use on the forest. The ANF administration initiated their efforts with an “open-to-the-public” forum on January 29, 2008. No formal pre-planning was performed with the counties prior to this meeting as required by 36 CFR 219.14.

ANF officials met with the counties throughout the recreational planning process, and they appeared to be more sensitive to county issues. However, the quality of the planning procedure was severely undermined due to an accelerated timeline. The recreational planning process in other National Forests has taken up to 3 years to perform; however, the County Commissioners were made aware by the ANF administration that they were required to have the recreational plan completed in less than 1 year. Their explanation for this mandated timeline was that due to the protracted cycle of the forest plan, the recreational plan was delayed.

Further complicating the ability of the Counties to interface with the ANF administration is the rapid turnover of personnel in the top-levels of the ANF management. For example, from 2003 until present day, no less than six individuals have held the Forest Supervisor’s position on a permanent or interim basis. Similar staff positions within their organization have also experienced turnover exacerbating local officials in their attempts to communicate with the ANF administration. ***In the absence of a recognized Memorandum of Understanding which would detail communication protocols between the U.S. Forest service and local governments, the engagement between the two parties is heavily favored to the arbitrary sentiments of the local Forest Supervisor.***

The churning of upper-management staff creates additional complexities aside from lack of continuity: it calls into question their ability to render benevolent decisions at the local level due to their lack of “not knowing the neighborhood”. A Forest Supervisor, within the U.S. Forest Service, may come from anywhere in the country. While that individual may understand the bureaucracy and the national-level

issues, s/he will have limited knowledge of current local issues. The Allegheny National Forest is a forest that is as plentiful in complexity as it is rich in resources, and someone from outside of the area, absent a tie to leadership at the most intimate jurisdiction, is affected by a learning curve as s/he determines the sentiment and priorities of local concerns. A common theme expressed among local leadership is ANF administrators—who make sweeping policy decisions—do not have any “skin in the game”; they make their decisions and move on while the citizenry within their jurisdiction must deal with the results.

The preceding issues are examples of how the existing relationship between local and county government quickly becomes strained whenever the two parties enter into strategic discussions. The dynamics creating the dysfunction are many and varied, but if we fail to learn from the past we are destined to repeat it. ***We can be assured that the ANF administration will be required to perform planning activities in the future; how will county governments prepare themselves to effectively and efficiently interface with the ANF administration when that time arrives?***

Until the four counties of the Allegheny National Forest organize themselves into a consensus based unit, our individual efforts will be sub-optimized. The Commissioners must regularly meet and discuss to assess the current issues of the ANF within their respective counties, and then support each other as they forward their positions to the ANF. An emphasis must be placed on pro-active, forward thinking solutions which are coordinated between county governments and the Federal administrators.

(3.0) Proposed Strategy

Resolution of the Board of County Commissioners of the County of Warren Within the Commonwealth of Pennsylvania

Resolution Asserting Legal Standing and Formally Requesting Coordination With All Federal Agencies Maintaining Jurisdiction Over Lands and/or Resources Located Within Warren County

Whereas, Warren County is a public unit of local government within the Commonwealth of Pennsylvania and a three-member elected Board of Commissioners serves as its chief governing authority; and

Whereas, Warren County Board of Commissioners is charged with supervising and protecting the tax base of the county and establishing comprehensive land use plans (including, but not limited to the County Comprehensive Plan) outlining present and future authorized uses for all lands and resources situated within the county; and

Whereas, the Warren County Commissioners have designated the Warren County Planning and Zoning Commission as the lead agency for land use planning within Warren County, and the Planning Director serves as the chief point of contact and facilitator for those functions; and

Whereas, Warren County is engaged in the land use planning process for future land uses to serve the welfare of all the citizens of Warren County; and

Whereas, Warren County is comprised of approximately twenty-six percent (26%) federally held lands that are in the jurisdiction of the U.S. Forest Service; and

Whereas, many citizens of Warren County historically earn their livelihood from activities reliant upon natural resources, and land which produces natural resources is critical to the economy of Warren County; and

Whereas, the economic base and stability of Warren County is dependent upon commercial and business activities operated on federally owned, managed, and/or regulated lands that include, but are not limited to recreation, tourism, timber harvesting, oil, gas and mineral extraction, and other commercial pursuits; and

Whereas, Warren County desires Federal agencies to inform the Board of Commissioners of all pending or proposed actions affecting local communities and citizens within Warren County and coordinate with the Board of Commissioners in the planning and implementation of those actions; and

Whereas, coordination of planning and management actions is mandated by Federal laws governing land management including the Federal Land Policy and Management Act, 43 U.S.C. § 1712, regarding the coordinate status of a county engaging in the land use planning process, and requires that the “Secretary of the Interior [Secretary] shall . . . coordinate the land use inventory, planning, and management activities . . . with the land use planning, and management programs of other Federal departments and agencies and of the state and local governments within which the lands are located”; and

Whereas, the coordination requirements of Section 1712 provide for special involvement by government officials who are engaged in the land use planning process; and

Whereas, Section 1712 sets forth the nature of the coordination required with planning efforts by government officials and subsection (f) of Section 1712 sets forth an additional requirement that the Secretary “shall allow an opportunity for public involvement” (including local government without limiting the coordination requirement of Section 1712 allowing land or resource management or regulatory agencies to simply lump local government in with special interest groups of citizens or members of the public in general); and

Whereas, Section 1712 also provides that the “Secretary shall . . . assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans” and gives preference to those counties which are engaging in the planning process over the general public, special interest groups of citizens, and even counties not engaging in a land use planning program; and

Whereas, the requirement that the Secretary “coordinate” land use inventory, planning, and management activities with local governments, requires that assisting in resolving inconsistencies to mean that the resolution process takes place during the planning cycle instead of at the end of the planning cycle when the draft Federal plan or proposed action is released for public review; and

Whereas, Section 1712 further requires that the “Secretary shall . . . provide for meaningful public involvement of state and local government officials . . . in the development of land use programs, land use regulations, and land use decisions for public lands”; and, when read in light of the “coordinate” requirement of Section 1712, reasonably contemplates “meaningful involvement” as referring to on-going consultations and involvement throughout the planning cycle, not merely at the end of the planning cycle; and

Whereas, Section 1712 further provides that the Secretary must assure that the Federal agency’s land use plan be “consistent with state and local plans” to the maximum extent possible under Federal law and the purpose of the Federal Land Policy and Management Act and distinguishes local government officials from members of the general public or special interest groups of citizens; and

Whereas, the Environmental Protection Agency, charged with administration and implementation of the National Environmental Protection Act (NEPA), has issued regulations which require that Federal agencies consider the economic impact of their actions and plans on local government such as Warren County; and

Whereas, Since NEPA requires Federal agencies to consider the impact of their actions on the customs of the people as shown by their Federal beliefs, social forms, and “material traits,” it reasonably follows that NEPA requires Federal agencies to consider the impact of their actions on the rural, land and resource-oriented citizens of Warren County who depend on the “material traits” including recreation, tourism, timber harvesting, oil, gas and mineral extraction, and other commercial pursuits for their economic livelihoods; and

Whereas, NEPA requires Federal agencies to consider the impact of their actions on the customs, beliefs, and social forms, as well as the “material traits” of the people; and

Whereas, it is reasonable to interpret NEPA as requiring Federal agencies to consider the impacts of their actions on those traditional and historical and economic practices, including commercial and business activities, which are performed or operated on federally managed lands (including, but not limited to recreation, tourism, timber harvesting, oil, gas and mineral extraction, and other commercial pursuits); and

Whereas, 42 U.S.C. § 4331 places upon Federal agencies the “continuing responsibility . . . to use all practicable means, consistent with other considerations of national policy to . . . preserve important historic, culture, and natural aspects of our national heritage”; and

Whereas, Webster’s New Collegiate Dictionary (at 277, 1975) defines “culture” as “customary beliefs, social forms, and material traits of a group; the integrated pattern of human behavior passed to succeeding generations”; and

Whereas, in 16 U.S.C. § 1604, the National Forest Management Act, requires the U.S. Forest Service to coordinate its planning processes with local government units such as Warren County; and

Whereas, Federal agencies implementing the Endangered Species Act, the Clean Water Act, the Clean Air Act, and the Outdoor Recreation Coordination Act (16 U.S.C. § 460I–1(c) and (d)) are required by Congress to consider local plans and to

coordinate and cooperate directly with plans of local government such as Warren County; and

Whereas, the coordinating provisions referred in this resolution require the Secretary of Interior to work directly with local government to resolve recreation, tourism, timber harvesting, oil, gas and mineral extraction, and other commercial pursuits with regard to uses of the Federal lands; and

Whereas, the regulations issued by the Federal agencies in this resolution are consistent with statutory requirements of coordination and direct cooperation and provide implementation processes for such coordination and direct consideration and communication; and

Now Therefore Be It Resolved that the Warren County Commissioners do hereby assert legal standing and formally requests coordination status with all Federal agencies maintaining jurisdiction over lands and/or resources located within Warren County.

Be It Further Resolved that the Warren County Commissioners shall cause a copy of this Resolution to be transmitted to local, regional, state and/or national offices of all Federal and state agencies maintaining jurisdiction over lands and/or resources located within Warren County and to all Federal and state elected representatives serving Warren County.

Be It Further Resolved that the Warren County Commissioners are authorized and hereby directed to publish a copy of this Resolution in the *Warren Times Observer*, a newspaper of general circulation printed and published in the County of Warren, Commonwealth of Pennsylvania.

Adopted By The Board of Commissioners of the County of Warren on This Date.

JOHN E. EGGLESTON,
Chairman;

TERRY L. HAWK,
Vice Chairman;

JOHN R. BORTZ, JR.,
Secretary.

Attest:

PAMELA MATVE,
Chief Clerk.

Protocol for Coordination Between Allegheny National Forest and Allegheny County Coalition

Introduction

The Allegheny National Forest, (ANF) and the Allegheny National Forest County Coalition (herein referred to as Coalition) have engaged in discussions regarding governmental interaction between ANF and Coalition. However, there had previously been no official protocol setting forth the process by which Coalition and ANF will engage in timely and meaningful process to work on issues of mutual concern.

Both parties believe that it is important to execute a protocol documenting their commitment to an open, effective, government-to-government relationship. In addition to fulfilling the coordination of requirements set forth under Federal statutes, the two entities hope to make better decisions, achieve efficiencies, enhance understanding and facilitate trust. It is their hope that this protocol will establish a means by which the two entities can work productively over time, as players and issues change and evolve.

This protocol sets forth the process by which the Coalition and ANF expect to coordinate on issues of mutual interest and concern. It provides a venue for the Coalition and ANF to have direct communications and interactions. It also sets forth the process for making future adjustments to the protocol that is needed and mutually agreeable.

Mandate

This protocol has been established to provide a forum for accomplishment of the USFS-to-local government coordination requirements of a variety of Federal laws, regulations and Executive Orders.

Federal coordination requirements can be found in several Federal laws including the National Forest Management Act, Rangeland Renewable Resources Act, FLPMA and others, and in regulation.

NFMA, 43 U.S.C. sec 1712(c)(9) provides that the preparation of forest plans will be "coordinated with the land and resource management planning processes of State and Local Governments"

40 CFR, 1502.16(c), 1506.2 requires the Forest Service to revise the Forest Plan not less than every 15 years and goes on to say.

(a) *The responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal Agencies, State and Local Governments and Indian Tribes.*

(b) *The responsible line officer shall review the planning and land use policies of other Federal Agencies, Local Governments, and Indian Tribes. The results of this review shall be displayed in the environmental impact statement for the Plan. The review shall include:*

(1) *Consideration for the objective of other Federal, State, Local Governments and Indian Tribes as expressed in their plans and policies.*

(2) *An assessment of the interrelated impacts of these plans and policies:*

(3) *A determination of how each Forest Plan should deal with the impacts identified and;*

(4) *Where conflicts with forest planning are identified, consideration of alternatives for their resolution.*

(c) *In developing land and resource management plans, the responsible line officer shall meet with designated State Official (or Designee) and representatives of other Federal Agencies, Local Governments and Indian Tribal Governments at the beginning of the planning process to develop procedures for coordination. At a minimum, such conferences shall also be held after public issues and management concerns have been identified and prior to recommending the preferred alternative.*

A program of monitoring and evaluation shall be conducted that includes consideration of the effects upon National Forest management of activities on nearby land managed by other Federal or other Government Agencies or under the jurisdiction of Local Governments.

The Coalition and ANF also recognize that there may be occasions when the plans, studies, or management activities of ANF also invoke Federal Laws that also require coordination with the Coalition. Congress most clearly defined it's will for coordination between agencies and local governments at 43 U.S.C. 1712. It mandated that agencies "shall . . . coordinate the land use inventory, planning, and management activities" with local government. The definition requires the agencies, to the extent practical, keep apprised of all local land use plans (*i.e.*, County Comprehensive Plans), assure consideration is given to the local plans, assist in resolving inconsistencies between local and agency plans, and provide for meaningful public involvement of local governments in the development of land use programs, land use regulations, and land use decisions including early public notice of proposed decisions. Federal land use plans shall be consistent with local plans to the maximum extent found consistent with the law.

Purpose of the Protocol

The purpose of this protocol is to aid the implementation of the coordination required by law, regulation and executive orders currently in effect or yet to be enacted. It is designed as an upper level coordination effort, where management and policy level work is discussed and coordinated directly among the Commission and USFS Managers. This does not limit or preclude the Commission or USFS from communicating via other means, or activities, *e.g.*, formal correspondence, comment or legal means if necessary; it is intended to address and coordinate issues early and in as simple a manner as possible.

Participants

Within this forum, protocol participants include:

1. County Commissioners comprising the ANF County Coalition.
2. Representatives of the Commission.
3. Legal or other Consultants designated as representatives of the Coalition.
4. Supervisor, Allegheny National Forest.
5. District Rangers and Planners from Allegheny National Forest.

Decision-making

Forum Decision-makers are the presiding Chairman of the Coalition, speaking the decision of the Coalition, and the Supervisor of ANF, speaking for the Allegheny National Forest.

Decision-makers will work to reach agreement on matters of discussion. However, participants recognize that within the Coalition and ANF lay decision-making authorities and responsibilities to which they must be individually accountable. To that end, this forum will be used for coordination of the extent possible; however, the Coalition must make its decisions in a manner that complies with all require-

ments of Pennsylvania Code and the respective County Comprehensive Plans. Similarly, USFS may take potential decisions to the Regional Forester, where those decisions will be subject to that review for approval.

Staff & Consultants Role

The Coalitions's consultants and ANF's staff will participate freely in discussion and presentation as determined by the Chairman of the Coalition and the Supervisor of the ANF, who each control the participation of their consultants and staff personnel.

Decision-makers recognize that both entities have consultants and staff that work for them, advise them on specific issues, study issues and recommend action. Consultants and staff of both entities will communicate, coordinate and work together on a regular basis on issues of concern to both parties, but shall not make any decisions binding upon either entity.

Process

1. Pre-planning Sessions

Pre-planning sessions will be normally scheduled on the first Wednesday of each calendar-year quarter (January, April, July, October) between the ANF County Coalition and the ANF administration. These sessions shall last 2 hours or until an agenda of issues has been developed. Meetings will be open, in accordance with the requirements of Pennsylvania Code, and the participants will conduct meeting work. Invited consultants and staff will participate per agenda/issue requirements. Others are free to observe.

2. Agenda Development

The Executive Committee of the ANF County Coalition and the ANF administration will develop the agenda for each meeting. They will design the meeting agenda based on the proposed and prioritized agenda items and in consideration of the available meeting time. Agendas will be finalized and distributed to participants no less than 1 week before the upcoming meeting. At each meeting, by mutual agreement, forum participants may add agenda topics and prioritize future agenda items.

3. Meeting Management and Facilitation

The ANF County Coalition will maintain a meeting record that includes the:

- a. Meeting date, time, location and participants.
- b. Topic discussed, list of concerns & outcome, including areas of agreement.
- c. Agenda topics for the next meeting.
- d. Action items.

The notes of record will be reviewed as the first agenda item at the subsequent meeting for potential revision and approval.

4. Briefing Sheets

A briefing sheet will be prepared by the ANF administration and/or ANF County Coalition (and/or staff) when (1) they are presenting and discussing a proposed action by either of the parties. (2) They bring a proposal to this group for discussion by this group, and/or (3) They are presenting and discussing a topic for which feedback is requested. Briefing sheets may include description of issues, background, alternatives, resolutions, *etc.* Briefing sheets will be provided before the meeting along with the agenda to forum participants. On issues that are complex or may be controversial a briefing sheet will be provided no less than 1 week prior to the meeting to allow for adequate staffing of the issue.

5. Issue Identification and Resolution

The forum will work collectively on agenda items to define issues and concerns, consider alternatives, and strive for agreement on issue resolution and follow-up actions. Considering that a wide range of issues will be included in the process, different methods may be appropriate to resolve issues of differing degrees of complexity or concern. Communication and information sharing between meetings is necessary to keep all parties informed, minimize misunderstandings, avoid surprises and resolve potential conflicts as quickly as possible. Therefore, any of the following options, or others as mutually agreed to by the forum, may be used to coordinate a given proposal or issue:

- a. Participants will always have the option of responding immediately to proposals or issues that do not require further evaluation. This option will help to avoid unnecessary deferring simple or non-controversial topics.

- b. Where mutually acceptable to Coalition and ANF, coordination may be completed and documented by staff-to-staff communications before the next meeting, but final decisions rest with decision-makers.
- c. Where further evaluation is needed, continuing discussion and resolution may be scheduled for the next meeting.
- d. Issues may be referred to staff for review and recommendation and addressed again at a later meeting.
- e. For an issue of special concern to either party, a special added meeting of the interested parties, a telephone conference call or a field tour may be scheduled to complete the process, on mutually agreed upon terms.
- f. For a very sensitive/confidential issue, an executive session may be scheduled for the Coalition and ANF and any necessary consultants or staff of the respective parties to discuss the issue as long as Pennsylvania Code allows such executive session.
- g. As to any issue, resolution of which requires formal approval by the Coalition, a decision will have to await a regular Coalition meeting or specifically noticed meeting of the respective Boards.

6. Unresolved issue

In the event participants cannot articulate a clear consensus of agreement on a given topic, the Coalition and the ANF will prepare a *one-page paper* outlining the issue; any potential areas of agreement, and the reasons for the lack of resolution in a manner that is equitable (in tone and space) to both entities. Both entities will confirm that the document accurately reflects its perspectives.

7. Action items

For discussion requiring more than one meeting, participants will articulate and implement follow-up action items by identifying action, responsible person and deadline. Those action items will be reviewed and confirmed by the group before adjourning a given meeting. Absent highly sensitive or significant issues or concerns, follow-up will not exceed 1 month from the time it is initiated, unless mutual agreement is reached that a field tour or other action is needed that would require additional time.

Protocol Revisions

The process will continue to evolve, but the basic premise will remain as expressed in this protocol. The process will be reviewed for potential revision on an annual basis.

As Indicated by the Signature Affixed Below, This Protocol Is Mutually Acceptable to the Warren County Commission and Allegheny National Forest.

_____	_____
Chairman, Warren County Commission	Date

_____	_____
Vice Chairman, Warren County Commission	Date

_____	_____
Secretary, Warren County Commission	Date

_____	_____
Allegheny National Forest Supervisor	Date

Attest: _____
Warren County Chief Clerk

Date: _____

The CHAIRMAN. Thank you.
Mr. Guthrie.

**STATEMENT OF STEVE GUTHRIE, WOODLANDS MANAGER,
NICOLET HARDWOODS CORPORATION, LAONA, WI; ON
BEHALF OF LAKE STATES LUMBER ASSOCIATION;
HARDWOOD FEDERATION**

Mr. GUTHRIE. Chairman Thompson, Honorable Congressman Holden, and Honorable Congressman Ribble, I just want to thank you for allowing me the opportunity to speak with you this morning. I am humbled by the opportunity because I am not only representing Nicolet Hardwoods Corporation, Lake States Lumber Association, and the Hardwood Federation, but in a very real way I feel more largely I am representing the hardworking people in the forest industry of Wisconsin, Michigan, and Minnesota that make up the Great Lakes States. It is humbling to have the opportunity to address you on this issue. It is one that has been near and dear to my heart for about 20 years as I have tried to work with the Forest Service in northwestern Wisconsin and upper Michigan in my 34 years as a professional forester.

I think the most helpful thing I can do this morning is to try and give you a boots-on-the-ground picture of how the Forest Service is affecting not only our economy and our local businesses, but our industry at large. I really believe that the best example I can give of my experience this morning is in giving a little background on the forest that I now manage for Nicolet Hardwoods.

We have about a 35,000 acre hardwood forest that has a 100 year management plan on it. It has been thinned up to eight times per stand, and it is growing the most beautiful northern hardwood saw timber that can be grown on the property. It has a climax tree, the sugar maple, making up about 50 percent of the forest volume, and that is our high-value species for veneer logs and saw logs.

And just something I will get to later as a reason, but on our hardwood logs, veneer logs sell for approximately \$1,200 per thousand board feet, while saw logs only sell for about \$400 per thousand board feet. So three times the value is in these high-value-grade logs that we are trying to produce through select management on our hardwood stands.

Currently, my company is managing two mills, one in Michigan, one in Laona, Wisconsin. Between the two, we are using about 22 million board feet a year. Currently, we are having to import 20 percent of those needs from Canada because we cannot get enough domestic saw timber.

Right next door to this 35,000 acre forest that we manage is the Chequamegon-Nicolet National Forest. And unfortunately, they have hardwood saw timber the same age that we have but is not being managed, and there is a night and day difference in the quality. A hard maple tree, when it reaches maturity, starts to get a bigger and bigger heart until after 50 percent heart that tree is no longer valuable for veneer log timber. So the Forest Service, by not managing that timber, is allowing the value to just deplete down and down and down. And there is no reason for that. We have all kinds of people in the area that are in the logging business, in the

forest products business that can produce this wood for us, and they are not being given the chance.

And if that sounds overstated, let me just give some numbers on what the Chequamegon-Nicolet is producing and harvesting. Annual growth, 251 million feet a year, annual mortality, 122 million feet a year; annual harvest, 72 million. So the mortality is almost double harvest and almost half of the annual growth. That is a terrible waste of a beautiful resource. And the low harvest volume leaves nearly 60 million feet of timber unharvested every year. That could create a huge revenue benefit to the Treasury, it could create thousands of jobs and thousands and thousands and millions of dollars of economic value-added opportunity.

Currently, that 60 million feet at a saw log value would bring about \$18 million of additional timber revenue from the Chequamegon-Nicolet, would produce \$748 million in value-added economic activity and 3,000 new jobs. That is sustainable every year.

A recent Minnesota DNR study showed that \$1 of timber revenue produces \$41.60 of value-added economic activity. Now just imagine if we took that \$18 million off the Nicolet and multiplied it times our over 100 National Forests—how many jobs and billions of dollars could be created from harvesting that timber.

I would just like to conclude by saying, in my experience, it is possible to do both good, intensive timber harvesting and good ecological sustainable management for the protection of our resources. I know that for a fact. And that is what we need to do this morning is find out a way that we can all work together to make this plan accomplish that.

Thank you.

[The prepared statement of Mr. Guthrie follows:]

PREPARED STATEMENT OF STEVE GUTHRIE, WOODLANDS MANAGER, NICOLET HARDWOODS CORPORATION, LAONA, WI; ON BEHALF OF LAKES STATES LUMBER ASSOCIATION; HARDWOOD FEDERATION

Good morning, my name is Steve Guthrie. I am here this morning representing the Nicolet Hardwoods Corporation, the Lakes States Lumber Association, and the Hardwood Federation. I have spent my entire career as a professional forester in the Forest Products Industry in Northern Wisconsin and the Upper Peninsula of Michigan.

Our northern forest has possibly the broadest variety of tree species in the country, including nine coniferous species climaxing in the majestic White Pine, 16 deciduous hardwood species climaxing in Sugar Maple, and even one species that is both coniferous and deciduous, the Eastern Larch or Tamarack.

My company, Nicolet Hardwoods Corporation, owns and manages a 35,000 acre hardwood forest in Wisconsin and Upper Michigan. As part of a fifth generation family-owned business, the company forest has been managed to produce high-quality northern hardwood timber through single-tree selection cutting for nearly 100 years. Some of our hardwood stands have been cut on a 10 year cycle eight times.

Through the intensive forestry practices I have helped to implement on Nicolet's lands, and over 250,000 acres of other industrial forest, I have learned that intensive timber harvesting and ecological sustainability are not mutually exclusive. To the contrary, over 53,000 acres of these same forestlands have been maintained in such excellent condition that they have attracted conservation easements through the Federal Forest Legacy Program and the Wisconsin Stewardship Fund.

Unfortunately, the Proposed Rule under consideration today seeks to take the National Forest System further down the road where timber harvesting takes a back seat to landscape concerns, forest restoration, and nearly every current scientific concern except timber management. If that sounds over-stated, I would refer to page 8509 under *Analysis and Decisions* where "*Less prescriptive* descriptions of timber

harvests, sale schedules, and management practices under the proposed rule may provide greater flexibility for units to develop more adaptive plans capable of responding to uncertain vegetation management and restoration needs". With agency budgets declining, this proposed Rule actually imposes a number of costly processes and procedures on the Forest Service: a new planning layer of assessments (Sec. 219.6), more monitoring (Sec. 219.12), and the almost impossible requirement to demonstrate that a forest plan will "maintain viable populations of species."

Much of the proposed assessment and monitoring is directed toward climate change. Isn't it ironic that carbon sequestration is most effective in younger thrifty stands of trees, but the Forest Service is continuing to manage older and older stands of decadent trees through lack of harvest? These older trees actually give off net emissions of CO₂ into the atmosphere. In contrast, a University of Wisconsin study found that sustainably-managed northern hardwood forests are sequestering 1.5 tons per acre per year of CO₂, while returning oxygen to the atmosphere and making a significant contribution to the economy.

There is one thing I am certain of: If we do not set out specific, prescriptive timber harvest criteria in the proposed rule, we will not improve the current failure of the Forest Service to manage their Allowable Sale Quantity (ASQ). In Wisconsin our local forest, the Chequamegon-Nicolet, is one of the more active forests in the system, and it harvests only about 50% of its ASQ. Unfortunately, this harvest consists predominantly of low quality red pine plantation wood, while over 600,000 acres of northern hardwood forestland is being neglected and allowed to rot. This lack of timber production is having a high cost in lost jobs and revenues in the local economy, but it is also exporting our demand for wood to other public and private forestland, and even to other countries less capable of managing that demand. Our company is currently importing 22% of our wood supply, while U.S. Forest Service lands are off limits.

The juxtaposition of purposes on page 8509 is quite revealing, because the very next sentence after being less prescriptive regarding timber harvests, outlines the new plan's direction away from timber management: "Slight cost increases for science support may occur under the proposed rule due in part to *more prescriptive* language to take into account the best available scientific information when preparing assessment reports, plan decision documents, and monitoring evaluation reports". So while pursuing the latest scientific information on climate change, forest restoration, or the latest vogue in ecology, the Forest Service proposes to be less prescriptive regarding this most fundamental scientific fact: Every forest has an annual growth and mortality rate. By keeping a healthy balance between growth and annual harvest (the purpose of the ASQ) the mortality rate is minimized. Shamefully, today many of our National Forests have a higher rate of mortality than harvest. The Chequamegon-Nicolet in Wisconsin has 251MMBF of annual growth, 122MMBF of annual mortality, and only 72MMBF of annual harvest. This is an extravagant waste of a precious renewable resource!

Further evidence of the plan's trend away from timber management is found on page 8510 under *Monitoring* where "Monitoring under the proposed rule focuses to a greater extent on ecosystems, habitat diversity, and small numbers of focal species." Again, where is any emphasis given to meeting timber outputs, monitoring timber mortality, or assessing the economic impacts of under-harvesting the ASQ?

To the contrary, under "Distributional Impacts" on the same page, 8510, the proposed plan states "Due to the programmatic nature of this rule, it is not feasible to assess distributional impacts (*e.g.*, changes in *jobs*, *income*, or other measures for socioeconomic conditions across demographics to economic sectors) in detail." In other words, don't bother the agency with the burden of assessing the negative economic impacts of under harvesting, because they will be too busy accomplishing the following objective from the same section: "The proposed rule is *more prescriptive* about considering and facilitating restoration of damaged resources as well as improving resource capacity to withstand environmental risks and stressors."

Given the current high unemployment rate in our country, it is very important that we assess the value of our available forest resources and the number of jobs those resources can provide. A recent analysis by the Minnesota DNR found that \$1 of timber value produced \$41.60 of value-added economic activity. By one rule of thumb, every 20,000 board feet of timber harvested provides enough raw material to support one job in the forest products industry. At those rates, the Chequamegon-Nicolet's unharvested Allowable Sale Quantity (ASQ) of 60MMBF could produce \$18 million of additional timber revenue, \$748.8 million of value-added economic activity, and 3,000 additional jobs every year!

Whatever happened to common sense where the physical needs of society and the wise use of our natural resources were given at least equal importance with our desire to maintain a healthy environment? Again, in my experience the two are not

mutually exclusive. We must find a way to strike a balance in this proposed rule that will accomplish both. The future of our National Forests and the health of our country depend on it.

The CHAIRMAN. Thank you, Mr. Guthrie.

Mr. Shannon, I look forward to your testimony.

**STATEMENT OF JOHN T. SHANNON, VICE PRESIDENT,
NATIONAL ASSOCIATION OF STATE FORESTERS; FORESTER,
STATE OF ARKANSAS, LITTLE ROCK, AR**

Mr. SHANNON. Good morning, Mr. Chairman. How are you today?

I am the State Forester of Arkansas, and this planning rule is really important. So I want you to know how much we appreciate you just making time for this hearing today. Thank you, sir.

And even though I am from Arkansas, I did want the chair and the Ranking Member to know that my mom and dad lived in Lewistown for years and years. Is that one of your districts?

The CHAIRMAN. I spotted you as a quality individual.

Mr. SHANNON. That would be my mom and dad who were quality. Mom taught at a Catholic grade school there for years and dad worked at the steel mill in Lewistown. So I like Pennsylvania.

And I want to thank the Forest Service. They have been really open in this rulemaking process. They have not just accepted comments from the State Foresters, they have really solicited our comments. And Forest Service officials have been briefing us on the status of the rulemaking. So we have a great relationship with the Forest Service, and I appreciate them keeping us in the loop here.

There are three recommendations that the State Foresters have. The first one is coordination. And I have heard some of the Members already say that wildfires and bark beetles ignore property boundaries. So it is really smart for forest-owning neighbors to work together on addressing forestry issues.

The farm bill directed State Foresters to identify the primary forestry issues in our states, and we have all done that work. So as the National Forests prepare their new plans, I think it is really important that they understand the issues that we have already identified under the farm bill and let us coordinate our efforts to meet those priority issues.

The second recommendation deals with the role of science. We all accept how essential it is to use sound science in forest management. We also know that the science evolves, the science has developed over the decades, and you can have two really smart forest scientists who disagree on an issue. I think it is important to remember that the forester or the technician who has been working on the ground, who has a really good knowledge of his ranger district, we need to give some deference to the professional opinions of those local Forest Service employees. I understand that there will be a new standard if this rule is adopted, and it is the best available science standard, which includes a very heavy documentation requirement.

Right now the courts give a lot of discretion to the technical decisions of the Forest Service, and that is appropriate because there are very technical scientific issues and the courts recognize that special knowledge. If we shift to a best available science, I think

that places at risk the deference that the courts have given to the Forest Service. So the State Foresters would caution the Forest Service to be really careful what you ask for here. You don't want to lose that deference from the courts.

And the last issue pertains to sustainability, and I have heard Members raise this issue, too, and my colleagues on this panel. I think everybody agrees there is ecological sustainability and social and economic, and I understand that the Forest Service is really focusing on the ecological sustainability. I understand that because if you screw up the integrity of a forest, those other benefits will not flow. You have to have environmental, ecological soundness.

I really hope, however, that the Forest Service gives equal credit to economic sustainability. And if I were writing this plan, I would use the word "jobs" 100 times and I wouldn't be embarrassed about it. I live and work in a rural state. The National Forests in Arkansas are drivers for jobs in rural America. We have sort of figured out how to get that done in Arkansas; it sounds like we need to do that a little bit more in other parts of the country. So ecological sustainability is the threshold; we need to have that, but boy, I would really push for economic sustainability, too, not just because we are in a tough time now, but you can really sustain whole communities for generations through the work of National Forests.

Mr. Chairman, I sure appreciate your time today. Thank you, sir.
[The prepared statement of Mr. Shannon follows:]

PREPARED STATEMENT OF JOHN T. SHANNON, VICE PRESIDENT, NATIONAL ASSOCIATION OF STATE FORESTERS; FORESTER, STATE OF ARKANSAS, LITTLE ROCK, AR

The National Association of State Foresters (NASF) appreciates the opportunity to submit written public testimony to the House Committee on Agriculture, Subcommittee on Conservation, Energy, and Forestry regarding the USDA Forest Service Proposed Rulemaking for a new National Forest System Land Management Planning Rule. NASF represents the directors of the state forestry agencies in all fifty states, eight territories and associated states, and the District of Columbia. State Foresters manage and protect state and private forests across the U.S., which encompass $\frac{2}{3}$ of the nation's forests and enjoy a longstanding working relationship with the USDA Forest Service. We offer the following general comments on the planning rule as well as state perspectives on coordinating planning decisions with non-Federal ownerships, the role of science in planning and decision-making, the interdependent elements of sustainability, and monitoring and adaptive management.

General Comments

The Forest Service manages 155 National Forests and 20 grasslands encompassing an area of 193 million acres that comprise the National Forest System (NFS). State Foresters have a strong interest in the planning rule given the threat of wildfire and insect and disease outbreaks that face the National Forest system also pose risks to adjacent forest land owned and managed by states, tribes, forest industry, families and other owners. A coordinated approach that spans across ownerships is necessary to ensure these challenges do not further impair the ability of *the nation's* forests to deliver clean and abundant water, clean air, wildlife habitat, wood products, recreation and other important values that all Americans appreciate. State Foresters stand ready to work with the USFS to help ensure management activities within the NFS are coordinated with other non-Federal ownerships.

The ultimate measure of success of any planning rule will be on-the-ground accomplishments that improve forest health and the economic well-being of local communities. To be successful, a planning rule must afford enough flexibility for regions and each National Forest to address their unique set of issues while providing a solid framework for management activities needed to ensure ecological, social and economic sustainability. We believe that State Foresters should play a unique role in the USFS planning process. As outlined below, we have several suggestions as

the Forest Service finalizes a new planning rule that will help the agency take advantage of local expertise while implementing Secretary Vilsack's "All-lands" vision.

Coordinating Planning Decisions with Non-Federal Ownerships

The threat of wildfire and insect and disease outbreaks that face the National Forest system also pose risks to adjacent forest land owned and managed by states, tribes, forest industry, families and other owners. A coordinated approach that spans across ownerships is necessary to ensure these challenges do not further impair the ability of *the nation's* forests to deliver clean and abundant water, clean air, wildlife habitat, wood products, recreation and other important values that all Americans appreciate.

An important outcome of the 2008 Farm Bill called for state forestry agencies to complete Statewide Forest Resource Assessments and Strategies (Forest Action Plans). The assessments provide an analysis of forest conditions and trends in the state (regardless of ownership) and delineate priority rural and urban forest landscape issues and areas. The strategies provide long-term plans for investing state, Federal, and other resources to where they can most effectively stimulate or leverage desired action and engage multiple partners. These Forest Action Plans were developed through a collaborative process involving other Federal agencies (including responsible officials from the NFS), state and local government, Indian tribes, citizens and interest groups and will be updated periodically. Addressing priority issues related to impairments to forest watersheds; fire, fuel loads and the wildland-urban interface; and forest health, resilience, and sustainability will take a coordinated effort across ownerships and landscapes. We strongly believe that activities on the NFS should be coordinated with those outside of NFS boundaries in a way that responds to these (and other) priority issues identified in the Forest Action Plans.

NASF supports language found in the 1982 planning rule which states that "[t]he responsible line officer shall coordinate regional and forest planning with the equivalent and related planning efforts of other Federal agencies, state and local governments, and Indian tribes." We also believe the Resource Management Planning regulations for the Bureau of Land Management (43 CFR § 1610.3-1) provide an example of stronger language relative to coordination and collaboration with other Federal, state and local governments and Indian tribes. The BLM planning regulations provide flexibility to address inconsistencies between Federal and non-Federal Government plans, to develop management plans in collaboration with cooperating agencies, and further mandates that plan developers invite outside agencies to participate as cooperating agencies and that other Federal, state and local and Indian tribes are provided "opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs."

Role of Science in Planning

Forestry has been defined as the *science, art and practice of creating, managing, using, and conserving forests and associated resources for human benefit and in a sustainable manner to meet desired goals, needs, and values.*¹ Science provides the essential foundation in forest planning; yet, our understanding of the ecological, economic and social components of forestry is continually evolving as conditions change across the landscape. We fully endorse the use of science by responsible officials on the NFS and believe the planning rule should not discount the experience and training of professional resource managers to deal with changing conditions in light of incomplete information.

The proposed rule introduces a new standard that requires the responsible official to consider the best available scientific information in decision-making. Responsible officials are to document the process, sources and type of information considered in reaching the determination as to what constitutes the most accurate, reliable and relevant scientific information. While the acknowledgment of the important role of science in preparing forest plans is laudable, we have concerns that the best available science standard will introduce legal challenges that will stand in the way of improving the management of NFS lands and create a new and substantial workload for the responsible official.

Disputes over competing science have significant potential to further delay the planning process. These disputes will often be driven by uncertainty in the extrapolation and application of science to large landscapes such as the National Forests. There is often more than one divergent scientific viewpoint that can be used to inform management decisions. While we agree that scientific debate is healthy in trying to determine a measure of certainty in management planning, we hold concerns

¹Helms. J.A. (Ed.) 1998. *Dictionary of Forestry*. Bethesda, MD: Society of American Foresters.

that these disputes will be settled through litigation while further delaying needed action to improve the health of the NFS.

The best available science standard also has the potential to place the responsible official in a difficult position of having to marshal a large number of discrete studies into a planning document to support management decisions. The standard creates a new and substantial workload for the responsible official to document each and every scientific study considered at least every 2 years when compiling the monitoring and evaluation report and during any forest plan revision, amendment or assessment process. The proposed rule calls on the responsible official to demonstrate that the most accurate, reliable and relevant information for any given decision was appropriately considered in reaching planning decisions. We are concerned that the duty to demonstrate that the best available science was considered in planning decisions could prove costly and result in the agency having plans challenged.

Given the possible complications with the best available science standard that we have outlined, we are concerned that this standard may ultimately cause additional expense in both agency time to meet the documentation standards, in defending against possible attacks to the sufficiency of the documentation itself, and in meeting a new burden of proof in court. We support the greatest deference afforded to Federal agencies to make decisions involving scientific determinations afforded under the Administrative Procedures Act. We recommend that the planning rule rely on standards covering the use and dissemination of scientific information found in the Federal Data Quality Act (P.L. 106-554 §515) and subsequent guidelines from the Office of Management and Budget.² The Federal Data Quality Act provides protections and assurances for the quality of scientific information used and distributed by Federal agencies and we believe that reliance on the provisions of the Federal Data Quality Act would alleviate the concerns over the potentially costly and controversial standard included in the proposed rule.

Interdependent Elements of Sustainability

The decline in a healthy forest-based industry throughout much of the country is a factor contributing to the decline in the social and economic benefits flowing from NFS lands. The growing threats to the ecological sustainability commonly associated with a lack of active management on Federal lands include fires outside the historical range of variability and spread of native and invasive pest species at historic levels.

The NASF supports a planning rule that considers the economic, ecological and social elements of sustainability as interdependent systems. These three factors cannot be ranked in order of importance and elevating one consideration will result in the disparate treatment of others. We believe the agency is not limited to influencing the ecological sustainability of NFS lands and has significant potential to provide for the economic and social well-being of forest-based communities. For instance, there are significant opportunities to enter into long-term stewardship contracts (and other contracting authorities) that provide jobs and help restore the health and productivity of the National Forests.

Monitoring

The NASF continues to be supportive of adequate monitoring to support the adaptive management framework necessary on the National Forest system. Monitoring frameworks should provide for assessing forests across all ownerships and should take advantage of the Forest Action Plans completed by state forestry agencies. We hold concerns that broader-scale monitoring strategies that may incorporate data from the Forest Inventory and Analysis program will be unable to adequately monitor for changes to forest species composition, forest growth rates, wildfire risk, wildlife habitat, and other relevant trends across all ownerships. At the funding levels proposed in the President's FY12 budget, the FIA program would be eliminated in several states, and others would see their FIA program scaled back through longer time intervals between successive inventories or elimination of higher resolution monitoring projects. We support efforts by the agency to leverage the monitoring being conducted by other government and non-governmental entities and believe this is an opportunity for State Foresters and Forest Action Plans to play an important role in forest planning efforts. We strongly believe that collaboration is an important part of continuing to improve the efficient and effective use of limited monitoring resources.

²http://www.whitehouse.gov/omb/fedreg_reproducible.

Conclusion

The groundwork to accomplish Secretary Vilsack's "All-lands" vision has been laid through the development of the Forest Action Plans. We look forward to the agency's next steps to operationalize—through the planning rule—the Secretary's vision by coordinating activities on the National Forest system with those on adjacent ownerships to address priorities identified in the Forest Action Plans. We greatly appreciate the invitation from the Subcommittee to submit written testimony on the new planning rule and would also like to recognize the hard work that the planning rule team at the USFS.

The CHAIRMAN. Thank you, Mr. Shannon.
Mr. Terrell.

STATEMENT OF JACK TERRELL, SENIOR PROJECT COORDINATOR, NATIONAL OFF-HIGHWAY VEHICLE CONSERVATION COUNCIL, AUBURNDALE, FL

Mr. TERRELL. Chairman Thompson, Ranking Member Holden, Congressman Ribble, thanks for the opportunity to allow me to testify about the concerns of the motorized recreation community regarding the Forest Service Proposed Land Management Planning Rule. As indicated in the introduction, I am Senior Project Coordinator for the National Off-Highway Vehicle Conservation Council, which is a real mouthful. We are a national organization, a 501(c)(3) education foundation, and we develop a wide spectrum of educational programs and materials that are available for individuals, clubs, associations, and government agencies in order to further a positive future for responsible OHV recreation.

As we know, the forest plans provide broad guidance for planning specific projects and activities, including both motorized and non-motorized recreation. As a result, the planning rule and its subsequent implementation can have a dramatic effect on the number and quality of OHV recreation opportunities. We are concerned that this will inhibit motorized recreation, it will be very difficult to implement, and it will also be burdensome and very costly to implement. We see an awful lot of words and verbiage in the proposed rule that we feel are going to lead to just exhaustive legal challenges to the rule.

As a citizen who has personally invested hundreds, if not thousands, of volunteer hours participating in many Forest Service planning processes to identify and manage trail systems, I must tell you that the recreation public is frustrated by what seems to be a never-ending series of new plans that constantly change the ground rules and leave the impression that public input is ignored or discounted. It seems that each new process is formulated to restrict OHV trail opportunities and totally ignore the resultant negative impact on jobs and economic development in rural communities. I have heard a lot of testimony about the importance of timber production. Recreation opportunities produce revenue to the local rural communities, and recreation needs to be considered on an equal level with the other elements of the plan.

As I have noted in my written testimony, when the initial Notice of Intent was issued, recreation was barely mentioned in it and we and many other recreation groups banded together and submitted comments on that. And we are encouraged that recreation now is at least mentioned in the planning rule, but we are concerned that the proposed rule includes provisions that minimize the importance

of recreation and allows preservation to override recreation and economic factors. And this is definitely in contradiction to the Multiple-Use Sustained-Yield Act, which directs that the National Forest be managed under the principles of multiple use, including recreation.

We are concerned that the draft includes many undefined or ill-defined terms that are ambiguous at best and will be a magnet for litigation. We have heard earlier testimony about the term *sustainable recreation* and *socially sustainable*. We see those terms as being terms that will be litigated another 30 years into the future. We also see terms like *aesthetic value; spiritual, educational and cultural sustenance*; and *spatial mosaic* which also are indefinable in the context of regulation.

After decades of litigation and numerous attempts to develop a workable planning rule, the Forest Service should focus on producing a rule that is clear and relies on recognized defined terms, not creating vague terminology that will result in anti-access advocates asking courts to limit recreation based on their own interpretation of these terms.

Also mentioned earlier is the costly and burdensome element of the requirement to utilize best available science, and I am not going to delve into that because we have heard that from the other members that have been testifying.

We are extremely concerned about the inclusion of the viable population provision in the rule. The Forest Service acknowledged that it didn't work in the 1982 rule, and it seems like they are making it more ambiguous and more difficult to implement.

And I would also urge the Subcommittee to urge the Forest Service to extend the comment period for the draft rule beyond May 16. The rule is extremely complex. And although issued in February, the draft Environmental Impact Statement for the rule was not issued until April 21, less than 3 weeks ago, and it is impossible to do a complete analysis of that EIS in such a short period.

I will close by noting that the OHV community, NOHVCC, my family, and myself as a long-term rider, have a vested interest in the implementation of a successful planning rule, and we hope that the final rule resolves the issues that I have identified that will unnecessarily restrict recreation or otherwise make the rule unworkable or unenforceable.

Thank you for your time.

[The prepared statement of Mr. Terrell follows:]

PREPARED STATEMENT OF JACK TERRELL, SENIOR PROJECT COORDINATOR, NATIONAL OFF-HIGHWAY VEHICLE CONSERVATION COUNCIL, AUBURNDALE, FL

Chairman Thompson, Ranking Member Holden, and distinguished Members of the Subcommittee on Conservation, Energy and Forestry, thank you for the opportunity to testify about the concerns that the motorized recreation community has with the Forest Service's proposed Land Management Planning Rule. I am Jack Terrell, Senior Project Coordinator for the National Off-Highway Vehicle Conservation Council, a national body of off-highway vehicle (OHV) recreation enthusiasts, that develops and provides a wide spectrum of programs, materials and information, or "tools," to individuals, clubs, associations and agencies in order to further a positive future for responsible OHV recreation.

Forest Plans provide broad guidance for planning of specific projects and activities, including both motorized and non-motorized recreation. As a result, the Land Management Planning Rule and its subsequent implementation can have a dra-

matic effect on the number and quality of sustainable OHV recreation opportunities. NOHVCC and the OHV community at large are concerned that the Forest Service's current proposed rule will lead to the development of Forest Plans that will inhibit motorized and other forms of recreation, be difficult, burdensome and costly to implement, and most likely will lead to exhaustive legal challenges. As a citizen who has invested hundreds, if not thousands, of volunteer hours participating in Forest Service planning processes to identify and manage trail systems, I must tell you that the recreation public is frustrated by what seems to be a never-ending series of "new" plans that constantly change the ground rules and leave the definite impression that public input is either ignored or downgraded. It seems that each new process or rule is formulated to further restrict OHV trail opportunities, and totally ignore the negative economic impact of such decisions on jobs or economic development in rural communities.

An initial concern of both the OHV community and the recreation community at large was that the Notice of Intent to develop the rule scarcely mentioned recreation. As a result, NOHVCC joined with other recreation groups to encourage the Forest Service to more meaningfully address recreation in the proposed rule, and we appreciate that the draft rule does, in fact, recognize that recreation plays a role on National Forests. We are disappointed, however, that the proposed rule clearly provides that preservation trumps social and economic factors, including recreation, contradicting the Multiple-Use Sustained-Yield Act (MUSYA), which directs that the National Forests be managed under principles of multiple use and to produce a sustained yield of products and services. We are concerned that this will mean that Forest Plans will heavily favor locking out recreation instead of maintaining and creating sustainable recreation opportunities that support the economy of local communities.

We are also concerned that the draft includes many undefined or ill-defined terms that are ambiguous at best and will be a magnet for litigation. For example, the draft repeatedly refers to "sustainable recreation." NOHVCC believes that all recreation should be "sustainable" and frequently uses the term when we discuss recreation opportunities that are manageable and maintainable; however, the definition of sustainable recreation in the draft rule introduces new factors:

Sustainable Recreation—The set of recreational opportunities, uses and access that, individually and combined, are ecologically, economically, and socially sustainable, allowing the responsible official to offer recreation opportunities now and into the future.

What does "socially sustainable" mean? We are confident that the courts will have to decide if this is left in the final rule. What is socially sustainable to one interest may not be to another.

Other terms like "aesthetic values," "spiritual, educational, and cultural sustenance," and "spatial mosaic," among many others, are undefined and perhaps, undefinable in the context of regulation. After decades of litigation and several different attempts at developing a workable planning rule the Forest Service should focus on producing a rule that is clear and relies on long-standing and defined terms, like those found in the Multiple Use Sustained Yield Act, not creating vague new terminology that will almost certainly result in anti-access advocates asking courts to limit recreation based on their interpretation of these terms.

Another factor of the proposed rule that will make it costly and burdensome is its reliance on "best available science." While sound science certainly should have a role in planning activities we are concerned about what constitutes "best" science and who gets to make that determination. There is growing recognition that expending resources to determine what is the "best available science" will be not only time and resource consuming, but unnecessary. Again, it will almost inevitably be brought to the courts to decide what constitutes the "best available science."

The last specific concern with the draft I will mention is the inclusion of the "viable population" provisions. The Forest Service itself acknowledges in the summary of the draft that similar provisions in the 1982 rule, "at times proved to be unattainable because of factors outside the control of the agency." These factors still exist—species ranging on and off of Forest lands, activities outside the plan area, failure of the species to occupy suitable habitat, climate change—only the draft rule would expand the current provisions to include invertebrate as well as vertebrate species. The "viable species" provisions of the 1982 rule are frequently used as the basis for litigation and the draft rule expands upon them instead of substantially revising or eliminating them all together.

I would be remiss if I didn't take the opportunity to encourage the Subcommittee to urge the Forest Service to extend the comment period, which is set to end on May 16. The draft rule is extremely complex and it is difficult to fully digest in any amount of time, and May 16th is fast approaching. The Forest Service has been try-

ing to produce a workable rule for nearly 30 years, so providing an additional 90 days to the public to formulate extensive and well thought out comments should not prove to be too much of a delay. In addition, the Forest Service asked a third party to conduct an external science review of the Draft Environmental Impact Statement (DEIS) that accompanies the proposed rule. The review was released to the public on April 21. Stakeholders simply need more time to review the draft rule, the DEIS and the science review to make informed comments and recommendations.

I will close by noting that the OHV community, NOHVCC, my family, and myself as a rider have a vested interest in the implementation of a successful planning rule. We hope the final rule resolves all the issues I mentioned above as well as any others that will unnecessarily restrict recreation or otherwise make the rule unworkable.

Thank you.

The CHAIRMAN. Thank you, Mr. Terrell. Thank you to all the witnesses on the second panel. We really appreciate you bringing your experiences and your expertise on this very important issue.

I yield myself the first 5 minutes here. And if there are questions beyond as we go around, it looks like we will have an opportunity for a second round.

Commissioner Bortz, once again, welcome. Good to see you. I look forward to seeing you tomorrow as well. I will be in Warren tomorrow. Always good to be in Warren.

My first question is to you, Mr. Bortz, Commissioner, how would you encourage more coordination between the local development districts and the Forest Service planning team? Obviously for you, specifically in the context of the Allegheny National Forest, but I think those are lessons that may be generalized, obviously, to other forests and LDDs.

Mr. BORTZ. Well, in my documentation I make specific reference to the local development districts. They are part of the Appalachian Regional Commission which extends from the southern tier of New York State, all the way down to Alabama, so it represents a considerable amount of real estate, and there is no shortage of National Forests found within there.

The charge of the local development districts is primarily planning. It is a federally funded agency which has a direct relationship with their representative counties. Warren County is a part of the Northwest Commission, I believe we have eight counties within that local development district. So they have a tremendous repository of local knowledge.

What I found very interesting, as I went through the last planning process, is that here we have a federally funded agency which is clearly charged with the local interests and local economy, and they weren't at the table with regard to the forest plan that went through the Allegheny National Forest. In fact, it wasn't until later, through some admonitions of myself and other Commissioners, that we were able to get a degree of participation within that process. I think we have to take a look at those agencies within our respective communities that have strong local knowledge that can lend a tremendous benefit to the planning process.

With respect to the National Forests, they are not the only ones out there that are doing planning, and they are not the only ones out there that have a vested interest with regard to what should be happening within our forests, within our communities. They can be a very significant player as a forest plan unfolds. Unfortunately, while the forest planning rule does provide a background and a

framework, I don't see a degree of specificity that is needed in order to bring a coordinated effort of planning together. And as I have stated within my White Paper, that too often I see that we have arbitrary sentiments that are left over by the local official.

I was listening to the comments that were put forth by the Under Secretary, and what really amazed me is his emphasis on the local official. Well, I have to share something with you, in Warren County we have had six Forest Supervisors within the last 5 or 6 years. I mean, it has been a revolving door. So how do you establish, how do you bring a Forest Supervisor up to speed with regard to local issues—if there is a true and sincere effort on behalf of the National Forest to understand those issues—when you form a relationship, you are transferring information and they are out the door. So it presents a tremendous challenge.

I suppose this is a way to get around to, when you make a specific reference to local development districts, we need to have some sort of stipulated framework which says this is how planning is going to happen at the local level. Right now we don't have that.

The CHAIRMAN. Thank you.

Mr. Guthrie, you mentioned in your written statement the requirement to demonstrate that a forest plan will maintain viable populations of species. Can you elaborate on your concern with this?

Mr. GUTHRIE. It is a very open-ended statement. As we discussed earlier with Mr. Sherman's testimony, he wants to include invertebrates into that monitoring and assessment, which is a whole panoply of species that really is opening, I feel, the Forest Service up to further litigation, and it is just too open-ended of a statement. Viable, what is viable? And what is a sustainable population? Those are open to quite a bit of scientific interpretation, and I think just much too ambiguous for a proposed rule.

The CHAIRMAN. Would you agree that because of the ambiguity with the term, it is just very apparent to me that is kind of ripe for a lawsuit as well. When you are not specific, when you allow that kind of flexibility for interpretation, it doesn't seem like it serves anyone well.

Mr. GUTHRIE. Right, right. Those words jumped off the page at me, as did the ones that insisted on more assessment and monitoring and the role of science. We have so much of that under the current rule that we have paralysis by analysis. And we are not getting past that to get any real work done on the forest. There are just hundreds and thousands of people depending on that to happen, and it is just simply not happening. And there are different reasons through the different regions of the country, but the bottom line is that timber is not being produced, it is not being made available to our industry and to the public that needs it. And as a consequence, we are not only having to import wood from other countries, but we are exporting that demand to those countries that are least capable of sustaining good ecological practices. South America is a perfect example.

The CHAIRMAN. Thank you, sir. My time has expired.

I yield to the Ranking Member, Mr. Holden.

Mr. HOLDEN. Thank you, Mr. Chairman.

Mr. Guthrie, I assume from your comments that you would rather have a new rule as opposed to operating under the 1982 provisions; you would just like changes to the proposed rule?

Mr. GUTHRIE. I honestly don't believe the 1982 rule is a viable alternative with the pressure to see something new happen. I certainly think that the terms of the 1982 rule that try to bring forth an emphasis on ASQ should be brought into this rule and not be over-dominated by the monitoring and assessment of ecological factors.

And the 1982 rule is not being implemented today. That is one of the biggest problems we have. In fact, I wasn't going to bring this issue up, but the Forest Service has had an audit for FSC, Forest Stewardship Council, and they couldn't pass the audit because they have failed to implement their current plan. That is just not acceptable under the FSC rules.

Mr. HOLDEN. I wonder how our other three panelists feel about the 1982 provisions as opposed to the new proposal and what changes—Mr. Terrell, you already mentioned some of the changes you would make, but anyone else have any comments on the 1982 provisions *versus* the new proposal, and what changes would you like to see?

Mr. SHANNON. Thank you. I do understand that under the current rule it can take years and years and years to get a plan simply amended, and we can't continue to conduct business that way. That has to change. So it is time for a new rule, in my opinion. And I hope the Under Secretary is correct that it will shrink down the amount of time required to write a new rule or amend a rule.

Mr. HOLDEN. Commissioner Bortz, my father was a County Commissioner for 16 years, so I know the work that you do.

Mr. BORTZ. Yes. It is all over the place, you bet.

If I could add something to that, and I would like to address, in brief, the allowable sale quantity. And it seems as if there may be an emphasis moving off of the annual allowable sale quantity and looking more towards a lifetime approach with regard to that plan. The forest plans last practically 10 to 15 years. A great deal of science goes into what should be the annual vegetative management plan, the allowable sale quantity.

Oftentimes, what we see is we are looking at this thing on an annual basis, so if you have a 55 million board feet allocation, which I believe is the current, in the 2007 plan of the Allegheny National Forest, we have 54 million board feet as an ASQ. If you come up short that year to, like I see a 20 million board feet harvest, where does that other 30 to 34 million board feet go? Are we banking that? Are we going to say, okay, next year we should harvest 80 million board feet? This is the type of thing, I think, needs to be looked at.

Again, when you start taking a look at an ASQ, the impact it can have on the ecology of the forest. And while we do talk about jobs—and no one is a stronger advocate on economic development jobs—I want to take a look at this thing and spin it on its ear with regard to what is healthy for the forest. We have forest plans that are being submitted to our communities saying, "Hey, if 54 million board feet is healthy for the forest, that is what we need to sustain good forest health." And when we are harvesting 15, 20, 25 million

board feet and effectively letting half of our allowable sale quantity rot, it has a tremendous impact with regard to sustainability of that forest. And that is to say, if we just implement the plan as submitted, we could have a tremendous impact with regard to our communities.

So, we have to take a look at the allowable sale quantity on the life of the plan as opposed to just an annual basis, for one.

And the second thing, too, I don't think enough emphasis has been put on the current rules relative to local government involvement. The local governments are the repositories for these forests. And broad-sweeping decisions can be made in a disconnected fashion at the national and regional level, which can have serious consequences to those of us at the local, municipal, school district level.

Again, something should be implemented within the sections of the rule plan to encourage, in a very definitive way, how involvement should be at the local level and not just give a cursory service.

I have to take some exception to the comments that I heard earlier relative to the Forest Service saying that they are involved with municipalities and so forth. It has not been my experience nor the experience of a number of municipal officials that this has taken place on any sincere level. We are in the same room, we are talking about subject matter, but decisions are being made, in my mind, that are completely out of the step with the framework of what is happening, what needs to happen at the local level. That needs to be addressed.

And if I could just say one final thing, and that is with regard to personal property rights; you heard some things said today relative to the activities with the oil and gas activity. Ninety-three percent of the holdings within the ANF at least are—the subsurface holdings in the ANF are owned by others. I don't think this is altogether too dissimilar with other National Forests. They represent a tremendous resource to our communities. Imposing surface analysis onto subsurface holders basically shuts down industries, and we have seen that within Warren County and the counties of the Allegheny National Forest. Some provision has to be made that, where analysis is being considered, that it should have a stop-gap measure implemented that would prevent that analysis from moving forward if it would adversely intrude itself onto subsurface holders or the private property rights of others.

Mr. HOLDEN. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman. And I now recognize the gentleman from Wisconsin, Mr. Ribble, for 5 minutes.

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

I have a bunch of questions, so maybe if there is time for a second round, that would be great. But particularly I will start with Mr. Guthrie.

I have heard a lot today about—and heard from you and members of this panel—that the rule could be improved. What specifically would you do to improve the proposed rule?

Mr. GUTHRIE. I would introduce specific language that would force the Forest Service to follow their ASQ that is in the current plan and in future plans. That is our best tool for getting the forest

properly managed. Harvesting is a tool we have to have in place, and the ASQ is the measure of that tool. When we have this high a rate of mortality—almost 50 percent in the Chequamegon-Nicolet in Wisconsin—we are out of balance. That is an unhealthy forest. A good managed, healthy forest should have in the neighborhood of 10 to 15 percent mortality, and we are almost at 50 percent. So we are way out of balance in that area.

So the ASQ needs to be followed initially. And year after year, as that performance has improved, you will see that mortality go down. Right now on the Chequamegon-Nicolet there is 131 million foot ASQ and they are harvesting 72. If we could implement that 131, within 4 or 5 years you could easily see that number ratchet up into the 200s just by improved forest health.

Mr. RIBBLE. Is that the primary benefit of getting us back in balance?

Mr. GUTHRIE. That would be the initial benefit because you would see increased timber revenue to the Forest Service and to the U.S. Treasury. When I first started in this career, the U.S. Forest Service did actually return a profit to the U.S. Treasury, and it has been a long time since that has happened. If we could even get back on these current allowable cuts, we would be profitable. So that would be step one.

And the benefits that come out of that are really the most important step two, is then, once you start having this flow of value-added products from the forest—veneer logs and saw logs and high-value timber—you are going to see the industry respond. The Congressman from Colorado this morning stated his wafer board plant in Montrose is under receivership. Well, that mill could be brought back if we started harvesting our allowable cuts. And all the infrastructure that goes with those mills would come back, and that adds thousands upon thousands of jobs.

I didn't mention in my testimony earlier, but last evening I was talking with our State Forester, Paul DeLong, and he had some new figures that just came out of our Wisconsin County forest system on some of their productivity and value. They are currently harvesting, on Wisconsin's county forest system, \$27.5 million a year in timber revenue. It is creating 16,000 jobs and \$4.6 billion in shipments of products. So now do the math on the Chequamegon-Nicolet, 60 million feet, that would translate to about at least \$18 million. So $\frac{2}{3}$ of this amount from the county forest, that would yield approximately 11,000 jobs and probably \$3 billion in shipments. That could be achieved almost overnight.

We still have, fortunately, in Wisconsin infrastructure to produce timber and the mills to process it, both the paper and hardwood saw logs and softwood. Wisconsin is probably one of the most well-rounded states in the country in that regard.

Mr. RIBBLE. Thanks for that.

Mr. Bortz, how would that economic impact affect a county? We talked about kind of on the big national scale, but what would be the impact on a county if you could do something like that?

Mr. BORTZ. It would be significant, as I take a look at the allowable sale quantity and how that would translate down to the economic backdrop of my county. Again, job creation is taking place. A healthy forest is a desirable forest to see, so I would imagine that

you would see some increases in tourism, although I don't have any specific data to substantiate that.

But what would happen in a very real way? I appreciate the analysis that I am hearing from Mr. Guthrie on that as far as the economic impact and how it would trickle down through our community. It would be significant. It would help my municipalities, it would help my school districts specifically. Again, we have some employment issues within my county; it would certainly have a tremendous benefit with that.

Mr. RIBBLE. Thank you very much.

Mr. Chairman, I will yield back. If I get a chance later, I would like to ask Mr. Terrell a couple of questions.

The CHAIRMAN. I am sure you will get that opportunity at this point.

I now recognize the gentleman from Florida, Mr. Southerland, for 5 minutes.

Mr. SOUTHERLAND. Thank you, Mr. Chairman.

Gentlemen, thank you for being here today. I am encouraged by your very simple, easy-to-understand approach to managing our natural resources. This city could learn much from you. It amazes me how we have within our ability the ability to solve so many of the challenges we face, both at a local, state and Federal level, but we seem to be going around the world just to get across the street. And so right now, when the American people need the practice of common sense more than perhaps any time in my lifetime, we seem to be evading the common sense that I have heard you express just in the few minutes that I have sat here.

Let me ask you, Mr. Bortz, I am trying to get a feel of your county because I certainly have some counties in my district that seem to be similar to yours. We have National Forests in our district. I am assuming you have a National Forest in your county.

Mr. BORTZ. Correct.

Mr. SOUTHERLAND. What is the percentage of that, as far as land mass?

Mr. BORTZ. Approximately 26 percent of the land mass within Warren County is owned by the National Forest, the Federal Government. I think it compromises somewhere in the neighborhood of about 140,000 acres. The National Forest itself, the ANF, would be about 535,000 acres, I believe.

Mr. SOUTHERLAND. So if I could, in understanding your county, what is your unemployment rate there right now?

Mr. BORTZ. We are hovering somewhere around eight percent.

Mr. SOUTHERLAND. Okay. But it sounds to me that you believe that if the Federal Government is going to have lands in your county, that obviously they have a responsibility. You haven't made that statement, but I think that is your sentiment.

Mr. BORTZ. It is my holding that anyone, regardless of the owner, if you have an asset, you should be responsible using it, Federal Government, private citizen.

Mr. SOUTHERLAND. You pay your civic rent. You give back.

Mr. BORTZ. Correct.

Mr. SOUTHERLAND. And it sounds to me, in Mr. Guthrie's testimony, that the Federal Government is perhaps failing in their responsibility to give back.

Mr. BORTZ. I don't think that is too strong of a statement. I would agree with you.

Mr. SOUTHERLAND. And it doesn't sound like you are wanting something for free, you are just wanting the ability to work hard, to be honest, and for your people in your counties and your cities to have something to show for the forest that they are ownership of. It is their resource. Because if they have 26 percent of the land in your county, you have to have something to replace that, because if it is not bringing something to the table, then it is just taking from the table and it is not putting groceries on it.

Mr. BORTZ. In my White Paper I talk a little bit about that. If you have something that is 140,000 acres within your community that has the direct and indirect opportunity to create both great ecological activity as well as economic activity, as an elected official you are going to be concerned about: you want to see that thing happen and you want to see it happen well.

What is it giving back to my community? There is a presence there. People do enjoy the forest. There are some people that are making a living. But is it living up to its potential? Not even close. We heard testimony by Mr. Guthrie today how you have private forests that are being managed that are just out-producing the National Forests considerably.

Mr. SOUTHERLAND. I know we have a challenge down in our area of understanding the difference between a park and a National Forest. One has somewhat of a preservationist mind-set, the other, in order to do the work of the people and be truly responsible requires a conservationist mind-set.

There are parts of our National Forest that are designated wilderness areas, basically making a National Forest a park. Because I am not familiar with your area, are you facing the same issue?

Mr. BORTZ. We are facing that issue to a degree. We have some people that are strongly advocating for study areas of the wilderness to be imposed upon areas of the forest. And what concerns me greatly is that if a study area, if a wilderness area is considered for designation, it goes into administrative consideration and in fact is a wilderness just by administrative edict. So without the formal designation it becomes wilderness; it goes out of production and a whole host of issues then are imposed upon it. So, yes, we do have that concern.

Mr. SOUTHERLAND. All right. Thank you, I yield back.

The CHAIRMAN. I thank the gentleman.

The issue of wilderness is kind of an interesting one—and I certainly agree with the Commissioner's perspectives. Frankly, wilderness areas, when they are designated, should come frankly as Acts of Congress within those Federal lands. And yet, using backdoor administrative processes, we essentially impose wilderness designation on areas. We take it out of production, which was the original purpose of those lands, and frankly, based on my observations, we create unhealthy forests. It really lends itself, I believe—now I am going to rely on Mr. Guthrie and Mr. Shannon's expertise here. My next question really ties nicely into that in terms of the health of the forest.

You gentlemen, with your expertise, do you believe that the proposed rule presents a framework for adequately dealing with potential invasive species threats, and also a question of wildfires?

Mr. GUTHRIE. Currently, the invasive species threats in Wisconsin are being addressed by the state DNR. So that would be my experience on the Wisconsin State level. As far as across the country, each area, each region has different species of concern.

In the experience of Wisconsin and Michigan, I know their state people are quite adept at staying on top of those. I feel that the Forest Service does need to have a landscape level idea of what is going on with those issues, but I don't think it should take the precedent that they are trying to implement with this plan.

The three-legged stool of economy, social issues and ecology, the ecology leg is a lot longer on their stool and it is just not going to be supportable. They are going to be open for lawsuits on all of these invasive issues, on the sustainability of all of these invertebrate species. We already have a lot of that in the current plan. We have dealt with timber wolf in Wisconsin, which is now out of control even to the agreement of the Fish and Wildlife Service that has tried to get them delisted three times. And we are hopeful of getting that done this year.

So these types of issues, once they are in the rule and have the force of law, are very difficult to overcome. And with all due respect to Mr. Sherman this morning, I think he understated just how critical that can be. And I would like to be optimistic and think that we are going to put this chapter of heavy litigation behind us in regard to our forest plan, but 20 years of experience tells me otherwise.

The CHAIRMAN. Thank you.

Mr. Shannon, any thought on management of invasive species, wildfires within the current proposed rule?

Mr. SHANNON. Yes, sir. And those issues that you identify require rapid response, not a whole long period of analysis. And sir, I am not sure if the proposed planning rule provides that flexibility so that the professionals on the ground can rapidly respond to invasive species. I think for fires people get that, although in wilderness areas that is another issue. But for invasives, I am not sure if the Forest Service has that ability to respond rapidly.

So I guess in response, I hope for the Forest Service officials who I guess are still sitting behind us, perhaps they ought to make note of that and be sure they provide that flexibility for quick action when invasives are identified.

Thank you, sir.

The CHAIRMAN. Thank you. And I certainly believe the Forest Service needs the resources to do that. It is one of the reasons I provided, as a witness, testimony at a recent Interior Appropriations Subcommittee hearing in terms of the importance of proper resources for the Forest Service to deal with invasive species, certainly also in forest research. I think they are incredible tools in terms of managing healthy forests.

Mr. Terrell, do you believe that the planning rule treats motorized recreation fairly?

Mr. TERRELL. I don't believe so. And one of the things that I find objectionable in the proposed rule is I believe that it relegates

recreation in general, not only motorized recreation, to minor league status.

It is getting to the point where, if you go back and look at the Multiple-Use Sustained-Yield Act, recreation was stated as a primary purpose for management of the forests. And, with each succession of rules that comes out, the importance of recreation has been minimized and minimized and minimized. And I think that this proposed rule takes it one step farther. And if we use the analogy that was used earlier about a three-legged stool, recreation has had their leg amputated.

And we hear a lot of discussion about the economy and jobs. A lot of it is lip service, and it does not accept or recognize the significant positive impact of recreation on the economy. We can provide numerous reputable studies that have been done across the country that indicate the number of jobs that have been created because of off-highway vehicle recreation and the number of dollars that have gone into the local economy, the number of dollars that have gone into local sales and use taxes that go directly into the local community or directly into that state.

And I have to give you a disclaimer: I am not an attorney, and I don't claim to be one. But I have worked with a lot of organizations across the United States that have been trying to get trail plans approved and have been just hung up by litigation.

I see so many buzz words that are in this planning document, that the one thing that you are going to create a positive economic impact about, and that is to the attorneys out there. Because while there is a lot wrong with the present rule and the present rules needs to be changed, I am not willing to say that what is being presented as the new rule makes things better. And, in fact, I think it is going to make it worse.

The CHAIRMAN. Thank you, sir.

And, by the way, not being an attorney in this town adds to your credibility.

I yield to Mr. Ribble for an additional 5 minutes of questions.

Mr. RIBBLE. Thank you, Mr. Chairman.

Mr. Terrell, thanks for being here. I would invite you to come up to Wisconsin's Northwoods. It is an especially beautiful place in the middle of winter. It can be a little bit cold. I know you have spent some time in Florida, but it might be good for you.

But I do have a question. If you were going to improve the law, from your industry's perspective and from off-road use—not the law—the rule that is proposed, what specific improvements would you put in it?

Mr. TERRELL. Well, I think that there needs to be a much stronger statement about the importance of recreation in the proposed rule. I don't see that there. I think, as I say, it gets some mention, but it is not strong enough. And I think that that is something that needs to be rectified before that rule would be adopted. I think it is extremely important. I think that recreation needs to be recognized as an economic generator, and that it is extremely important to the communities involved. So that would be one of the things.

I also feel that, as I have indicated in the testimony, that there are an awful lot of what I feel are ill-defined terms stated in that

rule, that there is going to be so much litigation over it, the Forest Service will continue to be just tied up in litigation.

And the other thing that the threat of litigation does, it really puts a damper on the local authority, meaning the local ranger district or the Forest Supervisor, because they are making a lot of decisions and those decisions are being driven by, am I going to get sued over this thing? And I don't know how to solve that problem, but the language that I see in there, and the terms that I see in there, now give me pause.

Mr. RIBBLE. Yes. Well, thank you.

Mr. Shannon, could you talk to the Committee a little bit about the role of tourism, like what Mr. Terrell is speaking of, the use of off-road vehicles, snowmobiles, I would assume even jet-skis and things like that in the lakes, how that impacts the states and how you might see the rule improved as it relates to that?

Mr. SHANNON. And I will certainly defer to people in the outdoor recreation business, but I will tell you what I have seen in Arkansas, on the Ouachita National Forest, especially people from Texas, seem to like to come to the forests of Arkansas and bring their off-road vehicles. And I know because I have seen this, there are Arkansans who have invested in small motels that are constructed on public highways just outside the boundaries of the National Forests. They are located so that these visitors to Arkansas can ride their four-wheelers across this little two-lane road to the trailhead on the Ouachita National Forest and enjoy a day of off-road vehicle use.

And it is just a tremendous opportunity and really excellent use of the National Forest. I can't tell you what the dollar value is, but I do know it is jobs and it is private investment at the border of the National Forests. So there is certainly a balance of uses. And sometimes that creates some stress, of course. But there is absolutely room for a really robust timber program and an outdoor recreation program. They can work together.

Mr. RIBBLE. Well, thank you very much.

Mr. Guthrie, do you agree?

Mr. GUTHRIE. I agree. I see a lot of recreational use on the Chequamegon-Nicolet in Wisconsin and the Ottawa National Forest up in the Upper Peninsula of Michigan and, also, quite a bit of other trail use: snowmobiling in the wintertime, horseback riding, a lot of just good hiking.

And that is an important part of the economy. Tourism in Wisconsin would be the number two industry to forest products, in terms of northern Wisconsin. I think that needs to be part of this rule, that that needs to be respected. And there is certainly a balance there that needs to be maintained.

And I guess, in speaking to the overall management of the forest, we are not advocating any kind of a backseat to sustainability or good stewardship of the land and the forest. And, again, in my experience, that can be accomplished at the same time as good, healthy maintenance of the timber harvest.

Mr. RIBBLE. Okay. Thank you very much.

And I yield back, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

And I recognize Mr. Southerland, from Florida, for an additional 5 minutes.

Mr. SOUTHERLAND. Thank you, Mr. Chairman.

I know that the Chairman was making comments about the wilderness, about how when an area in the National Forest is designated a wilderness area, that obviously that is done without Congressional oversight or Congressional authority.

How significant in the forests that you have alluded to today, how—are they quick on the trigger?

And in light of your stool example, the three-legged stool, that we have to make sure that all three of those components work together, are you concerned at all that the decision that is made in designation of the wilderness determination, implementation, that all three of those areas are taken into consideration? And, if not, that that ability should be taken away and only done through Congressional oversight?

Mr. GUTHRIE. That is an excellent question. Thank you.

On the Chequamegon-Nicolet that is our Wisconsin forest that I am most familiar with, we currently have 446,000 acres of designated wilderness. The Nicolet is 1.5 million acres, of which 1.3 million is productive timberland; the other 200,000 acres are wetlands. So, of that 1.3 million of usable timberland, fully $\frac{1}{3}$ is designated wilderness. And those forest areas are just falling over.

A lot of this was designated back in the 1970s. And, at the time, they were recreational-type areas, like Blackjack Springs Wilderness Area up by Eagle River was just a pristine, beautiful area with a spring in it. That is fine. That type of area should be protected. But do we need hundreds of thousands of acres around it and take it totally out of timber production? That is where, as you stated earlier, we have kind of lost our common sense. These things can be protected and managed very appropriately without negating the opportunity to harvest timber and manage timber and keep the forest healthy.

Nature is a brutal manager sometimes. When you get these pockets of infestation or you get these western fires, you are devastating literally millions of acres at a time that could have been prevented by proper harvesting. We can mimic almost everything in nature by proper harvesting when we want to. That is what we need to give ourselves more ability to do.

So, to answer your question, yes, I would like to see Congressional oversight on that type of designation.

Mr. SOUTHERLAND. You made another interesting point when you talked about fires. You know, it is my understanding that, after a fire—walk me through, if you would, your opinion, as I consider you an expert in your field. Obviously, when a fire occurs, there certainly is an opportunity to maximize the effects of that fire by being able to go in and clean up properly and harvest. Grade the Service on their application of common sense when it comes to going in after a fire.

Mr. GUTHRIE. Well, I don't have personal experience with the western fires, being from Wisconsin. We are kind of known as the asbestos forest. But I do know what goes on out there from our state DNR who lends a hand out there with our personnel when

they need it. And what is happening out West is I would grade a D to F in terms of the quickness of response.

Again, getting back to this issue of invasive species, it is the same issue. You have these vectors on the ground that are causing a problem in forest health, and if you don't jump on them quickly, they multiply quickly. And you are getting that pine beetle out West just infesting millions of acres, killing that timber, and it is a dynamite box sitting there waiting for a lightning strike to set it off. And when you don't harvest that dead and dying timber, you are just promoting more and more of that opportunity. And that is happening in similar areas in Region 9, the eastern forest, with insect and storm damage problems.

You know, a few years ago, we passed that Healthy Forest Initiative so the Forest Service would have the ability for a quick response, and, quite frankly, they are not using it very effectively.

Mr. SOUTHERLAND. Yes.

Mr. Chairman, I just want to commend you and your wisdom in having this hearing today.

I am a new Member, and I have found your testimony, as well as the testimony of our first panel, to really shed light on how the American people are not getting the maximization of the resources that they own, that they should have access to. And I just would encourage us to really try to have more on this same topic, because I think that this is certainly an area where the action of Congress can go a long way to be a good steward of the American people's resources.

And so I commend you, Mr. Chairman, and I yield back.

The CHAIRMAN. I thank the gentleman.

Now, before we adjourn, I would invite the Ranking Member to make any closing remarks he has.

Mr. HOLDEN. That is okay. Thank you.

The CHAIRMAN. Okay. I thank the Ranking Member. He is a good partner in terms of serving what I think is a very good Subcommittee, committed to the areas of jurisdiction that we have.

I want to thank everybody for your participation, Members and, most especially, the witnesses who came here on your own time and expense and sacrifice. We very, very much appreciate it.

I thought it was a very good hearing. Both the testimony and the line of questions and the response to questions were very helpful to kind of shed light. And, one of the most powerful, influential resources, frankly, in Washington, D.C., is information, it is the facts. And I think we received lots of that today.

You know, we are here talking about forest management, the forest management plan, but, as somebody, very appropriately said, "We are talking about jobs, because our National Forests were set up to provide sustainable resources for a strong economy in this country. And that is all about jobs."

It is an important issue, I think you would agree, worthy of at least one additional hearing, so we will pursue that.

And I want to thank everyone for their attendance and their participation.

Under the rules of the Committee, the record of today's hearing will remain open for 10 calendar days to receive additional mate-

rial and supplementary written responses from the witnesses to any question posed by a Member.

This hearing of the Subcommittee on Conservation, Energy, and Forestry is adjourned.

[Whereupon, at 12:19 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUBMITTED LETTER BY HON. GLENN THOMPSON, A REPRESENTATIVE IN CONGRESS
FROM PENNSYLVANIA

May 11, 2011

Hon. THOMAS J. VILSACK,
Secretary,
U.S. Department of Agriculture,
Washington, D.C.

Dear Secretary Vilsack:

The House Agriculture Subcommittee on Conservation, Energy, and Forestry held a hearing Thursday, May 5th to review the U.S. Forest Service's proposed planning rule, currently in a public comment period. During the course of this hearing, Members of the Subcommittee heard concerns from a diverse group of stakeholders regarding the content of the rule and its implications on silvicultural and other activities on Forest Service lands. In light of these numerous concerns, we respectfully request your extension of the public comment period by an additional 90 days.

At the hearing, witnesses testified about their concerns that this rule does not do enough to promote or assure active management of our National Forests. Timber harvesting, as you know, is essential for providing jobs in these rural areas and is a key component of keeping our forests healthy because it helps to mitigate natural threats, such as wildfires and invasive species. We were also concerned by testimony that this rule may negatively affect rural communities who rely on National Forests for timber, mineral production, and recreational purposes to help support their economies. For your convenience and review, we have also included copies of the witnesses' testimonies.

We are aware that a similar request to extend the current comment period by a group of 65 multiple use organizations was recently denied by U.S. Forest Service Chief Tidwell just last week. In his response, Chief Tidwell cited the extensive work by the Forest Service at the beginning of the process which warrants the 90 day period. While we appreciate the Forest Service's outreach on the proposed rule and Under Secretary Sherman's participation in the hearing, we do not believe that 90 days is adequate for all interested groups to have enough time to properly analyze the proposed language and evaluate its implications on our 155 National Forests and 20 grasslands.

Therefore, we respectfully request an additional 90 days of the comment period, to provide for optimal input, in order to ensure a viable planning rule for years to come. We appreciate your consideration and look forward to your response.

Sincerely,



Hon. GLENN THOMPSON,
Chairman,
Subcommittee on Conservation, Energy,
and Forestry,
House Committee on Agriculture;



Hon. BOB GOODLATTE,
Member of Congress;



Hon. MARLIN A. STUTZMAN,
Member of Congress;



Hon. Tim Holden,
Ranking Minority Member,
Subcommittee on Conservation, Energy,
and Forestry,
House Committee on Agriculture;



Hon. KURT SCHRADER,
Member of Congress;



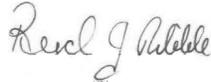
Hon. WILLIAM L. OWENS,
Member of Congress;



Hon. BOB GIBBS,
Member of Congress;



Hon. STEPHEN LEE FINCHER,
Member of Congress;



Hon. REID J. RIBBLE,
Member of Congress;

CC:

Hon. HARRIS SHERMAN, *Under Secretary for Natural Resources and Environment*;
TOM TIDWELL, *Chief, U.S. Forest Service.*



Hon. JIM COSTA,
Member of Congress;



Hon. STEVE SOUTHERLAND II,
Member of Congress.

SUBMITTED QUESTIONS

Response from Hon. Harris Sherman, Under Secretary for Natural Resources and Environment, U.S. Department of Agriculture*

Questions Submitted by Hon. Gregorio Kilili Camacho Sablan, a Delegate in Congress from Northern Mariana Islands

Wildlife

Question 1. While on its face the proposed rule seems promising, statements of lofty ambition in the document do not translate into meaningful and binding standards. As written, the draft rule would significantly impair wildlife conservation on National Forests by replacing the longstanding approach to wildlife conservation found in current regulations with discretionary measures that depart from scientific recommendations and render species protection largely optional. Moreover, when agency officials summarize the proposal, they sometimes confuse their intentions with what is actually required by the wording in the draft.

Under the current planning rule, the Forest Service is required to manage habitat to maintain viable populations of native wildlife in the planning area. For most species on the National Forests, the proposed rule replaces this clear requirement with vague instructions to manage for ecosystem health. **How will this ensure that the Forest Service is able to "keep common species common" and maintain viable populations of all wildlife?**

Answer. The proposed rule presents a more holistic, consistent, and achievable approach to maintaining native fish, wildlife, and plant species on national forests and grasslands than provided under the 1982 rule, and incorporates the considerable advances in scientific understanding that have occurred over the past three decades related to biological diversity concepts and principles, as well as in conservation design and practice.

The proposed rule incorporates a coarse-filter, fine-filter approach to managing ecological conditions to support the diversity of plant and animal communities and the persistence of native species in the plan area. Requiring plan components for ecosystem health and resilience, coupled with requirements for specific species, is intended to provide the habitat and other ecological conditions needed to keep com-

**Note from respondent:* The Department received nearly 300,000 comments on the Proposed National Forest Planning Rule, and is carefully considering those comments at this time. The Department has not yet reached a decision on the content of the final rule, and so does not yet have answers about how the final rule will address the questions presented. The questions below and related comments are being given serious consideration in the development of the final rule and the FEIS.

The responses below relate to the proposed rule published in the *Federal Register* on February 14, 2011 (76 FR 8480), and the DEIS for the proposed rule.

mon native species common, contribute to the recovery of threatened and endangered species, conserve candidate species, and maintain viable population species of conservation concern. At the same time, the proposed rule recognizes inherent limits to the agency's ability to ensure results, and provides direction for those circumstances, which would arise under the current rule as well.

Question 2. The proposed rule limits the viability requirement only to "species of conservation concern," and then lets local forest officials decide which those are. It also allows the agency to absolve itself from the responsibility for protecting the species it does identify by claiming impossibility. Yet at the same time, the Forest Service claims the proposed rule gives "equal or greater levels of protection" than the existing rule. **How can the Forest Service assert that unlimited discretion to exempt species from protection results in "equal or greater protections"?**

Answer. The proposed planning rule does not provide for unlimited discretion. The viability of the majority of species would be maintained by the proposed rule through the coarse filter of maintaining and restoring ecological health and resilience, including structure, function, composition and connectivity. For those species, other than federally listed threatened or endangered species or candidate species, for which there is evidence demonstrating significant concern about their capability to persist over the long-term in the plan area (species of conservation concern), the proposed rule would require that the plan components provide for the maintenance or restoration of ecological conditions in the plan area to maintain viable populations of species of conservation concern within the plan area. But, the proposed rule realistically recognizes that there may be circumstances beyond the agency's authority and control that prevent it from maintaining the long-term persistence of some species within the plan area. Such circumstances could occur under any rule; this rule explicitly acknowledges them. Under the proposed rule, where the Forest Service cannot provide ecological conditions to maintain a viable population of species of conservation concern within the plan area, the agency still has an obligation to include plan components that would provide within the plan area ecological conditions that would contribute to viability of the species within its range, in coordination with other land managers with the ability to influence the persistence of that species.

Question 3. The proposal is extremely vague on how wildlife monitoring will be used to inform management. The proposed rule requires that each forest provide for viable populations of "species of conservation concern" selected by the responsible officials, BUT the rule doesn't require that those species be monitored. **How will the public know if the viability standard is being met when species of conservation concern aren't monitored? Additionally, what is the role of focal species in the monitoring program, and what happens if the status of focal species is "not good"?**

Answer. § 219.9 of the proposed planning rule requires plan components that incorporate a coarse-filter/fine-filter approach to maintaining plant and animal species diversity and persistence in the plan area. § 219.12 provides for the monitoring of ecological conditions, watershed conditions, and focal species (defined as a small number of species selected for monitoring whose status is likely to be responsive to changes in ecological conditions and effects of management) under the proposed rule, which is intended to gauge progress under implementation of the plan towards meeting the desired conditions, including those ecological conditions to support species of conservation concern. Should these monitoring elements show that the intended rate of progress is not being met, a need for change in plan direction would be considered. Reliable information obtained from monitoring would be expected to identify the need to change either a plan or management activities in a timelier manner than under the 1982 planning rule.

Question 4. The proposal appears to allow the agency to absolve itself from the responsibility of protecting all wildlife on the National Forests if "the inherent capability of the land" prohibits it, but this key term is never defined. **How can the public be confident that this determination won't be used to avoid species protection measures when there is no basis for determining the "inherent capability of the land"?**

Answer. The agency is not trying to absolve itself from its responsibilities with regard to wildlife protection. The proposed rule requires that best available scientific information be used in the development of each plan, the basis for decisions must be documented and supported, and that decisions cannot be arbitrary and capricious. There may be circumstances beyond the agency's authority or control that prevent it from maintaining viable populations of some species within the plan area. In such cases, the proposed rule would require plan components to provide within the plan area ecological conditions that would contribute to viability of the species

within its range, in coordination with other land managers having the ability to influence the persistence of that species.

Clear Accountability

Question 5. Under the current forest rule, the public can hold the Forest Service accountable when it fails to uphold the requirements of the rule. The proposed rule seems to be much more focused on what the Forest Service “wants to” or “intends to” rather than what the American public says it “must” do to manage the National Forests. The practical result is a sharp curb on public accountability. **What are the wildlife and water standards in the rule that the public can use to hold the agency accountable?**

Answer. There is a great deal of accountability built into the proposed rule. The proposed rule includes requirements related to the conservation and protection of ecological health and resilience, wildlife and water resources, along with the provision of multiple uses. These are required plan components in every national forest and grassland land management plan, which the agency can be held accountable for including.

The proposed rule also requires that the responsible official use the best available scientific information throughout the planning process. In addition, the assessment and monitoring requirements in the proposed rule require using adaptive management techniques to understand conditions and trends before plan revision, and to use monitoring data to assess progress towards achieving desired conditions and whether there is a need to change the plan based on new information.

The proposed rule requires increased public participation in the assessment of plans as well as the revision or amendments of plans. Plan creation or revision will require an environmental impact statement. Consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries will also be provided where appropriate. Plan amendments will also require the appropriate level of NEPA analysis and ESA consultation. Further public engagement and environmental analysis will occur at the project level as plans are implemented.

Question 6. The Forest Service has said that the rule explains “what” the Forest Service should do with planning on the National Forests, but that the “how to” will be reserved for the Forest Service directive system. As such, it will not be subject to the same level of environmental analysis and public participation, and it will be easier to change. **How can the Service justify leaving fundamental aspects of the rule—including criteria for selecting “species of conservation concern”—to be decided without full environmental review and public participation?**

Answer. Under the proposed rule, all land management plans, including the determination of species of conservation concern for each unit, would be subject to full environmental review and public participation. In addition, the agency will provide opportunities for public review of new directives or changes to existing directives related to land management planning.

Best Available Science

Question 7. The proposed rule requires forest managers to **consider** the best available science, but does not require them to base their decisions on it. They are simply required to write a description of the science that is available and describe why they decided to go a different way. **By not requiring managers to base their decisions on science, what assurances are there that political pressure won’t trump sound science and that wildlife, water quality and healthy forests won’t pay the price as various special interests put pressure on forest managers?**

Answer. The objective of this proposed rule is to guide the collaborative and science-based development, amendment, and revision of land management plans that promote healthy, resilient, diverse, and productive National Forests and grasslands.

The proposed rule requires the use of science as an important source of information for decision-making. The appropriate interpretation and application of the best available scientific information provides the foundation for planning. In addition, the agency recognizes that other forms of information, such as local and indigenous knowledge, public concerns and values, agency policies, results of monitoring and the experience of land managers must also be taken into account.

Question 8. Under the proposed rule, a forest plan could actually be wholly inconsistent with the best available science and so long as a forest manager documents what science he considered before making his decision, it would stand. Is that correct? **Should we not at least have a standard that ensures that management decisions are not inconsistent with science?**

Answer. This proposed rule requires that responsible officials use the best available science when designing plan components to provide ecological sustainability and contribute to social and economic sustainability. The rationale that supports plan decision must be documented and must be consistent with law and policy, and decisions cannot be arbitrary and capricious.

Question 9. Even if the best available science finds that a species is imperiled, a forest official is not required to recognize the animal as a “species of conservation concern.” This enables the agency to ignore best available science indicating that a species should be considered a species of conservation concern. **What recourse exists for the public when poor decision-making leaves out a species that the best available science identifies as a species of conservation concern?**

Answer. The proposed rule requires the responsible official to identify a species as being of conservation concern where there is evidence demonstrating significant concern about its capability to persist in the plan area. We would therefore expect that if the best available scientific information indicates a species should be identified as a species of conservation concern, the responsible official would do so. The identification of the species of conservation concern will be subject to public review and comment as part of the planning process.

In the event that any member of the public believed that a species not identified as a species of conservation concern should have been so identified, the matter can be raised to a higher-level Forest Service official for resolution. The proposed rule includes a pre-decisional administrative review process called an objection process. This process allows interested individuals to voice objections and point out potential errors or violations of law, regulations, or agency policy prior to approval of a decision. An objection prompts an independent administrative review by an official at a level above the deciding official and a process for resolution of issues.

A Changing Climate

Question 10. For the first time, the proposed rule addresses the threat of climate change on our National Forests. There are references to climate change in the rule’s three main components: assessment, plan revision, and monitoring. However, all of the language is discretionary. There is no mandatory program to analyze the effects of climate change or to develop strategies to address those threats. **Given the profound changes we are already seeing in forest ecosystems due to a changing climate, why aren’t the requirements for addressing these changes more explicit?**

Answer. The proposed rule is based on a planning framework to create a responsive and agile planning process that informs integrated resource management and allows the Forest Service to adapt to changing conditions, including climate change, and improve management based on new information and monitoring. There are specific requirements for addressing climate change in each phase (assess, revise or amend, and monitor) of the planning framework. The agency’s implementation of the Climate Change Roadmap and Scorecard will also support the requirements in the proposed rule.