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P.O. Box 273362  
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March 11, 2018

Vicki Christiansen  
Interim Chief of the Forest Service

The National Association of Forest Service Retiree's (NAFSR) is taking this opportunity to share our position with you regarding the proposal to revise USDA-Forest Service NEPA procedures as announced in the Federal Register dated January 3, 2018. The Forest Service is attempting to revise NEPA procedures that have made the process extremely complicated and inefficient for many years. CEQ requires agencies to review its procedures on a periodic basis and the last time the Forest Service did this was in 2008. We applaud the agency for giving NEPA a "hard look" and making the process more efficient and true to the original intent of NEPA. We encourage the Agency to sharply focus its attention on the items that are within NEPA procedures that can be changed administratively, by regulation, and improvement in managerial oversight and accountability. We are advocates of the intent of NEPA. We believe the fundamental premise is sound.

**1. Analyses should not become overly complicated**

This has become a trend where units try to include everything into one NEPA document. This dilutes the purpose, the need, and focus of the document. Additionally, this leads to units taking an already complicated document and trying to make it "litigation proof". We propose the Agency issue a regulatory requirement to use letters of direction that spell out the purpose, the need, the sideboards, the timeline, and the expected decisions to be made in NEPA documents.

**2. Broaden authority of the use of CE's**

The use of categories needs to be expanded according to the original intent of CE's within the NEPA framework and CEQ guidelines. Examples are fish passage, wildfire risk reduction, forest and grassland restoration, enhancing water quality, infrastructure repair, reforestation, permitting, and catastrophic events. The

acreage size should not be arbitrarily set, but much larger sizes than included in the current regulation should be made possible, at the discretion of the line officer making the decision. Most actions taken by the Forest Service over decades were based on sound science and proven success using professional and technical expertise. These factors lend themselves to the expanded use of CE's.

CE's were always intended to be tied to Forest Plans. Any mitigation that has been done using EA's or CE's in the past are usually based on Standards and Guidelines. It doesn't make sense to go through exhaustive EA's repeatedly for virtually identical mitigations. Using laws such as ESA, archeological requirements or the Clean Water Act yields similar results, thereby making the case for use of CE's and increasing the breadth and number of categories.

When a project falls outside of those parameters, then EA's and/or EIS's can be used. But the decision to use an EA or EIS should be made a deliberate, documented choice by the deciding official, not the default approach.

### **3. Limit the authority of using EIS's and EA's**

Administratively, limit the authority of line officers use of EA's and EIS's. As retirees, we do not suggest this action lightly. We believe in the delegation of authority and decentralized decision making, but the use of CE's should be the rule, not the exception.

### **4. Keep the analysis separate from the actual NEPA document itself**

For example, complete all the resource analysis needed prior to the beginning of the actual NEPA document. Keep the NEPA document/process sharp and clear in terms of the intent for making a proper determination in a DM, FONSI or ROD. Likewise, ensure the current initiative of using abbreviated EA's and supporting analysis are kept separate. NEPA regulations should be written and enforced to reflect this direction and staff and line officers should be held accountable in its execution. Currently there is no consistency across the Agency on how this is accomplished. Different approaches in different regions breed confusion and litigation.

### **5. Assess the proper level of public involvement based on the project's scope and location**

Be much more specific about who is or is not engaged in the NEPA process and define the requirements to participate in that process. Develop regulatory requirements for public involvement that clearly states only those publics engaged at the beginning of the project can participate in dispute resolution, thereby building accountability and fairness into the process for all concerned. The Forest Service has evolved to the point of having extensive public involvement on many actions that NEPA never intended. The Agency needs to reassess the intent of public involvement and whether the public involvement should be extensive or more limited through regulation and/or agency policy.

**6. Develop specific regulations about managing disputes**

This will provide consistency to that process including assurances that there are not modifications made without all parties' full understanding and agreement.

**7. Regulate what requirements need to be met by line officers before agreeing to extending comment periods**

We believe that to better manage changes in the NEPA regulations, there needs to be much more direction to line officers from the Washington Office. Without that direction, any changes to regulations and rules will fall exceedingly short of meeting expectations of change. The Agency has a history in terms of implementing HFRA, the Farm Bill, and other changes in law, where field units did not react to the changes quickly and efficiently.

Not only are there examples of delayed action regarding regulations and laws, there are also examples on many units, where Project Initiation Letters are vague and do not spell out expectations for performance or accountability. The BLM is currently using the direction model so that there is no drift in purpose and clear expectations on performance.

Regarding your last question, there are many items that can affect change, such as increasing efficiency dealing with ESA consultation by bringing consistency and strict timeframes using National MOU's or regulation, that give agency biologists the ability to sign off on BA's. Also, using the same method of strict and consistent SHIPO requirements (MOU'S) should be used in meeting the intent of archeological laws.

There needs to be a stronger national presence and direction in all items to deal with the roadblocks and extremely inconsistent approaches across all the Regions and States. Although these items and ones like them are likely outside of NEPA regulations, it is still critical for meeting the goal of increased efficiencies in decision making. CFR's 1500.1, 1500.2, 1500.4, and 1500.5 are very clear about reducing paperwork and process. The time is overdue for bringing current agency procedures to that standard.

In addition to the above, please find attached two documents (National Association of Forest Service Retirees, Recommendations for the New Administration, dated December 12, 2016 and Recommendations to EO 13790, Promoting Agriculture and Rural Prosperity in America, dated October 3, 2017) that provide further specific proposals regarding NEPA and other regulatory changes that NAFSR believes are the highest priorities to promote rural prosperity and improve the health of the nation's National Forests and Grasslands. I am enclosing these developed proposals in hopes the Forest Service will make use of them during the regulatory process.

Thank you for requesting our input.

Sincerely,

*James L. Caswell*

James L. Caswell, Chair

National Association of Forest Service Retirees

Enclosures (2)