

BUSH ADMINISTRATION: *CHOPPING AWAY* AT CITIZEN PARTICIPATION AND ENVIRONMENTAL LAW



The Bush administration is systematically rolling back decades of environmental laws that were created to protect our public lands and ensure public participation. These attacks will directly increase the risk of uncontrolled logging and undermine our ability to protect species and their ecosystems. **The Center for Biological Diversity** and our members will continue to fight for OUR national forests as demonstrated by our active involvement in the forest planning process and individual timber sales, and efforts to restore and preserve species diversity and valuable habitat.

Bush administration Moves to Roll Back the Roadless Rule

June 09, 2003: Agriculture Undersecretary Mark Rey has announced his plans to reverse the Roadless Area Conservation Rule — issued by President Clinton — that bars virtually all road building and logging on 58.5 million acres of remote and pristine national forests. The Bush administration has twice failed to defend the rule from legal challenges brought by timber and other industries. A recent ruling by a federal judge upholding one of these industry challenges has again put the rule in limbo. The administration has also quietly made several administrative changes greatly weakening the rule, including the stripping of Alaska’s Tongass and Chugach National Forests from its protections. Not coincidentally, these forests contain the greatest remaining concentrations of old-growth forest and roadless areas in the entire National Forest system, encompassing one quarter of remaining roadless areas.

Reforming the Appeals Reform Act

June 4, 2003: The Forest Service announced and made effective new regulations stripping the statutory rights of citizens to appeal timber sales and other destructive proposals on their public lands. Under the new regulations, the Forest Service would not have to consider the public’s comments on general forest management, if the Forest Service determines the comments are not “substantive.” Under this restrictive rule, expressing general opposition to timber sales within favorite hiking, birding, hunting or other areas would not provide the general public the right to later challenge that sale.

- Additionally, under this rule all projects that are conducted under a “categorical exclusion” would be exempt from the comment and appeal process. In separate rulemakings, the Forest Service has finalized several broad new categories of “categorical exclusions” for nearly every type of timber sale. Together, these regulations largely strip the public of the right to participate and challenge timber sales, once again handing over our National Forests to the timber industry.
- Adding insult to injury, disputed timber sales and salvage logging projects could proceed even while the appeals of the projects are being considered. For those appeals that are won, in all likelihood, the trees may already have been cut down.
- Finally, the Secretary or Undersecretary of Agriculture could bypass the public comment and appeals process entirely by declaring “emergencies” for controversial timber sales

NEPA Rollbacks Threaten 30-Years of Environmental Progress

New regulations would not require the Forest Service to consider alternatives to its proposed timber sales under the National Environmental Policy Act (NEPA). The duty to consider alternatives is considered the “heart” of NEPA, commonly referred to as the “magna carta” of U.S. environmental law. Other regulations would eliminate the Forest Service’s duty to conduct NEPA for Forest Planning efforts, despite the fact that Forest Plans are incredibly important documents that guide management on the Forest for 10-15 year periods.



Undermining the National Forest Management Act

Soon, the administration will be publishing new forest planning regulations for implementing the National Forest Management Act. A September 16th draft indicates that the new regulations will create significant new roadblocks to meaningful public participation by abolishing administrative appeals, and will weaken environmental standards protecting the viability of species. In an attempt to eliminate public participation, NEPA would no longer apply to the forest planning process. In addition, no alternatives would have to be considered when forest plans are revised, offering the public no choices on how to address complicated management issues. Finally, when revising forest plans, the Forest Service would gain discretion to completely ignore important issues that the public wants considered such as protecting old growth.

U.S. Forest Service Exempts Some Logging Projects from Environmental Review

July 29, 2003: Saying certain logging projects pose no significant harm to the environment, the U.S. Forest Service finalized its decision to waive federal rules that require environmental review and public participation. Forest managers can now grant so-called categorical exclusions for what the agency deems small logging projects to remove insect — or disease — ridden trees or “dead or dying” trees on less than 250 acres — and live trees on less than 50 acres. The Forest Service has also created an incredibly broad and vague categorical exclusion for all projects termed “fuel hazard reduction,” even if these projects are commercial timber sales that remove the largest and most fire-resistant trees. In the interest of expediting these “clearing” projects, forest managers no longer must complete a full analysis or allow public input as required by the National Environmental Policy Act. The agency’s decision comes despite a 1999 ruling by a federal judge that the USFS failed to provide sufficient rationale for similar categorical exclusions. Environmentalists warn that a large timber sale requiring NEPA review could be segmented into many smaller projects, essentially exempting it from full analysis.

Charter Forests Put Private Profit Ahead of Public Good

In the FY 2003 Forest Service budget, the administration proposed the creation of “charter forests,” transferring Forest Service control to timber companies and other resource extractive industries. These forests would be managed for the purposes of emphasizing industry and commodity production under the guise of “local involvement”. This proposal opens up public lands to intensive commodity production and privatization. The general public would no longer have a meaningful way to participate and ensure that the public interest, not local economic interests, was being served.

Stewardship Contracting Program gets 10 Year Approval

Congress recently made the highly controversial Stewardship Contracting program permanent until 2013. The new authorities create perverse incentives that emphasize the removal of the most economically and ecologically valuable (and usually the most fire resistant) trees, thereby increasing overall fire-risks and future restoration needs. Logger/contractors have the choice of what trees they will log based on a description of “desired conditions” by the agency, but marking the trees in the contract area with paint before logging does not have to occur as long as the contractor agrees to meet the “desired conditions” outlined in the contract. The interpretation of “desired conditions” rests on the contractor without any requirements to ensure adequate wildlife habitat and other crucial ecological components be maintained. It also strikes the language that made “non-commercial” restoration projects an option. While it is well documented that the U.S. treasury has lost billions of dollars to below-cost, subsidized timber sales during the past 50 years, the new stewardship contracting authority cuts to the chase by simply giving away the public’s forests for free to the timber industry.

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